

## HOUSE BILL No. 2002

By Representatives Grant and D. Gatewood

12-16

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack  
2 gaming facilities; amending K.S.A. 2010 Supp. 74-8734, 74-8741, 74-  
3 8744, 74-8747, 74-8751 and 74-8768 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 74-8734 is hereby amended to read as  
7 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming  
8 facility in each gaming zone.

9 (b) Not more than 30 days after the effective date of this act the lottery  
10 commission shall adopt and publish in the Kansas register the procedure for  
11 receiving, considering and approving, proposed lottery gaming facility  
12 management contracts. Such procedure shall include provisions for review of  
13 competitive proposals within a gaming zone and the date by which proposed  
14 lottery gaming facility management contracts must be received by the lottery  
15 commission if they are to receive consideration.

16 (c) The lottery commission shall adopt standards to promote the integrity  
17 of the gaming and finances of lottery gaming facilities, which shall apply to all  
18 management contracts, shall meet or exceed industry standards for monitoring  
19 and controlling the gaming and finances of gaming facilities and shall give the  
20 executive director sufficient authority to monitor and control the gaming  
21 operation and to ensure its integrity and security.

22 (d) The Kansas lottery commission may approve management contracts  
23 with one or more prospective lottery gaming facility managers to manage, or  
24 construct and manage, on behalf of the state of Kansas and subject to the  
25 operational control of the Kansas lottery, a lottery gaming facility or lottery  
26 gaming enterprise at specified destination locations within the northeast, south  
27 central, southwest and southeast Kansas gaming zones where the commission  
28 determines the operation of such facility would promote tourism and economic  
29 development. The commission shall approve or disapprove a proposed  
30 management contract within 90 days after the deadline for receipt of proposals  
31 established pursuant to subsection (b).

32 (e) In determining whether to approve a management contract with a  
33 prospective lottery gaming facility manager to manage a lottery gaming  
34 facility or lottery gaming enterprise pursuant to this section, the commission  
35 shall take into consideration the following factors: The size of the proposed  
36 facility; the geographic area in which such facility is to be located; the

1 proposed facility's location as a tourist and entertainment destination; the  
2 estimated number of tourists that would be attracted by the proposed facility;  
3 the number and type of lottery facility games to be operated at the proposed  
4 facility; and agreements related to ancillary lottery gaming facility operations.

5 (f) Subject to the requirements of this section, the commission shall  
6 approve at least one proposed lottery gaming facility management contract for  
7 a lottery gaming facility in each gaming zone.

8 (g) The commission shall not approve a management contract unless:

9 (1) (A) The prospective lottery gaming facility manager is a resident  
10 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to  
11 financial resources to support the activities required of a lottery gaming facility  
12 manager under the Kansas expanded lottery act; and (ii) has three consecutive  
13 years' experience in the management of gaming which would be class III  
14 gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated  
15 pursuant to state or federal law; or

16 (B) the prospective lottery gaming facility manager is not a resident  
17 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to  
18 financial resources to support the activities required of a lottery gaming facility  
19 manager under the Kansas expanded lottery act; (ii) is current in filing all  
20 applicable tax returns and in payment of all taxes, interest and penalties owed  
21 to the state of Kansas and any taxing subdivision where such prospective  
22 manager is located in the state of Kansas, excluding items under formal appeal  
23 pursuant to applicable statutes; and (iii) has three consecutive years'  
24 experience in the management of gaming which would be class III gaming, as  
25 defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state  
26 or federal law; and

27 (2) the commission determines that the proposed development consists of  
28 an investment in infrastructure, including ancillary lottery gaming facility  
29 operations, of at least \$225,000,000 in the northeast, ~~southeast~~ and south  
30 central Kansas gaming zones ~~and, of at least \$100,000,000 in the southeast~~  
31 *Kansas gaming zone and of at least \$50,000,000 in the southwest Kansas*  
32 *gaming zone.* The commission, in determining whether the minimum  
33 investment required by this subsection is met, shall not include any amounts  
34 derived from or financed by state or local retailers' sales tax revenues.

35 (h) Any management contract approved by the commission under this  
36 section shall:

37 (1) Have a maximum initial term of 15 years from the date of opening of  
38 the lottery gaming facility. At the end of the initial term, the contract may be  
39 renewed by mutual consent of the state and the lottery gaming facility  
40 manager;

41 (2) specify the total amount to be paid to the lottery gaming facility  
42 manager pursuant to the contract;

43 (3) establish a mechanism to facilitate payment of lottery gaming facility

1 expenses, payment of the lottery gaming facility manager's share of the lottery  
2 gaming facility revenues and distribution of the state's share of the lottery  
3 gaming facility revenues;

4 (4) include a provision for the lottery gaming facility manager to pay the  
5 costs of oversight and regulation of the lottery gaming facility manager and the  
6 operations of the lottery gaming facility by the Kansas racing and gaming  
7 commission *and the Kansas lottery*;

