

SENATE BILL No. 6

By Committee on Ways and Means

6-22

9 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;
10 authorizing operation of certain lottery gaming facilities, electronic
11 gaming machines, video lottery terminals and other lottery games at
12 certain locations; prohibiting certain acts and providing penalties for
13 violations; making appropriations for the fiscal year ending June 30,
14 2006; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830
15 and 74-8832, K.S.A. 2004 Supp. 74-8711 and K.S.A. 2004 Supp. 19-
16 101a, as amended by section 1 of 2005 Senate Bill No. 298, and re-
17 pealing the existing sections.

18

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

20 Section 1. K.S.A. 74-8702 is hereby amended to read as follows: 74-
21 8702. As used in the Kansas lottery act, unless the context otherwise
22 requires:

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

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

26 (c) ~~"Gaming equipment" means any electric, electronic or mechanical~~
27 ~~device or other equipment unique to the Kansas lottery used directly in~~
28 ~~the operation of any lottery and in the determination of winners pursuant~~
29 ~~to this act. "Gaming equipment" means any electric, electronic, comput-~~
30 ~~erized or electromechanical machine, mechanism, supply or device or any~~
31 ~~other equipment, which is: (1) Unique to the Kansas lottery and used~~
32 ~~pursuant to the Kansas lottery act; and (2) integral to the operation of an~~
33 ~~electronic gaming machine, lottery facility game or video lottery terminal;~~
34 ~~and (3) affects the results of an electronic gaming machine, lottery facility~~
35 ~~game or video lottery terminal by determining win or loss.~~

36 (d) "Kansas lottery" means the state agency created by this act to op-
37 erate a lottery or lotteries pursuant to this act.

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

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

42 (g) (1) "Major procurement" means any gaming product or service,
43 including but not limited to facilities, advertising and promotional serv-

1 ices, annuity contracts, prize payment agreements, consulting services,
2 equipment, tickets and other products and services unique to the Kansas
3 lottery, but not including materials, supplies, equipment and services
4 common to the ordinary operations of state agencies.

5 (2) “Major procurement” shall not mean any product, service or other
6 matter covered by or addressed in the Kansas expanded lottery act or a
7 management contract executed pursuant to the Kansas expanded lottery
8 act.

9 (h) “Person” means any natural person, association, *limited liability*
10 *company*, corporation or partnership.

11 (i) “Prize” means any prize paid directly by the Kansas lottery pursuant
12 to ~~its~~ the Kansas lottery act or the Kansas expanded lottery act or any
13 rules and regulations *adopted pursuant to either act*.

14 (j) “Share” means any intangible manifestation authorized by the Kan-
15 sas lottery to prove participation in a lottery game, *except as provided by*
16 *the Kansas expanded lottery act*.

17 (k) “Ticket” means any tangible evidence issued by the Kansas lottery
18 to prove participation in a lottery game *other than a lottery facility game*.

19 (l) “Vendor” means any person who has entered into a major procure-
20 ment contract with the Kansas lottery.

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

25 (n) “Video lottery machine” means any electronic video game machine
26 that, upon insertion of cash, is available to play or simulate the play of a
27 video game authorized by the commission, including but not limited to
28 bingo, poker, black jack and keno, and which uses a video display and
29 microprocessors and in which, by chance, the player may receive free
30 games or credits that can be redeemed for cash.

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

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

39 (B) any machine or device in which the prize or evidence of a prize is
40 determined only by chance, including, but not limited to, any slot machine
41 or bingo machine; or

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

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

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

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

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

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

10 (E) *any electronic gaming machine, lottery facility game or video lottery*
11 *terminal operated in accordance with the provisions of the Kansas ex-*
12 *expanded lottery act.*

13 (p) “Electronic gaming machine” means any electronic, electromechan-
14 ical, video or computerized device, contrivance or machine authorized by
15 the Kansas lottery which, upon insertion of cash, tokens, electronic cards
16 or any consideration, is available to play, operate or simulate the play of
17 a game authorized by the Kansas lottery pursuant to the Kansas expanded
18 lottery act, including, but not limited to, bingo, poker, blackjack, keno and
19 slot machines, and which may deliver or entitle the player operating the
20 machine to receive cash, tokens, merchandise or credits that may be re-
21 deemed for cash. Electronic gaming machines may use bill validators and
22 may be single-position reel-type, single or multi-game video and single-
23 position multi-game video electronic game, including but not limited to,
24 poker, blackjack and slot machines. Electronic gaming machines shall be
25 directly linked to a central computer at a location determined by the
26 executive director for purposes of security, monitoring and auditing. Elec-
27 tronic gaming machines may be linked to the central video lottery terminal
28 computer system.

29 (q) “Progressive electronic game” means a game played on an electronic
30 gaming machine for which the payoff increases uniformly as the game is
31 played and for which the jackpot, determined by application of a formula
32 to the income of independent, local or interlinked electronic gaming ma-
33 chines, may be won.

34 (r) “Token” means a representative of value, of metal or other material,
35 which is not legal tender, redeemable for cash only by the issuing lottery
36 gaming facility manager and which is issued and sold by a lottery gaming
37 facility manager for the sole purpose of playing an electronic gaming
38 machine or lottery facility game.

39 (s) “Lottery gaming facility” means that portion of a building, including
40 the real and personal property, that is owned or leased by the state for
41 the purposes of operating, managing and maintaining lottery facility
42 games.

43 (t) “Lottery gaming enterprise” means an entertainment enterprise

1 *which includes a lottery gaming facility authorized pursuant to the Kansas*
2 *expanded lottery act and ancillary lottery gaming operations that have a*
3 *common business or marketing strategy. A lottery gaming enterprise shall*
4 *be designed to attract to its lottery gaming facility consumers who reside*
5 *outside the immediate area of such enterprise.*

6 (u) *“Lottery gaming facility manager” means a corporation, limited*
7 *liability company or other business entity authorized to construct and*
8 *manage, or manage alone, pursuant to a management contract with the*
9 *Kansas lottery, and on behalf of the state, a lottery gaming enterprise and*
10 *lottery gaming facility.*

11 (v) *“Accelerated lottery gaming facility net payment” means the ad-*
12 *vanced payment to the state treasurer of a portion of the state’s future*
13 *share of residual lottery gaming facility revenues upon approval of a man-*
14 *agement contract with a lottery gaming facility manager for the devel-*
15 *opment or construction of a lottery gaming facility and management of a*
16 *lottery gaming enterprise pursuant to the Kansas expanded lottery act.*

17 (w) *“Lottery gaming facility revenues” means the total revenues from*
18 *lottery facility games at a lottery gaming facility after all related prizes*
19 *are paid.*

20 (x) *“Residual lottery gaming facility revenues” means the balance of the*
21 *lottery gaming facility revenues in each account in the lottery gaming*
22 *facility fund established in subsection (a) of section 8, and amendments*
23 *thereto, after the transfer to an operating account for the payment of*
24 *lottery gaming facility expenses and interest on financing approved in the*
25 *management contract, as described in subsection (b) of section 8, and*
26 *amendments thereto.*

27 (y) *“Lottery gaming facility expenses” means normal business expenses,*
28 *as defined in the management contract pursuant to generally accepted*
29 *accounting principles (GAAP), associated with the ownership and oper-*
30 *ation of a lottery gaming facility, payments to any city or county and*
31 *payments to the problem gambling grant fund.*

32 (z) *“Lottery facility games” mean any electronic gaming machines and*
33 *any other lottery games in the form of Class II or III gaming which, as*
34 *of May 1, 2004, are authorized to be conducted or operated at a tribal*
35 *gaming facility, as defined in K.S.A. 74-9802, and amendments thereto,*
36 *located within the boundaries of this state.*

37 (aa) *“Ancillary lottery gaming facility operations” means additional*
38 *non-lottery facility game products and services not owned and operated*
39 *by the state which may be included in the overall development associated*
40 *with the lottery gaming facility. Such operations may include, but are not*
41 *limited to, restaurants, hotels, motels, museums or entertainment facilities.*
42 *Such operations conducted on state-owned property shall pay reasonable*
43 *compensation to the state for the use of the space.*

- 1 (bb) “Certificate of authorization” means a written approval of the
2 executive director authorizing a prospective lottery gaming facility man-
3 ager to proceed with approval under section 4, and amendments thereto,
4 and any applicable county or city planning and zoning requirements for
5 the establishment of a lottery gaming facility pursuant to the Kansas ex-
6 panded lottery act. No prospective lottery gaming facility manager shall
7 seek the approval under section 4, and amendments thereto, unless such
8 prospective manager holds a certificate or temporary certificate of
9 authorization.
- 10 (cc) “Management contract” means a contract, subcontract or collateral
11 agreement between the state and a lottery gaming facility manager for the
12 management of a lottery gaming facility owned and operated by the state,
13 negotiated and signed by the executive director on behalf of the state.
14 Management contracts shall not be subject to the provisions of K.S.A. 75-
15 3738 through 75-3744, and amendments thereto, or to any statutory pro-
16 vision regulating major procurements.
- 17 (dd) “Parimutuel licensee” means a facility owner licensee or facility
18 manager licensee under the Kansas parimutuel racing act.
- 19 (ee) “Parimutuel licensee location” means the racetrack facility, as de-
20 fined in K.S.A. 74-8802, and amendments thereto, owned or managed by
21 the parimutuel licensee. A parimutuel licensee location may include any
22 existing structure at such racetrack facility or any structure that may be
23 constructed on real estate where such racetrack facility is located.
- 24 (ff) “Destination development zone” means one of the following zones
25 where one or more lottery gaming facilities may be operated pursuant to
26 the Kansas expanded lottery act as a part of an overall strategy of creating
27 regional tourism destinations to enhance the local and state economy
28 through increased tourism opportunities:
- 29 (1) The northeast Kansas development zone, which consists of Wyan-
30 dotte county;
- 31 (2) the southeast Kansas development zone, which consists of Crawford
32 and Cherokee counties;
- 33 (3) the south central Kansas development zone, which consists of
34 Sedgwick county;
- 35 (4) the southwest Kansas development zone, which consists of Ford
36 county; or
- 37 (5) the north central Kansas development zone, which consists of Geary
38 county.
- 39 (gg) “Gray machine” means any mechanical, electro-mechanical or
40 electronic device, capable of being used for gambling, that is: (1) Not
41 authorized by the Kansas lottery, (2) not linked to a lottery central com-
42 puter or the central video lottery terminal computer system, (3) available
43 to the public for play and (4) capable of simulating a game played on a

1 *video lottery terminal or any similar gambling game authorized pursuant*
2 *to the Kansas expanded lottery act.*

3 New Sec. 2. (a) Sections 2 through 47, and amendments thereto, shall
4 be known and may be cited as the Kansas expanded lottery act. The
5 Kansas expanded lottery act shall be part of and supplemental to the
6 Kansas lottery act.

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

11 New Sec. 3. (a) The executive director shall issue a certificate of au-
12 thorization to each prospective lottery gaming facility manager which
13 meets the necessary requirements established by the executive director
14 and as set forth herein. The executive director shall select as prospective
15 lottery gaming facility managers only such entities as the executive direc-
16 tor deems best able to serve the interests of the state of Kansas, the public
17 good and convenience. In the selection of lottery gaming facility man-
18 agers, the executive director shall consider factors such as financial re-
19 sponsibility, integrity, reputation, experience and such other factors as
20 the executive director deems appropriate.

21 (b) The executive director may charge an administrative application
22 fee. Such fee shall be submitted with the application for a certificate of
23 authorization and shall be reasonably related to the actual costs of pro-
24 cessing the application.

25 (c) To receive a certificate of authorization, a prospective lottery gam-
26 ing facility manager shall, at a minimum:

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

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

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

37 (d) Any certificate of authorization issued to a parimutuel licensee
38 which proposes to establish a lottery gaming facility at a parimutuel li-
39 censee location shall be contingent upon approval by the Kansas racing
40 and gaming commission of a plan for compliance with the requirements
41 for live racing and purse supplements established pursuant to sections 29
42 and 37, and amendments thereto. Upon application of a parimutuel li-
43 censee, the Kansas racing and gaming commission shall open a proceed-

1 ing to consider such licensee's proposal for development of a lottery gam-
2 ing facility at the parimutuel licensee location. Such proposal shall include
3 provisions for: (1) Compliance with the requirements of section 29, and
4 amendments thereto; (2) payment of purse supplements from the appro-
5 priate funds established by section 37, and amendments thereto; and

6 (3) a plan for protecting and promoting live racing in Kansas. The
7 Kansas racing and gaming commission shall hear evidence and testimony
8 from all interested parties. Upon a finding by the Kansas racing and gam-
9 ing commission that the proposal is in the best interest of live racing in
10 Kansas and more beneficial to live racing than placement of video lottery
11 terminals at such parimutuel licensee location, the Kansas racing and
12 gaming commission may approve such proposal and recommend issuance
13 of a certificate of authorization by the executive director of the Kansas
14 lottery pursuant to this section.

15 (e) Subject to the requirements of this section, a certificate of author-
16 ization shall not be unreasonably withheld. The executive director shall
17 issue a temporary certificate of authorization to a prospective lottery gam-
18 ing facility manager if: (1) The executive director believes such manager
19 will meet the appropriate requirements for a certificate of authorization;
20 (2) the prospective manager and the principals, officers and directors, of
21 such prospective manager, have completed acceptable background in-
22 vestigations by federal or state authorities; and (3) a complete review of
23 the application for a certificate cannot be completed within 30 days of
24 the application filing.

25 New Sec. 4. (a) The lottery commission shall adopt rules and regula-
26 tions establishing a procedure to receive, consider and approve proposed
27 management contracts for lottery gaming facilities. Such procedure shall
28 provide for review of competitive proposals within a destination devel-
29 opment zone.

