

**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;

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

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

42 (b) On or before January 15, the official breed registering agencies

1 shall submit the following reports to the Kansas racing and gaming  
2 commission:

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

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

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

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

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

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

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

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

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

1 lottery gaming facility operations.

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

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

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

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

24 (2) the commission determines that the proposed development  
25 consists of an investment in infrastructure, including ancillary lottery  
26 gaming facility operations, of at least \$225,000,000 in the northeast-  
27 ~~southeast~~ and south central Kansas gaming zones and *of at least*  
28 \$50,000,000 in the *southeast and* southwest Kansas gaming ~~zone~~ *zones*.  
29 The commission, in determining whether the minimum investment  
30 required by this subsection is met, shall not include any amounts derived  
31 from or financed by state or local retailers' sales tax revenues.

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

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

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

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

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

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

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

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

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

17 (9) include financing commitments for construction;

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

22 (11) include a requirement that any parimutuel licensee developing a  
23 lottery gaming facility pursuant to this act comply with all orders and rules  
24 and regulations of the Kansas racing and gaming commission with regard  
25 to the conduct of live racing, including the same minimum days of racing  
26 as specified in K.S.A. 2010 Supp. 74-8746, and amendments thereto, for  
27 operation of electronic gaming machines at racetrack gaming facilities;

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

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

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

47 (15) (A) if the lottery gaming facility is located in the northeast or  
48 southwest Kansas gaming zone and is not located within a city, include a  
49 provision for payment of an amount equal to 3% of the lottery gaming

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

8 (16) (A) if the lottery 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 lottery gaming  
11 facility revenues to the county in which the lottery gaming facility is  
12 located and an amount equal to 1% of such revenues to the other county in  
13 such zone; or (B) if the lottery gaming facility is located in the southeast or  
14 south central Kansas gaming zone and is located within a city, provide for  
15 payment of an amount equal to 1% of the lottery gaming facility revenues  
16 to the city in which the lottery gaming facility is located, an amount equal  
17 to 1% of such revenues to the county in which such facility is located and  
18 an amount equal to 1% of such revenues to the other county in such zone;

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

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

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

1 prohibition provision described in (A).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (o) A lottery gaming facility shall comply with any planning and  
49 zoning regulations of the city or county in which it is to be located. The

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

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

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

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

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

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

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

30 (1) The term of the contract;

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

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

43 (4) enforceable provisions: (A) Prohibiting the state, until July 1,  
44 2032, from (i) entering into management contracts for more than ~~three~~  
45 *four* lottery gaming facilities or similar gaming facilities, one to be located  
46 in the northeast Kansas gaming zone, one to be located in the south central  
47 Kansas gaming zone ~~and~~, one to be located in the southeast Kansas  
48 gaming zone *and one to be located in the southwest Kansas gaming zone*,  
49 (ii) designating additional areas of the state where operation of lottery

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (A) The number of electronic gaming machines allocated for



1 placement at each racetrack gaming facility, subject to the provisions of  
2 subsection (b);

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

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

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

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

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

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

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

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

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

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

1 (2) 7% of net electronic gaming machine income shall be credited to  
2 the live horse racing purse supplement fund established by K.S.A. 2010  
3 Supp. 74-8767, and amendments thereto, ~~except that the amount of net~~  
4 ~~electronic gaming machine income credited to the fund during any fiscal~~  
5 ~~year from electronic gaming machines at a racetrack gaming facility shall~~  
6 ~~not exceed an amount equal to the average of \$3,750 per electronic gaming~~  
7 ~~machine at each location and any moneys in excess of such amount shall~~  
8 ~~be distributed between the state and the racetrack gaming facility manager~~  
9 ~~in accordance with the racetrack gaming facility management contract;~~

