

HOUSE BILL No. 3020

By Committee on Federal and State Affairs

8 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;
9 authorizing operation of certain gaming facilities, electronic gaming
10 machines and other lottery games at certain locations; prohibiting cer-
11 tain acts and providing penalties for violations; amending K.S.A. 60-
12 2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-8810, 74-8814, 74-8823,
13 74-8830, 74-8832 and 74-8838 and K.S.A. 2005 Supp. 12-4516, 19-
14 101a, 21-4619, 74-8711 and 79-4805 and repealing the existing
15 sections.

16

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

18 Section 1. K.S.A. 74-8702 is hereby amended to read as follows: 74-
19 8702. As used in the Kansas lottery act, unless the context otherwise
20 requires:

21 (a) “Accelerated racetrack gaming facility payment” means the ad-
22 vanced payment to the state treasurer of a portion of the state’s future
23 share of net electronic gaming machine income pursuant to the final race-
24 track gaming facility management contract between the executive director
25 and a racetrack gaming facility manager for the operation of electronic
26 gaming machines at a parimutuel licensee location.

27 (b) “Ancillary lottery gaming facility operations” means additional
28 non-lottery facility game products and services not owned and operated
29 by the state which may be included in the overall development associated
30 with the lottery gaming facility. Such operations may include, but are not
31 limited to, restaurants, hotels, motels, museums or entertainment facilities.

32 ~~(a)~~ (c) “Commission” means the Kansas lottery commission.

33 (d) “Electronic gaming machine” means any electronic, electrome-
34 chanical, video or computerized device, contrivance or machine author-
35 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic
36 cards or any consideration, is available to play, operate or simulate the
37 play of a game authorized by the Kansas lottery pursuant to the Kansas
38 expanded lottery act, including, but not limited to, bingo, poker, blackjack,
39 keno and slot machines, and which may deliver or entitle the player op-
40 erating the machine to receive cash, tokens, merchandise or credits that
41 may be redeemed for cash. Electronic gaming machines may use bill val-
42 idators and may be single-position reel-type, single or multi-game video
43 and single-position multi-game video electronic game, including, but not

1 limited to, poker, blackjack and slot machines. Electronic gaming ma-
2 chines shall be directly linked to a central computer at a location deter-
3 mined by the executive director for purposes of security, monitoring and
4 auditing.

5 (e) “Exclusive gaming zone” means: (1) The south Kansas gaming
6 zone, which consists of Sedgwick county, except that Sedgwick county
7 shall not be an exclusive gaming zone if the voters of the county approve
8 the operation of a lottery gaming facility within the county pursuant to
9 section 7, and amendments thereto; and (2) the southwest Kansas gaming
10 zone, which consists of Ford county, except that Ford county shall not be
11 an exclusive gaming zone until a dual racetrack facility, as defined in
12 K.S.A. 74-8802, and amendments thereto, in Ford county is licensed by
13 the Kansas racing and gaming commission.

14 ~~(b)~~ (f) “Executive director” means the executive director of the Kan-
15 sas lottery.

16 ~~(c) “Gaming equipment” means any electric, electronic or mechani-~~
17 ~~cal device or other equipment unique to the Kansas lottery used directly~~
18 ~~in the operation of any lottery and in the determination of winners pur-~~
19 ~~suant to this act.~~

20 (g) “Gaming equipment” means any electric, electronic, computerized
21 or electromechanical machine, mechanism, supply or device or any other
22 equipment, which is: (1) Unique to the Kansas lottery and used pursuant
23 to the Kansas lottery act; and (2) integral to the operation of an electronic
24 gaming machine or lottery facility game; and (3) affects the results of an
25 electronic gaming machine or lottery facility game by determining win or
26 loss.

27 (h) “Gray machine” means any mechanical, electro-mechanical or
28 electronic device, capable of being used for gambling, that is: (1) Not
29 authorized by the Kansas lottery, (2) not linked to a lottery central com-
30 puter system, (3) available to the public for play or (4) capable of simu-
31 lating a game played on an electronic gaming machine or any similar
32 gambling game authorized pursuant to the Kansas expanded lottery act.

33 ~~(d)~~ (i) “Kansas lottery” means the state agency created by this act to
34 operate a lottery or lotteries pursuant to this act.

35 (j) “Lottery” or “state lottery” means the lottery or lotteries operated
36 pursuant to this act.

37 (k) “Lottery facility games” means any electronic gaming machines
38 and any other games which, as of January 1, 2006, are authorized to be
39 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
40 9802, and amendments thereto, located within the boundaries of this state.

41 (l) “Lottery gaming enterprise” means an entertainment enterprise
42 which includes a lottery gaming facility authorized pursuant to the Kansas
43 expanded lottery act and ancillary lottery gaming facility operations that

- 1 *have a coordinated business or marketing strategy. A lottery gaming en-*
2 *terprise shall be designed to attract to its lottery gaming facility consumers*
3 *who reside outside the immediate area of such enterprise.*
- 4 (m) *“Lottery gaming facility” means that portion of a building used*
5 *for the purposes of operating, managing and maintaining lottery facility*
6 *games.*
- 7 (n) *“Lottery gaming facility expenses” means normal business ex-*
8 *penses, as defined in the lottery gaming facility management contract,*
9 *associated with the ownership and operation of a lottery gaming facility.*
- 10 (o) *“Lottery gaming facility management contract” means a contract,*
11 *subcontract or collateral agreement between the state and a lottery gam-*
12 *ing facility manager for the management of a lottery gaming facility, the*
13 *business of which is owned and operated by the Kansas lottery, negotiated*
14 *and signed by the executive director on behalf of the state.*
- 15 (p) *“Lottery gaming facility manager” means a corporation, limited*
16 *liability company, resident Kansas American Indian tribe or other busi-*
17 *ness entity authorized to construct and manage, or manage alone, pur-*
18 *suant to a lottery gaming facility management contract with the Kansas*
19 *lottery, and on behalf of the state, a lottery gaming enterprise and lottery*
20 *gaming facility.*
- 21 (q) *“Lottery gaming facility revenues” means the total revenues from*
22 *lottery facility games at a lottery gaming facility after all related prizes*
23 *are paid.*
- 24 (r) (1) *“Lottery machine” means any machine or device that allows*
25 *a player to insert cash or other form of consideration and may deliver as*
26 *the result of an element of chance, regardless of the skill required by the*
27 *player, a prize or evidence of a prize, including, but not limited to:*
- 28 (A) *Any machine or device in which the prize or evidence of a prize*
29 *is determined by both chance and the player’s or players’ skill, including,*
30 *but not limited to, any machine or device on which a lottery game or*
31 *lottery games, such as poker or blackjack, are played;*
- 32 (B) *any machine or device in which the prize or evidence of a prize*
33 *is determined only by chance, including, but not limited to, any slot ma-*
34 *chine or bingo machine; or*
- 35 (C) *any lottery ticket vending machine, such as a keno ticket vending*
36 *machine, pull-tab vending machine or an instant-bingo vending machine.*
- 37 (2) *“Lottery machine” shall not mean:*
- 38 (A) *Any food vending machine defined by K.S.A. 36-501, and amend-*
39 *ments thereto;*
- 40 (B) *any nonprescription drug machine authorized under K.S.A. 65-*
41 *650, and amendments thereto;*
- 42 (C) *any machine which dispenses only bottled or canned soft drinks,*
43 *chewing gum, nuts or candies;*

- 1 (D) any machine excluded from the definition of gambling devices
 2 under subsection (d) of K.S.A. 21-4302, and amendments thereto; or
 3 (E) any electronic gaming machine or lottery facility game operated
 4 in accordance with the provisions of the Kansas expanded lottery act.
 5 ~~(s)~~ (s) "Lottery retailer" means any person with whom the Kansas
 6 lottery has contracted to sell lottery tickets or shares, or both, to the
 7 public.
 8 ~~(f) "Lottery" or "state lottery" means the lottery or lotteries operated~~
 9 ~~pursuant to this act.~~
 10 ~~(g)~~ (t) (1) "Major procurement" means any gaming product or
 11 service, including but not limited to facilities, advertising and promotional
 12 services, annuity contracts, prize payment agreements, consulting serv-
 13 ices, equipment, tickets and other products and services unique to the
 14 Kansas lottery, but not including materials, supplies, equipment and serv-
 15 ices common to the ordinary operations of state agencies.
 16 (2) "Major procurement" shall not mean any product, service or other
 17 matter covered by or addressed in the Kansas expanded lottery act or a
 18 lottery gaming facility management contract or racetrack gaming facility
 19 management contract executed pursuant to the Kansas expanded lottery
 20 act.
 21 (u) "Net electronic gaming machine income" means all cash or other
 22 consideration utilized to play an electronic gaming machine operated at
 23 a racetrack gaming facility, less all cash or other consideration paid out
 24 to winning players as prizes.
 25 (v) "Nonexclusive gaming zone" means: (1) The northeast Kansas
 26 gaming zone, which consists of Wyandotte county; (2) the southeast Kan-
 27 sas gaming zone, which consists of Crawford and Cherokee counties; and
 28 (3) the south Kansas gaming zone, which consists of Sedgwick county, if
 29 the voters of the county approve the operation of a lottery gaming facility
 30 within the county pursuant to section 7, and amendments thereto.
 31 (w) "Organization licensee" has the meaning provided by K.S.A. 74-
 32 8802, and amendments thereto.
 33 (x) "Parimutuel licensee" means a facility owner licensee or facility
 34 manager licensee under the Kansas parimutuel racing act.
 35 (y) "Parimutuel licensee location" means a racetrack facility, as de-
 36 fined in K.S.A. 74-8802, and amendments thereto, owned or managed by
 37 the parimutuel licensee. A parimutuel licensee location may include any
 38 existing structure at such racetrack facility or any structure that may be
 39 constructed on real estate where such racetrack facility is located.
 40 ~~(h)~~ (z) "Person" means any natural person, association, limited lia-
 41 bility company, corporation or partnership.
 42 ~~(i)~~ (aa) "Prize" means any prize paid directly by the Kansas lottery
 43 pursuant to ~~its~~ the Kansas lottery act or the Kansas expanded lottery act

- 1 *or any rules and regulations adopted pursuant to either act.*
- 2 (bb) *“Progressive electronic game” means a game played on an elec-*
3 *tronic gaming machine for which the payoff increases uniformly as the*
4 *game is played and for which the jackpot, determined by application of*
5 *a formula to the income of independent, local or interlinked electronic*
6 *gaming machines, may be won.*
- 7 (cc) *“Racetrack gaming facility” means that portion of a parimutuel*
8 *licensee location where electronic gaming machines are operated, man-*
9 *aged and maintained.*
- 10 (dd) *“Racetrack gaming facility management contract” means an*
11 *agreement between the Kansas lottery and a racetrack gaming facility*
12 *manager, negotiated and signed by the executive director on behalf of the*
13 *state, for placement of electronic gaming machines owned and operated*
14 *by the state at a racetrack gaming facility.*
- 15 (ee) *“Racetrack gaming facility manager” means a parimutuel li-*
16 *censee specifically certified by the Kansas lottery to become a certified*
17 *racetrack gaming facility manager and offer electronic gaming machines*
18 *for play at the racetrack gaming facility.*
- 19 (ff) *“Returned ticket” means any ticket which was transferred to a*
20 *lottery retailer, which was not sold by the lottery retailer and which was*
21 *returned to the Kansas lottery for refund by issuance of a credit or oth-*
22 *erwise.*
- 23 (j) (gg) *“Share” means any intangible manifestation authorized by the*
24 *Kansas lottery to prove participation in a lottery game, except as provided*
25 *by the Kansas expanded lottery act.*
- 26 (k) (hh) *“Ticket” means any tangible evidence issued by the Kansas*
27 *lottery to prove participation in a lottery game other than a lottery facility*
28 *game.*
- 29 (ii) *“Token” means a representative of value, of metal or other ma-*
30 *terial, which is not legal tender, redeemable for cash only by the issuing*
31 *lottery gaming facility manager or racetrack gaming facility manager and*
32 *which is issued and sold by a lottery gaming facility manager or racetrack*
33 *gaming facility manager for the sole purpose of playing an electronic*
34 *gaming machine or lottery facility game.*
- 35 (j) (jj) *“Vendor” means any person who has entered into a major*
36 *procurement contract with the Kansas lottery.*
- 37 ~~(m) “Returned ticket” means any ticket which was transferred to a~~
38 ~~lottery retailer, which was not sold by the lottery retailer and which was~~
39 ~~returned to the Kansas lottery for refund by issuance of a credit or~~
40 ~~otherwise.~~
- 41 ~~(n) (kk) “Video lottery machine” means any electronic video game~~
42 ~~machine that, upon insertion of cash, is available to play or simulate the~~
43 ~~play of a video game authorized by the commission, including, but not~~

1 limited to, bingo, poker, black jack and keno, and which uses a video
2 display and microprocessors and in which, by chance, the player may
3 receive free games or credits that can be redeemed for cash.

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

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

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

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

17 ~~—(2) “Lottery machine” shall not mean:~~

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

20 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-~~
21 ~~650, and amendments thereto;~~

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

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

26 New Sec. 2. (a) Sections 2 through 44, and amendments thereto,
27 shall be known and may be cited as the Kansas expanded lottery act. The
28 Kansas expanded lottery act shall be part of and supplemental to the
29 Kansas lottery act.

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

34 (c) Any action challenging the constitutionality of or arising out of any
35 provision of this act, any lottery gaming facility management contract or
36 any racetrack gaming facility management contract entered into pursuant
37 to this act shall be brought in the district court of Shawnee county.

38 New Sec. 3. (a) The Kansas lottery may operate one lottery gaming
39 facility in each nonexclusive gaming zone. In the case of the northeast
40 Kansas gaming zone, after the initial lottery gaming facility authorized
41 pursuant to this act is in operation, the commission may conduct a market
42 study to determine the feasibility of authorizing an additional lottery gam-
43 ing facility within such zone. If the commission determines that author-

1 ization of an additional lottery gaming facility within such zone would not
2 render the existing lottery gaming facility infeasible and that the addi-
3 tional facility would increase state revenues and tourism, the commission
4 may authorize a solicitation of proposals for an additional lottery gaming
5 facility in such gaming zone pursuant to the requirements of this section.

6 (b) Not more than 30 days after the effective date of this act the
7 lottery commission shall adopt and publish in the Kansas register the
8 procedure for receiving, considering and approving, proposed lottery
9 gaming facility management contracts. Such procedure shall include pro-
10 visions for review of competitive proposals within a nonexclusive gaming
11 zone and the date by which proposed lottery gaming facility management
12 contracts must be received by the lottery commission if they are to receive
13 consideration.

14 (c) The lottery commission shall adopt standards to promote the in-
15 tegrity of the gaming and finances of lottery gaming facilities, which shall
16 apply to all management contracts, shall meet or exceed industry stan-
17 dards for monitoring and controlling the gaming and finances of gaming
18 facilities and shall give the executive director sufficient authority to mon-
19 itor and control the gaming operation and to ensure its integrity and
20 security.

21 (d) The Kansas lottery commission may approve management con-
22 tracts with one or more prospective lottery gaming facility managers to
23 manage, or construct and manage, on behalf of the state of Kansas and
24 subject to the operational control of the Kansas lottery, a lottery gaming
25 facility or lottery gaming enterprise at specified destination locations
26 within the northeast and southeast Kansas gaming zones where the com-
27 mission determines the operation of such facility would promote tourism
28 and economic development. The commission shall approve or disapprove
29 a proposed management contract within 90 days after the deadline for
30 receipt of proposals established pursuant to subsection (b).

31 (e) In determining whether to approve a management contract with
32 a prospective lottery gaming facility manager to manage a lottery gaming
33 facility or lottery gaming enterprise pursuant to this section, the com-
34 mission shall take into consideration the following factors: The size of the
35 proposed facility; the geographic area in which such facility is to be lo-
36 cated; the proposed facility's location as a tourist and entertainment des-
37 tination; the estimated number of tourists that would be attracted by the
38 proposed facility; the number and type of lottery facility games to be
39 operated at the proposed facility; and agreements related to ancillary lot-
40 tery gaming facility operations.

41 (f) Subject to the requirements of this section, the commission shall
42 approve at least one proposed lottery gaming facility management con-
43 tract for a lottery gaming facility in each nonexclusive gaming zone.

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

2 (1) (A) The prospective lottery gaming facility manager is a resident
3 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
4 to financial resources to support the activities required of a lottery gaming
5 facility manager under the Kansas expanded lottery act; and (ii) has three
6 consecutive years' experience in the management of gaming which would
7 be class III gaming, as defined in K.S.A. 46-2301, and amendments
8 thereto, operated pursuant to state or federal law; or

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

20 (2) the commission determines that the proposed development con-
21 sists of an investment in infrastructure, including ancillary lottery gaming
22 facility operations, of at least \$200,000,000.

