

HOUSE BILL No. 2632

By Representative Ballou

1-28

AN ACT concerning the Kansas lottery; authorizing electronic gaming at certain locations; amending K.S.A. 74-8702, 74-8705, 74-8710 and 74-8711 and K.S.A. 2003 Supp. 19-101a 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,~~ 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.

(i) "Prize" means any prize paid directly by the Kansas lottery pur-

1 suant to its rules and regulations.

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

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

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

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

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

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

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

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

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

31 (2) "Lottery machine" shall not mean:

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

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

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

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

40 (E) *any electronic gaming machine operated in accordance with the*
41 *Kansas gaming act.*

42 (p) "Electronic gaming machine" means any electronic, electrome-
43 chanical, video or computerized device, contrivance or machine author-

1 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic
2 cards or any consideration, is available to play, operate or simulate the
3 play of a game authorized by the Kansas lottery pursuant to the Kansas
4 gaming act, including, but not limited to, bingo, poker, blackjack, keno
5 and slot machines and which may deliver or entitle the player operating
6 the machine to receive cash, tokens, merchandise or credits that may be
7 redeemed for cash. Electronic gaming machines may use bill validators
8 and may be single-position reel-type, single or multi-game video and sin-
9 gle-position multi-game video electronic game, including but not limited
10 to, poker, blackjack and slot machines. Electronic gaming machines shall
11 be linked to a central computer at a location determined by the executive
12 director for purposes of security, monitoring and auditing.

13 (q) "Facility owner licensee," "facility manager licensee" and "organ-
14 ization licensee" have the meanings provided by K.S.A. 74-8802, and
15 amendments thereto.

16 (r) "Key gaming employee" means any natural person 21 years of age
17 or older employed by or under contract with a lottery gaming machine
18 operator or employed by or under contract with a person providing on
19 or off-site management or employee-related services to the lottery gaming
20 machine operator, including, but not limited to: (1) Gaming machine op-
21 erator manager and assistant manager; (2) facilities operator manager;
22 (3) electronic games manager; (4) accounting department personnel; (5)
23 count room employees; (6) cage department employees, including cashiers
24 and main bank employees; (7) vault department employees; (8) approvers
25 of credit; (9) surveillance department employees; (10) security department
26 employees; (11) floor managers; (12) electronic gaming machine techni-
27 cians; (13) custodians of electronic gaming machines, including persons
28 with access to cash and accounting records within such machines; (14)
29 collection personnel; (15) internal auditors of the lottery gaming machine
30 operator; and (16) any employee whose total cash compensation is in
31 excess of \$50,000 per year.

32 (s) "Lottery gaming machine operator" means any person with which
33 the executive director has contracted for the placement of an electronic
34 gaming machine pursuant to the Kansas gaming act.

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

39 (u) "Parimutuel licensee" means a facility owner licensee or a facility
40 manager licensee.

41 (v) "Parimutuel licensee location" means: (1) A racetrack facility, as
42 defined by K.S.A. 74-8802, and amendments thereto, where live horse
43 racing or live greyhound racing has been authorized or for which an

1 application for authorization to conduct live horse racing or live grey-
2 hound racing pursuant to the Kansas parimutuel racing act is pending
3 prior to February 1, 2000; or (2) a facility located on real estate where
4 such racetrack facility is located. A parimutuel licensee location may in-
5 clude any existing structure at a racetrack facility described in this sub-
6 section or any structure that may be constructed on real estate where such
7 racetrack facility is located.

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

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

17 (y) "Token" means a metal or other representative of value, which is
18 not legal tender, which is redeemable for cash only by the issuing lottery
19 gaming machine operator at the location where the operator operates
20 electronic gaming machines pursuant to the Kansas gaming act and which
21 is issued and sold by the operator for the sole purpose of playing an
22 electronic gaming machine.

23 New Sec. 2. (a) Sections 2 through 32, and amendments thereto,
24 shall be known as the Kansas gaming act and shall be part of and supple-
25 mental to the Kansas lottery act.

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

30 New Sec. 3. (a) The executive director may contract with parimutuel
31 licensees for the operation and management, by the state of Kansas, of
32 electronic gaming machines at parimutuel licensee locations in counties
33 where a proposition submitted pursuant to section 4, and amendments
34 thereto, has been approved by the voters of such county. Any such con-
35 tract shall be subject to the provisions of this act and rules and regulations
36 adopted under this act but shall not be subject to the provisions of K.S.A.
37 75-3738 through 75-3744, and amendments thereto.

38 (b) The executive director shall select as lottery gaming machine op-
39 erators such parimutuel licensees as the executive director deems best
40 able to serve the public convenience and promote marketing plans de-
41 veloped by the Kansas lottery. In the selection of lottery gaming machine
42 operators, the executive director shall consider factors such as financial
43 responsibility, security of the licensee location, integrity, reputation, vol-

1 ume of expected sales and such other factors as the executive director
2 may deem appropriate.

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

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

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

28 (d) Upon the adoption of a resolution or the submission of a valid
29 petition calling for an election pursuant to this section, the county election
30 officer shall cause the following proposition to be placed on the ballot at
31 the election called for that purpose: “Shall the operation of electronic
32 gaming machines by the Kansas lottery be permitted in _____
33 county at parimutuel licensee locations?”

34 (e) If a majority of the votes cast and counted at such election is in
35 favor of permitting the operation of electronic gaming machines at pari-
36 mutuel licensee locations, the executive director may enter into contracts
37 with parimutuel licensees to operate such games at parimutuel licensee
38 locations in the county. If a majority of the votes cast and counted at an
39 election under this section is against permitting the operation of elec-
40 tronic gaming machines at parimutuel licensee locations in the county,
41 the Kansas lottery shall not operate such games in the county. The county
42 election officer shall transmit a copy of the certification of the results of
43 the election to the executive director and to the Kansas racing and gaming

1 commission.

2 (f) The election provided for by this section shall be conducted, and
3 the votes counted and canvassed, in the manner provided by law for
4 question submitted at elections of the count.

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

10 New Sec. 5. (a) All purse supplements paid pursuant to this act shall
11 be according to the point schedule in effect on January 1, 2003, at the
12 respective parimutuel licensee locations. All purse supplements paid pur-
13 suant to this section shall be in addition to purses and supplements paid
14 under K.S.A. 74-8801 *et seq.*, and amendments thereto.

15 (b) No electronic gaming machine shall be operated pursuant to this
16 act at a parimutuel licensee location unless the facility where the elec-
17 tronic gaming machine is operated displays live and simulcast parimutuel
18 races pursuant to an order issued by the Kansas racing and gaming com-
19 mission on video terminals and has installed parimutuel windows for wa-
20 gering on parimutuel races.

