

## HOUSE BILL No. 2354

By Committee on Federal and State Affairs

2-17

1 AN ACT concerning the Kansas expanded lottery act; relating to  
2 racetrack gaming facilities; amending K.S.A. 2010 Supp. 74-8702, 74-  
3 8734, 74-8741, 74-8751 and 74-8768 and repealing the existing  
4 sections.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 74-8702 is hereby amended to read as  
8 follows: 74-8702. As used in the Kansas lottery act, unless the context  
9 otherwise requires:

10 (a) "Ancillary lottery gaming facility operations" means additional  
11 non-lottery facility game products and services not owned and operated  
12 by the state which may be included in the overall development associated  
13 with the lottery gaming facility. Such operations may include, but are not  
14 limited to, restaurants, hotels, motels, museums or entertainment  
15 facilities.

16 (b) "Commission" means the Kansas lottery commission.

17 (c) "Electronic gaming machine" means any electronic,  
18 electromechanical, video or computerized device, contrivance or machine  
19 authorized by the Kansas lottery which, upon insertion of cash, tokens,  
20 electronic cards or any consideration, is available to play, operate or  
21 simulate the play of a game authorized by the Kansas lottery pursuant to  
22 the Kansas expanded lottery act, including, but not limited to, bingo,  
23 poker, blackjack, keno and slot machines, and which may deliver or  
24 entitle the player operating the machine to receive cash, tokens,  
25 merchandise or credits that may be redeemed for cash. Electronic gaming  
26 machines may use bill validators and may be single-position reel-type,  
27 single or multi-game video and single-position multi-game video  
28 electronic game, including, but not limited to, poker, blackjack and slot  
29 machines. Electronic gaming machines shall be directly linked to a  
30 central computer at a location determined by the executive director for  
31 purposes of security, monitoring and auditing.

32 (d) "Executive director" means the executive director of the Kansas  
33 lottery.

34 (e) "Gaming equipment" means any electric, electronic,  
35 computerized or electromechanical machine, mechanism, supply or  
36 device or any other equipment, which is: (1) Unique to the Kansas lottery

1 and used pursuant to the Kansas lottery act; and (2) integral to the  
2 operation of an electronic gaming machine or lottery facility game; and  
3 (3) affects the results of an electronic gaming machine or lottery facility  
4 game by determining win or loss.

5 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,  
6 which consists of Wyandotte county; (2) *one of either* the southeast  
7 *Kansas gaming zone which consists of Crawford and Cherokee counties*  
8 *or the north central* Kansas gaming zone, which consists of ~~Crawford and~~  
9 ~~Cherokee counties~~ Geary county; (3) the south central Kansas gaming  
10 zone, which consists of Sedgwick and Sumner counties; and (4) the  
11 southwest Kansas gaming zone, which consists of Ford county.

12 (g) "Gray machine" means any mechanical, electro-mechanical or  
13 electronic device, capable of being used for gambling, that is: (1) Not  
14 authorized by the Kansas lottery, (2) not linked to a lottery central  
15 computer system, (3) available to the public for play or (4) capable of  
16 simulating a game played on an electronic gaming machine or any similar  
17 gambling game authorized pursuant to the Kansas expanded lottery act.

18 (h) "Kansas lottery" means the state agency created by this act to  
19 operate a lottery or lotteries pursuant to this act.

20 (i) "Lottery" or "state lottery" means the lottery or lotteries operated  
21 pursuant to this act.

22 (j) "Lottery facility games" means any electronic gaming machines  
23 and any other games which, as of January 1, 2007, are authorized to be  
24 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-  
25 9802, and amendments thereto, located within the boundaries of this  
26 state.

27 (k) "Lottery gaming enterprise" means an entertainment enterprise  
28 which includes a lottery gaming facility authorized pursuant to the  
29 Kansas expanded lottery act and ancillary lottery gaming facility  
30 operations that have a coordinated business or marketing strategy. A  
31 lottery gaming enterprise shall be designed to attract to its lottery gaming  
32 facility consumers who reside outside the immediate area of such  
33 enterprise.

34 (l) "Lottery gaming facility" means that portion of a building used  
35 for the purposes of operating, managing and maintaining lottery facility  
36 games.

37 (m) "Lottery gaming facility expenses" means normal business  
38 expenses, as defined in the lottery gaming facility management contract,  
39 associated with the ownership and operation of a lottery gaming facility.