23 (h) Any management contract approved by the commission under
24 this section shall:

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

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

31 (3) establish a mechanism to facilitate payment of lottery gaming fa-
32 cility expenses, payment of the lottery gaming facility manager's share of
33 the lottery gaming facility revenues and distribution of the state's share
34 of the lottery gaming facility revenues;

35 (4) include a provision for the lottery gaming facility manager to pay
36 the costs of oversight and regulation of the lottery gaming facility manager
37 and the operations of the lottery gaming facility by the Kansas racing and
38 gaming commission;

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

41 (6) provide for the prospective lottery gaming facility manager, upon
42 approval of the proposed lottery gaming facility management contract, to
43 pay to the state treasurer a privilege fee of \$35,000,000 for the privilege

- 1 of being selected as a lottery gaming facility manager, which fee shall be
2 deposited in the state treasury and credited to the lottery gaming facility
3 manager fund, which is hereby created in the state treasury;
- 4 (7) incorporate terms and conditions for the ancillary lottery gaming
5 facility operations;
- 6 (8) designate as key employees, subject to approval of the executive
7 director, any employees or contractors providing services or functions
8 which are related to lottery facility games authorized by a management
9 contract;
- 10 (9) include financing commitments for construction;
- 11 (10) include a resolution of endorsement from the city governing
12 body, if the proposed facility is within the corporate limits of a city, or
13 from the county commission, if the proposed facility is located in the
14 unincorporated area of the county;
- 15 (11) include a requirement that any parimutuel licensee developing
16 a lottery gaming facility pursuant to this act comply with all orders and
17 rules and regulations of the Kansas racing and gaming commission with
18 regard to the conduct of live racing, including the same minimum days
19 of racing as specified in section 16, and amendments thereto, for opera-
20 tion of electronic gaming machines at racetrack gaming facilities;
- 21 (12) include a provision for the state to receive not less than 24% of
22 lottery gaming facility revenues, 75% of which shall be paid to the Kansas
23 education opportunity trust fund established by section 39, and amend-
24 ments thereto, and 25% of which shall be paid to the Kansas retiree
25 obligation trust fund established by section 38, and amendments thereto;
- 26 (13) include a provision for 1% of lottery gaming facility revenues to
27 be paid to the problem gambling grant fund established by K.S.A. 2005
28 Supp. 79-4805, and amendments thereto;
- 29 (14) include a provision for 1% of lottery gaming facility revenues to
30 be paid to the Kansas charitable gaming fund established by section 37,
31 and amendments thereto;
- 32 (15) if the prospective lottery gaming facility manager is an American
33 Indian tribe, include a provision that such tribe agrees to waive its sov-
34 ereign immunity with respect to any actions arising from or to enforce
35 either the Kansas expanded lottery act or any provision of the lottery
36 gaming facility management contract; any action brought by an injured
37 patron or by the state of Kansas; any action for purposes of enforcing the
38 workers compensation act or any other employment or labor law; and any
39 action to enforce laws, rules and regulations and codes pertaining to
40 health, safety and consumer protection; and for any other purpose
41 deemed necessary by the executive director to protect patrons or em-
42 ployees and promote fair competition between the tribe and others seek-
43 ing a lottery gaming facility management contract;

1 (16) (A) if the lottery gaming facility is located in a nonexclusive gam-
2 ing zone comprised of one county and is not located within a city, include
3 a provision for payment of an amount equal to 3% of the lottery gaming
4 facility revenues to the county in which the lottery gaming facility is lo-
5 cated; or (B) if the lottery gaming facility is located in a nonexclusive
6 gaming zone comprised of one county and is located within a city, include
7 provision for payment of an amount equal to 1.5% of the lottery gaming
8 facility revenues to the city in which the lottery gaming facility is located
9 and an amount equal to 1.5% of such revenues to the county in which
10 such facility is located;

11 (17) (A) if the lottery gaming facility is located in a nonexclusive gam-
12 ing zone comprised of more than one county and is not located within a
13 city, include a provision for payment of an amount equal to 2% of the
14 lottery gaming facility revenues to the county in which the lottery gaming
15 facility is located and an amount equal to 1% of such revenues to the
16 other county in such zone; or (B) if the lottery gaming facility is located
17 in a nonexclusive gaming zone comprised of more than one county and
18 is located within a city, provide for payment of an amount equal to 1%
19 of the lottery gaming facility revenues to the city in which the lottery
20 gaming facility is located, an amount equal to 1% of such revenues to the
21 county in which such facility is located and an amount equal to 1% of
22 such revenues to the other county in such zone;

23 (18) allow the lottery gaming facility manager to manage the lottery
24 gaming facility in a manner consistent with this act and applicable law,
25 but shall place full, complete and ultimate ownership and operational
26 control of the gaming operation of the lottery gaming facility with the
27 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
28 retain the power to overrule any action of the lottery gaming facility man-
29 ager affecting the gaming operation without prior notice. The Kansas
30 lottery shall retain full control over all decisions concerning lottery gaming
31 facility games;

32 (19) include provisions for the Kansas racing and gaming commission
33 to oversee all lottery gaming facility operations, including, but not limited
34 to: Oversight of internal controls; oversight of security of facilities; per-
35 formance of background investigations, determination of qualifications
36 and credentialing of employees, contractors and agents of the lottery gam-
37 ing facility manager and of ancillary lottery gaming facility operations, as
38 determined by the Kansas racing and gaming commission; auditing of
39 lottery gaming facility revenues; enforcement of all state laws and main-
40 tenance of the integrity of gaming operations; and

41 (20) include enforceable provisions: (A) Prohibiting the state, until
42 July 1, 2022, from designating additional areas of the state where oper-
43 ation of lottery gaming facilities or similar gaming facilities would be au-

1 thORIZED; and (B) requiring the state to repay to the lottery gaming facility
2 manager an amount equal to the privilege fee paid by such lottery gaming
3 facility manager, plus interest on such amount, compounded annually at
4 the rate of 10%, if the state violates the prohibition provision described
5 in (A).

6 (i) Any proposed management contract for which the privilege fee
7 has not been paid to the state treasurer within 30 days after the date of
8 approval of the management contract shall be null and void.

9 (j) A person who is the manager of the racetrack gaming facility in a
10 nonexclusive gaming zone shall not be eligible to be the manager of the
11 lottery gaming facility in such zone.

12 (k) Management contracts authorized by this section may include
13 provisions relating to:

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

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

20 (3) eligibility requirements for employees, contractors or agents of a
21 lottery gaming facility manager who will have responsibility for or involve-
22 ment with actual gaming activities or for the handling of cash or tokens;

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

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

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

31 (7) any other provision deemed necessary by the parties, including
32 such other terms and restrictions as necessary to conduct any lottery fa-
33 cility game in a legal and fair manner.

34 (l) A management contract shall not constitute property, nor shall it
35 be subject to attachment, garnishment or execution, nor shall it be alien-
36 able or transferable, except upon approval by the executive director, nor
37 shall it be subject to being encumbered or hypothecated. The trustee of
38 any insolvent or bankrupt lottery gaming facility manager may continue
39 to operate pursuant to the management contract under order of the ap-
40 propriate court for no longer than one year after the bankruptcy or in-
41 solvency of such manager.

42 (m) A lottery gaming facility manager, on behalf of the state, shall
43 purchase or lease for the Kansas lottery all lottery facility games. All lot-

1 tery facility games shall be subject to the ultimate control of the Kansas
2 lottery in accordance with this act.

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

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

17 New Sec. 4. (a) There is hereby created the lottery gaming facility
18 review board. The board shall consist of:

19 (1) Three members appointed by the governor;
20 (2) two members appointed by the president of the senate; and
21 (3) two members appointed by the speaker of the house of
22 representatives.

23 (b) To be eligible for appointment to the board, a person shall submit
24 to the appointing authority evidence of significant business experience,
25 particularly in business development and location of new businesses to
26 maximize revenue.

27 (c) A person shall not be eligible for appointment to the board if the
28 person:

29 (1) Is a resident of or owns property in a nonexclusive gaming zone;
30 (2) has an interest in any business domiciled in or conducting a sig-
31 nificant portion of its business in a nonexclusive gaming zone; or
32 (3) has, or has had during the preceding two years, either directly or
33 indirectly, a financial interest in or is, or has been during the preceding
34 two years, employed by or a consultant to a prospective lottery gaming
35 facility manager or any ancillary lottery gaming facility operations pro-
36 posed by a prospective lottery gaming facility manager.

37 (d) Not more than four members of the board shall be members of
38 the same political party.

39 (e) The governor shall designate one member of the board to serve
40 as chairperson of the board.

41 (f) The vote of at least four members of the board shall be required
42 to take action.

43 (g) Subject to the limitations of appropriations therefor, members of

1 the board shall receive such compensation as determined by the governor.
2 Members of the board attending meetings of the board or subcommittee
3 meetings thereof approved by the board shall be paid subsistence allow-
4 ances, mileage and other expenses as provided in K.S.A. 75-3223, and
5 amendments thereto.

6 (h) The board is hereby attached to the Kansas racing and gaming
7 commission as a part thereof. All budgeting, purchasing and related man-
8 agement functions of the board shall be administered by the executive
9 director of the Kansas racing and gaming commission and the executive
10 director shall provide office and meeting space and such clerical and other
11 staff assistance as may be necessary to assist the board in carrying out its
12 powers, duties and functions under this act. The board may employ any
13 experts, consultants or other professionals at the expense of a prospective
14 lottery gaming facility manager to provide assistance in evaluating a lottery
15 gaming facility management contract submitted to the board.

16 New Sec. 5. (a) Upon approval of a lottery gaming facility manage-
17 ment contract by the commission, but not later than 90 days after the
18 deadline for receipt of proposals established pursuant to subsection (b)
19 of section 3, and amendments thereto, the executive director and the
20 prospective lottery gaming facility manager shall execute the contract,
21 which shall be binding upon the parties only upon a determination by the
22 lottery gaming facility review board pursuant to this section that the con-
23 tract is the best possible such contract, approval of the contract by the
24 Kansas racing and gaming commission pursuant to this section and ap-
25 proval by the voters of the county where the lottery gaming facility will
26 be located as provided by section 6, and amendments thereto.

27 (b) Upon execution of a lottery gaming facility management contract
28 or contracts by the executive director, the executive director shall submit
29 such contract or contracts to the lottery gaming facility review board. The
30 board shall determine which contract best maximizes revenue, encour-
31 ages tourism and otherwise serves the interests of the people of Kansas.
32 In making its determination, the board shall conduct public hearings, take
33 testimony, solicit the advice of experts and investigate the merits of each
34 contract submitted by the executive director.

35 (c) Within 30 days after execution of a lottery gaming facility man-
36 agement contract with a parimutuel licensee for development of a lottery
37 gaming facility at a parimutuel licensee location, the parimutuel licensee
38 must submit to the Kansas racing and gaming commission, for approval
39 by the commission, a plan for compliance with the requirements for live
40 racing and purse supplements established pursuant to sections 16 and 36,
41 and amendments thereto. Upon application of a parimutuel licensee, the
42 Kansas racing and gaming commission shall open a proceeding to consider
43 such licensee's proposal for development of a lottery gaming facility at

1 the parimutuel licensee location. Such proposal shall include provisions
2 for: (1) Compliance with the requirements of section 16, and amendments
3 thereto; (2) payment of purse supplements from the appropriate funds
4 established by section 36, and amendments thereto; and (3) a plan for
5 protecting and promoting live racing in Kansas. The Kansas racing and
6 gaming commission shall hear evidence and testimony from all interested
7 parties. Upon a finding by the Kansas racing and gaming commission that
8 the proposal is in the best interest of live racing in Kansas and more
9 beneficial to live racing than placement of electronic gaming machines at
10 such parimutuel licensee location, the Kansas racing and gaming com-
11 mission may approve such proposal. The Kansas racing and gaming com-
12 mission shall notify the lottery gaming facility review board of the com-
13 mission's approval or disapproval of the proposal. If the Kansas racing
14 and gaming commission does not approve the proposal, the lottery gaming
15 facility review board shall not give further consideration to the lottery
16 gaming facility management contract with the parimutuel licensee and
17 the executive director shall direct the state treasurer to refund, without
18 interest, the privilege fee paid pursuant to such contract.

19 (d) (1) Not more than 60 days after all lottery gaming facility man-
20 agement contracts for a lottery gaming facility in a nonexclusive gaming
21 zone have been submitted to the lottery gaming facility review board, the
22 board: (A) If more than one lottery gaming facility management contract
23 has been submitted for a lottery gaming facility in a nonexclusive gaming
24 zone, shall select by public vote the lottery gaming facility management
25 contract, if any, which the board determines is the best possible such
26 contract; or (B) if the executive director submits only one lottery gaming
27 facility management contract for a lottery gaming facility in a nonexclusive
28 gaming zone, shall determine whether such contract is the best possible
29 such contract.

30 (2) If the board cannot reach agreement that a lottery gaming facility
31 management contract is the best possible such contract, the board shall
32 request the executive director to renegotiate the contract or contracts
33 until the board determines that the best possible such contract or con-
34 tracts have been executed.

35 (e) Upon a determination by the lottery gaming facility review board
36 that a lottery gaming facility management contract is the best possible
37 such contract, the board shall submit the contract to the Kansas racing
38 and gaming commission for approval. The Kansas racing and gaming com-
39 mission shall conduct such background investigations of prospective lot-
40 tery gaming facility managers, their directors and officers and any other
41 persons having an interest in such prospective managers, as determined
42 in accordance with rules and regulations adopted by the Kansas racing
43 and gaming commission. Upon completion of such investigations and ap-

1 proval of the background of the prospective lottery gaming facility man-
2 ager, directors, officers and other persons having an interest in such pro-
3 spective manager, but not more than 10 days after receiving the
4 recommendation of the lottery gaming facility review board, the Kansas
5 racing and gaming commission shall vote to approve in whole or reject in
6 whole the recommendation of the lottery gaming facility review board. If
7 the Kansas racing and gaming commission does not approve the back-
8 ground of such prospective lottery gaming facility manager, directors,
9 officers and other persons having an interest in such prospective manager
10 or does not approve the recommendation of the lottery gaming facility
11 review board, the Kansas racing and gaming commission shall notify the
12 executive director of the lottery and the process for selection of a lottery
13 gaming facility manager shall begin again in the manner provided in sec-
14 tions 3 and 4, and amendments thereto.

15 (f) If the Kansas racing and gaming commission approves a lottery
16 gaming facility management contract submitted to it in accordance with
17 subsection (e), the executive director of the Kansas racing and gaming
18 commission shall notify the board of county commissioners of the county
19 where the lottery gaming facility is proposed to be located.

20 (g) The deadline for receipt of proposals established pursuant to sub-
21 section (b) of section 3, and amendments thereto, the time limit imposed
22 by subsection (a) for action by the lottery commission, the time limit
23 imposed by subsection (d) for action by the lottery gaming facility review
24 board or the time limit imposed by subsection (e) for action by the Kansas
25 racing and gaming commission, upon application by the respective com-
26 mission or board, may be extended by the governor for a period not to
27 exceed 60 days if the governor, in the governor's discretion, determines
28 that the respective commission or board has acted on good faith to comply
29 with the time limit. Failure to comply with any such time limit, unless
30 extended as provided by this subsection, or to comply with an extended
31 time limit authorized by this subsection, shall render the respective com-
32 mission or board subject to relief in the form of mandamus, injunction
33 or other legal remedy.

34 New Sec. 6. (a) Upon receipt of notice from the executive director
35 of the Kansas racing and gaming commission pursuant to subsection (f)
36 of section 5, and amendments thereto, the board of county commissioners
37 by resolution shall submit to the qualified voters of the county a propo-
38 sition to permit the operation of a lottery gaming facility within the county
39 pursuant to this section. The proposition shall be submitted to the voters
40 at a special election called by the board of county commissioners for that
41 purpose and held not less than 90 days after the notice is received.

42 (b) Upon the adoption of a resolution calling for an election pursuant
43 to this section, the county election officer shall cause the following prop-

1 osition to be placed on the ballot at the election called for that purpose:
2 “Shall the Kansas lottery be authorized to operate a lottery gaming facility
3 in _____ county?”

4 (c) If a majority of the votes cast and counted at such election is in
5 favor of approving the operation of a lottery gaming facility within the
6 county, the lottery gaming facility management contract for operation of
7 a lottery gaming facility within the county shall be binding on both parties
8 to the contract. If a majority of the votes cast and counted at an election
9 under this section is against permitting the operation of a lottery gaming
10 facility within the county, the lottery gaming facility management contract
11 for the operation of a lottery gaming facility within the county shall be
12 null and void. The county election officer shall transmit a copy of the
13 certification of the results of the election to the executive director.

14 (d) The election provided for by this section shall be conducted, and
15 the votes counted and canvassed, in the manner provided by law for
16 question submitted elections of the county.

17 (e) The lottery commission may waive the requirement that an elec-
18 tion be held in a county pursuant to this section and the lottery gaming
19 facility management contract for operation of a lottery gaming facility
20 within such county shall be binding on both parties to the contract if:

21 (1) The lottery commission determines that after December 31,
22 2004, the county has held an election of qualified voters pursuant to the
23 county’s home rule authority: (A) At which the ballot question was in
24 substantial compliance with the requirements of this section; (B) which
25 was administered by the county election officer in a manner consistent
26 with the requirements of state election law; and (C) at which a majority
27 of the votes cast and counted was in favor of the proposition; or

28 (2) the county has held an election pursuant to section 7, and amend-
29 ments thereto, and a majority of the votes cast and counted was in favor
30 of the proposition to authorize operating a lottery gaming facility within
31 the county.

32 (f) The question of the operation of a lottery gaming facility in a
33 county may be submitted at the same election as the question of place-
34 ment of electronic gaming machines at a parimutuel licensee location in
35 the county under section 13, and amendments thereto.

36 New Sec. 7. (a) Subject to the provisions of subsection (e), the board
37 of county commissioners of Sedgwick county by resolution may submit
38 to the qualified voters of Sedgwick county a proposition to permit the
39 operation of a lottery gaming facility within the county pursuant to this
40 section. The proposition shall be submitted to the voters at a special
41 election called by the board of county commissioners for that purpose.

42 (b) Upon the adoption of a resolution calling for an election pursuant
43 to this section, the Sedgwick county election officer shall cause the fol-

1 lowing proposition to be placed on the ballot at the election called for
2 that purpose: "Shall the Kansas lottery be authorized to operate a lottery
3 gaming facility in Sedgwick county?"

4 (c) If a majority of the votes cast and counted at such election is in
5 favor of approving the operation of a lottery gaming facility within
6 Sedgwick county, Sedgwick county shall be a nonexclusive gaming zone
7 where the Kansas lottery may operate a lottery gaming facility pursuant
8 to the provisions of this act. If a majority of the votes cast and counted
9 at an election under this section is against permitting the operation of a
10 lottery gaming facility within the county, Sedgwick county shall remain
11 an exclusive gaming zone and the Kansas lottery shall not be authorized
12 to operate a lottery gaming facility within the county. The county election
13 officer shall transmit a copy of the certification of the results of the elec-
14 tion to the executive director.

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

18 (e) The board of county commissioners of Sedgwick county may sub-
19 mit the proposition as provided by this section at an election held before
20 January 1, 2007. If such proposition is not submitted to the voters at an
21 election held before such date or if the proposition is not approved by
22 the voters of Sedgwick county at an election held before such date, the
23 proposition shall not be submitted to the voters of the county pursuant
24 to this section before January 1, 2012.

25 New Sec. 8. Upon receipt of a copy of the certification of the results
26 of the election pursuant to section 6, and amendments thereto:

27 (a) If the certification shows that a majority of the voters voted against
28 the operation of a lottery gaming facility in the county, the executive
29 director shall direct the state treasurer to refund, without interest, all
30 privilege fees paid pursuant to lottery gaming facility management con-
31 tracts for a lottery gaming facility in the county.

32 (b) If the certification shows that a majority of the voters voted in
33 favor of the operation of a lottery gaming facility in the county, the ex-
34 ecutive director shall direct the state treasurer to refund, without interest,
35 all privilege fees paid pursuant to lottery gaming facility management
36 contracts for a lottery gaming facility in the county, other than the lottery
37 gaming facility management contract which is binding as provided by
38 section 6, and amendments thereto. Thereupon, the state treasurer shall
39 transfer to the state general fund an amount equal to the privilege fee
40 paid pursuant to the lottery gaming facility management contract which
41 is binding as provided by section 6, and amendments thereto, and the
42 lottery gaming facility manager fund shall be abolished.

43 (c) If the election requirement of section 6, and amendments thereto,

1 is waived by the lottery commission, as provided by subsection (e) of that
2 section, the executive director shall direct the state treasurer to refund,
3 without interest, all privilege fees paid pursuant to lottery gaming facility
4 management contracts for a lottery gaming facility in the county, other
5 than the lottery gaming facility management contract which is binding as
6 provided by section 6, and amendments thereto. Thereupon, the state
7 treasurer shall transfer to the state general fund an amount equal to the
8 privilege fee paid pursuant to the lottery gaming facility management
9 contract which is binding as provided by section 6, and amendments
10 thereto, and the lottery gaming facility manager fund shall be abolished.

11 New Sec. 9. The sale or service by lottery gaming facility managers
12 or ancillary lottery gaming facility operations and the consumption by
13 patrons of lottery gaming facilities of alcohol, liquor, wine, spirits, cereal
14 malt beverages and other intoxicating liquors is hereby permitted upon
15 and in lottery gaming facilities and ancillary lottery gaming facility oper-
16 ations. The provisions of K.S.A. 41-719, and amendments thereto, relating
17 to alcoholic liquor shall not be applicable to lottery gaming facilities and
18 ancillary lottery gaming facility operations.

19 New Sec. 10. (a) Subject to the provisions of subsection (b), the Kan-
20 sas lottery shall enter into racetrack gaming facility management contracts
21 to place electronic gaming machines at parimutuel licensee locations as
22 provided by sections 11 through 17, and amendments thereto.