30 (b) The executive director, with the approval of the Kansas lottery com-
31 mission, may enter into a management contract with a prospective lottery
32 gaming facility manager holding a certificate of authorization to construct
33 and manage, or manage alone, on behalf of the state of Kansas, a lottery
34 gaming facility or lottery gaming enterprise at specified destination lo-
35 cations within destination development zones where the executive direc-
36 tor determines the operation of such facility would promote tourism and
37 economic development if it is in a county where a proposition submitted
38 pursuant to section 5, and amendments thereto, has been approved by
39 the voters of such county. Action on a management contract shall be taken
40 within 60 days of submission of the management contract proposal, unless
41 extended by agreement of the proposed manager and the commission.

42 (c) In determining whether to enter into a management contract with
43 a prospective lottery gaming facility manager to manage a lottery gaming

1 facility or lottery gaming enterprise pursuant to this section, the com-
2 mission shall take into consideration the following factors: The size of the
3 proposed facility; the geographic area in which such facility is to be lo-
4 cated; the proposed facility's location as a tourist and entertainment des-
5 tination; the estimated number of tourists that would be attracted by the
6 proposed facility; the number and type of lottery facility games to be
7 operated at the proposed facility; and agreements related to ancillary lot-
8 tery gaming facility operations. In order to facilitate competition among
9 lottery gaming facilities and to increase gaming revenues to the state, no
10 lottery gaming facility manager may hold management contracts for two
11 or more lottery gaming facilities which are located within 20 miles of one
12 another within the state of Kansas.

13 (d) (1) No management contract shall be awarded for a lottery gaming
14 facility located within Wyandotte county to any owner, operator or man-
15 ager of a casino or other gaming establishment which is in operation and
16 located in Buchanan, Cass, Clay, Jackson, Johnson, Lafayette, Platte or
17 Ray county, Missouri.

18 (2) No management contract shall be awarded for a lottery gaming
19 facility located within Cherokee or Crawford county to any owner, op-
20 erator or manager of a casino or other gaming establishment which is in
21 operation and located in: (A) Barry, Barton, Cedar, Dade, Jasper,
22 Lawrence, McDonald, Newton or Vernon county, Missouri; (B) Craig,
23 Delaware, Mayes or Ottawa county, Oklahoma; or (C) Benton county,
24 Arkansas.

25 (e) The commission may authorize more than one lottery gaming fa-
26 cility within a destination development zone if the commission deter-
27 mines that it is in the best interest of the state to approve multiple man-
28 agement contracts within such zone. The commission shall determine
29 through a review of market studies included in proposals whether devel-
30 opment of multiple lottery gaming facilities within the same market place
31 is reasonably feasible. If the commission deems it necessary, the com-
32 mission may provide for an independent market study to assess the mar-
33 ket impact of more than one lottery gaming facility within the same mar-
34 ket area.

35 (f) The commission shall not approve a management contract unless:

36 (1) The commission determines that the proposed development: (A)
37 Constitutes a lottery gaming enterprise; and (B) demonstrates through a
38 market study that, considering all other competing gaming and entertain-
39 ment venues, the proposed development would: (i) Be economically fea-
40 sible, (ii) be profitable for the state and (iii) not render economically
41 infeasible any other lottery gaming enterprise; and

42 (2) the commission determines that the proposed development: (A)
43 Consists of an investment in infrastructure, including ancillary lottery

1 gaming facility operations, of at least \$150,000,000 for the northeast and
2 south central development zones; or (B) consists of an investment in in-
3 frastructure, including ancillary lottery gaming facility operations, of at
4 least \$25,000,000 and demonstrates through a market study that at least
5 25% of its gaming consumers would reside outside the state of Kansas
6 for all other destination development zones.

7 (g) All management contracts authorized under this section shall:

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

12 (2) specify the percentage, not to exceed 22%, of residual lottery gam-
13 ing facility revenues to be paid to the manager;

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

18 (4) establish the types of lottery facility games to be installed in such
19 facility;

20 (5) establish the maximum construction cost or purchase cost of the
21 lottery gaming facility and the mechanism for recovering those costs from
22 the state's share of the residual lottery gaming facility revenues and trans-
23 fer of ownership of such facility to the state, if the lottery gaming facility
24 is owned by the state;

25 (6) specify the terms of the lease including, but not limited to, terms
26 which establish state control of the lottery gaming facility and that any
27 lease payments shall be treated as an operating expense, if the lottery
28 gaming facility is leased by the state;

29 (7) calculate the accelerated lottery gaming facility net payment by
30 multiplying the maximum number of electronic gaming machines au-
31 thorized for and located in the facility by \$15,000 per machine;

32 (8) specify the mechanism for recovering the accelerated lottery gam-
33 ing facility net payment from the state's share of the residual lottery gam-
34 ing facility revenues;

35 (9) specify that financing for construction and operation of the lottery
36 gaming facility on behalf of the state and of the payment to the state of
37 other sums required by the management contract is to be arranged by
38 the lottery gaming facility manager and that the state shall cooperate in
39 the financing by executing all necessary security interests for the construc-
40 tion, equipping and operation of the lottery gaming facility;

41 (10) incorporate terms and conditions for the ancillary lottery gaming
42 facility operations;

43 (11) designate as key employees, subject to approval of the executive

- 1 director, any employees or contractors providing services or functions
2 which are related to lottery facility games authorized by a management
3 contract;
- 4 (12) include financing commitments for construction;
- 5 (13) include a resolution of endorsement from the city, if the proposed
6 facility is within the corporate limits of a city, or from the county if the
7 proposed facility is located in the unincorporated area of the county;
- 8 (14) include for parimutuel licensee location a requirement that any
9 parimutuel licensee developing a destination casino pursuant to this act
10 comply with all orders and rules and regulations of the Kansas racing and
11 gaming commission with regard to the conduct of live racing, including
12 the same minimum days of racing as specified in section 29, and amend-
13 ments thereto, for operation of video lottery terminals at parimutuel li-
14 censee locations;
- 15 (15) include any payment, up to 2% of the lottery gaming facility rev-
16 enues to the city, if any, and up to 2% of the lottery gaming facility
17 revenues to the county in which the lottery gaming facility is located, or
18 up to 4% of the lottery gaming facility revenues to such county if the
19 lottery gaming facility is not located in a city, for services as determined
20 by the management contract. Such payment shall be deemed to be an
21 expense of the lottery gaming facility; and
- 22 (16) allow the lottery gaming facility manager to operate the lottery
23 gaming facility in a manner consistent with this act, but shall place full,
24 complete and ultimate ownership and control of the gaming operation of
25 the lottery gaming facility with the Kansas lottery. The Kansas lottery
26 shall retain the ability to overrule any significant gaming decision without
27 notice required prior to taking such action. The Kansas lottery shall retain
28 full control over all decisions concerning lottery gaming facility games.
- 29 (h) Any management contract under which the accelerated lottery gam-
30 ing facility net payment has not been paid to the state treasurer within
31 180 days of the date of approval of the management contract shall be null
32 and void.
- 33 (i) Management contracts authorized by this section may include provi-
34 sions relating to:
- 35 (1) Accounting procedures to determine the lottery gaming facility rev-
36 enues, unclaimed prizes and credits;
- 37 (2) minimum requirements for a lottery gaming facility manager to
38 provide qualified oversight, security and supervision of the lottery facility
39 games including the use of qualified personnel with experience in appli-
40 cable technology;
- 41 (3) eligibility requirements for employees, contractors or agents of a
42 lottery gaming facility manager who will have responsibility for or involve-
43 ment with actual gaming activities or for the handling of cash or tokens;

- 1 (4) background investigations to be performed by the Kansas lottery;
2 (5) licensure requirements of any employee, contractor or agent as
3 provided by the Kansas expanded lottery act or rules and regulations
4 adopted pursuant thereto;
5 (6) provision for termination of the management contract by either
6 party for cause; and
7 (7) any other provision deemed necessary by the parties, including such
8 other terms and restrictions as necessary to conduct any lottery facility
9 game in a legal and fair manner.
- 10 (j) A management contract shall not constitute property, nor shall it be
11 subject to attachment, garnishment or execution, nor shall it be alienable
12 or transferable, except upon approval by the executive director, nor shall
13 it be subject to being encumbered or hypothecated. No interest in the
14 management contract shall descend by the laws of testate or intestate
15 devolution, but any interest shall cease and expire upon the death of the
16 lottery gaming facility manager or all interest holders in such manager,
17 except that executors, administrators or representatives of the estate of
18 any deceased lottery gaming facility manager and the trustee of any in-
19 solvent or bankrupt lottery gaming facility manager may continue to op-
20 erate pursuant to the management contract under order of the approp-
21 riate court for no longer than one year after the death, bankruptcy or
22 insolvency of such manager.
- 23 (k) (1) The Kansas lottery shall be the licensee and owner of all software
24 programs used at a lottery gaming facility for any lottery facility game.
- 25 (2) A lottery gaming facility manager, on behalf of the state, shall pur-
26 chase or lease for the Kansas lottery all lottery facility games. The lottery
27 gaming facility manager shall be entitled to reimbursement from the state
28 for all out-of-pocket expenses related to purchasing, leasing and installing
29 such games. The Kansas lottery shall be the owner of all lottery facility
30 games, except for those leased by the state or leased by the lottery gaming
31 facility manager on behalf of the state, and all lottery facility games shall
32 be subject to the ultimate control of the Kansas lottery in accordance with
33 this act.
- 34 (l) A lottery gaming facility shall comply with any planning and zoning
35 regulations of the city or county in which it is to be located. The executive
36 director shall not contract with any prospective lottery gaming facility
37 manager for the operation and management of such lottery gaming facility
38 unless such manager first receives any necessary approval under planning
39 and zoning requirements of the city or county in which it is to be located.
- 40 New Sec. 5. (a) Before the lottery commission may approve manage-
41 ment contracts for operation of lottery gaming facilities in a county, the
42 qualified voters of the county where a lottery gaming facility is proposed
43 to be located must approve the operation of lottery gaming facilities

1 within the county as provided by this section. Once the question has been
2 submitted to and approved by the voters of the county, subsequent elec-
3 tions shall not be required for the approval of the operation of additional
4 lottery gaming facilities in such county.

5 (b) (1) The board of county commissioners of any county may submit,
6 by resolution, and shall submit upon presentation of a petition filed in
7 accordance with this section, to the qualified voters of the county a prop-
8 osition to permit the operation of lottery gaming facilities within the
9 county pursuant to this section. The proposition shall be submitted to the
10 voters either at a special election called by the board of county commis-
11 sioners for that purpose and held not less than 90 days after the resolution
12 is adopted or the petition is filed or at the next general election, as shall
13 be specified by the board of county commissioners or as specified in the
14 petition, as the case may be.

15 (2) A petition to submit a proposition pursuant to this section shall be
16 filed with the county election officer. The petition shall be signed by
17 qualified voters of the county equal in number to not less than 10% of
18 the voters of the county who voted for the office of secretary of state at
19 the last preceding general election at which such office was elected. The
20 following shall appear on the petition: "We request an election to deter-
21 mine whether the Kansas lottery shall be authorized to operate a lottery
22 gaming facility in _____ county."

23 (3) Upon the adoption of a resolution or the submission of a valid
24 petition calling for an election pursuant to this section, the county election
25 officer shall cause the following proposition to be placed on the ballot at
26 the election called for that purpose: "Shall the Kansas lottery be author-
27 ized to operate a lottery gaming facility in _____ county?"

28 (4) If a majority of the votes cast and counted at such election is in
29 favor of approving the operation of lottery gaming facilities within the
30 county, the lottery commission may accept applications for operation of
31 lottery gaming facilities within the county pursuant to this act. If a ma-
32 jority of the votes cast and counted at an election under this section is
33 against permitting the operation of lottery gaming facilities within the
34 county, the lottery commission shall not approve management contracts
35 for the operation of lottery gaming facilities within the county. The county
36 election officer shall transmit a copy of the certification of the results of
37 the election to the executive director.

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

41 (c) The lottery commission may consider qualified proposals for lottery
42 gaming facility management contracts for developments in a county
43 where the commission finds that after March 1, 2005, the county has held

1 an election of qualified voters pursuant to the county's home rule au-
2 thority if the commission determines that the ballot question was in sub-
3 stantial compliance with the requirements of subsection (b)(3) and the
4 election was administered by the county election officer in a manner
5 consistent with the requirements of state election law.

6 (d) The question of the operation of a lottery gaming facility in a county
7 may be submitted at the same election as the question of placement of
8 video lottery terminals in the county under section 25, and amendments
9 thereto.

10 (e) A ballot question submitted prior to April 15, 2005, which uses the
11 phrase "destination casino" shall be deemed valid for the purposes of this
12 section.

13 New Sec. 6. (a) Electronic gaming machines operated pursuant to this
14 act, including those operated as lottery facility games, shall:

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

17 (2) be directly linked to a central lottery communications system to
18 provide monitoring, auditing and other available program information to
19 the Kansas lottery;

20 (3) be on-line and in constant communication with a central computer
21 situated at a location determined by the executive director and specified
22 in the management contract; and

23 (4) be subject to deactivation at any time by order of the executive
24 director.

25 (b) The communications systems selected by the executive director
26 shall not limit participation to only one electronic gaming machine man-
27 ufacturer, distributor, supplier or provider. The lottery gaming facility
28 manager shall lease or purchase for the Kansas lottery and at the lottery
29 gaming facility's expense all equipment necessary to implement such cen-
30 tral communications and auditing functions.

31 (c) No employee, contractor or other person who has any legal affilia-
32 tion with a lottery gaming facility manager shall loan money to or other-
33 wise extend credit to patrons of a location where electronic gaming ma-
34 chines or lottery facility games are situated.