40 (n) "Lottery gaming facility management contract" means a contract,  
41 subcontract or collateral agreement between the state and a lottery  
42 gaming facility manager for the management of a lottery gaming facility,  
43 the business of which is owned and operated by the Kansas lottery,

1 negotiated and signed by the executive director on behalf of the state.

2 (o) "Lottery gaming facility manager" means a corporation, limited  
3 liability company, resident Kansas American Indian tribe or other  
4 business entity authorized to construct and manage, or manage alone,  
5 pursuant to a lottery gaming facility management contract with the  
6 Kansas lottery, and on behalf of the state, a lottery gaming enterprise and  
7 lottery gaming facility.

8 (p) "Lottery gaming facility revenues" means the total revenues  
9 from lottery facility games at a lottery gaming facility after all related  
10 prizes are paid.

11 (q) (1) "Lottery machine" means any machine or device that allows  
12 a player to insert cash or other form of consideration and may deliver as  
13 the result of an element of chance, regardless of the skill required by the  
14 player, a prize or evidence of a prize, including, but not limited to:

15 (A) Any machine or device in which the prize or evidence of a prize  
16 is determined by both chance and the player's or players' skill, including,  
17 but not limited to, any machine or device on which a lottery game or  
18 lottery games, such as poker or blackjack, are played;

19 (B) any machine or device in which the prize or evidence of a prize  
20 is determined only by chance, including, but not limited to, any slot  
21 machine or bingo machine; or

22 (C) any lottery ticket vending machine, such as a keno ticket  
23 vending machine, pull-tab vending machine or an instant-bingo vending  
24 machine.

25 (2) "Lottery machine" shall not mean:

26 (A) Any food vending machine defined by K.S.A. 36-501, and  
27 amendments thereto;

28 (B) any nonprescription drug machine authorized under K.S.A. 65-  
29 650, and amendments thereto;

30 (C) any machine which dispenses only bottled or canned soft drinks,  
31 chewing gum, nuts or candies;

32 (D) any machine excluded from the definition of gambling devices  
33 under subsection (d) of K.S.A. 21-4302, and amendments thereto; or

34 (E) any electronic gaming machine or lottery facility game operated  
35 in accordance with the provisions of the Kansas expanded lottery act.

36 (r) "Lottery retailer" means any person with whom the Kansas  
37 lottery has contracted to sell lottery tickets or shares, or both, to the  
38 public.

39 (s) (1) "Major procurement" means any gaming product or service,  
40 including, but not limited to, facilities, advertising and promotional  
41 services, annuity contracts, prize payment agreements, consulting  
42 services, equipment, tickets and other products and services unique to the  
43 Kansas lottery, but not including materials, supplies, equipment and

1 services common to the ordinary operations of state agencies.

2 (2) "Major procurement" shall not mean any product, service or  
3 other matter covered by or addressed in the Kansas expanded lottery act  
4 or a lottery gaming facility management contract or racetrack gaming  
5 facility management contract executed pursuant to the Kansas expanded  
6 lottery act.

7 (t) "Net electronic gaming machine income" means all cash or other  
8 consideration utilized to play an electronic gaming machine operated at a  
9 racetrack gaming facility, less all cash or other consideration paid out to  
10 winning players as prizes.

11 (u) "Organization licensee" has the meaning provided by K.S.A. 74-  
12 8802, and amendments thereto.

13 (v) "Parimutuel licensee" means a facility owner licensee or facility  
14 manager licensee under the Kansas parimutuel racing act.

15 (w) "Parimutuel licensee location" means a racetrack facility, as  
16 defined in K.S.A. 74-8802, and amendments thereto, owned or managed  
17 by the parimutuel licensee. A parimutuel licensee location may include  
18 any existing structure at such racetrack facility or any structure that may  
19 be constructed on real estate where such racetrack facility is located.

20 (x) "Person" means any natural person, association, limited liability  
21 company, corporation or partnership.

22 (y) "Prize" means any prize paid directly by the Kansas lottery  
23 pursuant to the Kansas lottery act or the Kansas expanded lottery act or  
24 any rules and regulations adopted pursuant to either act.

25 (z) "Progressive electronic game" means a game played on an  
26 electronic gaming machine for which the payoff increases uniformly as  
27 the game is played and for which the jackpot, determined by application  
28 of a formula to the income of independent, local or interlinked electronic  
29 gaming machines, may be won.