23 (b) The Kansas lottery shall not place electronic gaming machines at
24 any parimutuel licensee location unless the commission has adopted rules
25 and regulations as provided in sections 11 through 17, and amendments
26 thereto.

27 New Sec. 11. (a) The executive director of the Kansas lottery shall
28 negotiate a racetrack gaming facility management contract to place elec-
29 tronic gaming machines at one parimutuel licensee location in each no-
30 nexclusive gaming zone and in each exclusive gaming zone.

31 (b) To be eligible to enter into a racetrack gaming facility manage-
32 ment contract the prospective racetrack gaming facility manager shall, at
33 a minimum:

34 (1) Have sufficient access to financial resources to support the activ-
35 ities required of a racetrack gaming facility manager under the Kansas
36 expanded lottery act; and

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

42 (c) (1) If the south Kansas gaming zone is an exclusive gaming zone,
43 a racetrack gaming facility management contract to place electronic gam-

1 ing machines at a parimutuel licensee location in such gaming zone shall
2 require the racetrack gaming facility manager to remit to the county trea-
3 surer of Sedgwick county an exclusive gaming zone privilege fee of
4 \$5,000,000, payable upon execution of the contract. If the south Kansas
5 gaming zone becomes a nonexclusive gaming zone upon the vote of the
6 qualified electors of Sedgwick county pursuant to section 7, and amend-
7 ments thereto, the Sedgwick county commission shall refund to the race-
8 track gaming facility manager the fee paid pursuant to this section within
9 10 days after receipt of certification of the results of the election from
10 the county election officer.

11 (2) A racetrack gaming facility management contract to place elec-
12 tronic gaming machines at a parimutuel licensee location in the southwest
13 Kansas gaming zone shall require the racetrack gaming facility manager
14 to remit to the county treasurer of Ford county an exclusive gaming zone
15 privilege fee of \$3,000,000, payable upon approval by the Kansas racing
16 and gaming commission of construction of a parimutuel racetrack facility
17 in such zone.

18 (d) A racetrack gaming facility management contract shall include:

19 (1) The term of the contract;

20 (2) provisions for the Kansas racing and gaming commission to over-
21 see all racetrack gaming facility operations, including, but not limited to:
22 Oversight of internal controls; oversight of security of facilities; perform-
23 ance of background investigations, determination of qualifications and any
24 required certification or licensing of officers, directors, board members,
25 employees, contractors and agents of the racetrack gaming facility man-
26 ager; auditing of net electronic gaming machine income and maintenance
27 of the integrity of electronic gaming machine operations;

28 (3) provisions for the racetrack gaming facility manager to pay the
29 costs of oversight and regulation of the racetrack gaming facility manager
30 under this act and such manager's racetrack gaming facility operations by
31 the Kansas racing and gaming commission; and

32 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
33 2022, from designating additional areas of the state where operation of
34 lottery gaming facilities or similar gaming facilities would be authorized;
35 and (B) requiring the state to repay to the racetrack gaming facility man-
36 ager an amount equal to the privilege fee paid by such racetrack gaming
37 facility manager and an amount equal to any accelerated racetrack gaming
38 facility payment which the state has not repaid to such racetrack gaming
39 facility manager, plus interest on such amounts, compounded annually at
40 the rate of 10%, if the state violates the prohibition provision described
41 in (A).

42 (e) Racetrack gaming facility management contracts authorized by
43 this section may include provisions relating to:

- 1 (1) Accounting procedures to determine net electronic gaming ma-
2 chine income, unclaimed prizes and credits;
- 3 (2) minimum requirements for a racetrack gaming facility manager
4 to provide qualified oversight, security and supervision of electronic gam-
5 ing machines including the use of qualified personnel with experience in
6 applicable technology;
- 7 (3) eligibility requirements for employees, contractors or agents of a
8 racetrack gaming facility manager who will have responsibility for or in-
9 volvement with electronic gaming machines or for the handling of cash
10 or tokens;
- 11 (4) background investigations to be performed by the Kansas racing
12 and gaming commission;
- 13 (5) credentialing or certification requirements of any employee, con-
14 tractor or agent as provided by the Kansas expanded lottery act or rules
15 and regulations adopted pursuant thereto;
- 16 (6) provision for termination of the management contract by either
17 party for cause; and
- 18 (7) any other provision deemed necessary by the parties, including
19 such other terms and restrictions as necessary to conduct racetrack gam-
20 ing facility operations in a legal and fair manner.
- 21 (f) A person who is the manager of a lottery gaming facility in a no-
22 nexclusive gaming zone shall not be eligible to be the manager of the
23 racetrack gaming facility in such zone.
- 24 (g) A racetrack gaming facility management contract shall not con-
25 stitute property, nor shall it be subject to attachment, garnishment or
26 execution, nor shall it be alienable or transferable, except upon approval
27 by the executive director, nor shall it be subject to being encumbered or
28 hypothecated.
- 29 (h) Any proposed racetrack gaming facility management contract for
30 which the exclusive gaming zone privilege fee has not been paid to the
31 state treasurer within 30 days after the fee becomes payable pursuant to
32 subsection (c) shall be null and void.
- 33 New Sec. 12. (a) The executive director shall submit the proposed
34 racetrack gaming facility management contract to the commission for the
35 commission's approval. Upon approval of the Kansas lottery commission,
36 the executive director shall submit such contract to the Kansas racing and
37 gaming commission for approval. The Kansas racing and gaming com-
38 mission shall conduct such background investigations of the proposed
39 racetrack gaming facility manager, and its officers, directors, employees,
40 owners, agents and contractors, as determined in accordance with rules
41 and regulations adopted by the Kansas racing and gaming commission.
42 Upon completion of such investigations and approval of the background
43 of the proposed racetrack gaming facility manager, and its officers, direc-

1 tors, employees, owners, agents and contractors, the Kansas racing and
2 gaming commission shall vote to approve or reject the contract in whole.
3 If the Kansas racing and gaming commission rejects the contract, the
4 Kansas racing and gaming commission shall notify the executive director
5 of the lottery and make recommendations regarding negotiation of the
6 contract. The executive director may then resume negotiations with the
7 proposed racetrack gaming facility manager.

8 (b) If the Kansas racing and gaming commission approves a racetrack
9 gaming facility management contract submitted to it in accordance with
10 this section, the executive director of the Kansas racing and gaming com-
11 mission shall notify the board of county commissioners of the county
12 where the parimutuel licensee location is located.

13 New Sec. 13. (a) Upon receipt of notice of approval by the Kansas
14 racing and gaming commission of a racetrack gaming facility management
15 contract for placement of electronic gaming machines at a parimutuel
16 licensee location in a county, the board of county commissioners of the
17 county by resolution shall submit to the qualified voters of the county a
18 proposition to permit the placement of electronic gaming machines in
19 the county pursuant to this section. The proposition shall be submitted
20 to the voters at a special election called by the board of county commis-
21 sioners for that purpose and held not less than 90 days after the notice is
22 received.

23 (b) Upon the adoption of a resolution calling for an election pursuant
24 to this section, the county election officer shall cause the following propo-
25 sition to be placed on the ballot at the election called for that purpose:
26 “Shall the Kansas Lottery be authorized to place electronic gaming ma-
27 chines in _____ county?”

28 (c) If a majority of the votes cast and counted at such election is in
29 favor of approving the placement of electronic gaming machines in the
30 county, the racetrack gaming facility management contract for placement
31 of electronic gaming machines at a parimutuel licensee location in the
32 county shall be binding on both parties to the contract. If a majority of
33 the votes cast and counted at an election under this section is against
34 permitting placement of electronic gaming machines in the county, the
35 racetrack gaming facility management contract for placement of elec-
36 tronic gaming machines at a parimutuel licensee location in the county
37 shall be null and void. The county election officer shall transmit a copy
38 of the certification of the results of the election to the executive director.

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

42 (e) The lottery commission may waive the requirement that an elec-
43 tion be held pursuant to this section if the lottery commission determines

1 that after December 31, 2004, a county has held an election of qualified
2 voters pursuant to the county's home rule authority: (1) At which the
3 ballot question was in substantial compliance with the requirements of
4 this section; (2) which was administered by the county election officer in
5 a manner consistent with the requirements of state election law; and (3)
6 at which a majority of the votes cast and counted was in favor of the
7 proposition.

8 (f) The question of the placement of electronic gaming machines in
9 a county may be submitted at the same election as the question of op-
10 eration of a lottery gaming facility in the county under section 6 or 7, and
11 amendments thereto.

12 New Sec. 14. In accordance with rules and regulations adopted by
13 the commission, the executive director shall have general responsibility
14 for the implementation and administration of the provisions of this act
15 relating to racetrack gaming facility operations:

16 (a) certify net electronic gaming machine income by inspecting re-
17 cords, conducting audits, having agents of the Kansas lottery on site or
18 by any other reasonable means; and

19 (b) assist the commission in the promulgation of rules and regulations
20 concerning the operation of racetrack gaming facilities, which rules and
21 regulations shall include, without limitation, the following:

22 (1) The number of electronic gaming machines to be placed at each
23 racetrack gaming facility, subject to the limitation that the total number
24 of electronic gaming machines placed at all racetrack gaming facilities in
25 the state shall not exceed 5,500;

26 (2) standards for advertising, marketing and promotional materials
27 used by racetrack gaming facility managers;

28 (3) the kind, type, number and location of electronic gaming ma-
29 chines at any racetrack gaming facility; and

30 (4) rules and regulations and procedures for the accounting and re-
31 porting of the payments required from racetrack gaming facility managers
32 under section 35, and amendments thereto, including the calculations
33 required for such payments.

34 New Sec. 15. (a) All information and data required to be furnished
35 to the Kansas lottery or the Kansas racing and gaming commission pur-
36 suant to sections 11 through 17, and amendments thereto, or which may
37 otherwise be obtained, relative to the finances, earnings or revenue, ex-
38 cept the net electronic gaming machine income, of any vendor shall be
39 considered confidential and shall not be revealed in whole or in part
40 without permission of the vendor, except (1) in the course of the necessary
41 administration of the Kansas expanded lottery act, (2) upon the lawful
42 order of a court of competent jurisdiction or (3) to a duly authorized law
43 enforcement agency.

1 (b) All information and data pertaining to a vendor's criminal record,
2 family and background furnished to or obtained by the Kansas lottery or
3 Kansas racing and gaming commission pursuant to sections 11 through
4 17, and amendments thereto, from any source shall be considered con-
5 fidential and shall not be revealed, in whole or part. Such information
6 shall be released upon the lawful order of a court of competent jurisdic-
7 tion or to a duly authorized law enforcement agency.

8 (c) Notice of the contents of any information released, except to a
9 duly authorized law enforcement agency pursuant to this section, shall be
10 given to any applicant, certificate holder or vendor in a manner prescribed
11 by the rules and regulations adopted by the commission.

12 New Sec. 16. (a) Except as provided in subsection (b):

13 (1) No electronic gaming machines shall be operated at a parimutuel
14 licensee location in Sedgwick county unless, during the first full calendar
15 year and each year thereafter in which electronic gaming machines are
16 operated at such location, the parimutuel licensee conducts at such lo-
17 cation at least 100 live greyhound races each calendar week for the num-
18 ber of weeks raced during calendar year 2003 with at least 13 live races
19 conducted each day for not less than five days per week.

20 (2) No electronic gaming machines shall be operated at a parimutuel
21 licensee location in Wyandotte county unless, during the first full calendar
22 year and each year thereafter in which electronic gaming machines are
23 operated at such location, the parimutuel licensee conducts live horse
24 racing programs for at least 60 days, with at least 10 live races conducted
25 each program, and must offer and make a reasonable effort to conduct a
26 minimum number of three live races restricted for quarter horses each
27 day and seven live thoroughbred races each day, of which not less than
28 two races each day shall be limited to registered Kansas-bred horses ap-
29 portioned in the same ratio that live races are offered, except that the
30 licensee shall not be required to conduct the second live race restricted
31 to Kansas-bred horses unless there are at least seven qualified entries for
32 such race, and with at least 100 live greyhound races each calendar week
33 for at least the same number of weeks raced during calendar year 2006,
34 with at least 13 live races conducted each day for not less than five days
35 per week.

36 (3) No electronic gaming machines shall be operated at a parimutuel
37 licensee location in Crawford county unless, during the first full calendar
38 year and each year thereafter in which electronic gaming machines are
39 operated at such location, the parimutuel licensee conducts at such lo-
40 cation at least 85 live greyhound races each calendar week for the number
41 of weeks raced during calendar year 2003 in Sedgwick county, with at
42 least 12 live races conducted each day for not less than five days per week.

43 (4) No electronic gaming machines shall be operated at a parimutuel

1 licensee location in Ford county unless, during the first full calendar year
2 and each year thereafter in which electronic gaming machines are oper-
3 ated at such location, the parimutuel licensee conducts live horse racing
4 programs for at least 45 days, with at least 10 live races conducted each
5 program, and must offer and make a reasonable effort to conduct a min-
6 imum number of three live races restricted for quarter horses each day
7 and seven live thoroughbred races each day, of which not less than two
8 races each day shall be limited to registered Kansas-bred horses appor-
9 tioned in the same ratio that live races are offered, except that the licensee
10 shall not be required to conduct the second live race restricted to Kansas-
11 bred horses unless there are at least seven qualified entries for such race,
12 and with at least 85 live greyhound races each calendar week for the
13 number of weeks raced during calendar year 2003 in Sedgwick county,
14 with at least 12 live races conducted each day for not less than five days
15 per week.

16 (5) If a parimutuel licensee has not held live races pursuant to a
17 schedule approved by the Kansas racing and gaming commission in the
18 preceding 12 months, the Kansas racing and gaming commission shall
19 hold a hearing to determine the number of days of live racing required
20 for the remaining days of the first calendar year of operation to qualify
21 for operation of electronic gaming machines. At such hearing, the com-
22 mission shall receive testimony and evidence from affected breed groups,
23 the licensee and others, as the Kansas racing and gaming commission
24 deems appropriate concerning the schedule of live race days. The oper-
25 ation of electronic gaming machines shall not commence more than 90
26 days prior to the start of live racing at such facility.

27 (b) The Kansas racing and gaming commission may not grant excep-
28 tions to the requirements of subsection (a) for a parimutuel licensee con-
29 ducting live racing unless such exception is in the form of an agreement
30 which: (1) Is between the parimutuel licensee and the affected recognized
31 greyhound or recognized horsemen's group, as defined in K.S.A. 74-8802,
32 and amendments thereto; (2) has been approved by the appropriate
33 official breed registering agencies; and (3) has been submitted to and
34 approved by the commission. In the case of emergencies, weather related
35 issues or immediate circumstances beyond the control of the licensee,
36 the Kansas racing and gaming commission may grant an exception.

37 New Sec. 17. (a) Net electronic gaming machine income from a race-
38 track gaming facility shall be distributed as follows:

39 (1) To the racetrack gaming facility manager, an amount equal to the
40 following as a management fee and net lease for facilities used for the
41 operation of electronic gaming machines at the racetrack gaming facility:
42 (A) For the first five years after commencement of the operation of elec-
43 tronic gaming machines at the racetrack gaming facility, 35% of the first

1 \$150 of the average net electronic gaming machine income per machine
2 per day at the racetrack gaming facility plus 25% of the remainder of the
3 average net electronic gaming machine income per machine per day at
4 the racetrack gaming facility; and (B) thereafter, 25% of the average net
5 electronic gaming machine income per machine per day at the racetrack
6 gaming facility;

7 (2) 7% of net electronic gaming machine income shall be credited to
8 the live horse racing purse supplement fund established by section 36,
9 and amendments thereto, except that the amount of net electronic gam-
10 ing machine income credited to the fund during any fiscal year from
11 electronic gaming machines at a racetrack gaming facility shall not exceed
12 an amount equal to the average of \$3,750 per electronic gaming machine
13 at each location and any moneys in excess of such amount shall be dis-
14 tributed between the state and the racetrack gaming facility manager in
15 accordance with the racetrack gaming facility management contract;

16 (3) 7% of net electronic gaming machine income shall be credited to
17 the live greyhound racing purse supplement fund established by section
18 36, and amendments thereto, except that the amount of net electronic
19 gaming machine income credited to the fund during any fiscal year from
20 electronic gaming machines at a racetrack gaming facility shall not exceed
21 an amount equal to the average of \$3,750 per electronic gaming machine
22 at each location and any moneys in excess of such amount shall be dis-
23 tributed between the state and the racetrack gaming facility manager in
24 accordance with the racetrack gaming facility management contract;

25 (4) (A) if the racetrack gaming facility is located in an exclusive or
26 nonexclusive gaming zone comprised of one county and is not located
27 within a city, 3% of net electronic gaming machine income shall be re-
28 mitted to the county in which the racetrack gaming facility is located; or
29 (B) if the racetrack gaming facility is located in an exclusive or nonexclu-
30 sive gaming zone comprised of one county and is located within a city,
31 1.5% of net electronic gaming machine income shall be remitted to the
32 city in which the racetrack gaming facility is located and 1.5% of such
33 income shall be remitted to the county in which such facility is located;

34 (5) (A) if the racetrack gaming facility is located in a nonexclusive
35 gaming zone comprised of more than one county and is not located within
36 a city, 2.5% of net electronic gaming machine income shall be remitted
37 to the county in which the racetrack gaming facility is located and 0.5%
38 of net electronic gaming machine income shall be remitted to the other
39 county in such gaming zone; or (B) if the racetrack gaming facility is
40 located in a nonexclusive gaming zone comprised of more than one county
41 and is located within a city, 1.25% of net electronic gaming machine
42 income shall be remitted to the city in which the racetrack gaming facility
43 is located, 1.25% of net electronic gaming machine income shall be re-

- 1 mitted to the county in which such facility is located and 0.5% of net
2 electronic gaming machine income shall be remitted to the other county
3 in such zone;
- 4 (6) 1% of net electronic gaming machine income shall be credited to
5 the problem gambling grant fund established by K.S.A. 2005 Supp. 79-
6 4805, and amendments thereto;
- 7 (7) subject to the provisions of subsection (e), 1% of net electronic
8 gaming machine income shall be credited to the Kansas charitable gaming
9 fund established by section 37, and amendments thereto;
- 10 (8) 1% of net electronic gaming machine income shall be credited to
11 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
12 and amendments thereto;
- 13 (9) to the state, an amount equal to the following: (A) For the first
14 five years after commencement of the operation of electronic gaming
15 machines at the racetrack gaming facility, 30% of the first \$150 of the
16 average net electronic gaming machine income per machine per day at
17 the racetrack gaming facility plus 40% of the remainder of the average
18 net electronic gaming machine income per machine per day at the race-
19 track gaming facility; and (B) thereafter, 40% of the average net electronic
20 gaming machine income per machine per day at the racetrack gaming
21 facility; and
- 22 (10) 15% of electronic gaming machine income shall be used for gam-
23 ing expenses, subject to agreement between the Kansas lottery and the
24 racetrack gaming facility manager.
- 25 (b) Of amounts distributed to the state pursuant to subsection (a)(8),
26 25% shall be credited to the Kansas retirant obligation trust fund estab-
27 lished by section 38, and amendments thereto, and 75% shall be credited
28 to the Kansas education opportunity trust fund established by section 39,
29 and amendments thereto.
- 30 (c) A racetrack gaming facility management contract shall establish
31 an accelerated racetrack gaming facility payment of \$15,000 per elec-
32 tronic gaming machine installed at the parimutuel licensee location. Such
33 payment shall be due and payable one month before the end of the fiscal
34 year in which the racetrack gaming facility management contract is execu-
35 ted or in which the parimutuel licensee location opens, if not open
36 when the contract is executed. Revenues credited to the Kansas education
37 opportunity trust fund and the Kansas retirant obligation trust fund prior
38 to the date the accelerated racetrack gaming facility payment is due shall
39 be credited against the amount which would otherwise be due pursuant
40 to this subsection. During the five fiscal years following the year in which
41 payment of the accelerated racetrack gaming facility payment is made by
42 a racetrack gaming facility manager, the state shall repay to such manager
43 an amount equal to the accelerated racetrack gaming facility payment

1 made by such manager minus any credit allowed against such accelerated
2 payment pursuant to this subsection. The amount of the repayment in
3 any fiscal year shall not exceed 20% of the moneys credited to the Kansas
4 education opportunity trust fund and the Kansas retirant obligation trust
5 fund during such fiscal year from net electronic gaming machine income
6 derived from electronic gaming machines at such manager's racetrack
7 gaming facility.