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

22 (1) No electronic gaming machine shall be operated pursuant to this
23 act at a parimutuel licensee location in Sedgwick county unless, during
24 the first full calendar year and each year thereafter in which electronic
25 gaming machines are operated at such location, at least six live racing
26 programs are conducted at such location each calendar week for 49
27 weeks, with at least 13 live races conducted each program;

28 (2) on and after January 1, 2006, no electronic gaming machine shall
29 be operated pursuant to this act at a parimutuel licensee location in Wy-
30 andotte county unless, during the first full calendar year and each year
31 thereafter in which electronic gaming machines are operated at such lo-
32 cation, at least five live horse racing programs are conducted at such
33 location each calendar week for a minimum of 60 racing days, with at
34 least 10 live races conducted each program, with a minimum of seven live
35 thoroughbred and three live quarterhorse races per day and at least seven
36 live dog racing programs each calendar week for at least 49 weeks, with
37 at least 13 live races conducted each program; and

38 (3) no electronic gaming machine shall be operated pursuant to this
39 act at a parimutuel licensee location in Crawford county unless, during
40 the first full calendar year and each year thereafter in which electronic
41 gaming machines are operated at such location, live racing is conducted
42 at such location for the number of days agreed upon by the organization
43 licensee and the parimutuel licensee but not less than 150 days, com-

1 prised of at least seven live racing programs each calendar week, with at
2 least 13 live races conducted each program.

3 (d) The Kansas racing and gaming commission may provide excep-
4 tions to the requirements of subsection (c) when events beyond the con-
5 trol of the parimutuel licensee may render racing impossible or imprac-
6 tical. Such events shall include any natural or man-made disaster, shortage
7 of qualified racing animals due to kennel sickness or state imposed limi-
8 tations on operations.

9 (e) The Kansas racing and gaming commission shall allow the tem-
10 porary use of existing facilities at a parimutuel licensee location for the
11 installation and operation of electronic gaming machine while processing
12 applications, plans and other documents required for, and during the
13 construction of, permanent facilities for such machines. On and after July
14 1, 2007, the commission may allow temporary use of existing facilities at
15 a parimutuel licensee location for such purpose if construction of per-
16 manent facilities have not been completed.

17 New Sec. 6. (a) There shall be and is hereby established in the state
18 treasury the live horse racing purse supplement fund when the Kansas
19 racing and gaming commission first certifies a percentage to be trans-
20 ferred to such fund pursuant to subsection (d) of section 7, and amend-
21 ments thereto. Twenty percent of all moneys paid into such fund shall be
22 transferred to the Kansas horse breeding development fund created pur-
23 suant to K.S.A. 74-8829, and amendments thereto. Such moneys shall be
24 distributed from the separate horse purse supplement accounts main-
25 tained pursuant to this section, in accordance with rules and regulations
26 of the Kansas racing and gaming commission, provided that parimutuel
27 licensees shall continue to pay purses from the live and simulcast purse
28 fund established by law.

29 (b) There shall be and is hereby established in the state treasury the
30 live greyhound racing purse supplement fund when the Kansas racing
31 and gaming commission first certifies a percentage to be transferred to
32 such fund pursuant to subsection (d) of section 7, and amendments
33 thereto. Moneys available in such fund shall be paid to parimutuel li-
34 censees for distribution as purse supplements in accordance with rules
35 and regulations of the Kansas racing and gaming commission.

36 (c) There is hereby established in the state treasury the electronic
37 gaming machine fund. Separate accounts shall be maintained in such fund
38 for receipt of moneys from each lottery gaming machine operator.

39 New Sec. 7. (a) The executive director shall collect and remit to the
40 state treasurer in accordance with K.S.A. 75-4215, and amendments
41 thereto, all net machine income received from lottery gaming machine
42 operators who are parimutuel licensees. Upon receipt of the remittance,
43 the state treasurer shall deposit the entire amount in the state treasury

1 and credit it to the account maintained for the lottery gaming machine
2 operator in the electronic gaming machine fund, established pursuant to
3 section 6, and amendments thereto.

4 (b) Subject to the provisions of section 32, and amendments thereto,
5 at least once each week the state treasurer shall transfer from the account
6 maintained in the electronic gaming machine fund for each lottery gaming
7 machine operator who is a parimutuel licensee amounts equal to the
8 following percentages of the moneys in such account:

9 (1) To the state general fund, the percentage equal to 39% minus
10 any percentages transferred pursuant to subsections (b)(3) and (b)(4);

11 (2) to the nonprofit organization licensed by the Kansas racing and
12 gaming commission to conduct races at the parimutuel licensee location,
13 1%, pursuant to the management contract;

14 (3) to the live greyhound racing purse supplement fund, the per-
15 centage certified by the Kansas racing and gaming commission pursuant
16 to subsection (d); and

17 (4) to the live horse racing purse supplement fund, the percentage
18 certified by the Kansas racing and gaming commission pursuant to sub-
19 section (d).

20 (c) Subject to the provisions of section 32, and amendments thereto,
21 upon distribution of moneys pursuant to subsection (b), the state trea-
22 surer shall remit the balance in the account of each lottery gaming ma-
23 chine operator who is a parimutuel licensee to such operator.

24 (d) Before July 1 of each year, the Kansas racing and gaming com-
25 mission shall certify to the state treasurer the percentages, if any, to be
26 transferred to the live greyhound racing purse supplement fund and the
27 live horse racing purse supplement fund pursuant to subsection (b)(3)
28 and (b)(4) during the fiscal year beginning such July 1. The commission
29 may provide for a different percentage to be transferred to the different
30 funds and neither percentage shall exceed 3%. The commission shall de-
31 termine the percentages according to criteria established by rules and
32 regulations, adopted by the commission, for assessing the viability of the
33 Kansas parimutuel racing industry.

34 New Sec. 8. (a) The executive director, with the approval of the gov-
35 ernor, may contract with Boot Hill Gaming, Inc., a wholly owned subsid-
36 iary of Boot Hill Museum, Inc., a nonprofit corporation exempt from
37 payment of federal income taxes under section 501 (c)(3) of the federal
38 internal revenue code, as in effect on the effective date of this act, to
39 operate electronic gaming machines at a single specified location in Ford
40 county, Kansas, where the operation of such machines will promote tour-
41 ism and economic development. The executive director shall not contract
42 with Boot Hill Gaming, Inc., to operate electronic gaming machines pur-
43 suant to this section unless the operation of such machines is first ap-

1 proved by the voters of Ford county, Kansas, as provided in subsection
2 (b).

3 (b) (1) Electronic gaming machines shall be operated pursuant to
4 this section only if the qualified voters of Ford county have voted by a
5 majority vote to permit operation of electronic gaming machines within
6 the county as follows:

7 The board of county commissioners of Ford county may submit by
8 resolution, and shall submit upon presentation of a petition filed in ac-
9 cordance with this subsection, to the qualified voters of the county a
10 proposition to permit the operation of electronic gaming machines within
11 the county. The proposition shall be submitted to the voters either in a
12 countywide special election called by the board of county commissioners
13 for that purpose and held not less than 90 days after the resolution is
14 adopted or the petition is filed or at the next general election, as shall be
15 specified by the board of county commissioners or in the petition, as the
16 case may be.

