

SENATE BILL No. 241

By Committee on Federal and State Affairs

3-18

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack
2 gaming facilities; creating the Kansas agricultural opportunity act;
3 amending K.S.A. 74-8826 and K.S.A. 2010 Supp. 74-8734, 74-8741,
4 74-8744, 74-8747 and 74-8751 and repealing the existing sections; also
5 repealing K.S.A. 74-8824.

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

8 New Section 1. Sections 1 through 3, and amendments thereto, shall
9 be known and may be cited as the Kansas agricultural opportunity act, and
10 shall apply to implementation and operation of parimutuel racetrack
11 facilities authorized to offer lottery gaming facility games pursuant to
12 K.S.A. 74-8733 et seq., and amendments thereto, and shall provide for the
13 establishment of a framework for encouraging economic opportunity in
14 rural Kansas through the expansion of horse and greyhound ownership,
15 breeding and investment.

16 New Sec. 2. (a) The official horse registering agency designated by
17 the Kansas racing and gaming commission pursuant to K.S.A. 74-8830,
18 and amendments thereto, shall be responsible for implementing procedures
19 and making recommendations related to the operation of live horse racing
20 pursuant to the requirements of section 3, and amendments thereto.

21 (b) The official greyhound registering agency designated by the
22 Kansas racing and gaming commission pursuant to K.S.A. 74-8832, and
23 amendments thereto, shall be responsible for implementing procedures and
24 making recommendations related to the operation of live greyhound racing
25 pursuant to the requirements of section 3, and amendments thereto.

26 New Sec. 3. (a) On or before December 1, the official breed
27 registering agencies for both horse and greyhound breeds shall make
28 recommendations to the Kansas racing and gaming commission for
29 implementation of programs which will maximize the benefit to economic
30 development in rural Kansas from purse supplements paid pursuant to
31 K.S.A. 2010 Supp. 74-8747, and amendments thereto. Such
32 recommendations made by each breed registering agency shall consider
33 the following:

34 (1) Increasing the number of registered breed horses bred in Kansas
35 and mares and stallions domiciled in Kansas;

36 (2) increasing the number of greyhounds whelped in Kansas and
37 greyhounds in Kansas;

1 (3) increasing the number of horses and greyhounds owned by
2 Kansas residents for the purposes of live racing; and

3 (4) creating jobs in Kansas associated with breeding and racing of
4 horses and greyhounds.

5 (b) On or before January 15, the official breed registering agencies
6 shall submit the following reports to the Kansas racing and gaming
7 commission:

8 (1) The number of horses bred in Kansas and the number of mares
9 and stallions domiciled in Kansas during the previous calendar year;

10 (2) the number of whelped greyhounds registered in Kansas during
11 the previous calendar year;

12 (3) the estimated number of horses and greyhounds owned by Kansas
13 residents during the previous calendar year; and

14 (4) the estimated amount of total purses paid by Kansas parimutuel
15 racetrack facilities with separate total amounts for each source of purse
16 funds.

17 Sec. 4. K.S.A. 2010 Supp. 74-8734 is hereby amended to read as
18 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
19 facility in each gaming zone.

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

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

35 (d) The Kansas lottery commission may approve management
36 contracts with one or more prospective lottery gaming facility managers to
37 manage, or construct and manage, on behalf of the state of Kansas and
38 subject to the operational control of the Kansas lottery, a lottery gaming
39 facility or lottery gaming enterprise at specified destination locations
40 within the northeast, south central, southwest and southeast Kansas
41 gaming zones where the commission determines the operation of such
42 facility would promote tourism and economic development. The
43 commission shall approve or disapprove a proposed management contract

1 within 90 days after the deadline for receipt of proposals established
2 pursuant to subsection (b).

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

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

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

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

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

35 (2) the commission determines that the proposed development
36 consists of an investment in infrastructure, including ancillary lottery
37 gaming facility operations, of at least \$225,000,000 in the northeast-
38 ~~southeast~~ and south central Kansas gaming zones and *of at least*
39 \$50,000,000 in the *southeast and* southwest Kansas gaming ~~zone~~ *zones*.
40 The commission, in determining whether the minimum investment
41 required by this subsection is met, shall not include any amounts derived
42 from or financed by state or local retailers' sales tax revenues.

