

SENATE BILL No. 283

By Committee on Ways and Means

4-3

AN ACT concerning lotteries; authorizing electronic gaming machines and other lottery games at certain locations; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8711 and 74-8723 and K.S.A. 2002 Supp. 19-101a and 79-4805 and repealing the existing sections.

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

Section 1. K.S.A. 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*

1 *company*, corporation or partnership.

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

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

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

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

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

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

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

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

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

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

33 (2) “Lottery machine” shall not mean:

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

36 (B) any nonprescription drug machine authorized under K.S.A. 65-
37 650, and amendments thereto;

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

40 (D) *any electronic gaming machine operated in accordance with the*
41 *provisions of the Kansas gaming act; or*

42 (E) any machine excluded from the definition of gambling devices
43 under subsection (d) of K.S.A. 21-4302, and amendments thereto.

1 (p) “Electronic gaming machine” means any electronic, electromechanical, video or computerized device, contrivance or machine authorized by the Kansas lottery which, upon insertion of cash, tokens, electronic cards or any consideration, is available to play, operate or simulate the play of a game authorized by the Kansas lottery pursuant the Kansas gaming act, including, but not limited to, bingo, poker, blackjack, keno and slot machines, and which may deliver or entitle the player operating the machine to receive cash, tokens, merchandise or credits that may be redeemed for cash. Electronic gaming machines may use bill validators and may be single-position reel-type, single or multi-game video and single-position multi-game video electronic game, including but not limited to, poker, blackjack and slot machines. Electronic gaming machines shall be directly linked to a central computer at a location determined by the executive director for purposes of security, monitoring and auditing.

15 (q) “Key gaming employee” means any natural person 21 years of age or older employed by or under contract with a lottery gaming machine contractor or employed by or under contract with a person providing on or off-site management or employee-related services to the lottery gaming machine contractor, including, but not limited to: (1) Gaming machine contractor manager and assistant manager; (2) facilities operator manager; (3) electronic games manager; (4) accounting department personnel; (5) count room employees; (6) cage department employees, including cashiers and main bank employees; (7) vault department employees; (8) approvers of credit; (9) surveillance department employees; (10) security department employees; (11) floor managers; (12) electronic gaming machine technicians; (13) custodians of electronic gambling machines, including persons with access to cash and accounting records within such machines; (14) collection personnel; (15) internal auditors of the lottery gaming machine contractor; (16) any employee whose total cash compensation is in excess of \$50,000 per year; and (17) any other type of employee specified by the executive director.

32 (r) “Lottery gaming machine contractor” means any person with which the executive director has contracted to operate electronic gaming machines at a parimutuel licensee location pursuant to the Kansas gaming act.

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

40 (t) “Progressive electronic game” means a game played on an electronic gaming machine for which the payoff increases uniformly as the game is played and for which the jackpot, determined by application of a formula to the income of independent, local or interlinked electronic

1 *gaming machines, may be won.*

2 (u) *“Technology provider” means any person or entity other than a*
3 *lottery gaming machine contractor that designs, manufactures, installs,*
4 *operates, distributes, supplies or replaces an electronic gaming machine*
5 *for sale, lease or use in accordance with this act.*

6 (v) *“Token” means a metal or other representative of value, which is*
7 *not legal tender, redeemable for cash only by the issuing lottery gaming*
8 *machine contractor and which issued and sold by a lottery gaming ma-*
9 *chine contractor for the sole purpose of playing an electronic gaming*
10 *machine.*

11 New Sec. 2. (a) Sections 2 through 23, and amendments thereto,
12 shall be known as the Kansas gaming act and shall be part of and supple-
13 mental to the Kansas lottery act.

14 (b) If any provision of this act or the application thereof to any person
15 or circumstance is held invalid, the invalidity shall not affect any other
16 provision or application of the act which can be given effect without the
17 invalid provision or application.

18 New Sec. 3. (a) The executive director may contract with parimutuel
19 licensees for the operation and management, by the state of Kansas, of
20 electronic gaming machines at parimutuel licensee locations in counties
21 where a proposition submitted pursuant to section 5, and amendments
22 thereto, has been approved by the voters of such county. Such contracts
23 shall be subject to the provisions of this act and rules and regulations
24 adopted under this act but shall not be subject to the provisions of K.S.A.
25 75-3738 through 75-3744, and amendments thereto.

26 (b) The executive director shall select as lottery gaming machine con-
27 tractors such persons as the executive director deems best able to serve
28 the public convenience and promote marketing plans developed by the
29 Kansas lottery. In the selection of lottery gaming machine contractors,
30 the executive director shall consider factors such as financial responsibil-
31 ity, security of the licensee location, integrity, reputation, volume of ex-
32 pected sales and such other factors as the executive director may deem
33 appropriate.

34 (c) The executive director may charge an administrative application
35 fee, reasonably related to the costs of processing the application, to ap-
36 plicants to become lottery gaming machine contractors.

37 (d) A contract shall not constitute property, nor shall it be subject to
38 attachment, garnishment or execution, nor shall it be alienable or trans-
39 ferable, except upon approval by the executive director, or subject to
40 being encumbered or hypothecated. No interest in the contract shall de-
41 scend by the laws of testate or intestate devolution but any interest shall
42 cease and expire upon the death of the lottery machine contractor or
43 interest holders in the lottery machine contractor except that executors,

1 administrators or representatives of the estate of any deceased contractor
2 and the trustee of any insolvent or bankrupt licensee may continue to
3 operate pursuant to the contract under order of the appropriate court for
4 no longer than one year after the death, bankruptcy or insolvency of such
5 licensee.

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

10 (f) To be selected as a lottery gaming machine contractor, a person
11 must:

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

14 (2) be current in filing all applicable tax returns and in payment of
15 all taxes, interest and penalties owed to the state of Kansas, excluding
16 items under formal appeal pursuant to applicable statutes.

17 (g) The lottery gaming machine contractor, at its own expense, shall
18 purchase for the Kansas lottery a license for all software programs used
19 by such lottery gaming machine contractor to operate electronic gaming
20 machines. The Kansas lottery shall be the licensee and owner of all such
21 software programs and shall sublicense such software programs to each
22 lottery gaming machine contractor. A lottery gaming machine contractor
23 may own or lease, on behalf of the Kansas lottery and at the contractor's
24 own expense, electronic gaming machines or the Kansas lottery with the
25 consent of the contractor may lease such machines, subject to reimburse-
26 ment of the Kansas lottery by the contractor for all expenses related to
27 leasing, installing, operating and managing such machines. Electronic
28 gaming machines purchased or leased by the lottery gaming machine
29 contractor, at its own expense, may be installed, operated or managed,
30 owned or leased by a lottery gaming machine contractor or by a tech-
31 nology provider under contract with the lottery gaming machine contrac-
32 tor as provided by this act. All electronic gaming machines under this act
33 shall be subject to the ultimate control of the Kansas lottery in accordance
34 with this act. Each specific type of electronic gaming machine shall be
35 approved by the Kansas lottery in accordance with K.S.A. 74-8710, and
36 amendments thereto. The use of progressive electronic gaming machines
37 is expressly permitted.

