

HOUSE BILL No. 2890

By Representative Cox

2-13

AN ACT concerning lotteries; authorizing electronic gaming machines at certain locations; amending K.S.A. 2001 Supp. 19-101a, 74-8702, 74-8710, 74-8711 and 74-8836 and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 74-8702 is hereby amended to read as follows: 74-8702.As used in the Kansas lottery act, unless the context otherwise requires:

(a) "Commission" means the Kansas lottery commission.

(b) "Executive director" means the executive director of the Kansas lottery.

~~(c) "Gaming equipment" means any electric, electronic or mechanical device or other equipment unique to the Kansas lottery used directly in the operation of any lottery and in the determination of winners pursuant to this act.~~

(c) "Gaming equipment" means any electric, electronic, computerized or electromechanical machine, mechanism, supply or device, or any other equipment, which is: (1) Unique to the Kansas lottery and used pursuant to the Kansas lottery act; (2) integral to the operation of an electronic gaming machine; or (3) affects the results of an electronic gaming machine by determining win or loss.

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

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

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

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

(h) "Person" means any natural person, association, *limited liability company*, corporation or partnership.

1 (i) "Prize" means any prize paid directly by the Kansas lottery pur-
2 suant to its rules and regulations.

3 (j) "Share" means any intangible manifestation authorized by the
4 Kansas lottery to prove participation in a lottery game.

5 (k) "Ticket" means any tangible evidence issued by the Kansas lottery
6 to prove participation in a lottery game.

7 (l) "Vendor" means any person who has entered into a major pro-
8 curement contract with the Kansas lottery.

9 (m) "Returned ticket" means any ticket which was transferred to a
10 lottery retailer, which was not sold by the lottery retailer and which was
11 returned to the Kansas lottery for refund by issuance of a credit or
12 otherwise.

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

19 ~~(o) (1) "Lottery machine" means any machine or device that allows
20 a player to insert cash or other form of consideration and may deliver as
21 the result of an element of chance, regardless of the skill required by the
22 player, a prize or evidence of a prize, including, but not limited to:~~

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

27 ~~—(B) any machine or device in which the prize or evidence of a prize
28 is determined only by chance, including, but not limited to, any slot ma-
29 chine or bingo machine; or~~

30 ~~—(C) any lottery ticket vending machine, such as a keno ticket vending
31 machine, pull-tab vending machine or an instant bingo vending machine.~~

32 ~~(2) "Lottery machine" shall not mean:~~

33 ~~—(A) Any food vending machine defined by K.S.A. 36-501, and amend-
34 ments thereto;~~

35 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-
36 650, and amendments thereto;~~

37 ~~—(C) any machine which dispenses only bottled or canned soft drinks,
38 chewing gum, nuts or candies; or~~

39 ~~—(D) any machine excluded from the definition of gambling devices
40 under subsection (d) of K.S.A. 21-4302, and amendments thereto.~~

41 (n) "Administrator of charitable gaming" means the administrator
42 designated pursuant to K.S.A. 2001 Supp. 79-4717, and amendments
43 thereto.

1 (o) “Bingo licensee” means a nonprofit fraternal organization or non-
2 profit veterans’ organization, as defined by K.S.A. 79-4701, and amend-
3 ments thereto, which:

4 (1) Is licensed to manage, operate and conduct games of bingo pur-
5 suant to the bingo act; and

6 (2) has been in existence for not less than five years.

7 (p) “Bingo licensee location” means premises where a bingo licensee
8 is authorized to manage, operate or conduct games of bingo pursuant to
9 the bingo act.

10 (q) “Electronic gaming machine” means any electronic, electrome-
11 chanical, video or computerized device, contrivance or machine author-
12 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic
13 cards or any consideration, is available to play, operate or simulate the
14 play of a game authorized by the Kansas lottery at a bingo licensee lo-
15 cation or parimutuel licensee location, including, but not limited to, bingo,
16 poker, blackjack, keno and slot machines, and which may deliver or entitle
17 the player operating the machine to receive cash, tokens, merchandise or
18 credits that may be redeemed for cash, but no electronic gaming machine
19 shall dispense automatically, or be capable of dispensing automatically,
20 cash directly to the player. Electronic gaming machines may use bill val-
21 idators and may be single-position reel-type, single or multi-game video
22 and single-position multi-game video electronic game, including but not
23 limited to, poker, blackjack and slot machines. Electronic gaming ma-
24 chines shall be linked to a central computer at a location determined by
25 the executive director for purposes of security, monitoring and auditing.

26 (r) “Facility owner licensee,” “facility manager licensee” and “organ-
27 ization licensee” have the meanings provided by K.S.A. 74-8802, and
28 amendments thereto.

29 (s) “Lottery gaming machine operator” means any bingo licensee or
30 parimutuel licensee with which the executive director has contracted for
31 the placement of an electronic gaming machine pursuant to this act.

32 (t) “Net machine income” means the total of all cash and the face
33 value of all tokens or electronic cards placed in an electronic gaming
34 machine, less cash, merchandise or credits that may be redeemed for cash
35 paid to players as winnings.

36 (u) “Parimutuel licensee” means a facility owner licensee or a facility
37 manager licensee.

38 (v) “Parimutuel licensee location” means: (1) A racetrack facility, as
39 defined by K.S.A. 74-8802, and amendments thereto, where live horse
40 racing or live greyhound racing has been authorized or for which an
41 application for authorization to conduct live horse racing or live grey-
42 hound racing pursuant to the Kansas parimutuel racing act is pending
43 prior to February 1, 2000; (2) a facility located on real estate where such

1 racetrack facility is located; or (3) a racetrack facility located at, on or
2 immediately adjacent to the real estate of Eureka Downs or Anthony
3 Downs. A parimutuel licensee location may include any existing structure
4 at a racetrack facility described in this subsection or any structure that
5 may be constructed on real estate where such racetrack facility is located.

6 (w) "Progressive electronic game" means a game played on an elec-
7 tronic gaming machine for which the payoff increases uniformly as the
8 game is played and for which the jackpot, determined by application of
9 a formula to the income of independent, local or interlinked electronic
10 gaming machines, may be won.

11 (x) "Technology provider" means any person or entity other than a
12 lottery gaming machine operator that designs, manufactures, installs, op-
13 erates, distributes, supplies or replaces an electronic gaming machine for
14 sale, lease or use in accordance with this act.

15 (y) "Token" means a metal or other representative of value, which is
16 not legal tender, redeemable for cash only by the issuing lottery gaming
17 machine operator at its bingo licensee location or parimutuel licensee lo-
18 cation and issued and sold by a lottery gaming machine operator for the
19 sole purpose of playing an electronic gaming machine.

20 New Sec. 2. (a) Sections 2 through 22, and amendments thereto,
21 shall be known as the Kansas gaming revenue recovery act and shall be
22 part of and supplemental to the Kansas lottery act.

23 (b) If any provision of this act or the application thereof to any person
24 or circumstance is held invalid, the invalidity shall not affect any other
25 provision or application of the act which can be given effect without the
26 invalid provision or application. To this end the provisions of this act are
27 severable.

28 New Sec. 3. (a) The executive director may contract with bingo li-
29 censees and parimutuel licensees for the operation and management, by
30 the state of Kansas, of electronic gaming machines at bingo licensee lo-
31 cations and parimutuel licensee locations in counties where a proposition
32 submitted pursuant to section 5, and amendments thereto, has been ap-
33 proved by the voters of such county. Such contracts shall be subject to
34 the provisions of this act and rules and regulations adopted under this act
35 but shall not be subject to the provisions of K.S.A. 75-3738 through 75-
36 3744, and amendments thereto.

37 (b) The executive director shall select as lottery gaming machine op-
38 erators such bingo licensees and parimutuel licensees as the executive
39 director deems best able to serve the public convenience and promote
40 marketing plans developed by the Kansas lottery. In the selection of lot-
41 tery gaming machine operators, the executive director shall consider fac-
42 tors such as financial responsibility, security of the licensee location, in-
43 tegrity, reputation, volume of expected sales and such other factors as the

1 executive director may deem appropriate.

2 (c) The executive director may charge an application fee to bingo
3 licensees and parimutuel licensees applying to become lottery gaming
4 machine operators.

5 (d) No lottery gaming machine operator contract awarded under this
6 act shall be transferable or assignable.