35 New Sec. 7. (a) Each specific type of electronic gaming machine and
36 lottery facility game shall be approved by the Kansas lottery. The Kansas
37 lottery shall examine prototypes of electronic gaming machines and lot-
38 tery facility games and shall notify the lottery gaming facility manager
39 which types of electronic gaming machines or lottery facility games are
40 in compliance with the requirements of this act. The use of progressive
41 electronic gaming machines is expressly permitted.

42 (b) No electronic gaming machine or lottery facility game shall be op-
43 erated pursuant to this act unless the executive director first issues a

1 certificate for such machine or game authorizing its use at a specified
2 location. Each electronic gaming machine and lottery facility game shall
3 have such certificate prominently displayed thereon. Any electronic gam-
4 ing machine or lottery facility game which does not display the certificate
5 required by this section is contraband and a public nuisance subject to
6 confiscation by any law enforcement officer.

7 (c) The executive director shall require any manufacturer, supplier,
8 provider, lottery gaming facility manager or other person seeking the
9 examination and certification of electronic gaming machines or lottery
10 facility games to pay the anticipated actual costs of the examination in
11 advance. After the completion of the examination, the executive director
12 shall refund any overpayment or charge and collect amounts sufficient to
13 reimburse the executive director for any underpayment of actual costs.
14 The executive director may contract for the examination of electronic
15 gaming machines and lottery facility games required by this section, and
16 may rely upon testing done by or for other states regulating electronic
17 gaming machines or lottery facility games, if the executive director deems
18 such testing to be reliable and in the best interest of the state of Kansas.

19 New Sec. 8. (a) There is hereby established in the state treasury the
20 lottery gaming facility fund (LGFF). A separate account for each lottery
21 gaming facility manager shall be maintained in the LGFF for receipt of
22 lottery gaming facility revenues from each respective manager. The lot-
23 tery gaming facility manager shall remit daily all lottery gaming facility
24 revenues to the state treasurer. Upon receipt of the remittance, the state
25 treasurer shall deposit the entire amount in the state treasury and credit
26 it to the respective account maintained for such manager in the LGFF.

27 (b) Upon receipt of each remittance under subsection (a), the state
28 treasurer shall immediately transfer 50% of the lottery gaming facility
29 revenues received from the remitting facility manager into a separate state
30 lottery gaming facility operating account (LGFOA) to be used by the state
31 for the payment of all lottery gaming facility expenses, including all in-
32 terest on financing. For a lottery gaming facility that is owned by the
33 state, a transfer in the amount of the monthly interest then due on such
34 approved financing shall occur from the LGFOA to the debt retirement
35 account established in subsection (d). On a monthly basis, a transfer in
36 an amount equal to 0.5% of the lottery gaming facility revenues shall
37 occur from the LGFOA to the problem gambling grant fund established
38 by K.S.A. 2004 Supp. 79-4805, and amendments thereto.

39 The executive director or the executive director's designee shall remit
40 payment for all expenses as provided by the management contract ap-
41 proved by the lottery gaming facility manager within three days of sub-
42 mission of documentation evidencing the expense to the executive direc-
43 tor or the executive director's designee.

1 (c) On a monthly basis, the treasurer shall transfer the residual lottery
2 gaming facility revenues in each account in the LGFF as follows:

3 (1) To the lottery gaming facility manager, a percentage specified in
4 the management contract, but not more than 22%; and

5 (2) to the Kansas education opportunity trust fund established pursuant
6 to section 38, and amendments thereto, not less than 78% or 24% of
7 lottery gaming facility revenues, whichever is greater.

8 (d) The state shall maintain for each lottery gaming facility a lottery
9 gaming facility debt retirement account (LGFDR) for the payment of
10 financing obligations related to the lottery gaming facility. Interest shall
11 be payable from the LGFDRA out of the funds transferred from the
12 LGFOA pursuant to subsection (b). To the extent principal on financing
13 obligations related to the lottery gaming facility remains unpaid, the state
14 treasurer first shall transfer to the LGFDRA out of the state's share of
15 the residual lottery gaming facility revenues as provided in subsection
16 (c)(2), such sums as are necessary to pay scheduled principal then due.
17 Thereafter, the balance of the residual lottery gaming facility revenues
18 shall be transferred to the Kansas education opportunity trust fund es-
19 tablished pursuant to section 38, and amendments thereto.

20 (e) On a monthly basis, the executive director and the lottery gaming
21 facility manager shall reconcile the amounts deposited into the LGFOA
22 for the lottery gaming facility manager's payment of the projected lottery
23 gaming facility expenses and approved financing interest with the actual
24 lottery gaming facility expenses and interest accrued. After completion of
25 the reconciliation, the state shall transfer any amount remaining in the
26 LGFOA to the LGFF to be distributed in the manner provided in sub-
27 section (c). If funds in the LGFOA are insufficient to pay lottery gaming
28 facility expenses and interest accrued, the state and the lottery gaming
29 facility manager shall transfer to the LGFOA, in the respective shares
30 provided in subsection (c), the sums necessary to reconcile such insuffi-
31 ciency and balance the LGFOA.

32 New Sec. 9. The Kansas lottery, through rules and regulations, shall
33 establish:

34 (a) A certification requirement, and enforcement procedure, for offi-
35 cers, directors, key employees and persons directly or indirectly owning
36 a 5% or more interest in a lottery gaming facility manager. Such certifi-
37 cation requirement shall include compliance with such security, fitness
38 and background investigations and standards the executive director
39 deems necessary to determine whether such person's reputation, habits
40 or associations pose a threat to the public interest of the state or to the
41 reputation of or effective regulation and control of the lottery gaming
42 facility. Any person convicted of any felony, a crime involving gambling
43 or a crime of moral turpitude prior to applying for a certificate as such

1 sales agent or at any time thereafter shall be deemed unfit. The Kansas
2 lottery shall conduct the security, fitness and background checks required
3 pursuant to this subsection;

4 (b) a certification requirement, and enforcement procedure, for those
5 persons, including electronic gaming machine manufacturers, technology
6 providers and computer system providers, who propose to contract with
7 a lottery gaming facility manager or the state for the provision of goods
8 or services related to a lottery gaming facility, including management
9 services. Such certification requirements shall include compliance with
10 such security, fitness and background investigations and standards of of-
11 ficers, directors, key gaming employees and persons directly or indirectly
12 owning a 5% or more interest in such entity, the executive director deems
13 necessary to determine whether such person's reputation, habits and as-
14 sociations pose a threat to the public interest of the state or to the rep-
15 utation of or effective regulation and control of the lottery gaming facility.
16 Any person convicted of any felony, a crime involving gambling or a crime
17 of moral turpitude prior to applying for a certificate hereunder or at any
18 time thereafter shall be deemed unfit. If the executive director deter-
19 mines the certification standards of another state are comprehensive,
20 thorough and provide similar adequate safeguards, the executive director
21 may certify an applicant already certified in such state without the ne-
22 cessity of a full application and background check. The Kansas lottery
23 shall conduct the security, fitness and background checks required under
24 this subsection;

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

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

41 New Sec. 10. (a) The executive director, or the executive director's
42 designee, may observe and inspect all electronic gaming machines, lottery
43 facility games, lottery gaming facilities and all related equipment and fa-

- 1 cilities operated by a lottery gaming facility manager.
- 2 (b) In addition to the powers granted pursuant to K.S.A. 74-8704 and
3 sections 3 and 4, and amendments thereto, the executive director shall
4 have the power to:
- 5 (1) Examine, or cause to be examined by any agent or representative
6 designated by the executive director, any books, papers, records or mem-
7 oranda of any lottery facility gaming manager, or of any business involved
8 in electronic gaming machines or lottery facility games authorized pur-
9 suant to the Kansas expanded lottery act, for the purpose of ascertaining
10 compliance with any provision of the Kansas lottery act, the Kansas ex-
11 panded lottery act, or any rules and regulations adopted thereunder;
- 12 (2) investigate alleged violations of the Kansas expanded lottery act and
13 alleged violations of any rules and regulations, orders and final decisions
14 of the commission or the executive director;
- 15 (3) request a court to issue subpoenas to compel access to or for the
16 production of any books, papers, records or memoranda in the custody
17 or control of any lottery gaming facility manager related to the manage-
18 ment of the lottery gaming facility, or to compel the appearance of any
19 lottery gaming facility manager for the purpose of ascertaining compli-
20 ance with the provisions of the Kansas lottery act and the Kansas ex-
21 panded lottery act or rules and regulations adopted thereunder;
- 22 (4) inspect and approve, prior to publication or distribution, all adver-
23 tising by a lottery gaming facility manager which includes any reference
24 to the Kansas lottery; and
- 25 (5) take any other action as may be reasonable or appropriate to enforce
26 the provisions of the Kansas expanded lottery act and any rules and reg-
27 ulations, orders and final decisions of the executive director or the
28 commission.
- 29 (c) Appropriate security measures shall be required in any and all areas
30 where electronic gaming machines and other lottery facility games au-
31 thorized pursuant to the Kansas expanded lottery act are located or op-
32 erated. The executive director shall approve all such security measures.
- 33 (d) The executive director shall require an annual audit of the elec-
34 tronic gaming machine operations and lottery facility games of each lot-
35 tery gaming facility manager contracting with the Kansas lottery. Such
36 audit shall be conducted by a licensed accounting firm approved by the
37 executive director. Such audit shall be conducted at the expense of the
38 lottery.
- 39 (e) None of the information disclosed pursuant to this section shall be
40 subject to disclosure under the Kansas open records act, K.S.A. 45-216
41 et seq., and amendments thereto.
- 42 New Sec. 11. (a) Wagers shall be received only from a person at the
43 location where the electronic gaming machine or lottery facility game is

1 authorized pursuant to the Kansas expanded lottery act. No person pres-
2 ent at such location shall place or attempt to place a wager on behalf of
3 another person who is not present at such location.

4 (b) Violation of this section is a class A nonperson misdemeanor upon
5 a conviction for a first offense. Violation of this section is a severity level
6 9, nonperson felony upon conviction for a second or subsequent offense.

7 New Sec. 12. (a) Except as authorized in subsection (c), it is unlawful
8 for any lottery gaming facility manager, or its employees or agents, to
9 allow any person to play electronic gaming machines or lottery facility
10 games or share in winnings of a person knowing such person to be:

11 (1) Under 21 years of age;

12 (2) the executive director, a member of the commission or an employee
13 of the Kansas lottery;

14 (3) an employee or agent of the lottery gaming facility manager;

15 (4) an officer or employee of a vendor contracting with the Kansas
16 lottery to supply gaming equipment to the Kansas lottery for use in the
17 operation of any electronic gaming machine or lottery facility game con-
18 ducted pursuant to the Kansas expanded lottery act;

19 (5) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
20 parent or stepparent of a person described in subsection (a)(2), (a)(3) or
21 (a)(4); or

22 (6) a person who resides in the same household as any person described
23 by subsection (a)(2), (a)(3) or (a)(4).

24 (b) Violation of subsection (a) is a class A nonperson misdemeanor upon
25 conviction for a first offense. Violation of subsection (a) is a severity level
26 9, nonperson felony upon conviction for a second or subsequent offense.

27 (c) The executive director may authorize in writing any employee of
28 the Kansas lottery and any employee of a lottery vendor to play an elec-
29 tronic gaming machine or a lottery facility game authorized pursuant to
30 the Kansas expanded lottery act to verify the proper operation thereof
31 with respect to security and contract compliance. Any prize awarded as
32 a result of such play shall become the property of the Kansas lottery and
33 be added to the prize pools of subsequent lottery games. No money or
34 merchandise shall be awarded to any employee of the Kansas lottery play-
35 ing an electronic gaming machine or lottery facility game pursuant to this
36 subsection.

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

1 gaming machine or lottery facility game authorized pursuant to the Kan-
2 sas expanded lottery act.

3 New Sec. 14. Except for persons acting in accordance with rules and
4 regulations of the Kansas lottery or by written authority of the executive
5 director in performing installation, maintenance, inspection and repair
6 services, any person who, with the intent to manipulate the outcome, pay
7 out or operation of an electronic gaming machine or lottery facility game,
8 manipulates the outcome, pay out or operation of an electronic gaming
9 machine or lottery facility game by physical, electrical or mechanical
10 means shall be guilty of a severity level 8, nonperson felony.

11 New Sec. 15. (a) Except in accordance with rules and regulations of
12 the Kansas lottery or by written authority from the executive director in
13 performing installation, maintenance, inspection and repair services, it is
14 a class A nonperson misdemeanor for the executive director, the com-
15 mission or any employee or agent of the commission, or the lottery gam-
16 ing facility manager or any employee of such manager, to knowingly, while
17 in Kansas, place a wager on or bet or play an electronic gaming machine
18 or other lottery facility game authorized pursuant to the Kansas expanded
19 lottery act.

20 (b) It is a class A nonperson misdemeanor for any member, employee
21 or appointee of the commission to knowingly accept any compensation,
22 gift, loan, entertainment, favor or service from any lottery gaming facility
23 manager.

24 (c) It is a severity level 8, nonperson felony for any person playing or
25 using any electronic gaming machine or lottery facility game in Kansas
26 knowingly to:

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

34 (2) use gaming billets, tokens or similar objects in a lottery gaming
35 facility other than in the facility for which the billet, token or similar object
36 was approved;

37 (3) possess or use, while on the premises of a lottery gaming facility,
38 or any location where electronic gaming machines or other lottery facility
39 games are authorized pursuant to this act, any cheating or thieving device,
40 including, but not limited to, tools, wires, drills, coins attached to strings
41 or wires or electronic or magnetic devices to facilitate removing from any
42 electronic gaming machine or lottery facility game or any money or con-
43 tents thereof;

1 (4) possess or use while on the premises of a lottery gaming facility, or
2 any location where electronic gaming machines or other lottery facility
3 games are authorized pursuant to the Kansas expanded lottery act, any
4 key or device designed for the purpose of, or suitable for, opening or
5 entering any electronic gaming machine, lottery facility game or similar
6 gaming device or drop box.