38 (h) Each contract between the Kansas lottery and a lottery gaming
39 machine contractor shall provide that the Kansas lottery shall receive all
40 of the net machine income derived from the operation of electronic gam-
41 ing machines.

42 (i) Contracts authorized by this section may include provisions relat-
43 ing to:

1 (1) Accounting procedures to determine the net machine income,
2 unclaimed merchandise and credits.

3 (2) The location and operation of electronic gaming machines. Except
4 as provided by this act, the days and hours of operation and the number
5 of such electronic gaming machines shall not be restricted.

6 (3) Minimum requirements for an electronic gaming machine con-
7 tractor to provide qualified oversight, security and supervision of the op-
8 eration of electronic gaming machines, including the use of qualified per-
9 sonnel with experience in applicable technology.

10 (4) The eligibility requirements for employees of a lottery gaming
11 machine contractor who will have responsibility for the handling of cash
12 or tokens. Such requirements may include a background investigation
13 performed by the Kansas lottery and that any key gaming employee shall
14 be licensed as provided by the Kansas gaming act.

15 (5) Provision for termination of the contract by either party for cause,
16 including but not limited to, failure of the lottery gaming machine con-
17 tractor to maintain a parimutuel license in accordance with K.S.A. 74-
18 8801 *et seq.*, and amendments thereto, failure of the lottery gaming ma-
19 chine contractor to collect and remit net machine income as required by
20 the Kansas gaming act.

21 (6) Any other provision deemed necessary by the parties pursuant to
22 this section.

23 (j) The initial term of a contract pursuant to this section shall be not
24 less than the remaining term of the Kansas lottery. Such contract may be
25 renewed with each extension of the Kansas lottery as provided in K.S.A.
26 74-8723, and amendments thereto.

27 (k) (1) The Kansas lottery shall examine prototypes of electronic
28 gaming machines and shall notify the Kansas racing and gaming commis-
29 sion which such types of electronic gaming machines are in compliance
30 with the requirements of this act.

31 (2) No electronic gaming machine shall be operated at a parimutuel
32 licensee location pursuant to this act unless the executive director of the
33 Kansas racing and gaming commission first issues a certificate for such
34 machine authorizing its use at a specified parimutuel licensee location.

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

39 (4) The executive director shall require any manufacturer, supplier,
40 provider, lottery gaming machine contractor or other person seeking the
41 examination and certification of electronic gaming machines to pay the
42 anticipated actual costs of the examination in advance. After the comple-
43 tion of the examination, the executive director shall refund any overpay-

1 ment or charge and collect amounts sufficient to reimburse the executive
2 director for any underpayment of actual costs. The executive director may
3 contract for the examination of electronic gaming machines as required
4 by this subsection, and may rely upon testing done by or for other states
5 regulating electronic gaming machines, if the executive director deems
6 such testing to be reliable and in the best interest of the state of Kansas.

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

8 (1) Pay out an average of not less than 87% of the amount wagered
9 over the life of the machine;

10 (2) be directly linked to a central lottery communications system to
11 provide auditing and other program information as approved by the Kan-
12 sas lottery. The executive director shall select the computer system most
13 suitable for conducting the monitoring and auditing functions required
14 by this act. The communications systems certified by the Kansas lottery
15 shall not limit participation to only one electronic gaming machine man-
16 ufacturer, distributor, supplier or provider; and

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

22 (m) No employee, contractor or other person in any way affiliated
23 with a lottery gaming machine contractor shall loan money to or otherwise
24 extend credit to patrons of a parimutuel licensee location.

25 New Sec. 4. In addition to the powers granted pursuant to K.S.A.
26 74-8704 and section 3, and amendments thereto, the executive director
27 shall have the power to:

28 (a) Enter into contracts for placement and replacement of electronic
29 gaming machines. Such contracts shall be subject to rules and regulations
30 adopted pursuant to the Kansas gaming act, but shall not be subject to
31 the provisions of K.S.A. 75-3738 through 75-3744, and amendments
32 thereto.

33 (b) Examine or cause to be examined by any agent or representative
34 designated by the executive director any books, papers, records or mem-
35 oranda of any lottery gaming machine contractor for the purpose of as-
36 certaining compliance with the provisions of the Kansas lottery act or rules
37 and regulations adopted thereunder.

38 (c) Issue subpoenas to compel access to or for the production of any
39 books, papers, records or memoranda in the custody or control of any
40 lottery gaming machine contractor, or to compel the appearance of any
41 lottery gaming machine contractor for the purpose of ascertaining com-
42 pliance with the provisions of this act or rules and regulations adopted
43 hereunder. Subpoenas issued under the provisions of this subsection may

1 be served upon natural persons and corporations in the manner provided
2 in K.S.A. 60-304, and amendments thereto, for the service of process by
3 any officer authorized to serve subpoenas in civil actions or by the execu-
4 tive director or an agent or representative designated by the executive
5 director. In the case of the refusal of any person to comply with any such
6 subpoena, the executive director may make application to the district
7 court of any county where such books, papers, records, memoranda or
8 person is located for an order to comply.

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

12 (e) Inspect and approve, prior to publication or distribution, all ad-
13 vertising by a lottery gaming machine contractor which includes any ref-
14 erence to the Kansas lottery.

15 New Sec. 5. (a) Electronic gaming machines shall be operated pur-
16 suant to this act only in counties where, in accordance with this section,
17 the qualified voters of the county have voted to permit operation of elec-
18 tronic gaming machines at locations within the county.

19 (b) The board of county commissioners of any county where there is
20 a parimutuel licensee location may submit by resolution, and shall submit
21 upon presentation of a petition filed in accordance with subsection (c),
22 to the qualified voters of the county a proposition to permit the operation
23 of electronic gaming machines at locations within the county. The prop-
24 osition shall be submitted to the voters either in a countywide special
25 election called by the board of county commissioners for that purpose
26 and held not less than 90 days after the resolution is adopted or the
27 petition is filed or at the next general election, as shall be specified by
28 the board of county commissioners or in the petition, as the case may be.

29 (c) A petition to submit a proposition to the qualified voters of a
30 county pursuant to this section shall be filed with the county election
31 officer. The petition shall be signed by qualified voters of the county equal
32 in number to not less than 10% of the voters of the county who voted for
33 the office of secretary of state at the last preceding general election at
34 which such office was elected. The following shall appear on the petition:
35 "We request an election to determine whether the operation of electronic
36 gaming machines or lottery facility games by the Kansas lottery shall be
37 permitted in _____ county."

38 (d) Upon the adoption of a resolution or the submission of a valid
39 petition calling for an election pursuant to this section, the county election
40 officer shall cause the following propositions to be placed on the ballot
41 at the election called for that purpose: "Shall the operation of electronic
42 gaming machines or lottery facility games by the Kansas lottery be per-
43 mitted in _____ county?"

1 (e) If a majority of the votes cast and counted at such election is in
2 favor of permitting the operation of such machines, the executive director
3 may enter into contracts with such licensees to operate such machines at
4 parimutuel licensee locations in the county. If a majority of the votes cast
5 and counted at an election under this section is against permitting the
6 operation of electronic gaming machines in the county, the Kansas lottery
7 shall not operate such machines in the county. The county election officer
8 shall transmit a copy of the certification of the results of the election to
9 the executive director and to the Kansas racing and gaming commission.