7 (e) Each lottery gaming machine operator shall be issued a lottery
8 gaming machine operator certificate which shall be conspicuously dis-
9 played at the place where the lottery gaming machine operator is au-
10 thorized to operate and manage electronic gaming machines.

11 (f) To be selected as a lottery gaming machine operator, a bingo li-
12 censee or parimutuel licensee must:

13 (1) Have sufficient financial resources to support the activities re-
14 quired under this act;

15 (2) be current in payment of all taxes, interest and penalties owed to
16 any taxing subdivision where the bingo licensee or parimutuel licensee is
17 located; and

18 (3) be current in filing all applicable tax returns and in payment of
19 all taxes, interest and penalties owed to the state of Kansas, excluding
20 items under formal appeal pursuant to applicable statutes.

21 (g) The lottery gaming machine operator, at its own expense, shall
22 purchase for the Kansas lottery a license for all software programs used
23 by such lottery gaming machine operator to operate electronic gaming
24 machines. The Kansas lottery shall be the licensee and owner of all such
25 software programs and shall sublicense such software programs to each
26 lottery gaming machine operator. Electronic gaming machines purchased
27 or leased by the lottery gaming machine operator, at its own expense,
28 may be installed, operated or managed, owned or leased by a lottery
29 gaming machine operator or by a technology provider under contract with
30 the lottery gaming machine operator as provided by this act. Such ma-
31 chines shall be subject to the ultimate control of the Kansas lottery in
32 accordance with this act. Each specific type of electronic gaming machine
33 shall be approved by the Kansas lottery in accordance with K.S.A. 74-
34 8710, and amendments thereto. The use of progressive electronic gaming
35 machines is expressly permitted.

36 (h) Each contract between the executive director and a lottery gam-
37 ing machine operator shall provide that the Kansas lottery shall receive
38 all of the net machine income derived from the operation of electronic
39 gaming machines at the bingo licensee or parimutuel licensee location.

40 (i) Each contract between the executive director and a lottery ma-
41 chine operator which is a bingo licensee shall:

42 (1) Require that such licensee shall own the premises where the li-
43 censee operates electronic gaming machines or shall lease such premises

1 under an agreement that grants the licensee exclusive, fulltime occupancy
2 of such premises; and

3 (2) limit the number of electronic gaming machines operated on such
4 premises to five machines plus one additional machine for each 50 mem-
5 bers of such licensee, excluding reciprocal members, as determined in
6 accordance with rules and regulations of the secretary of revenue pur-
7 suant to the club and drinking establishment act.

8 (j) The initial term of a contract pursuant to this section shall be not
9 less than the remaining term of the Kansas lottery. Such contract may be
10 renewed with each extension of the Kansas lottery as provided in K.S.A.
11 74-8723, and amendments thereto.

12 (k) (1) The Kansas lottery shall examine prototypes of electronic
13 gaming machines and shall notify the administrator of charitable gaming
14 and the Kansas racing and gaming commission which such types of elec-
15 tronic gaming machines are in compliance with the requirements of this
16 act.

17 (2) No electronic gaming machine shall be operated at a bingo li-
18 censee location pursuant to this act unless the administrator of charitable
19 gaming first issues a certificate for such machine authorizing its use at a
20 specified bingo licensee location. No electronic gaming machine shall be
21 operated at a parimutuel licensee location pursuant to this act unless the
22 executive director of the Kansas racing and gaming commission first issues
23 a certificate for such machine authorizing its use at a specified parimutuel
24 licensee location.

25 (3) Each electronic gaming machine shall have the certificate prom-
26 inently displayed thereon. Any machine which does not display the cer-
27 tificate required by this section is contraband and a public nuisance sub-
28 ject to confiscation by any law enforcement officer.

29 (4) The executive director shall require any manufacturer, supplier,
30 provider, lottery gaming machine operator or other person seeking the
31 examination and certification of electronic gaming machines to pay the
32 anticipated actual costs of the examination in advance. After the comple-
33 tion of the examination, the executive director shall refund any over-
34 payment or charge and collect amounts sufficient to reimburse the ex-
35 ecutive director for any underpayment of actual costs. The executive
36 director may contract for the examination of electronic gaming machines
37 as required by this subsection, and may rely upon testing done by or for
38 other states regulating electronic gaming machines, if the executive di-
39 rector deems such testing to be reliable and in the best interest of the
40 state of Kansas.

41 (l) Electronic gaming machines operated pursuant to this act shall:

42 (1) Pay out an average of not less than 82% of the amount wagered
43 over the life of the machine;

1 (2) be linked to a central lottery communications system to provide
2 auditing and other program information as approved by the Kansas lot-
3 tery. The communications systems certified by the Kansas lottery shall
4 not limit participation to only one electronic gaming machine manufac-
5 turer, distributor, supplier or provider; and

6 (3) be on-line and in constant communication with a central com-
7 puter located at a location determined by the executive director. The
8 lottery gaming machine operator shall lease or purchase at its own ex-
9 pense for the Kansas lottery all gaming equipment necessary to imple-
10 ment such central communications and auditing functions.

11 New Sec. 4. In addition to the powers granted pursuant to K.S.A.
12 74-8704 and section 3, and amendments thereto, the executive director
13 shall have the power to:

14 (a) Enter into contracts with bingo licensees for placement and re-
15 placement of electronic gaming machines at bingo licensee locations and
16 enter into contracts with parimutuel licensees for placement and replace-
17 ment of electronic gaming machines at parimutuel licensee locations.
18 Such contracts shall be subject to rules and regulations adopted pursuant
19 to this act but shall not be subject to the provisions of K.S.A. 75-3738
20 through 75-3744, and amendments thereto.

21 (b) Examine or cause to be examined by any agent or representative
22 designated by the executive director any books, papers, records or mem-
23 oranda of any lottery gaming machine operator for the purpose of ascer-
24 taining compliance with the provisions of the Kansas lottery act or rules
25 and regulations adopted thereunder.

26 (c) Issue subpoenas to compel access to or for the production of any
27 books, papers, records or memoranda in the custody or control of any
28 lottery gaming machine operator, or to compel the appearance of any
29 lottery gaming machine operator for the purpose of ascertaining compli-
30 ance with the provisions of this act or rules and regulations adopted here-
31 under. Subpoenas issued under the provisions of this subsection may be
32 served upon natural persons and corporations in the manner provided in
33 K.S.A. 60-304, and amendments thereto, for the service of process by any
34 officer authorized to serve subpoenas in civil actions or by the executive
35 director or an agent or representative designated by the executive direc-
36 tor. In the case of the refusal of any person to comply with any such
37 subpoena, the executive director may make application to the district
38 court of any county where such books, papers, records, memoranda or
39 person is located for an order to comply.

40 (d) Inspect and view the operation of all machines, systems or facil-
41 ities where electronic gaming machines controlled and operated by the
42 Kansas lottery are located.

43 (e) Inspect and approve, prior to publication or distribution, all ad-

1 vertising by a lottery gaming machine operator which includes any ref-
2 erence to the Kansas lottery.

3 New Sec. 5. (a) Electronic gaming machines shall be operated pur-
4 suant to this act only in counties where, in accordance with this section,
5 the qualified voters of the county have voted to permit operation of elec-
6 tronic gaming machines at bingo licensee locations and parimutuel li-
7 censee locations within the county.

8 (b) The board of county commissioners of any county where there is
9 a bingo licensee location or parimutuel licensee location may submit by
10 resolution, and shall submit upon presentation of a petition filed in ac-
11 cordance with subsection (c), to the qualified voters of the county a prop-
12 osition to permit the operation of electronic gaming machines at bingo
13 licensee locations and parimutuel licensee locations within the county.
14 The proposition shall be submitted to the voters either in a countywide
15 special election called by the board of county commissioners for that
16 purpose and held not less than 90 days after the resolution is adopted or
17 the petition is filed or at the next general election, as shall be specified
18 by the board of county commissioners or in the petition, as the case may
19 be.

20 (c) A petition to submit a proposition to the qualified voters of a county
21 pursuant to this section shall be filed with the county election officer. The
22 petition shall be signed by qualified voters of the county equal in number
23 to not less than 10% of the voters of the county who voted for the office of
24 secretary of state at the last preceding general election at which such office
25 was elected. The following shall appear on the petition: "We request an
26 election to determine whether the operation of electronic gaming machines
27 by the Kansas lottery shall be permitted in _____ county at
28 parimutuel licensee locations and at locations where nonprofit fraternal and
29 veterans' organizations conduct bingo."

