

## SENATE BILL No. 593

By Committee on Ways and Means

3-20

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9 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;  
10 authorizing operation of certain lottery gaming facilities, electronic  
11 gaming machines, video lottery terminals and other lottery games at  
12 certain locations; prohibiting certain acts and providing penalties for  
13 violations; making appropriations for the fiscal year ending June 30,  
14 2006; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830  
15 and 74-8832 and K.S.A. 2005 Supp. 19-101a and 74-8711 and repeal-  
16 ing the existing sections.  
17

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

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

- 22 (a) "Commission" means the Kansas lottery commission.  
23 (b) "Executive director" means the executive director of the Kansas  
24 lottery.  
25 ~~(c) "Gaming equipment" means any electric, electronic or mechani-~~  
26 ~~cal device or other equipment unique to the Kansas lottery used directly~~  
27 ~~in the operation of any lottery and in the determination of winners pur-~~  
28 ~~suant to this act. "Gaming equipment" means any electric, electronic,~~  
29 ~~computerized or electromechanical machine, mechanism, supply or device~~  
30 ~~or any other equipment, which is: (1) Unique to the Kansas lottery and~~  
31 ~~used pursuant to the Kansas lottery act; and (2) integral to the operation~~  
32 ~~of an electronic gaming machine, lottery facility game or video lottery~~  
33 ~~terminal; and (3) affects the results of an electronic gaming machine, lot-~~  
34 ~~tery facility game or video lottery terminal by determining win or loss.~~  
35 (d) "Kansas lottery" means the state agency created by this act to  
36 operate a lottery or lotteries pursuant to this act.  
37 (e) "Lottery retailer" means any person with whom the Kansas lottery  
38 has contracted to sell lottery tickets or shares, or both, to the public.  
39 (f) "Lottery" or "state lottery" means the lottery or lotteries operated  
40 pursuant to this act.  
41 (g) (1) "Major procurement" means any gaming product or service,  
42 including but not limited to facilities, advertising and promotional serv-  
43 ices, annuity contracts, prize payment agreements, consulting services,

1 equipment, tickets and other products and services unique to the Kansas  
2 lottery, but not including materials, supplies, equipment and services  
3 common to the ordinary operations of state agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) Any food vending machine defined by K.S.A. 36-501, and amend-  
2 ments thereto;
- 3 (B) any nonprescription drug machine authorized under K.S.A. 65-  
4 650, and amendments thereto;
- 5 (C) any machine which dispenses only bottled or canned soft drinks,  
6 chewing gum, nuts or candies; ~~or~~
- 7 (D) any machine excluded from the definition of gambling devices  
8 under subsection (d) of K.S.A. 21-4302, and amendments thereto; or
- 9 (E) *any electronic gaming machine, lottery facility game or video lot-  
10 tery terminal operated in accordance with the provisions of the Kansas  
11 expanded lottery act.*
- 12 (p) *“Electronic gaming machine” means any electronic, electrome-  
13 chanical, video or computerized device, contrivance or machine author-  
14 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic  
15 cards or any consideration, is available to play, operate or simulate the  
16 play of a game authorized by the Kansas lottery pursuant to the Kansas  
17 expanded lottery act, including, but not limited to, bingo, poker, blackjack,  
18 keno and slot machines, and which may deliver or entitle the player op-  
19 erating the machine to receive cash, tokens, merchandise or credits that  
20 may be redeemed for cash. Electronic gaming machines may use bill val-  
21 idators and may be single-position reel-type, single or multi-game video  
22 and single-position multi-game video electronic game, including but not  
23 limited to, poker, blackjack and slot machines. Electronic gaming ma-  
24 chines shall be directly linked to a central computer at a location deter-  
25 mined by the executive director for purposes of security, monitoring and  
26 auditing. Electronic gaming machines may be linked to the central video  
27 lottery terminal computer system.*
- 28 (q) *“Progressive electronic game” means a game played on an elec-  
29 tronic gaming machine for which the payoff increases uniformly as the  
30 game is played and for which the jackpot, determined by application of  
31 a formula to the income of independent, local or interlinked electronic  
32 gaming machines, may be won.*
- 33 (r) *“Token” means a representative of value, of metal or other mate-  
34 rial, which is not legal tender, redeemable for cash only by the issuing  
35 lottery gaming facility manager and which is issued and sold by a lottery  
36 gaming facility manager for the sole purpose of playing an electronic  
37 gaming machine or lottery facility game.*
- 38 (s) *“Lottery gaming facility” means that portion of a building, in-  
39 cluding the real and personal property, that is owned or leased by the  
40 state for the purposes of operating, managing and maintaining lottery  
41 facility games.*
- 42 (t) *“Lottery gaming enterprise” means an entertainment enterprise  
43 which includes a lottery gaming facility authorized pursuant to the Kansas*