43 (h) Any management contract approved by the commission under this

1 section shall:

- 2 (1) Have a maximum initial term of 15 years from the date of opening
3 of the lottery gaming facility. At the end of the initial term, the contract
4 may be renewed by mutual consent of the state and the lottery gaming
5 facility manager;
- 6 (2) specify the total amount to be paid to the lottery gaming facility
7 manager pursuant to the contract;
- 8 (3) establish a mechanism to facilitate payment of lottery gaming
9 facility expenses, payment of the lottery gaming facility manager's share of
10 the lottery gaming facility revenues and distribution of the state's share of
11 the lottery gaming facility revenues;
- 12 (4) include a provision for the lottery gaming facility manager to pay
13 the costs of oversight and regulation of the lottery gaming facility manager
14 and the operations of the lottery gaming facility by the Kansas racing and
15 gaming commission *and the Kansas lottery*;
- 16 (5) establish the types of lottery facility games to be installed in such
17 facility;
- 18 (6) provide for the prospective lottery gaming facility manager, upon
19 approval of the proposed lottery gaming facility management contract, to
20 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of
21 being selected as a lottery gaming facility manager of a lottery gaming
22 facility in the northeast, ~~southeast~~ or south central Kansas gaming zone
23 and \$5,500,000 for the privilege of being selected as a lottery gaming
24 facility manager of a lottery gaming facility in the *southeast or* southwest
25 Kansas gaming zone. Such fee shall be deposited in the state treasury and
26 credited to the lottery gaming facility manager fund, which is hereby
27 created in the state treasury;
- 28 (7) incorporate terms and conditions for the ancillary lottery gaming
29 facility operations;
- 30 (8) designate as key employees, subject to approval of the executive
31 director, any employees or contractors providing services or functions
32 which are related to lottery facility games authorized by a management
33 contract;
- 34 (9) include financing commitments for construction;
- 35 (10) include a resolution of endorsement from the city governing
36 body, if the proposed facility is within the corporate limits of a city, or
37 from the county commission, if the proposed facility is located in the
38 unincorporated area of the county;
- 39 (11) include a requirement that any parimutuel licensee developing a
40 lottery gaming facility pursuant to this act comply with all orders and rules
41 and regulations of the Kansas racing and gaming commission with regard
42 to the conduct of live racing, including the same minimum days of racing
43 as specified in K.S.A. 2010 Supp. 74-8746, and amendments thereto, for

1 operation of electronic gaming machines at racetrack gaming facilities;

2 (12) include a provision for the state to receive not less than 22% of
3 lottery gaming facility revenues, which shall be paid to the expanded
4 lottery act revenues fund established by K.S.A. 2010 Supp. 74-8768, and
5 amendments thereto;

6 (13) include a provision for ~~2%~~ **1%** of lottery gaming facility
7 revenues to be paid to the problem gambling and addictions grant fund
8 established by K.S.A. 2010 Supp. 79-4805, and amendments thereto;

9 ***(14) include a provision for 1% of lottery gaming facility revenue to***
10 ***be paid to the development and promotions fund of the Kansas***
11 ***department of wildlife and parks for the purposes of promoting tourism;***

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

24 ~~(15)~~ **(16)** (A) if the lottery gaming facility is located in the northeast or
25 southwest Kansas gaming zone and is not located within a city, include a
26 provision for payment of an amount equal to 3% of the lottery gaming
27 facility revenues to the county in which the lottery gaming facility is
28 located; or (B) if the lottery gaming facility is located in the northeast or
29 southwest Kansas gaming zone and is located within a city, include
30 provision for payment of an amount equal to 1.5% of the lottery gaming
31 facility revenues to the city in which the lottery gaming facility is located
32 and an amount equal to 1.5% of such revenues to the county in which such
33 facility is located;

34 ~~(16)~~ **(17)** (A) if the lottery gaming facility is located in the southeast
35 or south central Kansas gaming zone and is not located within a city,
36 include a provision for payment of an amount equal to 2% of the lottery
37 gaming facility revenues to the county in which the lottery gaming facility
38 is located and an amount equal to 1% of such revenues to the other county
39 in such zone; or (B) if the lottery gaming facility is located in the southeast
40 or south central Kansas gaming zone and is located within a city, provide
41 for payment of an amount equal to 1% of the lottery gaming facility
42 revenues to the city in which the lottery gaming facility is located, an
43 amount equal to 1% of such revenues to the county in which such facility

1 is located and an amount equal to 1% of such revenues to the other county
2 in such zone;

3 ~~(17)~~**(18)** allow the lottery gaming facility manager to manage the
4 lottery gaming facility in a manner consistent with this act and applicable
5 law, but shall place full, complete and ultimate ownership and operational
6 control of the gaming operation of the lottery gaming facility with the
7 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
8 retain the power to overrule any action of the lottery gaming facility
9 manager affecting the gaming operation without prior notice. The Kansas
10 lottery shall retain full control over all decisions concerning lottery gaming
11 facility games;