30 (d) Upon the adoption of a resolution or the submission of a valid pe-
31 tition calling for an election pursuant to this section, the county election
32 officer shall cause the following proposition to be placed on the ballot at
33 the election called for that purpose: "Shall the operation of electronic gam-
34 ing machines by the Kansas lottery be permitted in _____
35 county at parimutuel licensee locations and at locations where nonprofit
36 fraternal and veterans' organizations conduct bingo?"

37 (e) If a majority of the votes cast and counted at such election is in
38 favor of permitting the operation of such games at bingo licensee locations
39 and parimutuel licensee locations, the executive director may enter con-
40 tracts with bingo licensees and parimutuel licensees to operate such
41 games at bingo licensee locations and parimutuel licensee locations in the
42 county. If a majority of the votes cast and counted at an election under
43 this section is against permitting the operation of electronic gaming ma-

1 chines at bingo licensee locations and parimutuel licensee locations in the
2 county, the Kansas lottery shall not operate such games in the county.
3 The county election officer shall transmit a copy of the certification of
4 the results of the election to the administrator of charitable gaming and
5 the executive director.

6 (f) The election provided for by this section shall be conducted, and
7 the votes counted and canvassed, in the manner provided by law for
8 question submitted elections of the county.

9 (g) If in any election provided for by this section a majority of the
10 votes cast and counted is against permitting the operation of electronic
11 gaming machines in the county, another election submitting the issue of
12 the operation of electronic gaming machines in the county shall not be
13 held for at least two years from the date of such election.

14 New Sec. 6. (a) All purse supplements paid pursuant to this act shall
15 be according to the point schedule in effect on January 1, 2002, at the
16 parimutuel licensee location in Sedgwick county. All purse supplements
17 paid pursuant to this section shall be in addition to purses and supple-
18 ments paid under K.S.A. 74-8801 et seq., and amendments thereto.

19 (b) Except as provided in subsection (e), no electronic gaming ma-
20 chine shall be operated pursuant to this act at a parimutuel licensee lo-
21 cation unless the facility where the electronic gaming machine is operated
22 displays live and simulcast parimutuel races on video terminals and has
23 installed parimutuel windows for wagering on parimutuel races.

24 (c) Except as provided in subsection (d):

25 (1) No electronic gaming machine shall be operated pursuant to this
26 act at a parimutuel licensee location in Sedgwick county unless, during
27 the first full calendar year and each year thereafter in which electronic
28 gaming machines are operated at such location, the parimutuel licensee
29 shall conduct at such location at least eight live racing programs each
30 calendar week for the number of weeks equal to or greater than the
31 number of weeks raced during the 1998 calendar year, with at least 12
32 live races conducted each program.

33 (2) No electronic gaming machine shall be operated pursuant to this
34 act at a parimutuel licensee location in Wyandotte county unless, during
35 the first full calendar year and each year thereafter in which electronic
36 gaming machines are operated at such location, the parimutuel licensee
37 shall conduct at such location at least seven live racing programs each
38 calendar week for the number of weeks equal to or greater than the
39 number of weeks raced during the 1998 calendar year, with at least 12
40 live races conducted each program.

41 (3) No electronic gaming machine shall be operated pursuant to this
42 act at a parimutuel licensee location in Crawford county unless, during
43 the first full calendar year and each year thereafter in which electronic

1 gaming machines are operated at such location, the parimutuel licensee
2 shall conduct at such location live racing the number of days agreed upon
3 by the organization licensee and the parimutuel licensee but not less than
4 150 days, comprised of at least seven live racing programs each calendar
5 week, with at least 12 live races conducted each program.

6 (d) The Kansas lottery may provide exceptions to the requirements
7 of subsection (c) for a parimutuel licensee conducting live racing when
8 events beyond the control of the licensee may render racing impossible
9 or impractical. Such events shall include any natural or man-made dis-
10 aster, shortage of qualified racing animals due to kennel sickness or oth-
11 erwise or state imposed limitations on operations.

12 (e) The Kansas racing and gaming commission may authorize the
13 operation of electronic gaming machines at the racetrack facility at Eu-
14 reka Downs and the racetrack facility at Anthony Downs on days when
15 simulcast parimutuel races are displayed at such facility without requiring
16 live horse racing or live greyhound racing at such facility. The Kansas
17 racing and gaming commission shall not authorize the operation of such
18 machines at such racetrack facility unless the qualified voters of the
19 county where such racetrack facility is located have voted pursuant to
20 section 5, and amendments thereto, to permit operation of such machines
21 within the county.

22 New Sec. 7. (a) There is hereby established in the state treasury the
23 live horse racing purse supplement fund. Moneys available in such fund
24 shall be paid to parimutuel licensees for distribution as purse supplements
25 in accordance with rules and regulations of the Kansas racing and gaming
26 commission. Such moneys shall be distributed from the separate horse
27 purse supplement accounts maintained pursuant to this section, in ac-
28 cordance with rules and regulations of the Kansas racing and gaming
29 commission, provided that not less than \$1,600,000 shall be guaranteed
30 annually by parimutuel licensees to be charged against the accounts of
31 such licensees on a pro rata basis.

32 (b) There is hereby established in the state treasury the live dog rac-
33 ing purse supplement fund. Moneys available in such fund shall be paid
34 to parimutuel licensees for distribution as purse supplements in accord-
35 ance with rules and regulations of the Kansas racing and gaming
36 commission.

37 (c) There is hereby established in the state treasury the electronic
38 gaming machine operation and regulatory fund. Moneys in such fund shall
39 be used to pay for the expenses of the Kansas lottery and the Kansas
40 racing and gaming commission attributable to the operation and regula-
41 tion of electronic gaming machines. Moneys in such fund may be ex-
42 pended only pursuant to appropriation and moneys in excess of those
43 appropriated to the Kansas lottery and the Kansas racing and gaming

1 commission may be transferred to the state general fund and expended
2 as provided by appropriation.

3 (d) There is hereby established in the state treasury the electronic
4 gaming machine fund.

5 New Sec. 8. (a) The executive director shall collect and remit to the
6 state treasurer in accordance with K.S.A. 75-4215, and amendments
7 thereto, all net machine income received from lottery gaming machine
8 operators. Upon receipt of the remittance, the state treasurer shall deposit
9 the entire amount in the state treasury and credit it to the electronic
10 gaming machine fund, established pursuant to section 7, and amendments
11 thereto. Separate accounts shall be maintained in the electronic gaming
12 machine fund for receipt of moneys from each lottery gaming machine
13 operator.

14 (b) Not less than once each week, the state treasurer shall transfer
15 the following amounts from the total receipts credited to each account in
16 the electronic gaming machine fund for receipt of moneys from lottery
17 gaming machine operators which are bingo licensees:

18 (1) To the electronic gaming machine operation and regulatory fund
19 established pursuant to section 7, and amendments thereto, 1%;

20 (2) to the problem gambling grant fund established pursuant to
21 K.S.A. 2001 Supp. 79-4805, and amendments thereto, 0.5%;

22 (3) to the county where the lottery gaming machine operator's li-
23 censee location is located, 1%;

24 (4) to the city where the lottery gaming machine operator's licensee
25 location is located, 1%;

26 (5) to the veterans cemeteries fund established pursuant to section
27 23, and amendments thereto, 8%; and

28 (6) to the state general fund, 25%.

29 (c) Not less than once each week, the state treasurer shall transfer
30 the following amounts from the total receipts credited to each account in
31 the electronic gaming machine fund for receipt of moneys from lottery
32 gaming machine operators which are parimutuel licensees:

33 (1) To the electronic gaming machine operation and regulatory fund
34 established pursuant to section 7, and amendments thereto, 1%;

35 (2) to the problem gambling grant fund established pursuant to
36 K.S.A. 2001 Supp. 79-4805, and amendments thereto, 0.5%;

37 (3) to the county where the lottery gaming machine operator's li-
38 censee location is located, 1%;

39 (4) to the city where the lottery gaming machine operator's licensee
40 location is located, 1%;

41 (5) to the state general fund, 20%.

42 (6) to the live horse racing purse supplement fund established pur-
43 suant to section 7, and amendments thereto, 7%;

1 (7) to the live dog racing purse supplement fund established pursuant
2 to section 7, and amendments thereto, 7%; and

3 (8) to the nonprofit organization licensed by the Kansas racing and
4 gaming commission to conduct races at the parimutuel licensee location,
5 1%.

