

HOUSE BILL No. 2406

By Committee on Federal and State Affairs

3-19

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack
2 gaming facilities; amending K.S.A. 2012 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. 2012 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) *one of either* the southeast
5 *Kansas gaming zone which consists of Crawford and Cherokee counties or*
6 *the north central* Kansas gaming zone, which consists of ~~Crawford and~~
7 ~~Cherokee counties~~ Geary county; (3) the south central Kansas gaming
8 zone, which consists of Sedgwick and Sumner counties; and (4) 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. 2012
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. 2012 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 southwest
42 *Kansas gaming zones and either the southeast or the north central* Kansas
43 gaming ~~zones~~ zone where the commission determines the operation of

1 such facility would promote tourism and economic development. *The*
2 *commission shall approve either the southeast Kansas gaming zone or the*
3 *north central Kansas gaming zone, but not both zones.* The commission
4 shall approve or disapprove a proposed management contract within 90
5 days after the deadline for receipt of proposals established pursuant to
6 subsection (b).

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

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

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

21 (1) (A) The prospective lottery gaming facility manager is 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; and (ii) has three
25 consecutive years' experience in the management of gaming which would
26 be class III gaming, as defined in K.S.A. 46-2301, and amendments
27 thereto, operated pursuant to state or federal law; or

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

39 (2) the commission determines that the proposed development
40 consists of an investment in infrastructure, including ancillary lottery
41 gaming facility operations, of at least \$225,000,000 in the northeast-
42 ~~southeast~~ and south central Kansas gaming zones *and in the southeast or*
43 *the north central gaming zone* and \$50,000,000 in the southwest Kansas

1 gaming zone. The commission, in determining whether the minimum
2 investment required by this subsection is met, shall not include any
3 amounts derived from or financed by state or local retailers' sales tax
4 revenues.

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

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

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

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

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

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

23 (6) provide for the prospective lottery gaming facility manager, upon
24 approval of the proposed lottery gaming facility management contract, to
25 pay to the state treasurer a *nonrefundable* privilege fee of, *except as*
26 *provided in K.S.A. 2012 Supp. 74-8738, and amendments thereto, and*
27 *except in circumstances when a lottery facility management contract is*
28 *disapproved by either the lottery gaming facility review board or the*
29 *Kansas racing and gaming commission pursuant to K.S.A. 2012 Supp. 74-*
30 *8736, and amendments thereto, of: (A) \$25,000,000 for the privilege of*
31 *being selected as a lottery gaming facility manager of a lottery gaming*
32 *facility in the northeast, ~~southeast~~ or south central Kansas gaming zone*
33 *and \$5,500,000 or in the southeast or north central Kansas gaming zone;*
34 *and (B) \$5,500,000 for the privilege of being selected as a lottery gaming*
35 *facility manager of a lottery gaming facility in the southwest Kansas*
36 *gaming zone. Such fee shall be deposited in the state treasury and credited*
37 *to the lottery gaming facility manager fund, which is hereby created in the*
38 *state treasury;*

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

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

1 contract;

2 (9) include financing commitments for construction;

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

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

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

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

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

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

42 (16) (A) if the lottery gaming facility is located in *either* the southeast
43 or *the north central Kansas gaming zone or the south central Kansas*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (2) A lottery gaming facility manager, on behalf of the state, shall

1 purchase or lease for the Kansas lottery all lottery facility games. All
2 lottery facility games shall be subject to the ultimate control of the Kansas
3 lottery in accordance with this act.

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

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

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

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

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

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

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

35 (1) The term of the contract;

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

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

5 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
6 2032, from (i) entering into management contracts for more than ~~three~~
7 *four* lottery gaming facilities or similar gaming facilities, one to be located
8 in the northeast Kansas gaming zone, one to be located in the south central
9 Kansas gaming zone ~~and~~, one to be located in *either* the southeast *Kansas*
10 *gaming zone or the north central* Kansas gaming zone *and one to be*
11 *located in the southwest gaming zone*, (ii) designating additional areas of
12 the state where operation of lottery gaming facilities or similar gaming
13 facilities would be authorized or (iii) operating an aggregate of more than
14 2,800 electronic gaming machines at all parimutuel licensee locations; and
15 (B) requiring the state to repay to the racetrack gaming facility manager an
16 amount equal to the privilege fee paid by such racetrack gaming facility
17 manager, plus interest on such amount, compounded annually at the rate of
18 10%, if the state violates the prohibition provision described in (A); *and*

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

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

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

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

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

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

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

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

42 (7) any other provision deemed necessary by the parties, including
43 such other terms and restrictions as necessary to conduct racetrack gaming

1 facility operations in a legal and fair manner.

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

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

10 Sec. 4. K.S.A. 2012 Supp. 74-8751 is hereby amended to read as
11 follows: 74-8751. The Kansas racing and gaming commission, through
12 rules and regulations, shall establish:

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

39 (b) a certification requirement, and enforcement procedure, for those
40 persons, including electronic gaming machine manufacturers, technology
41 providers and computer system providers, who propose to contract with a
42 lottery gaming facility manager, a racetrack gaming facility manager or the
43 state for the provision of goods or services related to a lottery gaming

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

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

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

1 delinquent in remitting money owed to the Kansas lottery; (3) has violated
2 any provision of any contract between the Kansas lottery and the
3 certificate holder; or (4) has violated any provision of the Kansas
4 expanded lottery act or any rule and regulation adopted hereunder.

5 Sec. 5. K.S.A. 2012 Supp. 74-8768 is hereby amended to read as
6 follows: 74-8768. (a) There is hereby created the expanded lottery act
7 revenues fund in the state treasury. All expenditures and transfers from
8 such fund shall be made in accordance with appropriation acts. All moneys
9 credited to such fund shall be expended or transferred only for the
10 purposes of reduction of state debt, state infrastructure improvements,
11 *expenditures for deferred maintenance of regents institutions pursuant to*
12 *K.S.A. 2012 Supp. 76-7,101 et seq., and amendments thereto, expenditures*
13 *by the Kansas public employees retirement system to be applied to the*
14 *payment of the unfunded actuarial liability of the state for the state of*
15 *Kansas and participating employers under K.S.A. 74-4931, and*
16 *amendments thereto, portion of such liability, as directed by the Kansas*
17 *public employees retirement system, the university engineering initiative*
18 *act, reduction of local ad valorem tax in the same manner as provided for*
19 *allocation of amounts in the local ad valorem tax reduction fund and*
20 *reduction of the unfunded actuarial liability of the system attributable to*
21 *the state of Kansas and participating employers under K.S.A. 74-4931, and*
22 *amendments thereto, by the Kansas public employees retirement system.*

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

41 Sec. 6. K.S.A. 2012 Supp. 74-8702, 74-8734, 74-8741, 74-8751 and
42 74-8768 are hereby repealed.

43 Sec. 7. This act shall take effect and be in force from and after its

- 1 publication in the statute book.