30 (aa) "Racetrack gaming facility" means that portion of a parimutuel  
31 licensee location where electronic gaming machines are operated,  
32 managed and maintained.

33 (bb) "Racetrack gaming facility management contract" means an  
34 agreement between the Kansas lottery and a racetrack gaming facility  
35 manager, negotiated and signed by the executive director on behalf of the  
36 state, for placement of electronic gaming machines owned and operated  
37 by the state at a racetrack gaming facility.

38 (cc) "Racetrack gaming facility manager" means a parimutuel  
39 licensee specifically certified by the Kansas lottery to become a certified  
40 racetrack gaming facility manager and offer electronic gaming machines  
41 for play at the racetrack gaming facility.

42 (dd) "Returned ticket" means any ticket which was transferred to a  
43 lottery retailer, which was not sold by the lottery retailer and which was

1 returned to the Kansas lottery for refund by issuance of a credit or  
2 otherwise.

3 (ee) "Share" means any intangible manifestation authorized by the  
4 Kansas lottery to prove participation in a lottery game, except as provided  
5 by the Kansas expanded lottery act.

6 (ff) "Ticket" means any tangible evidence issued by the Kansas  
7 lottery to prove participation in a lottery game other than a lottery facility  
8 game.

9 (gg) "Token" means a representative of value, of metal or other  
10 material, which is not legal tender, redeemable for cash only by the  
11 issuing lottery gaming facility manager or racetrack gaming facility  
12 manager and which is issued and sold by a lottery gaming facility  
13 manager or racetrack gaming facility manager for the sole purpose of  
14 playing an electronic gaming machine or lottery facility game.

15 (hh) "Vendor" means any person who has entered into a major  
16 procurement contract with the Kansas lottery.

17 (ii) "Video lottery machine" means any electronic video game  
18 machine that, upon insertion of cash, is available to play or simulate the  
19 play of a video game authorized by the commission, including, but not  
20 limited to, bingo, poker, black jack and keno, and which uses a video  
21 display and microprocessors and in which, by chance, the player may  
22 receive free games or credits that can be redeemed for cash.

23 Sec. 2. K.S.A. 2010 Supp. 74-8734 is hereby amended to read as  
24 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming  
25 facility in each gaming zone.

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

34 (c) The lottery commission shall adopt standards to promote the  
35 integrity of the gaming and finances of lottery gaming facilities, which  
36 shall apply to all management contracts, shall meet or exceed industry  
37 standards for monitoring and controlling the gaming and finances of  
38 gaming facilities and shall give the executive director sufficient authority  
39 to monitor and control the gaming operation and to ensure its integrity  
40 and security.

41 (d) The Kansas lottery commission may approve management  
42 contracts with one or more prospective lottery gaming facility managers  
43 to manage, or construct and manage, on behalf of the state of Kansas and

1 subject to the operational control of the Kansas lottery, a lottery gaming  
2 facility or lottery gaming enterprise at specified destination locations  
3 within the northeast, south central, *and* southwest *Kansas gaming zones*  
4 and *either the southeast or the north central Kansas gaming zones zone*  
5 where the commission determines the operation of such facility would  
6 promote tourism and economic development. *The comission shall*  
7 *approve either the southeast Kansas gaming zone or the north central*  
8 *Kansas gaming zone but not both zones.* The commission shall approve  
9 or disapprove a proposed management contract within 90 days after the  
10 deadline for receipt of proposals established pursuant to subsection (b).

11 (e) In determining whether to approve a management contract with a  
12 prospective lottery gaming facility manager to manage a lottery gaming  
13 facility or lottery gaming enterprise pursuant to this section, the  
14 commission shall take into consideration the following factors: The size  
15 of the proposed facility; the geographic area in which such facility is to  
16 be located; the proposed facility's location as a tourist and entertainment  
17 destination; the estimated number of tourists that would be attracted by  
18 the proposed facility; the number and type of lottery facility games to be  
19 operated at the proposed facility; and agreements related to ancillary  
20 lottery gaming facility operations.

