

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **Senate substitute for HB 2055, Corrected**, on page 1, by striking all in lines 12 through 36; by striking all on pages 2 through 46;

On page 47, by inserting before line 1:

"Section 1. K.S.A. 2012 Supp. 74-8702 is hereby amended to read as follows: 74-8702. As used in the Kansas lottery act, unless the context otherwise requires:

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

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

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

auditing.

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

(e) "Gaming equipment" means any electric, electronic, computerized or electromechanical machine, mechanism, supply or device or any other equipment, which is: (1) Unique to the Kansas lottery and used pursuant to the Kansas lottery act; and (2) integral to the operation of an electronic gaming machine or lottery facility game; and (3) affects the results of an electronic gaming machine or lottery facility game by determining win or loss.

(f) "Gaming zone" means: (1) The northeast Kansas gaming zone, which consists of Wyandotte county; (2) the southeast Kansas gaming zone, which consists of Crawford and Cherokee counties; (3) the south central Kansas gaming zone, which consists of Sedgwick and Sumner counties; and (4) the southwest Kansas gaming zone, which consists of Ford county.

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

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

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

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

(k) "Lottery gaming enterprise" means an entertainment enterprise which includes a lottery gaming facility authorized pursuant to the Kansas expanded lottery act and ancillary lottery gaming

facility operations that have a coordinated business or marketing strategy. A lottery gaming enterprise shall be designed to attract to its lottery gaming facility consumers who reside outside the immediate area of such enterprise.

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

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

(n) "Lottery gaming facility management contract" means a contract, subcontract or collateral agreement between the state and a lottery gaming facility manager for the management of a lottery gaming facility, the business of which is owned and operated by the Kansas lottery, negotiated and signed by the executive director on behalf of the state.

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

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

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

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

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

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

(2) "Lottery machine" shall not mean:

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

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

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

(D) any machine excluded from the definition of gambling devices under subsection (d) of K.S.A. 21-4302, prior to its repeal, or K.S.A. 2012 Supp. 21-6403, and amendments thereto; or

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

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

(s) (1) "Major procurement" means any gaming product or service, including, but not limited to, facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies.

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

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

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

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

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

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

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

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

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

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

racetrack gaming facility.

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

(dd) "Returned ticket" means any ticket which was transferred to a lottery retailer, which was not sold by the lottery retailer and which was returned to the Kansas lottery for refund by issuance of a credit or otherwise.

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

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

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

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

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

Sec 2. K.S.A. 2012 Supp. 74-8734 is hereby amended to read as follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming facility in each gaming zone.

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

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

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

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

proposed facility; and agreements related to ancillary lottery gaming facility operations.

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

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

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

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

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

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

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

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

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

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

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

(6) provide for the prospective lottery gaming facility manager, upon approval of the proposed lottery gaming facility management contract, to pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the northeast, ~~southeast~~ or south central Kansas gaming zone and \$5,500,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the [southeast or](#) southwest Kansas gaming zone. Such fee shall be deposited in the state treasury and credited to the lottery gaming facility manager fund, which is hereby created in the state treasury;

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

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

(9) include financing commitments for construction;

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

(11) include a requirement that any parimutuel licensee developing a lottery gaming facility pursuant to this act comply with all orders and rules and regulations of the Kansas racing and gaming commission with regard to the conduct of live racing, including the same minimum days of racing as specified in K.S.A. 2012 Supp. 74-8746, and amendments thereto, for operation of electronic gaming machines at racetrack gaming facilities;

(12) include a provision for the state to receive not less than 22% of lottery gaming facility revenues, which shall be paid to the expanded lottery act revenues fund established by K.S.A. 2012 Supp. 74-8768, and amendments thereto;

(13) include a provision for 2% of lottery gaming facility revenues to be paid to the problem gambling and addictions grant fund established by K.S.A. 2012 Supp. 79-4805, and amendments thereto;

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

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

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

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

(18) include provisions for the Kansas racing and gaming commission to oversee all lottery gaming facility operations, including, but not limited to: Oversight of internal controls; oversight of

security of facilities; performance of background investigations, determination of qualifications and credentialing of employees, contractors and agents of the lottery gaming facility manager and of ancillary lottery gaming facility operations, as determined by the Kansas racing and gaming commission; auditing of lottery gaming facility revenues; enforcement of all state laws and maintenance of the integrity of gaming operations; and

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

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

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

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

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

(1) Accounting procedures to determine the lottery gaming facility revenues, unclaimed prizes

and credits;

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

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

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

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

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

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

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

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

(2) A lottery gaming facility manager, on behalf of the state, shall purchase or lease for the Kansas lottery all lottery facility games. All lottery facility games shall be subject to the ultimate

control of the Kansas lottery in accordance with this act.