7 (d) Any duly authorized agent or employee of the commission or a
8 lottery gaming facility manager may possess and use any of the devices
9 described in paragraphs (3) and (4) of subsection (c) in furtherance of
10 inspection or testing as provided in the Kansas expanded lottery act or in
11 furtherance of such person's employment at any location where electronic
12 gaming machines, lottery facility games or other lottery games are au-
13 thORIZED pursuant to the Kansas expanded lottery act.

14 New Sec. 16. Each lottery gaming facility manager shall post one or
15 more signs at the location where such manager operates electronic gam-
16 ing machines or lottery facility games to inform patrons of the toll-free
17 number available to provide information and referral services regarding
18 compulsive or problem gambling. The text shall be determined by the
19 secretary of the department of social and rehabilitation services. Failure
20 by a lottery gaming facility manager to post and maintain such signs shall
21 be cause for the imposition of a fine not to exceed \$500 per day.

22 New Sec. 17. No taxes, fees, charges, transfers or distributions, other
23 than those provided for in the Kansas expanded lottery act, shall be made
24 or levied by any city, county or other municipality from or against net
25 machine income or lottery gaming facility revenue derived from elec-
26 tronic gaming machines and lottery facility games operated pursuant to
27 this act.

28 New Sec. 18. All sales of electronic gaming machine games and lottery
29 facility games authorized by the Kansas expanded lottery act shall be
30 exempt from sales taxes imposed pursuant to K.S.A. 12-187 et seq. and
31 79-3601 et seq., and amendments thereto.

32 New Sec. 19. Each lottery gaming facility manager shall hold the ex-
33 ecutive director, the commission and the state harmless from and defend
34 any and all claims which may be asserted against the executive director,
35 the commission and the state, or the agents or employees thereof, arising
36 from the operation of electronic gaming machines, lottery facility games
37 or other lottery-type games pursuant to the Kansas expanded lottery act.
38 This section may be satisfied by procurement of insurance as a lottery
39 gaming facility expense of the lottery gaming facility naming the executive
40 director, the commission and the state as additional insured parties. The
41 provisions of this section shall not apply to any claims arising from a
42 negligent act or omission or willful or malicious misconduct of the exec-
43 utive director, the commission or the state, or the agents or employees

1 thereof.

2 New Sec. 20. As a condition precedent to contracting for the privilege
3 of being a lottery gaming facility manager, such manager shall file with
4 the secretary of state of this state a written and irrevocable consent that
5 any action or garnishment proceeding may be commenced against such
6 manager in the proper court of any county in this state by the service of
7 process on a resident agent, and stipulating and agreeing that such service
8 shall be valid and binding as if service had been made upon such manager.
9 Such written consent shall state that the courts of this state have juris-
10 diction over the person of the lottery gaming facility manager and are the
11 proper and convenient forum for such action and shall waive the right to
12 request a change of jurisdiction or venue to a court outside this state and
13 that all actions arising under this act and commenced by such manager
14 shall be brought in this state's courts as the proper and convenient forum.
15 Such consent shall be executed by the lottery gaming facility manager
16 and, if a corporation, by the president and secretary of such corporate
17 manager. Such consent shall be accompanied by a certified copy of the
18 order or resolution of the board of directors, trustees or managers au-
19 thORIZING the president and secretary to execute the same.

20 New Sec. 21. The Kansas expanded lottery act, lottery gaming facility
21 managers and management contracts under the Kansas expanded lottery
22 act shall not be subject to the provisions of and restrictions on major
23 procurement contracts, including, but not limited to, the provisions of
24 K.S.A. 74-8705, and amendments thereto.

25 New Sec. 22. The sale or service by lottery gaming facility managers
26 or ancillary lottery gaming facility operations and the consumption by
27 patrons of lottery gaming facilities of alcohol, liquor, wine, spirits, cereal
28 malt beverages and other intoxicating liquors is hereby permitted upon
29 and in lottery gaming facilities and ancillary lottery gaming facility oper-
30 ations. The provisions of K.S.A. 41-719, and amendments thereto, relating
31 to alcoholic liquor shall not be applicable to lottery gaming facilities and
32 ancillary lottery gaming facility operations.

33 New Sec. 23. As used in the Kansas expanded lottery act and sections
34 23 through 47, and amendments thereto, unless the context otherwise
35 requires:

36 (a) "Accelerated video lottery net payment" means the advanced pay-
37 ment to the state treasurer of a portion of the state's future share of net
38 video lottery terminal income pursuant to the final management contract
39 between the executive director and a video lottery parimutuel sales agent
40 for the operation of video lottery terminals at a parimutuel licensee
41 location.

42 (b) "Central video lottery terminal computer system" means the central
43 computer system, which monitors the operations of all video lottery ter-

- 1 minals, approved by the Kansas lottery and which is provided by the
2 central video lottery terminal computer system provider in accordance
3 with this act.
- 4 (c) “Central video lottery terminal computer system provider” means
5 a person with whom the executive director has contracted for the purpose
6 of providing and maintaining a central video lottery terminal computer
7 system and the related management facilities with respect to operating
8 and servicing the video lottery terminals.
- 9 (d) “Net video lottery terminal income” means all cash or other con-
10 sideration utilized to play a video lottery terminal, less all cash or other
11 consideration paid out to winning players as prizes.
- 12 (e) “Organization licensee” has the meaning provided by K.S.A. 74-
13 8802, and amendments thereto.
- 14 (f) “Parimutuel licensee” means a facility owner licensee or facility
15 manager licensee under the Kansas parimutuel racing act.
- 16 (g) “Parimutuel licensee location” means the racetrack facility, as de-
17 fined in K.S.A. 74-8802, and amendments thereto, owned or managed by
18 the parimutuel licensee. A parimutuel licensee location may include any
19 existing structure at such racetrack facility or any structure that may be
20 constructed on real estate where such racetrack facility is located.
- 21 (h) “Progressive video lottery game” means any game whose jackpot
22 grows and accumulates as it is being played on a video lottery terminal
23 and whose outcome is randomly determined by the play of video lottery
24 terminals linked to the central video lottery terminal computer system.
- 25 (i) “Video lottery” means any lottery conducted with a video lottery
26 terminal or, with respect to a progressive game, a network of linked video
27 lottery terminals.
- 28 (j) “Video lottery game” means any electronically simulated game of
29 chance, including but not limited to video poker, keno, line-up, or black-
30 jack, displayed and played on a video lottery terminal.
- 31 (k) “Video lottery parimutuel sales agent” means a parimutuel licensee
32 specifically certified by the Kansas lottery to become a certified video
33 lottery parimutuel sales agent and offer video lottery terminals for play
34 at the parimutuel licensee location.
- 35 (l) “Video lottery terminal” means any electronic, electromechanical,
36 video or computerized device, contrivance or machine authorized by the
37 Kansas lottery which, upon insertion of cash, tokens, electronic cards or
38 any consideration, is available to play, operate or simulate the play of a
39 game authorized by the Kansas lottery pursuant to the Kansas gaming
40 act, including, but not limited to, bingo, poker, blackjack, keno and slot
41 machines, and which may deliver or entitle the player operating the ma-
42 chine to receive cash, tokens, merchandise or credits that may be re-
43 deemed for cash. Video lottery terminals may use bill validators and may

1 be single-position reel-type, single or multi-game video and single-posi-
2 tion multi-game video electronic games, including, but not limited to,
3 poker, blackjack and slot machines. Video lottery terminals shall be linked
4 directly to a central computer at a location determined by the executive
5 director for purposes of security, monitoring and auditing.

6 (m) "Video lottery terminal associated equipment" means any propri-
7 etary device, machine or part used in the manufacture, operation or main-
8 tenance of a video lottery terminal.

9 (n) "Video lottery terminal management contract" means an agreement
10 between the Kansas lottery and a video lottery parimutuel sales agent
11 which governs the placement and operation of video lottery terminals,
12 including allocation and payment of expenses, management fee and net
13 lease, recovery of any accelerated video lottery net payment and the
14 state's share of net video terminal income which shall not be less than
15 24% of net video lottery terminal income. A video lottery terminal man-
16 agement contract shall not constitute property, nor shall it be subject to
17 attachment, garnishment or execution, nor shall it be alienable or trans-
18 ferable, except upon approval by the executive director, nor shall it be
19 subject to being encumbered or hypothecated. No interest in the man-
20 agement contract shall descend by the laws of testate or intestate devo-
21 lution, but any interest shall cease and expire upon the death of the video
22 lottery parimutuel sales agent or all interest holders in such agent, except
23 that executors, administrators or representatives of the estate of any de-
24 ceased video lottery parimutuel sales agent and the trustee of any insol-
25 vent or bankrupt video lottery parimutuel sales agent may continue to
26 operate pursuant to the management contract under order of the approp-
27 riate court for no longer than one year after the death, bankruptcy or
28 insolvency of such video lottery parimutuel sales agent.

29 (o) "Video lottery terminal manufacturer" means any individual, firm,
30 corporation or other legal entity certified by the Kansas lottery to assem-
31 ble or produce video lottery terminals or video lottery terminal associated
32 equipment for sale or use in this state.

33 (p) "Voucher" means a bearer instrument in the form of a printed ticket
34 or facsimile issued by a video lottery terminal to a player that represents
35 the existing credit balance accumulated by a player of the video lottery
36 terminal. A voucher is a secure document that carries a unique identifier
37 in the form of a serial number and bar code issued by the central video
38 lottery terminal computer system.

39 New Sec. 24. (a) The Kansas lottery shall implement a video lottery
40 program whereby the Kansas lottery places video lottery terminals at par-
41 imutuel licensee locations.

42 (b) The Kansas lottery shall not place video lottery terminals at any
43 parimutuel licensee location unless the commission has adopted rules and

1 regulations as provided in sections 23 through 47, and amendments
2 thereto.

3 (c) The Kansas lottery shall not place video lottery terminals at pari-
4 mutuel licensee locations in a county unless the question of the placement
5 of video lottery terminals in such county has been submitted to and ap-
6 proved by the voters of such county as provided in section 25, and amend-
7 ments thereto.

8 New Sec. 25. (a) Before the Kansas lottery places any video lottery
9 terminals in a county, the qualified voters of the county must approve the
10 placement of video lottery terminals in the county as provided by this
11 section.

12 (b) (1) The board of county commissioners of any county may submit
13 by resolution, and shall submit upon presentation of a petition filed in
14 accordance with this section, to the qualified voters of the county a prop-
15 osition to permit the placement of video lottery terminals in the county
16 pursuant to this subsection. The proposition shall be submitted to the
17 voters either at a special election called by the board of county commis-
18 sioners for that purpose and held not less than 90 days after the resolution
19 is adopted or the petition is filed or at the next general election, as shall
20 be specified by the board of county commissioners or as specified in the
21 petition, as the case may be.

22 (2) A petition to submit a proposition pursuant to this subsection shall
23 be filed with the county election officer. The petition shall be signed by
24 qualified voters of the county equal in number to not less than 10% of
25 the voters of the county who voted for the office of secretary of state at
26 the last preceding general election at which such office was elected. The
27 following shall appear on the petition: "We request an election to deter-
28 mine whether the Kansas Lottery shall be authorized to place video lot-
29 tery terminals in _____ county."

30 (3) Upon the adoption of a resolution or the submission of a valid
31 petition calling for an election pursuant to this section, the county election
32 officer shall cause the following proposition to be placed on the ballot at
33 the election called for that purpose: "Shall the Kansas Lottery be au-
34 thorized to place video lottery terminals in _____ county?"

35 (4) If a majority of the votes cast and counted at such election is in
36 favor of approving the placement of video lottery terminals in the county,
37 the executive director may enter into video lottery terminal management
38 contracts for placement of video lottery terminals in the county as pro-
39 vided by this act. If a majority of the votes cast and counted at an election
40 under this section is against placement of video lottery terminals in the
41 county, the executive director shall not enter into video lottery terminal
42 management contracts for placement of video lottery terminals in the
43 county. The county election officer shall transmit a copy of the certifi-

1 cation of the results of the election to the executive director.

2 (5) 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 elections of the county.

5 (c) The lottery commission may place video lottery terminals in a
6 county where the commission finds that after March 1, 2005, the county
7 has held an election of qualified voters pursuant to the county's home
8 rule authority if the commission determines that the ballot question was
9 in substantial compliance with the requirements of subsection (b)(3) and
10 the election was administered by the county election officer in a manner
11 consistent with the requirements of state election law.

12 (d) The question of the placement of video lottery terminals in a county
13 may be submitted at the same election as the question of operation of
14 lottery gaming facilities in the county under section 5, and amendments
15 thereto.

