

SENATE BILL No. 215

By Committee on Federal and State Affairs

2-19

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack
2 gaming facilities; relating to parimutuel racing; amending K.S.A. 2012
3 Supp. 74-8734, 74-8741, 74-8744, 74-8746, 74-8747 and 74-8751 and
4 repealing the existing sections.
5

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

7 Section 1. K.S.A. 2012 Supp. 74-8734 is hereby amended to read as
8 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
9 facility in each gaming zone.

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

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

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

36 (e) In determining whether to approve a management contract with a

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

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

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

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

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

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

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

42 (1) Have a maximum initial term of 15 years from the date of opening
43 of the lottery gaming facility. At the end of the initial term, the contract

1 may be renewed by mutual consent of the state and the lottery gaming
2 facility manager;

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

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

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

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

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

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

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

31 (9) include financing commitments for construction;

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

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

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

1 lottery act revenues fund established by K.S.A. 2012 Supp. 74-8768, and
2 amendments thereto;

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

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

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

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

39 (17) allow the lottery gaming facility manager to manage the lottery
40 gaming facility in a manner consistent with this act and applicable law, but
41 shall place full, complete and ultimate ownership and operational control
42 of the gaming operation of the lottery gaming facility with the Kansas
43 lottery. The Kansas lottery shall not delegate and shall explicitly retain the

1 power to overrule any action of the lottery gaming facility manager
2 affecting the gaming operation without prior notice. The Kansas lottery
3 shall retain full control over all decisions concerning lottery gaming
4 facility games;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (p) Prior to expiration of the term of a lottery gaming facility
39 management contract, the lottery commission may negotiate a new lottery
40 gaming facility management contract with the lottery gaming facility
41 manager if the new contract is substantially the same as the existing
42 contract. Otherwise, the lottery gaming facility review board shall be
43 reconstituted and a new lottery gaming facility management contract shall

1 be negotiated and approved in the manner provided by this act.

2 Sec. 2. K.S.A. 2012 Supp. 74-8741 is hereby amended to read as
3 follows: 74-8741. (a) The executive director of the Kansas lottery shall
4 negotiate a racetrack gaming facility management contract to place
5 electronic gaming machines at one parimutuel licensee location in each
6 gaming zone except the southwest Kansas gaming zone.

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

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

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

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

19 (1) The term of the contract;

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

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

32 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
33 2032, from; (i) Entering into management contracts for more than
34 ~~three~~*four* lottery gaming facilities or similar gaming facilities, one to be
35 located in the northeast Kansas gaming zone, one to be located in the south
36 central Kansas gaming zone ~~and~~, one to be located in the southeast Kansas
37 gaming zone; *and one to be located in the southwest Kansas gaming zone*;
38 (ii) designating additional areas of the state where operation of lottery
39 gaming facilities or similar gaming facilities would be authorized; or (iii)
40 operating an aggregate of more than 2,800 electronic gaming machines at
41 all parimutuel licensee locations; and (B) requiring the state to repay to the
42 racetrack gaming facility manager an amount equal to the privilege fee
43 paid by such racetrack gaming facility manager, plus interest on such

1 amount, compounded annually at the rate of 10%, if the state violates the
2 prohibition provision described in(A); *and*

3 *(5) provisions for the distribution of the net electronic gaming*
4 *machine income from the racetrack gaming facility which shall be in*
5 *accordance with K.S.A. 2012 Supp. 74-8747 and amendments thereto.*

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

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

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

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

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

20 (5) credentialing or certification requirements of any employee,
21 contractor or agent 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 racetrack gaming
27 facility operations in a legal and fair manner.