8 (d) A racetrack gaming facility management contract may include
9 provisions for a parimutuel licensee or any other entity to pay the pari-
10 mutuel licensee's expenses related to electronic gaming machines, as the
11 executive director deems appropriate, subject to the requirements of sub-
12 section (a)(8).

13 (e) If the racetrack gaming facility manager pays to the organization
14 licensee at the parimutuel licensee location an amount based on the net
15 electronic gaming machine income which the racetrack gaming facility
16 manager receives pursuant to this act:

17 (1) The organization licensee shall be required to pay to the executive
18 director such amount paid by the racetrack gaming facility manager but
19 not to exceed an amount equal to 1% of net electronic gaming machine
20 income received by such manager. The executive director shall remit to
21 the state treasurer all such amounts received from the organization li-
22 censee. Upon receipt thereof, the state treasurer shall deposit the entire
23 amount in the state treasury and credit it to the Kansas charitable gaming
24 fund.

25 (2) If the amount paid to the organization licensee based on the net
26 electronic gaming machine income is less than 1% of net electronic gam-
27 ing machine income, the balance of the 1% provided for by subsection
28 (a)(6) shall be credited to the Kansas charitable gaming fund from money
29 remitted to the state treasurer by the racetrack gaming facility manager.

30 (3) The racetrack gaming facility manager, in addition to the amount
31 provided pursuant to subsection (a)(1), shall be paid an amount equal to
32 the amount paid by such manager to the organization licensee at the
33 parimutuel licensee location based on the net electronic gaming machine
34 income but not to exceed an amount equal to 1% of net electronic gaming
35 machine income received by such manager.

36 New Sec. 18. The Kansas lottery commission, upon the recommen-
37 dation of the executive director, shall adopt rules and regulations neces-
38 sary to carry out the purposes of this act. Temporary rules and regulations
39 may be adopted by the commission without being subject to the provi-
40 sions and requirements of K.S.A. 77-415 through 77-438, and amend-
41 ments thereto, but shall be subject to approval by the attorney general as
42 to legality and shall be filed with the secretary of state and published in
43 the Kansas register.

- 1 New Sec. 19. (a) Electronic gaming machines operated pursuant to
2 this act, including those operated as lottery facility games, shall:
- 3 (1) Pay out an average of not less than 87% of the amount wagered
4 over the life of the machine;
- 5 (2) be directly linked to a central lottery communications system to
6 provide monitoring, auditing and other available program information to
7 the Kansas lottery;
- 8 (3) be on-line and in constant communication with a central com-
9 puter situated at a location determined by the executive director and
10 specified in the lottery gaming facility or racetrack gaming facility man-
11 agement contract; and
- 12 (4) be subject to deactivation at any time by order of the executive
13 director.
- 14 (b) The communications systems selected by the executive director
15 shall not limit or favor the participation of a manufacturer, distributor or
16 supplier of an electronic gaming machine. The communications systems
17 shall employ widely accepted gaming industry communications protocols.
18 The costs associated with installation and implementation of the com-
19 munications systems shall be paid pursuant to the terms of the manage-
20 ment contract authorizing placement of electronic gaming machines pur-
21 suant to this act.
- 22 New Sec. 20. (a) Each specific type of electronic gaming machine
23 and lottery facility game shall be approved by the Kansas racing and gam-
24 ing commission. The Kansas racing and gaming commission shall examine
25 prototypes of electronic gaming machines and lottery facility games and
26 shall notify the lottery gaming facility manager or racetrack gaming facility
27 manager which types of electronic gaming machines or lottery facility
28 games are in compliance with the requirements of this act. The use of
29 progressive electronic gaming machines is expressly permitted.
- 30 (b) No electronic gaming machine or lottery facility game shall be
31 operated pursuant to this act unless the executive director of the racing
32 and gaming commission first issues a certificate for such machine or game
33 authorizing its use at a specified location. Each electronic gaming ma-
34 chine and lottery facility game shall have such certificate prominently
35 displayed thereon. Any electronic gaming machine or lottery facility game
36 which does not display the certificate required by this section is contra-
37 band and a public nuisance subject to confiscation by any law enforce-
38 ment officer.
- 39 (c) The executive director of the racing and gaming commission shall
40 require any manufacturer, supplier, provider, lottery gaming facility man-
41 ager, racetrack gaming facility manager or other person seeking the ex-
42 amination and certification of electronic gaming machines or lottery fa-
43 cility games to pay the anticipated actual costs of the examination in

1 advance. After the completion of the examination, the executive director
2 of the Kansas racing and gaming commission shall refund any overpay-
3 ment or charge and collect amounts sufficient to reimburse the executive
4 director for any underpayment of actual costs. The executive director of
5 the Kansas racing and gaming commission may contract for the exami-
6 nation of electronic gaming machines and lottery facility games required
7 by this section, and may rely upon testing done by or for other states
8 regulating electronic gaming machines or lottery facility games, if the
9 executive director deems such testing to be reliable and in the best in-
10 terest of the state of Kansas.

11 (d) The executive director of the Kansas lottery or the executive di-
12 rector of the Kansas racing and gaming commission may remove from
13 play and confiscate any electronic gaming machine or gray machine that
14 does not comply with the requirements of the Kansas expanded lottery
15 act. Any electronic gaming machine that the executive director or the
16 executive director of the racing and gaming commission determines has
17 been modified or the design of which has been modified without the
18 consent of the executive director of the Kansas lottery may be removed
19 from play, confiscated by either such executive director and disposed of
20 in any manner allowed by law.

21 New Sec. 21. The Kansas racing and gaming commission, through
22 rules and regulations, shall establish:

23 (a) A certification requirement, and enforcement procedure, for of-
24 ficers, directors, key employees and persons directly or indirectly owning
25 a 5% or more interest in a lottery gaming facility manager or racetrack
26 gaming facility manager. Such certification requirement shall include
27 compliance with such security, fitness and background investigations and
28 standards as the executive director of the Kansas racing and gaming com-
29 mission deems necessary to determine whether such person's reputation,
30 habits or associations pose a threat to the public interest of the state or
31 to the reputation of or effective regulation and control of the lottery gam-
32 ing facility or racetrack gaming facility. Any person convicted of any fel-
33 ony, a crime involving gambling or a crime of moral turpitude prior to
34 applying for a certificate hereunder or at any time thereafter shall be
35 deemed unfit. The Kansas racing and gaming commission shall conduct
36 the security, fitness and background checks required pursuant to this
37 subsection. Certification pursuant to this subsection shall not be assign-
38 able or transferable;

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

1 gaming facility or racetrack gaming facility, including management serv-
2 ices. Such certification requirements shall include compliance with such
3 security, fitness and background investigations and standards of officers,
4 directors, key gaming employees and persons directly or indirectly owning
5 a 5% or more interest in such entity as the executive director of the Kansas
6 racing and gaming commission deems necessary to determine whether
7 such person's reputation, habits and associations pose a threat to the pub-
8 lic interest of the state or to the reputation of or effective regulation and
9 control of the lottery gaming facility or racetrack gaming facility. Any
10 person convicted of any felony, a crime involving gambling or a crime of
11 moral turpitude prior to applying for a certificate hereunder or at any
12 time thereafter shall be deemed unfit. If the executive director of the
13 racing and gaming commission determines the certification standards of
14 another state are comprehensive, thorough and provide similar adequate
15 safeguards, the executive director may certify an applicant already certi-
16 fied in such state without the necessity of a full application and back-
17 ground check. The Kansas racing and gaming commission shall conduct
18 the security, fitness and background checks required pursuant to this
19 subsection. Certification pursuant to this subsection shall not be assign-
20 able or transferable;

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

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

37 New Sec. 22. (a) The executive director of the Kansas lottery and
38 the executive director of the Kansas racing and gaming commission, or
39 their designees, may observe and inspect all electronic gaming machines,
40 lottery facility games, lottery gaming facilities, racetrack gaming facilities
41 and all related equipment and facilities operated by a lottery gaming fa-
42 cility manager or racetrack gaming facility manager.

43 (b) In addition to any other powers granted pursuant to this act, the

1 executive director of the racing and gaming commission shall have the
2 power to:

3 (1) Examine, or cause to be examined by any agent or representative
4 designated by such executive director, any books, papers, records or
5 memoranda of any lottery gaming facility manager or racetrack gaming
6 facility manager, or of any business involved in electronic gaming ma-
7 chines or lottery facility games authorized pursuant to the Kansas ex-
8 panded lottery act, for the purpose of ascertaining compliance with any
9 provision of the Kansas lottery act, the Kansas expanded lottery act, or
10 any rules and regulations adopted thereunder;

11 (2) investigate alleged violations of the Kansas expanded lottery act
12 and alleged violations of any rules and regulations, orders and final de-
13 cisions of the Kansas lottery commission, the executive director of the
14 Kansas lottery, the Kansas racing and gaming commission or the executive
15 director of the Kansas racing and gaming commission;

16 (3) request a court to issue subpoenas to compel access to or for the
17 production of any books, papers, records or memoranda in the custody
18 or control of any lottery gaming facility manager or racetrack gaming
19 facility manager related to the management of the lottery gaming facility
20 or racetrack gaming facility, or to compel the appearance of any lottery
21 gaming facility manager or racetrack gaming facility manager for the pur-
22 pose of ascertaining compliance with the provisions of the Kansas lottery
23 act and the Kansas expanded lottery act or rules and regulations adopted
24 thereunder;

25 (4) inspect and approve, prior to publication or distribution, all ad-
26 vertising by a lottery gaming facility manager or racetrack gaming facility
27 manager which includes any reference to the Kansas lottery; and

28 (5) take any other action as may be reasonable or appropriate to en-
29 force the provisions of the Kansas expanded lottery act and any rules and
30 regulations, orders and final decisions of the executive director of the
31 Kansas lottery, the Kansas lottery commission, the executive director of
32 the Kansas racing commission or the Kansas racing and gaming
33 commission.

34 (c) Appropriate security measures shall be required in any and all
35 areas where electronic gaming machines and other lottery facility games
36 authorized pursuant to the Kansas expanded lottery act are located or
37 operated. The executive director of the Kansas racing and gaming com-
38 mission shall approve all such security measures.

39 (d) The executive director of the Kansas racing and gaming commis-
40 sion shall require an annual audit of the operations of each lottery gaming
41 facility and ancillary lottery gaming facility operations and each racetrack
42 gaming facility as determined by the commission. Such audit shall be
43 conducted by the Kansas racing and gaming commission or a licensed

1 accounting firm approved by the executive director of the Kansas racing
2 and gaming commission and shall be conducted at the expense of the
3 lottery gaming facility manager or racetrack facility manager.

4 (e) None of the information disclosed pursuant to subsection (b) or
5 (d) shall be subject to disclosure under the Kansas open records act,
6 K.S.A. 45-216 et seq., and amendments thereto.

7 New Sec. 23. (a) No revenue bonds, tax increment financing or sim-
8 ilar financing shall be used to finance any part of any lottery gaming
9 enterprise or any racetrack gaming facility.

10 (b) No state or local tax abatement shall apply to any part of any
11 lottery gaming enterprise or any racetrack gaming facility.

12 New Sec. 24. Each lottery gaming facility manager and each race-
13 track gaming facility manager shall hold the executive director, the com-
14 mission and the state harmless from and defend any and all claims which
15 may be asserted against the executive director, the commission and the
16 state, or the agents or employees thereof, arising from the operation of
17 electronic gaming machines, lottery facility games or other lottery-type
18 games pursuant to the Kansas expanded lottery act. This section may be
19 satisfied by procurement of insurance by the lottery gaming facility man-
20 ager or racetrack gaming facility manager, naming the executive director,
21 the commission and the state as additional insured parties. Procurement
22 of such insurance by a lottery gaming facility manager shall be a lottery
23 gaming facility expense of the lottery gaming facility. The provisions of
24 this section shall not apply to any claims arising from a negligent act or
25 omission or willful or malicious misconduct of the executive director, the
26 commission or the state, or the agents or employees thereof.

27 New Sec. 25. As a condition precedent to contracting for the privi-
28 lege of being a lottery gaming facility manager or a racetrack gaming
29 facility manager, such manager shall file with the secretary of state of this
30 state a written and irrevocable consent that any action or garnishment
31 proceeding may be commenced against such manager in the proper court
32 of any county in this state by the service of process on a resident agent,
33 and stipulating and agreeing that such service shall be valid and binding
34 as if service had been made upon such manager. Such written consent
35 shall state that the courts of this state have jurisdiction over the person
36 of the lottery gaming facility manager or racetrack gaming facility man-
37 ager and are the proper and convenient forum for such action and shall
38 waive the right to request a change of jurisdiction or venue to a court
39 outside this state and that all actions arising under this act and com-
40 menced by such manager shall be brought in this state's courts as the
41 proper and convenient forum. Such consent shall be executed by the
42 lottery gaming facility manager or racetrack gaming facility manager and,
43 if a corporation, by the president and secretary of such corporate man-

1 ager. Such consent shall be accompanied by a certified copy of the order
2 or resolution of the board of directors, trustees or managers authorizing
3 the president and secretary to execute the same.

4 New Sec. 26. (a) Wagers shall be received only from a person at the
5 location where the electronic gaming machine or lottery facility game is
6 authorized pursuant to the Kansas expanded lottery act. No person pres-
7 ent at such location shall place or attempt to place a wager on behalf of
8 another person who is not present at such location.

9 (b) No employee or contractor of, or other person who has any legal
10 affiliation with, a racetrack gaming facility manager shall loan money to
11 or otherwise extend credit to patrons of the parimutuel licensee.

12 (c) No employee or contractor of, or other person who has any legal
13 affiliation with, a lottery gaming facility manager shall loan money to or
14 otherwise extend credit to patrons of a lottery gaming facility.

15 (d) Violation of this section is a class A nonperson misdemeanor upon
16 a conviction for a first offense. Violation of this section is a severity level
17 9, nonperson felony upon conviction for a second or subsequent offense.

18 New Sec. 27. (a) A person less than 21 years of age shall not be
19 permitted in an area where electronic gaming machines or lottery facility
20 games are being conducted, except for a person at least 18 years of age
21 who is an employee of the lottery gaming facility manager or the racetrack
22 gaming facility manager. No employee under age 21 shall perform any
23 function involved in gaming by the patrons.

24 (b) No person under age 21 shall play or make a wager on an elec-
25 tronic gaming machine game or a lottery facility game.

26 New Sec. 28. (a) Except as authorized in subsection (c), it is unlawful
27 for any racetrack gaming facility manager, or any employee or agent
28 thereof, to allow any person to play an electronic gaming machine game
29 at a racetrack gaming facility, or share in winnings of such person, know-
30 ing such person to be:

31 (1) Less than 21 years of age;

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

34 (3) the executive director, a member or an employee of the Kansas
35 racing and gaming commission;

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

40 (5) an employee or agent of the racetrack gaming facility manager;

41 (6) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
42 parent or stepparent of a person described by subsection (a)(2), (a)(3),
43 (a)(4) or (a)(5); or

1 (7) a person who resides in the same household as any person de-
2 scribed by subsection (a)(2), (a)(3), (a)(4) or (a)(5).

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

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

12 (1) Under 21 years of age;

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

15 (3) the executive director, a member or an employee of the Kansas
16 racing and gaming commission;

17 (4) an employee or agent of the lottery gaming facility manager;

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

22 (6) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
23 parent or stepparent of a person described in subsection (b)(2), (b)(3),
24 (b)(4) or (b)(5); or

25 (7) a person who resides in the same household as any person de-
26 scribed by subsection (b)(2), (b)(3), (b)(4) or (b)(5).

27 Violation of this subsection is a class A nonperson misdemeanor upon
28 conviction for a first offense. Violation of this subsection is a severity level
29 9, nonperson felony upon conviction for a second or subsequent offense.

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

40 New Sec. 29. Except for persons acting in accordance with rules and
41 regulations of the Kansas racing and gaming commission or by written
42 authority of the executive director of the Kansas racing and gaming com-
43 mission in performing installation, maintenance and repair services, any

1 person who, with the intent to manipulate the outcome, pay out or op-
2 eration of an electronic gaming machine game or a lottery facility game,
3 manipulates by physical, electrical or mechanical means the outcome, pay
4 out or operation of such game shall be guilty of a severity level 8, non-
5 person felony.

6 New Sec. 30. (a) Except in accordance with rules and regulations of
7 the Kansas racing and gaming commission or by written authority from
8 the executive director of the Kansas racing and gaming commission in
9 performing installation, maintenance, inspection and repair services, it is
10 a class A nonperson misdemeanor for the following to place a wager on
11 or play an electronic gaming machine game or a lottery facility game at a
12 lottery gaming facility in this state: The executive director of the Kansas
13 lottery, a member of the Kansas lottery commission or any employee or
14 agent of the Kansas lottery; the executive director, a member or any
15 employee or agent of the Kansas racing and gaming commission; or the
16 lottery gaming facility manager or any employee of the lottery gaming
17 facility manager.

18 (b) Except in accordance with rules and regulations of the Kansas
19 racing and gaming commission or by written authority from the executive
20 director of the Kansas racing and gaming commission in performing in-
21 stallation, maintenance, inspection and repair services, it is a class A non-
22 person misdemeanor for the following to place a wager on or play an
23 electronic gaming machine at a racetrack gaming facility in this state: The
24 executive director of the Kansas lottery, a member of the Kansas lottery
25 commission or any employee or agent of the Kansas lottery; the executive
26 director, a member or any employee or agent of the Kansas racing and
27 gaming commission; or the racetrack gaming facility manager or any em-
28 ployee of the racetrack gaming facility manager.

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

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

38 (2) possess or use, while on premises where electronic gaming ma-
39 chines are authorized pursuant to the Kansas expanded lottery act, any
40 cheating or thieving device, including, but not limited to, tools, wires,
41 drills, coins attached to strings or wires or electronic or magnetic devices
42 to facilitate removing from any electronic gaming machine any money or
43 contents thereof, except that a duly authorized agent or employee of the

1 Kansas racing and gaming commission, lottery gaming facility manager
2 or racetrack gaming facility manager may possess and use any of the
3 foregoing only in furtherance of the agent's or employee's employment
4 at the lottery gaming facility or racetrack gaming facility; or

5 (3) possess or use while on the premises of a lottery gaming facility
6 or racetrack gaming facility, or any location where electronic gaming ma-
7 chines are authorized pursuant to this act, any key or device designed for
8 the purpose of or suitable for opening or entering any electronic gaming
9 machine or similar gaming device or drop box.