- 1 *expanded lottery act and ancillary lottery gaming operations that have a*  
2 *common business or marketing strategy. A lottery gaming enterprise shall*  
3 *be designed to attract to its lottery gaming facility consumers who reside*  
4 *outside the immediate area of such enterprise.*
- 5 (u) *“Lottery gaming facility manager” means a corporation, limited*  
6 *liability company or other business entity authorized to construct and*  
7 *manage, or manage alone, pursuant to a management contract with the*  
8 *Kansas lottery, and on behalf of the state, a lottery gaming enterprise and*  
9 *lottery gaming facility.*
- 10 (v) *“Accelerated lottery gaming facility net payment” means the ad-*  
11 *vanced payment to the state treasurer of a portion of the state’s future*  
12 *share of residual lottery gaming facility revenues upon approval of a man-*  
13 *agement contract with a lottery gaming facility manager for the devel-*  
14 *opment or construction of a lottery gaming facility and management of a*  
15 *lottery gaming enterprise pursuant to the Kansas expanded lottery act.*
- 16 (w) *“Lottery gaming facility revenues” means the total revenues from*  
17 *lottery facility games at a lottery gaming facility after all related prizes*  
18 *are paid.*
- 19 (x) *“Residual lottery gaming facility revenues” means the balance of*  
20 *the lottery gaming facility revenues in each account in the lottery gaming*  
21 *facility fund established in subsection (a) of section 8, and amendments*  
22 *thereto, after the transfer to an operating account for the payment of*  
23 *lottery gaming facility expenses and interest on financing approved in the*  
24 *management contract, as described in subsection (b) of section 8, and*  
25 *amendments thereto.*
- 26 (y) *“Lottery gaming facility expenses” means normal business ex-*  
27 *penses, as defined in the management contract pursuant to generally ac-*  
28 *cepted accounting principles (GAAP), associated with the ownership and*  
29 *operation of a lottery gaming facility, payments to any city or county and*  
30 *payments to the problem gambling grant fund.*
- 31 (z) *“Lottery facility games” mean any electronic gaming machines*  
32 *and any other lottery games in the form of Class II or III gaming which,*  
33 *as of January 1, 2006, are authorized to be conducted or operated at a*  
34 *tribal gaming facility, as defined in K.S.A. 74-9802, and amendments*  
35 *thereto, located within the boundaries of this state.*
- 36 (aa) *“Ancillary lottery gaming facility operations” means additional*  
37 *non-lottery facility game products and services not owned and operated*  
38 *by the state which may be included in the overall development associated*  
39 *with the lottery gaming facility. Such operations may include, but are not*  
40 *limited to, restaurants, hotels, motels, museums or entertainment facilities.*  
41 *Such operations conducted on state-owned property shall pay reasonable*  
42 *compensation to the state for the use of the space.*
- 43 (bb) *“Certificate of authorization” means a written approval of the*

1 executive director authorizing a prospective lottery gaming facility man-  
2 ager to proceed with approval under section 4, and amendments thereto,  
3 and any applicable county or city planning and zoning requirements for  
4 the establishment of a lottery gaming facility pursuant to the Kansas ex-  
5 panded lottery act. No prospective lottery gaming facility manager shall  
6 seek the approval under section 4, and amendments thereto, unless such  
7 prospective manager holds a certificate or temporary certificate of  
8 authorization.

9 (cc) “Management contract” means a contract, subcontract or collat-  
10 eral agreement between the state and a lottery gaming facility manager  
11 for the management of a lottery gaming facility owned and operated by  
12 the state, negotiated and signed by the executive director on behalf of the  
13 state. Management contracts shall not be subject to the provisions of  
14 K.S.A. 75-3738 through 75-3744, and amendments thereto, or to any stat-  
15 utory provision regulating major procurements.

16 (dd) “Parimutuel licensee” means a facility owner licensee or facility  
17 manager licensee under the Kansas parimutuel racing act.

18 (ee) “Parimutuel licensee location” means the racetrack facility, as  
19 defined in K.S.A. 74-8802, and amendments thereto, owned or managed  
20 by the parimutuel licensee. A parimutuel licensee location may include  
21 any existing structure at such racetrack facility or any structure that may  
22 be constructed on real estate where such racetrack facility is located.

23 (ff) “Destination development zone” means one of the following zones  
24 where one or more lottery gaming facilities may be operated pursuant to  
25 the Kansas expanded lottery act as a part of an overall strategy of creating  
26 regional tourism destinations to enhance the local and state economy  
27 through increased tourism opportunities:

28 (1) The northeast Kansas development zone, which consists of Wy-  
29 andotte county;

30 (2) the southeast Kansas development zone, which consists of Craw-  
31 ford and Cherokee counties;

32 (3) the south central Kansas development zone, which consists of  
33 Sedgwick county;

34 (4) the southwest Kansas development zone, which consists of Ford  
35 county; or

36 (5) the north central Kansas development zone, which consists of  
37 Geary county.

38 (gg) “Gray machine” means any mechanical, electro-mechanical or  
39 electronic device, capable of being used for gambling, that is: (1) Not  
40 authorized by the Kansas lottery, (2) not linked to a lottery central com-  
41 puter or the central video lottery terminal computer system, (3) available  
42 to the public for play and (4) capable of simulating a game played on a  
43 video lottery terminal or any similar gambling game authorized pursuant

1 *to the Kansas expanded lottery act.*

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

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

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

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

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

26 (1) Have sufficient access to financial resources to support the activ-  
27 ities required of a lottery gaming facility manager under the Kansas ex-  
28 panded lottery act;

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

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

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

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

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

14 (e) Subject to the requirements of this section, a certificate of au-  
15 thorization shall not be unreasonably withheld. The executive director  
16 shall issue a temporary certificate of authorization to a prospective lottery  
17 gaming facility manager if: (1) The executive director believes such man-  
18 ager will meet the appropriate requirements for a certificate of authori-  
19 zation; (2) the prospective manager and the principals, officers and di-  
20 rectors, of such prospective manager, have completed acceptable  
21 background investigations by federal or state authorities; and (3) a com-  
22 plete review of the application for a certificate cannot be completed  
23 within 30 days of the application filing.

24 New Sec. 4. (a) The lottery commission shall adopt rules and regu-  
25 lations establishing a procedure to receive, consider and approve pro-  
26 posed management contracts for lottery gaming facilities. Such procedure  
27 shall provide for review of competitive proposals within a destination de-  
28 velopment zone.