6 (d) After distribution of moneys pursuant to subsection (b) or (c), the
7 state treasurer, not less than once each week, shall remit the balance in
8 the account for each lottery gaming machine operator to such lottery
9 gaming machine operator.

10 (e) After distribution of moneys pursuant to subsection (b) or (c), the
11 state treasurer, not less than once each week, shall remit the balance in
12 the account for each lottery gaming machine operator to such lottery
13 gaming machine operator.

14 New Sec. 9. (a) Except as when authorized in accordance with sub-
15 section (c), it is unlawful for any bingo licensee or parimutuel licensee to
16 allow any person to play electronic gaming machines or share in winnings
17 of a person knowing such person to be:

18 (1) Under 21 years of age;

19 (2) the executive director, a member of the commission or an em-
20 ployee of the Kansas lottery;

21 (3) an officer or employee of a vendor contracting with the Kansas
22 lottery to supply gaming equipment or tickets to the Kansas lottery for
23 use in the operation of any lottery conducted pursuant to this act;

24 (4) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
25 parent or stepparent of a person described by subsection (a)(2) or (3); or

26 (5) a person who resides in the same household as any person de-
27 scribed by subsection (a)(2) or (3).

28 (b) Violation of subsection (a) is a class A nonperson misdemeanor
29 upon conviction for a first offense. Violation of subsection (a) is a severity
30 level 9, nonperson felony upon conviction for a second or subsequent
31 offense.

32 (c) The executive director may authorize in writing any employee of
33 the Kansas lottery and any employee of a lottery vendor to play an elec-
34 tronic gaming machine to verify the proper operation thereof with respect
35 to security and contract compliance. Any prize awarded as a result of such
36 ticket purchase shall become the property of the Kansas lottery and be
37 added to the prize pools of subsequent lottery games. No money or mer-
38 chandise shall be awarded to any employee playing an electronic gaming
39 machine pursuant to this subsection.

40 New Sec. 10. Each lottery gaming machine operator shall post one
41 or more signs at the operator's bingo licensee location or parimutuel li-
42 censee location to inform patrons of the toll-free number available to
43 provide information and referral services regarding compulsive or prob-

1 lem gambling. The text shall be determined by the secretary of the de-
2 partment of health and environment. Failure by a lottery gaming machine
3 operator to post and maintain such signs shall be cause for the imposition
4 of a fine not to exceed \$500 per day.

5 New Sec. 11. Each lottery gaming machine operator shall provide
6 access for the executive director, the executive director's designee or the
7 commission to all its records and the physical premises where the elec-
8 tronic gaming machine activities occur for the purpose of monitoring or
9 inspecting the electronic gaming machines and gaming equipment. None
10 of the information disclosed pursuant to this subsection shall be subject
11 to disclosure under the Kansas open records act, K.S.A. 45-216 et seq.,
12 and amendments thereto.

13 New Sec. 12. (a) Wagers shall be received only from a person at a
14 bingo licensee location or parimutuel licensee location. No person present
15 at a bingo licensee location or parimutuel licensee location shall place or
16 attempt to place a wager on behalf of another person who is not present
17 at the bingo licensee location or parimutuel licensee location.

18 (b) Violation of this section is a class A nonperson misdemeanor upon
19 a conviction for a first offense. Violation of this section is a severity level
20 9, nonperson felony upon conviction for a second or subsequent offense.

21 New Sec. 13. A person under age 21 shall not be permitted in an
22 area of a bingo licensee location or parimutuel licensee location where
23 gaming is being conducted, except for a person at least 18 years of age
24 who is an employee of the bingo licensee or parimutuel licensee. No
25 employee under age 21 shall perform any function involved in gaming by
26 the patrons. No person under age 21 shall be permitted to make a wager
27 on an electronic gaming machine.

28 New Sec. 14. Pursuant to section 2 of the federal act entitled "An
29 Act to Prohibit Transportation of Gambling Devices in Interstate and
30 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
31 acting by and through the duly elected and qualified members of the
32 legislature, does hereby in this section, and in accordance with and in
33 compliance with the provisions of section 2 of such federal act, declare
34 and proclaim that it is exempt from the provision of section 2 of such
35 federal act to the extent that such gambling devices are being transported
36 to or from the Kansas lottery or to or from a lottery gaming machine
37 operator at a bingo licensee location or parimutuel licensee location
38 within the state of Kansas.

39 New Sec. 15. Except for persons acting in accordance with rules and
40 regulations of the Kansas lottery, rules and regulations of the secretary of
41 revenue adopted pursuant to K.S.A. 79-4708, and amendments thereto,
42 and rules and regulations of the Kansas racing and gaming commission
43 in performing installation, maintenance and repair services, any person

1 who, with the intent to manipulate the outcome, pay-off or operation of
2 an electronic gaming machine, manipulates the outcome, pay-off or op-
3 eration of an electronic gaming machine by physical, electrical or me-
4 chanical means shall be guilty of a severity level 8, nonperson felony.

5 New Sec. 16. Nothing in this act shall restrict the jurisdiction of the
6 administrator of charitable gaming to regulate activities conducted at
7 bingo licensee locations, including the premises on which electronic gam-
8 ing machines are operated. Nothing in this act shall restrict the jurisdic-
9 tion of the Kansas racing and gaming commission to regulate activities
10 conducted at parimutuel licensee locations, including the premises on
11 which electronic gaming machines are operated. The days and hours of
12 operation and the number of electronic gaming machines shall not be
13 restricted unless otherwise authorized by this act.

14 New Sec. 17. (a) The administrator of charitable gaming and the ad-
15 ministrators designated employees may observe and inspect all electronic
16 gaming machines and facilities operated by bingo licensees.

17 (b) The administrator of charitable gaming may examine, or cause to
18 be examined by any agent or representative designated by the adminis-
19 trator, any books, papers, records or memoranda of any bingo licensee,
20 or of any business involved in electronic gaming, for the purpose of as-
21 certaining compliance with any provision of this act or any rules and
22 regulations adopted hereunder.

23 (c) The secretary of revenue, upon recommendation of the admin-
24 istrator of charitable gaming, may adopt rules and regulations with respect
25 to security, safety and honest conduct at all bingo licensee locations.

26 (d) The administrator of charitable gaming shall have the power to
27 investigate alleged violations of this act and any rules and regulations,
28 orders and final decisions of the administrator.

29 (e) The administrator of charitable gaming shall have the power to
30 authorize security measures required in any areas where electronic gam-
31 ing machines are located.

32 (f) The administrator of charitable gaming shall have the power to
33 take any other action as may be reasonable or appropriate to enforce the
34 provisions of this act and any rules and regulations, orders and final de-
35 cisions of the administrator.

36 New Sec. 18. (a) The Kansas racing and gaming commission and its
37 designated employees may observe and inspect all electronic gaming ma-
38 chines and facilities operated by parimutuel licensees.

39 (b) The Kansas racing and gaming commission may examine, or cause
40 to be examined by any agent or representative designated by such com-
41 mission, any books, papers, records or memoranda of any parimutuel
42 licensee, or of any business involved in electronic gaming, for the purpose
43 of ascertaining compliance with any provision of this act or any rules and

1 regulations adopted hereunder.

2 (c) The Kansas racing and gaming commission may adopt rules and
3 regulations with respect to security, safety and honest conduct at all par-
4 imutuel licensee locations.

5 (d) The Kansas racing and gaming commission shall have the power
6 to investigate alleged violations of this act and any rules and regulations,
7 orders and final decisions of such commission.

8 (e) The Kansas racing and gaming commission shall have the power
9 to authorize security measures required in any areas where electronic
10 gaming machines are located.

11 (f) The Kansas racing and gaming commission shall have the power
12 to take any other action as may be reasonable or appropriate to enforce
13 the provisions of this act and any rules and regulations, orders and final
14 decisions of such commission.