8 (5) establish the types of lottery facility games to be installed in such  
9 facility;

10 (6) provide for the prospective lottery gaming facility manager, upon  
11 approval of the proposed lottery gaming facility management contract, to pay  
12 to the state treasurer a *nonrefundable* privilege fee, *except as provided in*  
13 *K.S.A. 2010 Supp. 74-8738, and amendments thereto, and except in*  
14 *circumstances when a lottery facility management contract is disapproved by*  
15 *either the lottery gaming facility review board or the Kansas racing and*  
16 *gaming commission pursuant to K.S.A. 2010 Supp. 74-8736, and amendments*  
17 *thereto of: (A) \$25,000,000 for the privilege of being selected as a lottery*  
18 *gaming facility manager of a lottery gaming facility in the northeast, southeast*  
19 *or south central Kansas gaming zone and; (B) \$11,000,000 for the privilege of*  
20 *being selected as a lottery gaming facility manager of a lottery gaming facility*  
21 *in the southeast Kansas gaming zone; and (C) \$5,500,000 for the privilege of*  
22 *being selected as a lottery gaming facility manager of a lottery gaming facility*  
23 *in the southwest Kansas gaming zone. Such fee shall be deposited in the state*  
24 *treasury and credited to the lottery gaming facility manager fund, which is*  
25 *hereby created in the state treasury;*

26 (7) incorporate terms and conditions for the ancillary lottery gaming  
27 facility operations;

28 (8) designate as key employees, subject to approval of the executive  
29 director, any employees or contractors providing services or functions which  
30 are related to lottery facility games authorized by a management contract;

31 (9) include financing commitments for construction;

32 (10) include a resolution of endorsement from the city governing body, if  
33 the proposed facility is within the corporate limits of a city, or from the county  
34 commission, if the proposed facility is located in the unincorporated area of  
35 the county;

36 (11) include a requirement that any parimutuel licensee developing a  
37 lottery gaming facility pursuant to this act comply with all orders and rules and  
38 regulations of the Kansas racing and gaming commission with regard to the  
39 conduct of live racing, including the same minimum days of racing as  
40 specified in K.S.A. 2010 Supp. 74-8746, and amendments thereto, for  
41 operation of electronic gaming machines at racetrack gaming facilities;

42 (12) include a provision for the state to receive not less than 22% of  
43 lottery gaming facility revenues, which shall be paid to the expanded lottery

1 act revenues fund established by K.S.A. 2010 Supp. 74-8768, and amendments  
2 thereto;

3 (13) include a provision for 2% of lottery gaming facility revenues to be  
4 paid to the problem gambling and addictions grant fund established by K.S.A.  
5 2010 Supp. 79-4805, and amendments thereto;

6 (14) if the prospective lottery gaming facility manager is an American  
7 Indian tribe, include a provision that such tribe agrees to waive its sovereign  
8 immunity with respect to any actions arising from or to enforce either the  
9 Kansas expanded lottery act or any provision of the lottery gaming facility  
10 management contract; any action brought by an injured patron or by the state  
11 of Kansas; any action for purposes of enforcing the workers compensation act  
12 or any other employment or labor law; and any action to enforce laws, rules  
13 and regulations and codes pertaining to health, safety and consumer protection;  
14 and for any other purpose deemed necessary by the executive director to  
15 protect patrons or employees and promote fair competition between the tribe  
16 and others seeking a lottery gaming facility management contract;

17 (15) (A) if the lottery gaming facility is located in the northeast or  
18 southwest Kansas gaming zone and is not located within a city, include a  
19 provision for payment of an amount equal to 3% of the lottery gaming facility  
20 revenues to the county in which the lottery gaming facility is located; or (B) if  
21 the lottery gaming facility is located in the northeast or southwest Kansas  
22 gaming zone and is located within a city, include provision for payment of an  
23 amount equal to 1.5% of the lottery gaming facility revenues to the city in  
24 which the lottery gaming facility is located and an amount equal to 1.5% of  
25 such revenues to the county in which such facility is located;

26 (16) (A) if the lottery gaming facility is located in the southeast or south  
27 central Kansas gaming zone and is not located within a city, include a  
28 provision for payment of an amount equal to 2% of the lottery gaming facility  
29 revenues to the county in which the lottery gaming facility is located and an  
30 amount equal to 1% of such revenues to the other county in such zone; or (B)  
31 if the lottery gaming facility is located in the southeast or south central Kansas  
32 gaming zone and is located within a city, provide for payment of an amount  
33 equal to 1% of the lottery gaming facility revenues to the city in which the  
34 lottery gaming facility is located, an amount equal to 1% of such revenues to  
35 the county in which such facility is located and an amount equal to 1% of such  
36 revenues to the other county in such zone;