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

13 (g) If in any election provided for by this section a majority of the
14 votes cast and counted is against the proposition permitting the operation
15 of electronic gaming machines in the county, another election submitting
16 the same proposition shall not be held for at least four years from the
17 date of such election.

18 New Sec. 6. (a) All purse supplements paid pursuant to this act shall
19 be according to the point schedule in effect on January 1, 2002, at the
20 racetrack facility in Sedgwick county. All purse supplements paid pursu-
21 ant to this section shall be in addition to purses and supplements paid
22 under K.S.A. 74-8801 et seq., and amendments thereto.

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

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

29 (1) No electronic gaming machine shall be operated pursuant to this
30 act at a parimutuel licensee location in Sedgwick county unless, during
31 the first full calendar year and each year thereafter in which electronic
32 gaming machines are operated at such location, the parimutuel licensee
33 shall conduct at such location at least eight live racing programs each
34 calendar week for 49 weeks, with at least 13 live races conducted each
35 program.

36 (2) No electronic gaming machine shall be operated pursuant to this
37 act at a parimutuel licensee location in Wyandotte county unless, during
38 the first full calendar year and each year thereafter in which electronic
39 gaming machines are operated at such location, the parimutuel licensee
40 shall conduct live horse racing programs for at least 60 days, with at least
41 ten live races conducted each program; with a minimum of seven live
42 thoroughbred and three live quarterhorse races per day and at least eight
43 live dog racing programs each calendar week for at least 49 weeks, with

1 at least 13 live races conducted each program.

2 (3) No electronic gaming machine shall be operated pursuant to this
3 act at a parimutuel licensee location in Crawford county unless, during
4 the first full calendar year and each year thereafter in which electronic
5 gaming machines are operated at such location, the parimutuel licensee
6 shall conduct at such location live racing the number of days agreed upon
7 by the organization licensee and the parimutuel licensee but not less than
8 150 days, comprised of at least seven live racing programs each calendar
9 week, with at least 13 live races conducted each program.

10 (d) The Kansas racing and gaming commission may provide excep-
11 tions to the requirements of subsection (c) for a parimutuel licensee con-
12 ducting live racing when events beyond the control of the licensee may
13 render racing impossible or impractical. Such events shall include any
14 natural or man-made disaster, shortage of qualified racing animals due to
15 kennel sickness or otherwise or state imposed limitations on operations.

16 New Sec. 7. (a) Expenditures from all funds created pursuant to this
17 section shall be made in accordance with appropriations acts upon war-
18 rants of the director of accounts and reports issued pursuant to vouchers
19 approved by the executive director.

20 (b) There is hereby established in the state treasury the electronic
21 gaming machine fund. A separate account for each lottery gaming ma-
22 chine contractor shall be maintained in the electronic gaming machine
23 fund for receipt of money from such contractor.

24 (c) There is hereby established in the state treasury the electronic
25 gaming machine operation and regulatory fund. Moneys in such fund shall
26 be used to pay for the expenses of the Kansas lottery attributable to the
27 operation and regulation of electronic gaming machines. Moneys in such
28 fund may be expended only pursuant to appropriation and moneys in
29 excess of those appropriated to the Kansas lottery may be transferred to
30 the state general fund and expended as provided by appropriation.

31 New Sec. 8. (a) The executive director shall collect all net machine
32 income from each lottery gaming machine contractor who is a parimutuel
33 licensee. The executive director shall remit the entire amount to the state
34 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.
35 Upon receipt of the remittance, the state treasurer shall deposit the entire
36 amount in the state treasury and credit it to the respective account main-
37 tained for such contractor in the electronic gaming machine fund estab-
38 lished pursuant to section 7, and amendments thereto.

39 (b) Not less than once each week, the state treasurer shall transfer
40 the following percentages of the balance in each account in the electronic
41 gaming machine fund for receipt of moneys from lottery gaming machine
42 contractors which are parimutuel licensees:

43 (1) To the respective lottery gaming machine contractor, 62.5%;

1 (2) to the problem gambling grant fund established pursuant to
2 K.S.A. 2002 Supp. 79-4805, and amendments thereto, 0.5%, except that
3 such transfer shall be to the credit of the state general fund at such time
4 as the balance in such fund is equal to the amount of \$4,000,000, but if
5 the balance in such fund falls below the amount of \$3,000,000, such trans-
6 fers shall resume;

7 (3) to the state general fund, 20%;

8 (4) to the nonprofit organization licensed by the Kansas racing and
9 gaming commission to conduct races at the parimutuel licensee location,
10 1%;

11 (5) to any city where the parimutuel location is located, 1%;

12 (6) to the county where the parimutuel location is located, 1%;

13 (7) to the live dog racing purse supplement fund, 5%;

14 (8) to the live horse racing purse supplement fund, 8%; and

15 (9) to the electronic gaming machine operation and regulatory fund
16 established pursuant to section 7, and amendments thereto, 1%.

17 (c) After distribution of moneys pursuant to subsection (b), the state
18 treasurer, not less than once each week, shall remit to the lottery gaming
19 machine contractor the balance in the account maintained for such
20 contractor.

21 New Sec. 9. (a) Except as when authorized in accordance with sub-
22 section (c), it is unlawful for any lottery gaming machine contractor, lot-
23 tery gaming facility manager or its employees or agents to allow any per-
24 son to play electronic gaming machines or share in winnings of a person
25 knowing such person to be:

26 (1) Under 21 years of age;

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

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

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

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

37 (b) Violation of subsection (a) is a class A nonperson misdemeanor
38 upon conviction for a first offense. Violation of subsection (a) is a severity
39 level 9, nonperson felony upon conviction for a second or subsequent
40 offense.

41 (c) The executive director may authorize in writing any employee of
42 the Kansas lottery and any employee of a lottery vendor to play an elec-
43 tronic gaming machine or a lottery game authorized pursuant to the Kan-

1 sas gaming act to verify the proper operation thereof with respect to
2 security and contract compliance. Any prize awarded as a result of such
3 ticket purchase shall become the property of the Kansas lottery and be
4 added to the prize pools of subsequent lottery games. No money or mer-
5 chandise shall be awarded to any employee playing an electronic gaming
6 machine or lottery game pursuant to this subsection.

7 New Sec. 10. Each lottery gaming machine contractor or lottery
8 gaming facility manager shall post one or more signs at the location where
9 the contractor operates electronic gaming machines to inform patrons of
10 the toll-free number available to provide information and referral services
11 regarding compulsive or problem gambling. The text shall be determined
12 by the secretary of the department of social and rehabilitation services.
13 Failure by a lottery gaming machine contractor to post and maintain such
14 signs shall be cause for the imposition of a fine not to exceed \$500 per
15 day.

16 New Sec. 11. Each lottery gaming machine contractor or lottery
17 gaming facility manager shall provide access for the executive director or
18 the executive director's designee to all its records and the physical prem-
19 ises where the electronic gaming machine activities occur for the purpose
20 of monitoring or inspecting the electronic gaming machines and gaming
21 equipment. None of the information disclosed pursuant to this subsection
22 shall be subject to disclosure under the Kansas open records act, K.S.A.
23 45-216 *et seq.*, and amendments thereto.