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

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

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

33 (B) the prospective lottery gaming facility manager is not a resident  
34 Kansas American Indian tribe and, at a minimum: (i) Has sufficient  
35 access to financial resources to support the activities required of a lottery  
36 gaming facility manager under the Kansas expanded lottery act; (ii) is  
37 current in filing all applicable tax returns and in payment of all taxes,  
38 interest and penalties owed to the state of Kansas and any taxing  
39 subdivision where such prospective manager is located in the state of  
40 Kansas, excluding items under formal appeal pursuant to applicable  
41 statutes; and (iii) has three consecutive years' experience in the  
42 management of gaming which would be class III gaming, as defined in  
43 K.S.A. 46-2301, and amendments thereto, operated pursuant to state or

1 federal law; and

2 (2) the commission determines that the proposed development  
3 consists of an investment in infrastructure, including ancillary lottery  
4 gaming facility operations, of at least \$225,000,000 in the northeast,  
5 ~~southeast~~ and south central Kansas gaming zones and *of at least*  
6 *\$50,000,000 in either the southeast gaming zone or the north central*  
7 *gaming zone and southwest Kansas gaming zone.* The commission, in  
8 determining whether the minimum investment required by this subsection  
9 is met, shall not include any amounts derived from or financed by state or  
10 local retailers' sales tax revenues.

11 (h) Any management contract approved by the commission under  
12 this section shall:

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

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

19 (3) establish a mechanism to facilitate payment of lottery gaming  
20 facility expenses, payment of the lottery gaming facility manager's share  
21 of the lottery gaming facility revenues and distribution of the state's share  
22 of the lottery gaming facility revenues;

23 (4) include a provision for the lottery gaming facility manager to pay  
24 the costs of oversight and regulation of the lottery gaming facility  
25 manager and the operations of the lottery gaming facility by the Kansas  
26 racing and gaming commission *and the Kansas lottery*;

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

29 (6) provide for the prospective lottery gaming facility manager, upon  
30 approval of the proposed lottery gaming facility management contract, to  
31 pay to the state treasurer a *nonrefundable* privilege fee, *except as*  
32 *provided in K.S.A. 2010 Supp. 74-8738, and amendments thereto, and*  
33 *except in circumstances when a lottery facility management contract is*  
34 *disapproved by either the lottery gaming facility review board or the*  
35 *Kansas racing and gaming commission pursuant to K.S.A. 2010 Supp.*  
36 *74-8736, and amendments thereto* of: (A) \$25,000,000 for the privilege of  
37 being selected as a lottery gaming facility manager of a lottery gaming  
38 facility in the northeast, ~~southeast~~ or south central Kansas gaming zone;  
39 and (B) \$5,500,000 for the privilege of being selected as a lottery gaming  
40 facility manager of a lottery gaming facility in *either the southeast*  
41 *gaming zone or the north central gaming zone and the southwest Kansas*  
42 *gaming zone.* Such fee shall be deposited in the state treasury and  
43 credited to the lottery gaming facility manager fund, which is hereby

- 1 created in the state treasury;
- 2 (7) incorporate terms and conditions for the ancillary lottery gaming  
3 facility operations;
- 4 (8) designate as key employees, subject to approval of the executive  
5 director, any employees or contractors providing services or functions  
6 which are related to lottery facility games authorized by a management  
7 contract;
- 8 (9) include financing commitments for construction;
- 9 (10) include a resolution of endorsement from the city governing  
10 body, if the proposed facility is within the corporate limits of a city, or  
11 from the county commission, if the proposed facility is located in the  
12 unincorporated area of the county;
- 13 (11) include a requirement that any parimutuel licensee developing a  
14 lottery gaming facility pursuant to this act comply with all orders and  
15 rules and regulations of the Kansas racing and gaming commission with  
16 regard to the conduct of live racing, including the same minimum days of  
17 racing as specified in K.S.A. 2010 Supp. 74-8746, and amendments  
18 thereto, for operation of electronic gaming machines at racetrack gaming  
19 facilities;
- 20 (12) include a provision for the state to receive not less than 22% of  
21 lottery gaming facility revenues, which shall be paid to the expanded  
22 lottery act revenues fund established by K.S.A. 2010 Supp. 74-8768, and  
23 amendments thereto;
- 24 (13) include a provision for 2% of lottery gaming facility revenues  
25 to be paid to the problem gambling and addictions grant fund established  
26 by K.S.A. 2010 Supp. 79-4805, and amendments thereto;
- 27 (14) if the prospective lottery gaming facility manager is an  
28 American Indian tribe, include a provision that such tribe agrees to waive  
29 its sovereign immunity with respect to any actions arising from or to  
30 enforce either the Kansas expanded lottery act or any provision of the  
31 lottery gaming facility management contract; any action brought by an  
32 injured patron or by the state of Kansas; any action for purposes of  
33 enforcing the workers compensation act or any other employment or  
34 labor law; and any action to enforce laws, rules and regulations and codes  
35 pertaining to health, safety and consumer protection; and for any other  
36 purpose deemed necessary by the executive director to protect patrons or  
37 employees and promote fair competition between the tribe and others  
38 seeking a lottery gaming facility management contract;
- 39 (15) (A) if the lottery gaming facility is located in the northeast or  
40 southwest Kansas gaming zone and is not located within a city, include a  
41 provision for payment of an amount equal to 3% of the lottery gaming  
42 facility revenues to the county in which the lottery gaming facility is  
43 located; or (B) if the lottery gaming facility is located in the northeast or