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

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

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

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

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

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

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

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

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



- 1 gaming facility operations, of at least \$150,000,000 for the northeast and  
2 south central development zones; or (B) consists of an investment in in-  
3 frastructure, including ancillary lottery gaming facility operations, of at  
4 least \$25,000,000 and demonstrates through a market study that at least  
5 25% of its gaming consumers would reside outside the state of Kansas  
6 for all other destination development zones.
- 7 (g) All management contracts authorized under this section shall:
- 8 (1) Have a maximum initial term of 15 years from the date of opening  
9 of the lottery gaming facility. At the end of the initial term, the contract  
10 may be renewed by mutual consent of the state and the lottery facility  
11 gaming manager;
- 12 (2) specify the percentage, not to exceed 22%, of residual lottery gam-  
13 ing facility revenues to be paid to the manager;
- 14 (3) establish a mechanism to facilitate payment of lottery gaming fa-  
15 cility expenses, payment of the lottery gaming facility manager's share of  
16 the residual lottery gaming facility revenues and distribution of the state's  
17 share of the residual lottery gaming facility revenues;
- 18 (4) establish the types of lottery facility games to be installed in such  
19 facility;
- 20 (5) establish the maximum construction cost or purchase cost of the  
21 lottery gaming facility and the mechanism for recovering those costs from  
22 the state's share of the residual lottery gaming facility revenues and trans-  
23 fer of ownership of such facility to the state, if the lottery gaming facility  
24 is owned by the state;
- 25 (6) specify the terms of the lease including, but not limited to, terms  
26 which establish state control of the lottery gaming facility and that any  
27 lease payments shall be treated as an operating expense, if the lottery  
28 gaming facility is leased by the state;
- 29 (7) calculate the accelerated lottery gaming facility net payment by  
30 multiplying the maximum number of electronic gaming machines au-  
31 thorized for and located in the facility by \$15,000 per machine;
- 32 (8) specify the mechanism for recovering the accelerated lottery gam-  
33 ing facility net payment from the state's share of the residual lottery gam-  
34 ing facility revenues;
- 35 (9) specify that financing for construction and operation of the lottery  
36 gaming facility on behalf of the state and of the payment to the state of  
37 other sums required by the management contract is to be arranged by  
38 the lottery gaming facility manager and that the state shall cooperate in  
39 the financing by executing all necessary security interests for the construc-  
40 tion, equipping and operation of the lottery gaming facility;
- 41 (10) incorporate terms and conditions for the ancillary lottery gaming  
42 facility operations;
- 43 (11) designate as key employees, subject to approval of the executive

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

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

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

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

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

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

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

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

42 (c) The lottery commission may consider qualified proposals for lot-  
43 tery gaming facility management contracts for developments in a county

1 where the commission finds that after March 1, 2005, the county has held  
2 an election of qualified voters pursuant to the county's home rule au-  
3 thority if the commission determines that the ballot question was in sub-  
4 substantial compliance with the requirements of subsection (b)(3) and the  
5 election was administered by the county election officer in a manner  
6 consistent with the requirements of state election law.

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

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

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

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

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

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

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

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

32 (c) No employee, contractor or other person who has any legal affil-  
33 iation with a lottery gaming facility manager shall loan money to or oth-  
34 erwise extend credit to patrons of a location where electronic gaming  
35 machines or lottery facility games are situated.

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

43 (b) No electronic gaming machine or lottery facility game shall be

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

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

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

28 (b) Upon receipt of each remittance under subsection (a), the state  
29 treasurer shall immediately transfer 50% of the lottery gaming facility  
30 revenues received from the remitting facility manager into a separate state  
31 lottery gaming facility operating account (LGFOA) to be used by the state  
32 for the payment of all lottery gaming facility expenses, including all in-  
33 terest on financing. For a lottery gaming facility that is owned by the  
34 state, a transfer in the amount of the monthly interest then due on such  
35 approved financing shall occur from the LGFOA to the debt retirement  
36 account established in subsection (d). On a monthly basis, a transfer in  
37 an amount equal to 0.5% of the lottery gaming facility revenues shall  
38 occur from the LGFOA to the problem gambling grant fund established  
39 by K.S.A. 2005 Supp. 79-4805, and amendments thereto.

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

1 tor or the executive director's designee.

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

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

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

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

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

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

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

1 or a crime of moral turpitude prior to applying for a certificate as such  
2 sales agent or at any time thereafter shall be deemed unfit. The Kansas  
3 lottery shall conduct the security, fitness and background checks required  
4 pursuant to this subsection;

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

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

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

42 New Sec. 10. (a) The executive director, or the executive director's  
43 designee, may observe and inspect all electronic gaming machines, lottery



1 facility games, lottery gaming facilities and all related equipment and fa-  
2 cilities operated by a lottery gaming facility manager.

3 (b) In addition to the powers granted pursuant to K.S.A. 74-8704 and  
4 sections 3 and 4, and amendments thereto, the executive director shall  
5 have the power to:

6 (1) Examine, or cause to be examined by any agent or representative  
7 designated by the executive director, any books, papers, records or mem-  
8 oranda of any lottery facility gaming manager, or of any business involved  
9 in electronic gaming machines or lottery facility games authorized pur-  
10 suant to the Kansas expanded lottery act, for the purpose of ascertaining  
11 compliance with any provision of the Kansas lottery act, the Kansas ex-  
12 panded lottery act, or any rules and regulations adopted thereunder;

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

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 related to the manage-  
19 ment of the lottery gaming facility, or to compel the appearance of any  
20 lottery gaming facility manager for the purpose of ascertaining compli-  
21 ance with the provisions of the Kansas lottery act and the Kansas ex-  
22 panded lottery act or rules and regulations adopted thereunder;

23 (4) inspect and approve, prior to publication or distribution, all ad-  
24 vertising by a lottery gaming facility manager which includes any refer-  
25 ence to the Kansas lottery; and

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

30 (c) Appropriate security measures shall be required in any and all  
31 areas where electronic gaming machines and other lottery facility games  
32 authorized pursuant to the Kansas expanded lottery act are located or  
33 operated. The executive director shall approve all such security measures.