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

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

Sec. 3. K.S.A. 2012 Supp. 74-8741 is hereby amended to read as follows: 74-8741. (a) The executive director of the Kansas lottery shall negotiate a racetrack gaming facility management contract to place electronic gaming machines at one parimutuel licensee location in each gaming zone except the southwest Kansas gaming zone.

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

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

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

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

(1) The term of the contract;

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

(3) provisions for the racetrack gaming facility manager to pay the costs of oversight and regulation of the racetrack gaming facility manager under this act and such manager's racetrack gaming facility operations by the [Kansas lottery and the](#) Kansas racing and gaming commission; and

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

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

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

(2) minimum requirements for a racetrack gaming facility manager to provide qualified

oversight, security and supervision of electronic gaming machines including the use of qualified personnel with experience in applicable technology;

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

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

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

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

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

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

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

Sec. 4. K.S.A. 2012 Supp. 74-8744 is hereby amended to read as follows: 74-8744. (a) In accordance with rules and regulations adopted by the commission, the executive director shall have general responsibility for the implementation and administration of the provisions of this act relating to racetrack gaming facility operations, including the responsibility to:

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

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

the following:

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

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

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

(D) rules and regulations and procedures for the accounting and reporting of the payments required from racetrack gaming facility managers under K.S.A. 2012 Supp. 74-8766, and amendments thereto, including the calculations required for such payments.

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

(1) At least ~~600~~400, but not more than 1,200 electronic gaming machines shall be allocated to and placed at each racetrack gaming facility.

(2) The total number of electronic gaming machines allocated to and placed at all racetrack gaming facilities in the state shall not exceed 2,800. ~~Until lottery gaming facility management contracts for lottery gaming facilities in all gaming zones become binding, the total number of electronic gaming machines placed at all racetrack gaming facilities shall not exceed 2,200. When lottery gaming facility management contracts for lottery gaming facilities in all gaming zones have become binding, the lottery commission shall take privilege fee bids from the lottery gaming facility manager and racetrack gaming facility manager in each gaming zone for the remaining electronic gaming machines allocated to but not yet placed at the racetrack gaming facility in such zone. The minimum bid shall be a~~

~~privilege fee of \$2,500 per electronic gaming machine. If the racetrack gaming facility manager submits the highest bid, the lottery commission shall place the remaining electronic gaming machines at the racetrack gaming facility. If the lottery gaming facility manager submits the highest bid, the commission shall not place any additional electronic gaming machines at the racetrack gaming facility.~~

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

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

Sec. 5. K.S.A. 2012 Supp. 74-8746 is hereby amended to read as follows: 74-8746. ~~(a) Except as provided in subsection (b):~~

~~(1) No electronic gaming machines shall be operated at a parimutuel licensee location in Sedgwick county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts at such location at least 100 live greyhound races each calendar week for the number of weeks raced during calendar year 2003 for at least 25 weeks~~ with at least 13 live races conducted each day for not less than five days per week.

~~(2) No electronic gaming machines shall be operated at a parimutuel licensee location in Wyandotte county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts live horse racing programs for at least 60 days, with at least 10 live races conducted each program, and must offer and~~

make a reasonable effort to conduct a minimum number of three live races restricted for quarter horses each day and seven live thoroughbred races each day, of which not less than two races each day shall be limited to registered Kansas-bred horses apportioned in the same ratio that live races are offered, except that the licensee shall not be required to conduct the second live race restricted to Kansas-bred horses unless there are at least seven qualified entries for such race, ~~and with at least 100 live greyhound races each calendar week for at least the same number of weeks raced during calendar year 2003, with at least 13 live races conducted each day for not less than five days per week.~~

~~(3) No electronic gaming machines shall be operated at a parimutuel licensee location in Crawford county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts at such location at least 85 live greyhound races each calendar ~~week for the number of weeks raced during calendar year 2003~~ for at least 25 weeks in Sedgwick county, with at least 12 live races conducted each day for not less than five days per week.~~

~~(4) If a parimutuel licensee has not held live races pursuant to a schedule approved by the Kansas racing and gaming commission in the preceding 12 months, the Kansas racing and gaming commission shall hold a hearing to determine the number of days of live racing required for the remaining days of the first calendar year of operation to qualify for operation of electronic gaming machines. At such hearing, the commission shall receive testimony and evidence from affected breed groups, the licensee and others, as the Kansas racing and gaming commission deems appropriate concerning the schedule of live race days. The operation of electronic gaming machines shall not commence more than 90 days prior to the start of live racing at such facility.~~