10 (d) Any duly authorized agent or employee of the Kansas racing and
11 gaming commission, a lottery gaming facility manager or a racetrack gam-
12 ing facility manager may possess and use any of the devices described in
13 subsections (c)(3) and (c)(4) in furtherance of inspection or testing as
14 provided in the Kansas expanded lottery act or in furtherance of such
15 person's employment at any location where any electronic gaming ma-
16 chine or similar gaming device or drop box is authorized pursuant to the
17 Kansas expanded lottery act.

18 New Sec. 31. It shall be a severity level 9, nonperson felony for any
19 person to place in operation or continue to have in place any gray machine
20 for use by members of the public at any location in this state.

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

30 New Sec. 33. Each lottery gaming facility manager and each race-
31 track gaming facility manager shall post one or more signs at the location
32 where such manager operates electronic gaming machines or lottery fa-
33 cility games to inform patrons of the toll-free number available to provide
34 information and referral services regarding compulsive or problem gam-
35 bling. The text shall be determined by the executive director of the Kansas
36 racing and gaming commission. Failure by a lottery gaming facility man-
37 ager or racetrack gaming facility manager to post and maintain such signs
38 shall be cause for the imposition of a fine not to exceed \$500 per day.

39 New Sec. 34. The Kansas lottery, lottery gaming facility managers,
40 racetrack gaming facility managers, lottery gaming facility management
41 contracts and racetrack gaming facility management contracts under the
42 Kansas expanded lottery act shall not be subject to the provisions of and
43 restrictions on major procurement contracts, including, but not limited

1 to, the provisions of K.S.A. 74-8705, and amendments thereto.

2 New Sec. 35. (a) There is hereby established in the state treasury the
3 expanded lottery act revenues fund. Separate accounts shall be main-
4 tained in such fund for receipt of moneys from each lottery gaming facility
5 manager and racetrack gaming facility manager. All expenditures from
6 the fund shall be made in accordance with appropriation acts upon war-
7 rants of the director of accounts and reports issued pursuant to vouchers
8 approved by the executive director for the purposes set forth in this act.

9 (b) All lottery gaming facility revenues from lottery gaming facilities
10 and all net electronic gaming machine income from racetrack gaming
11 facilities shall be paid daily and electronically to the executive director.
12 The executive director shall remit all moneys received therefrom to the
13 state treasurer in accordance with K.S.A. 75-4215, and amendments
14 thereto. Upon receipt of the remittance, the state treasurer shall deposit
15 the entire amount in the state treasury and credit it to the respective
16 account maintained for the lottery gaming facility manager or racetrack
17 gaming facility manager in the expanded lottery act revenues fund.

18 (c) The executive director shall certify weekly to the director of ac-
19 counts and reports the percentages or amounts to be transferred from
20 each account maintained in the expanded lottery act revenues fund to the
21 Kansas education opportunity trust fund and the Kansas retiree obligation
22 trust fund, the live horse racing supplement fund, the live greyhound
23 racing purse supplement fund, the Kansas charitable gaming fund and
24 the problem gambling grant fund, as provided by the lottery gaming fa-
25 cility management contract or section 17, and amendments thereto. Upon
26 receipt of the certification, the director of accounts and reports shall
27 transfer amounts from each such account in accordance with the certifi-
28 cation of the executive director. Once each month, the executive director
29 shall cause amounts from each such account to be paid to cities, counties
30 and lottery gaming facility managers in accordance with the lottery gam-
31 ing facility management contract and to racetrack gaming facility man-
32 agers in accordance with section 17, and amendments thereto.

33 (d) Amounts remaining in an account in the expanded lottery act
34 revenues fund after transfers and payments pursuant to subsection (c)
35 shall be distributed in accordance with the related lottery gaming facility
36 management contract or racetrack gaming facility management contract.

37 New Sec. 36. (a) (1) There is hereby established in the state treasury
38 the live horse racing purse supplement fund.

39 (2) Twenty-five percent of all moneys credited to the live horse racing
40 purse supplement fund shall be transferred to the Kansas horse breeding
41 development fund created pursuant to K.S.A. 74-8829, and amendments
42 thereto. Two percent of the moneys credited to the live horse racing purse
43 supplement fund shall be distributed to the official registering agency

1 designated pursuant to K.S.A. 74-8830, and amendments thereto, to be
2 used for horse registration, administration, development, representation
3 and promotion of the Kansas horse racing and breeding industries. A
4 complete financial accounting for the use of the funds received pursuant
5 to this subsection shall be provided annually to the Kansas racing and
6 gaming commission. Fifty percent of the moneys credited to the Kansas
7 horse breeding development fund pursuant to this section shall be used
8 as purse supplements for registered Kansas-bred foals and distributed
9 based upon recommendation from the official horse breed registering
10 agency and approval of the Kansas racing and gaming commission. The
11 balance of funds credited to the Kansas horse breeding development fund
12 pursuant to this section shall be used as breed awards for registered Kan-
13 sas-bred broodmares and stallions. The Kansas racing and gaming com-
14 mission shall distribute such moneys credited to the Kansas horse breed-
15 ing development fund in accordance with K.S.A. 74-8829, and
16 amendments thereto.

17 (3) Based on the contribution to the Kansas horse racing and breed-
18 ing industries in Kansas, the balance in the live horse race purse supple-
19 ment fund shall be distributed in accordance with rules and regulations
20 adopted by the Kansas racing and gaming commission with recommen-
21 dations by the official registering agency designated pursuant to K.S.A.
22 74-8830, and amendments thereto.

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

39 (c) All purse supplements paid pursuant to this act shall be according
40 to the point schedule in effect on January 1, 2003, at the respective par-
41 imutuel licensee locations. All purse supplements paid pursuant to this
42 section shall be in addition to purses and supplements paid under K.S.A.
43 74-8801 et seq., and amendments thereto.

1 New Sec. 37. (a) There is hereby established in the state treasury the
2 Kansas charitable gaming fund. All expenditures from the Kansas chari-
3 table gaming fund shall be made in accordance with appropriation acts
4 upon warrants of the director of accounts and reports issued pursuant to
5 vouchers approved by the chairperson of the Kansas charitable gaming
6 foundation board.

7 (b) Moneys in the Kansas charitable gaming fund shall be distributed
8 by the Kansas charitable gaming foundation board to organizations veri-
9 fied by the board to be nonprofit organizations which are located within
10 the state and are exempt from federal income taxation pursuant to section
11 501(c)(3) of the internal revenue code of 1986, as in effect on the effective
12 date of this act. Such moneys shall be distributed at least four times each
13 year and shall be distributed equally among Kansas congressional districts.
14 Organizations wishing to receive such moneys shall submit to the board
15 a written application or request containing such information as required
16 by the commission.

17 (c)(1) There is hereby created the Kansas charitable gaming foundation
18 board. The board shall consist of:

19 (A) Three members appointed by the governor;
20 (B) one member appointed by the president of the senate;
21 (C) one member appointed by the speaker of the house of
22 representatives;
23 (D) one member appointed by the minority leader of the senate; and
24 (E) one member appointed by the minority leader of the house of
25 representatives.

26 (2) Not more than four members of the board shall be members of
27 the same political party.

28 (3) Members first appointed to the board shall serve terms as follows:
29 Two members appointed by the governor shall serve terms of two years
30 and one shall serve a term of four years, as designated by the governor;
31 the member appointed by the speaker of the house of representatives
32 shall serve a term of two years; the member appointed by the president
33 of the senate shall serve a term of four years; the member appointed by
34 the minority leader of the house of representatives shall serve a term of
35 four years; and the member appointed by the minority leader of the sen-
36 ate shall serve a term of two years.

37 (4) The governor shall designate one member of the board to serve
38 as chairperson of the board.

39 (5) Subject to the limitations of appropriations therefor, members of
40 the board shall receive such compensation as determined by the governor.
41 Members of the board attending meetings of the board or subcommittee
42 meetings thereof approved by the board shall be paid subsistence allow-
43 ances, mileage and other expenses as provided in K.S.A. 75-3223, and

1 amendments thereto.

2 (6) The Kansas charitable gaming foundation board is hereby at-
3 tached to the Kansas racing and gaming commission as a part thereof. All
4 budgeting, purchasing and related management functions of the board
5 shall be administered by the executive director of the Kansas racing and
6 gaming commission and the executive director shall provide office and
7 meeting space and such clerical and other staff assistance as may be nec-
8 essary to assist the board in carrying out its powers, duties and functions
9 under this act.

10 New Sec. 38. (a) There is hereby established in the state treasury the
11 Kansas retirant obligation trust fund. Amounts deposited in such fund
12 shall be expended solely for the purpose of supplementing the state's
13 obligation pursuant to the provisions of K.S.A. 74-4901, and amendments
14 thereto, as certified by the Kansas public employees retirement system
15 board of trustees pursuant to K.S.A. 74-4920, and amendments thereto.
16 Expenditures from the Kansas retirant obligation trust fund shall be made
17 pursuant to appropriation acts. Such funding shall be supplemental to,
18 and not in lieu of, any state revenues appropriated during the 2006 regular
19 legislative session to fund the Kansas public employees retirement fund
20 for the fiscal year ending June 30, 2007.

21 (b) Unless the payment or transfer has been authorized pursuant to
22 a separate appropriation act which has been approved by a majority vote
23 of the members of the house of representatives and a majority vote of
24 the members of the senate, the state treasurer shall not make transfers
25 or payments from the Kansas retirant obligation trust fund pursuant to
26 an appropriation for any purpose other than supplementing funding of
27 the Kansas public employees retirement fund as described in subsection
28 (a). Such payment or transfer shall be made only upon certification of the
29 governor that such payment meets the requirements of this section.

30 New Sec. 39. (a) There is hereby established in the state treasury the
31 Kansas education opportunity trust fund. Amounts deposited in such fund
32 shall be expended solely for the purpose of supplementing the state's
33 obligation to fund preschool, kindergarten, elementary, secondary and
34 postsecondary education programs. Expenditures from the Kansas edu-
35 cation opportunity trust fund shall be made pursuant to appropriation
36 acts. Such funding shall be supplemental to, and not in lieu of, any state
37 revenues appropriated during the 2006 regular legislative session to fund
38 educational programs for the fiscal year ending June 30, 2007.

39 (b) Unless the payment or transfer has been authorized pursuant to
40 a separate appropriation act which has been approved by a majority vote
41 of the members of the house of representatives and a majority vote of
42 the members of the senate, the state treasurer shall not make transfers
43 or payments pursuant to an appropriation for any purpose other than

1 supplementing the funding of education programs as described in sub-
2 section (a). Such payment or transfer shall be made only upon certifica-
3 tion of the governor that such payment meets the requirements of this
4 section.

5 New Sec. 40. Each person subject to a background check pursuant
6 to the Kansas expanded lottery act shall be subject to a state and national
7 criminal history records check which conforms to applicable federal stan-
8 dards for the purpose of verifying the identity of the applicant and
9 whether the person has been convicted of any crime that would disqualify
10 the person from engaging in activities pursuant to this act. The executive
11 director of the Kansas racing and gaming commission is authorized to use
12 the information obtained from the national criminal history record check
13 to determine the person's eligibility to engage in such activities.

14 New Sec. 41. (a) No taxes, fees, charges, transfers or distributions,
15 other than those provided for in the Kansas expanded lottery act, shall be
16 made or levied by any city, county or other municipality from or against
17 lottery gaming facility revenues of lottery gaming facilities or net elec-
18 tronic gaming machine income of racetrack gaming facilities.

19 (b) All sales of games on electronic gaming machines authorized by
20 the Kansas expanded lottery act shall be exempt from sales taxes imposed
21 pursuant to K.S.A. 12-187 et seq., and 79-3601 et seq., and amendments
22 thereto.

23 New Sec. 42. Pursuant to section 2 of the federal act entitled "An
24 Act to Prohibit Transportation of Gambling Devices in Interstate and
25 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
26 acting by and through the duly elected and qualified members of the
27 legislature, does hereby in this section, and in accordance with and in
28 compliance with the provisions of section 2 of such federal act, declare
29 and proclaims that it is exempt from the provision of section 2 of such
30 federal act to the extent that such gambling devices as described therein
31 are being transported to or from the Kansas lottery or to or from a lottery
32 gaming facility or racetrack gaming facility or a location within the state
33 of Kansas where such gambling devices are authorized pursuant to the
34 Kansas expanded lottery act.

35 New Sec. 43. The Kansas racing and gaming commission shall adopt
36 such rules and regulations as the commission deems necessary to carry
37 out the duties and functions of the commission pursuant to the Kansas
38 expanded lottery act. Such rules and regulations shall include, but not be
39 limited to, rules and regulations:

40 (a) Promoting the integrity of the gaming and finances of lottery gam-
41 ing facilities and racetrack gaming facilities and shall meet or exceed in-
42 dustry standards for monitoring and controlling the gaming and finances
43 of lottery gaming facility operations and racetrack gaming facility opera-

1 tions and shall give the Kansas racing and gaming commission sufficient
2 authority to monitor and control the gaming operation and to ensure its
3 integrity and security;

4 (b) prescribing the on-site security arrangements for lottery gaming
5 facilities and racetrack gaming facilities;

6 (c) requiring reporting of information about any lottery gaming fa-
7 cility manager or racetrack gaming facility manager, and its employees,
8 vendors and finances, necessary or desirable to ensure the security of
9 lottery gaming facility and racetrack gaming facility operations. None of
10 the information disclosed pursuant to this subsection shall be subject to
11 disclosure under the Kansas open records act;

12 (d) requiring reporting and auditing of financial information of lottery
13 gaming facility managers and racetrack gaming facility managers, includ-
14 ing, but not limited to, the reporting of profits or losses incurred by lottery
15 gaming facility managers and racetrack gaming facility managers and the
16 reporting of such other information as the Kansas racing and gaming
17 commission requires to determine compliance with the Kansas expanded
18 lottery act and rules and regulations adopted hereunder. None of the
19 information disclosed pursuant to this subsection shall be subject to dis-
20 closure under the Kansas open records act; and

21 (e) provisions for oversight of all lottery gaming facility operations
22 and racetrack gaming facility operations, including, but not limited to,
23 oversight of internal controls; oversight of security of facilities; perform-
24 ance of background investigations, determination of qualifications and
25 credentialing of employees, contractors and agents of lottery gaming fa-
26 cility managers, ancillary lottery gaming facility operations and racetrack
27 gaming facilities; auditing of lottery gaming facility revenues and net elec-
28 tronic gaming machine income of racetrack gaming facilities; enforce-
29 ment of all state laws; and maintenance of the integrity of lottery gaming
30 facility and racetrack gaming facility operations.

31 New Sec. 44. The Kansas racing and gaming commission shall ap-
32 point or employ such officers and employees as the commission deems
33 necessary to implement, administer and enforce the provisions of the
34 Kansas expanded lottery act and may designate not more than 25 of such
35 officers and employees to be in the unclassified service under the Kansas
36 civil service act.

37 New Sec. 45. (a) A racetrack facility shall not be subject to subdivi-
38 sion regulations of a city but shall be subject to the Kansas fire prevention
39 code adopted by the state fire marshal.

40 (b) This section shall be part of and supplemental to the Kansas par-
41 imutuel racing act.

42 Sec. 46. K.S.A. 74-8710 is hereby amended to read as follows: 74-
43 8710. (a) The commission, upon the recommendation of the executive

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (13) *Rules and regulations to implement, administer and enforce the*
42 *provisions of the Kansas expanded lottery act. Such rules and regulations*
43 *shall include, but not be limited to, rules and regulations which govern*

1 *management contracts and which are designed to (A) ensure the integrity*
2 *of electronic gaming machines and other lottery facility games and the*
3 *finances of lottery gaming facilities and (B) alleviate problem gambling,*
4 *including a requirement that each lottery gaming facility and each race-*
5 *track gaming facility maintain a self-exclusion list by which individuals*
6 *may exclude themselves from access to electronic gaming machines and*
7 *other lottery facility games.*

8 (14) *The types of electronic gaming machines, lottery facility games*
9 *and electronic gaming machine games to be operated pursuant to the*
10 *Kansas expanded lottery act.*

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

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

20 Sec. 47. K.S.A. 2005 Supp. 74-8711 is hereby amended to read as
21 follows: 74-8711. (a) There is hereby established in the state treasury the
22 lottery operating fund.

23 (b) Except as provided by K.S.A. 2005 Supp. 74-8724 *and the Kansas*
24 *expanded lottery act*, and amendments thereto, the executive director
25 shall remit all moneys collected from the sale of lottery tickets and shares
26 and any other moneys received by or on behalf of the Kansas lottery to
27 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
28 and amendments thereto. Upon receipt of each such remittance, the state
29 treasurer shall deposit the entire amount in the state treasury to the credit
30 of the lottery operating fund. Moneys credited to the fund shall be ex-
31 pended or transferred only as provided by this act. Expenditures from
32 such fund shall be made in accordance with appropriations acts upon
33 warrants of the director of accounts and reports issued pursuant to vouch-
34 ers approved by the executive director or by a person designated by the
35 executive director.

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

37 (1) The payment of expenses of the lottery, which shall include all
38 costs incurred in the operation and administration of the Kansas lottery;
39 all costs resulting from contracts entered into for the purchase or lease
40 of goods and services needed for operation of the lottery, including but
41 not limited to supplies, materials, tickets, independent studies and sur-
42 veys, data transmission, advertising, printing, promotion, incentives, pub-
43 lic relations, communications and distribution of tickets and shares; and

1 reimbursement of costs of facilities and services provided by other state
2 agencies;

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

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

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

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

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

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

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

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

25 Sec. 48. K.S.A. 74-8716 is hereby amended to read as follows: 74-
26 8716. (a) It is unlawful for the executive director, a member of the com-
27 mission or any employee of the Kansas lottery, or any person residing in
28 the household thereof to:

29 (1) Have, either directly or indirectly, an interest in a business know-
30 ing that such business contracts with the Kansas lottery for a major pro-
31 curement, whether such interest is as a natural person, partner, member
32 of an association, stockholder or director or officer of a corporation; or

33 (2) accept or agree to accept any economic opportunity, gift, loan,
34 gratuity, special discount, favor or service, or hospitality other than food
35 and beverages, having an aggregate value of \$20 or more in any calendar
36 year from a person knowing that such person (A) contracts or seeks to
37 contract with the state to supply gaming equipment, materials, tickets or
38 consulting services for use in the lottery or (B) is a lottery retailer or an
39 applicant for lottery retailer.

40 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
41 or a person who contracts or seeks to contract with the state to supply
42 gaming equipment, materials, tickets or consulting services for use in the
43 lottery to offer, pay, give or make any economic opportunity, gift, loan,

1 gratuity, special discount, favor or service, or hospitality other than food
2 and beverages, having an aggregate value of \$20 or more in any calendar
3 year to a person, knowing such person is the executive director, a member
4 of the commission or an employee of the Kansas lottery, or a person
5 residing in the household thereof.