34 (d) The executive director shall require an annual audit of the elec-  
35 tronic gaming machine operations and lottery facility games of each lot-  
36 tery gaming facility manager contracting with the Kansas lottery. Such  
37 audit shall be conducted by a licensed accounting firm approved by the  
38 executive director. Such audit shall be conducted at the expense of the  
39 lottery.

40 (e) None of the information disclosed pursuant to this section shall  
41 be subject to disclosure under the Kansas open records act, K.S.A. 45-  
42 216 et seq., and amendments thereto.

43 New Sec. 11. (a) Wagers shall be received only from a person at the

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

5 (b) Violation of this section is a class A nonperson misdemeanor upon  
6 a conviction for a first offense. Violation of this section is a severity level  
7 9, nonperson felony upon conviction for a second or subsequent offense.

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

12 (1) Under 21 years of age;

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

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

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

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

23 (6) a person who resides in the same household as any person de-  
24 scribed by subsection (a)(2), (a)(3) or (a)(4).

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

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

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

1 under age 21 shall perform any function involved in gaming by patrons.  
2 No person under age 21 shall be permitted to make a wager on an elec-  
3 tronic gaming machine or lottery facility game authorized pursuant to the  
4 Kansas expanded lottery act.

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

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

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

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

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

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

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

1 electronic gaming machine or lottery facility game or any money or con-  
2 tents thereof;

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

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

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

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

30 New Sec. 18. All sales of electronic gaming machine games and lot-  
31 tery facility games authorized by the Kansas expanded lottery act shall be  
32 exempt from sales taxes imposed pursuant to K.S.A. 12-187 et seq. and  
33 79-3601 et seq., and amendments thereto.

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

1 from a negligent act or omission or willful or malicious misconduct of the  
2 executive director, the commission or the state, or the agents or employ-  
3 ees thereof.

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

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

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

35 New Sec. 23. As used in the Kansas expanded lottery act and sections  
36 23 through 47, and amendments thereto, unless the context otherwise  
37 requires:

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

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

1 chine to receive cash, tokens, merchandise or credits that may be re-  
2 deemed for cash. Video lottery terminals may use bill validators and may  
3 be single-position reel-type, single or multi-game video and single-posi-  
4 tion multi-game video electronic games, including, but not limited to,  
5 poker, blackjack and slot machines. Video lottery terminals shall be linked  
6 directly to a central computer at a location determined by the executive  
7 director for purposes of security, monitoring and auditing.

8 (m) "Video lottery terminal associated equipment" means any pro-  
9 prietary device, machine or part used in the manufacture, operation or  
10 maintenance of a video lottery terminal.

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

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

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

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

1 (b) The Kansas lottery shall not place video lottery terminals at any  
2 parimutuel licensee location unless the commission has adopted rules and  
3 regulations as provided in sections 23 through 47, and amendments  
4 thereto.

5 (c) The Kansas lottery shall not place video lottery terminals at par-  
6 imutuel licensee locations in a county unless the question of the place-  
7 ment of video lottery terminals in such county has been submitted to and  
8 approved by the voters of such county as provided in section 25, and  
9 amendments thereto.

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

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

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

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

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



1 management contracts for placement of video lottery terminals in the  
2 county. The county election officer shall transmit a copy of the certifi-  
3 cation of the results of the election to the executive director.

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

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

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

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

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

25 (2) review and determine promptly and in reasonable order all cer-  
26 tificate applications or proceedings for suspension or revocation of  
27 certificates;

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

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

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

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

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

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

1 (C) a certification requirement and enforcement procedure for offi-  
2 cers, directors, board members and key employees, specified by the ex-  
3 ecutive director, of video lottery parimutuel sales agents, which certifi-  
4 cation requirement shall include compliance with such security, fitness  
5 and background standards as the executive director may deem necessary  
6 relating to competence, honesty and integrity, such that a person's rep-  
7 utation, habits and associations do not pose a threat to the public interest  
8 of the state or to the reputation of or effective regulation and control of  
9 the video lottery; it being specifically understood that any person con-  
10 victed of any felony, a crime involving gambling or a crime of moral  
11 turpitude prior to applying for a certificate as such sales agent or at any  
12 time thereafter shall be deemed unfit. The Kansas lottery shall conduct  
13 the security, fitness and background checks required pursuant to such  
14 rules and regulations;