12 ~~(18)~~**(19)** include provisions for the Kansas racing and gaming
13 commission to oversee all lottery gaming facility operations, including, but
14 not limited to: Oversight of internal controls; oversight of security of
15 facilities; performance of background investigations, determination of
16 qualifications and credentialing of employees, contractors and agents of
17 the lottery gaming facility manager and of ancillary lottery gaming facility
18 operations, as determined by the Kansas racing and gaming commission;
19 auditing of lottery gaming facility revenues; enforcement of all state laws
20 and maintenance of the integrity of gaming operations; and

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

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

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

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

43 (l) Management contracts authorized by this section may include

1 provisions relating to:

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

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

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

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

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

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

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

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

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

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

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

1 located.

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

9 Sec. 5. K.S.A. 2010 Supp. 74-8741 is hereby amended to read as
10 follows: 74-8741. (a) The executive director of the Kansas lottery shall
11 negotiate a racetrack gaming facility management contract to place
12 electronic gaming machines at one parimutuel licensee location in each
13 gaming zone except the southwest Kansas gaming zone.

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

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

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

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

26 (1) The term of the contract;

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

35 (3) provisions for the racetrack gaming facility manager to pay the
36 costs of oversight and regulation of the racetrack gaming facility manager
37 under this act and such manager's racetrack gaming facility operations by
38 the Kansas racing and gaming commission *and the Kansas lottery*; and

39 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
40 2032, from (i) entering into management contracts for more than ~~three~~
41 *four* lottery gaming facilities or similar gaming facilities, one to be located
42 in the northeast Kansas gaming zone, one to be located in the south central
43 Kansas gaming zone ~~and~~, one to be located in the southeast Kansas

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

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

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

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

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

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

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

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

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

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

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

40 Sec. 6. K.S.A. 2010 Supp. 74-8744 is hereby amended to read as
41 follows: 74-8744. (a) In accordance with rules and regulations adopted by
42 the commission, the executive director shall have general responsibility for
43 the implementation and administration of the provisions of this act relating

1 to racetrack gaming facility operations, including the responsibility to:

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

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

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

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

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

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

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

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

26 (2) The total number of electronic gaming machines allocated to and
27 placed at all racetrack gaming facilities in the state shall not exceed 2,800.
28 ~~Until lottery gaming facility management contracts for lottery gaming~~
29 ~~facilities in all gaming zones become binding, the total number of~~
30 ~~electronic gaming machines placed at all racetrack gaming facilities shall~~
31 ~~not exceed 2,200. When lottery gaming facility management contracts for~~
32 ~~lottery gaming facilities in all gaming zones have become binding, the~~
33 ~~lottery commission shall take privilege fee bids from the lottery gaming~~
34 ~~facility manager and racetrack gaming facility manager in each gaming~~
35 ~~zone for the remaining electronic gaming machines allocated to but not yet~~
36 ~~placed at the racetrack gaming facility in such zone. The minimum bid~~
37 ~~shall be a privilege fee of \$2,500 per electronic gaming machine. If the~~
38 ~~racetrack gaming facility manager submits the highest bid, the lottery~~
39 ~~commission shall place the remaining electronic gaming machines at the~~
40 ~~racetrack gaming facility. If the lottery gaming facility manager submits~~
41 ~~the highest bid, the commission shall not place any additional electronic~~
42 ~~gaming machines at the racetrack gaming facility.~~

43 (3) ~~In addition to any privilege fee paid pursuant to paragraph (2),~~

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

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

10 Sec. 7. K.S.A. 2010 Supp. 74-8747 is hereby amended to read as
11 follows: 74-8747. (a) Net electronic gaming machine income from a
12 racetrack gaming facility shall be distributed as follows:

13 (1) To the racetrack gaming facility manager, an amount equal to 25%
14 *not more than 58%* of net electronic gaming machine income;

15 (2) 7% of net electronic gaming machine income shall be credited to
16 the live horse racing purse supplement fund established by K.S.A. 2010
17 Supp. 74-8767, and amendments thereto, ~~except that the amount of net~~
18 ~~electronic gaming machine income credited to the fund during any fiscal~~
19 ~~year from electronic gaming machines at a racetrack gaming facility shall~~
20 ~~not exceed an amount equal to the average of \$3,750 per electronic gaming~~
21 ~~machine at each location and any moneys in excess of such amount shall~~
22 ~~be distributed between the state and the racetrack gaming facility manager~~
23 ~~in accordance with the racetrack gaming facility management contract;~~