6 (c) *It shall be unlawful for any person to serve as executive director,*
7 *a member of the commission or an employee of the Kansas lottery while*
8 *or within five years after holding, either directly or indirectly, a financial*
9 *interest or being employed by or a consultant to any of the following:*

10 (1) *Any lottery gaming facility manager, subcontractor or agent of a*
11 *lottery gaming facility manager, manufacturer or vendor of electronic*
12 *gaming machines or central computer system provider, or any business*
13 *which sells goods or services to a lottery gaming facility manager; or*

14 (2) *any licensee pursuant to the Kansas parimutuel racing act, other*
15 *than the Kansas lottery or a person holding a license on behalf of the*
16 *Kansas lottery, or any business which sells goods or services to a pari-*
17 *mutuel licensee.*

18 (d) *No person who holds a license issued by the Kansas racing and*
19 *gaming commission shall serve as executive director or as a member of*
20 *the commission or shall be employed by the Kansas lottery while or within*
21 *five years after holding such license.*

22 (e) *No person shall participate, directly or indirectly, as an owner,*
23 *owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse,*
24 *entered in a race meeting conducted in this state while executive director,*
25 *a member of the commission or an employee of the Kansas lottery.*

26 (f) *It shall be unlawful for the executive director, a member of the*
27 *commission or an employee of the Kansas lottery to accept any compen-*
28 *sation, gift, loan, entertainment, favor or service from any lottery gaming*
29 *facility manager, subcontractor or agent of a lottery gaming facility man-*
30 *ager, manufacturer or vendor of electronic gaming machines or central*
31 *computer system provider.*

32 (g) *It shall be unlawful for the executive director, a member of the*
33 *commission or an employee of the Kansas lottery to accept any compen-*
34 *sation, gift, loan, entertainment, favor or service from any licensee pur-*
35 *suant to the Kansas parimutuel racing act, except such suitable facilities*
36 *and services within a racetrack facility operated by an organization li-*
37 *cencee as may be required to facilitate the performance of the executive*
38 *director's, member's or employee's official duties.*

39 ~~(h)~~ (h) Violation of this section is a class A misdemeanor.

40 ~~(i)~~ (i) If the executive director, a member of the commission or an
41 employee of the Kansas lottery, or any person residing in the household
42 thereof, is convicted of an act described by this section, such executive
43 director, member or employee shall be removed from office or employ-

1 ment with the Kansas lottery.

2 ~~(e)~~ (j) In addition to the provisions of this section, all other provisions
3 of law relating to conflicts of interest of state employees shall apply to the
4 members of the commission and employees of the Kansas lottery.

5 Sec. 49. K.S.A. 74-8723 is hereby amended to read as follows: 74-
6 8723. (a) The Kansas lottery and the office of executive director of the
7 Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,
8 and the Kansas lottery commission, created by K.S.A. 74-8709, and
9 amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~
10 2022.

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

13 Sec. 50. K.S.A. 74-8810 is hereby amended to read as follows: 74-
14 8810. (a) It is a class A nonperson misdemeanor for any person to have
15 a financial interest, directly or indirectly, in any racetrack facility within
16 the state of Kansas or in any host facility for a simulcast race displayed in
17 this state:

18 (1) While such person is executive director or a member of the com-
19 mission or during the five years immediately following such person's term
20 as executive director or member of the commission; or

21 (2) while such person is an officer, director or member of an organ-
22 ization licensee, other than a fair association or horsemen's nonprofit or-
23 ganization, or during the five years immediately following the time such
24 person is an officer, director or member of such an organization licensee.

25 (b) It is a class A nonperson misdemeanor for any member, employee
26 or appointee of the commission, including stewards and racing judges, to
27 knowingly:

28 (1) Participate in the operation of or have a financial interest in any
29 business which has been issued a concessionaire license, racing or wa-
30 gering equipment or services license, facility owner license or facility
31 manager license, or any business which sells goods or services to an or-
32 ganization licensee;

33 (2) participate directly or indirectly as an owner, owner-trainer or
34 trainer of a horse or greyhound, or as a jockey of a horse, entered in a
35 race meeting conducted in this state;

36 (3) place a wager on an entry in a horse or greyhound race conducted
37 by an organization licensee; or

38 (4) accept any compensation, gift, loan, entertainment, favor or serv-
39 ice from any licensee, except such suitable facilities and services within a
40 racetrack facility operated by an organization licensee as may be required
41 to facilitate the performance of the member's, employee's or appointee's
42 official duties.

43 (c) (1) Except as provided in paragraph (2), it is a class A nonperson

- 1 misdemeanor for any member, employee or appointee of the commission,
2 or any spouse, parent, grandparent, brother, sister, child, son-in-law,
3 daughter-in-law, grandchild, uncle, aunt, parent-in-law, brother-in-law or
4 sister-in-law thereof, to:
- 5 (A) Hold any license issued by the commission, except that a steward
6 or racing judge shall hold an occupation license to be such a steward or
7 judge; or
- 8 (B) enter into any business dealing, venture or contract with an owner
9 or lessee of a racetrack facility in Kansas.
- 10 (2) This subsection shall not apply to any racing judge holding an
11 occupation license, if such racing judge is employed at a racetrack facility
12 and such racing judge's relative, as listed above, is a licensed owner,
13 owner-trainer or trainer of a greyhound that races at a different racetrack
14 facility.
- 15 (d) It is a class A nonperson misdemeanor for any officer, director or
16 member of an organization licensee, other than a fair association or horse-
17 men's nonprofit organization, to:
- 18 (1) Receive, for duties performed as an officer or director of such
19 licensee, any compensation or reimbursement or payment of expenses in
20 excess of the amounts provided by K.S.A. 75-3223 and amendments
21 thereto for board members' compensation, mileage and expenses; or
- 22 (2) enter into any business dealing, venture or contract with the or-
23 ganization licensee or, other than in the capacity of an officer or director
24 of the organization licensee, with a facility owner licensee, facility man-
25 ager licensee, racing or wagering equipment or services licensee or con-
26 cessionaire licensee, or with any host facility for a simulcast race displayed
27 in this state.
- 28 (e) It is a class A nonperson misdemeanor for any facility owner li-
29 censee or facility manager licensee, other than a horsemen's association,
30 or any officer, director, employee, stockholder or shareholder thereof or
31 any person having an ownership interest therein, to participate directly
32 or indirectly as an owner, owner-trainer or trainer of a horse or grey-
33 hound, or as a jockey of a horse, entered in a live race conducted in this
34 state.
- 35 (f) It is a class A nonperson misdemeanor for any licensee of the
36 commission, or any person who is an officer, director, member or em-
37 ployee of a licensee, to place a wager at a racetrack facility located in
38 Kansas on an entry in a horse or greyhound race if:
- 39 (1) The commission has by rules and regulations designated such per-
40 son's position as a position which could influence the outcome of such
41 race or the parimutuel wagering thereon; and
- 42 (2) such race is conducted at or simulcast to the racetrack facility
43 where the licensee is authorized to engage in licensed activities.

- 1 (g) It is a class B nonperson misdemeanor for any person to use any
2 animal or fowl in the training or racing of racing greyhounds.
- 3 (h) It is a class A nonperson misdemeanor for any person to:
- 4 (1) Sell a parimutuel ticket or an interest in such a ticket to a person
5 knowing such person to be under ~~18~~ 21 years of age, upon conviction of
6 the first offense;
- 7 (2) accept, transmit or deliver, from a person outside a racetrack fa-
8 cility, anything of value to be wagered in any parimutuel system of wa-
9 gering within a racetrack facility, upon conviction of the first offense;
- 10 (3) administer or conspire to administer any drug or medication to a
11 horse or greyhound within the confines of a racetrack facility in violation
12 of rules and regulations of the commission, upon conviction of the first
13 offense;
- 14 (4) possess or conspire to possess, within the confines of a racetrack
15 facility, any drug or medication for administration to a horse or greyhound
16 in violation of rules and regulations of the commission, upon conviction
17 of the first offense;
- 18 (5) possess or conspire to possess, within the confines of a racetrack
19 facility, equipment for administering drugs or medications to horses or
20 greyhounds in violation of rules and regulations of the commission, upon
21 conviction of the first offense;
- 22 (6) enter any horse or greyhound in any race knowing such horse or
23 greyhound to be ineligible to compete in such race pursuant to K.S.A.
24 74-8812 and amendments thereto; or
- 25 (7) prepare or cause to be prepared an application for registration of
26 a horse pursuant to K.S.A. 74-8830 and amendments thereto knowing
27 that such application contains false information.
- 28 (i) It is a severity level 8, nonperson felony for any person to:
- 29 (1) Sell a parimutuel ticket or an interest in such a ticket to a person
30 knowing such person to be under ~~18~~ 21 years of age, upon conviction of
31 the second or a subsequent offense;
- 32 (2) accept, transmit or deliver, from any person outside a racetrack
33 facility, anything of value to be wagered in any parimutuel system of
34 wagering within a racetrack facility, upon the second or a subsequent
35 conviction;
- 36 (3) conduct or assist in the conduct of a horse or greyhound race, or
37 the display of a simulcast race, where the parimutuel system of wagering
38 is used or is intended to be used and where no license has been issued
39 to an organization to conduct or simulcast such race;
- 40 (4) enter any horse or greyhound in any race conducted by an organ-
41 ization licensee knowing that the class or grade in which such horse or
42 greyhound is entered is not the true class or grade or knowing that the
43 name under which such horse or greyhound is entered is not the name

- 1 under which such horse or greyhound has been registered and has pub-
2 licly performed;
- 3 (5) use or conspire to use any device, other than an ordinary whip for
4 horses or a mechanical lure for greyhounds, for the purpose of affecting
5 the speed of any horse or greyhound at any time during a race conducted
6 by an organization licensee;
- 7 (6) possess or conspire to possess, within the confines of a racetrack
8 facility, any device, other than an ordinary whip for horses or a mechanical
9 lure for greyhounds, designed or intended to affect the speed of a horse
10 or greyhound;
- 11 (7) administer or conspire to administer any drug or medication to a
12 horse or greyhound within the confines of a racetrack facility in violation
13 of rules and regulations of the commission, upon conviction of the second
14 or a subsequent offense;
- 15 (8) possess or conspire to possess, within the confines of a racetrack
16 facility, any drug or medication for administration to a horse or greyhound
17 in violation of rules and regulations of the commission, upon conviction
18 of the second or a subsequent offense;
- 19 (9) possess or conspire to possess, within the confines of a racetrack
20 facility, equipment for administering drugs or medications to horses or
21 greyhounds in violation of rules and regulations of the commission, upon
22 conviction of the second or a subsequent offense;
- 23 (10) sponge the nostrils or windpipe of a horse for the purpose of
24 stimulating or depressing such horse or affecting its speed at any time
25 during a race meeting conducted by an organization licensee;
- 26 (11) alter or attempt to alter the natural outcome of any race con-
27 ducted by, or any simulcast race displayed by, an organization licensee or
28 transmit or receive an altered race or delayed broadcast race if parimutuel
29 wagering is conducted or solicited after off time of the race;
- 30 (12) influence or attempt to influence, by the payment or promise of
31 payment of money or other valuable consideration, any person to alter
32 the natural outcome of any race conducted by, or any simulcast race
33 displayed by, an organization licensee;
- 34 (13) influence or attempt to influence any member, employee or ap-
35 pointee of the commission, by the payment or promise of payment of
36 money or other valuable consideration, in the performance of any official
37 duty of that member, employee or appointee;
- 38 (14) fail to report to the commission or to one of its employees or
39 appointees knowledge of any violation of this act by another person for
40 the purpose of stimulating or depressing any horse or greyhound, or af-
41 fecting its speed, at any time during any race conducted by an organiza-
42 tion licensee;
- 43 (15) commit any of the following acts with respect to the prior racing

1 record, pedigree, identity or ownership of a registered horse or greyhound
 2 in any matter related to the breeding, buying, selling or racing of the
 3 animal: (A) Falsify, conceal or cover up, by any trick, scheme or device,
 4 a material fact; (B) make any false, fictitious or fraudulent statement or
 5 representation; or (C) make or use any false writing or document knowing
 6 that it contains any false, fictitious or fraudulent statement or entry; or

7 (16) pass or attempt to pass, cash or attempt to cash any altered or
 8 forged parimutuel ticket knowing it to have been altered or forged.

9 (j) (I) No person less than ~~18~~ 21 years of age shall purchase a pari-
 10 mutuel ticket or an interest in such a ticket.

11 (2) Any person ~~violating~~ *less than 18 years of age who violates* this
 12 subsection shall be subject to adjudication as a juvenile offender pursuant
 13 to the Kansas juvenile justice code.

14 (3) *Violation of this subsection by a person 18 or more years of age*
 15 *is a class A misdemeanor upon conviction of the first offense and a severity*
 16 *level 8, nonperson felony upon conviction of the second or a subsequent*
 17 *offense.*

18 Sec. 51. K.S.A. 74-8814 is hereby amended to read as follows: 74-
 19 8814. (a) Subject to the provisions of subsection (b), the commission shall
 20 establish by rules and regulations an application fee not exceeding \$500
 21 for any of the following which applies for an organization license and the
 22 license fee for any of the following granted an organization license shall
 23 be \$100 for each day of racing approved by the commission:

24 (1) Any fair association other than the Greenwood county and An-
 25 thony fair associations, any horsemen's nonprofit organization or the na-
 26 tional greyhound association of Abilene, Kansas, if: (A) Such association
 27 conducts not more than two race meetings each year; (B) such race meets
 28 are held within the boundaries of the county where the applicant is lo-
 29 cated; and (C) such race meetings are held for a total of not more than
 30 ~~21~~ 40 days per year; or

31 (2) the Greenwood county fair association or a horsemen's nonprofit
 32 organization, with respect to race meetings conducted by such association
 33 or organization at Eureka Downs, or the Anthony fair association or a
 34 horsemen's nonprofit organization, with respect to race meetings con-
 35 ducted by such association or organization at Anthony Downs, for which
 36 the number of race meetings and days, and the dates thereof, shall be
 37 specified by the commission.

38 (b) The commission shall adopt rules and regulations providing for
 39 simplified and less costly procedures and requirements for fair associa-
 40 tions and horsemen's nonprofit organizations applying for or holding a
 41 license to conduct race meetings.

42 (c) The Kansas ~~bureau of investigation~~ *racing and gaming commis-*
 43 *sion* shall investigate:

1 (1) The president, vice-president, secretary and treasurer of a fair
2 association, and such other members as the commission considers nec-
3 essary, to determine eligibility for an organization license;

4 (2) each officer and each director of a nonprofit horsemen's organi-
5 zation, and such other members or shareholders as the commission con-
6 siders necessary to determine eligibility for an organization license.

7 (d) Except as otherwise provided by this section, all applicants for
8 organization licenses for the conduct of race meetings pursuant to the
9 provisions of this section shall be required to comply with all the provi-
10 sions of K.S.A. 74-8813 and amendments thereto.

11 Sec. 52. K.S.A. 74-8823 is hereby amended to read as follows: 74-
12 8823. (a) There is hereby imposed a tax on the gross sum wagered by the
13 parimutuel method as follows:

14 (1) Of the total daily takeout from parimutuel pools for live horse
15 races conducted in this state, a tax at the rate of $\frac{3}{16}$;

16 (2) except as provided by subsection (a)(3), for live greyhound races
17 conducted in this state at a racetrack facility for the racing of only grey-
18 hounds: (A) During the first four years when racing with parimutuel wa-
19 gering is conducted at such facility, a tax at the rate of $\frac{3}{16}$ of the total
20 daily takeout from parimutuel pools for live greyhound races; and (B)
21 thereafter, from parimutuel pools for each live greyhound performance,
22 a tax at the rate of $\frac{3}{16}$ of the first \$400,000 wagered, $\frac{4}{16}$ of the next
23 \$200,000 wagered and $\frac{5}{16}$ of any amounts wagered exceeding \$600,000;

24 (3) for live greyhound races conducted in this state at a dual racetrack
25 facility or at a racetrack facility owned by a licensee whose license au-
26 thORIZES the construction of a dual racetrack facility: (A) During the first
27 seven years when racing with parimutuel wagering is conducted at such
28 facility, a tax at the rate of $\frac{3}{16}$ of the total daily takeout from parimutuel
29 pools for live greyhound races; and (B) thereafter, from parimutuel pools
30 for each live greyhound performance, a tax at the rate of $\frac{3}{16}$ of the first
31 \$600,000 wagered, $\frac{4}{16}$ of the next \$200,000 wagered and $\frac{5}{16}$ of any
32 amounts wagered exceeding \$800,000; and

33 (4) of the total daily takeout from amounts wagered in this jurisdiction
34 on simulcast races displayed in this state, a tax at the rate of $\frac{3}{16}$.

35 (b) The tax imposed by this section shall be no less than 3% nor more
36 than 6% of the total money wagered each day at a racetrack facility.

37 (c) The tax imposed by this section shall be remitted to the commis-
38 sion by each organization licensee by the next business day following the
39 day on which the wagers took place. The commission shall remit any such
40 tax moneys received to the state treasurer in accordance with the provi-
41 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
42 such remittance, the state treasurer shall deposit the entire amount in the
43 state treasury to the credit of the state racing fund created by K.S.A. 74-

1 8826, and amendments thereto, except as provided by K.S.A. 74-8838,
2 and amendments thereto.

3 (d) The commission shall audit and verify that the amount of tax re-
4 ceived from each organization licensee hereunder is correct.

5 (e) *Nothing in this section shall be construed to impose any tax on*
6 *amounts wagered on electronic gaming machine games operated pursuant*
7 *to the Kansas expanded lottery act.*

8 Sec. 53. K.S.A. 74-8830 is hereby amended to read as follows: 74-
9 8830. (a) The commission shall, by rules and regulations:

10 (1) Qualify stallions for participation in Kansas-registered stallion
11 awards;

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

14 (3) determine qualifications of Kansas-bred horses and establish clas-
15 ses of Kansas-bred horses for registration purposes and for the purpose
16 of awarding purse supplements, stakes and awards pursuant to K.S.A. 74-
17 8829 and amendments thereto; and

18 (4) establish a schedule of fees for the registration of Kansas-domi-
19 ciled mares, Kansas-domiciled stallions and Kansas-bred horses sufficient
20 to provide for all expenses incurred in the administration of the Kansas
21 horse breeding development fund created pursuant to K.S.A. 74-8829
22 and amendments thereto.

23 (b) The commission may contract with and designate an official reg-
24 istering agency to implement the registration of horses. *The board of*
25 *directors of the official registering agency shall consist of five represen-*
26 *tatives of the quarter horse breed and five representatives of the thor-*
27 *oughbred breed. Representatives shall be selected by each breed organi-*
28 *zation from their respective memberships pursuant to rules and*
29 *regulations adopted by the Kansas racing and gaming commission. In*
30 *order to be eligible to serve on the board, a participant must be a legal*
31 *resident of the state of Kansas and a member of the Kansas quarter horse*
32 *racing association or the Kansas thoroughbred association. Such agency*
33 *shall operate under the supervision of the commission and be subject to*
34 *rules and regulations of the commission. The official registering agency*
35 *shall receive no compensation from the Kansas racing and gaming com-*
36 *mission except fees received for registration of horses necessary to pay*
37 *its expenses for such registration.*

38 (c) The commission may contract with and designate an agency to
39 provide for the distribution of purse supplements, stakes and awards from
40 the Kansas horse breeding development fund. Such agency shall operate
41 under the supervision of the commission and be subject to rules and
42 regulations of the commission.

43 Sec. 54. K.S.A. 74-8832 is hereby amended to read as follows: 74-

1 8832. (a) The commission shall, by rules and regulations, establish a
2 schedule of fees for the registration of Kansas-whelped greyhounds
3 which, together with the amount provided pursuant to K.S.A. 74-8830
4 and amendments thereto, shall be sufficient to provide for all expenses
5 incurred in the administration of the Kansas greyhound breeding devel-
6 opment fund created pursuant to K.S.A. 74-8831 and amendments
7 thereto.