37 (17) allow the lottery gaming facility manager to manage the lottery  
38 gaming facility in a manner consistent with this act and applicable law, but  
39 shall place full, complete and ultimate ownership and operational control of  
40 the gaming operation of the lottery gaming facility with the Kansas lottery.  
41 The Kansas lottery shall not delegate and shall explicitly retain the power to  
42 overrule any action of the lottery gaming facility manager affecting the gaming  
43 operation without prior notice. The Kansas lottery shall retain full control over

1 all decisions concerning lottery gaming facility games;

2 (18) include provisions for the Kansas racing and gaming commission to  
3 oversee all lottery gaming facility operations, including, but not limited to:  
4 Oversight of internal controls; oversight of security of facilities; performance  
5 of background investigations, determination of qualifications and credentialing  
6 of employees, contractors and agents of the lottery gaming facility manager  
7 and of ancillary lottery gaming facility operations, as determined by the  
8 Kansas racing and gaming commission; auditing of lottery gaming facility  
9 revenues; enforcement of all state laws and maintenance of the integrity of  
10 gaming operations; and

11 (19) include enforceable provisions: (A) Prohibiting the state, until July  
12 1, 2032, from (i) entering into management contracts for more than four lottery  
13 gaming facilities or similar gaming facilities, one to be located in the northeast  
14 Kansas gaming zone, one to be located in the south central Kansas gaming  
15 zone, one to be located in the southwest Kansas gaming zone and one to be  
16 located in the southeast Kansas gaming zone, (ii) designating additional areas  
17 of the state where operation of lottery gaming facilities or similar gaming  
18 facilities would be authorized or (iii) operating an aggregate of more than  
19 2,800 electronic gaming machines at all parimutuel licensee locations; and (B)  
20 requiring the state to repay to the lottery gaming facility manager an amount  
21 equal to the privilege fee paid by such lottery gaming facility manager, plus  
22 interest on such amount, compounded annually at the rate of 10%, if the state  
23 violates the prohibition provision described in (A).

24 (i) The power of eminent domain shall not be used to acquire any interest  
25 in real property for use in a lottery gaming enterprise.

26 (j) Any proposed management contract for which the privilege fee has not  
27 been paid to the state treasurer within 30 days after the date of approval of the  
28 management contract shall be null and void.

29 (k) A person who is the manager of the racetrack gaming facility in a  
30 gaming zone shall not be eligible to be the manager of the lottery gaming  
31 facility in the same zone.

32 (l) Management contracts authorized by this section may include  
33 provisions relating to:

34 (1) Accounting procedures to determine the lottery gaming facility  
35 revenues, unclaimed prizes and credits;

36 (2) minimum requirements for a lottery gaming facility manager to  
37 provide qualified oversight, security and supervision of the lottery facility  
38 games including the use of qualified personnel with experience in applicable  
39 technology;

40 (3) eligibility requirements for employees, contractors or agents of a  
41 lottery gaming facility manager who will have responsibility for or  
42 involvement with actual gaming activities or for the handling of cash or  
43 tokens;

1 (4) background investigations to be performed by the Kansas racing and  
2 gaming commission;

3 (5) credentialing requirements for any employee, contractor or agent of  
4 the lottery gaming facility manager or of any ancillary lottery gaming facility  
5 operation as provided by the Kansas expanded lottery act or rules and  
6 regulations adopted pursuant thereto;

7 (6) provision for termination of the management contract by either party  
8 for cause; and

9 (7) any other provision deemed necessary by the parties, including such  
10 other terms and restrictions as necessary to conduct any lottery facility game in  
11 a legal and fair manner.

12 (m) A management contract shall not constitute property, nor shall it be  
13 subject to attachment, garnishment or execution, nor shall it be alienable or  
14 transferable, except upon approval by the executive director, nor shall it be  
15 subject to being encumbered or hypothecated. The trustee of any insolvent or  
16 bankrupt lottery gaming facility manager may continue to operate pursuant to  
17 the management contract under order of the appropriate court for no longer  
18 than one year after the bankruptcy or insolvency of such manager.

19 (n) (1) The Kansas lottery shall be the licensee and owner of all software  
20 programs used at a lottery gaming facility for any lottery facility game.

21 (2) A lottery gaming facility manager, on behalf of the state, shall  
22 purchase or lease for the Kansas lottery all lottery facility games. All lottery  
23 facility games shall be subject to the ultimate control of the Kansas lottery in  
24 accordance with this act.

25 (o) A lottery gaming facility shall comply with any planning and zoning  
26 regulations of the city or county in which it is to be located. The executive  
27 director shall not contract with any prospective lottery gaming facility  
28 manager for the operation and management of such lottery gaming facility  
29 unless such manager first receives any necessary approval under planning and  
30 zoning requirements of the city or county in which it is to be located.