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

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

- 1 wood and Harper counties;
- 2 (F) standards for advertising, marketing and promotional materials  
3 used by video lottery parimutuel sales agents;
- 4 (G) the registration, kind, type, number and location of video lottery  
5 terminals at any parimutuel licensee location;
- 6 (H) the on-site security arrangements for the video lottery terminals;
- 7 (I) rules and regulations and procedures for the accounting and re-  
8 porting of the payments required from video lottery parimutuel sales  
9 agents under section 32, and amendments thereto, including the calcu-  
10 lations required for such payments;
- 11 (J) requiring the reporting of information about any video lottery par-  
12 imutuel sales agent, its employees, vendors and finances necessary or  
13 desirable to ensure the security of the video lottery system. None of the  
14 information disclosed pursuant to this subsection shall be subject to dis-  
15 closure under the Kansas open records act; and
- 16 (K) the reporting and auditing of financial information of video lot-  
17 tery parimutuel sales agents, including, but not limited to, the reporting  
18 of profits or losses incurred by video lottery parimutuel sales agents and  
19 the reporting of such other information as the executive director may  
20 require to determine compliance with the Kansas expanded lottery act  
21 and the rules and regulations adopted hereunder. None of the informa-  
22 tion disclosed pursuant to this subsection shall be subject to disclosure  
23 under the Kansas open records act.
- 24 (b) In addition to any other powers granted pursuant to the Kansas  
25 lottery act or the Kansas expanded lottery act, the executive director shall  
26 have the power to:
- 27 (1) Examine, or cause to be examined by any agent or representative  
28 designated by the executive director, any books, papers, records or mem-  
29 oranda of any video lottery parimutuel sales agent, or of any business  
30 involved in video lottery terminals or video lottery games authorized pur-  
31 suant to the Kansas expanded lottery act, for the purpose of ascertaining  
32 compliance with any provision of the Kansas lottery act or the Kansas  
33 expanded lottery act, or any rules and regulations adopted thereunder;
- 34 (2) investigate alleged violations of the Kansas lottery act and alleged  
35 violations of any rules and regulations, orders and final decisions of the  
36 commission or the executive director;
- 37 (3) request a court to issue subpoenas to compel access to or for the  
38 production of any books, papers, records or memoranda in the custody  
39 or control of any video lottery parimutuel sales agent related to the man-  
40 agement or operation of video lottery terminals, or to compel the ap-  
41 pearance of any video lottery parimutuel sales agent for the purpose of  
42 ascertaining compliance with the provisions of the Kansas lottery act and  
43 the Kansas expanded lottery act, and rules and regulations adopted

1 thereunder;

2 (4) inspect and approve, prior to publication or distribution, all ad-  
3 vertising by a video lottery parimutuel sales agent which includes any  
4 reference to the Kansas lottery; and

5 (5) take any other action as may be reasonable or appropriate to en-  
6 force the provisions of the Kansas expanded lottery act and any rules and  
7 regulations, orders and final decisions of the executive director or the  
8 commission.

9 (c) Appropriate security measures shall be required in any and all  
10 areas where video lottery terminals authorized pursuant to the Kansas  
11 expanded lottery act are located or operated. The executive director shall  
12 approve all such security measures.

13 (d) The executive director shall require an annual audit of the video  
14 lottery terminal operations of each video lottery parimutuel sales agent.  
15 Such audit shall be conducted by a licensed accounting firm approved by  
16 the executive director. Such audit shall be conducted at the expense of  
17 the lottery.

18 (e) None of the information disclosed pursuant to subsection (b) or  
19 (d) shall be subject to disclosure under the Kansas open records act.

20 (f) The Kansas lottery shall operate the video lottery terminal network  
21 through the central video lottery terminal computer system. The central  
22 video lottery terminal computer system shall be capable of auditing the  
23 operation, financial data and program information of the video lottery  
24 terminal network. All equipment or devices required for operation of the  
25 central video lottery terminal computer system shall be included in any  
26 contract made for the purpose of providing or operating such system.

27 (g) The central video lottery terminal computer system shall be used  
28 for the operation of the video lottery terminal network and shall incor-  
29 porate electronic fund transfer procedures to facilitate the collection of  
30 revenue, be capable of disabling any video lottery terminal from play, and  
31 be capable of communicating with all video lottery terminals approved  
32 by the Kansas lottery. The central video lottery terminal computer system  
33 provider shall provide certified manufacturers with the protocol docu-  
34 mentation and the audit information and controls necessary to enable the  
35 manufacturers' video lottery terminals to communicate with the Kansas  
36 lottery's central video lottery terminal computer system. The central video  
37 lottery terminal computer system shall not limit participation to only one  
38 manufacturer of video lottery terminals or video lottery terminal associ-  
39 ated equipment.

40 (h) The executive director may remove from play and confiscate any  
41 video lottery terminal or gray machine that does not comply with the  
42 requirements of the Kansas expanded lottery act. Any video lottery ter-  
43 minal that the executive director determines has been modified or the

1 design of which has been modified without the consent of the executive  
2 director may be removed from play, confiscated by the executive director  
3 and disposed of in any manner allowed by law.

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

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

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

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

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

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

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

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

43 (d) No certificate issued pursuant to this section shall be assignable

1 or transferable.

2 (e) The executive director may examine any or all accounts, bank  
3 accounts, financial statements and records of the vendor in a vendor's  
4 possession or under its control in which it has an interest and the vendor  
5 must authorize all third parties, including parents, subsidiaries or related  
6 entities, in possession or control of the accounts or records of the vendor  
7 to allow examination of any or all of those accounts or records by the  
8 executive director.

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

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

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

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

17 (1) Failure to notify the Kansas lottery about a material change in  
18 ownership of the certificate holder, or any change in the directors, officers  
19 or board members thereof;

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

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

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

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

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

1 under the rules and regulations of the commission. The Kansas lottery  
2 may revoke certification upon finding a service employee in violation of  
3 any provision of the Kansas expanded lottery act or a commission rule  
4 and regulation.

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

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

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

28 (3) No video lottery terminals shall be operated at a parimutuel li-  
29 censee location in Crawford county unless, during the first full calendar  
30 year and each year thereafter in which video lottery terminals are oper-  
31 ated at such location, the parimutuel licensee conducts at such location  
32 at least 85 live greyhound races each calendar week for the number of  
33 weeks raced during calendar year 2003 in Sedgwick county with at least  
34 12 live races conducted each day for not less than five days per week.