8 (b) The commission may contract with and designate an official reg-
9 istering agency to implement the registration of greyhounds. Such agency
10 shall operate under the supervision of the commission and be subject to
11 rules and regulations of the commission. The official registering agency
12 shall receive no compensation *from the Kansas racing and gaming com-*
13 *mission* except the amount provided pursuant to K.S.A. ~~74-8830~~ 74-8831,
14 and amendments thereto, and fees received for registration of greyhounds
15 necessary to pay its expenses for such registration.

16 (c) The commission may contract with and designate an agency to
17 provide for the distribution of purse supplements from the Kansas grey-
18 hound breeding development fund. Such agency shall operate under the
19 supervision of the commission and be subject to rules and regulations of
20 the commission.

21 Sec. 55. K.S.A. 74-8838 is hereby amended to read as follows: 74-
22 8838. (a) The state treasurer shall credit $\frac{1}{3}$ of the taxes on the takeout
23 from parimutuel pools for simulcast races, as certified by the executive
24 director, to the horse fair racing benefit fund, which is hereby created in
25 the state treasury.

26 (b) *Twenty-five percent of all moneys credited to the horse fair racing*
27 *benefit fund may be expended, upon application to the commission, for*
28 *capital improvements to racetrack facilities on or adjacent to premises*
29 *used by a fair association to conduct fair racing activities.*

30 (c) *In addition to amounts expended pursuant to subsection (b),*
31 *\$2,000,000 of moneys in the fund shall be expended in each fiscal year*
32 *for capital improvement projects, operations, purse awards or commission*
33 *expenses associated with regulation and oversight of parimutuel activity,*
34 *or any or all of the foregoing, at the racetrack facilities on or adjacent to*
35 *premises used by a fair association to conduct fair activities at Eureka*
36 *Downs in Greenwood county and Anthony Downs in Harper county.*
37 *Such moneys shall be expended only on application by the fair association*
38 *licensee and a determination by the commission that the application has*
39 *merit. Any portion of such \$2,000,000 which is not expended in a fiscal*
40 *year shall carry over to subsequent fiscal years and shall be in addition*
41 *to the amount provided to be expended pursuant to this subsection in such*
42 *subsequent fiscal years.*

43 (d) *The remaining moneys in the horse fair racing benefit fund shall*

1 be expended only for:

- 2 (1) Reimbursement of the commission for the commission's admin-
3 istrative costs, as established by rules and regulations of the commission,
4 related to race meetings conducted by a fair association or a horsemen's
5 nonprofit organization, including the cost of stewards, racing judges and
6 assistant animal health officers performing services at such race meetings;
7 (2) paying the costs of totalisator expenses incurred by an organiza-
8 tion licensee that is a fair association or horsemen's nonprofit
9 organization;
10 (3) paying the costs of background investigations required under the
11 Kansas parimutuel racing act for members of a fair association or horse-
12 men's nonprofit organization;
13 (4) purse supplements at race meetings conducted by a fair associa-
14 tion or horsemen's nonprofit organization;
15 (5) basic operating assistance grants to an organization licensee that
16 is a fair association or horsemen's nonprofit organization; and
17 (6) costs for employment of key racing officials, as determined by the
18 commission, incurred by an organization licensee that is a fair association
19 or horsemen's nonprofit organization.

20 ~~(e)~~ (e) The commission shall adopt rules and regulations establishing
21 procedures for distributing moneys in the horse fair racing benefit fund
22 to fair associations and nonprofit horsemen's organizations for the pur-
23 poses provided by this section.

24 ~~(f)~~ (f) Expenditures from the horse fair racing benefit fund related
25 to the conduct of a race meeting shall not be allocated to any organization
26 licensee for a period exceeding ~~21~~ 40 days.

27 ~~(g)~~ (g) Expenditures from the horse fair racing benefit fund shall not
28 be allocated to any organization licensee to support the conduct of pari-
29 mutuel greyhound races unless the organization licensee conducts an
30 equal or greater number of parimutuel horse races during the race
31 meeting.

32 ~~(h)~~ (h) Expenditures from the horse fair racing benefit fund shall be
33 made in accordance with appropriation acts upon warrants of the director
34 of accounts and reports issued pursuant to vouchers approved by the
35 chairperson of the commission or a person designated by the chairperson.

36 New Sec. 56. (a) The Kansas racing and gaming commission shall
37 establish a greyhound promotion and development fund which shall be
38 funded through a voluntary greyhound purse checkoff program which
39 shall provide for the deduction of 2% from all purses paid to kennels and
40 greyhound owners who participate in the program. Greyhound owners
41 and kennel operators shall be provided an opportunity annually to not
42 participate in the program by signing a form approved by the Kansas
43 racing and gaming commission. Moneys deposited into the fund shall be

1 used for the development, promotion and representation of the grey-
2 hound industry in Kansas and shall be distributed to the organization
3 contracted with by the Kansas racing and gaming commission to admin-
4 ister the official greyhound registry in Kansas.

5 (b) This section shall be part of and supplemental to the Kansas par-
6 imutuel racing act.

7 Sec. 57. K.S.A. 2005 Supp. 79-4805 is hereby amended to read as
8 follows: 79-4805. (a) There is hereby established in the state treasury the
9 problem gambling grant fund. All moneys credited to such fund shall be
10 used only for the awarding of grants under this section. Such fund shall
11 be administered in accordance with this section and the provisions of
12 appropriation acts.

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

17 (c) There is hereby established a state grant program to provide as-
18 sistance for the direct treatment of persons diagnosed as suffering from
19 pathological gambling and to provide funding for research regarding the
20 impact of gambling on residents of Kansas. Research grants awarded un-
21 der this section may include, but need not be limited to, grants for de-
22 termining the effectiveness of education and prevention efforts on the
23 prevalence of pathological gambling in Kansas. All grants shall be made
24 after open solicitation of proposals and evaluation of proposals against
25 criteria established in rules and regulations adopted by the ~~secretary of~~
26 ~~the department of social and rehabilitation services~~ *Kansas racing and*
27 *gaming commission*. Both public and private entities shall be eligible to
28 apply for and receive grants under the provisions of this section.

29 (d) The ~~secretary of the department of social and rehabilitation serv-~~
30 ~~ices~~ *Kansas racing and gaming commission* is hereby authorized to receive
31 moneys from any grants, gifts, contributions or bequests made for the
32 purpose of funding grants under this section and to expend such moneys
33 for the purpose for which received.

34 (e) All grants made in accordance with this section shall be made from
35 the problem gambling grant fund. The ~~secretary~~ *Kansas racing and gam-*
36 *ing commission* shall administer the provisions of this section and shall
37 adopt rules and regulations establishing criteria for qualification to receive
38 grants and such other matters deemed necessary by the ~~secretary~~ *com-*
39 *mission* for the administration of this section. Such rules and regulations
40 shall include, but need not be limited to, a requirement that each recip-
41 ient of a grant to provide treatment for pathological gamblers report at
42 least annually to the ~~secretary~~ *commission* the grantee's measurable
43 achievement of specific outcome goals.

- 1 (f) For the purpose of this section “pathological gambling” means the
2 disorder by that name described in the most recent edition of the diag-
3 nostic and statistical manual.
- 4 Sec. 58. K.S.A. 2005 Supp. 12-4516 is hereby amended to read as
5 follows: 12-4516. (a) (1) Except as provided in subsection (b), any per-
6 son who has been convicted of a violation of a city ordinance of this state
7 may petition the convicting court for the expungement of such conviction
8 and related arrest records if three or more years have elapsed since the
9 person:
- 10 (A) Satisfied the sentence imposed; or
11 (B) was discharged from probation, parole or a suspended sentence.
- 12 (2) Except as provided in subsection (b), any person who has fulfilled
13 the terms of a diversion agreement based on a violation of a city ordinance
14 of this state may petition the court for the expungement of such diversion
15 agreement and related arrest records if three or more years have elapsed
16 since the terms of the diversion agreement were fulfilled.
- 17 (b) No person may petition for expungement until five or more years
18 have elapsed since the person satisfied the sentence imposed or the terms
19 of a diversion agreement or was discharged from probation, parole, con-
20 ditional release or a suspended sentence, if such person was convicted of
21 the violation of a city ordinance which would also constitute:
- 22 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
23 ments thereto;
24 (2) a violation of K.S.A. 8-1567, and amendments thereto;
25 (3) driving while the privilege to operate a motor vehicle on the public
26 highways of this state has been canceled, suspended or revoked, as pro-
27 hibited by K.S.A. 8-262, and amendments thereto;
28 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-
29 ments thereto;
30 (5) a violation of the provisions of the fifth clause of K.S.A. 8-142,
31 and amendments thereto, relating to fraudulent applications;
32 (6) any crime punishable as a felony wherein a motor vehicle was
33 used in the perpetration of such crime;
34 (7) failing to stop at the scene of an accident and perform the duties
35 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;
36 (8) a violation of the provisions of K.S.A. 40-3104, and amendments
37 thereto, relating to motor vehicle liability insurance coverage; or
38 (9) a violation of K.S.A. 21-3405b, and amendments thereto.
- 39 (c) When a petition for expungement is filed, the court shall set a
40 date for a hearing of such petition and shall cause notice of such hearing
41 to be given to the prosecuting attorney and the arresting law enforcement
42 agency. The petition shall state: (1) The defendant’s full name;
43 (2) the full name of the defendant at the time of arrest, conviction or

- 1 diversion, if different than the defendant's current name;
- 2 (3) the defendant's sex, race and date of birth;
- 3 (4) the crime for which the defendant was arrested, convicted or
4 diverted;
- 5 (5) the date of the defendant's arrest, conviction or diversion; and
- 6 (6) the identity of the convicting court, arresting law enforcement
7 agency or diverting authority. A municipal court may prescribe a fee to
8 be charged as costs for a person petitioning for an order of expungement
9 pursuant to this section. Any person who may have relevant information
10 about the petitioner may testify at the hearing. The court may inquire
11 into the background of the petitioner and shall have access to any reports
12 or records relating to the petitioner that are on file with the secretary of
13 corrections or the Kansas parole board.
- 14 (d) At the hearing on the petition, the court shall order the peti-
15 tioner's arrest record, conviction or diversion expunged if the court finds
16 that:
- 17 (1) The petitioner has not been convicted of a felony in the past two
18 years and no proceeding involving any such crime is presently pending
19 or being instituted against the petitioner;
- 20 (2) the circumstances and behavior of the petitioner warrant the
21 expungement; and
- 22 (3) the expungement is consistent with the public welfare.
- 23 (e) When the court has ordered an arrest record, conviction or di-
24 version expunged, the order of expungement shall state the information
25 required to be contained in the petition. The clerk of the court shall send
26 a certified copy of the order of expungement to the Kansas bureau of
27 investigation which shall notify the federal bureau of investigation, the
28 secretary of corrections and any other criminal justice agency which may
29 have a record of the arrest, conviction or diversion. After the order of
30 expungement is entered, the petitioner shall be treated as not having been
31 arrested, convicted or diverted of the crime, except that:
- 32 (1) Upon conviction for any subsequent crime, the conviction that
33 was expunged may be considered as a prior conviction in determining the
34 sentence to be imposed;
- 35 (2) the petitioner shall disclose that the arrest, conviction or diversion
36 occurred if asked about previous arrests, convictions or diversions:
- 37 (A) In any application for employment as a detective with a private
38 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
39 as security personnel with a private patrol operator, as defined by K.S.A.
40 75-7b01, and amendments thereto; or with an institution, as defined in
41 K.S.A. 76-12a01, and amendments thereto, of the department of social
42 and rehabilitation services;
- 43 (B) in any application for admission, or for an order of reinstatement,

- 1 to the practice of law in this state;
- 2 (C) to aid in determining the petitioner's qualifications for employ-
3 ment with the Kansas lottery or for work in sensitive areas within the
4 Kansas lottery as deemed appropriate by the executive director of the
5 Kansas lottery;
- 6 (D) to aid in determining the petitioner's qualifications for executive
7 director of the Kansas racing *and gaming* commission, for employment
8 with the commission or for work in sensitive areas in parimutuel racing
9 as deemed appropriate by the executive director of the commission, or
10 to aid in determining qualifications for licensure or renewal of licensure
11 by the commission;
- 12 (E) *to aid in determining the petitioner's qualifications for the follow-*
13 *ing under the Kansas expanded lottery act: (i) Lottery gaming facility*
14 *manager or prospective manager, racetrack gaming facility manager or*
15 *prospective manager, licensee or certificate holder; or (ii) an officer, di-*
16 *rector, employee, owner, agent or contractor thereof;*
- 17 ~~(F)~~ (F) upon application for a commercial driver's license under
18 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- 19 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an
20 employee of the state gaming agency;
- 21 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an
22 employee of a tribal gaming commission or to hold a license issued pur-
23 suant to a tribal-state gaming compact; or
- 24 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
25 investment adviser or investment adviser representative all as defined in
26 K.S.A. 2005 Supp. 17-12a102, and amendments thereto;
- 27 (3) the court, in the order of expungement, may specify other cir-
28 cumstances under which the arrest, conviction or diversion is to be dis-
29 closed; and
- 30 (4) the conviction may be disclosed in a subsequent prosecution for
31 an offense which requires as an element of such offense a prior conviction
32 of the type expunged.
- 33 (f) Whenever a person is convicted of an ordinance violation, pleads
34 guilty and pays a fine for such a violation, is placed on parole or probation
35 or is granted a suspended sentence for such a violation, the person shall
36 be informed of the ability to expunge the arrest records or conviction.
37 Whenever a person enters into a diversion agreement, the person shall
38 be informed of the ability to expunge the diversion.
- 39 (g) Subject to the disclosures required pursuant to subsection (e), in
40 any application for employment, license or other civil right or privilege,
41 or any appearance as a witness, a person whose arrest records, conviction
42 or diversion of an offense has been expunged under this statute may state
43 that such person has never been arrested, convicted or diverted of such

1 offense.

2 (h) Whenever the record of any arrest, conviction or diversion has
3 been expunged under the provisions of this section or under the provi-
4 sions of any other existing or former statute, the custodian of the records
5 of arrest, conviction, diversion and incarceration relating to that crime
6 shall not disclose the existence of such records, except when requested
7 by:

8 (1) The person whose record was expunged;

9 (2) a private detective agency or a private patrol operator, and the
10 request is accompanied by a statement that the request is being made in
11 conjunction with an application for employment with such agency or op-
12 erator by the person whose record has been expunged;

13 (3) a court, upon a showing of a subsequent conviction of the person
14 whose record has been expunged;

15 (4) the secretary of social and rehabilitation services, or a designee of
16 the secretary, for the purpose of obtaining information relating to em-
17 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
18 ments thereto, of the department of social and rehabilitation services of
19 any person whose record has been expunged;

20 (5) a person entitled to such information pursuant to the terms of the
21 expungement order;

22 (6) a prosecuting attorney, and such request is accompanied by a
23 statement that the request is being made in conjunction with a prosecu-
24 tion of an offense that requires a prior conviction as one of the elements
25 of such offense;

26 (7) the supreme court, the clerk or disciplinary administrator thereof,
27 the state board for admission of attorneys or the state board for discipline
28 of attorneys, and the request is accompanied by a statement that the
29 request is being made in conjunction with an application for admission,
30 or for an order of reinstatement, to the practice of law in this state by the
31 person whose record has been expunged;

32 (8) the Kansas lottery, and the request is accompanied by a statement
33 that the request is being made to aid in determining qualifications for
34 employment with the Kansas lottery or for work in sensitive areas within
35 the Kansas lottery as deemed appropriate by the executive director of the
36 Kansas lottery;

37 (9) the governor or the Kansas racing *and gaming* commission, or a
38 designee of the commission, and the request is accompanied by a state-
39 ment that the request is being made to aid in determining qualifications
40 for executive director of the commission, for employment with the com-
41 mission, for work in sensitive areas in parimutuel racing as deemed ap-
42 propriate by the executive director of the commission or for licensure,
43 renewal of licensure or continued licensure by the commission;

- 1 (10) *the Kansas racing and gaming commission, or a designee of the*
2 *commission, and the request is accompanied by a statement that the re-*
3 *quest is being made to aid in determining qualifications of the following*
4 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*
5 *agers and prospective managers, racetrack gaming facility managers and*
6 *prospective managers, licensees and certificate holders; and (B) their of-*
7 *ficers, directors, employees, owners, agents and contractors;*
8 ~~(10)~~ (11) *the state gaming agency, and the request is accompanied*
9 *by a statement that the request is being made to aid in determining qual-*
10 *ifications: (A) To be an employee of the state gaming agency; or (B) to*
11 *be an employee of a tribal gaming commission or to hold a license issued*
12 *pursuant to a tribal-state gaming compact; or*
13 ~~(11)~~ (12) *the Kansas securities commissioner, or a designee of the*
14 *commissioner, and the request is accompanied by a statement that the*
15 *request is being made in conjunction with an application for registration*
16 *as a broker-dealer, agent, investment adviser or investment adviser rep-*
17 *resentative by such agency and the application was submitted by the per-*
18 *son whose record has been expunged.*
19 Sec. 59. K.S.A. 2005 Supp. 19-101a is hereby amended to read as
20 follows: 19-101a. (a) The board of county commissioners may transact all
21 county business and perform all powers of local legislation and adminis-
22 tration it deems appropriate, subject only to the following limitations,
23 restrictions or prohibitions:
24 (1) Counties shall be subject to all acts of the legislature which apply
25 uniformly to all counties.
26 (2) Counties may not consolidate or alter county boundaries.
27 (3) Counties may not affect the courts located therein.
28 (4) Counties shall be subject to acts of the legislature prescribing
29 limits of indebtedness.
30 (5) In the exercise of powers of local legislation and administration
31 authorized under provisions of this section, the home rule power con-
32 ferred on cities to determine their local affairs and government shall not
33 be superseded or impaired without the consent of the governing body of
34 each city within a county which may be affected.
35 (6) Counties may not legislate on social welfare administered under
36 state law enacted pursuant to or in conformity with public law No. 271—
37 74th congress, or amendments thereof.
38 (7) Counties shall be subject to all acts of the legislature concerning
39 elections, election commissioners and officers and their duties as such
40 officers and the election of county officers.
41 (8) Counties shall be subject to the limitations and prohibitions im-
42 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
43 prescribing limitations upon the levy of retailers' sales taxes by counties.