15 New Sec. 19. (a) It is a class A nonperson misdemeanor for the ex-
16 ecutive director, any member of the lottery commission, any employee
17 of the Kansas lottery or any member, employee or appointee of the Kan-
18 sas racing and gaming commission, including stewards and racing judges,
19 knowingly to:

20 (1) Participate in the operation of or have a financial interest in any
21 business which has been issued a concessionaire license, racing or wa-
22 gering or electronic gaming machine equipment or services license, fa-
23 cility owner license or facility manager license, or any business which sells
24 goods or services to an organization licensee;

25 (2) participate directly or indirectly as an owner, operator, manager
26 or consultant in electronic gaming in Kansas;

27 (3) place a wager on or bet or play an electronic gaming machine in
28 Kansas;

29 (4) accept any compensation, gift, loan, entertainment, favor or serv-
30 ice from any parimutuel licensee, except such suitable facilities and serv-
31 ices within a racetrack facility operated by an organization licensee as may
32 be required to facilitate the performance of the executive director's,
33 member's, employee's or appointee's official duties;

34 (5) enter into any business dealing, venture or contract with an owner
35 or lessee of a parimutuel licensee location in Kansas; or

36 (6) engage in any activity described in subsection (a)(1), (2), (4) or
37 (5) within two years from the last day of service as such executive director,
38 member, employee or appointee.

39 (b) It is a class A nonperson misdemeanor for the administrator of
40 charitable gaming or any employee or agent of the administrator, know-
41 ingly to:

42 (1) Participate in the operation of or have a financial interest in any
43 business which has been issued an electronic gaming machine equipment

1 or services license;

2 (2) participate directly or indirectly as an owner, operator, manager
3 or consultant in electronic gaming in Kansas;

4 (3) place a wager on or bet or play an electronic gaming machine in
5 Kansas;

6 (4) accept any compensation, gift, loan, entertainment, favor or serv-
7 ice from any bingo licensee, except such suitable facilities and services at
8 a bingo licensee location as may be required to facilitate the performance
9 of the administrator's, employee's or appointee's official duties;

10 (5) enter into any business dealing, venture or contract with an owner
11 or lessee of a bingo licensee location in Kansas; or

12 (6) engage in any activity described in subsection (b)(1), (2), (4) or
13 (5) within two years from the last day of service as such administrator,
14 employee or agent.

15 (c) It is a severity level 8, nonperson felony for any person playing or
16 using any electronic gaming machine at a bingo licensee location or pari-
17 mutuel licensee location in Kansas knowingly to:

18 (1) Use other than a lawful coin or legal tender of the United States
19 of America, or to use coin not of the same denomination as the coin
20 intended to be used in an electronic gaming machine, except that in the
21 playing of any electronic gaming machine or similar gaming device, it
22 shall be lawful for any person to use gaming billets, tokens or similar
23 objects therein which are approved by the Kansas lottery;

24 (2) possess or use, while on the premises of a bingo licensee location
25 or parimutuel licensee location any cheating or thieving device, including
26 but not limited to, tools, wires, drills, coins attached to strings or wires or
27 electronic or magnetic devices to facilitate removing from any electronic
28 gaming machine any money or contents thereof, except that a duly au-
29 thorized agent or employee of the administrator of charitable gaming, the
30 Kansas lottery, the Kansas racing and gaming commission, a bingo li-
31 censee or a parimutuel licensee may possess and use any of the foregoing
32 only in furtherance of the agent's or employee's employment at the bingo
33 licensee location or parimutuel licensee location; or

34 (3) possess or use while on the premises of any bingo licensee location
35 or parimutuel licensee location any key or device designed for the purpose
36 of or suitable for opening or entering any electronic gaming machine or
37 similar gaming device or drop box, except that a duly authorized agent or
38 employee of the administrator of charitable gaming, the Kansas lottery,
39 the Kansas racing and gaming commission, a bingo licensee or a pari-
40 mutuel licensee may possess and use any of the foregoing only in fur-
41 therance of the agent's or employee's employment at the bingo licensee
42 location or parimutuel licensee location.

43 New Sec. 20. (a) No bingo licensee shall permit any business not

1 owned and operated by the bingo licensee to provide electronic gaming
2 machine equipment or services, as designated by rules and regulations of
3 the commission, to a bingo licensee unless such business has been issued
4 an electronic gaming machine equipment or services license by the ex-
5 ecutive director. No organization licensee or facility manager licensee
6 shall permit any business not owned and operated by the organization
7 licensee to provide electronic gaming machine equipment or services, as
8 designated by rules and regulations of the commission, to an organization
9 licensee unless such business has been issued an electronic gaming ma-
10 chine equipment or services license by the executive director. Such equip-
11 ment and services shall include, but are not limited to, surveillance, elec-
12 tronic computer components, random number generator or cabinet
13 thereof and token redemption equipment or services.

14 (b) Businesses required to be licensed pursuant to this section shall
15 apply for electronic gaming machine equipment or services licenses in a
16 manner and upon forms prescribed and furnished by the executive di-
17 rector. The executive director shall require disclosure of information
18 about the owners and officers of each applicant and may require such
19 owners and officers to submit to fingerprinting. The executive director
20 also may require disclosure of information about and fingerprinting of
21 such employees of each applicant as the commission considers necessary.
22 Electronic gaming machine equipment or services licenses shall be issued
23 for a period of time established by the executive director but not to exceed
24 10 years. The commission, by rules and regulations, shall establish a
25 schedule of application fees and license fees for electronic gaming ma-
26 chine equipment or services licenses based upon the type and size of
27 business. The application fee shall not be refundable if the business fails
28 to qualify for a license. If the application fee is insufficient to pay the
29 reasonable expenses of processing the application and investigating the
30 applicant's qualifications for licensure, the executive director shall require
31 the applicant to pay to the Kansas lottery, at such times and in such form
32 as required by the executive director, any additional amounts necessary
33 to pay such expenses. No license shall be issued to an applicant until the
34 applicant has paid such additional amounts in full, and such amounts shall
35 not be refundable except to the extent that they exceed the actual ex-
36 penses of processing the application and investigating the applicant's qual-
37 ifications for licensure.

38 (c) The executive director may require applicants as a condition of
39 licensure to consent to allow agents of the Kansas bureau of investigation
40 or security personnel of the Kansas lottery to search without warrant the
41 licensee's premises and personal property and the persons of its owners,
42 officers and employees while engaged in the licensee's business within
43 the premises of the bingo licensee or within the racetrack facility or ad-

1 jacent facilities under the control of the organization licensee, for the
2 purpose of investigating criminal violations of this act or violations of rules
3 and regulations of the commission.

4 (d) The executive director may refuse to issue an electronic gaming
5 machine equipment or services license to any business if any person hav-
6 ing an ownership interest in such business, any person who is an officer
7 of such business or any person employed by such business within the
8 racetrack facility or premises of the bingo licensee:

9 (1) Has been convicted of a felony in a court of any state or of the
10 United States or has been adjudicated in the last 10 years, in any such
11 court of committing as a juvenile an act which, if committed by an adult,
12 would constitute a felony;

13 (2) has been convicted of a violation of any law of any state or of the
14 United States involving gambling or controlled substances or has been
15 adjudicated in the last 10 years in any such court of committing as a
16 juvenile an act which, if committed by an adult, would constitute such a
17 violation;

18 (3) fails to disclose any material fact or provides information, knowing
19 such information to be false, in connection with the application for the
20 license;

21 (4) has been found by the executive director to have violated any
22 provision of this act or any rule and regulation of the executive director;
23 or

24 (5) has failed to meet any monetary or tax obligation to the federal
25 government or to any state or local government.

26 (e) The executive director may suspend or revoke the electronic gam-
27 ing machine equipment or services license of any business for any reason
28 which would justify refusal to issue such a license.

29 (f) The commission may provide by rules and regulations for the tem-
30 porary suspension of an electronic gaming machine equipment or services
31 license. Such suspension shall be for a period not exceeding 30 days. Upon
32 expiration of such suspension, the license shall be restored unless the
33 license has been suspended or revoked as a result of proceedings con-
34 ducted pursuant to subsection (e).

35 New Sec. 21. No taxes, fees, charges, transfers or distributions, other
36 than those provided for in this act, shall be made or levied from or against
37 the net machine income of the Kansas lottery by any city, county or other
38 municipality.

39 New Sec. 22. Each lottery gaming machine operator shall hold the
40 executive director of the Kansas lottery, the Kansas lottery commission,
41 the executive director of the Kansas racing and gaming commission, the
42 Kansas racing and gaming commission, the secretary of revenue, the ad-
43 ministrator of charitable gaming and the state harmless from and defend

1 and pay for the defense of any and all claims which may be asserted
2 against the executive director, the commission, the executive director of
3 the Kansas racing and gaming commission, the Kansas racing and gaming
4 commission, the secretary of revenue, the administrator of charitable
5 gaming and the state, or the agents or employees thereof, arising from
6 electronic gaming machines located at the bingo licensee location or par-
7 imutuel licensee location of such lottery gaming machine operator. The
8 provisions of this section shall not apply to any claims arising from the
9 negligence or willful misconduct of the executive director, the commis-
10 sion, the executive director of the Kansas racing and gaming commission,
11 the Kansas racing and gaming commission, the secretary of revenue, the
12 administrator of charitable gaming and the state, or the agents or em-
13 ployees thereof.