16 New Sec. 26. (a) In accordance with rules and regulations adopted by
17 the commission, the executive director shall have general responsibility
18 for the implementation and administration of the provisions of this act
19 relating to video lottery, including, without limitation, the responsibility
20 to:

21 (1) Establish a statewide video lottery terminal network in accordance
22 with the provisions of this act;

23 (2) review and determine promptly and in reasonable order all certifi-
24 cate applications or proceedings for suspension or revocation of
25 certificates;

26 (3) perform all duties required of the executive director under the
27 provisions of this act relating to video lottery;

28 (4) collect all fees imposed pursuant to sections 23 through 47, and
29 amendments thereto;

30 (5) certify net video lottery terminal income by inspecting records,
31 conducting audits, having agents of the Kansas lottery on site or by any
32 other reasonable means;

33 (6) assist the commission in the promulgation of rules and regulations
34 concerning the operation of a statewide video lottery terminal network,
35 which rules and regulations shall include, without limitation, the
36 following:

37 (A) The denomination of all bills, coins, tokens or other media needed
38 to play video lottery terminals;

39 (B) payout from video lottery terminals, provided that such payouts
40 shall not be less than 87% of the amount wagered over the life of the
41 video lottery terminal;

42 (C) a certification requirement and enforcement procedure for officers,
43 directors, board members and key employees, specified by the executive

1 director, of video lottery parimutuel sales agents, which certification re-
2 quirement shall include compliance with such security, fitness and back-
3 ground standards as the executive director may deem necessary relating
4 to competence, honesty and integrity, such that a person's reputation,
5 habits and associations do not pose a threat to the public interest of the
6 state or to the reputation of or effective regulation and control of the
7 video lottery; it being specifically understood that any person convicted
8 of any felony, a crime involving gambling or a crime of moral turpitude
9 prior to applying for a certificate as such sales agent or at any time there-
10 after shall be deemed unfit. The Kansas lottery shall conduct the security,
11 fitness and background checks required pursuant to such rules and
12 regulations;

13 (D) a certification requirement and enforcement procedure for those
14 persons or entities, including video lottery terminal manufacturers and
15 the central video lottery terminal computer system providers, who pro-
16 pose to contract with a video lottery parimutuel sales agent or the state
17 for the provision of goods or services related to the video lottery, including
18 management services, which certification requirements shall include
19 compliance with such security, fitness and background standards of offi-
20 cers, directors, key employees specified by the executive director and
21 persons who own, directly or indirectly, 5% or more of such entity, as the
22 executive director may deem necessary relating to competence, honesty
23 and integrity, such that a person's reputation, habits and associations do
24 not pose a threat to the public interest of the state or to the reputation
25 of or effective regulation and control of the video lottery; it being specifi-
26 cally understood that any person convicted of any felony, a crime involv-
27 ing gambling or a crime of moral turpitude prior to applying for a certifi-
28 cate hereunder or at any time thereafter shall be deemed unfit. The
29 executive director may determine whether the certification standards of
30 another state are comprehensive, thorough, and provide similar adequate
31 safeguards and, if so, may in the executive director's discretion certify an
32 applicant already certified in such state without the necessity of a full
33 application and background check. The Kansas lottery shall conduct the
34 security, fitness and background checks required under this rule and
35 regulation;

36 (E) the number of video lottery terminals permitted in each parimutuel
37 licensee location, subject to the following: The total number of video
38 lottery terminals shall not exceed 2,000 at a parimutuel licensee location
39 in Wyandotte county; 1,500 at a parimutuel licensee location in Sedgwick
40 county; 1,500 at a parimutuel licensee location in Crawford county; and
41 an aggregate of 500 at parimutuel licensee locations in Greenwood and
42 Harper counties;

43 (F) standards for advertising, marketing and promotional materials

1 used by video lottery parimutuel sales agents;

2 (G) the registration, kind, type, number and location of video lottery
3 terminals at any parimutuel licensee location;

4 (H) the on-site security arrangements for the video lottery terminals;

5 (I) rules and regulations and procedures for the accounting and re-
6 porting of the payments required from video lottery parimutuel sales
7 agents under section 32, and amendments thereto, including the calcu-
8 lations required for such payments;

9 (J) requiring the reporting of information about any video lottery par-
10 imutuel sales agent, its employees, vendors and finances necessary or
11 desirable to ensure the security of the video lottery system. None of the
12 information disclosed pursuant to this subsection shall be subject to dis-
13 closure under the Kansas open records act; and

14 (K) the reporting and auditing of financial information of video lottery
15 parimutuel sales agents, including, but not limited to, the reporting of
16 profits or losses incurred by video lottery parimutuel sales agents and the
17 reporting of such other information as the executive director may require
18 to determine compliance with the Kansas expanded lottery act and the
19 rules and regulations adopted hereunder. None of the information dis-
20 closed pursuant to this subsection shall be subject to disclosure under the
21 Kansas open records act.

22 (b) In addition to any other powers granted pursuant to the Kansas
23 lottery act or the Kansas expanded lottery act, the executive director shall
24 have the power to:

25 (1) Examine, or cause to be examined by any agent or representative
26 designated by the executive director, any books, papers, records or mem-
27 oranda of any video lottery parimutuel sales agent, or of any business
28 involved in video lottery terminals or video lottery games authorized pur-
29 suant to the Kansas expanded lottery act, for the purpose of ascertaining
30 compliance with any provision of the Kansas lottery act or the Kansas
31 expanded lottery act, or any rules and regulations adopted thereunder;

32 (2) investigate alleged violations of the Kansas lottery act and alleged
33 violations of any rules and regulations, orders and final decisions of the
34 commission or the executive director;

35 (3) request a court to issue subpoenas to compel access to or for the
36 production of any books, papers, records or memoranda in the custody
37 or control of any video lottery parimutuel sales agent related to the man-
38 agement or operation of video lottery terminals, or to compel the ap-
39 pearance of any video lottery parimutuel sales agent for the purpose of
40 ascertaining compliance with the provisions of the Kansas lottery act and
41 the Kansas expanded lottery act, and rules and regulations adopted
42 thereunder;

43 (4) inspect and approve, prior to publication or distribution, all adver-

1 tising by a video lottery parimutuel sales agent which includes any ref-
2 erence to the Kansas lottery; and
3 (5) take any other action as may be reasonable or appropriate to enforce
4 the provisions of the Kansas expanded lottery act and any rules and reg-
5 ulations, orders and final decisions of the executive director or the
6 commission.
7 (c) Appropriate security measures shall be required in any and all areas
8 where video lottery terminals authorized pursuant to the Kansas ex-
9 panded lottery act are located or operated. The executive director shall
10 approve all such security measures.
11 (d) The executive director shall require an annual audit of the video
12 lottery terminal operations of each video lottery parimutuel sales agent.
13 Such audit shall be conducted by a licensed accounting firm approved by
14 the executive director. Such audit shall be conducted at the expense of
15 the lottery.
16 (e) None of the information disclosed pursuant to subsection (b) or (d)
17 shall be subject to disclosure under the Kansas open records act.
18 (f) The Kansas lottery shall operate the video lottery terminal network
19 through the central video lottery terminal computer system. The central
20 video lottery terminal computer system shall be capable of auditing the
21 operation, financial data and program information of the video lottery
22 terminal network. All equipment or devices required for operation of the
23 central video lottery terminal computer system shall be included in any
24 contract made for the purpose of providing or operating such system.
25 (g) The central video lottery terminal computer system shall be used
26 for the operation of the video lottery terminal network and shall incor-
27 porate electronic fund transfer procedures to facilitate the collection of
28 revenue, be capable of disabling any video lottery terminal from play, and
29 be capable of communicating with all video lottery terminals approved
30 by the Kansas lottery. The central video lottery terminal computer system
31 provider shall provide certified manufacturers with the protocol docu-
32 mentation and the audit information and controls necessary to enable the
33 manufacturers' video lottery terminals to communicate with the Kansas
34 lottery's central video lottery terminal computer system. The central video
35 lottery terminal computer system shall not limit participation to only one
36 manufacturer of video lottery terminals or video lottery terminal associ-
37 ated equipment.
38 (h) The executive director may remove from play and confiscate any
39 video lottery terminal or gray machine that does not comply with the
40 requirements of the Kansas expanded lottery act. Any video lottery ter-
41 minal that the executive director determines has been modified or the
42 design of which has been modified without the consent of the executive
43 director may be removed from play, confiscated by the executive director

1 and disposed of in any manner allowed by law.

2 (i) With regard to minutes and records of the commission:

3 (1) The Kansas lottery shall keep and maintain a list of all applicants
4 for certification under the Kansas expanded lottery act, together with a
5 record of all actions taken with respect to such applicants. A file and
6 record of the Kansas lottery's actions shall be open to public inspection
7 pursuant to the Kansas open records act, but the information regarding
8 any applicant whose certificate has been denied, revoked or not renewed
9 shall be removed from such list five years after the date certification was
10 denied, revoked or not renewed.

11 (2) All information and data required by the Kansas lottery to be fur-
12 nished to it, or which may otherwise be obtained, relative to the finances,
13 earnings or revenue, except the net video lottery terminal income, of any
14 vendor shall be considered confidential and shall not be revealed in whole
15 or in part without permission of the vendor, except in the course of the
16 necessary administration of the Kansas expanded lottery act, or upon the
17 lawful order of a court of competent jurisdiction, or with the approval of
18 the attorney general, to a duly authorized law enforcement agency.

19 (3) All information and data pertaining to an applicant's criminal rec-
20 ord, family and background furnished to or obtained by the Kansas lottery
21 from any source shall be considered confidential and shall not be revealed,
22 in whole or part. Such information shall be released upon the lawful order
23 of a court of competent jurisdiction or, with the approval of the attorney
24 general, to a duly authorized law enforcement agency.

25 (4) Notice of the contents of any information released, except to a duly
26 authorized law enforcement agency pursuant to subsection (f), shall be
27 given to any applicant, certificate holder or vendor in a manner prescribed
28 by the rules and regulations adopted by the commission.

29 New Sec. 27. (a) The executive director may issue, suspend, revoke
30 and renew certificates for video lottery terminal manufacturers, video
31 lottery terminals or video lottery parimutuel sales agents pursuant to rules
32 and regulations adopted by the commission.

33 (b) Any individual, firm, corporation or other legal entity seeking to
34 obtain a certificate pursuant to rules and regulations adopted by the com-
35 mission shall apply to the executive director for such certificate on forms
36 provided by the executive director.

37 (c) The executive director shall notify an applicant who is found, for
38 any reason, to be unfit for certification, of the specific reasons therefor
39 which constitute the basis for the finding.

40 (d) No certificate issued pursuant to this section shall be assignable or
41 transferable.

42 (e) The executive director may examine any or all accounts, bank ac-
43 counts, financial statements and records of the vendor in a vendor's pos-

1 session or under its control in which it has an interest and the vendor
2 must authorize all third parties, including parents, subsidiaries or related
3 entities, in possession or control of the accounts or records of the vendor
4 to allow examination of any or all of those accounts or records by the
5 executive director.

6 (f) A certificate shall be revoked upon a finding that the certificate
7 holder, or an officer, director or board member thereof:

8 (1) Has knowingly provided false or misleading material information to
9 the Kansas lottery or its employees; or

10 (2) has been convicted of a felony, gambling related offense or any
11 crime of moral turpitude.

12 (g) A certificate may be suspended, revoked or not renewed for any of
13 the following causes:

14 (1) Failure to notify the Kansas lottery about a material change in own-
15 ership of the certificate holder, or any change in the directors, officers or
16 board members thereof;

17 (2) a delinquency in remitting money owed to the Kansas lottery;

18 (3) any violation of any provision of any contract between the Kansas
19 lottery and the certificate holder; or

20 (4) any violation of any provision of the Kansas expanded lottery act or
21 any rule and regulation adopted by the commission.

22 New Sec. 28. (a) Every certified video lottery terminal manufacturer
23 shall submit a training program for the service and maintenance of such
24 video lottery terminals and associated equipment for approval by the Kan-
25 sas lottery. The training program shall include an outline of the training
26 curriculum, a list of instructors and their qualifications, a copy of the
27 instructional materials and the dates, times and location of training clas-
28 ses. No service and maintenance program shall be held until approved by
29 the Kansas lottery.

30 (b) Every service employee shall complete the requirements of the
31 manufacturer's training program before such employee performs service,
32 maintenance and repairs on video lottery terminals or video lottery ter-
33 minal associated equipment. Upon the successful completion by a service
34 employee of the training program required by this section, the Kansas
35 lottery shall issue a certificate authorizing such employee to service, main-
36 tain and repair video lottery terminals and video lottery terminal associ-
37 ated equipment. No certificate of completion shall be issued to any serv-
38 ice employee until the Kansas lottery has ascertained that such employee
39 has completed the required training program. Any person certified as a
40 service employee under this section shall pass a background investigation
41 under the rules and regulations of the commission. The Kansas lottery
42 may revoke certification upon finding a service employee in violation of
43 any provision of the Kansas expanded lottery act or a commission rule

1 and regulation.

2 New Sec. 29. (a) Except as provided in subsection (b):

3 (1) No video lottery terminals shall be operated at a parimutuel licensee
4 location in Sedgwick county unless, during the first full calendar year and
5 each year thereafter in which video lottery terminals are operated at such
6 location, the parimutuel licensee conducts at such location at least 100
7 live greyhound races each calendar week for the number of weeks raced
8 during calendar year 2003 with at least 13 live races conducted each day
9 for not less than five days per week.

10 (2) No video lottery terminals shall be operated at a parimutuel licensee
11 location in Wyandotte county unless, during the first full calendar year
12 and each year thereafter in which video lottery terminals are operated at
13 such location, the parimutuel licensee conducts live horse racing pro-
14 grams for at least 60 days, with at least 10 live races conducted each
15 program, and must offer and make a reasonable effort to conduct a min-
16 imum number of three live races restricted for quarter horses each day
17 and seven live thoroughbred races each day, of which not less than two
18 races each day shall be limited to registered Kansas-bred horses appor-
19 tioned in the same ratio that live races are offered, except that the licensee
20 shall not be required to conduct the second live race restricted to Kansas-
21 bred horses unless there are at least seven qualified entries for such race,
22 and with at least 100 live greyhound races each calendar week for at least
23 the same number of weeks raced during 2003, with at least 13 live races
24 conducted each day for not less than five days per week.