31 (p) Prior to expiration of the term of a lottery gaming facility  
32 management contract, the lottery commission may negotiate a new lottery  
33 gaming facility management contract with the lottery gaming facility manager  
34 if the new contract is substantially the same as the existing contract.  
35 Otherwise, the lottery gaming facility review board shall be reconstituted and a  
36 new lottery gaming facility management contract shall be negotiated and  
37 approved in the manner provided by this act.

38 Sec. 2. K.S.A. 2010 Supp. 74-8741 is hereby amended to read as follows:  
39 74-8741. (a) The executive director of the Kansas lottery shall negotiate a  
40 racetrack gaming facility management contract to place electronic gaming  
41 machines at one parimutuel licensee location in each gaming zone except the  
42 southwest Kansas gaming zone.

43 (b) To be eligible to enter into a racetrack gaming facility management

1 contract the prospective racetrack gaming facility manager shall, at a  
2 minimum:

3 (1) Have sufficient access to financial resources to support the activities  
4 required of a racetrack gaming facility manager under the Kansas expanded  
5 lottery act; and

6 (2) be current in filing all applicable tax returns and in payment of all  
7 taxes, interest and penalties owed to the state of Kansas and any taxing  
8 subdivision where such prospective manager is located in the state of Kansas,  
9 excluding items under formal appeal pursuant to applicable statutes.

10 (c) A racetrack gaming facility management contract shall include:

11 (1) The term of the contract;

12 (2) provisions for the Kansas racing and gaming commission to oversee  
13 all racetrack gaming facility operations, including, but not limited to:  
14 Oversight of internal controls; oversight of security of facilities; performance  
15 of background investigations, determination of qualifications and any required  
16 certification or licensing of officers, directors, board members, employees,  
17 contractors and agents of the racetrack gaming facility manager; auditing of  
18 net electronic gaming machine income and maintenance of the integrity of  
19 electronic gaming machine operations;

20 (3) provisions for the racetrack gaming facility manager to pay the costs  
21 of oversight and regulation of the racetrack gaming facility manager under this  
22 act and such manager's racetrack gaming facility operations by the Kansas  
23 racing and gaming commission *and the Kansas lottery*; ~~and~~

24 (4) enforceable provisions: (A) Prohibiting the state, until July 1, 2032,  
25 from (i) entering into management contracts for more than ~~three~~ *four* lottery  
26 gaming facilities or similar gaming facilities, one to be located in the northeast  
27 Kansas gaming zone, one to be located in the south central Kansas gaming  
28 zone ~~and~~, one to be located in the southeast Kansas gaming zone *and one to be*  
29 *located in the southwest Kansas gaming zone*, (ii) designating additional areas  
30 of the state where operation of lottery gaming facilities or similar gaming  
31 facilities would be authorized or (iii) operating an aggregate of more than  
32 2,800 electronic gaming machines at all parimutuel licensee locations; and (B)  
33 requiring the state to repay to the racetrack gaming facility manager an amount  
34 equal to the privilege fee paid by such racetrack gaming facility manager, plus  
35 interest on such amount, compounded annually at the rate of 10%, if the state  
36 violates the prohibition provision described in (A); *and*

37 (5) *a resolution of endorsement from the city governing body, if the*  
38 *proposed facility is within the corporate limits of a city, or from the county*  
39 *commission, if the proposed facility is located in the unincorporated area of*  
40 *the county.*

41 (d) Racetrack gaming facility management contracts authorized by this  
42 section may include provisions relating to:

43 (1) Accounting procedures to determine net electronic gaming machine

1 income, unclaimed prizes and credits;

2 (2) minimum requirements for a racetrack gaming facility manager to  
3 provide qualified oversight, security and supervision of electronic gaming  
4 machines including the use of qualified personnel with experience in  
5 applicable technology;

6 (3) eligibility requirements for employees, contractors or agents of a  
7 racetrack gaming facility manager who will have responsibility for or  
8 involvement with electronic gaming machines or for the handling of cash or  
9 tokens;

10 (4) background investigations to be performed by the Kansas racing and  
11 gaming commission;

12 (5) credentialing or certification requirements of any employee,  
13 contractor or agent as provided by the Kansas expanded lottery act or rules and  
14 regulations adopted pursuant thereto;

15 (6) provision for termination of the management contract by either party  
16 for cause; and

17 (7) any other provision deemed necessary by the parties, including such  
18 other terms and restrictions as necessary to conduct racetrack gaming facility  
19 operations in a legal and fair manner.

20 (e) A person who is the manager of a lottery gaming facility in a gaming  
21 zone shall not be eligible to be the manager of the racetrack gaming facility in  
22 the same zone.

23 (f) A racetrack gaming facility management contract shall not constitute  
24 property, nor shall it be subject to attachment, garnishment or execution, nor  
25 shall it be alienable or transferable, except upon approval by the executive  
26 director, nor shall it be subject to being encumbered or hypothecated.