35 (4) If a parimutuel licensee has not held live races pursuant to a  
36 schedule approved by the Kansas racing and gaming commission in the  
37 preceding 12 months, the Kansas racing and gaming commission shall  
38 hold a hearing to determine the number of days of live racing required  
39 for the remaining days of the first calendar year of operation to qualify  
40 for operation of video lottery terminals. At such hearing, the commission  
41 shall receive testimony and evidence from affected breed groups, the  
42 licensee and others, as the Kansas racing and gaming commission deems  
43 appropriate concerning the schedule of live race days. The operation of

1 video lottery terminals shall not commence more than 90 days prior to  
2 the start of live racing at such facility.

3 (5) No video lottery terminals shall be operated at a parimutuel li-  
4 censee location in Greenwood county at Eureka Downs unless, during  
5 the first full calendar year and each year thereafter in which video lottery  
6 terminals are operated, the parimutuel licensee conducts at least 20 days  
7 of live horse racing.

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

13 (7) The Greenwood County Fair Association and Anthony Fair As-  
14 sociation shall qualify as fair associations pursuant to the provisions of this  
15 section and shall be required to comply with all provisions of K.S.A. 74-  
16 8814, and amendments thereto.

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

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

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

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

40 (1) Be incapable of manipulation to effect the random probability of  
41 winning plays;

42 (2) have one or more mechanisms that accept coins, tokens or other  
43 media approved by the Kansas lottery in exchange for game credits and



1 a voucher evidencing said credits, or if approved by the Kansas lottery be  
2 capable of paying cash directly to the player, and such mechanisms shall  
3 be designed to prevent players from obtaining credits or cash by means  
4 of physical tampering;

5 (3) be capable of suspending play as a result of physical tampering  
6 until reset at the direction of the executive director or the executive di-  
7 rector's designee;

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

12 (5) be on-line and in constant communication with a central com-  
13 puter located at a location determined by the executive director pursuant  
14 to the video lottery terminal management contract.

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

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

22 (c) No employee of the Kansas lottery shall play a video lottery ter-  
23 minal unless specifically authorized by the executive director or the ex-  
24 ecutive director's designee for purposes of testing, auditing or other se-  
25 curity reasons.

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

30 New Sec. 32. (a) Net video lottery terminal income shall be distrib-  
31 uted as follows:

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

39 (2) 7% of net video lottery terminal income shall be credited to the  
40 live horse racing purse supplement fund established by section 37, and  
41 amendments thereto;

42 (3) 7% of net video lottery terminal income shall be credited to the  
43 live greyhound racing purse supplement fund established by section 37,

1 and amendments thereto;

2 (4) 1.5% of net video lottery terminal income shall be remitted to the  
3 city, if any, and 1.5% of net video lottery terminal income shall be re-  
4 mitted to the county where the parimutuel licensee location is located,  
5 except that 3% of net video lottery terminal income shall be remitted to  
6 such county if the parimutuel licensee location is not located in a city;

7 (5) 0.5% of net video lottery terminal income shall be credited to the  
8 problem gambling grant fund established by K.S.A. 2005 Supp. 79-4805,  
9 and amendments thereto;

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

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

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

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

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

40 New Sec. 34. (a) All video lottery terminals shall be leased or owned  
41 by the Kansas lottery or by an authorized video lottery parimutuel sales  
42 agent on behalf of the Kansas lottery pursuant to the terms of a video  
43 lottery terminal management contract and shall be obtained from video

1 lottery terminal manufacturers certified pursuant to the Kansas expanded  
2 lottery act and the rules and regulations adopted by the commission.

3 (b) The executive director shall contract with an independent labo-  
4 ratory to test video lottery terminals and associated equipment on a pe-  
5 riodic basis to ensure that the terminals and equipment comply with the  
6 requirements of the Kansas expanded lottery act and any other applicable  
7 standards and rules and regulations. The video lottery terminal manufac-  
8 turer providing such terminals and equipment shall pay all costs associ-  
9 ated with such testing.

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

18 (d) Each video lottery parimutuel sales agent shall provide access to  
19 all records of the video lottery parimutuel sales agent and the physical  
20 premises of the locations where the video lottery activities are conducted  
21 for the purpose of monitoring and inspecting the activities of the video  
22 lottery parimutuel sales agent and video lottery games, video lottery ter-  
23 minals and associated equipment.

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

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

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

1 receipt of the certification, the director of accounts and reports shall  
2 transfer amounts from each such account in accordance with the certifi-  
3 cation of the executive director. Once each week, the executive director  
4 shall cause amounts from each such account to be paid to cities, counties  
5 and video lottery parimutuel sales agents in accordance with section 32,  
6 and amendments thereto.

7 (d) Amounts remaining in the video lottery revenues fund after trans-  
8 fers and payments pursuant to subsection (c) shall be transferred to the  
9 Kansas education opportunity trust fund established pursuant to section  
10 38, and amendments thereto.

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

13 (b) Moneys in the video lottery oversight fund shall be expended to  
14 pay for the expenses of the Kansas lottery attributable to implementation,  
15 administration and enforcement of the provisions of sections 23 through  
16 47, and amendments thereto, and implementation, oversight and moni-  
17 toring of operations of video lottery parimutuel sales agents pursuant to  
18 such sections.

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

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

24 (2) the net earnings rate for the pooled money investment portfolio  
25 for the preceding month.

26 (d) All expenditures from the video lottery oversight fund shall be  
27 made in accordance with appropriation acts upon warrants of the director  
28 of accounts and reports issued pursuant to vouchers approved by the  
29 executive director for the purposes set forth in the Kansas expanded lot-  
30 tery act.