25 (3) No video lottery terminals shall be operated at a parimutuel licensee
26 location in Crawford county unless, during the first full calendar year and
27 each year thereafter in which video lottery terminals are operated at such
28 location, the parimutuel licensee conducts at such location at least 85 live
29 greyhound races each calendar week for the number of weeks raced dur-
30 ing calendar year 2003 in Sedgwick county with at least 12 live races
31 conducted each day for not less than five days per week.

32 (4) If a parimutuel licensee has not held live races pursuant to a sched-
33 ule approved by the Kansas racing and gaming commission in the pre-
34 ceding 12 months, the Kansas racing and gaming commission shall hold
35 a hearing to determine the number of days of live racing required for the
36 remaining days of the first calendar year of operation to qualify for op-
37 eration of video lottery terminals. At such hearing, the commission shall
38 receive testimony and evidence from affected breed groups, the licensee
39 and others, as the Kansas racing and gaming commission deems appro-
40 priate concerning the schedule of live race days. The operation of video
41 lottery terminals shall not commence more than 90 days prior to the start
42 of live racing at such facility.

43 (5) No video lottery terminals shall be operated at a parimutuel licensee

1 location in Greenwood county at Eureka Downs unless, during the first
2 full calendar year and each year thereafter in which video lottery terminals
3 are operated, the parimutuel licensee conducts at least 20 days of live
4 horse racing.

5 (6) No video lottery terminals shall be operated at a parimutuel licensee
6 location in Harper county at Anthony Downs unless, during the first full
7 calendar year and each year thereafter in which video lottery terminals
8 are operated, the parimutuel licensee conducts at least 20 days of live
9 horse racing.

10 (7) The Greenwood County Fair Association and Anthony Fair Asso-
11 ciation shall qualify as fair associations pursuant to the provisions of this
12 section and shall be required to comply with all provisions of K.S.A. 74-
13 8814, and amendments thereto.

14 (b) The Kansas racing and gaming commission may not grant excep-
15 tions to the requirements of subsection (a) for a parimutuel licensee con-
16 ducting live racing unless such exception is in the form of an agreement
17 which: (1) Is between the parimutuel licensee and the affected recognized
18 greyhound or recognized horsemen's group, as defined in K.S.A. 74-8802,
19 and amendments thereto; (2) has been approved by the appropriate of-
20 ficial breed registering agencies; and (3) has been submitted to and ap-
21 proved by the commission. In the case of emergencies, weather related
22 issues or immediate circumstances beyond the control of the licensee,
23 the Kansas racing and gaming commission may grant an exception.

24 (c) Notwithstanding the provisions of subsections (a) and (b) of K.S.A.
25 74-8836, and amendments thereto, the Kansas racing and gaming com-
26 mission shall authorize simulcasting on any day the operation of video
27 lottery terminals is authorized at the race track facility at Eureka Downs
28 and the race track facility at Anthony Downs. Rules and regulations of
29 the Kansas racing and gaming commission shall provide that the video
30 lottery terminals shall not be operated at Eureka Downs or Anthony
31 Downs on days when simulcasting signals are not available at the track.

32 New Sec. 30. (a) Video lottery terminals shall not be offered for use or
33 play in this state unless approved by the Kansas lottery. Video lottery
34 terminals may only offer video lottery games authorized by the Kansas
35 lottery.

36 (b) Video lottery terminals approved for use or play in this state shall:

37 (1) Be incapable of manipulation to effect the random probability of
38 winning plays;

39 (2) have one or more mechanisms that accept coins, tokens or other
40 media approved by the Kansas lottery in exchange for game credits and
41 a voucher evidencing said credits, or if approved by the Kansas lottery be
42 capable of paying cash directly to the player, and such mechanisms shall
43 be designed to prevent players from obtaining credits or cash by means

1 of physical tampering;

2 (3) be capable of suspending play as a result of physical tampering until
3 reset at the direction of the executive director or the executive director's
4 designee;

5 (4) be linked directly to a central lottery communications system to
6 provide auditing and other program information as approved by the Kan-
7 sas lottery and specified in the video lottery terminal management con-
8 tract; and

9 (5) be on-line and in constant communication with a central computer
10 located at a location determined by the executive director pursuant to the
11 video lottery terminal management contract.

12 New Sec. 31. (a) No person who has held an interest in or has been
13 employed by a parimutuel licensee or a video lottery parimutuel sales
14 agent shall be employed by the Kansas lottery for two years after the
15 expiration of such interest or employment.

16 (b) No person who holds an interest in or is employed by the video
17 lottery terminal manufacturer's vendor shall be employed by the Kansas
18 lottery.

19 (c) No employee of the Kansas lottery shall play a video lottery terminal
20 unless specifically authorized by the executive director or the executive
21 director's designee for purposes of testing, auditing or other security
22 reasons.

23 (d) No person who was employed by the Kansas lottery shall hold an
24 interest in or be employed by a parimutuel licensee, a video lottery ter-
25 minal manufacturer's vendor or the central system provider for a period
26 of two years after the termination of employment with the Kansas lottery.

27 New Sec. 32. (a) Net video lottery terminal income shall be distributed
28 as follows:

29 (1) To the video lottery parimutuel sales agent, an amount equal to:
30 (A) 22% of net video lottery terminal income as a management fee and
31 net lease for facilities used for the operation of video lottery terminals at
32 the parimutuel licensee location; plus (B) expenses of the video lottery
33 parimutuel sales agent as provided in the video lottery terminal manage-
34 ment contract, except that such expenses shall not include any payment
35 for lease of facilities;

36 (2) 7% of net video lottery terminal income shall be credited to the
37 live horse racing purse supplement fund established by section 37, and
38 amendments thereto;

39 (3) 7% of net video lottery terminal income shall be credited to the
40 live greyhound racing purse supplement fund established by section 37,
41 and amendments thereto;

42 (4) 1.5% of net video lottery terminal income shall be remitted to the
43 city, if any, and 1.5% of net video lottery terminal income shall be re-

1 mitted to the county where the parimutuel licensee location is located,
2 except that 3% of net video lottery terminal income shall be remitted to
3 such county if the parimutuel licensee location is not located in a city;

4 (5) 0.5% of net video lottery terminal income shall be credited to the
5 problem gambling grant fund established by K.S.A. 2004 Supp. 79-4805,
6 and amendments thereto;

7 (6) amounts determined pursuant to the video lottery terminal man-
8 agement contract for direct expenses of the Kansas lottery attributable to
9 implementation, administration and enforcement of the provisions of sec-
10 tions 23 through 47, and amendments thereto, and implementation, over-
11 sight and monitoring of video lottery pursuant to the provisions of such
12 sections shall be credited to the video lottery oversight fund established
13 by section 36, and amendments thereto;

14 (7) for a parimutuel licensee location other than a parimutuel licensee
15 location in Crawford county, an amount determined by an agreement
16 which is entered into by the video lottery parimutuel sales agent and the
17 organization licensee at the parimutuel licensee location and which has
18 been approved by the executive director; and

19 (8) for a parimutuel licensee location located in Crawford county, 2%
20 of net video lottery terminal income shall be paid to the organization
21 licensee at the parimutuel licensee location.

22 (b) A video lottery terminal management contract shall establish an
23 accelerated video lottery net payment of \$15,000 per video lottery ter-
24 minal installed at a parimutuel licensee location. Such payment shall be
25 due and payable upon execution of the management contract. The ac-
26 celerated video lottery net payment shall be recovered by the video lottery
27 parimutuel sales agent pursuant to the terms of the video lottery terminal
28 management contract.

29 New Sec. 33. The Kansas lottery commission, upon the recommen-
30 dation of the executive director, shall adopt rules and regulations neces-
31 sary to carry out the purposes of this act. Temporary rules and regulations
32 may be adopted by the commission without being subject to the provi-
33 sions and requirements of K.S.A. 77-415 through 77-438, and amend-
34 ments thereto, but shall be subject to approval by the attorney general as
35 to legality and shall be filed with the secretary of state and published in
36 the Kansas register.

37 New Sec. 34. (a) All video lottery terminals shall be leased or owned
38 by the Kansas lottery or by an authorized video lottery parimutuel sales
39 agent on behalf of the Kansas lottery pursuant to the terms of a video
40 lottery terminal management contract and shall be obtained from video
41 lottery terminal manufacturers certified pursuant to the Kansas expanded
42 lottery act and the rules and regulations adopted by the commission.

43 (b) The executive director shall contract with an independent labora-

1 tory to test video lottery terminals and associated equipment on a periodic
2 basis to ensure that the terminals and equipment comply with the require-
3 ments of the Kansas expanded lottery act and any other applicable stan-
4 dards and rules and regulations. The video lottery terminal manufacturer
5 providing such terminals and equipment shall pay all costs associated with
6 such testing.

7 (c) Each video lottery parimutuel sales agent shall hold the executive
8 director, the commission, and this state harmless from and defend and
9 pay for the defense of any and all claims which may be asserted against
10 the executive director, the commission, the state or the employees
11 thereof, arising from the participation in the video lottery system; specif-
12 ically excluding, however, any claims arising from the negligence or willful
13 misconduct of the executive director, the commission, the state or the
14 employees thereof.

15 (d) Each video lottery parimutuel sales agent shall provide access to all
16 records of the video lottery parimutuel sales agent and the physical prem-
17 ises of the locations where the video lottery activities are conducted for
18 the purpose of monitoring and inspecting the activities of the video lottery
19 parimutuel sales agent and video lottery games, video lottery terminals
20 and associated equipment.

21 New Sec. 35. (a) There is hereby established in the state treasury the
22 video lottery revenues fund. Separate accounts shall be maintained in
23 such fund for receipt of moneys from each video lottery parimutuel sales
24 agent. All expenditures from the fund shall be made in accordance with
25 appropriation acts upon warrants of the director of accounts and reports
26 issued pursuant to vouchers approved by the executive director for the
27 purposes set forth in this act.

28 (b) All net video lottery terminal income shall be paid daily and elec-
29 tronically to the executive director. The executive director shall remit all
30 moneys received therefrom to the state treasurer in accordance with
31 K.S.A. 75-4215, and amendments thereto. Upon receipt of the remit-
32 tance, the state treasurer shall deposit the entire amount in the state
33 treasury and credit it to the respective account maintained for the video
34 lottery parimutuel sales agent in the video lottery revenues fund.

35 (c) The executive director shall certify weekly to the director of ac-
36 counts and reports the percentages or amounts to be transferred from
37 each account maintained in the video lottery revenues fund to the video
38 lottery oversight fund, the live horse racing purse supplement fund, the
39 live greyhound racing purse supplement fund and the problem gambling
40 grant fund, as provided by section 32, and amendments thereto. Upon
41 receipt of the certification, the director of accounts and reports shall
42 transfer amounts from each such account in accordance with the certifi-
43 cation of the executive director. Once each week, the executive director

1 shall cause amounts from each such account to be paid to cities, counties
2 and video lottery parimutuel sales agents in accordance with section 32,
3 and amendments thereto.

4 (d) Amounts remaining in the video lottery revenues fund after trans-
5 fers and payments pursuant to subsection (c) shall be transferred to the
6 Kansas education opportunity trust fund established pursuant to section
7 38, and amendments thereto.

8 New Sec. 36. (a) There is hereby created in the state treasury the video
9 lottery oversight fund.

10 (b) Moneys in the video lottery oversight fund shall be expended to
11 pay for the expenses of the Kansas lottery attributable to implementation,
12 administration and enforcement of the provisions of sections 23 through
13 47, and amendments thereto, and implementation, oversight and moni-
14 toring of operations of video lottery parimutuel sales agents pursuant to
15 such sections.

16 (c) On or before the 10th of each month, the director of accounts and
17 reports shall transfer from the state general fund to the video lottery
18 oversight fund interest earnings based on:

19 (1) The average daily balance of moneys in the video lottery oversight
20 fund for the preceding month; and

21 (2) the net earnings rate for the pooled money investment portfolio for
22 the preceding month.

23 (d) All expenditures from the video lottery oversight fund shall be made
24 in accordance with appropriation acts upon warrants of the director of
25 accounts and reports issued pursuant to vouchers approved by the exec-
26 utive director for the purposes set forth in the Kansas expanded lottery
27 act.

28 New Sec. 37. (a) (1) There is hereby established in the state treasury
29 the live horse racing purse supplement fund.

30 (2) Twenty-five percent of all moneys credited to the live horse racing
31 purse supplement fund shall be transferred to the Kansas horse breeding
32 development fund created pursuant to K.S.A. 74-8829, and amendments
33 thereto. Two percent of the moneys credited to the live horse racing purse
34 supplement fund shall be distributed to the official registering agency
35 designated pursuant to K.S.A. 74-8830, and amendments thereto, to be
36 used for horse registration, administration, development, representation
37 and promotion of the Kansas horse racing and breeding industries. A
38 complete financial accounting for the use of the funds received pursuant
39 to this subsection shall be provided annually to the Kansas racing and
40 gaming commission. Fifty percent of the moneys credited to the Kansas
41 horse breeding development fund pursuant to this section shall be used
42 as purse supplements for registered Kansas-bred foals and distributed
43 based upon recommendation from the official horse breed registering

1 agency and approval of the Kansas racing and gaming commission. The
2 balance of funds credited to the Kansas horse breeding development fund
3 pursuant to this section shall be used as breed awards for registered Kan-
4 sas-bred broodmares and stallions. The Kansas racing and gaming com-
5 mission shall distribute such moneys credited to the Kansas horse breed-
6 ing development fund in accordance with K.S.A. 74-8829, and
7 amendments thereto.