27 Sec. 3. K.S.A. 2010 Supp. 74-8744 is hereby amended to read as follows:  
28 74-8744. (a) In accordance with rules and regulations adopted by the  
29 commission, the executive director shall have general responsibility for the  
30 implementation and administration of the provisions of this act relating to  
31 racetrack gaming facility operations, including the responsibility to:

32 (1) Certify net electronic gaming machine income by inspecting records,  
33 conducting audits, having agents of the Kansas lottery on site or by any other  
34 reasonable means; and

35 (2) assist the commission in the promulgation of rules and regulations  
36 concerning the operation of racetrack gaming facilities, which rules and  
37 regulations shall include, without limitation, the following:

38 (A) The number of electronic gaming machines allocated for placement  
39 at each racetrack gaming facility, subject to the provisions of subsection (b);

40 (B) standards for advertising, marketing and promotional materials used  
41 by racetrack gaming facility managers;

42 (C) the kind, type, number and location of electronic gaming machines at  
43 any racetrack gaming facility; and

1 (D) rules and regulations and procedures for the accounting and reporting  
2 of the payments required from racetrack gaming facility managers under  
3 K.S.A. 2010 Supp. 74-8766, and amendments thereto, including the  
4 calculations required for such payments.

5 (b) Rules and regulations establishing the minimum and maximum  
6 number of electronic gaming machines allocated for placement at each  
7 racetrack gaming facility shall be adopted and published not later than 120  
8 days after the effective date of this act. Such rules and regulations shall be  
9 subject to the following:

10 (1) At least 600, *but not more than 1,200*, electronic gaming machines  
11 shall be allocated to and placed at each racetrack gaming facility.

12 (2) The total number of electronic gaming machines allocated to and  
13 placed at all racetrack gaming facilities in the state shall not exceed 2,800.  
14 ~~Until lottery gaming facility management contracts for lottery gaming facilities~~  
15 ~~in all gaming zones become binding, the total number of electronic gaming~~  
16 ~~machines placed at all racetrack gaming facilities shall not exceed 2,200.~~  
17 ~~When lottery gaming facility management contracts for lottery gaming~~  
18 ~~facilities in all gaming zones have become binding, the lottery commission~~  
19 ~~shall take privilege fee bids from the lottery gaming facility manager and~~  
20 ~~racetrack gaming facility manager in each gaming zone for the remaining~~  
21 ~~electronic gaming machines allocated to but not yet placed at the racetrack~~  
22 ~~gaming facility in such zone. The minimum bid shall be a privilege fee of~~  
23 ~~\$2,500 per electronic gaming machine. If the racetrack gaming facility~~  
24 ~~manager submits the highest bid, the lottery commission shall place the~~  
25 ~~remaining electronic gaming machines at the racetrack gaming facility. If the~~  
26 ~~lottery gaming facility manager submits the highest bid, the commission shall~~  
27 ~~not place any additional electronic gaming machines at the racetrack gaming~~  
28 ~~facility.~~

29 (3) ~~In addition to any privilege fee paid pursuant to paragraph (2), Each~~  
30 ~~racetrack gaming facility manager shall pay a privilege fee of \$2,500 for each~~  
31 ~~electronic gaming machine placed at the racetrack gaming facility for which a~~  
32 ~~privilege fee is not paid pursuant to paragraph (2).~~

33 (4) The racetrack gaming facility manager shall pay the privilege fees  
34 provided by this subsection to the executive director, who shall remit the entire  
35 amount to the state treasurer in accordance with K.S.A. 75-4215, and  
36 amendments thereto. Upon receipt of the remittance, the state treasurer shall  
37 deposit the entire amount in the state treasury and credit it to the expanded  
38 lottery act revenues fund.

39 Sec. 4. K.S.A. 2010 Supp. 74-8747 is hereby amended to read as follows:  
40 74-8747. (a) Net electronic gaming machine income from a racetrack gaming  
41 facility *located in the southeast Kansas gaming zone* shall be distributed as  
42 follows:

43 (1) To the racetrack gaming facility manager, an amount equal to 25%

1 *not more than 58%* of net electronic gaming machine income;

2 (2) 7% of net electronic gaming machine income shall be credited to the  
3 live horse racing purse supplement fund established by K.S.A. 2010 Supp. 74-  
4 8767, and amendments thereto, ~~except that the amount of net electronic~~  
5 ~~gaming machine income credited to the fund during any fiscal year from~~  
6 ~~electronic gaming machines at a racetrack gaming facility shall not exceed an~~  
7 ~~amount equal to the average of \$3,750 per electronic gaming machine at each~~  
8 ~~location and any moneys in excess of such amount shall be distributed~~  
9 ~~between the state and the racetrack gaming facility manager in accordance~~  
10 ~~with the racetrack gaming facility management contract;~~