1 southwest Kansas gaming zone and is located within a city, include  
2 provision for payment of an amount equal to 1.5% of the lottery gaming  
3 facility revenues to the city in which the lottery gaming facility is located  
4 and an amount equal to 1.5% of such revenues to the county in which  
5 such facility is located;

6 (16) (A) if the lottery gaming facility is located in *either* the  
7 southeast *or the north central Kansas gaming zone* or *the* south central  
8 Kansas gaming zone and is not located within a city, include a provision  
9 for payment of an amount equal to 2% of the lottery gaming facility  
10 revenues to the county in which the lottery gaming facility is located and  
11 an amount equal to 1% of such revenues to the other county in such zone;  
12 or (B) if the lottery gaming facility is located in *either* the southeast *or*  
13 *the north central Kansas gaming zone* or *the* south central Kansas gaming  
14 zone and is located within a city, provide for payment of an amount equal  
15 to 1% of the lottery gaming facility revenues to the city in which the  
16 lottery gaming facility is located, an amount equal to 1% of such  
17 revenues to the county in which such facility is located and an amount  
18 equal to 1% of such revenues to the other county in such zone;

19 (17) allow the lottery gaming facility manager to manage the lottery  
20 gaming facility in a manner consistent with this act and applicable law,  
21 but shall place full, complete and ultimate ownership and operational  
22 control of the gaming operation of the lottery gaming facility with the  
23 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly  
24 retain the power to overrule any action of the lottery gaming facility  
25 manager affecting the gaming operation without prior notice. The Kansas  
26 lottery shall retain full control over all decisions concerning lottery  
27 gaming facility games;

28 (18) include provisions for the Kansas racing and gaming  
29 commission to oversee all lottery gaming facility operations, including,  
30 but not limited to: Oversight of internal controls; oversight of security of  
31 facilities; performance of background investigations, determination of  
32 qualifications and credentialing of employees, contractors and agents of  
33 the lottery gaming facility manager and of ancillary lottery gaming  
34 facility operations, as determined by the Kansas racing and gaming  
35 commission; auditing of lottery gaming facility revenues; enforcement of  
36 all state laws and maintenance of the integrity of gaming operations; and

37 (19) include enforceable provisions: (A) Prohibiting the state, until  
38 July 1, 2032, from (i) entering into management contracts for more than  
39 four lottery gaming facilities or similar gaming facilities, one to be  
40 located in the northeast Kansas gaming zone, one to be located in the  
41 south central Kansas gaming zone, one to be located in the southwest  
42 Kansas gaming zone and one to be located in the southeast Kansas  
43 gaming zone, (ii) designating additional areas of the state where operation

1 of lottery gaming facilities or similar gaming facilities would be  
2 authorized or (iii) operating an aggregate of more than 2,800 electronic  
3 gaming machines at all parimutuel licensee locations; and (B) requiring  
4 the state to repay to the lottery gaming facility manager an amount equal  
5 to the privilege fee paid by such lottery gaming facility manager, plus  
6 interest on such amount, compounded annually at the rate of 10%, if the  
7 state violates the prohibition provision described in (A).