17 A petition to submit a proposition to the qualified voters of Ford county
18 pursuant to this section shall be filed with the county election officer.
19 The petition shall be signed by qualified voters of the county equal in
20 number to not less than 10% of the voters of the county who voted for
21 the office of secretary of state at the last preceding general election at
22 which such office was elected. The following shall appear on the petition:
23 “We request an election to determine whether the operation of electronic
24 gaming machines by the Kansas lottery shall be permitted in Ford
25 county.”

26 Upon the adoption of a resolution or the submission of a valid petition
27 calling for an election, the county election officer shall cause the following
28 proposition to be placed on the ballot at the election called for that pur-
29 pose: “Shall the operation of electronic gaming machines by the Kansas
30 lottery be permitted in Ford county?” If a majority of the votes cast and
31 counted at such election is in favor of permitting the operation of such
32 machines within the county, the Kansas lottery may enter a contract pur-
33 suant to this act for operation of such machines within the county. If a
34 majority of the votes cast and counted at an election under this section is
35 against permitting the operation of such machines within the county, the
36 Kansas lottery shall not contract pursuant to this act for the operation of
37 such machines within the county. The county election officer shall trans-
38 mit a copy of the certification of the results of the election to the executive
39 director and to the Kansas racing and gaming commission.

40 (2) The election provided for by this subsection (b) shall be con-
41 ducted, and the votes counted and canvassed, in the manner provided by
42 law for question submitted elections of the county.

43 (3) If in any election provided for by this subsection (b) a majority of

1 the votes cast and counted is against permitting the operation of elec-
2 tronic gaming machines in the county, another election submitting the
3 issue of the operation of such machines and games in the county shall not
4 be held for at least two years from the date of such election.

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

13 (b) At least once each week the state treasurer shall transfer from the
14 account maintained in the electronic gaming machine fund for Boot Hill
15 Gaming, Inc., amounts equal to the following percentages of the moneys
16 in such account:

17 (1) To the Boot Hill Museum, 1%; and

18 (2) to the state general fund, 39%.

19 (c) Upon distribution of moneys pursuant to subsection (b), the state
20 treasurer shall remit the balance in the account to Boot Hill Gaming, Inc.

21 New Sec. 10. (a) The executive director, with the approval of the
22 governor, may contract with a person to operate electronic gaming ma-
23 chines at a single specified location in Geary county, Kansas, where the
24 operation of such machines will promote tourism and economic devel-
25 opment. The executive director shall not enter a contract pursuant to this
26 section unless the operation of such machines is first approved by the
27 voters of Geary county, Kansas, as provided in subsection (b).

28 (b) (1) Electronic gaming machines shall be operated pursuant to
29 this section only if the qualified voters of Geary county have voted by a
30 majority vote to permit operation of electronic gaming machines within
31 the county as follows:

32 The board of county commissioners of Geary county may submit by
33 resolution, and shall submit upon presentation of a petition filed in ac-
34 cordance with this subsection, to the qualified voters of the county a
35 proposition to permit the operation of electronic gaming machines within
36 the county. The proposition shall be submitted to the voters either in a
37 countywide special election called by the board of county commissioners
38 for that purpose and held not less than 90 days after the resolution is
39 adopted or the petition is filed or at the next general election, as shall be
40 specified by the board of county commissioners or in the petition, as the
41 case may be.

42 A petition to submit a proposition to the qualified voters of Geary
43 county pursuant to this section shall be filed with the county election

1 officer. The petition shall be signed by qualified voters of the county equal
2 in number to not less than 10% of the voters of the county who voted for
3 the office of secretary of state at the last preceding general election at
4 which such office was elected. The following shall appear on the petition:
5 “We request an election to determine whether the operation of electronic
6 gaming machines by the Kansas lottery shall be permitted in Geary
7 county.”

8 Upon the adoption of a resolution or the submission of a valid petition
9 calling for an election, the county election officer shall cause the following
10 proposition to be placed on the ballot at the election called for that pur-
11 pose: “Shall the operation of electronic gaming machines by the Kansas
12 lottery be permitted in Geary county?” If a majority of the votes cast and
13 counted at such election is in favor of permitting the operation of such
14 machines within the county, the Kansas lottery may enter a contract pur-
15 suant to this act for operation of such machines within the county. If a
16 majority of the votes cast and counted at an election under this section is
17 against permitting the operation of such machines within the county, the
18 Kansas lottery shall not contract pursuant to this act for the operation of
19 such machines within the county. The county election officer shall trans-
20 mit a copy of the certification of the results of the election to the executive
21 director and to the Kansas racing and gaming commission.

22 (2) The election provided for by this subsection (b) shall be con-
23 ducted, and the votes counted and canvassed, in the manner provided by
24 law for question submitted elections of the county.

25 (3) If in any election provided for by this subsection (b) a majority of
26 the votes cast and counted is against permitting the operation of elec-
27 tronic gaming machines in the county, another election submitting the
28 issue of the operation of such machines and games in the county shall not
29 be held for at least two years from the date of such election.

30 New Sec. 11. (a) The executive director shall collect all net machine
31 income from the lottery gaming machine operator authorized pursuant
32 to section 10, and amendments thereto. The executive director shall remit
33 the entire amount to the state treasurer in accordance with K.S.A. 75-
34 4215, and amendments thereto. Upon receipt of the remittance, the state
35 treasurer shall deposit the entire amount in the state treasury and credit
36 it to the account maintained for the lottery gaming machine operator in
37 the electronic gaming machine fund established pursuant to section 6,
38 and amendments thereto.

39 (b) At least once each week the state treasurer shall transfer from the
40 account maintained in the electronic gaming machine fund for the lottery
41 gaming machine operator amounts equal to the following percentages of
42 the moneys in such account:

43 (1) To a nonprofit corporation which is designated by the board of

1 county commissioners of Geary county and which is incorporated in Kan-
2 sas as a not-for-profit corporation pursuant to the Kansas general cor-
3 poration code and is exempt from payment of federal income taxes under
4 section 501 (c)(3) of the federal internal revenue code, as in effect on the
5 effective date of this act, 1%; and

6 (2) to the state general fund, 39%.

7 (c) Upon distribution of moneys pursuant to subsection (b), the state
8 treasurer shall remit the balance in the account of the lottery gaming
9 machine operator to such operator.

10 New Sec. 12. The executive director, with the approval of the gov-
11 ernor, may contract with a person to operate electronic gaming machines
12 at a single specified location in Wyandotte county, Kansas, where the
13 operation of such machines will promote tourism and economic devel-
14 opment. The executive director shall not enter a contract pursuant to this
15 section unless the operation of such machines at parimutuel licensee lo-
16 cations in Wyandotte county is first approved by the voters of Wyandotte
17 county, Kansas, as provided in section 4, and amendments thereto.