11 (3) 7% of net electronic gaming machine income shall be credited to the  
12 live greyhound racing purse supplement fund established by K.S.A. 2010  
13 Supp. 74-8767, and amendments thereto, ~~except that the amount of net~~  
14 ~~electronic gaming machine income credited to the fund during any fiscal year~~  
15 ~~from electronic gaming machines at a racetrack gaming facility shall not~~  
16 ~~exceed an amount equal to the average of \$3,750 per electronic gaming~~  
17 ~~machine at each location and any moneys in excess of such amount shall be~~  
18 ~~distributed between the state and the racetrack gaming facility manager in~~  
19 ~~accordance with the racetrack gaming facility management contract;~~

20 (4) (A) ~~if the racetrack gaming facility is located in the northeast Kansas~~  
21 ~~gaming zone and is not located within a city, include a provision for payment~~  
22 ~~of an amount equal to 3% of the racetrack gaming facility revenues[\*] to the~~  
23 ~~county in which the racetrack gaming facility is located; or (B) if the racetrack~~  
24 ~~gaming facility is located in the northeast Kansas gaming zone and is located~~  
25 ~~within a city, include provision for payment of an amount equal to 1.5% of the~~  
26 ~~racetrack gaming facility revenues[\*] to the city in which the racetrack gaming~~  
27 ~~facility is located and an amount equal to 1.5% of such revenues to the county~~  
28 ~~in which such facility is located;~~

29 (5) (4) (A) ~~if the racetrack gaming facility is located in the southeast or~~  
30 ~~south central Kansas gaming zone and is not located within a city, include a~~  
31 ~~provision for payment of an amount equal to 2% of the racetrack gaming~~  
32 ~~facility revenues net electronic gaming machine income to the county in which~~  
33 ~~the racetrack gaming facility is located and an amount equal to 1% of such~~  
34 ~~revenues income to the other county in such zone; or (B) if the racetrack~~  
35 ~~gaming facility is located in the southeast or south central Kansas gaming zone~~  
36 ~~and is located within a city, provide for payment of an amount equal to 1% of~~  
37 ~~the racetrack gaming facility revenues net electronic gaming machine income~~  
38 ~~to the city in which the racetrack gaming facility is located, an amount equal to~~  
39 ~~1% of such revenues income to the county in which such facility is located and~~  
40 ~~an amount equal to 1% of such revenues income to the other county in such~~  
41 ~~zone;~~

42 (6) (5) 2% of net electronic gaming machine income shall be credited to  
43 the problem gambling and addictions grant fund established by K.S.A. 2010

1 Supp. 79-4805, and amendments thereto;

2 ~~(7)~~ (6) 1% of net electronic gaming machine income shall be credited to  
3 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838, and  
4 amendments thereto; *and*

5 ~~(8)~~ (7) *40% not less than 22%* of net electronic gaming machine income  
6 shall be credited to the expanded lottery act revenues fund; ~~and.~~

7 ~~(9)~~—15% of electronic gaming machine income shall be used for gaming  
8 expenses, subject to agreement between the Kansas lottery and the racetrack  
9 gaming facility manager.

10 (b) A racetrack gaming facility management contract may include  
11 provisions for a parimutuel licensee or any other entity to pay the parimutuel  
12 licensee's expenses related to electronic gaming machines, as the executive  
13 director deems appropriate, ~~subject to the requirements of subsection (a)(9).~~

14 New Sec. 5. (a) Net electronic gaming machine income from a racetrack  
15 gaming facility located in the northeast and south central Kansas gaming zone  
16 shall be distributed as follows:

17 (1) To the racetrack gaming facility manager, an amount equal to 25% of  
18 net electronic gaming machine income;

19 (2) 7% of net electronic gaming machine income shall be credited to the  
20 live horse racing purse supplement fund established by K.S.A. 2010 Supp. 74-  
21 8767, and amendments thereto except that the amount of net electronic gaming  
22 machine income credited to the fund during any fiscal year from electronic  
23 gaming machines at a racetrack gaming facility shall not exceed an amount  
24 equal to the average of \$3,750 per electronic gaming machine at each location  
25 and any moneys in excess of such amount shall be distributed between the  
26 state and the racetrack gaming facility manager in accordance with the  
27 racetrack gaming facility management contract;

28 (3) 7% of net electronic gaming machine income shall be credited to the  
29 live greyhound racing purse supplement fund established by K.S.A. 2010  
30 Supp. 74-8767, and amendments thereto, except that the amount of net  
31 electronic gaming machine income credited to the fund during any fiscal year  
32 from electronic gaming machines at a racetrack gaming facility shall not  
33 exceed an amount equal to the average of \$3,750 per electronic gaming  
34 machine at each location and any moneys in excess of such amount shall be  
35 distributed between the state and the racetrack gaming facility manager in  
36 accordance with the racetrack gaming facility management contract;