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

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

36 Sec. 3. K.S.A. 2012 Supp. 74-8744 is hereby amended to read as
37 follows: 74-8744. (a) In accordance with rules and regulations adopted by
38 the commission, the executive director shall have general responsibility for
39 the implementation and administration of the provisions of this act relating
40 to racetrack gaming facility operations, including the responsibility to:

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

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

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

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

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

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

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

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

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

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

43 (4) The racetrack gaming facility manager shall pay the privilege fees

1 provided by this subsection to the executive director, who shall remit the
2 entire amount to the state treasurer in accordance with K.S.A. 75-4215,
3 and amendments thereto. Upon receipt of the remittance, the state treasurer
4 shall deposit the entire amount in the state treasury and credit it to the
5 expanded lottery act revenues fund.

6 Sec. 4. K.S.A. 2012 Supp. 74-8746 is hereby amended to read as
7 follows: 74-8746. (a) Except as provided in subsection (b):

8 (1) No electronic gaming machines shall be operated at a parimutuel
9 licensee location in Sedgwick county unless, during the first full calendar
10 year and each year thereafter in which electronic gaming machines are
11 operated at such location, the parimutuel licensee conducts at such location
12 at least 100 live greyhound races each calendar week ~~for the number of~~
13 ~~weeks raced during calendar year 2003~~ *for at least 25 weeks* with at least
14 13 live races conducted each day for not less than five days per week.

15 (2) No electronic gaming machines shall be operated at a parimutuel
16 licensee location in Wyandotte county unless, during the first full calendar
17 year and each year thereafter in which electronic gaming machines are
18 operated at such location, the parimutuel licensee conducts live horse
19 racing programs for at least 60 days, with at least 10 live races conducted
20 each program, and must offer and make a reasonable effort to conduct a
21 minimum number of three live races restricted for quarter horses each day
22 and seven live thoroughbred races each day, of which not less than two
23 races each day shall be limited to registered Kansas-bred horses
24 apportioned in the same ratio that live races are offered, except that the
25 licensee shall not be required to conduct the second live race restricted to
26 Kansas-bred horses unless there are at least seven qualified entries for such
27 race, ~~and with at least 100 live greyhound races each calendar week for at~~
28 ~~least the same number of weeks raced during calendar year 2003, with at~~
29 ~~least 13 live races conducted each day for not less than five days per week.~~

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

38 (4) If a parimutuel licensee has not held live races pursuant to a
39 schedule approved by the Kansas racing and gaming commission in the
40 preceding 12 months, the Kansas racing and gaming commission shall
41 hold a hearing to determine the number of days of live racing required for
42 the remaining days of the first calendar year of operation to qualify for
43 operation of electronic gaming machines. At such hearing, the commission

1 shall receive testimony and evidence from affected breed groups, the
2 licensee and others, as the Kansas racing and gaming commission deems
3 appropriate concerning the schedule of live race days. The operation of
4 electronic gaming machines shall not commence more than 90 days prior
5 to the start of live racing at such facility.

6 (b) The Kansas racing and gaming commission may not grant
7 exceptions to the requirements of subsection (a) for a parimutuel licensee
8 conducting live racing unless such exception is in the form of an
9 agreement which: (1) Is between the parimutuel licensee and the affected
10 recognized greyhound or recognized horsemen's group, as defined in
11 K.S.A. 74-8802, and amendments thereto; (2) has been approved by the
12 appropriate official breed registering agencies; and (3) has been submitted
13 to and approved by the commission. In the case of emergencies, weather
14 related issues or immediate circumstances beyond the control of the
15 licensee, the Kansas racing and gaming commission may grant an
16 exception.

17 Sec. 5. K.S.A. 2012 Supp. 74-8747 is hereby amended to read as
18 follows: 74-8747. (a) Net electronic gaming machine income from a
19 racetrack gaming facility shall be distributed as follows:

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

22 (2) 7% of net electronic gaming machine income shall be credited to
23 the live horse racing purse supplement fund established by K.S.A. 2012
24 Supp. 74-8767, and amendments thereto, except that the amount of net
25 electronic gaming machine income credited to the fund during any fiscal
26 year from electronic gaming machines at a racetrack gaming facility shall
27 not exceed an amount equal to the average of \$3,750 per electronic gaming
28 machine at each location and any moneys in excess of such amount shall
29 be distributed between the state and the racetrack gaming facility manager
30 in accordance with the racetrack gaming facility management contract;