24 New Sec. 12. (a) Wagers shall be received only from a person at the
25 location where the electronic gaming machine or other lottery game is
26 authorized pursuant to the Kansas gaming act. No person present at such
27 location shall place or attempt to place a wager on behalf of another
28 person who is not present at such location.

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

32 New Sec. 13. A person under age 21 shall not be permitted in an
33 area of any location where any electronic gaming machine or other lottery
34 game authorized pursuant to the Kansas gaming act is being conducted,
35 except for a person at least 18 years of age who is an employee of the
36 lottery gaming machine contractor or lottery gaming facility manager. No
37 employee under age 21 shall perform any function involved in gaming by
38 the patrons. No person under age 21 shall be permitted to make a wager
39 on an electronic gaming machine or in a lottery game authorized pursuant
40 to the Kansas gaming act.

41 New Sec. 14. Pursuant to section 2 of the federal act entitled "An
42 Act to Prohibit Transportation of Gambling Devices in Interstate and
43 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,

1 acting by and through the duly elected and qualified members of the
2 legislature, does hereby in this section, and in accordance with and in
3 compliance with the provisions of section 2 of such federal act, declare
4 and proclaim that it is exempt from the provision of section 2 of such
5 federal act to the extent that such gambling devices are being transported
6 to or from the Kansas lottery or to or from a lottery gaming machine
7 contractor or lottery gaming facility manager at a location within the state
8 of Kansas where electronic gaming machines or other lottery games are
9 authorized pursuant to the Kansas gaming act.

10 New Sec. 15. Except for persons acting in accordance with rules and
11 regulations of the Kansas lottery in performing installation, maintenance
12 and repair services, any person who, with the intent to manipulate the
13 outcome, pay out or operation of an electronic gaming machine, manip-
14 ulates the outcome, pay out or operation of an electronic gaming machine
15 by physical, electrical or mechanical means shall be guilty of a severity
16 level 8, nonperson felony.

17 New Sec. 16. (a) The Kansas lottery and its designated employees
18 may observe and inspect all electronic gaming machines, gaming equip-
19 ment and facilities operated by a lottery gaming machine contractor or
20 lottery gaming facility manager.

21 (b) The executive director may examine, or cause to be examined by
22 any agent or representative designated by the executive director, any
23 books, papers, records or memoranda of any lottery gaming machine con-
24 tractor, or of any business involved in electronic gaming or lottery games
25 authorized pursuant to the Kansas gaming act, for the purpose of ascer-
26 taining compliance with any provision of the Kansas gaming act or any
27 rules and regulations adopted thereunder.

28 (c) The executive director shall have the power to investigate alleged
29 violations of the Kansas gaming act and alleged violations of any rules and
30 regulations, orders and final decisions of such commission.

31 (d) Appropriate security measures shall be required in any and all
32 areas where electronic gaming machines or other lottery games author-
33 ized pursuant to the Kansas gaming act are located or operated. The
34 executive director shall approve all such security measures.

35 (e) The executive director shall require an annual audit of the elec-
36 tronic gaming machine operations of each lottery gaming machine con-
37 tractor contracting with the Kansas lottery. Such audit shall be conducted
38 by a licensed accounting firm approved by the executive director. Such
39 audit shall be conducted at the expense of the lottery gaming machine
40 contractor to which such audit applies.

41 (f) The executive director shall have the power to take any other
42 action as may be reasonable or appropriate to enforce the provisions of
43 this act and any rules and regulations, orders and final decisions of the

1 executive director.

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

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

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

14 (3) while in Kansas place a wager on or bet or play an electronic
15 gaming machine or other lottery game authorized pursuant to the Kansas
16 gaming act;

17 (4) accept any compensation, gift, loan, entertainment, favor or serv-
18 ice from any parimutuel licensee, lottery gaming machine contractor, or
19 lottery gaming facility manager except such suitable facilities and services
20 within a racetrack facility operated by an organization licensee or within
21 a facility authorized pursuant to section 18, and amendments thereto, as
22 may be required to facilitate the performance of the executive director's,
23 member's, employee's or appointee's official duties; or

24 (5) enter into any business dealing, venture or contract with a lottery
25 gaming machine contractor or an owner or lessee of a parimutuel licensee
26 location in Kansas.

27 (b) It is a severity level 8, nonperson felony for any person playing or
28 using any electronic gaming machine in Kansas knowingly to:

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

35 (2) possess or use, while on the premises of a lottery gaming machine
36 contractor or a parimutuel licensee location or location where electronic
37 gaming machines or other lottery games are authorized pursuant to sec-
38 tion 18, and amendments thereto, any cheating or thieving device, in-
39 cluding but not limited to, tools, wires, drills, coins attached to strings or
40 wires or electronic or magnetic devices to facilitate removing from any
41 electronic gaming machine any money or contents thereof, except that a
42 duly authorized agent or employee of the Kansas lottery, the Kansas rac-
43 ing and gaming commission, a parimutuel licensee or a lottery gaming

1 machine contractor may possess and use any of the foregoing only in
2 furtherance of the agent's or employee's employment at the parimutuel
3 licensee location or location where electronic gaming machines or other
4 lottery games are authorized pursuant to section 18, and amendments
5 thereto; or

6 (3) possess or use while on the premises of any parimutuel licensee
7 location or location where electronic gaming machines or other lottery
8 games are authorized pursuant to section 18, and amendments thereto,
9 any key or device designed for the purpose of or suitable for opening or
10 entering any electronic gaming machine or similar gaming device or drop
11 box, except that a duly authorized agent or employee of the Kansas lottery,
12 the Kansas racing and gaming commission, a parimutuel licensee or a
13 lottery gaming machine contractor may possess and use any of the fore-
14 going only in furtherance of the agent's or employee's employment at the
15 parimutuel licensee location or location where electronic gaming ma-
16 chines or other lottery games are authorized pursuant to section 18, and
17 amendments thereto.

18 New Sec. 18. (a) As used in this section:

19 (1) "Lottery gaming facility" means a state owned building and as-
20 sociated parking and adjacent real and personal property within which
21 the state lottery gaming enterprise is housed and operated.

22 (2) "Lottery gaming enterprise" means an entertainment enterprise
23 which includes lottery facility games authorized by the Kansas gaming act
24 and other businesses operated within the lottery gaming facility.

25 (3) "Lottery gaming facility manager" means a person authorized to
26 construct and manage or manage, pursuant to a management contract
27 with the Kansas lottery, a lottery gaming enterprise and facility.

28 (4) "Accelerated lottery gaming facility net payment" means the ad-
29 vanced payment to the state treasurer of a portion of the state's future
30 share of lottery gaming facility net revenues upon the final authorization
31 and approval of a management contract with a lottery gaming facility
32 manager for the construction of a lottery gaming facility and management
33 of a lottery gaming enterprise pursuant to this section.

34 (5) "Lottery gaming facility revenues" mean the total revenues from
35 lottery facility games at a lottery gaming enterprise after all related prizes
36 are paid.

37 (6) "Lottery gaming facility net revenues" means the balance of lot-
38 tery gaming facility revenues remaining after deducting lottery gaming
39 facility expenses.