18 New Sec. 13. (a) The executive director shall collect all net machine
19 income from the lottery gaming machine operator authorized pursuant
20 to section 12, and amendments thereto. The executive director shall remit
21 the entire amount to the state treasurer in accordance with K.S.A. 75-
22 4215, and amendments thereto. Upon receipt of the remittance, the state
23 treasurer shall deposit the entire amount in the state treasury and credit
24 it to the account maintained for the lottery gaming machine operator in
25 the electronic gaming machine fund established pursuant to section 6,
26 and amendments thereto.

27 (b) At least once each week the state treasurer shall transfer from the
28 account maintained in the electronic gaming machine fund for the lottery
29 gaming machine operator amounts equal to the following percentages of
30 the moneys in such account:

31 (1) To a nonprofit corporation which is designated by the unified
32 board of commissioners of the unified government of Wyandotte county/
33 Kansas City, Kansas, and which is incorporated in Kansas as a not-for-
34 profit corporation pursuant to the Kansas general corporation code and
35 is exempt from payment of federal income taxes under section 501 (c)(3)
36 of the federal internal revenue code, as in effect on the effective date of
37 this act, 1%; and

38 (2) to the state general fund, 39%.

39 (c) Upon distribution of moneys pursuant to subsection (b), the state
40 treasurer shall remit the balance in the account of the lottery gaming
41 machine operator to such operator.

42 New Sec. 14. (a) The executive director may charge to an applicant
43 to become a lottery gaming machine operator pursuant to this act an

1 administrative application fee, reasonably related to the costs of process-
2 ing the application.

3 (b) A contract pursuant to the Kansas gaming act shall not constitute
4 property, nor shall it be subject to attachment, garnishment or execution,
5 nor shall it be alienable or transferable, except upon approval by the
6 executive director, or subject to being encumbered or hypothecated. No
7 interest in the contract shall descend by the laws of testate or intestate
8 devolution but any interest shall cease and expire upon the death of the
9 operator or interest holders in the operator except that executors, admin-
10 istrators or representatives of the estate of any deceased operator and the
11 trustee of any insolvent or bankrupt operator may continue to operate
12 pursuant to the contract under order of the appropriate court for no
13 longer than one year after the death, bankruptcy or insolvency of such
14 operator.

15 (c) Each lottery gaming machine operator shall be issued a lottery
16 gaming machine operator certificate which shall be conspicuously dis-
17 played at the place where the lottery gaming machine operator is au-
18 thorized to operate and manage electronic gaming machines.

19 (d) To be a lottery gaming machine operator, a person must:

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

22 (2) be current in payment of all taxes, interest and penalties owed to
23 any taxing subdivision where the electronic gaming machines will be op-
24 erated; and

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

28 (e) The lottery gaming machine operator, at the operator's expense,
29 shall purchase for the Kansas lottery a license for all software programs
30 used by such lottery gaming machine operator to operate electronic gam-
31 ing machines. The Kansas lottery shall be the licensee and owner of all
32 such software programs and shall sublicense such software programs to
33 each lottery gaming machine operator. The lottery gaming machine op-
34 erator, at its own expense, shall purchase or lease for the Kansas lottery
35 electronic gaming machines for placement at the location where such
36 machines are to be operated. The Kansas lottery shall be the owner or
37 lessee of all such machines and shall lease or sublease such machines to
38 the lottery gaming machine operator or the Kansas lottery may lease such
39 machines for placement at the location where such machines are to be
40 operated, subject to reimbursement of the Kansas lottery by the lottery
41 gaming machine operator for all expenses related to leasing, installing,
42 operating and managing such machines. Electronic gaming machines
43 leased or subleased from the Kansas lottery by the lottery gaming machine

1 operator may, at the operator's expense, be installed, operated or man-
2 aged by the lottery gaming machine operator or by a technology provider
3 under contract with the lottery gaming machine operator as provided by
4 this act. All electronic gaming machines under this act shall be subject to
5 the ultimate control of the Kansas lottery in accordance with this act.
6 Each specific type of electronic gaming machine shall be approved by the
7 Kansas lottery in accordance with K.S.A. 74-8710, and amendments
8 thereto. The use of progressive electronic gaming machines is expressly
9 permitted.

10 (f) Each contract between the Kansas lottery and a lottery gaming
11 machine operator shall provide that the Kansas lottery shall receive all of
12 the net machine income derived from the operation of electronic gaming
13 machines by the operator.

14 (g) Contracts authorized by this section may include provisions relat-
15 ing to:

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

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

21 (3) Minimum requirements for a lottery gaming machine operator to
22 provide qualified oversight, security and supervision of the operation of
23 electronic gaming machines, including the use of qualified personnel with
24 experience in applicable technology.

25 (4) The eligibility requirements for employees of the lottery gaming
26 machine operator who will have responsibility for the handling of cash or
27 tokens. Such requirements may include a background investigation per-
28 formed by the Kansas racing and gaming commission and that any key
29 gaming employee shall be licensed as provided by this act.

30 (5) Provision for termination of the contract by either party for cause,
31 including but not limited to: (A) Failure of the lottery gaming machine
32 operator to collect and remit net machine income as provided by this act;
33 and (B) if the operator is a parimutuel licensee, failure to maintain a
34 parimutuel license in accordance with K.S.A. 74-8801 *et seq.*, and amend-
35 ments thereto.

36 (6) Any other provision deemed necessary by the parties to the
37 contract.

38 (h) The initial term of a contract pursuant to the Kansas gaming act
39 shall be not less than the remaining term of the Kansas lottery. Such
40 contract may be renewed with each extension of the Kansas lottery as
41 provided in K.S.A. 74-8723, and amendments thereto.

42 (i) (1) The Kansas lottery shall examine prototypes of electronic gam-
43 ing machines to be operated pursuant to this act and shall notify the

1 Kansas racing and gaming commission which such types of electronic
2 gaming machines are in compliance with the requirements of this act.

3 (2) No electronic gaming machine shall be operated pursuant to this
4 act unless the executive director of the Kansas racing and gaming com-
5 mission first issues a certificate for such machine authorizing its use pur-
6 suant to this act.

7 (3) Each electronic gaming machine operated pursuant to this act
8 shall have the certificate prominently displayed thereon. Any machine
9 which does not display the certificate required by this section is contra-
10 band and a public nuisance subject to confiscation by any law enforce-
11 ment officer.

12 (4) The executive director shall require any manufacturer, supplier,
13 provider, lottery gaming machine operator or other person seeking the
14 examination and certification of electronic gaming machines to pay the
15 anticipated actual costs of the examination in advance. After the comple-
16 tion of the examination, the executive director shall refund any overpay-
17 ment or charge and collect amounts sufficient to reimburse the executive
18 director for any underpayment of actual costs. The executive director may
19 contract for the examination of electronic gaming machines as required
20 by this subsection and may rely upon testing done by or for other states
21 regulating electronic gaming machines, if the executive director deems
22 such testing to be reliable and in the best interest of the state of Kansas.