~~(b) The Kansas racing and gaming commission may not grant exceptions to the requirements of subsection (a) for a parimutuel licensee conducting live racing unless such exception is in the form of an agreement which: (1) Is between the parimutuel licensee and the affected recognized greyhound~~

~~or recognized horsemen's group, as defined in K.S.A. 74-8802, and amendments thereto; (2) has been approved by the appropriate official breed registering agencies; and (3) has been submitted to and approved by the commission. In the case of emergencies, weather related issues or immediate circumstances beyond the control of the licensee, the Kansas racing and gaming commission may grant an exception.~~

New Sec. 6. (a) Net electronic gaming machine income from a racetrack gaming facility in the northeast Kansas gaming zone located in Wyandotte county shall be distributed as follows:

(1) To the racetrack gaming facility manager, an amount equal to 66.5% of net electronic gaming machine income in the first two years of operation and 64.5% of the net electronic gaming machine income in the third and fourth years of operation and 62.5% of the net electronic gaming machine income in all subsequent years;

(2) 2% of the electronic gaming machine income to the county in which the racetrack gaming facility is located;

(3) 8% of the net electronic gaming machine income shall be credited to the live horse racing purse supplement fund established by K.S.A. 2012 Supp. 74-8767, and amendments thereto, during the first and second years of operation, 10% of the net electronic gaming machine income during the third and fourth years of operation and 12% of the net electronic gaming machine income in all subsequent years;

(4) 1% of net electronic gaming machine income shall be credited to the problem gambling and addictions grant fund established by K.S.A. 2012 Supp. 79-4805, and amendments thereto;

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

(6) 22% of net electronic gaming machine income shall be credited to the expanded lottery act revenues fund.

(b) A racetrack gaming facility management contract may include provisions for a parimutuel license or any other entity to pay the parimutuel licensee's expenses related to electronic gaming machines, as the executive director deems appropriate.

Sec. 7. K.S.A. 2012 Supp. 74-8751 is hereby amended to read as follows: 74-8751. The Kansas racing and gaming commission, through rules and regulations, shall establish:

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

(b) a certification requirement, and enforcement procedure, for those persons, including electronic gaming machine manufacturers, technology providers and computer system providers, who propose to contract with a lottery gaming facility manager, a racetrack gaming facility manager or the state for the provision of goods or services related to a lottery gaming facility or racetrack gaming facility, including management services. Such certification requirements shall include compliance with such security, fitness and background investigations and standards of officers, directors, key gaming employees and persons directly or indirectly owning a ~~0.5%~~5% or more interest in such entity as the executive director of the Kansas racing and gaming commission deems necessary to determine whether such person's reputation, habits and associations pose a threat to the public interest of the state or to the reputation of or effective regulation and control of the lottery gaming facility or racetrack gaming facility. In the case of a publicly traded company subject to the jurisdiction of the United States securities and exchange commission, or equivalent foreign securities law, such certification requirements shall include such security, fitness and background investigations and standards, for officers, directors, key gaming employees and persons directly or indirectly owning a 5% or more interest in such entity, and shall specify that such publicly traded company annually provide a list of all identifiable shareholders. In the case of institutional investors in a publicly traded company, the certification requirement shall provide a procedure for issuance of waivers of the background investigation requirement by the executive director of the Kansas racing and gaming commission. Any person convicted of any felony, a crime involving gambling or a crime of moral turpitude prior to applying for a certificate hereunder or at any time thereafter shall be deemed unfit. If the executive director of the racing and gaming commission determines the certification standards of another state are comprehensive, thorough and provide similar adequate safeguards, the executive director may certify an applicant already certified in such state without the necessity of a full application and background check. The Kansas racing and gaming commission shall conduct the security, fitness and background

checks required pursuant to this subsection. Certification pursuant to this subsection shall not be assignable or transferable;

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

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

Sec. 8. K.S.A. 2012 Supp. 74-8702, 74-8734, 74-8741, 74-8744, 74-8746, 74-8747 and 74-8751 are hereby repealed.";

And by redesignating sections accordingly;

On page 1, in the title, by striking all in lines 1 through 9, and inserting:

"AN ACT concerning the Kansas expanded lottery act; relating to racetrack gaming facilities; relating to parimutuel racing; amending K.S.A. 2012 Supp. 74-8702, 74-8734, 74-8741, 74-8744, 74-8746 and 74-8751 and repealing the existing sections and also repealing K.S.A. 2012 Supp. 74-8747."

Senator _____