

## HOUSE BILL No. 2472

By Committee on Federal and State Affairs

1-22

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1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack  
2 gaming facilities; amending K.S.A. 2013 Supp. 74-8702, 74-8734, 74-  
3 8741, 74-8751 and 74-8768 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2013 Supp. 74-8702 is hereby amended to read as  
7 follows: 74-8702. As used in the Kansas lottery act, unless the context  
8 otherwise requires:

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

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

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

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

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

1 electronic gaming machine or lottery facility game by determining win or  
2 loss.

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

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

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

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

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

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

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

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

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

41 (o) "Lottery gaming facility manager" means a corporation, limited  
42 liability company, resident Kansas American Indian tribe or other business  
43 entity authorized to construct and manage, or manage alone, pursuant to a

1 lottery gaming facility management contract with the Kansas lottery, and  
2 on behalf of the state, a lottery gaming enterprise and lottery gaming  
3 facility.

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

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

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

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

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

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

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

23 (B) any nonprescription drug machine authorized under K.S.A. 65-  
24 650, and amendments thereto;

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

27 (D) any machine excluded from the definition of gambling devices  
28 under subsection (d) of K.S.A. 21-4302, prior to its repeal, or K.S.A. 2013  
29 Supp. 21-6403, and amendments thereto; or

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

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

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

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

1 act.

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

6 (u) "Organization licensee" has the meaning provided by K.S.A. 74-  
7 8802, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 Sec. 2. K.S.A. 2013 Supp. 74-8734 is hereby amended to read as  
19 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming  
20 facility in each gaming zone.

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

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

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

1 development. The commission shall approve or disapprove a proposed  
2 management contract within 90 days after the deadline for receipt of  
3 proposals established pursuant to subsection (b).

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

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

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

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

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

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

1 revenues.

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

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

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

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

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

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

20 (6) provide for the prospective lottery gaming facility manager, upon  
21 approval of the proposed lottery gaming facility management contract, to  
22 pay to the state treasurer a *nonrefundable* privilege fee ~~of~~ , *except as*  
23 *provided in K.S.A. 2013 Supp. 74-8738, and amendments thereto, and*  
24 *except in circumstances when a lottery facility management contract is*  
25 *disapproved by either the lottery gaming facility review board or the*  
26 *Kansas racing and gaming commission pursuant to K.S.A. 2013 Supp. 74-*  
27 *8736, and amendments thereto, of: (A) \$25,000,000 for the privilege of*  
28 *being selected as a lottery gaming facility manager of a lottery gaming*  
29 *facility in the northeast, ~~southeast~~ or south central Kansas gaming zone*  
30 *and \$5,500,000; and (B) \$5,500,000 for the privilege of being selected as a*  
31 *lottery gaming facility manager of a lottery gaming facility in the north*  
32 *central, southeast and southwest Kansas gaming ~~zone~~ zones. Such fee*  
33 *shall be deposited in the state treasury and credited to the lottery gaming*  
34 *facility manager fund, which is hereby created in the state treasury;*

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

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

41 (9) include financing commitments for construction;

42 (10) include a resolution of endorsement from the city governing  
43 body, if the proposed facility is within the corporate limits of a city, or

1 from the county commission, if the proposed facility is located in the  
2 unincorporated area of the county;

3 (11) include a requirement that any parimutuel licensee developing a  
4 lottery gaming facility pursuant to this act comply with all orders and rules  
5 and regulations of the Kansas racing and gaming commission with regard  
6 to the conduct of live racing, including the same minimum days of racing  
7 as specified in K.S.A. 2013 Supp. 74-8746, and amendments thereto, for  
8 operation of electronic gaming machines at racetrack gaming facilities;

9 (12) include a provision for the state to receive not less than 22% of  
10 lottery gaming facility revenues, which shall be paid to the expanded  
11 lottery act revenues fund established by K.S.A. 2013 Supp. 74-8768, and  
12 amendments thereto;

13 (13) include a provision for 2% of lottery gaming facility revenues to  
14 be paid to the problem gambling and addictions grant fund established by  
15 K.S.A. 2013 Supp. 79-4805, and amendments thereto;