23 (j) Electronic gaming machines operated pursuant to this act shall:

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

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

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

38 (k) No employee, contractor or other person in any way affiliated with
39 a lottery gaming machine operator shall loan money to or otherwise ex-
40 tend credit to patrons of the location where electronic gaming machines
41 are operated pursuant to this act.

42 New Sec. 15. The executive director shall have the power to:

43 (a) Examine or cause to be examined by any agent or representative

1 designated by the executive director any books, papers, records or mem-
2 oranda of the lottery gaming machine operator for the purpose of ascer-
3 taining compliance with the provisions of the Kansas lottery act or rules
4 and regulations adopted thereunder.

5 (b) Issue subpoenas to compel access to or for the production of any
6 books, papers, records or memoranda in the custody or control of the
7 lottery gaming machine operator, or to compel the appearance of the
8 lottery gaming machine operator for the purpose of ascertaining compli-
9 ance with the provisions of this act or rules and regulations adopted here-
10 under. Subpoenas issued under the provisions of this subsection may be
11 served upon natural persons and corporations in the manner provided in
12 K.S.A. 60-304, and amendments thereto, for the service of process by any
13 officer authorized to serve subpoenas in civil actions or by the executive
14 director or an agent or representative designated by the executive direc-
15 tor. In the case of the refusal of any person to comply with any such
16 subpoena, the executive director may make application to the district
17 court of any county where such books, papers, records, memoranda or
18 person is located for an order to comply.

19 (c) Inspect and view the operation of all machines, systems or facili-
20 ties where electronic gaming machines controlled and operated by the
21 Kansas lottery are located.

22 (d) Inspect and approve, prior to publication or distribution, all ad-
23 vertising by a lottery gaming machine operator which includes any ref-
24 erence to the Kansas lottery.

25 New Sec. 16. (a) Except as when authorized in accordance with sub-
26 section (c), it is unlawful for any lottery gaming machine operator to allow
27 any person to play electronic gaming machines or share in winnings of a
28 person knowing such person to be:

29 (1) Under 21 years of age;

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

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

35 (4) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
36 parent or stepparent or a person described by subsection (a)(2) or (3).

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

40 (c) The executive director may authorize in writing any employee of
41 the Kansas lottery and any employee of a lottery vendor to play an elec-
42 tronic gaming machine to verify the proper operation thereof with respect
43 to security and contract compliance. Any prize awarded as a result of such

1 ticket purchase shall become the property of the Kansas lottery and be
2 added to the prize pools of subsequent lottery games. No money or mer-
3 chandise shall be awarded to any employee playing an electronic gaming
4 machine pursuant to this subsection.

5 New Sec. 17. No person shall operate an electronic gaming machine
6 while intoxicated. The Kansas racing and gaming commission shall adopt
7 rules and regulations governing identification of persons who are intoxi-
8 cated and procedures for removal of such persons from premises where
9 electronic gaming machines are operated. Such rules and regulations may
10 include requirements that employees of a lottery gaming machine oper-
11 ator be trained in controlling intoxicated persons within a location where
12 electronic gaming machines are operated.

13 New Sec. 18. Each lottery gaming machine operator shall provide
14 access for the executive director, the executive director's designee or the
15 commission to all its records and the physical premises where the elec-
16 tronic gaming machine activities occur for the purpose of monitoring or
17 inspecting the electronic gaming machines and gaming equipment. None
18 of the information disclosed pursuant to this section shall be subject to
19 disclosure under the Kansas open records act, K.S.A. 45-216 *et seq.*, and
20 amendments thereto.

21 New Sec. 19. (a) Wagers shall be received only from a person at a
22 location where electronic gaming machines are operated. No person pres-
23 ent at a location where electronic gaming machines are operated shall
24 place or attempt to place a wager on behalf of another person who is not
25 present at such location.

26 (b) Violation of this section is a class A nonperson misdemeanor upon
27 a conviction for a first offense. Violation of this section is a severity level
28 9, nonperson felony upon conviction for a second or subsequent offense.

29 New Sec. 20. A lottery gaming machine operator may employ per-
30 sons who are 18 or more years of age but less than 21 years of age.

31 New Sec. 21. Pursuant to section 2 of the federal act entitled "An
32 Act to Prohibit Transportation of Gambling Devices in Interstate and
33 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
34 acting by and through the duly elected and qualified members of the
35 legislature, does hereby in this section, and in accordance with and in
36 compliance with the provisions of section 2 of such federal act, declare
37 and proclaim that it is exempt from the provision of section 2 of such
38 federal act to the extent that such gambling devices are being transported
39 to or from the Kansas lottery or to or from a lottery gaming machine
40 operator at a location in the state where the operator is authorized to
41 operate such machines under this act.

42 New Sec. 22. Except for persons acting in accordance with rules and
43 regulations of the Kansas lottery and rules and regulations of the Kansas

1 racing and gaming commission in performing installation, maintenance
2 and repair services, any person who, with the intent to manipulate the
3 outcome, pay out or operation of an electronic gaming machine, manip-
4 ulates the outcome, pay out or operation of an electronic gaming machine
5 by physical, electrical or mechanical means shall be guilty of a severity
6 level 8, nonperson felony.

7 New Sec. 23. (a) The Kansas racing and gaming commission and its
8 designated employees may observe and inspect all electronic gaming ma-
9 chines and facilities operated by lottery gaming machine operators.

10 (b) The Kansas racing and gaming commission may examine, or cause
11 to be examined by any agent or representative designated by such com-
12 mission, any books, papers, records or memoranda of any lottery gaming
13 machine operator, or of any business involved in electronic gaming, for
14 the purpose of ascertaining compliance with any provision of this act or
15 any rules and regulations adopted hereunder.

16 (c) The Kansas racing and gaming commission may adopt rules and
17 regulations with respect to security, safety and honest conduct at all lo-
18 cations where electronic gaming machines are operated.

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

22 (e) Appropriate security measures shall be required in any and all
23 areas where electronic gaming machines are located. The Kansas racing
24 and gaming commission shall approve all such security measures.

25 (f) The Kansas racing and gaming commission may provide by rules
26 and regulations for the licensure of key gaming employees and technology
27 providers. Such rules and regulations may specify employment applica-
28 tion forms, fees and procedures for suspension or revocation of any key
29 gaming employee license.

30 (g) The Kansas racing and gaming commission shall have the power
31 to take any other action as may be reasonable or appropriate to enforce
32 the provisions of this act and any rules and regulations, orders and final
33 decisions of such commission.

34 (h) The Kansas racing and gaming commission shall require an annual
35 audit of the electronic gaming machine operations of each lottery gaming
36 machine operator contracting with the Kansas lottery. Such audit shall be
37 conducted by a licensed accounting firm approved by the Kansas racing
38 and gaming commission. Such audit shall be conducted at the expense of
39 the lottery gaming machine operator to which such audit applies.