8 (3) Based on the contribution to the Kansas horse racing and breeding
9 industries in Kansas, the balance in the live horse race purse supplement
10 fund shall be distributed in accordance with rules and regulations adopted
11 by the Kansas racing and gaming commission with recommendations by
12 the official registering agency designated pursuant to K.S.A. 74-8830, and
13 amendments thereto.

14 (b) There is hereby established in the state treasury the live greyhound
15 racing purse supplement fund. Moneys available in such fund shall be
16 paid to the parimutuel licensees for distribution as purse supplements in
17 accordance with rules and regulations of the Kansas racing and gaming
18 commission. Such rules and regulations shall provide that 25% of the total
19 amount credited to such fund shall be transferred to the credit of the
20 Kansas greyhound breeding development fund, created pursuant to
21 K.S.A. 74-8831, and amendments thereto. Funds transferred into the
22 Kansas greyhound breeding development fund pursuant to this section
23 shall be used to supplement special stake races and enhance the amount
24 per point paid to the owners of Kansas-whelped greyhounds which win
25 live races at Kansas greyhound tracks in accordance with Kansas racing
26 and gaming commission rules and regulations. Upon the recommendation
27 of the official greyhound breed registry, the Kansas racing and gaming
28 commission may transfer funds from the Kansas greyhound breeding de-
29 velopment fund to the live greyhound racing purse supplement fund.

30 (c) All purse supplements paid pursuant to this act shall be according
31 to the point schedule in effect on January 1, 2003, at the respective par-
32 imutuel licensee locations. All purse supplements paid pursuant to this
33 section shall be in addition to purses and supplements paid under K.S.A.
34 74-8801 et seq., and amendments thereto.

35 New Sec. 38. (a) There is hereby established in the state treasury the
36 Kansas education opportunity trust fund. Amounts deposited in such fund
37 shall be expended solely for the purpose of supplementing the state's
38 obligation to fund preschool, kindergarten, elementary, secondary and
39 postsecondary education programs. Expenditures from the Kansas edu-
40 cation opportunity trust fund shall be made pursuant to appropriations
41 acts.

42 (b) Such funding shall be supplemental to, and not in lieu of, any state
43 revenues appropriated during the 2005 regular legislative session to fund

1 educational programs for the fiscal year ending June 30, 2006.

2 (c) Unless the payment or transfer has been authorized pursuant to a
3 separate appropriations act which has been approved by a majority vote
4 of the members of the house of representatives and a majority vote of
5 the members of the senate, the state treasurer shall not make transfers
6 or payments pursuant to an appropriation for any purpose other than
7 supplementing the funding of education programs as described in sub-
8 section (a). Such payment or transfer shall be made only upon certifica-
9 tion of the governor that such payment meets the requirements of this
10 section.

11 New Sec. 39. (a) Wagers shall be received only from a person at the
12 location where the video lottery game is authorized pursuant to the Kan-
13 sas expanded lottery act. No person present at such location shall place
14 or attempt to place a wager on behalf of another person who is not present
15 at such location.

16 (b) No employee or contractor of a video lottery parimutuel sales agent
17 shall loan money to or otherwise extend credit to patrons of the pari-
18 mutuel licensee.

19 (c) Violation of this section is a class A nonperson misdemeanor upon
20 a conviction for a first offense. Violation of this section is a severity level
21 9, nonperson felony upon conviction for a second or subsequent offense.

22 New Sec. 40. (a) A person less than 21 years of age shall not be per-
23 mitted in in area where video lottery games are being conducted, except
24 for a person at least 18 years of age who is an employee of the video
25 lottery parimutuel sales agent. No employee under age 21 shall perform
26 any function involved in gaming by the patrons.

27 (b) No person under age 21 shall play or make a wager on a video
28 lottery game.

29 New Sec. 41. (a) Except as when authorized in accordance with sub-
30 section (c), it is unlawful for any video lottery parimutuel sales agent, or
31 any employee or agent thereof, to allow any person to play video lottery
32 games pursuant to the Kansas expanded lottery act, or share in winnings
33 of such person, knowing such person to be:

34 (1) Less than 21 years of age;

35 (2) the executive director, a member of the commission or an employee
36 of the Kansas lottery;

37 (3) an officer or employee of a vendor contracting with the Kansas
38 lottery to supply gaming equipment or tickets to the Kansas lottery for
39 use in the operation of any lottery conducted pursuant to the Kansas
40 expanded lottery act;

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

1 (5) a person who resides in the same household as any person described
2 by subsection (a)(2) or (a)(3).

3 (b) Violation of subsection (a) is a class A nonperson misdemeanor upon
4 conviction for a first offense. Violation of subsection (a) is a severity level
5 9, nonperson felony upon conviction for a second or subsequent offense.

6 (c) The executive director may authorize in writing any employee of
7 the Kansas lottery and any employee of a lottery vendor to play a video
8 lottery game to verify the proper operation thereof with respect to se-
9 curity and contract compliance. Any prize awarded as a result of such
10 ticket purchase shall become the property of the Kansas lottery and be
11 added to the prize pools of subsequent video lottery games. No money
12 or merchandise shall be awarded to any employee playing a video lottery
13 game pursuant to this subsection.

14 New Sec. 42. Except for persons acting in accordance with rules and
15 regulations of the Kansas lottery in performing installation, maintenance
16 and repair services, any person who, with the intent to manipulate the
17 outcome, pay out or operation of a video lottery game, manipulates by
18 physical, electrical or mechanical means the outcome, pay out or opera-
19 tion of such game shall be guilty of a severity level 8, nonperson felony.

20 New Sec. 43. (a) It is a class A nonperson misdemeanor for the execu-
21 tive director, any member of the lottery commission or any employee
22 of the Kansas lottery knowingly to:

23 (1) Participate in the operation of or have a financial interest in any
24 business of a video lottery parimutuel sales agent or in any business which
25 sells goods or services to a video lottery parimutuel sales agent;

26 (2) participate directly or indirectly as an owner, operator, manager or
27 consultant in electronic or other gaming operated pursuant to the Kansas
28 expanded lottery act;

29 (3) while in Kansas place a wager on or bet or play a video lottery game;

30 (4) accept any compensation, gift, loan, entertainment, favor or service
31 from any video lottery parimutuel sales agent except such suitable facil-
32 ities and services within a parimutuel licensee location as may be required
33 to facilitate the performance of the executive director's, member's or
34 employee's official duties; or

35 (5) enter into any business dealing, venture or contract with a video
36 lottery parimutuel sales agent.

37 (b) It is a severity level 8, nonperson felony for any person playing or
38 using any electronic gaming machine or video lottery terminal in Kansas
39 knowingly to:

40 (1) Use other than a lawful coin or legal tender of the United States of
41 America, or to use coin not of the same denomination as the coin intended
42 to be used in an electronic gaming machine or video lottery terminal,
43 except that in the playing of any electronic gaming machine, video lottery

1 terminal or similar gaming device, it shall be lawful for any person to use
2 gaming billets, tokens or similar objects therein which are approved by
3 the Kansas lottery;

4 (2) possess or use, while on premises where video lottery games are
5 authorized pursuant to the Kansas expanded lottery act, any cheating or
6 thieving device, including, but not limited to, tools, wires, drills, coins
7 attached to strings or wires or electronic or magnetic devices to facilitate
8 removing from any electronic gaming machine or video lottery terminal
9 any money or contents thereof, except that a duly authorized agent or
10 employee of the Kansas lottery or video lottery parimutuel sales agent
11 may possess and use any of the foregoing only in furtherance of the agent's
12 or employee's employment at the parimutuel licensee location; or

13 (3) possess or use while on the premises of any video lottery parimutuel
14 sales agent any key or device designed for the purpose of or suitable for
15 opening or entering any video lottery terminal or similar gaming device
16 or drop box, except that a duly authorized agent or employee of the
17 Kansas lottery or video lottery parimutuel sales agent may possess and
18 use any of the foregoing only in furtherance of the agent's or employee's
19 employment at the parimutuel licensee location.

20 New Sec. 44. It shall be a severity level 9, nonperson felony for any
21 individual, firm, corporation or other legal entity to place in operation or
22 continue to have in place any gray machine for use by members of the
23 public at any location in this state.

24 New Sec. 45. Each person subject to a background check pursuant to
25 the Kansas expanded lottery act shall be subject to a state and national
26 criminal history records check which conforms to applicable federal stan-
27 dards for the purpose of verifying the identity of the applicant and
28 whether the person has been convicted of any crime that would disqualify
29 the person from engaging in activities pursuant to this act. The executive
30 director is authorized to use the information obtained from the national
31 criminal history record check to determine the person's eligibility to en-
32 gage in such activities.

33 New Sec. 46. (a) No taxes, fees, charges, transfers or distributions,
34 other than those provided for in the Kansas expanded lottery act, shall be
35 made or levied by any city, county or other municipality from or against
36 net video lottery revenue.

37 (b) All sales of games on video lottery terminals authorized by the
38 Kansas expanded lottery act shall be exempt from sales taxes imposed
39 pursuant to K.S.A. 12-187 et seq., and 79-3601 et seq., and amendments
40 thereto.

41 New Sec. 47. Pursuant to section 2 of the federal act entitled "An Act
42 to Prohibit Transportation of Gambling Devices in Interstate and Foreign
43 Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas, acting by

1 and through the duly elected and qualified members of the legislature,
2 does hereby in this section, and in accordance with and in compliance
3 with the provisions of section 2 of such federal act, declare and proclaims
4 that it is exempt from the provision of section 2 of such federal act to the
5 extent that such gambling devices as described therein are being trans-
6 ported to or from the Kansas lottery or to or from a lottery gaming facility
7 managed or a video lottery sales agent at a location within the state of
8 Kansas where such gambling devices are authorized pursuant to the Kan-
9 sas expanded lottery act.

10 Sec. 48. K.S.A. 74-8705 is hereby amended to read as follows: 74-8705.

11 (a) Major procurement contracts shall be awarded in accordance with
12 K.S.A. 75-3738 through 75-3744, and amendments thereto, or subsection

13 (b), as determined by the *executive* director, except that:

14 (1) The contract or contracts for the initial lease of facilities for the
15 Kansas lottery shall be awarded upon the evaluation and approval of the
16 *executive* director, the secretary of administration and the director of ar-
17 chitectural services;

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

21 (b) The *executive* director may award any major procurement contract
22 by use of a procurement negotiating committee. Such committee shall
23 be composed of: (1) The executive director or a Kansas lottery employee
24 designated by the executive director; (2) the chairperson of the commis-
25 sion or a commission member designated by the chairperson; and (3) the
26 director of the division of purchases or an employee of such division
27 designated by the director. Prior to negotiating a major procurement con-
28 tract, the committee shall solicit bids or proposals thereon. The division
29 of purchases shall provide staff support for the committee's solicitations.
30 Upon receipt of bids or proposals, the committee may negotiate with one
31 or more of the persons submitting such bids or proposals and select from
32 among such persons the person to whom the contract is awarded. Such
33 procurements shall be open and competitive and shall consider relevant
34 factors, including security, competence, experience, timely performance
35 and maximization of net revenues to the state. If a procurement negoti-
36 ating committee is utilized, the provisions of K.S.A. 75-3738 through 75-
37 3744, and amendments thereto, shall not apply. Meetings conducted by
38 the procurement negotiating committee shall be exempt from the pro-
39 visions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320a,
40 and amendments thereto.

41 (c) Before a major procurement contract is awarded, the executive
42 director shall conduct a background investigation of: (1) The vendor to
43 whom the contract is to be awarded; (2) all officers and directors of such

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

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

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

33 (e) (1) *Except as provided by paragraph (2), the executive director shall*
34 *not agree to any renewal or extension of a major procurement contract*
35 *unless such extension or renewal is awarded in the manner provided by*
36 *this section.*

37 (2) *The provisions of paragraph (1) shall not apply to the extension or*
38 *renegotiation of an existing contract with a vendor for the purposes of*
39 *providing services for the monitoring and control of video lottery termin-*
40 *als pursuant to the Kansas expanded lottery act. The provisions of this*
41 *subsection (e)(2) shall expire on June 30, 2006.*

42 Sec. 49. K.S.A. 74-8710 is hereby amended to read as follows: 74-8710.

43 (a) The commission, upon the recommendation of the executive director,

1 shall adopt rules and regulations governing the establishment and oper-
2 ation of a state lottery, *sales of lottery tickets and the operation of lottery*
3 *gaming facilities* as necessary to carry out the purposes of ~~this~~ *the Kansas*
4 *lottery act and the Kansas expanded lottery act*. Temporary rules and
5 regulations may be adopted by the commission without being subject to
6 the provisions and requirements of K.S.A. 77-415 through 77-438, and
7 amendments thereto, but shall be subject to approval by the attorney
8 general as to legality and shall be filed with the secretary of state and
9 published in the Kansas register. Temporary and permanent rules and
10 regulations may include but shall not be limited to:

11 (1) Subject to the provisions of subsection (c), the types of lottery games
12 to be conducted, including but not limited to instant lottery, on-line ~~and~~,
13 traditional games, *lottery facility games and video lottery games* but not
14 including games on video lottery machines or lottery machines.

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

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

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

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

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

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

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

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

31 (10) Provisions for confidentiality of information submitted by vendors
32 pursuant to K.S.A. 74-8705, and amendments thereto.

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

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

39 (13) *Rules and regulations to implement, administer and enforce the*
40 *provisions of the Kansas expanded lottery act.*

41 (14) *The types of electronic gaming machines, lottery facility games,*
42 *video lottery terminals and video lottery games to be operated pursuant*
43 *to the Kansas expanded lottery act.*

1 (b) No new lottery game shall commence operation after the effective
2 date of this act unless first approved by the governor or, in the governor's
3 absence or disability, the lieutenant governor. *This subsection shall not*
4 *be construed to require approval of games played on an electronic gaming*
5 *machine or video lottery terminal or lottery facility games.*

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

10 Sec. 50. K.S.A. 2004 Supp. 74-8711 is hereby amended to read as fol-
11 lows: 74-8711. (a) There is hereby established in the state treasury the
12 lottery operating fund.