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

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

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

16 (l) Management contracts authorized by this section may include  
17 provisions relating to:

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

20 (2) minimum requirements for a lottery gaming facility manager to  
21 provide qualified oversight, security and supervision of the lottery facility  
22 games including the use of qualified personnel with experience in  
23 applicable technology;

24 (3) eligibility requirements for employees, contractors or agents of a  
25 lottery gaming facility manager who will have responsibility for or  
26 involvement with actual gaming activities or for the handling of cash or  
27 tokens;

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

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

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

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

39 (m) A management contract shall not constitute property, nor shall it  
40 be subject to attachment, garnishment or execution, nor shall it be  
41 alienable or transferable, except upon approval by the executive director,  
42 nor shall it be subject to being encumbered or hypothecated. The trustee  
43 of any insolvent or bankrupt lottery gaming facility manager may

1 continue to operate pursuant to the management contract under order of  
2 the appropriate court for no longer than one year after the bankruptcy or  
3 insolvency of such manager.

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

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

11 (o) A lottery gaming facility shall comply with any planning and  
12 zoning regulations of the city or county in which it is to be located. The  
13 executive director shall not contract with any prospective lottery gaming  
14 facility manager for the operation and management of such lottery  
15 gaming facility unless such manager first receives any necessary approval  
16 under planning and zoning requirements of the city or county in which it  
17 is to be located.

18 (p) Prior to expiration of the term of a lottery gaming facility  
19 management contract, the lottery commission may negotiate a new lottery  
20 gaming facility management contract with the lottery gaming facility  
21 manager if the new contract is substantially the same as the existing  
22 contract. Otherwise, the lottery gaming facility review board shall be  
23 reconstituted and a new lottery gaming facility management contract shall  
24 be negotiated and approved in the manner provided by this act.

25 Sec. 3. K.S.A. 2010 Supp. 74-8741 is hereby amended to read as  
26 follows: 74-8741. (a) The executive director of the Kansas lottery shall  
27 negotiate a racetrack gaming facility management contract to place  
28 electronic gaming machines at one parimutuel licensee location in each  
29 gaming zone except the southwest Kansas gaming zone.

30 (b) To be eligible to enter into a racetrack gaming facility  
31 management contract the prospective racetrack gaming facility manager  
32 shall, at a minimum:

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

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

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

42 (1) The term of the contract;

43 (2) provisions for the Kansas racing and gaming commission to

1 oversee all racetrack gaming facility operations, including, but not limited  
2 to: Oversight of internal controls; oversight of security of facilities;  
3 performance of background investigations, determination of  
4 qualifications and any required certification or licensing of officers,  
5 directors, board members, employees, contractors and agents of the  
6 racetrack gaming facility manager; auditing of net electronic gaming  
7 machine income and maintenance of the integrity of electronic gaming  
8 machine operations;

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

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

28 (5) *a resolution of endorsement from the city governing body, if the*  
29 *proposed facility is within the corporate limits of a city, or from the*  
30 *county commission, if the proposed facility is located in the*  
31 *unincorporated area of the county.*

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

34 (1) Accounting procedures to determine net electronic gaming  
35 machine income, unclaimed prizes and credits;

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

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

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

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

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

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

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

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

19 Sec. 4. K.S.A. 2010 Supp. 74-8751 is hereby amended to read as  
20 follows: 74-8751. The Kansas racing and gaming commission, through  
21 rules and regulations, shall establish:

22 (a) A certification requirement, and enforcement procedure, for  
23 officers, directors, key employees and persons directly or indirectly  
24 owning a 0.5% or more interest in a lottery gaming facility manager or  
25 racetrack gaming facility manager. Such certification requirement shall  
26 include compliance with such security, fitness and background  
27 investigations and standards as the executive director of the Kansas  
28 racing and gaming commission deems necessary to determine whether  
29 such person's reputation, habits or associations pose a threat to the public  
30 interest of the state or to the reputation of or effective regulation and  
31 control of the lottery gaming facility or racetrack gaming facility. *In the*  
32 *case of a publicly traded company subject to the jurisdiction of the*  
33 *United States securities and exchange commission, such certification*  
34 *requirements shall require such security, fitness and background*  
35 *investigations and standards of officers, directors, key gaming employees*  
36 *and persons directly or indirectly owning a 5% or more interest in such*  
37 *entity, and specify that such publicly traded company annually provide a*  
38 *list of all identifiable shareholders. In the case of institutional investors*  
39 *in a publicly traded company, the certification requirement shall provide*  
40 *a procedure for issuance of waivers of the background investigation*  
41 *requirement by the executive director of the Kansas racing and gaming*  
42 *commission. Any person convicted of any felony, a crime involving*  
43 *gambling or a crime of moral turpitude prior to applying for a certificate*