40 (7) "Lottery gaming facility expenses" means the normal business ex-
41 penses, as defined by the executive director pursuant to generally ac-
42 cepted accounting principles (GAAP), associated with the ownership and
43 operation of a lottery gaming facility and enterprise. Lottery gaming en-

1 terprise expenses also shall include a payment of 0.5% of the lottery gam-
2 ing facility revenues to the problem gambling grant fund and 0.5% of the
3 lottery gaming facility revenues to designated veteran's service organiza-
4 tions in a manner to be determined pursuant to the management contract
5 with the lottery gaming facility manager.

6 (8) "Lottery facility games" mean electronic gaming machines and
7 any other lottery games which, as of May 1, 2003, are authorized to be
8 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
9 9802, and amendments thereto, located within the exterior boundaries of
10 this state.

11 (9) "Ancillary lottery gaming facility operations" means additional
12 nonlottery facility game products and services not owned and operated
13 by the state which may be included in the overall development associated
14 with the lottery gaming facility. Such operations may include restaurants,
15 hotels, motels, museums, entertainment facilities or parimutuel licensee
16 locations. Such operations conducted on state-owned property shall pay
17 reasonable compensation to the state for the use of the space.

18 (10) "Certificate of authorization" means a written approval of the
19 executive director authorizing the prospective lottery gaming facility man-
20 ager to proceed with the local approval for establishment of a lottery
21 gaming facility pursuant to this section.

22 (11) "Management contract" means a contract, subcontract, or col-
23 lateral agreement between the state and the lottery gaming facility man-
24 ager to manage a lottery gaming facility and the related lottery gaming
25 enterprise negotiated and signed by the executive director and signed by
26 the governor.

27 (b) The executive director shall issue a certificate of authorization to
28 each prospective lottery gaming facility manager, which meets the nec-
29 essary requirements established by the executive director. The executive
30 director shall consider factors such as financial responsibility, integrity,
31 reputation, experience and such other factors as the executive director
32 deems appropriate.

33 (c) The executive director may charge an administrative application
34 fee, reasonably related to the actual costs of processing the application,
35 to applicants desiring to become lottery gaming facility managers.

36 (d) To be authorized as a lottery gaming facility manager a person
37 shall:

38 (1) Have sufficient access to financial resources to support the activ-
39 ities required under this section;

40 (2) be current in payment of all taxes, interest and penalties owed to
41 any taxing subdivision where the person is located in Kansas;

42 (3) be current in filing all applicable tax returns and in payment of
43 all taxes, interest and penalties owed to the state of Kansas, excluding

1 items under formal appeal pursuant to applicable statutes; and

2 (4) have a minimum of three consecutive years experience in the
3 management of a gaming related facility operated pursuant to state or
4 federal law.

5 (e) The executive director may issue a temporary certificate of au-
6 thorization to a person, which the executive director believes will meet
7 the appropriate requirements for a certificate of authorization and upon
8 a showing that the person, the principals, or officers and directors, if a
9 corporation, have already completed acceptable background investiga-
10 tions by federal or state authorities.

11 (f) No person shall seek authorization from any city or county for
12 development of a lottery gaming facility in the state of Kansas or enter
13 into a management contract, unless such person holds a certificate of
14 authorization.

15 (g) Subject to the provisions of subsection (h), the executive director,
16 with the approval of the governor, may enter into a management contract
17 with a prospective lottery gaming facility manager holding a certificate of
18 authorization to construct and manage a lottery gaming facility at speci-
19 fied locations in the state where the executive director determines the
20 operation of such facility would promote tourism and economic
21 development.

22 (h) The executive director shall not contract with any person to op-
23 erate any lottery gaming facility pursuant to this section unless such per-
24 son first receives approval for development of such facility from the gov-
25 erning body of the city where the facility will be located or, if the machines
26 will not be located within any city, from the governing body of the county
27 prior to December 31, 2003.

28 After June 30, 2004, the executive director shall not contract with any
29 party for the development or construction of any new lottery gaming
30 facility.

31 (i) All management contracts shall:

32 (1) Have an initial minimum term of five years and a maximum initial
33 term of seven years from the date of opening of the lottery gaming facility;

34 (2) provide for compensation to the lottery gaming facility manager
35 not to exceed 30% of the lottery gaming facility net revenues;

36 (3) establish a mechanism for payment of lottery gaming facility ex-
37 penses, distribution of the state's share of the lottery gaming facility net
38 revenues and payment of the lottery gaming facility manager's share;

39 (4) establish the lottery facility games to be installed in such facility.
40 The number of electronic gaming machines authorized in the contract
41 shall not be less than 300;

42 (5) establish the maximum construction cost or purchase cost of the
43 lottery gaming facility and the mechanism for recovering those costs from

1 the state's share of the lottery gaming facility net revenues, and transfer
2 of ownership of such facility to the state;

3 (6) calculate the accelerated lottery gaming facility net payment by
4 multiplying the maximum number of electronic gaming machines au-
5 thorized for the facility by \$15,000 per machine. The management con-
6 tract also shall specify the mechanism for recovering that payment from
7 the state's share of the lottery gaming facility net revenues;

8 (7) specify that financing is to be arranged by the lottery gaming fa-
9 cility manager, and together with the state, provide security interests,
10 necessary to allow financing for construction and operation of the lottery
11 gaming facility as well as other payments to the state required by the
12 management contract;

13 (8) incorporate terms and conditions for the ancillary lottery gaming
14 facility operations; and

15 (9) designate as key employees any employees or contractors provid-
16 ing services or functions which are related to lottery facility games au-
17 thorized by the management contract.

18 (j) Any management contract in which the accelerated lottery gaming
19 facility net payment has not been paid to the state treasurer by June 30,
20 2004 shall be null and void.

21 (k) Management contracts authorized by this section may include
22 provisions relating to:

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

25 (2) minimum requirements for a lottery gaming facility manager to
26 provide qualified oversight, security and supervision of the lottery facility
27 games including the use of qualified personnel with experience in appli-
28 cable technology;

29 (3) the eligibility requirements for employees of a lottery gaming fa-
30 cility manager who will have responsibility for the handling of cash or
31 tokens. Such requirements may include a background investigation.

32 (4) provision for termination of the management contract by either
33 party for cause; and

34 (5) include such other terms and restrictions as necessary to conduct
35 any lottery facility game in a legal and fair manner.

36 (l) In determining whether to enter into a management contract with
37 a person to manage a lottery gaming facility pursuant to this section, the
38 executive director shall take into consideration the following factors: The
39 size of the proposed facility, the estimated number of tourists that would
40 be attracted by the proposed facility, the number and type of lottery
41 facility games to be operated at the proposed facility.

42 (m) The executive director shall collect from each lottery gaming fa-
43 cility manager authorized pursuant to this section the state's share of

1 lottery gaming facility net revenues pursuant to the terms of the man-
2 agement contract. The executive director shall remit the entire amount
3 to the state treasurer in accordance with K.S.A. 75-4215, and amend-
4 ments thereto. Upon receipt of the remittance, the state treasurer shall
5 deposit the entire amount in the state treasury and credit it to the re-
6 spective account maintained for such contractor in the electronic gaming
7 machine fund established pursuant to section 7, and amendments thereto.