37 (4) (A) if the racetrack gaming facility is not located within a city, include  
38 a provision for payment of an amount equal to 3% of the net electronic gaming  
39 machine income to the county in which the racetrack gaming facility is  
40 located; or (B) if the racetrack gaming facility is located within a city, include  
41 provision for payment of an amount equal to 1.5% of the net electronic gaming  
42 machine income to the city in which the racetrack gaming facility is located  
43 and an amount equal to 1.5% of such revenues to the county in which such

1 facility is located;

2 (5) 2% of net electronic gaming machine income shall be credited to the  
3 problem gambling and addictions grant fund established by K.S.A. 2010 Supp.  
4 79-4805, and amendments thereto;

5 (6) 1% of net electronic gaming machine income shall be credited to the  
6 Kansas horse fair racing benefit fund established by K.S.A. 74-8838, and  
7 amendments thereto;

8 (7) 40% of net electronic gaming machine income shall be credited to the  
9 expanded lottery act revenues fund; and

10 (8) 15% of electronic gaming machine income shall be used for gaming  
11 expenses, subject to agreement between the Kansas lottery and the racetrack  
12 gaming facility manager.

13 (b) A racetrack gaming facility management contract may include  
14 provisions for a parimutuel licensee or any other entity to pay the parimutuel  
15 licensee's expenses related to electronic gaming machines, as the executive  
16 director deems appropriate, subject to the requirements of subsection (a)(8).

17 (c) On and after January 1, 2013, net electronic gaming machine income  
18 from a racetrack gaming facility located in the northeast Kansas gaming zone  
19 shall be distributed as follows:

20 (1) To the racetrack gaming facility manager, an amount equal to not  
21 more than 58% of net electronic gaming machine income;

22 (2) 7% of net electronic gaming machine income shall be credited to the  
23 live horse racing purse supplement fund established by K.S.A. 2010 Supp. 74-  
24 8767, and amendments thereto;

25 (3) 7% of net electronic gaming machine income shall be credited to the  
26 live greyhound racing purse supplement fund established by K.S.A. 2010  
27 Supp. 74-8767, and amendments thereto;

28 (4) (A) if the racetrack gaming facility is not located within a city, include  
29 a provision for payment of an amount equal to 3% of the net electronic gaming  
30 machine income to the county in which the racetrack gaming facility is  
31 located; or (B) if the racetrack gaming facility is located within a city, include  
32 a provision for payment of an amount equal to 1.5% of the net electronic  
33 gaming machine income to the city in which the racetrack gaming facility is  
34 located and an amount equal to 1.5% of such revenues to the county in which  
35 such facility is located;

36 (5) 2% of net electronic gaming machine income shall be credited to the  
37 problem gambling and addictions grant fund established by K.S.A. 2010 Supp  
38 79-4805, and amendments thereto;

39 (6) 1% of net electronic gaming machine income shall be credited to the  
40 Kansas horse fair racing benefit fund established by K.S.A. 74-8838, and  
41 amendments thereto; and

42 (7) not less than 22% of net electronic gaming machine income shall be  
43 credited to the expanded lottery act revenues fund.

1 (d) On and after January 1, 2013, a racetrack gaming facility management  
2 contract may include provisions for a parimutuel licensee or any other entity to  
3 pay the parimutuel licensee's expenses related to electronic gaming machines,  
4 as the executive director deems appropriate.

5 Sec. 6. K.S.A. 2010 Supp. 74-8751 is hereby amended to read as follows:  
6 74-8751. The Kansas racing and gaming commission, through rules and  
7 regulations, shall establish:

8 (a) A certification requirement, and enforcement procedure, for officers,  
9 directors, key employees and persons directly or indirectly owning a ~~0.5%~~ 5%  
10 or more interest in a lottery gaming facility manager or racetrack gaming  
11 facility manager. Such certification requirement shall include compliance with  
12 such security, fitness and background investigations and standards as the  
13 executive director of the Kansas racing and gaming commission deems  
14 necessary to determine whether such person's reputation, habits or associations  
15 pose a threat to the public interest of the state or to the reputation of or  
16 effective regulation and control of the lottery gaming facility or racetrack  
17 gaming facility. *In the case of a publicly traded company subject to the*  
18 *jurisdiction of the United States securities and exchange commission, such*  
19 *certification requirements shall require such security, fitness and background*  
20 *investigations and standards of officers, directors, key gaming employees and*  
21 *persons directly or indirectly owning a 5% or more interest in such entity, and*  
22 *specify that such publicly traded company annually provide a list of all*  
23 *identifiable shareholders. In the case of institutional investors in a publicly*  
24 *traded company, the certification requirement shall provide a procedure for*  
25 *issuance of waivers of the background investigation requirement by the*  
26 *executive director of the Kansas racing and gaming commission. Any person*  
27 *convicted of any felony, a crime involving gambling or a crime of moral*  
28 *turpitude prior to applying for a certificate hereunder or at any time thereafter*  
29 *shall be deemed unfit. The Kansas racing and gaming commission shall*  
30 *conduct the security, fitness and background checks required pursuant to this*  
31 *subsection. Certification pursuant to this subsection shall not be assignable or*  
32 *transferable;*