31 (3) 7% of net electronic gaming machine income shall be credited to
32 the live greyhound racing purse supplement fund established by K.S.A.
33 2012 Supp. 74-8767, and amendments thereto, except that the amount of
34 net electronic gaming machine income credited to the fund during any
35 fiscal year from electronic gaming machines at a racetrack gaming facility
36 shall not exceed an amount equal to the average of \$3,750 per electronic
37 gaming machine at each location and any moneys in excess of such
38 amount shall be distributed between the state and the racetrack gaming
39 facility manager in accordance with the racetrack gaming facility
40 management contract;

41 (4) (A) if the racetrack gaming facility is located in the northeast
42 Kansas gaming zone and is not located within a city, include a provision
43 for payment of an amount equal to 3% of the ~~racetrack gaming facility~~

1 ~~revenues net electronic gaming machine income~~ to the county in which the
2 racetrack gaming facility is located; or (B) if the racetrack gaming facility
3 is located in the northeast Kansas gaming zone and is located within a city,
4 include provision for payment of an amount equal to 1.5% of the ~~racetrack~~
5 ~~gaming facility revenues~~ *net electronic gaming machine income* to the city
6 in which the racetrack gaming facility is located and an amount equal to
7 1.5% of such revenues to the county in which such facility is located;

8 (5) (A) if the racetrack gaming facility is located in the ~~southeast or~~
9 south central Kansas gaming zone and is not located within a city, include
10 a provision for payment of an amount equal to 2% of the ~~racetrack gaming~~
11 ~~facility revenues~~ *net electronic gaming machine income* to the county in
12 which the racetrack gaming facility is located and an amount equal to 1%
13 of such revenues to the other county in such zone; or (B) if the racetrack
14 gaming facility is located in the southeast or south central Kansas gaming
15 zone and is located within a city, provide for payment of an amount equal
16 to 1% of the ~~racetrack gaming facility revenues~~ *net electronic gaming*
17 *machine income* to the city in which the racetrack gaming facility is
18 located, an amount equal to 1% of such revenues to the county in which
19 such facility is located and an amount equal to 1% of such revenues to the
20 other county in such zone;

21 (6) 2% of net electronic gaming machine income shall be credited to
22 the problem gambling and addictions grant fund established by K.S.A.
23 2012 Supp. 79-4805, and amendments thereto;

24 (7) 1% of net electronic gaming machine income shall be credited to
25 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
26 and amendments thereto;

27 (8) 40% of net electronic gaming machine income shall be credited to
28 the expanded lottery act revenues fund; and

29 (9) 15% of electronic gaming machine income shall be used for
30 gaming expenses, subject to agreement between the Kansas lottery and the
31 racetrack gaming facility manager.

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

37 New Sec. 6. (a) Net electronic gaming machine income from a
38 racetrack gaming facility located in the southeast Kansas gaming zone
39 shall be distributed as follows:

40 (1) To the racetrack gaming facility manager, an amount equal to 27%
41 of net electronic gaming machine income;

42 (2) 7% of net electronic gaming machine income shall be credited to
43 the live horse racing purse supplement fund established by K.S.A. 2012

1 Supp. 74-8767, and amendments thereto, except that the amount of net
2 electronic gaming machine income credited to the fund during any fiscal
3 year from electronic gaming machines at a racetrack gaming facility shall
4 not exceed an amount equal to the average of \$3,750 per electronic gaming
5 machine at each location and any moneys in excess of such amount shall
6 be distributed between the state and the racetrack gaming facility manager
7 in accordance with the racetrack gaming facility management contract;

8 (3) 7.5% of net electronic gaming machine income shall be credited
9 to the live greyhound racing purse supplement fund established by K.S.A.
10 2012 Supp. 74-8767, and amendments thereto, except that the amount of
11 net electronic gaming machine income credited to the fund during any
12 fiscal year from electronic gaming machines at a racetrack gaming facility
13 shall not exceed an amount equal to the average of \$3,750 per electronic
14 gaming machine at each location and any moneys in excess of such
15 amount shall be distributed between the state and the racetrack gaming
16 facility manager in accordance with the racetrack gaming facility
17 management contract;