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

34 (4) (A) if the racetrack gaming facility is located in the northeast
35 Kansas gaming zone and is not located within a city, include a provision
36 for payment of an amount equal to 3% of the racetrack gaming facility
37 revenues to the county in which the racetrack gaming facility is located; or
38 (B) if the racetrack gaming facility is located in the northeast Kansas
39 gaming zone and is located within a city, include provision for payment of
40 an amount equal to 1.5% of the racetrack gaming facility revenues to the
41 city in which the racetrack gaming facility is located and an amount equal
42 to 1.5% of such revenues to the county in which such facility is located;

43 (5) (A) if the racetrack gaming facility is located in the southeast or

1 south central Kansas gaming zone and is not located within a city, include
2 a provision for payment of an amount equal to 2% of the racetrack gaming
3 facility revenues to the county in which the racetrack gaming facility is
4 located and an amount equal to 1% of such revenues to the other county in
5 such zone; or (B) if the racetrack gaming facility is located in the southeast
6 or south central Kansas gaming zone and is located within a city, provide
7 for payment of an amount equal to 1% of the racetrack gaming facility
8 revenues to the city in which the racetrack gaming facility is located, an
9 amount equal to 1% of such revenues to the county in which such facility
10 is located and an amount equal to 1% of such revenues to the other county
11 in such zone;

12 (6) ~~2%~~ 1% of net electronic gaming machine income shall be credited
13 to the problem gambling and addictions grant fund established by K.S.A.
14 2010 Supp. 79-4805, and amendments thereto;

15 ***(7) 1% of net electronic gaming machine income shall be credited***
16 ***to the development and promotions fund of the Kansas department of***
17 ***wildlife and parks for the purposes of promoting tourism;***

18 ~~(7)(8)~~ 1% of net electronic gaming machine income shall be credited to
19 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
20 and amendments thereto; *and*

21 ~~(8)(9)~~ *40% not less than 22%* of net electronic gaming machine income
22 shall be credited to the expanded lottery act revenues fund; ~~and~~

23 ~~(9) 15% of electronic gaming machine income shall be used for~~
24 ~~gaming expenses, subject to agreement between the Kansas lottery and the~~
25 ~~racetrack gaming facility manager. .~~

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

31 Sec. 8. K.S.A. 2010 Supp. 74-8751 is hereby amended to read as
32 follows: 74-8751. The Kansas racing and gaming commission, through
33 rules and regulations, shall establish:

34 (a) A certification requirement, and enforcement procedure, for
35 officers, directors, key employees and persons directly or indirectly
36 owning a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or
37 racetrack gaming facility manager. Such certification requirement shall
38 include compliance with such security, fitness and background
39 investigations and standards as the executive director of the Kansas racing
40 and gaming commission deems necessary to determine whether such
41 person's reputation, habits or associations pose a threat to the public
42 interest of the state or to the reputation of or effective regulation and
43 control of the lottery gaming facility or racetrack gaming facility. *In the*

1 *case of a publicly traded company subject to the jurisdiction of the United*
2 *States securities and exchange commission, such certification*
3 *requirements shall require such security, fitness and background*
4 *investigations and standards of officers, directors, key gaming employees*
5 *and persons directly or indirectly owning a 5% or more interest in such*
6 *entity, and specify that such publicly traded company annually provide a*
7 *list of all identifiable shareholders. In the case of institutional investors in*
8 *a publicly traded company, the certification requirement shall provide a*
9 *procedure for issuance of waivers of the background investigation*
10 *requirement by the executive director of the Kansas racing and gaming*
11 *commission. Any person convicted of any felony, a crime involving*
12 *gambling or a crime of moral turpitude prior to applying for a certificate*
13 *hereunder or at any time thereafter shall be deemed unfit. The Kansas*
14 *racing and gaming commission shall conduct the security, fitness and*
15 *background checks required pursuant to this subsection. Certification*
16 *pursuant to this subsection shall not be assignable or transferable;*