40 New Sec. 24. (a) It is a class A nonperson misdemeanor for the ex-
41 ecutive director, any member of the lottery commission, any employee
42 of the Kansas lottery or any member, employee or appointee of the Kan-
43 sas racing and gaming commission, including stewards and racing judges,

1 knowingly to:

2 (1) Participate in the operation of or have a financial interest in any
3 business which has been issued a concessionaire license, racing or wa-
4 gering equipment or services license, electronic gaming machine equip-
5 ment or services license, facility owner license or facility manager license,
6 or any business which sells goods or services to an organization licensee
7 or lottery gaming machine operator;

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

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

12 (4) accept any compensation, gift, loan, entertainment, favor or serv-
13 ice from any lottery gaming machine operator, except such suitable fa-
14 cilities and services at locations where electronic gaming machines are
15 operated as may be required to facilitate the performance of the executive
16 director's, member's, employee's or appointee's official duties;

17 (5) enter into any business dealing, venture or contract with an owner
18 or lessee of a location in this state where electronic gaming machines are
19 operated; or

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

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

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

31 (2) possess or use, while on premises where electronic gaming ma-
32 chines are operated, any cheating or thieving device, including but not
33 limited to, tools, wires, drills, coins attached to strings or wires or elec-
34 tronic or magnetic devices to facilitate removing from any electronic gam-
35 ing machine any money or contents thereof, except that a duly authorized
36 agent or employee of the Kansas lottery, the Kansas racing and gaming
37 commission or a lottery gaming machine operator may possess and use
38 any of the foregoing only in furtherance of the agent's or employee's
39 employment at such location;

40 (3) possess or use, while on premises where electronic gaming ma-
41 chines are operated, any key or device designed for the purpose of or
42 suitable for opening or entering any electronic gaming machine or similar
43 gaming device or drop box, except that a duly authorized agent or em-

1 ployee of the Kansas lottery, the Kansas racing and gaming commission
2 or a lottery gaming machine operator may possess and use any of the
3 foregoing only in furtherance of the agent's or employee's employment
4 at such location; or

5 (4) wager prior to obtaining the age of 21 years.

6 New Sec. 25. (a) No lottery gaming machine operator shall permit
7 any business to provide electronic gaming machine equipment or services,
8 as designated by rules and regulations of the Kansas racing and gaming
9 commission, to such operator unless such business has been issued an
10 electronic gaming machine equipment or services license by the executive
11 director of the Kansas racing and gaming commission. Such equipment
12 and services shall include, but are not limited to, surveillance, electronic
13 computer components, random number generator or cabinet thereof and
14 token redemption equipment or services.

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

41 (c) The Kansas racing and gaming commission shall require appli-
42 cants as a condition of licensure to consent to allow agents of the Kansas
43 bureau of investigation or security personnel of the Kansas lottery and

1 the Kansas racing and gaming commission to search without warrant the
2 licensee's premises and personal property and the persons of its owners,
3 officers and employees while engaged in the licensee's business within
4 premises where electronic gaming machines are located or adjacent fa-
5 cilities under the control of the lottery gaming machine operator, for the
6 purpose of investigating criminal violations of this act or violations of rules
7 and regulations of the commission.

8 (d) The Kansas racing and gaming commission may refuse to issue
9 an electronic gaming machine equipment or services license to any busi-
10 ness if any person having an interest ownership in such business, any
11 person who is an officer of such business or any person employed by such
12 business within the location where electronic gaming machines are
13 operated:

14 (1) Has been convicted of a felony in a court of any state or of the
15 United States, has been adjudicated in the last 10 years, in any such court
16 of committing as a juvenile an act which, if committed by an adult, would
17 constitute a felony or has been convicted of a crime in any other state or
18 country which would constitute a felony if committed under the same
19 circumstances pursuant to Kansas law;

20 (2) has been convicted of a felony violation of any law of any state or
21 of the United States involving gambling or controlled substances or has
22 been adjudicated in the last 10 years in any such court or committing as
23 a juvenile an act which, if committed by an adult, would constitute such
24 a felony violation;

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

28 (4) has been found by the executive director to have violated any
29 provision of this act or any rule and regulation of the executive director;
30 or

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

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

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

42 New Sec. 26. (a) No taxes, fees, charges, transfers or distributions,
43 other than those provided for in this act, shall be made or levied from or

1 against the net machine income of the Kansas lottery by any political
2 subdivision of the state.

3 (b) No license tax, permit fee, occupation tax, operation or machine
4 tax or fee shall be imposed, levied or assessed exclusively upon gaming
5 by any political subdivision of the state.

6 New Sec. 27. No tax credit, tax abatement, enterprise zone or tax
7 increment financing shall be available to any lottery gaming machine op-
8 erator licensed pursuant to this act, nor shall any political or taxing sub-
9 division of the state or any agency or instrumentality of such political or
10 taxing subdivision transfer or make available any real or personal property
11 to a lottery gaming machine operator at less than fair market value.

12 New Sec. 28. All sales of electronic gaming machine games shall be
13 exempt from sales taxes imposed pursuant to K.S.A. 12-187 *et seq.*, and
14 79-3601 *et seq.*, and amendments thereto.

15 New Sec. 29. Each lottery gaming machine operator shall hold the
16 executive director of the Kansas lottery, the Kansas lottery commission,
17 the executive director of the Kansas racing and gaming commission, the
18 Kansas racing and gaming commission and the state harmless from and
19 defend and pay for the defense of any and all claims which may be as-
20 serted against the executive director, the commission, the executive di-
21 rector of the Kansas racing and gaming commission and the state, or the
22 agents or employees thereof, arising from the operation of electronic
23 gaming machines of such lottery gaming machine operator. The provi-
24 sions of this section shall not apply to any claims arising from the negli-
25 gence or willful misconduct of the executive director, the commission,
26 the executive director of the Kansas racing and gaming commission, the
27 Kansas racing and gaming commission and the state, or the agents or
28 employees thereof.

29 New Sec. 30. If a disagreement arises between the executive director
30 and the Kansas racing and gaming commission with regard to their re-
31 spective duties or responsibilities in carrying out the purposes of the Kan-
32 sas gaming act, such disagreement shall be resolved by the governor in a
33 manner not inconsistent with the provisions of this act.