18 (4) (A) 2% of the net electronic gaming machine income to the
19 county if the racetrack gaming facility is not located within a city and 1%
20 of such revenues to the other county in such zone; or (B) 1% of the net
21 electronic gaming machine income to the city if the racetrack gaming
22 facility is located within a city, 1% of such revenues to the county in which
23 such facility is located and an amount equal to 1% of such revenues to the
24 other county in such zone;

25 (5) 0.5% of net electronic gaming machine income shall be credited
26 to the problem gambling and addictions grant fund established by K.S.A.
27 2012 Supp. 79-4805, and amendments thereto;

28 (6) 40% of net electronic gaming machine income shall be credited to
29 the expanded lottery act revenues fund; and

30 (7) 15% of electronic gaming machine income shall be used for
31 gaming expenses, subject to agreement between the Kansas lottery and the
32 racetrack gaming facility manager.

33 (b) A racetrack gaming facility management contract may include
34 provisions for a parimutuel licensee or any other entity to pay the
35 parimutuel licensee's expenses related to electronic gaming machines, as
36 the executive director deems appropriate, subject to the requirements of
37 subsection (a)(7).

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

41 (a) A certification requirement, and enforcement procedure, for
42 officers, directors, key employees and persons directly or indirectly
43 owning a ~~0.5%~~5% or more interest in a lottery gaming facility manager or

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

24 (b) a certification requirement, and enforcement procedure, for those
25 persons, including electronic gaming machine manufacturers, technology
26 providers and computer system providers, who propose to contract with a
27 lottery gaming facility manager, a racetrack gaming facility manager or the
28 state for the provision of goods or services related to a lottery gaming
29 facility or racetrack gaming facility, including management services. Such
30 certification requirements shall include compliance with such security,
31 fitness and background investigations and standards of officers, directors,
32 key gaming employees and persons directly or indirectly owning a
33 ~~0.5%~~5% or more interest in such entity as the executive director of the
34 Kansas racing and gaming commission deems necessary to determine
35 whether such person's reputation, habits and associations pose a threat to
36 the public interest of the state or to the reputation of or effective regulation
37 and control of the lottery gaming facility or racetrack gaming facility. *In*
38 *the case of a publicly traded company subject to the jurisdiction of the*
39 *United States securities and exchange commission, or equivalent foreign*
40 *securities law, such certification requirements shall include such security,*
41 *fitness and background investigations and standards, for officers,*
42 *directors, key gaming employees and persons directly or indirectly owning*
43 *a 5% or more interest in such entity, and shall specify that such publicly*

1 *traded company annual provide a list of all identifiable shareholders. In*
2 *the case of institutional investors in a publicly traded company, the*
3 *certification requirement shall provide a procedure for issuance of waivers*
4 *of the background investigation requirement by the executive director of*
5 *the Kansas racing and gaming commission. Any person convicted of any*
6 *felony, a crime involving gambling or a crime of moral turpitude prior to*
7 *applying for a certificate hereunder or at any time thereafter shall be*
8 *deemed unfit. If the executive director of the racing and gaming*
9 *commission determines the certification standards of another state are*
10 *comprehensive, thorough and provide similar adequate safeguards, the*
11 *executive director may certify an applicant already certified in such state*
12 *without the necessity of a full application and background check. The*
13 *Kansas racing and gaming commission shall conduct the security, fitness*
14 *and background checks required pursuant to this subsection. Certification*
15 *pursuant to this subsection shall not be assignable or transferable;*

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

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

33 Sec. 8. K.S.A. 2012 Supp. 74-8734, 74-8741, 74-8744, 74-8746, 74-
34 8747 and 74-8751 are hereby repealed.

35 Sec. 9. This act shall take effect and be in force from and after its
36 publication in the Kansas register.