17 (b) a certification requirement, and enforcement procedure, for those
18 persons, including electronic gaming machine manufacturers, technology
19 providers and computer system providers, who propose to contract with a
20 lottery gaming facility manager, a racetrack gaming facility manager or the
21 state for the provision of goods or services related to a lottery gaming
22 facility or racetrack gaming facility, including management services. Such
23 certification requirements shall include compliance with such security,
24 fitness and background investigations and standards of officers, directors,
25 key gaming employees and persons directly or indirectly owning a ~~0-5%~~
26 5% or more interest in such entity as the executive director of the Kansas
27 racing and gaming commission deems necessary to determine whether
28 such person's reputation, habits and associations pose a threat to the public
29 interest of the state or to the reputation of or effective regulation and
30 control of the lottery gaming facility or racetrack gaming facility. *In the*
31 *case of a publicly traded company subject to the jurisdiction of the United*
32 *States securities and exchange commission or equivalent foreign securities*
33 *law, such certification requirements shall require such security, fitness and*
34 *background investigations and standards of officers, directors, key gaming*
35 *employees and persons directly or indirectly owning a 5% or more interest*
36 *in such entity, and specify that such publicly traded company annually*
37 *provide a list of all identifiable shareholders. In the case of institutional*
38 *investors in a publicly traded company, the certification requirement shall*
39 *provide a procedure for issuance of waivers of the background*
40 *investigation requirement by the executive director of the Kansas racing*
41 *and gaming commission. Any person convicted of any felony, a crime*
42 *involving gambling or a crime of moral turpitude prior to applying for a*
43 *certificate hereunder or at any time thereafter shall be deemed unfit. If the*

1 executive director of the racing and gaming commission determines the
2 certification standards of another state are comprehensive, thorough and
3 provide similar adequate safeguards, the executive director may certify an
4 applicant already certified in such state without the necessity of a full
5 application and background check. The Kansas racing and gaming
6 commission shall conduct the security, fitness and background checks
7 required pursuant to this subsection. Certification pursuant to this
8 subsection shall not be assignable or transferable;

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

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

26 Sec. 9. K.S.A. 74-8826 is hereby amended to read as follows: 74-
27 8826. (a) There is hereby created the state racing fund in the state treasury.

28 (b) Except as otherwise provided by K.S.A. ~~74-8824 and~~ 74-8835,
29 and amendments thereto, all taxes on parimutuel wagering, ~~admissions tax,~~
30 application fees, license fees and fines which are collected by the
31 commission shall be remitted to the state treasurer in accordance with the
32 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
33 each such remittance, the state treasurer shall deposit the entire amount in
34 the state treasury to the credit of the state racing fund. All moneys credited
35 to such fund shall be expended or transferred only for the purposes and in
36 the manner provided by this act. Expenditures from such fund shall be
37 made in accordance with appropriation acts upon warrants of the director
38 of accounts and reports issued pursuant to vouchers approved by the
39 chairperson of the commission or a person designated by the chairperson.

40 (c) Except as otherwise provided by this act, all operating expenses of
41 the commission and moneys for the promotion of horse and greyhound
42 racing appropriated by the legislature shall be paid from the state racing
43 fund. On January 15, 1990, and on the 15th day of each month thereafter,

1 and at such other times as provided by law, the director of accounts and
2 reports shall transfer to the state gaming revenues fund created by K.S.A.
3 79-4801, and amendments thereto, any moneys in the state racing fund on
4 each such date in excess of the amount required for operating expenditures
5 and an adequate fund balance, taking into consideration encumbrances,
6 anticipated revenues, revenue and expenditure experience to date and other
7 relevant factors, as determined by the executive director and the director of
8 accounts and reports.

9 (d) Any appropriation or transfer of state general fund moneys for the
10 operation of the commission or the office of the executive director and any
11 other expenses incurred in connection with the administration and
12 enforcement of this act shall be considered a loan and shall be repaid with
13 interest to the state general fund in accordance with appropriation acts.
14 Such loan shall not be considered an indebtedness or debt of the state
15 within the meaning of section 6 of article 11 of the constitution of the state
16 of Kansas. Such loan shall bear interest at a rate equal to the rate
17 prescribed by K.S.A. 75-4210, and amendments thereto, for inactive
18 accounts of the state effective on the first day of the month during which
19 the appropriation or transfer takes effect.

20 (e) At the time of repayment of a loan pursuant to subsection (d), the
21 executive director shall certify to the director of accounts and reports the
22 amount to be repaid and any interest due thereon. Upon receipt of such
23 certification, the director of accounts and reports shall promptly transfer
24 the amount certified from the state racing fund to the state general fund.

25 Sec. 10. K.S.A. 74-8824 and 74-8826 and K.S.A. 2010 Supp. 74-
26 8734, 74-8741, 74-8744, 74-8747 and 74-8751 are hereby repealed.

27 Sec. 11. This act shall take effect and be in force from and after its
28 publication in the Kansas register.

29