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

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

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



1 facility is located in the southeast-~~or~~, *the north central or the south central*  
2 Kansas gaming-~~zone zones~~ and is located within a city, provide for  
3 payment of an amount equal to 1% of the lottery gaming facility revenues  
4 to the city in which the lottery gaming facility is located, an amount equal  
5 to 1% of such revenues to the county in which such facility is located and  
6 an amount equal to 1% of such revenues to the other county in such zone;

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

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

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

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

42 (j) Any proposed management contract for which the privilege fee  
43 has not been paid to the state treasurer within 30 days after the date of

1 approval of the management contract shall be null and void.

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

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

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

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

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

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

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

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

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

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

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

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

43 (o) A lottery gaming facility shall comply with any planning and

1 zoning regulations of the city or county in which it is to be located. The  
2 executive director shall not contract with any prospective lottery gaming  
3 facility manager for the operation and management of such lottery gaming  
4 facility unless such manager first receives any necessary approval under  
5 planning and zoning requirements of the city or county in which it is to be  
6 located.

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

14 Sec. 3. K.S.A. 2013 Supp. 74-8741 is hereby amended to read as  
15 follows: 74-8741. (a) The executive director of the Kansas lottery shall  
16 negotiate a racetrack gaming facility management contract to place  
17 electronic gaming machines at one parimutuel licensee location in each  
18 gaming zone except the southwest Kansas gaming zone.

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

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

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

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

31 (1) The term of the contract;

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

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

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

16 (5) *a resolution of endorsement from the city governing body, if the*  
17 *proposed facility is within the corporate limits of a city, or from the county*  
18 *commission, if the proposed facility is located in the unincorporated area*  
19 *of the county.*

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

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

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

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

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

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

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

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

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

1 gaming facility in the same zone.

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

7 Sec. 4. K.S.A. 2013 Supp. 74-8751 is hereby amended to read as  
8 follows: 74-8751. The Kansas racing and gaming commission, through  
9 rules and regulations, shall establish:

10 (a) A certification requirement, and enforcement procedure, for  
11 officers, directors, key employees and persons directly or indirectly  
12 owning a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or  
13 racetrack gaming facility manager. Such certification requirement shall  
14 include compliance with such security, fitness and background  
15 investigations and standards as the executive director of the Kansas racing  
16 and gaming commission deems necessary to determine whether such  
17 person's reputation, habits or associations pose a threat to the public  
18 interest of the state or to the reputation of or effective regulation and  
19 control of the lottery gaming facility or racetrack gaming facility. *In the*  
20 *case of a publicly traded company subject to the jurisdiction of the United*  
21 *States securities and exchange commission, such certification*  
22 *requirements shall require such security, fitness and background*  
23 *investigations and standards of officers, directors, key gaming employees*  
24 *and persons directly or indirectly owning a 5% or more interest in such*  
25 *entity, and specify that such publicly traded company annually provide a*  
26 *list of all identifiable shareholders. In the case of institutional investors in*  
27 *a 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. The Kansas*  
33 *racing and gaming commission shall conduct the security, fitness and*  
34 *background checks required pursuant to this subsection. Certification*  
35 *pursuant to this subsection shall not be assignable or transferable;*

36 (b) a certification requirement, and enforcement procedure, for those  
37 persons, including electronic gaming machine manufacturers, technology  
38 providers and computer system providers, who propose to contract with a  
39 lottery gaming facility manager, a racetrack gaming facility manager or the  
40 state for the provision of goods or services related to a lottery gaming  
41 facility or racetrack gaming facility, including management services. Such  
42 certification requirements shall include compliance with such security,  
43 fitness and background investigations and standards of officers, directors,