33 (b) a certification requirement, and enforcement procedure, for those  
34 persons, including electronic gaming machine manufacturers, technology  
35 providers and computer system providers, who propose to contract with a  
36 lottery gaming facility manager, a racetrack gaming facility manager or the  
37 state for the provision of goods or services related to a lottery gaming facility  
38 or racetrack gaming facility, including management services. Such  
39 certification requirements shall include compliance with such security, fitness  
40 and background investigations and standards of officers, directors, key gaming  
41 employees and persons directly or indirectly owning a ~~0.5%~~ 5% or more  
42 interest in such entity as the executive director of the Kansas racing and  
43 gaming commission deems necessary to determine whether such person's

1 reputation, habits and associations pose a threat to the public interest of the  
2 state or to the reputation of or effective regulation and control of the lottery  
3 gaming facility or racetrack gaming facility. *In the case of a publicly traded*  
4 *company subject to the jurisdiction of the United States securities and*  
5 *exchange commission or equivalent foreign securities law, such certification*  
6 *requirements shall require such security, fitness and background investigations*  
7 *and standards of officers, directors, key gaming employees and persons*  
8 *directly or indirectly owning a 5% or more interest in such entity, and specify*  
9 *that such publicly traded company annually provide a list of all identifiable*  
10 *shareholders. In the case of institutional investors in a publicly traded*  
11 *company, the certification requirement shall provide a procedure for issuance*  
12 *of waivers of the background investigation requirement by the executive*  
13 *director of the Kansas racing and gaming commission. Any person convicted*  
14 *of any felony, a crime involving gambling or a crime of moral turpitude prior*  
15 *to applying for a certificate hereunder or at any time thereafter shall be deemed*  
16 *unfit. If the executive director of the racing and gaming commission*  
17 *determines the certification standards of another state are comprehensive,*  
18 *thorough and provide similar adequate safeguards, the executive director may*  
19 *certify an applicant already certified in such state without the necessity of a*  
20 *full application and background check. The Kansas racing and gaming*  
21 *commission shall conduct the security, fitness and background checks required*  
22 *pursuant to this subsection. Certification pursuant to this subsection shall not*  
23 *be assignable or transferable;*

24 (c) provisions for revocation of a certification required by subsection (a)  
25 or (b) upon a finding that the certificate holder, an officer or director thereof or  
26 a person directly or indirectly owning a ~~0.5%~~ 5% or more interest therein: (1)  
27 Has knowingly provided false or misleading material information to the  
28 Kansas lottery or its employees; or (2) has been convicted of a felony,  
29 gambling related offense or any crime of moral turpitude; and

30 (d) provisions for suspension, revocation or nonrenewal of a certification  
31 required by subsection (a) or (b) upon a finding that the certificate holder, an  
32 officer or director thereof or a person directly or indirectly owning a ~~0.5%~~ 5%  
33 or more interest therein: (1) Has failed to notify the Kansas lottery about a  
34 material change in ownership of the certificate holder, or any change in the  
35 directors or officers thereof; (2) is delinquent in remitting money owed to the  
36 Kansas lottery; (3) has violated any provision of any contract between the  
37 Kansas lottery and the certificate holder; or (4) has violated any provision of  
38 the Kansas expanded lottery act or any rule and regulation adopted hereunder.

39 Sec. 7. K.S.A. 2010 Supp. 74-8768 is hereby amended to read as follows:  
40 74-8768. There is hereby created the expanded lottery act revenues fund in the  
41 state treasury. All expenditures and transfers from such fund shall be made in  
42 accordance with appropriation acts. All moneys credited to such fund shall be  
43 expended or transferred only for the purposes of reduction of state debt, ~~state~~

1 ~~infrastructure improvements~~ expenditures for deferred maintenance of regents  
2 institutions pursuant to K.S.A. 2010 Supp. 76-7,101 et seq., and amendments  
3 thereto, expenditures by the Kansas public employees retirement system to be  
4 applied to the payment of the unfunded actuarial liability of the state for the  
5 state of Kansas and participating employers under K.S.A. 74-4931, and  
6 amendments thereto, portion of such liability, as directed by the Kansas public  
7 employees retirement system and reduction of local ad valorem tax in the same  
8 manner as provided for allocation of amounts in the local ad valorem tax  
9 reduction fund.

10 Sec. 8. K.S.A. 2010 Supp. 74-8734, 74-8741, 74-8744, 74-8747, 74-8751  
11 and 74-8768 are hereby repealed.

12 Sec. 9. This act shall take effect and be in force from and after its  
13 publication in the statute book.