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

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

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

11 (3) Based on the contribution to the Kansas horse racing and breed-  
12 ing industries in Kansas, the balance in the live horse race purse supple-  
13 ment fund shall be distributed in accordance with rules and regulations  
14 adopted by the Kansas racing and gaming commission with recommen-  
15 dations by the official registering agency designated pursuant to K.S.A.  
16 74-8830, and amendments thereto.

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

33 (c) All purse supplements paid pursuant to this act shall be according  
34 to the point schedule in effect on January 1, 2003, at the respective par-  
35 imutuel licensee locations. All purse supplements paid pursuant to this  
36 section shall be in addition to purses and supplements paid under K.S.A.  
37 74-8801 et seq., and amendments thereto.

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

1 acts.

2 (b) Such funding shall be supplemental to, and not in lieu of, any  
3 state revenues appropriated during the 2005 regular legislative session to  
4 fund educational programs for the fiscal year ending June 30, 2006.

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

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

19 (b) No employee or contractor of a video lottery parimutuel sales  
20 agent shall loan money to or otherwise extend credit to patrons of the  
21 parimutuel licensee.

22 (c) Violation of this section is a class A nonperson misdemeanor upon  
23 a conviction for a first offense. Violation of this section is a severity level  
24 9, nonperson felony upon conviction for a second or subsequent offense.

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

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

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

37 (1) Less than 21 years of age;

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

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

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

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

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

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

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

24 New Sec. 43. (a) It is a class A nonperson misdemeanor for the ex-  
25 ecutive director, any member of the lottery commission or any employee  
26 of the Kansas lottery knowingly to:

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

30 (2) participate directly or indirectly as an owner, operator, manager  
31 or consultant in electronic or other gaming operated pursuant to the Kan-  
32 sas expanded lottery act;

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

35 (4) accept any compensation, gift, loan, entertainment, favor or serv-  
36 ice from any video lottery parimutuel sales agent except such suitable  
37 facilities and services within a parimutuel licensee location as may be  
38 required to facilitate the performance of the executive director's, mem-  
39 ber's or employee's official duties; or

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

42 (b) It is a severity level 8, nonperson felony for any person playing or  
43 using any electronic gaming machine or video lottery terminal in Kansas

1 knowingly to:

2 (1) Use other than a lawful coin or legal tender of the United States  
3 of America, or to use coin not of the same denomination as the coin  
4 intended to be used in an electronic gaming machine or video lottery  
5 terminal, except that in the playing of any electronic gaming machine,  
6 video lottery terminal or similar gaming device, it shall be lawful for any  
7 person to use gaming billets, tokens or similar objects therein which are  
8 approved by the Kansas lottery;

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

18 (3) possess or use while on the premises of any video lottery pari-  
19 mutuel sales agent any key or device designed for the purpose of or  
20 suitable for opening or entering any video lottery terminal or similar gam-  
21 ing device or drop box, except that a duly authorized agent or employee  
22 of the Kansas lottery or video lottery parimutuel sales agent may possess  
23 and use any of the foregoing only in furtherance of the agent's or em-  
24 ployee's employment at the parimutuel licensee location.

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

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

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

42 (b) All sales of games on video lottery terminals authorized by the  
43 Kansas expanded lottery act shall be exempt from sales taxes imposed



1 pursuant to K.S.A. 12-187 et seq., and 79-3601 et seq., and amendments  
2 thereto.

3 New Sec. 47. Pursuant to section 2 of the federal act entitled “An  
4 Act to Prohibit Transportation of Gambling Devices in Interstate and  
5 Foreign Commerce,” 15 U.S.C. 1171 through 1777, the state of Kansas,  
6 acting by and through the duly elected and qualified members of the  
7 legislature, does hereby in this section, and in accordance with and in  
8 compliance with the provisions of section 2 of such federal act, declare  
9 and proclaims that it is exempt from the provision of section 2 of such  
10 federal act to the extent that such gambling devices as described therein  
11 are being transported to or from the Kansas lottery or to or from a lottery  
12 gaming facility managed or a video lottery sales agent at a location within  
13 the state of Kansas where such gambling devices are authorized pursuant  
14 to the Kansas expanded lottery act.

15 Sec. 48. K.S.A. 74-8705 is hereby amended to read as follows: 74-  
16 8705. (a) Major procurement contracts shall be awarded in accordance  
17 with K.S.A. 75-3738 through 75-3744, and amendments thereto, or sub-  
18 section (b), as determined by the *executive* director, except that:

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

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

26 (b) The *executive* director may award any major procurement con-  
27 tract by use of a procurement negotiating committee. Such committee  
28 shall be composed of: (1) The executive director or a Kansas lottery em-  
29 ployee designated by the executive director; (2) the chairperson of the  
30 commission or a commission member designated by the chairperson; and  
31 (3) the director of the division of purchases or an employee of such di-  
32 vision designated by the director. Prior to negotiating a major procure-  
33 ment contract, the committee shall solicit bids or proposals thereon. The  
34 division of purchases shall provide staff support for the committee’s so-  
35 licitations. Upon receipt of bids or proposals, the committee may nego-  
36 tiate with one or more of the persons submitting such bids or proposals  
37 and select from among such persons the person to whom the contract is  
38 awarded. Such procurements shall be open and competitive and shall  
39 consider relevant factors, including security, competence, experience,  
40 timely performance and maximization of net revenues to the state. If a  
41 procurement negotiating committee is utilized, the provisions of K.S.A.  
42 75-3738 through 75-3744, and amendments thereto, shall not apply.  
43 Meetings conducted by the procurement negotiating committee shall be

1 exempt from the provisions of the Kansas open meeting act, K.S.A. 75-  
2 4317 through 75-4320a, and amendments thereto.