8 (n) Within one week of receipt of the remittance, the state treasurer
9 shall transfer the following percentages of the balance in each account in
10 the electronic gaming machine fund for receipt of moneys from the lot-
11 tery gaming facility manager:

- 12 (1) To the state general fund, 75%;
- 13 (2) to the state tourism fund established pursuant to K.S.A. 74-9003,
14 and amendments thereto, 1%;
- 15 (3) to any city where the lottery gaming facility is located, 5%;
- 16 (4) to the county where the lottery gaming facility is located, 8%;
- 17 (5) to the live greyhound racing purse supplement fund, 5%;
- 18 (6) to the live horse racing purse supplement fund, 5%; and
- 19 (7) to the electronic gaming machine operation and regulatory fund
20 established pursuant to section 7, and amendments thereto, 1%.

21 (o) Lottery gaming facilities shall be operated pursuant to this section
22 only if the qualified voters of the county in which the facility is located
23 have previously authorized lottery gaming facilities pursuant to section 5,
24 and amendments thereto, or have voted by a majority vote to permit
25 operation of a facility within the county as follows:

26 (1) The board of county commissioners of any county may submit,
27 by resolution, and shall submit upon presentation of a petition filed in
28 accordance with this subsection, to the qualified voters of the county a
29 proposition to permit the operation of lottery gaming facilities pursuant
30 to this section within the county. The proposition shall be submitted to
31 the voters either at a special election called by the board of county com-
32 missioners for that purpose and held not less than 90 days after the res-
33 olution is adopted or the petition is filed or at the next general election,
34 as shall be specified by the board of county commissioners or as specified
35 in the petition, as the case may be.

36 (2) A petition to submit a proposition pursuant to this section shall
37 be filed with the county election officer. The petition shall be signed by
38 qualified voters of the county equal in number to not less than 10% of
39 the voters of the county who voted for the office of secretary of state at
40 the last preceding general election at which such office was elected. The
41 following shall appear on the petition: "We request an election to deter-
42 mine whether the operation of lottery gaming facilities by the Kansas
43 lottery shall be permitted in _____ county."

1 (3) Upon the adoption of a resolution or the submission of a valid
2 petition calling for an election pursuant to this section, the county election
3 officer shall cause the following proposition to be placed on the ballot at
4 the election called for that purpose: "Shall the operation of lottery gaming
5 facilities by the Kansas lottery be permitted in _____ county."

6 (4) If a majority of the votes cast and counted at such election is in
7 favor of permitting the operation of such lottery gaming facilities within
8 the county, the executive director may approve management contracts
9 pursuant to this section for operation of such facilities within the county.
10 If a majority of the votes cast and counted at an election under this section
11 is against permitting the operation of such machines and games within
12 the county, the executive director shall not approve any management
13 contract pursuant to this section for the operation of such facilities within
14 the county. The county election officer shall transmit a copy of the cer-
15 tification of the results of the election to the executive director.

16 (5) The election provided for by this subsection shall be conducted,
17 and the votes counted and canvassed, in the manner provided by law for
18 question submitted elections of the county.

19 (6) If in any election provided for by this subsection, a majority of
20 the votes cast and counted is against the proposition permitting the op-
21 eration of such facilities in the county pursuant to this subsection, another
22 election submitting the same proposition shall not be held for at least
23 four years from the date of such election.

24 New Sec. 19. No taxes, fees, charges, transfers or distributions, other
25 than those provided for in this act, shall be made or levied by any city,
26 county or other municipality from or against net machine income or lot-
27 tery gaming facility net revenue from lottery facility games operated pur-
28 suant to this act.

29 New Sec. 20. All sales of electronic gaming machine games and lot-
30 tery facility games authorized by the Kansas gaming act shall be exempt
31 from sales taxes imposed pursuant to K.S.A. 12-187 *et seq.*, and 79-3601
32 *et seq.*, and amendments thereto.

33 New Sec. 21. Each lottery gaming machine contractor shall hold the
34 executive director of the Kansas lottery and the state harmless from and
35 defend and pay for the defense of any and all claims which may be as-
36 serted against the executive director, the commission and the state, or
37 the agents or employees thereof, arising from the operation of electronic
38 gaming machines or other games pursuant to the Kansas gaming act. The
39 provisions of this section shall not apply to any claims arising from the
40 negligence or willful misconduct of the executive director, the commis-
41 sion and the state, or the agents or employees thereof.

42 New Sec. 22. As a condition precedent to contracting for the privi-
43 lege of being a lottery gaming machine contractor, the contractor shall

1 file with the secretary of state of this state written consent, irrevocable,
2 that any action or garnishment proceeding may be commenced against
3 such contractor in the proper court of any county in this state in which
4 the case of action shall arise or in which the plaintiff may reside by the
5 service of process on a resident agent, and stipulating and agreeing that
6 such service shall be taken and held in all courts to be as valid and binding
7 as if due service had been made upon the contractor. The written consent
8 shall state that the courts of this state have jurisdiction over the person
9 of such contractor and are the proper and convenient forum for such
10 action and shall waive the right to request a change of jurisdiction or
11 venue to a court outside this state and that all actions arising under this
12 act and commenced by the contractor shall be brought in this state's court
13 as the proper and convenient forum. Such consent shall be executed by
14 the contractor and if a corporation, by the president and secretary of the
15 corporate contractor, and shall be accompanied by a duly certified copy
16 of the order or resolution of the board of directors, trustees or managers
17 authorizing the president and secretary to execute the same.

18 Sec. 23. K.S.A. 74-8705 is hereby amended to read as follows: 74-
19 8705. (a) Major procurement contracts shall be awarded in accordance
20 with K.S.A. 75-3738 through 75-3744, and amendments thereto, or sub-
21 section (b), as determined by the director, except that:

22 (1) The contract or contracts for the initial lease of facilities for the
23 Kansas lottery shall be awarded upon the evaluation and approval of the
24 director, the secretary of administration and the director of architectural
25 services; *or*

26 (2) the commission shall designate certain major procurement con-
27 tracts or portions thereof to be awarded, in accordance with rules and
28 regulations of the commission, solely to minority business enterprises.

29 (b) The director may award any major procurement contract by use
30 of a procurement negotiating committee. Such committee shall be com-
31 posed of: (1) The executive director or a Kansas lottery employee desig-
32 nated by the executive director; (2) the chairperson of the commission or
33 a commission member designated by the chairperson; and (3) the director
34 of the division of purchases or an employee of such division designated
35 by the director. Prior to negotiating a major procurement contract, the
36 committee shall solicit bids or proposals thereon. The division of pur-
37 chases shall provide staff support for the committee's solicitations. Upon
38 receipt of bids or proposals, the committee may negotiate with one or
39 more of the persons submitting such bids or proposals and select from
40 among such persons the person to whom the contract is awarded. Such
41 procurements shall be open and competitive and shall consider relevant
42 factors, including security, competence, experience, timely performance
43 and maximization of net revenues to the state. If a procurement negoti-

1 ating committee is utilized, the provisions of K.S.A. 75-3738 through 75-
2 3744, and amendments thereto, shall not apply. Meetings conducted by
3 the procurement negotiating committee shall be exempt from the pro-
4 visions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320a,
5 and amendments thereto.