34 New Sec. 31. As a condition precedent to contracting for the privi-
35 lege of being a lottery gaming machine operator, a person wishing to be
36 such an operator shall file with the secretary of state of this state written
37 consent, irrevocable, that any action or garnishment proceeding may be
38 commenced against the lottery gaming machine operator in the proper
39 court of any county in this state in which the case of action shall arise or
40 in which the plaintiff may reside by the service of process on a resident
41 agent, and stipulating and agreeing that such service shall be taken and
42 held in all courts to be as valid and binding as if due service had been
43 made upon the operator. The written consent shall state that the courts

1 of this state have jurisdiction over the person of the operator and are the
2 proper and convenient forum for such action and shall waive the right to
3 request a change of jurisdiction or venue to a court outside that state and
4 that all actions arising under this act and commenced by the operator
5 shall be brought in this state's court as the proper and convenient forum.
6 Such consent shall be executed by the operator and if a corporation, by
7 the president and secretary of the corporate operator, and shall be ac-
8 companied by a duly certified copy of the order or resolution of the board
9 of directors, trustees or managers authorizing the president and secretary
10 to execute the same.

11 New Sec. 32. (a) As a condition precedent to contracting for the priv-
12 ilege of being a lottery gaming machine operator under the Kansas gam-
13 ing act, each operator operating electronic gaming machines in this state
14 before January 1, 2006, shall make an advance payment of the amount to
15 be credited to the state general fund under subsection (b)(1) of section
16 7, and amendments thereto. The aggregate amount of such payments by
17 all operators shall equal \$30,000,000. Such amount shall be equally di-
18 vided amount all such operators.

19 (b) Before January 1, 2006, the executive director shall determine the
20 amount owed by each lottery gaming machine operator under subsection
21 (a). Such amount shall be due and payable on a date determined by the
22 executive director, but not later than June 30, 2006.

23 (c) One-half of the amount paid by a lottery gaming machine operator
24 under this section shall be allowed as a credit against the amount due
25 under subsection (b)(1) of section 7, and amendments thereto, for fiscal
26 year 2007 and the balance shall be allowed as a credit against such amount
27 due for fiscal year 2008.

28 (d) No moneys shall be transferred as provided by subsection (b)(2),
29 (b)(3) or (b)(4) of section 7, and amendments thereto, in fiscal year 2006.
30 Such transfers shall commence in fiscal year 2007 and in fiscal year 2008
31 at the time any amount remitted by the lottery gaming machine operator
32 exceeds the credit allowed under subsection (c) for each such fiscal year.
33 Thereafter, such transfers shall be made as provided in section 7, and
34 amendments thereto.

35 Sec. 33. K.S.A. 74-8705 is hereby amended to read as follows: 74-
36 8705. (a) Major procurement contracts shall be awarded in accordance
37 with K.S.A. 75-3738 through 75-3744, and amendments thereto, or sub-
38 section (b), as determined by the director, except that:

39 (1) The contract or contracts for the initial lease of facilities for the
40 Kansas lottery shall be awarded upon the evaluation and approval of the
41 director, the secretary of administration and the director of architectural
42 services; *or*

43 (2) the commission shall designate certain major procurement con-

1 tracts or portions thereof to be awarded, in accordance with rules and
2 regulations of the commission, solely to minority business enterprises.

3 (b) The director may award any major procurement contract by use
4 of a procurement negotiating committee. Such committee shall be com-
5 posed of: (1) The executive director or a Kansas lottery employee desig-
6 nated by the executive director; (2) the chairperson of the commission or
7 a commission member designated by the chairperson; and (3) the director
8 of the division of purchases or an employee of such division designated
9 by the director. Prior to negotiating a major procurement contract, the
10 committee shall solicit bids or proposals thereon. The division of pur-
11 chases shall provide staff support for the committee's solicitations. Upon
12 receipt of bids or proposals, the committee may negotiate with one or
13 more of the persons submitting such bids or proposals and select from
14 among such persons the person to whom the contract is awarded. Such
15 procurements shall be open and competitive and shall consider relevant
16 factors, including security, competence, experience, timely performance
17 and maximization of net revenues to the state. If a procurement negoti-
18 ating committee is utilized, the provisions of K.S.A. 75-3738 through 75-
19 3744, and amendments thereto, shall not apply. Meetings conducted by
20 the procurement negotiating committee shall be exempt from the pro-
21 visions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320a,
22 and amendments thereto.

23 (c) Before a major procurement contract is awarded, the executive
24 director shall conduct a background investigation of: (1) The vendor to
25 whom the contract is to be awarded; (2) all officers and directors of such
26 vendor; (3) all persons who own a 5% or more interest in such vendor;
27 (4) all persons who own a controlling interest in such vendor; and (5) any
28 subsidiary or other business in which such vendor owns a controlling
29 interest. The vendor shall submit appropriate investigation authorizations
30 to facilitate such investigation. The executive director may require, in
31 accordance with rules and regulations of the commission, that a vendor
32 submit any additional information considered appropriate to preserve the
33 integrity and security of the lottery. In addition, the executive director
34 may conduct a background investigation of any person having a beneficial
35 interest in a vendor. The secretary of revenue, securities commissioner,
36 attorney general and director of the Kansas bureau of investigation shall
37 assist in any investigation pursuant to this subsection upon request of the
38 executive director. Whenever the secretary of revenue, securities com-
39 missioner, attorney general or director of the Kansas bureau of investi-
40 gation assists in such an investigation and incurs costs in addition to those
41 attributable to the operations of the office or bureau, such additional costs
42 shall be paid by the Kansas lottery. The furnishing of assistance in such
43 an investigation shall be a transaction between the Kansas lottery and the

1 respective officer and shall be settled in accordance with K.S.A. 75-5516,
2 and amendments thereto.

3 Upon the request of the chairperson, the Kansas bureau of investiga-
4 tion and other criminal justice agencies shall provide to the chairperson
5 all background investigation information including criminal history record
6 information, arrest and nonconviction data, criminal intelligence infor-
7 mation and information relating to criminal and background investiga-
8 tions of a vendor to whom a major procurement contract is to be awarded.
9 Such information, other than conviction data, shall be confidential and
10 shall not be disclosed, except as provided in this section. In addition to
11 any other penalty provided by law, disclosure of such information shall
12 be grounds for removal from office or termination of employment.

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

15 (e) (1) *Except as provided by paragraph (2), the executive director*
16 *shall not agree to any renewal or extension of a major procurement con-*
17 *tract unless such extension or renewal is awarded in the manner provided*
18 *by this section.*

19 (2) *The provisions of paragraph (1) shall not apply to the extension*
20 *or renegotiation of an existing contract with a vendor for the purposes of*
21 *providing services for the monitoring and control of electronic gaming*
22 *machines under the Kansas gaming act. The provisions of this subsection*
23 *shall expire on June 30, 2006.*

24 Sec. 34. K.S.A. 74-8710 is hereby amended to read as follows: 74-
25 8710. (a) The commission, upon the recommendation of the executive
26 director, shall adopt rules and regulations governing the establishment
27 and operation of a state lottery as necessary to carry out the purposes of
28 this act. Temporary rules and regulations may be adopted by the com-
29 mission without being subject to the provisions and requirements of
30 K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
31 subject to approval by the attorney general as to legality and shall be filed
32 with the secretary of state and published in the Kansas register. Tem-
33 porary and permanent rules and regulations may include but shall not be
34 limited to:

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

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

43 (3) The manner of payment of prizes to the holders of winning tickets

1 or shares.