1 key gaming employees and persons directly or indirectly owning a ~~0.5%~~  
2 5% or more interest in such entity as the executive director of the Kansas  
3 racing and gaming commission deems necessary to determine whether  
4 such person's reputation, habits and associations pose a threat to the public  
5 interest of the state or to the reputation of or effective regulation and  
6 control of the lottery gaming facility or racetrack gaming facility. *In the*  
7 *case of a publicly traded company subject to the jurisdiction of the United*  
8 *States securities and exchange commission or equivalent foreign securities*  
9 *law, such certification requirements shall require such security, fitness and*  
10 *background investigations and standards of officers, directors, key gaming*  
11 *employees and persons directly or indirectly owning a 5% or more interest*  
12 *in such entity, and specify that such publicly traded company annually*  
13 *provide a list of all identifiable shareholders. In the case of institutional*  
14 *investors in a publicly traded company, the certification requirement shall*  
15 *provide a procedure for issuance of waivers of the background*  
16 *investigation requirement by the executive director of the Kansas racing*  
17 *and gaming commission. Any person convicted of any felony, a crime*  
18 *involving gambling or a crime of moral turpitude prior to applying for a*  
19 *certificate hereunder or at any time thereafter shall be deemed unfit. If the*  
20 *executive director of the racing and gaming commission determines the*  
21 *certification standards of another state are comprehensive, thorough and*  
22 *provide similar adequate safeguards, the executive director may certify an*  
23 *applicant already certified in such state without the necessity of a full*  
24 *application and background check. The Kansas racing and gaming*  
25 *commission shall conduct the security, fitness and background checks*  
26 *required pursuant to this subsection. Certification pursuant to this*  
27 *subsection shall not be assignable or transferable;*

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

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

1 expanded lottery act or any rule and regulation adopted hereunder.

2 Sec. 5. K.S.A. 2013 Supp. 74-8768 is hereby amended to read as  
3 follows: 74-8768. (a) There is hereby created the expanded lottery act  
4 revenues fund in the state treasury. All expenditures and transfers from  
5 such fund shall be made in accordance with appropriation acts. All moneys  
6 credited to such fund shall be expended or transferred only for the  
7 purposes of reduction of state debt, state infrastructure improvements,  
8 *expenditures for deferred maintenance of regents institutions pursuant to*  
9 *K.S.A. 2013 Supp. 76-7,101 et seq., and amendments thereto, expenditures*  
10 *by the Kansas public employees retirement system to be applied to the*  
11 *payment of the unfunded actuarial liability of the state for the state of*  
12 *Kansas and participating employers under K.S.A. 74-4931, and*  
13 *amendments thereto, as directed by the Kansas public employees*  
14 *retirement system, the university engineering initiative act, reduction of*  
15 *local ad valorem tax in the same manner as provided for allocation of*  
16 *amounts in the local ad valorem tax reduction fund and reduction of the*  
17 *unfunded actuarial liability of the system attributable to the state of Kansas*  
18 *and participating employers under K.S.A. 74-4931, and amendments*  
19 *thereto, by the Kansas public employees retirement system.*

20 (b) On July 1, 2012, July 1, 2013, July 1, 2014, July 1, 2015, July 1,  
21 2016, July 1, 2017, July 1, 2018, July 1, 2019, July 1, 2020, and July 1,  
22 2021, or as soon thereafter such date as moneys are available, the first  
23 \$10,500,000 credited to the expanded lottery act revenues fund shall be  
24 transferred by the director of accounts and reports from the expanded  
25 lottery act revenues fund in one or more substantially equal amounts, to  
26 each of the following: The Kan-grow engineering fund – KU, Kan-grow  
27 engineering fund – KSU and Kan-grow engineering fund – WSU. Each  
28 such special revenue fund shall receive \$3,500,000 annually in each of  
29 such years. Commencing in fiscal year 2014, after such transfer has been  
30 made, 50% of the remaining moneys credited to the fund shall be  
31 transferred on a quarterly basis by the director of accounts and reports  
32 from the fund to the Kansas public employees retirement system fund to  
33 be applied to reduce the unfunded actuarial liability of the system  
34 attributable to the state of Kansas and participating employers under  
35 K.S.A. 74-4931 et seq., and amendments thereto, until the system as a  
36 whole attains an 80% funding ratio as certified by the board of trustees of  
37 the Kansas public employees retirement system.

38 Sec. 6. K.S.A. 2013 Supp. 74-8702, 74-8734, 74-8741, 74-8751 and  
39 74-8768 are hereby repealed.

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