1 hereunder or at any time thereafter shall be deemed unfit. The Kansas  
2 racing and gaming commission shall conduct the security, fitness and  
3 background checks required pursuant to this subsection. Certification  
4 pursuant to this subsection shall not be assignable or transferable;

5 (b) a certification requirement, and enforcement procedure, for those  
6 persons, including electronic gaming machine manufacturers, technology  
7 providers and computer system providers, who propose to contract with a  
8 lottery gaming facility manager, a racetrack gaming facility manager or  
9 the state for the provision of goods or services related to a lottery gaming  
10 facility or racetrack gaming facility, including management services.  
11 Such certification requirements shall include compliance with such  
12 security, fitness and background investigations and standards of officers,  
13 directors, key gaming employees and persons directly or indirectly  
14 owning a ~~0.5%~~ 5% or more interest in such entity as the executive  
15 director of the Kansas racing and gaming commission deems necessary to  
16 determine whether such person's reputation, habits and associations pose  
17 a threat to the public interest of the state or to the reputation of or  
18 effective regulation and control of the lottery gaming facility or racetrack  
19 gaming facility. *In the case of a publicly traded company subject to the*  
20 *jurisdiction of the United States securities and exchange commission or*  
21 *equivalent foreign securities law, such certification requirements shall*  
22 *require such security, fitness and background investigations and*  
23 *standards of officers, directors, key gaming employees and persons*  
24 *directly or indirectly owning a 5% or more interest in such entity, and*  
25 *specify that such publicly traded company annually provide a list of all*  
26 *identifiable shareholders. In the case of institutional investors in a*  
27 *publicly traded company, the certification requirement shall provide a*  
28 *procedure for issuance of waivers of the background investigation*  
29 *requirement by the executive director of the Kansas racing and gaming*  
30 *commission. Any person convicted of any felony, a crime involving*  
31 *gambling or a crime of moral turpitude prior to applying for a certificate*  
32 *hereunder or at any time thereafter shall be deemed unfit. If the executive*  
33 *director of the racing and gaming commission determines the certification*  
34 *standards of another state are comprehensive, thorough and provide*  
35 *similar adequate safeguards, the executive director may certify an*  
36 *applicant already certified in such state without the necessity of a full*  
37 *application and background check. The Kansas racing and gaming*  
38 *commission shall conduct the security, fitness and background checks*  
39 *required pursuant to this subsection. Certification pursuant to this*  
40 *subsection shall not be assignable or transferable;*

41 (c) provisions for revocation of a certification required by subsection  
42 (a) or (b) upon a finding that the certificate holder, an officer or director  
43 thereof or a person directly or indirectly owning a ~~0.5%~~ 5% or more

1 interest therein: (1) Has knowingly provided false or misleading material  
2 information to the Kansas lottery or its employees; or (2) has been  
3 convicted of a felony, gambling related offense or any crime of moral  
4 turpitude; and

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

15 Sec. 5. K.S.A. 2010 Supp. 74-8768 is hereby amended to read as  
16 follows: 74-8768. There is hereby created the expanded lottery act  
17 revenues fund in the state treasury. All expenditures and transfers from  
18 such fund shall be made in accordance with appropriation acts. All  
19 moneys credited to such fund shall be expended or transferred only for  
20 the purposes of reduction of state debt, ~~state infrastructure improvements~~  
21 *expenditures for deferred maintenance of regents institutions pursuant to*  
22 *K.S.A. 2010 Supp. 76-7,101 et seq., and amendments thereto,*  
23 *expenditures by the Kansas public employees retirement system to be*  
24 *applied to the payment of the unfunded actuarial liability of the state for*  
25 *the state of Kansas and participating employers under K.S.A. 74-4931,*  
26 *and amendments thereto, portion of such liability, as directed by the*  
27 *Kansas public employees retirement system* and reduction of local ad  
28 valorem tax in the same manner as provided for allocation of amounts in  
29 the local ad valorem tax reduction fund.

30 Sec. 6. K.S.A. 2010 Supp. 74-8702, 74-8734, 74-8741, 74-8751 and  
31 74-8768 are hereby repealed.

32 Sec. 7. This act shall take effect and be in force from and after its  
33 publication in the statute book.

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