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

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

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

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

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

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

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

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

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

20 (13) *Provisions to implement, administer and enforce the Kansas*
21 *gaming act.*

22 (14) *The types of electronic gaming machines to be operated pursuant*
23 *to the Kansas gaming act.*

24 (b) No new lottery game shall commence operation after the effective
25 date of this act unless first approved by the governor or, in the governor's
26 absence or disability, the lieutenant governor. *This subsection shall not*
27 *apply to electronic gaming machine games.*

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

32 Sec. 35. K.S.A. 74-8711 is hereby amended to read as follows: 74-
33 8711. (a) There is hereby established in the state treasury the lottery
34 operating fund.

35 (b) *Except as otherwise provided by the Kansas gaming act*, the ex-
36 ecutive director shall remit all moneys collected from the sale of lottery
37 tickets and shares and any other moneys received by or on behalf of the
38 Kansas lottery to the state treasurer in accordance with the provisions of
39 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
40 remittance, the state treasurer shall deposit the entire amount in the state
41 treasury to the credit of the lottery operating fund. Moneys credited to
42 the fund shall be expended or transferred only as provided by this act.
43 Expenditures from such fund shall be made in accordance with appro-

1 priations acts upon warrants of the director of accounts and reports issued
2 pursuant to vouchers approved by the executive director or by a person
3 designated by the executive director.

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

5 (1) The payment of expenses of the lottery, which shall include all
6 costs incurred in the operation and administration of the Kansas lottery,
7 *other than expenses incurred pursuant to the Kansas gaming act*; all costs
8 resulting from contracts entered into for the purchase or lease of goods
9 and services needed for operation of the lottery, including but not limited
10 to supplies, materials, tickets, independent studies and surveys, data
11 transmission, advertising, printing, promotion, incentives, public rela-
12 tions, communications and distribution of tickets and shares; and reim-
13 bursement of costs of facilities and services provided by other state
14 agencies;

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

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

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

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

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

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

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

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

37 Sec. 36. K.S.A. 2003 Supp. 19-101a is hereby amended to read as
38 follows: 19-101a. (a) The board of county commissioners may transact all
39 county business and perform all powers of local legislation and adminis-
40 tration it deems appropriate, subject only to the following limitations,
41 restrictions or prohibitions:

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

- 1 (2) Counties may not consolidate or alter county boundaries.
- 2 (3) Counties may not affect the courts located therein.
- 3 (4) Counties shall be subject to acts of the legislature prescribing
4 limits of indebtedness.
- 5 (5) In the exercise of powers of local legislation and administration
6 authorized under provisions of this section, the home rule power con-
7 ferred on cities to determine their local affairs and government shall not
8 be superseded or impaired without the consent of the governing body of
9 each city within a county which may be affected.
- 10 (6) Counties may not legislate on social welfare administered under
11 state law enacted pursuant to or in conformity with public law No. 271—
12 74th congress, or amendments thereof.
- 13 (7) Counties shall be subject to all acts of the legislature concerning
14 elections, election commissioners and officers and their duties as such
15 officers and the election of county officers.
- 16 (8) Counties shall be subject to the limitations and prohibitions im-
17 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
18 prescribing limitations upon the levy of retailers' sales taxes by counties.
- 19 (9) Counties may not exempt from or effect changes in statutes made
20 nonuniform in application solely by reason of authorizing exceptions for
21 counties having adopted a charter for county government.
- 22 (10) No county may levy ad valorem taxes under the authority of this
23 section upon real property located within any redevelopment project area
24 established under the authority of K.S.A. 12-1772, and amendments
25 thereto, unless the resolution authorizing the same specifically authorized
26 a portion of the proceeds of such levy to be used to pay the principal of
27 and interest upon bonds issued by a city under the authority of K.S.A.
28 12-1774, and amendments thereto.
- 29 (11) Counties shall have no power under this section to exempt from
30 any statute authorizing or requiring the levy of taxes and providing sub-
31 stitute and additional provisions on the same subject, unless the resolution
32 authorizing the same specifically provides for a portion of the proceeds
33 of such levy to be used to pay a portion of the principal and interest on
34 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
35 ments thereto.
- 36 (12) Counties may not exempt from or effect changes in the provi-
37 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 38 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
39 through 12-1,109, and amendments thereto, counties may not levy and
40 collect taxes on incomes from whatever source derived.
- 41 (14) Counties may not exempt from or effect changes in K.S.A. 19-
42 430, and amendments thereto.
- 43 (15) Counties may not exempt from or effect changes in K.S.A. 19-

1 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

2 (16) (A) Counties may not exempt from or effect changes in K.S.A.
3 13-13a26, and amendments thereto.

4 (B) This provision shall expire on June 30, 2005.

5 (17) (A) Counties may not exempt from or effect changes in K.S.A.
6 71-301a, and amendments thereto.

7 (B) This provision shall expire on June 30, 2005.

8 (18) Counties may not exempt from or effect changes in K.S.A. 19-
9 15,139, 19-15,140 and 19-15,141, and amendments thereto.

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

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

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

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

26 (23) Counties may not exempt from or effect changes in K.S.A. 79-
27 41a04, and amendments thereto.

28 (24) Counties may not exempt from or effect changes in K.S.A. 79-
29 1611, and amendments thereto.

30 (25) Counties may not exempt from or effect changes in K.S.A. 79-
31 1494, and amendments thereto.

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

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

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

39 (29) Counties may not exempt from or effect changes in K.S.A. 79-
40 2017 or 79-2101, and amendments thereto.

41 (30) Counties may not exempt from or effect changes in K.S.A. 2-
42 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
43 1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments

1 thereto.

2 (31) Counties may not exempt from or effect changes in K.S.A. 2003
3 Supp. 80-121, and amendments thereto.

4 (32) Counties may not exempt from or effect changes in K.S.A. 19-
5 228, and amendments thereto.

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

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

10 (b) Counties shall apply the powers of local legislation granted in
11 subsection (a) by resolution of the board of county commissioners. If no
12 statutory authority exists for such local legislation other than that set forth
13 in subsection (a) and the local legislation proposed under the authority
14 of such subsection is not contrary to any act of the legislature, such local
15 legislation shall become effective upon passage of a resolution of the
16 board and publication in the official county newspaper. If the legislation
17 proposed by the board under authority of subsection (a) is contrary to an
18 act of the legislature which is applicable to the particular county but not
19 uniformly applicable to all counties, such legislation shall become effec-
20 tive by passage of a charter resolution in the manner provided in K.S.A.
21 19-101b, and amendments thereto.

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

24 Sec. 37. K.S.A. 74-8702, 74-8705, 74-8710 and 74-8711 and K.S.A.
25 2003 Supp. 19-101a are hereby repealed.

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

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