14 New Sec. 23. (a) There is hereby established in the state treasury the
15 veterans cemeteries fund. Moneys in such fund shall be used only for the
16 establishment and maintenance of the state system of veterans cemeteries
17 pursuant to K.S.A. 2001 Supp. 73-1232, and amendments thereto.

18 (b) All expenditures from the veterans cemeteries fund shall be made
19 in accordance with appropriation acts upon warrants of the director of
20 accounts and reports issued pursuant to vouchers approved by the exec-
21 utive director of the Kansas commission of veterans affairs or by a person
22 designated by the executive director.

23 Sec. 24. K.S.A. 2001 Supp. 74-8710 is hereby amended to read as
24 follows: 74-8710. (a) The commission, upon the recommendation of the
25 executive director, shall adopt rules and regulations governing the estab-
26 lishment and operation of a state lottery as necessary to carry out the
27 purposes of this act. Temporary rules and regulations may be adopted by
28 the commission without being subject to the provisions and requirements
29 of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
30 subject to approval by the attorney general as to legality and shall be filed
31 with the secretary of state and published in the Kansas register. Tem-
32 porary and permanent rules and regulations may include but shall not be
33 limited to:

34 (1) Subject to the provisions of subsection (c), the types of lottery
35 games to be conducted, including but not limited to instant lottery, on-
36 line and traditional games, ~~but not including games on video lottery ma-
37 chines or lottery machines~~ *and the types of electronic gaming machines*
38 *to be operated at bingo licensee locations and parimutuel licensee*
39 *locations.*

40 (2) The manner of selecting the winning tickets or shares, except that,
41 if a lottery game utilizes a drawing of winning numbers, a drawing among
42 entries or a drawing among finalists, such drawings shall always be open
43 to the public and shall be recorded on both video and audio tape.

1 (3) The manner of payment of prizes to the holders of winning tickets
2 or shares.

3 (4) The frequency of the drawings or selections of winning tickets or
4 shares.

5 (5) The type or types of locations at which tickets or shares may be
6 sold.

7 (6) The method or methods to be used in selling tickets or shares.

8 (7) Additional qualifications for the selection of lottery retailers and
9 the amount of application fees to be paid by each.

10 (8) The amount and method of compensation to be paid to lottery
11 retailers, including special bonuses and incentives.

12 (9) Deadlines for claims for prizes by winners of each lottery game.

13 (10) Provisions for confidentiality of information submitted by ven-
14 dors pursuant to K.S.A. 74-8705, and amendments thereto.

15 (11) Information required to be submitted by vendors, in addition to
16 that required by K.S.A. 74-8705, and amendments thereto.

17 (12) The major procurement contracts or portions thereof to be
18 awarded to minority business enterprises pursuant to subsection (a) of
19 K.S.A. 74-8705, and amendments thereto, and procedures for the award
20 thereof.

21 (13) *Rules and regulations to implement, administer and enforce the*
22 *provisions of the Kansas gaming revenue recovery act.*

23 (b) No new lottery game shall commence operation after the effective
24 date of this act unless first approved by the governor or, in the governor's
25 absence or disability, the lieutenant governor.

26 (c) The lottery shall adopt rules and regulations concerning the game
27 of keno. Such rules and regulations shall require that the amount of time
28 which elapses between the start of games shall not be less than four
29 minutes.

30 Sec. 25. K.S.A. 2001 Supp. 74-8711 is hereby amended to read as
31 follows: 74-8711. (a) There is hereby established in the state treasury the
32 lottery operating fund.

33 (b) *Except as otherwise provided by the Kansas gaming revenue re-*
34 *covery act*, the executive director shall remit all moneys collected from
35 the sale of lottery tickets and shares and any other moneys received by
36 or on behalf of the Kansas lottery to the state treasurer in accordance
37 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
38 receipt of each such remittance, the state treasurer shall deposit the entire
39 amount in the state treasury to the credit of the lottery operating fund.
40 Moneys credited to the fund shall be expended or transferred only as
41 provided by this act. Expenditures from such fund shall be made in ac-
42 cordance with appropriations acts upon warrants of the director of ac-
43 counts and reports issued pursuant to vouchers approved by the executive

1 director or by a person designated by the executive director.

2 (c) Moneys in the lottery operating fund shall be used for:

3 (1) The payment of expenses of the lottery, which shall include all
4 costs incurred in the operation and administration of the Kansas lottery,
5 *other than expenses incurred pursuant to the Kansas gaming revenue*
6 *recovery act*; all costs resulting from contracts entered into for the pur-
7 chase or lease of goods and services needed for operation of the lottery,
8 including but not limited to supplies, materials, tickets, independent stud-
9 ies and surveys, data transmission, advertising, printing, promotion, in-
10 centives, public relations, communications and distribution of tickets and
11 shares; and reimbursement of costs of facilities and services provided by
12 other state agencies;

13 (2) the payment of compensation to lottery retailers;

14 (3) transfers of moneys to the lottery prize payment fund pursuant to
15 K.S.A. 74-8712, and amendments thereto;

16 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,
17 and amendments thereto;

18 (5) transfers to the state gaming revenues fund pursuant to subsection
19 (d) of this section and as otherwise provided by law; and

20 (6) transfers to the county reappraisal fund as prescribed by law.

21 (d) The director of accounts and reports shall transfer moneys in the
22 lottery operating fund to the state gaming revenues fund created by
23 K.S.A. 79-4801, and amendments thereto, on or before the 15th day of
24 each month in an amount certified monthly by the executive director and
25 determined as follows, whichever is greater:

26 (1) An amount equal to the moneys in the lottery operating fund in
27 excess of those needed for the purposes described in subsections (c)(1)
28 through (c)(4); or

29 (2) except for pull-tab lottery tickets and shares, an amount equal to
30 not less than 30% of total monthly revenues from the sales of lottery
31 tickets and shares less estimated returned tickets. In the case of pull-tab
32 lottery tickets and shares, an amount equal to not less than 20% of the
33 total monthly revenues from the sales of pull-tab lottery tickets and shares
34 less estimated returned tickets.

35 Sec. 26. K.S.A. 2001 Supp. 74-8836 is hereby amended to read as
36 follows: 74-8836. (a) *Except as provided by subsection (l)*, any organization
37 licensee that conducts at least 150 days of live racing during a calendar
38 year or a fair association that conducts fewer than 22 days of live racing
39 during a calendar year may apply to the commission for a simulcasting
40 license to display simulcast horse or greyhound races and to conduct
41 intertrack parimutuel wagering thereon. If the organization licensee con-
42 ducts races at a racetrack facility that is owned by a facility owner licensee,
43 both licensees shall join in the application. A simulcasting license granted

1 to a fair association that conducts fewer than 22 days of live racing shall
2 restrict the fair association's display of simulcast races to a number of
3 days, including days on which it conducts live races, equal to not more
4 than twice the number of days on which it conducts live races.

5 (b) (1) A simulcasting license granted to an organization licensee
6 other than a fair association shall authorize the display of simulcast races
7 at the racetrack facility where the live races are conducted so long as the
8 licensee conducts at least eight live races per day and an average of 10
9 live races per day per week. If a simulcasting licensee conducts live horse
10 races on a day when simulcast races are displayed by the licensee and the
11 licensee conducts fewer than an average of 10 live horse races per day
12 per week, not less than 80% of the races on which wagers are taken by
13 the licensee during such week shall be live races conducted by the li-
14 censee unless approved by the recognized horsemen's group or upon a
15 finding by the commission that the organization licensee was unable to
16 do so for reasonable cause. If a simulcast licensee conducts live greyhound
17 races on a day when simulcast races are displayed by the licensee and the
18 licensee schedules fewer than 13 live greyhound races during a perform-
19 ance on such day, not less than 80% of the races on which wagers are
20 taken by the licensee during such performance shall be live races con-
21 ducted by the licensee.