6 (c) Before a major procurement contract is awarded, the executive
7 director shall conduct a background investigation of: (1) The vendor to
8 whom the contract is to be awarded; (2) all officers and directors of such
9 vendor; (3) all persons who own a 5% or more interest in such vendor;
10 (4) all persons who own a controlling interest in such vendor; and (5) any
11 subsidiary or other business in which such vendor owns a controlling
12 interest. The vendor shall submit appropriate investigation authorizations
13 to facilitate such investigation. The executive director may require, in
14 accordance with rules and regulations of the commission, that a vendor
15 submit any additional information considered appropriate to preserve the
16 integrity and security of the lottery. In addition, the executive director
17 may conduct a background investigation of any person having a beneficial
18 interest in a vendor. The secretary of revenue, securities commissioner,
19 attorney general and director of the Kansas bureau of investigation shall
20 assist in any investigation pursuant to this subsection upon request of the
21 executive director. Whenever the secretary of revenue, securities com-
22 missioner, attorney general or director of the Kansas bureau of investi-
23 gation assists in such an investigation and incurs costs in addition to those
24 attributable to the operations of the office or bureau, such additional costs
25 shall be paid by the Kansas lottery. The furnishing of assistance in such
26 an investigation shall be a transaction between the Kansas lottery and the
27 respective officer and shall be settled in accordance with K.S.A. 75-5516,
28 and amendments thereto.

29 Upon the request of the chairperson, the Kansas bureau of investiga-
30 tion and other criminal justice agencies shall provide to the chairperson
31 all background investigation information including criminal history record
32 information, arrest and nonconviction data, criminal intelligence infor-
33 mation and information relating to criminal and background investiga-
34 tions of a vendor to whom a major procurement contract is to be awarded.
35 Such information, other than conviction data, shall be confidential and
36 shall not be disclosed, except as provided in this section. In addition to
37 any other penalty provided by law, disclosure of such information shall
38 be grounds for removal from office or termination of employment.

39 (d) All major procurement contracts shall be subject to approval of
40 the commission.

41 (e) (1) *Except as provided by paragraph (2)*, the executive director
42 shall not agree to any renewal or extension of a major procurement con-
43 tract unless such extension or renewal is awarded in the manner provided

1 by this section.

2 (2) *The provisions of paragraph (1) shall not apply to the extension*
3 *or renegotiation of an existing contract with a vendor for the purposes of*
4 *providing services for the monitoring and control of electronic gaming*
5 *machines or lottery facility games under the Kansas gaming act. The pro-*
6 *visions of this subsection shall expire on June 30, 2004.*

7 Sec. 24. K.S.A. 74-8710 is hereby amended to read as follows: 74-
8 8710. (a) The commission, upon the recommendation of the executive
9 director, shall adopt rules and regulations governing the establishment
10 and operation of a state lottery as necessary to carry out the purposes of
11 this act. Temporary rules and regulations may be adopted by the com-
12 mission without being subject to the provisions and requirements of
13 K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
14 subject to approval by the attorney general as to legality and shall be filed
15 with the secretary of state and published in the Kansas register. Tem-
16 porary and permanent rules and regulations may include but shall not be
17 limited to:

18 (1) Subject to the provisions of subsection (c), the types of lottery
19 games to be conducted, including but not limited to instant lottery, on-
20 line and traditional games, but not including games on video lottery ma-
21 chines or lottery machines.

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

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

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

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

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

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

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

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

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

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

42 (12) The major procurement contracts or portions thereof to be
43 awarded to minority business enterprises pursuant to subsection (a) of

1 K.S.A. 74-8705, and amendments thereto, and procedures for the award
2 thereof.

3 (13) *Rules and regulations to implement, administer and enforce the*
4 *provisions of the Kansas gaming act.*

5 (14) *The types of electronic gaming machines to be operated and lot-*
6 *tery facility games operated pursuant to the Kansas gaming act.*

7 (b) No new lottery game shall commence operation after the effective
8 date of this act unless first approved by the governor or, in the governor's
9 absence or disability, the lieutenant governor. *This subsection shall not*
10 *be construed to require approval of games played on an electronic gaming*
11 *machine.*

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

16 Sec. 25. K.S.A. 74-8711 is hereby amended to read as follows: 74-
17 8711. (a) There is hereby established in the state treasury the lottery
18 operating fund.

19 (b) *Except as otherwise provided by the Kansas gaming act*, the ex-
20 ecutive director shall remit all moneys collected from the sale of lottery
21 tickets and shares and any other moneys received by or on behalf of the
22 Kansas lottery to the state treasurer in accordance with the provisions of
23 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
24 remittance, the state treasurer shall deposit the entire amount in the state
25 treasury to the credit of the lottery operating fund. Moneys credited to
26 the fund shall be expended or transferred only as provided by this act.
27 Expenditures from such fund shall be made in accordance with appro-
28 priations acts upon warrants of the director of accounts and reports issued
29 pursuant to vouchers approved by the executive director or by a person
30 designated by the executive director.

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

32 (1) The payment of expenses of the lottery, which shall include all
33 costs incurred in the operation and administration of the Kansas lottery,
34 *other than expenses incurred pursuant to the Kansas gaming act*; all costs
35 resulting from contracts entered into for the purchase or lease of goods
36 and services needed for operation of the lottery, including but not limited
37 to supplies, materials, tickets, independent studies and surveys, data
38 transmission, advertising, printing, promotion, incentives, public rela-
39 tions, communications and distribution of tickets and shares; and reim-
40 bursement of costs of facilities and services provided by other state
41 agencies;

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

43 (3) transfers of moneys to the lottery prize payment fund pursuant to

1 K.S.A. 74-8712, and amendments thereto;

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

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

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

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

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

15 (2) except for pull-tab lottery tickets and shares, an amount equal to
16 not less than 30% of total monthly revenues from the sales of lottery
17 tickets and shares less estimated returned tickets. In the case of pull-tab
18 lottery tickets and shares, an amount equal to not less than 20% of the
19 total monthly revenues from the sales of pull-tab lottery tickets and shares
20 less estimated returned tickets.

21 Sec. 26. K.S.A. 74-8723 is hereby amended to read as follows: 74-
22 8723. (a) The Kansas lottery and the office of executive director of the
23 Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,
24 and the Kansas lottery commission, created by K.S.A. 74-8709, and
25 amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~
26 2011.

27 (b) This section shall be part of and supplemental to the Kansas lot-
28 tery act.

29 Sec. 27. K.S.A. 2002 Supp. 79-4805 is hereby amended to read as
30 follows: 79-4805. (a) There is hereby established in the state treasury the
31 problem gambling grant fund. All moneys credited to such fund shall be
32 used only for the awarding of grants under this section. Such fund shall
33 be administered in accordance with this section and the provisions of
34 appropriation acts.

35 (b) All expenditures from the problem gambling grant fund shall be
36 made in accordance with appropriation acts upon warrants of the director
37 of accounts and reports issued pursuant to vouchers approved in the man-
38 ner prescribed by law.