10 (3) 7% of net electronic gaming machine income shall be credited to  
11 the live greyhound racing purse supplement fund established by K.S.A.  
12 2010 Supp. 74-8767, and amendments thereto, ~~except that the amount of~~  
13 ~~net electronic gaming machine income credited to the fund during any~~  
14 ~~fiscal year from electronic gaming machines at a racetrack gaming facility~~  
15 ~~shall not exceed an amount equal to the average of \$3,750 per electronic~~  
16 ~~gaming machine at each location and any moneys in excess of such~~  
17 ~~amount shall be distributed between the state and the racetrack gaming~~  
18 ~~facility manager in accordance with the racetrack gaming facility~~  
19 ~~management contract;~~

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

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

41 (6) 2% of net electronic gaming machine income shall be credited to  
42 the problem gambling and addictions grant fund established by K.S.A.  
43 2010 Supp. 79-4805, and amendments thereto;

44 (7) 1% of net electronic gaming machine income shall be credited to  
45 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,  
46 and amendments thereto; *and*

47 (8) ~~40%~~ *not less than 22%* of net electronic gaming machine income  
48 shall be credited to the expanded lottery act revenues fund; ~~and~~

49 ~~(9) 15% of electronic gaming machine income shall be used for~~

1 gaming expenses, subject to agreement between the Kansas lottery and the  
2 racetrack gaming facility manager. .

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

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

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

37 (b) a certification requirement, and enforcement procedure, for those  
38 persons, including electronic gaming machine manufacturers, technology  
39 providers and computer system providers, who propose to contract with a  
40 lottery gaming facility manager, a racetrack gaming facility manager or the  
41 state for the provision of goods or services related to a lottery gaming  
42 facility or racetrack gaming facility, including management services. Such  
43 certification requirements shall include compliance with such security,  
44 fitness and background investigations and standards of officers, directors,  
45 key gaming employees and persons directly or indirectly owning a ~~0.5%~~  
46 5% or more interest in such entity as the executive director of the Kansas  
47 racing and gaming commission deems necessary to determine whether  
48 such person's reputation, habits and associations pose a threat to the public  
49 interest of the state or to the reputation of or effective regulation and

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

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

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

40 Sec. 9. K.S.A. 74-8826 is hereby amended to read as follows: 74-  
 41 8826. (a) There is hereby created the state racing fund in the state treasury.

42 (b) Except as otherwise provided by K.S.A. ~~74-8824 and 74-8835,~~  
 43 and amendments thereto, all taxes on parimutuel wagering, ~~admissions tax,~~  
 44 application fees, license fees and fines which are collected by the  
 45 commission shall be remitted to the state treasurer in accordance with the  
 46 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
 47 each such remittance, the state treasurer shall deposit the entire amount in  
 48 the state treasury to the credit of the state racing fund. All moneys credited  
 49 to such fund shall be expended or transferred only for the purposes and in

1 the manner provided by this act. Expenditures from such fund shall be  
2 made in accordance with appropriation acts upon warrants of the director  
3 of accounts and reports issued pursuant to vouchers approved by the  
4 chairperson of the commission or a person designated by the chairperson.

5 (c) Except as otherwise provided by this act, all operating expenses of  
6 the commission and moneys for the promotion of horse and greyhound  
7 racing appropriated by the legislature shall be paid from the state racing  
8 fund. On January 15, 1990, and on the 15th day of each month thereafter,  
9 and at such other times as provided by law, the director of accounts and  
10 reports shall transfer to the state gaming revenues fund created by K.S.A.  
11 79-4801, and amendments thereto, any moneys in the state racing fund on  
12 each such date in excess of the amount required for operating expenditures  
13 and an adequate fund balance, taking into consideration encumbrances,  
14 anticipated revenues, revenue and expenditure experience to date and other  
15 relevant factors, as determined by the executive director and the director of  
16 accounts and reports.

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

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

33 Sec. 10. K.S.A. 74-8824 and 74-8826 and K.S.A. 2010 Supp. 74-  
34 8734, 74-8741, 74-8744, 74-8747 and 74-8751 are hereby repealed.

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