22 (2) A simulcasting license granted to a fair association shall authorize
23 the display of simulcast races at the racetrack facility where the races are
24 conducted only if live races are scheduled for two or more days of the
25 same calendar week, except that the licensee may conduct simulcast races
26 in the week immediately before and immediately after a live meeting if
27 the total number of days on which simulcast races are displayed does not
28 exceed the total authorized in subsection (a). In no case shall the live
29 meet or simulcast races allowed under this subsection exceed 10 consec-
30 utive weeks. For purposes of this subsection, a calendar week shall be
31 measured from Monday through the following Sunday.

32 (3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2),
33 a fair association may apply to the commission for not more than five
34 additional days of simulcasting of special events. In addition, the com-
35 mission may authorize a fair association to display additional simulcast
36 races but, if such fair association is less than 100 miles from an organi-
37 zation licensee that is not a fair association, it also shall secure written
38 consent from that organization licensee.

39 (4) Notwithstanding the provisions of subsection (b)(1), if an emer-
40 gency causes the cancellation of all or any live races scheduled for a day
41 or performance by a simulcasting licensee, the commission or the com-
42 mission's designee may authorize the licensee to display any simulcast
43 races previously scheduled for such day or performance.

1 (5) Notwithstanding the provisions of subsection (b)(1), the commis-
2 sion may authorize the licensee to display simulcast special racing events
3 as designated by the commission.

4 (c) The application for a simulcasting license shall be filed with the
5 commission at a time and place prescribed by rules and regulations of
6 the commission. The application shall be in a form and include such
7 information as the commission prescribes.

8 (d) To qualify for a simulcasting license the applicant shall:

9 (1) Comply with the interstate horse racing act of 1978 (15 U.S.C.
10 3001 *et seq.*) as in effect December 31, 1991;

11 (2) submit with the application a written approval of the proposed
12 simulcasting schedule signed by: (A) The recognized horsemen's group
13 for the track, if the applicant is licensed to conduct only horse races; (B)
14 the recognized greyhound owners' group, if the applicant is licensed to
15 conduct only greyhound races and only greyhound races are to be si-
16 mulcast; (C) both the recognized greyhound owners' group and a rec-
17 ognized horsemen's group, if the applicant is licensed to conduct only
18 greyhound races and horse races are to be simulcast; (D) the recognized
19 greyhound owners' group, if the applicant is licensed to conduct both
20 greyhound and horse races, only greyhound races are to be simulcast and
21 races are to be simulcast only while the applicant is conducting live grey-
22 hound races; (E) the recognized horsemen's group for the track, if the
23 applicant is licensed to conduct both greyhound and horse races, only
24 horse races are to be simulcast and races are to be simulcast only while
25 the applicant is conducting live horse races; or (F) both the recognized
26 greyhound owners' group and the recognized horsemen's group for the
27 track, if the applicant is licensed to conduct both greyhound races and
28 horse races and horse races are to be simulcast while the applicant is
29 conducting live greyhound races or greyhound races are to be simulcast
30 while the applicant is conducting live horse races; and

31 (3) submit, in accordance with rules and regulations of the commis-
32 sion and before the simulcasting of a race, a written copy of each contract
33 or agreement which the applicant proposes to enter into with regard to
34 such race, and any proposed modification of any such contract or
35 agreement.

36 (e) The term of a simulcasting license shall be one year.

37 (f) A simulcasting licensee may apply to the commission or its des-
38 ignee for changes in the licensee's approved simulcasting schedule if such
39 changes are approved by the respective recognized greyhound owners'
40 group or recognized horsemen's group needed throughout the term of
41 the license. Application shall be made upon forms furnished by the com-
42 mission and shall contain such information as the commission prescribes.

43 (g) Except as provided by subsection (j), the takeout for simulcast

1 horse and greyhound races shall be the same as it is for the live horse
2 and greyhound races conducted during the current or next live race meet-
3 ing at the racetrack facility where the simulcast races are displayed. For
4 simulcast races the tax imposed on amounts wagered shall be as provided
5 by K.S.A. 74-8823, and amendments thereto. Of the balance of the tak-
6 eout remaining after deduction of taxes, an amount equal to a percentage,
7 to be determined by the commission, of the gross sum wagered on si-
8 mulcast races shall be used for purses, as follows:

9 (1) For greyhound races conducted by the licensee, if the simulcast
10 race is a greyhound race and the licensee conducts only live greyhound
11 races;

12 (2) for horse races conducted by the licensee, if the simulcast race is
13 a horse race and the licensee conducts only live horse races;

14 (3) for horse races and greyhound races, as determined by both the
15 recognized horsemen's group and the recognized greyhound owners'
16 group, if the simulcast race is a greyhound race and the licensee does not
17 conduct or is not currently conducting live greyhound races; or

18 (4) for horse races and greyhound races, as determined by both the
19 recognized horsemen's group and the recognized greyhound owners'
20 group, if the simulcast is a horse race and the licensee does not conduct
21 or is not currently conducting live horse races. That portion of simulcast
22 purse money determined to be used for horse purses shall be apportioned
23 by the commission to the various horse race meetings held in any calendar
24 year based upon the number of live horse race dates comprising such
25 horse race meetings in the preceding calendar year.

26 (h) Except as provided by subsection (j):

27 (1) If a simulcasting licensee has a license to conduct live horse races
28 and the licensee displays a simulcast horse race: (A) All breakage proceeds
29 shall be remitted by the licensee to the commission not later than the
30 15th day of the month following the race from which the breakage is
31 derived and the commission shall remit any such proceeds received to
32 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
33 and amendments thereto. Upon receipt of each such remittance, the state
34 treasurer shall deposit the entire amount in the state treasury to the credit
35 of the Kansas horse breeding development fund created by K.S.A. 74-
36 8829, and amendments thereto; and (B) all unclaimed ticket proceeds
37 shall be remitted by the licensee to the commission on the 61st day after
38 the end of the calendar year and the commission shall remit any such
39 proceeds received to the state treasurer in accordance with the provisions
40 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
41 remittance, the state treasurer shall deposit the entire amount in the state
42 treasury to the credit of the Kansas horse breeding development fund
43 created by K.S.A. 74-8829, and amendments thereto.

1 (2) If a simulcasting licensee has a license to conduct live greyhound
2 races and the licensee displays a simulcast greyhound race, breakage and
3 unclaimed winning ticket proceeds shall be distributed in the manner
4 provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for
5 breakage and unclaimed winning ticket proceeds from live greyhound
6 races.

7 (3) If a simulcasting licensee has a license to conduct live racing of
8 only horses and the licensee displays a simulcast greyhound race, un-
9 claimed winning ticket proceeds shall be distributed in the manner pro-
10 vided by K.S.A. 74-8822, and amendments thereto, for unclaimed win-
11 ning ticket proceeds from live greyhound races. Breakage for such races
12 shall be distributed for use to benefit greyhound racing as determined by
13 the commission.

14 (4) If a simulcasting licensee has a license to conduct live racing of
15 only greyhounds and the licensee displays a simulcast horse race: (A) All
16 breakage proceeds shall be remitted by the licensee to the commission
17 not later than the 15th day of the month following the race from which
18 the breakage is derived and the commission shall remit any such proceeds
19 received to the state treasurer in accordance with the provisions of K.S.A.
20 75-4215, and amendments thereto. Upon receipt of each such remittance,
21 the state treasurer shall deposit the entire amount in the state treasury
22 to the credit of the Kansas horse breeding development fund created by
23 K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket
24 proceeds shall be remitted by the licensee to the commission on the 61st
25 day after the end of the calendar year and the commission shall remit any
26 such proceeds received to the state treasurer in accordance with the pro-
27 visions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
28 such remittance, the state treasurer shall deposit the entire amount in the
29 state treasury to the credit of the Kansas horse breeding development
30 fund created by K.S.A. 74-8829, and amendments thereto.

31 (i) The commission may approve a request by two or more simul-
32 casting licensees to combine wagering pools within the state of Kansas
33 pursuant to rules and regulations adopted by the commission.

34 (j) (1) The commission may authorize any simulcasting licensee to
35 participate in an interstate combined wagering pool with one or more
36 other racing jurisdictions.

37 (2) If a licensee participates in an interstate pool, the licensee may
38 adopt the takeout of the host jurisdiction or facility. The amount and
39 manner of paying purses from the takeout in an interstate pool shall be
40 as provided by subsection (g).