39 (c) There is hereby established a state grant program to provide as-
40 sistance for the direct treatment of persons diagnosed as suffering from
41 pathological gambling, *the continued training of addiction professionals,*
42 *the marketing of programs funded pursuant to this section,* and to provide
43 funding for research regarding the impact of gambling on residents of

1 Kansas. Research grants awarded under this section may include, but
2 need not be limited to, grants for determining the effectiveness of edu-
3 cation, *treatment* and prevention efforts on the prevalence of pathological
4 gambling in Kansas. All grants shall be made after open solicitation of
5 proposals and evaluation of proposals against criteria established in rules
6 and regulations adopted by the secretary of the department of social and
7 rehabilitation services. Both public and private entities shall be eligible
8 to apply for and receive grants under the provisions of this section.

9 (d) The secretary of the department of social and rehabilitation serv-
10 ices is hereby authorized to receive moneys from any grants, gifts, con-
11 tributions or bequests made for the purpose of funding grants under this
12 section and to expend such moneys for the purpose for which received.

13 (e) All grants made in accordance with this section shall be made from
14 the problem gambling grant fund. The secretary shall administer the pro-
15 visions of this section and shall adopt rules and regulations establishing
16 criteria for qualification to receive grants and such other matters deemed
17 necessary by the secretary for the administration of this section. Such
18 rules and regulations shall include, but need not be limited to, a require-
19 ment that each recipient of a grant to provide treatment for pathological
20 gamblers report at least annually to the secretary the grantee's measurable
21 achievement of specific outcome goals.

22 (f) For the purpose of this section "pathological gambling" means the
23 disorder by that name described in the most recent edition of the diag-
24 nostic and statistical manual.

25 Sec. 28. K.S.A. 2002 Supp. 19-101a is hereby amended to read as
26 follows: 19-101a. (a) The board of county commissioners may transact all
27 county business and perform all powers of local legislation and adminis-
28 tration it deems appropriate, subject only to the following limitations,
29 restrictions or prohibitions:

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

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

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

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

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

41 (6) Counties may not legislate on social welfare administered under
42 state law enacted pursuant to or in conformity with public law No. 271—
43 74th congress, or amendments thereof.

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

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

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

10 (10) No county may levy ad valorem taxes under the authority of this
11 section upon real property located within any redevelopment project area
12 established under the authority of K.S.A. 12-1772, and amendments
13 thereto, unless the resolution authorizing the same specifically authorized
14 a portion of the proceeds of such levy to be used to pay the principal of
15 and interest upon bonds issued by a city under the authority of K.S.A.
16 12-1774, and amendments thereto.

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

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

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

29 (14) Counties may not exempt from or effect changes in K.S.A. 19-
30 430, and amendments thereto.

31 (15) Counties may not exempt from or effect changes in K.S.A. 19-
32 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

33 (16) (A) Counties may not exempt from or effect changes in K.S.A.
34 13-13a26, and amendments thereto.

35 (B) This provision shall expire on June 30, 2004.

36 (17) (A) Counties may not exempt from or effect changes in K.S.A.
37 71-301a, and amendments thereto.

38 (B) This provision shall expire on June 30, 2004.

39 (18) Counties may not exempt from or effect changes in K.S.A. 19-
40 15,139, 19-15,140 and 19-15,141, and amendments thereto.

41 (19) Counties may not exempt from or effect changes in the provi-
42 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
43 1226, and amendments thereto, or the provisions of K.S.A. 12-1260

1 through 12-1270 and 12-1276, and amendments thereto.

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

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

6 (22) Counties may not regulate the production or drilling of any oil
7 or gas well in any manner which would result in the duplication of reg-
8 ulation by the state corporation commission and the Kansas department
9 of health and environment pursuant to chapter 55 and chapter 65 of the
10 Kansas Statutes Annotated and any rules and regulations adopted pur-
11 suant thereto. Counties may not require any license or permit for the
12 drilling or production of oil and gas wells. Counties may not impose any
13 fee or charge for the drilling or production of any oil or gas well.

14 (23) Counties may not exempt from or effect changes in K.S.A. 79-
15 41a04, and amendments thereto.

16 (24) Counties may not exempt from or effect changes in K.S.A. 79-
17 1611, and amendments thereto.

18 (25) Counties may not exempt from or effect changes in K.S.A. 79-
19 1494, and amendments thereto.

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

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

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

27 (29) Counties may not exempt from or effect changes in K.S.A. 79-
28 2017 or 79-2101, and amendments thereto.

29 (30) Counties may not exempt from or effect changes in K.S.A. 2-
30 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d 65-
31 1,178 through 65-1,199 or K.S.A. 2002 Supp. 17-5909, and amendments
32 thereto.

33 (31) Counties may not exempt from or effect changes in K.S.A. 2002
34 Supp. 80-121, and amendments thereto.

35 (32) Counties may not exempt from or effect changes in K.S.A. 19-
36 228, and amendments thereto.

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

39 (34) *Counties may not exempt from or effect changes in the Kansas*
40 *gaming act.*

41 (b) Counties shall apply the powers of local legislation granted in
42 subsection (a) by resolution of the board of county commissioners. If no
43 statutory authority exists for such local legislation other than that set forth

1 in subsection (a) and the local legislation proposed under the authority
2 of such subsection is not contrary to any act of the legislature, such local
3 legislation shall become effective upon passage of a resolution of the
4 board and publication in the official county newspaper. If the legislation
5 proposed by the board under authority of subsection (a) is contrary to an
6 act of the legislature which is applicable to the particular county but not
7 uniformly applicable to all counties, such legislation shall become effec-
8 tive by passage of a charter resolution in the manner provided in K.S.A.
9 19-101b, and amendments thereto.

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

12 New Sec. 29. (a) As used in this section, "lottery gaming facility" shall
13 have the meaning ascribed thereto by section 19, and amendments
14 thereto.

15 (b) The Kansas development finance authority is hereby authorized
16 to issue revenue bonds in amounts sufficient to pay the costs associated
17 with a lottery gaming facility and the amount of the accelerated lottery
18 gaming facility net payment, plus all amounts required for the costs of
19 bond issuance and any required reserves on the bonds. The bonds, and
20 interest thereon, issued pursuant to this section shall be payable from
21 revenues derived from such lottery gaming facility.

22 (c) The provisions of subsection (a) of K.S.A. 74-8905, and amend-
23 ments thereto, shall not prohibit the issuance of bonds by the Kansas
24 development finance authority for the purposes of this section and any
25 such issuance of bonds is exempt from the provisions of subsection (a) of
26 K.S.A. 74-8905, and amendments thereto, which would operate to pre-
27 clude such issuance.

28 (d) Revenue bonds, including refunding revenue bonds, issued here-
29 under shall not constitute an indebtedness of the state of Kansas, nor
30 shall they constitute indebtedness within the meaning of any constitu-
31 tional or statutory provision limiting the incurring of indebtedness.

32 (e) Revenue bonds, including refunding revenue bonds, issued here-
33 under and the income derived therefrom are and shall be exempt from
34 all state, county and municipal taxation in the state of Kansas, except
35 Kansas estate taxes.

36 Sec. 30. K.S.A. 74-8702, 74-8705, 74-8710, 74-8711 and 74-8723 and
37 K.S.A. 2002 Supp. 19-101a and 79-4805 are hereby repealed.

38 Sec. 31. This act shall take effect and be in force from and after its
39 publication in the Kansas register.

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