- 1 (9) Counties may not exempt from or effect changes in statutes made
2 nonuniform in application solely by reason of authorizing exceptions for
3 counties having adopted a charter for county government.
- 4 (10) No county may levy ad valorem taxes under the authority of this
5 section upon real property located within any redevelopment project area
6 established under the authority of K.S.A. 12-1772, and amendments
7 thereto, unless the resolution authorizing the same specifically authorized
8 a portion of the proceeds of such levy to be used to pay the principal of
9 and interest upon bonds issued by a city under the authority of K.S.A.
10 12-1774, and amendments thereto.
- 11 (11) Counties shall have no power under this section to exempt from
12 any statute authorizing or requiring the levy of taxes and providing sub-
13 stitute and additional provisions on the same subject, unless the resolution
14 authorizing the same specifically provides for a portion of the proceeds
15 of such levy to be used to pay a portion of the principal and interest on
16 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
17 ments thereto.
- 18 (12) Counties may not exempt from or effect changes in the provi-
19 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 20 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
21 through 12-1,109, and amendments thereto, counties may not levy and
22 collect taxes on incomes from whatever source derived.
- 23 (14) Counties may not exempt from or effect changes in K.S.A. 19-
24 430, and amendments thereto.
- 25 (15) Counties may not exempt from or effect changes in K.S.A. 19-
26 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 27 (16) (A) Counties may not exempt from or effect changes in K.S.A.
28 13-13a26, and amendments thereto.
- 29 (B) This provision shall expire on June 30, 2006.
- 30 (17) (A) Counties may not exempt from or effect changes in K.S.A.
31 71-301a, and amendments thereto.
- 32 (B) This provision shall expire on June 30, 2006.
- 33 (18) Counties may not exempt from or effect changes in K.S.A. 19-
34 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 35 (19) Counties may not exempt from or effect changes in the provi-
36 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
37 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
38 through 12-1270 and 12-1276, and amendments thereto.
- 39 (20) Counties may not exempt from or effect changes in the provi-
40 sions of K.S.A. 19-211, and amendments thereto.
- 41 (21) Counties may not exempt from or effect changes in the provi-
42 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 43 (22) Counties may not regulate the production or drilling of any oil

- 1 or gas well in any manner which would result in the duplication of reg-
2 ulation by the state corporation commission and the Kansas department
3 of health and environment pursuant to chapter 55 and chapter 65 of the
4 Kansas Statutes Annotated, and amendments thereto, and any rules and
5 regulations adopted pursuant thereto. Counties may not require any li-
6 cense or permit for the drilling or production of oil and gas wells. Counties
7 may not impose any fee or charge for the drilling or production of any
8 oil or gas well.
- 9 (23) Counties may not exempt from or effect changes in K.S.A. 79-
10 41a04, and amendments thereto.
- 11 (24) Counties may not exempt from or effect changes in K.S.A. 79-
12 1611, and amendments thereto.
- 13 (25) Counties may not exempt from or effect changes in K.S.A. 79-
14 1494, and amendments thereto.
- 15 (26) Counties may not exempt from or effect changes in subsection
16 (b) of K.S.A. 19-202, and amendments thereto.
- 17 (27) Counties may not exempt from or effect changes in subsection
18 (b) of K.S.A. 19-204, and amendments thereto.
- 19 (28) Counties may not levy or impose an excise, severance or any
20 other tax in the nature of an excise tax upon the physical severance and
21 production of any mineral or other material from the earth or water.
- 22 (29) Counties may not exempt from or effect changes in K.S.A. 79-
23 2017 or 79-2101, and amendments thereto.
- 24 (30) Counties may not exempt from or effect changes in K.S.A. 2-
25 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
26 1,178 through 65-1,199, and amendments thereto.
- 27 (31) Counties may not exempt from or effect changes in K.S.A. 2005
28 Supp. 80-121, and amendments thereto.
- 29 (32) Counties may not exempt from or effect changes in K.S.A. 19-
30 228, and amendments thereto.
- 31 (33) Counties may not exempt from or effect changes in the wireless
32 enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308,
33 and amendments thereto.
- 34 (34) Counties may not exempt from or effect changes in K.S.A. 2005
35 Supp. 26-601, and amendments thereto.
- 36 (35) (A) From and after November 15, 2005, counties may not ex-
37 empt from or effect changes in the Kansas liquor control act except as
38 provided by paragraph (B).
- 39 (B) From and after November 15, 2005, counties may adopt resolu-
40 tions which are not in conflict with the Kansas liquor control act.
- 41 (36) (A) From and after November 15, 2005, counties may not ex-
42 empt from or effect changes in the Kansas cereal malt beverage act except
43 as provided by paragraph (B).

1 (B) From and after November 15, 2005, counties may adopt resolu-
2 tions which are not in conflict with the Kansas cereal malt beverage act.

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

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

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

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

21 Sec. 60. K.S.A. 2005 Supp. 21-4619 is hereby amended to read as
22 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
23 any person convicted in this state of a traffic infraction, cigarette or to-
24 bacco infraction, misdemeanor or a class D or E felony, or for crimes
25 committed on or after July 1, 1993, nondrug crimes ranked in severity
26 levels 6 through 10 or any felony ranked in severity level 4 of the drug
27 grid, may petition the convicting court for the expungement of such con-
28 viction or related arrest records if three or more years have elapsed since
29 the person: (A) Satisfied the sentence imposed; or (B) was discharged
30 from probation, a community correctional services program, parole, post-
31 release supervision, conditional release or a suspended sentence.

32 (2) Except as provided in subsections (b) and (c), any person who has
33 fulfilled the terms of a diversion agreement may petition the district court
34 for the expungement of such diversion agreement and related arrest re-
35 cords if three or more years have elapsed since the terms of the diversion
36 agreement were fulfilled.

37 (b) Except as provided in subsection (c), no person may petition for
38 expungement until five or more years have elapsed since the person sat-
39 isfied the sentence imposed, the terms of a diversion agreement or was
40 discharged from probation, a community correctional services program,
41 parole, postrelease supervision, conditional release or a suspended sen-
42 tence, if such person was convicted of a class A, B or C felony, or for
43 crimes committed on or after July 1, 1993, if convicted of an off-grid

- 1 felony or any nondrug crime ranked in severity levels 1 through 5 or any
2 felony ranked in severity levels 1 through 3 of the drug grid, or:
- 3 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
4 ments thereto, or as prohibited by any law of another state which is in
5 substantial conformity with that statute;
 - 6 (2) a violation of K.S.A. 8-1567, and amendments thereto, or a vio-
7 lation of any law of another state, which declares to be unlawful the acts
8 prohibited by that statute;
 - 9 (3) driving while the privilege to operate a motor vehicle on the public
10 highways of this state has been canceled, suspended or revoked, as pro-
11 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
12 any law of another state which is in substantial conformity with that
13 statute;
 - 14 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-
15 ments thereto, or resulting from the violation of a law of another state
16 which is in substantial conformity with that statute;
 - 17 (5) violating the provisions of the fifth clause of K.S.A. 8-142, and
18 amendments thereto, relating to fraudulent applications or violating the
19 provisions of a law of another state which is in substantial conformity with
20 that statute;
 - 21 (6) any crime punishable as a felony wherein a motor vehicle was
22 used in the perpetration of such crime;
 - 23 (7) failing to stop at the scene of an accident and perform the duties
24 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,
25 or required by a law of another state which is in substantial conformity
26 with those statutes;
 - 27 (8) violating the provisions of K.S.A. 40-3104, and amendments
28 thereto, relating to motor vehicle liability insurance coverage; or
 - 29 (9) a violation of K.S.A. 21-3405b, prior to its repeal.
- 30 (c) There shall be no expungement of convictions for the following
31 offenses or of convictions for an attempt to commit any of the following
32 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;
33 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and
34 amendments thereto; (3) aggravated indecent liberties with a child as
35 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy
36 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-
37 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-
38 3506, and amendments thereto; (6) indecent solicitation of a child as
39 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-
40 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-
41 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-
42 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.
43 21-3603, and amendments thereto; (10) endangering a child as defined

1 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as
2 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder
3 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in
4 the first degree as defined in K.S.A. 21-3401, and amendments thereto;
5 (14) murder in the second degree as defined in K.S.A. 21-3402, and
6 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.
7 21-3403, and amendments thereto; (16) involuntary manslaughter as de-
8 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-
9 slaughter while driving under the influence of alcohol or drugs as defined
10 in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual bat-
11 tery as defined in K.S.A. 21-3517, and amendments thereto, when the
12 victim was less than 18 years of age at the time the crime was committed;
13 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-
14 ments thereto; or (20) any conviction for any offense in effect at any time
15 prior to the effective date of this act, that is comparable to any offense
16 as provided in this subsection.

17 (d) When a petition for expungement is filed, the court shall set a
18 date for a hearing of such petition and shall cause notice of such hearing
19 to be given to the prosecuting attorney and the arresting law enforcement
20 agency. The petition shall state: (1) The defendant's full name;

21 (2) the full name of the defendant at the time of arrest, conviction or
22 diversion, if different than the defendant's current name;

23 (3) the defendant's sex, race and date of birth;

24 (4) the crime for which the defendant was arrested, convicted or
25 diverted;

26 (5) the date of the defendant's arrest, conviction or diversion; and

27 (6) the identity of the convicting court, arresting law enforcement
28 authority or diverting authority. There shall be no docket fee for filing a
29 petition pursuant to this section. All petitions for expungement shall be
30 docketed in the original criminal action. Any person who may have rel-
31 evant information about the petitioner may testify at the hearing. The
32 court may inquire into the background of the petitioner and shall have
33 access to any reports or records relating to the petitioner that are on file
34 with the secretary of corrections or the Kansas parole board.

35 (e) At the hearing on the petition, the court shall order the peti-
36 tioner's arrest record, conviction or diversion expunged if the court finds
37 that:

38 (1) The petitioner has not been convicted of a felony in the past two
39 years and no proceeding involving any such crime is presently pending
40 or being instituted against the petitioner;

41 (2) the circumstances and behavior of the petitioner warrant the
42 expungement; and

43 (3) the expungement is consistent with the public welfare.

- 1 (f) When the court has ordered an arrest record, conviction or diver-
2 sion expunged, the order of expungement shall state the information re-
3 quired to be contained in the petition. The clerk of the court shall send
4 a certified copy of the order of expungement to the Kansas bureau of
5 investigation which shall notify the federal bureau of investigation, the
6 secretary of corrections and any other criminal justice agency which may
7 have a record of the arrest, conviction or diversion. After the order of
8 expungement is entered, the petitioner shall be treated as not having been
9 arrested, convicted or diverted of the crime, except that:
- 10 (1) Upon conviction for any subsequent crime, the conviction that
11 was expunged may be considered as a prior conviction in determining the
12 sentence to be imposed;
- 13 (2) the petitioner shall disclose that the arrest, conviction or diversion
14 occurred if asked about previous arrests, convictions or diversions:
- 15 (A) In any application for licensure as a private detective, private
16 detective agency, certification as a firearms trainer pursuant to K.S.A.
17 2005 Supp. 75-7b21, and amendments thereto, or employment as a de-
18 tective with a private detective agency, as defined by K.S.A. 75-7b01, and
19 amendments thereto; as security personnel with a private patrol operator,
20 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-
21 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the
22 department of social and rehabilitation services;
- 23 (B) in any application for admission, or for an order of reinstatement,
24 to the practice of law in this state;
- 25 (C) to aid in determining the petitioner's qualifications for employ-
26 ment with the Kansas lottery or for work in sensitive areas within the
27 Kansas lottery as deemed appropriate by the executive director of the
28 Kansas lottery;
- 29 (D) to aid in determining the petitioner's qualifications for executive
30 director of the Kansas racing *and gaming* commission, for employment
31 with the commission or for work in sensitive areas in parimutuel racing
32 as deemed appropriate by the executive director of the commission, or
33 to aid in determining qualifications for licensure or renewal of licensure
34 by the commission;
- 35 (E) *to aid in determining the petitioner's qualifications for the follow-*
36 *ing under the Kansas expanded lottery act: (i) Lottery gaming facility*
37 *manager or prospective manager, racetrack gaming facility manager or*
38 *prospective manager, licensee or certificate holder; or (ii) an officer, di-*
39 *rector, employee, owner, agent or contractor thereof;*
- 40 ~~(F)~~ (F) upon application for a commercial driver's license under
41 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- 42 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an
43 employee of the state gaming agency;

- 1 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an
2 employee of a tribal gaming commission or to hold a license issued pur-
3 suant to a tribal-state gaming compact;
- 4 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
5 investment adviser or investment adviser representative all as defined in
6 K.S.A. 2006 Supp. 17-12a102, and amendments thereto; or
- 7 ~~(I)~~ (J) in any application for employment as a law enforcement
8 officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
- 9 (3) the court, in the order of expungement, may specify other cir-
10 cumstances under which the conviction is to be disclosed;
- 11 (4) the conviction may be disclosed in a subsequent prosecution for
12 an offense which requires as an element of such offense a prior conviction
13 of the type expunged; and
- 14 (5) upon commitment to the custody of the secretary of corrections,
15 any previously expunged record in the possession of the secretary of cor-
16 rections may be reinstated and the expungement disregarded, and the
17 record continued for the purpose of the new commitment.
- 18 (g) Whenever a person is convicted of a crime, pleads guilty and pays
19 a fine for a crime, is placed on parole, postrelease supervision or proba-
20 tion, is assigned to a community correctional services program, is granted
21 a suspended sentence or is released on conditional release, the person
22 shall be informed of the ability to expunge the arrest records or convic-
23 tion. Whenever a person enters into a diversion agreement, the person
24 shall be informed of the ability to expunge the diversion.
- 25 (h) Subject to the disclosures required pursuant to subsection (f), in
26 any application for employment, license or other civil right or privilege,
27 or any appearance as a witness, a person whose arrest records, conviction
28 or diversion of a crime has been expunged under this statute may state
29 that such person has never been arrested, convicted or diverted of such
30 crime, but the expungement of a felony conviction does not relieve an
31 individual of complying with any state or federal law relating to the use
32 or possession of firearms by persons convicted of a felony.
- 33 (i) Whenever the record of any arrest, conviction or diversion has
34 been expunged under the provisions of this section or under the provi-
35 sions of any other existing or former statute, the custodian of the records
36 of arrest, conviction, diversion and incarceration relating to that crime
37 shall not disclose the existence of such records, except when requested
38 by:
- 39 (1) The person whose record was expunged;
- 40 (2) a private detective agency or a private patrol operator, and the
41 request is accompanied by a statement that the request is being made in
42 conjunction with an application for employment with such agency or op-
43 erator by the person whose record has been expunged;

- 1 (3) a court, upon a showing of a subsequent conviction of the person
2 whose record has been expunged;
- 3 (4) the secretary of social and rehabilitation services, or a designee of
4 the secretary, for the purpose of obtaining information relating to em-
5 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
6 ments thereto, of the department of social and rehabilitation services of
7 any person whose record has been expunged;
- 8 (5) a person entitled to such information pursuant to the terms of the
9 expungement order;
- 10 (6) a prosecuting attorney, and such request is accompanied by a
11 statement that the request is being made in conjunction with a prosecu-
12 tion of an offense that requires a prior conviction as one of the elements
13 of such offense;
- 14 (7) the supreme court, the clerk or disciplinary administrator thereof,
15 the state board for admission of attorneys or the state board for discipline
16 of attorneys, and the request is accompanied by a statement that the
17 request is being made in conjunction with an application for admission,
18 or for an order of reinstatement, to the practice of law in this state by the
19 person whose record has been expunged;
- 20 (8) the Kansas lottery, and the request is accompanied by a statement
21 that the request is being made to aid in determining qualifications for
22 employment with the Kansas lottery or for work in sensitive areas within
23 the Kansas lottery as deemed appropriate by the executive director of the
24 Kansas lottery;
- 25 (9) the governor or the Kansas racing *and gaming* commission, or a
26 designee of the commission, and the request is accompanied by a state-
27 ment that the request is being made to aid in determining qualifications
28 for executive director of the commission, for employment with the com-
29 mission, for work in sensitive areas in parimutuel racing as deemed ap-
30 propriate by the executive director of the commission or for licensure,
31 renewal of licensure or continued licensure by the commission;
- 32 (10) *the Kansas racing and gaming commission, or a designee of the*
33 *commission, and the request is accompanied by a statement that the re-*
34 *quest is being made to aid in determining qualifications of the following*
35 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*
36 *agers and prospective managers, racetrack gaming facility managers and*
37 *prospective managers, licensees and certificate holders; and (B) their of-*
38 *ficers, directors, employees, owners, agents and contractors;*
- 39 ~~(10)~~ (11) the Kansas sentencing commission;
- 40 ~~(11)~~ (12) the state gaming agency, and the request is accompanied
41 by a statement that the request is being made to aid in determining qual-
42 ifications: (A) To be an employee of the state gaming agency; or (B) to
43 be an employee of a tribal gaming commission or to hold a license issued

- 1 pursuant to a tribal-gaming compact;
- 2 ~~(12)~~ (13) the Kansas securities commissioner or a designee of the
3 commissioner, and the request is accompanied by a statement that the
4 request is being made in conjunction with an application for registration
5 as a broker-dealer, agent, investment adviser or investment adviser rep-
6 resentative by such agency and the application was submitted by the per-
7 son whose record has been expunged;
- 8 ~~(13)~~ (14) the Kansas law enforcement training commission and the
9 request is accompanied by a statement that the request is being made to
10 aid in determining certification eligibility as a law enforcement officer
11 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or
- 12 ~~(14)~~ (15) a law enforcement agency and the request is accompanied
13 by a statement that the request is being made to aid in determining eli-
14 gibility for employment as a law enforcement officer as defined by K.S.A.
15 22-2202, and amendments thereto.
- 16 Sec. 61. K.S.A. 60-2102 is hereby amended to read as follows: 60-
17 2102. (a) ~~As~~ *Appeal to court of appeals as matter of right*. Except for any
18 order or final decision of a district magistrate judge, the appellate juris-
19 diction of the court of appeals may be invoked by appeal as a matter of
20 right from:
- 21 (1) An order that discharges, vacates or modifies a provisional
22 remedy.
- 23 (2) An order that grants, continues, modifies, refuses or dissolves an
24 injunction, or an order that grants or refuses relief in the form of man-
25 damus, quo warranto or habeas corpus.
- 26 (3) An order that appoints a receiver or refuses to wind up a receiv-
27 ership or to take steps to accomplish the purposes thereof, such as di-
28 recting sales or other disposal of property, or an order involving the tax
29 or revenue laws, the title to real estate, the constitution of this state or
30 the constitution, laws or treaties of the United States.
- 31 (4) A final decision in any action, except in an action where a direct
32 appeal to the supreme court is required by law. In any appeal or cross
33 appeal from a final decision, any act or ruling from the beginning of the
34 proceedings shall be reviewable.
- 35 (b) *Appeal to supreme court as matter of right*. The appellate juris-
36 diction of the supreme court may be invoked by appeal as a matter of
37 right from:
- 38 (1) A preliminary or final decision in which a statute of this state has
39 been held unconstitutional as a violation of Article 6 of the Kansas con-
40 stitution pursuant to K.S.A. 2005 Supp. 72-64b03, and amendments
41 thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed
42 within 30 days of the date the preliminary or final decision is filed.
- 43 (2) *A final decision of the district court in any action challenging the*

1 *constitutionality of or arising out of any provision of the Kansas expanded*
2 *lottery act, any lottery gaming facility management contract or any race-*
3 *track gaming facility management contract entered into pursuant to the*
4 *Kansas expanded lottery act.*

5 (c) *Other appeals.* When a district judge, in making in a civil action
6 an order not otherwise appealable under this section, is of the opinion
7 that such order involves a controlling question of law as to which there is
8 substantial ground for difference of opinion and that an immediate appeal
9 from the order may materially advance the ultimate termination of the
10 litigation, the judge shall so state in writing in such order. The court of
11 appeals may thereupon, in its discretion, permit an appeal to be taken
12 from such order, if application is made to it within 10 days after the entry
13 of the order under such terms and conditions as the supreme court fixes
14 by rule. Application for an appeal hereunder shall not stay proceedings
15 in the district court unless the district judge or an appellate court or a
16 judge thereof so orders.

17 Sec. 62. K.S.A. 60-2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-
18 8810, 74-8814, 74-8823, 74-8830, 74-8832 and 74-8838 and K.S.A. 2005
19 Supp. 12-4516, 19-101a, 21-4619, 74-8711 and 79-4805 are hereby
20 repealed.

21 Sec. 63. This act shall take effect and be in force from and after its
22 publication in the Kansas register.