41 (3) The tax imposed on amounts wagered in an interstate pool shall
42 be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel
43 taxes may not be imposed on any amounts wagered in an interstate com-

1 bined wagering pool other than amounts wagered within this jurisdiction.

2 (4) Breakage for interstate combined wagering pools shall be calcu-
3 lated in accordance with the statutes and rules and regulations of the host
4 jurisdiction and shall be allocated among the participating jurisdictions in
5 a manner agreed to among the jurisdictions. Breakage allocated to this
6 jurisdiction shall be distributed as provided by subsection (h).

7 (5) Upon approval of the respective recognized greyhound owners'
8 group or recognized horsemen's group, the commission may permit an
9 organization licensee to simulcast to other racetrack facilities or off-track
10 wagering or intertrack wagering facilities in other jurisdictions one or
11 more races conducted by such licensee, use one or more races conducted
12 by such licensee for an intrastate combined wagering pool or use one or
13 more races conducted by such licensee for an interstate combined wa-
14 gering pool at off-track wagering or intertrack wagering locations outside
15 the commission's jurisdiction and may allow parimutuel pools in other
16 jurisdictions to be combined with parimutuel pools in the commission's
17 jurisdiction for the purpose of establishing an interstate combined wa-
18 gering pool.

19 (6) The participation by a simulcasting licensee in a combined inter-
20 state wagering pool does not cause that licensee to be considered to be
21 doing business in any jurisdiction other than the jurisdiction in which the
22 licensee is physically located.

23 (k) If the organization licensee, facility owner licensee if any and the
24 recognized horsemen's group or recognized greyhound owners' group are
25 unable to agree concerning a simulcasting application, the matter may be
26 submitted to the commission for determination at the written request of
27 any party in accordance with rules and regulations of the commission.

28 (l) *The commission, by rules and regulations, may provide exceptions*
29 *to the requirements of subsection (a) for the display of simulcast racing*
30 *at Eureka Downs and Anthony Downs.*

31 (m) This section shall be part of and supplemental to the Kansas
32 parimutuel racing act.

33 Sec. 27. K.S.A. 2001 Supp. 19-101a is hereby amended to read as
34 follows: 19-101a. (a) The board of county commissioners may transact all
35 county business and perform all powers of local legislation and adminis-
36 tration it deems appropriate, subject only to the following limitations,
37 restrictions or prohibitions:

38 (1) Counties shall be subject to all acts of the legislature which apply
39 uniformly to all counties.

40 (2) Counties may not consolidate or alter county boundaries.

41 (3) Counties may not affect the courts located therein.

42 (4) Counties shall be subject to acts of the legislature prescribing
43 limits of indebtedness.

1 (5) In the exercise of powers of local legislation and administration
2 authorized under provisions of this section, the home rule power con-
3 ferred on cities to determine their local affairs and government shall not
4 be superseded or impaired without the consent of the governing body of
5 each city within a county which may be affected.

6 (6) Counties may not legislate on social welfare administered under
7 state law enacted pursuant to or in conformity with public law No. 271—
8 74th congress, or amendments thereof.

9 (7) Counties shall be subject to all acts of the legislature concerning
10 elections, election commissioners and officers and their duties as such
11 officers and the election of county officers.

12 (8) Counties shall be subject to the limitations and prohibitions im-
13 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
14 prescribing limitations upon the levy of retailers' sales taxes by counties.

15 (9) Counties may not exempt from or effect changes in statutes made
16 nonuniform in application solely by reason of authorizing exceptions for
17 counties having adopted a charter for county government.

18 (10) No county may levy ad valorem taxes under the authority of this
19 section upon real property located within any redevelopment project area
20 established under the authority of K.S.A. 12-1772, and amendments
21 thereto, unless the resolution authorizing the same specifically authorized
22 a portion of the proceeds of such levy to be used to pay the principal of
23 and interest upon bonds issued by a city under the authority of K.S.A.
24 12-1774, and amendments thereto.

25 (11) Counties shall have no power under this section to exempt from
26 any statute authorizing or requiring the levy of taxes and providing sub-
27 stitute and additional provisions on the same subject, unless the resolution
28 authorizing the same specifically provides for a portion of the proceeds
29 of such levy to be used to pay a portion of the principal and interest on
30 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
31 ments thereto.

32 (12) Counties may not exempt from or effect changes in the provi-
33 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

34 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
35 through 12-1,109, and amendments thereto, counties may not levy and
36 collect taxes on incomes from whatever source derived.

37 (14) Counties may not exempt from or effect changes in K.S.A. 19-
38 430, and amendments thereto.

39 (15) Counties may not exempt from or effect changes in K.S.A. 19-
40 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

41 (16) (A) Counties may not exempt from or effect changes in K.S.A.
42 13-13a26, and amendments thereto.

43 (B) This provision shall expire on June 30, 2003.

1 (17) (A) Counties may not exempt from or effect changes in K.S.A.
2 2001 Supp. 71-301a, and amendments thereto.

3 (B) This provision shall expire on June 30, 2003.

4 (18) Counties may not exempt from or effect changes in K.S.A. 19-
5 15,139, 19-15,140 and 19-15,141, and amendments thereto.

6 (19) Counties may not exempt from or effect changes in the provi-
7 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
8 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
9 through 12-1270 and 12-1276, and amendments thereto.

10 (20) Counties may not exempt from or effect changes in the provi-
11 sions of K.S.A. 19-211, and amendments thereto.

12 (21) Counties may not exempt from or effect changes in the provi-
13 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

14 (22) Counties may not regulate the production or drilling of any oil
15 or gas well in any manner which would result in the duplication of reg-
16 ulation by the state corporation commission and the Kansas department
17 of health and environment pursuant to chapter 55 and chapter 65 of the
18 Kansas Statutes Annotated and any rules and regulations adopted pur-
19 suant thereto. Counties may not require any license or permit for the
20 drilling or production of oil and gas wells. Counties may not impose any
21 fee or charge for the drilling or production of any oil or gas well.

22 (23) Counties may not exempt from or effect changes in K.S.A. 79-
23 41a04, and amendments thereto.

24 (24) Counties may not exempt from or effect changes in K.S.A. 79-
25 1611, and amendments thereto.

26 (25) Counties may not exempt from or effect changes in K.S.A. 79-
27 1494, and amendments thereto.

28 (26) Counties may not exempt from or effect changes in subsection
29 (b) of K.S.A. 19-202, and amendments thereto.

30 (27) Counties may not exempt from or effect changes in subsection
31 (b) of K.S.A. 19-204, and amendments thereto.

32 (28) Counties may not levy or impose an excise, severance or any
33 other tax in the nature of an excise tax upon the physical severance and
34 production of any mineral or other material from the earth or water.

35 (29) Counties may not exempt from or effect changes in K.S.A. 79-
36 2017 or 79-2101, and amendments thereto.

37 (30) Counties may not exempt from or effect changes in K.S.A. 2-
38 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219 or 65-171d or
39 K.S.A. 2001 Supp. 17-5909 or 65-1,178 through 65-1,199, and amend-
40 ments thereto.

41 (31) Counties may not exempt from or effect changes in K.S.A. 2001
42 Supp. 80-121, and amendments thereto.

43 (32) Counties may not exempt from or effect changes in K.S.A. 2001

1 Supp. 19-228, and amendments thereto.

2 (33) *Counties may not exempt from or effect changes in the Kansas*
3 *lottery act.*

4 (b) Counties shall apply the powers of local legislation granted in
5 subsection (a) by resolution of the board of county commissioners. If no
6 statutory authority exists for such local legislation other than that set forth
7 in subsection (a) and the local legislation proposed under the authority
8 of such subsection is not contrary to any act of the legislature, such local
9 legislation shall become effective upon passage of a resolution of the
10 board and publication in the official county newspaper. If the legislation
11 proposed by the board under authority of subsection (a) is contrary to an
12 act of the legislature which is applicable to the particular county but not
13 uniformly applicable to all counties, such legislation shall become effec-
14 tive by passage of a charter resolution in the manner provided in K.S.A.
15 19-101b, and amendments thereto.

16 (c) Any resolution adopted by a county which conflicts with the re-
17 strictions in subsection (a) is null and void.

18 Sec. 28. K.S.A. 2001 Supp. 19-101a, 74-8702, 74-8710, 74-8711 and
19 74-8836 are hereby repealed.

20 Sec. 29. This act shall take effect and be in force from and after its
21 publication in the statute book.

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