13 (b) Except as provided by K.S.A. 2004 Supp. 74-8724 *and the Kansas*
14 *expanded lottery act*, and amendments thereto, the executive director
15 shall remit all moneys collected from the sale of lottery tickets and shares
16 and any other moneys received by or on behalf of the Kansas lottery to
17 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
18 and amendments thereto. Upon receipt of each such remittance, the state
19 treasurer shall deposit the entire amount in the state treasury to the credit
20 of the lottery operating fund. Moneys credited to the fund shall be ex-
21 pended or transferred only as provided by this act. Expenditures from
22 such fund shall be made in accordance with appropriations acts upon
23 warrants of the director of accounts and reports issued pursuant to vouch-
24 ers approved by the executive director or by a person designated by the
25 executive director.

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

27 (1) The payment of expenses of the lottery, which shall include all costs
28 incurred in the operation and administration of the Kansas lottery; all
29 costs resulting from contracts entered into for the purchase or lease of
30 goods and services needed for operation of the lottery, including but not
31 limited to supplies, materials, tickets, independent studies and surveys,
32 data transmission, advertising, printing, promotion, incentives, public re-
33 lations, communications and distribution of tickets and shares; and re-
34 imbursement of costs of facilities and services provided by other state
35 agencies;

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

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

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

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

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

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

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

9 (2) except for pull-tab lottery tickets and shares, an amount equal to
10 not less than 30% of total monthly revenues from the sales of lottery
11 tickets and shares less estimated returned tickets. In the case of pull-tab
12 lottery tickets and shares, an amount equal to not less than 20% of the
13 total monthly revenues from the sales of pull-tab lottery tickets and shares
14 less estimated returned tickets.

15 Sec. 51. K.S.A. 74-8723 is hereby amended to read as follows: 74-8723.

16 (a) The Kansas lottery and the office of executive director of the Kansas
17 lottery, established by K.S.A. 74-8703, and amendments thereto, and the
18 Kansas lottery commission, created by K.S.A. 74-8709, and amendments
19 thereto, shall be and hereby are abolished on July 1, ~~2008~~ 2022.

20 (b) This section shall be part of and supplemental to the Kansas lottery
21 act.

22 Sec. 52. K.S.A. 74-8830 is hereby amended to read as follows: 74-8830.

23 (a) The commission shall, by rules and regulations:

24 (1) Qualify stallions for participation in Kansas-registered stallion
25 awards;

26 (2) provide for the registration of Kansas-domiciled mares, Kansas-
27 domiciled stallions and Kansas-bred horses;

28 (3) determine qualifications of Kansas-bred horses and establish classes
29 of Kansas-bred horses for registration purposes and for the purpose of
30 awarding purse supplements, stakes and awards pursuant to K.S.A. 74-
31 8829 and amendments thereto; and

32 (4) establish a schedule of fees for the registration of Kansas-domiciled
33 mares, Kansas-domiciled stallions and Kansas-bred horses sufficient to
34 provide for all expenses incurred in the administration of the Kansas horse
35 breeding development fund created pursuant to K.S.A. 74-8829 and
36 amendments thereto.

37 (b) The commission ~~may~~ shall contract with and designate an official
38 registering agency to implement the registration of horses. *The board of*
39 *directors of the official registering agency shall consist of five represen-*
40 *tatives of the quarter horse breed and five representatives of the thor-*
41 *oughbred breed. Representatives shall be selected by each breed organi-*
42 *zation from their respective memberships pursuant to rules and*
43 *regulations adopted by the Kansas racing and gaming commission. In*

1 *order to be eligible to serve on the board, a participant must be a legal*
2 *resident of the state of Kansas and a member of the Kansas quarter horse*
3 *racing association or the Kansas thoroughbred association. Such agency*
4 *shall operate under the supervision of the commission and be subject to*
5 *rules and regulations of the commission. The official registering agency*
6 *shall receive no compensation from the Kansas racing and gaming com-*
7 *mission except fees received for registration of horses necessary to pay*
8 *its expenses for such registration.*

9 (c) The commission ~~may~~ *shall* contract with and designate an agency
10 to provide for the distribution of purse supplements, stakes and awards
11 from the Kansas horse breeding development fund. Such agency shall
12 operate under the supervision of the commission and be subject to rules
13 and regulations of the commission.

14 Sec. 53. K.S.A. 74-8832 is hereby amended to read as follows: 74-8832.

15 (a) The commission shall, by rules and regulations, establish a schedule
16 of fees for the registration of Kansas-whelped greyhounds which, together
17 with the amount provided pursuant to K.S.A. 74-8830 and amendments
18 thereto, shall be sufficient to provide for all expenses incurred in the
19 administration of the Kansas greyhound breeding development fund cre-
20 ated pursuant to K.S.A. 74-8831 and amendments thereto.

21 (b) The commission ~~may~~ *shall* contract with and designate an official
22 registering agency to implement the registration of greyhounds. Such
23 agency shall operate under the supervision of the commission and be
24 subject to rules and regulations of the commission. The official registering
25 agency shall receive no compensation *from the Kansas racing and gaming*
26 *commission* except the amount provided pursuant to K.S.A. ~~74-8830~~ 74-
27 8831, and amendments thereto, and fees received for registration of grey-
28 hounds necessary to pay its expenses for such registration.

29 (c) The commission ~~may~~ *shall* contract with and designate an agency
30 to provide for the distribution of purse supplements from the Kansas
31 greyhound breeding development fund. Such agency shall operate under
32 the supervision of the commission and be subject to rules and regulations
33 of the commission.

34 New Sec. 54. (a) The Kansas racing and gaming commission shall es-
35 tablish a greyhound promotion and development fund which shall be
36 funded through a voluntary greyhound purse checkoff program which
37 shall provide for the deduction of 2% from all purses paid to kennels and
38 greyhound owners who participate in the program. Greyhound owners
39 and kennel operators shall be provided an opportunity annually to not
40 participate in the program by signing a form approved by the Kansas
41 racing and gaming commission. Moneys deposited into the fund shall be
42 used for the development, promotion and representation of the grey-
43 hound industry in Kansas and shall be distributed to the organization

- 1 contracted with by the Kansas racing and gaming commission to admin-
2 ister the official greyhound registry in Kansas.
- 3 (b) This section shall be part of and supplemental to the Kansas pari-
4 mutuel racing act.
- 5 Sec. 55. K.S.A. 2004 Supp. 19-101a, as amended by section 1 of 2005
6 Senate Bill No. 298, is hereby amended to read as follows: 19-101a. (a)
7 The board of county commissioners may transact all county business and
8 perform all powers of local legislation and administration it deems ap-
9 propriate, subject only to the following limitations, restrictions or
10 prohibitions:
- 11 (1) Counties shall be subject to all acts of the legislature which apply
12 uniformly to all counties.
- 13 (2) Counties may not consolidate or alter county boundaries.
- 14 (3) Counties may not affect the courts located therein.
- 15 (4) Counties shall be subject to acts of the legislature prescribing limits
16 of indebtedness.
- 17 (5) In the exercise of powers of local legislation and administration
18 authorized under provisions of this section, the home rule power con-
19 ferred on cities to determine their local affairs and government shall not
20 be superseded or impaired without the consent of the governing body of
21 each city within a county which may be affected.
- 22 (6) Counties may not legislate on social welfare administered under
23 state law enacted pursuant to or in conformity with public law No.
24 27174th congress, or amendments thereof.
- 25 (7) Counties shall be subject to all acts of the legislature concerning
26 elections, election commissioners and officers and their duties as such
27 officers and the election of county officers.
- 28 (8) Counties shall be subject to the limitations and prohibitions im-
29 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
30 prescribing limitations upon the levy of retailers' sales taxes by counties.
- 31 (9) Counties may not exempt from or effect changes in statutes made
32 nonuniform in application solely by reason of authorizing exceptions for
33 counties having adopted a charter for county government.
- 34 (10) No county may levy ad valorem taxes under the authority of this
35 section upon real property located within any redevelopment project area
36 established under the authority of K.S.A. 12-1772, and amendments
37 thereto, unless the resolution authorizing the same specifically authorized
38 a portion of the proceeds of such levy to be used to pay the principal of
39 and interest upon bonds issued by a city under the authority of K.S.A.
40 12-1774, and amendments thereto.
- 41 (11) Counties shall have no power under this section to exempt from
42 any statute authorizing or requiring the levy of taxes and providing sub-
43 stitute and additional provisions on the same subject, unless the resolution

- 1 authorizing the same specifically provides for a portion of the proceeds
2 of such levy to be used to pay a portion of the principal and interest on
3 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
4 ments thereto.
- 5 (12) Counties may not exempt from or effect changes in the provisions
6 of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 7 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
8 through 12-1,109, and amendments thereto, counties may not levy and
9 collect taxes on incomes from whatever source derived.
- 10 (14) Counties may not exempt from or effect changes in K.S.A. 19-430,
11 and amendments thereto.
- 12 (15) Counties may not exempt from or effect changes in K.S.A. 19-302,
13 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 14 (16) (A) Counties may not exempt from or effect changes in K.S.A. 13-
15 13a26, and amendments thereto.
- 16 (B) This provision shall expire on June 30, 2006.
- 17 (17) (A) Counties may not exempt from or effect changes in K.S.A. 71-
18 301a, and amendments thereto.
- 19 (B) This provision shall expire on June 30, 2006.
- 20 (18) Counties may not exempt from or effect changes in K.S.A. 19-
21 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 22 (19) Counties may not exempt from or effect changes in the provisions
23 of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226,
24 and amendments thereto, or the provisions of K.S.A. 12-1260 through
25 12-1270 and 12-1276, and amendments thereto.
- 26 (20) Counties may not exempt from or effect changes in the provisions
27 of K.S.A. 19-211, and amendments thereto.
- 28 (21) Counties may not exempt from or effect changes in the provisions
29 of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 30 (22) Counties may not regulate the production or drilling of any oil or
31 gas well in any manner which would result in the duplication of regulation
32 by the state corporation commission and the Kansas department of health
33 and environment pursuant to chapter 55 and chapter 65 of the Kansas
34 Statutes Annotated, and amendments thereto, and any rules and regula-
35 tions adopted pursuant thereto. Counties may not require any license or
36 permit for the drilling or production of oil and gas wells. Counties may
37 not impose any fee or charge for the drilling or production of any oil or
38 gas well.
- 39 (23) Counties may not exempt from or effect changes in K.S.A. 79-
40 41a04, and amendments thereto.
- 41 (24) Counties may not exempt from or effect changes in K.S.A. 79-
42 1611, and amendments thereto.
- 43 (25) Counties may not exempt from or effect changes in K.S.A. 79-

1 1494, and amendments thereto.

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

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

6 (28) Counties may not levy or impose an excise, severance or any other
7 tax in the nature of an excise tax upon the physical severance and pro-
8 duction of any mineral or other material from the earth or water.

9 (29) Counties may not exempt from or effect changes in K.S.A. 79-
10 2017 or 79-2101, and amendments thereto.

11 (30) Counties may not exempt from or effect changes in K.S.A. 2-3302,
12 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178
13 through 65-1,199, and amendments thereto.

14 (31) Counties may not exempt from or effect changes in K.S.A. 2004
15 Supp. 80-121, and amendments thereto.

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

18 (33) Counties may not exempt from or effect changes in the wireless
19 enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308,
20 and amendments thereto.

21 (34) Counties may not exempt from or effect changes in K.S.A. 2004
22 Supp. 26-601, and amendments thereto.

23 (35) (A) From and after November 15, 2005, counties may not exempt
24 from or effect changes in the Kansas liquor control act except as provided
25 by paragraph (B).

26 (B) From and after November 15, 2005, counties may adopt resolutions
27 which are not in conflict with the Kansas liquor control act.

28 (36) (A) From and after November 15, 2005, counties may not exempt
29 from or effect changes in the Kansas cereal malt beverage act except as
30 provided by paragraph (B).

31 (B) From and after November 15, 2005, counties may adopt resolutions
32 which are not in conflict with the Kansas cereal malt beverage act.

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

35 (38) *Counties may not exempt from or effect changes in the Kansas*
36 *expanded lottery act.*

37 (b) Counties shall apply the powers of local legislation granted in sub-
38 section (a) by resolution of the board of county commissioners. If no
39 statutory authority exists for such local legislation other than that set forth
40 in subsection (a) and the local legislation proposed under the authority
41 of such subsection is not contrary to any act of the legislature, such local
42 legislation shall become effective upon passage of a resolution of the
43 board and publication in the official county newspaper. If the legislation

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

6 (c) Any resolution adopted by a county which conflicts with the restric-
 7 tions in subsection (a) is null and void.

8 New Sec. 56.

9 STATE DEPARTMENT OF EDUCATION

10 (a) There is appropriated for the above agency from the following spe-
 11 cial revenue fund or funds for the fiscal year ending June 30, 2006, all
 12 moneys now or hereafter lawfully credited to and available in such fund
 13 or funds, except that expenditures other than refunds authorized by law
 14 shall not exceed the following:

15 Kansas education opportunity trust fund..... \$160,781,000

16 Sec. 57. K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830 and 74-
 17 8832, K.S.A. 2004 Supp. 74-8711 and K.S.A. 2004 Supp. 19-101a, as
 18 amended by section 1 of 2005 Senate Bill No. 298, are hereby repealed.

19 Sec. 58. This act shall take effect and be in force from and after its
 20 publication in the Kansas register.