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

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

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

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

42 (2) *The provisions of paragraph (1) shall not apply to the extension*  
43 *or renegotiation of an existing contract with a vendor for the purposes of*

1 *providing services for the monitoring and control of video lottery termin-*  
2 *als pursuant to the Kansas expanded lottery act. The provisions of this*  
3 *subsection (e)(2) shall expire on June 30, 2006.*

4 Sec. 49. K.S.A. 74-8710 is hereby amended to read as follows: 74-  
5 8710. (a) The commission, upon the recommendation of the executive  
6 director, shall adopt rules and regulations governing the establishment  
7 and operation of a state lottery, *sales of lottery tickets and the operation*  
8 *of lottery gaming facilities* as necessary to carry out the purposes of ~~this~~  
9 *the Kansas lottery act and the Kansas expanded lottery act.* Temporary  
10 rules and regulations may be adopted by the commission without being  
11 subject to the provisions and requirements of K.S.A. 77-415 through 77-  
12 438, and amendments thereto, but shall be subject to approval by the  
13 attorney general as to legality and shall be filed with the secretary of state  
14 and published in the Kansas register. Temporary and permanent rules  
15 and regulations may include but shall not be limited to:

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

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

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

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

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

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

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

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

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

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

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

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

- 1     (13) *Rules and regulations to implement, administer and enforce the*  
2 *provisions of the Kansas expanded lottery act.*
- 3     (14) *The types of electronic gaming machines, lottery facility games,*  
4 *video lottery terminals and video lottery games to be operated pursuant*  
5 *to the Kansas expanded lottery act.*
- 6     (b) No new lottery game shall commence operation after the effective  
7 date of this act unless first approved by the governor or, in the governor's  
8 absence or disability, the lieutenant governor. *This subsection shall not*  
9 *be construed to require approval of games played on an electronic gaming*  
10 *machine or video lottery terminal or lottery facility games.*
- 11     (c) The lottery shall adopt rules and regulations concerning the game  
12 of keno. Such rules and regulations shall require that the amount of time  
13 which elapses between the start of games shall not be less than four  
14 minutes.
- 15     Sec. 50. K.S.A. 2005 Supp. 74-8711 is hereby amended to read as  
16 follows: 74-8711. (a) There is hereby established in the state treasury the  
17 lottery operating fund.
- 18     (b) Except as provided by K.S.A. 2005 Supp. 74-8724 *and the Kansas*  
19 *expanded lottery act*, and amendments thereto, the executive director  
20 shall remit all moneys collected from the sale of lottery tickets and shares  
21 and any other moneys received by or on behalf of the Kansas lottery to  
22 the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
23 and amendments thereto. Upon receipt of each such remittance, the state  
24 treasurer shall deposit the entire amount in the state treasury to the credit  
25 of the lottery operating fund. Moneys credited to the fund shall be ex-  
26 pended or transferred only as provided by this act. Expenditures from  
27 such fund shall be made in accordance with appropriations acts upon  
28 warrants of the director of accounts and reports issued pursuant to vouch-  
29 ers approved by the executive director or by a person designated by the  
30 executive director.
- 31     (c) Moneys in the lottery operating fund shall be used for:
- 32     (1) The payment of expenses of the lottery, which shall include all  
33 costs incurred in the operation and administration of the Kansas lottery;  
34 all costs resulting from contracts entered into for the purchase or lease  
35 of goods and services needed for operation of the lottery, including but  
36 not limited to supplies, materials, tickets, independent studies and sur-  
37 veys, data transmission, advertising, printing, promotion, incentives, pub-  
38 lic relations, communications and distribution of tickets and shares; and  
39 reimbursement of costs of facilities and services provided by other state  
40 agencies;
- 41     (2) the payment of compensation to lottery retailers;
- 42     (3) transfers of moneys to the lottery prize payment fund pursuant to  
43 K.S.A. 74-8712, and amendments thereto;

- 1 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,  
2 and amendments thereto;
- 3 (5) transfers to the state gaming revenues fund pursuant to subsection  
4 ~~(d) of this section~~ and as otherwise provided by law; and
- 5 (6) transfers to the county reappraisal fund as prescribed by law.
- 6 (d) The director of accounts and reports shall transfer moneys in the  
7 lottery operating fund to the state gaming revenues fund created by  
8 K.S.A. 79-4801, and amendments thereto, on or before the 15th day of  
9 each month in an amount certified monthly by the executive director and  
10 determined as follows, whichever is greater:
- 11 (1) An amount equal to the moneys in the lottery operating fund in  
12 excess of those needed for the purposes described in subsections (c)(1)  
13 through (c)(4); or
- 14 (2) except for pull-tab lottery tickets and shares, an amount equal to  
15 not less than 30% of total monthly revenues from the sales of lottery  
16 tickets and shares less estimated returned tickets. In the case of pull-tab  
17 lottery tickets and shares, an amount equal to not less than 20% of the  
18 total monthly revenues from the sales of pull-tab lottery tickets and shares  
19 less estimated returned tickets.
- 20 Sec. 51. K.S.A. 74-8723 is hereby amended to read as follows: 74-  
21 8723. (a) The Kansas lottery and the office of executive director of the  
22 Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,  
23 and the Kansas lottery commission, created by K.S.A. 74-8709, and  
24 amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~  
25 2022.
- 26 (b) This section shall be part of and supplemental to the Kansas lot-  
27 tery act.
- 28 Sec. 52. K.S.A. 74-8830 is hereby amended to read as follows: 74-  
29 8830. (a) The commission shall, by rules and regulations:
- 30 (1) Qualify stallions for participation in Kansas-registered stallion  
31 awards;
- 32 (2) provide for the registration of Kansas-domiciled mares, Kansas-  
33 domiciled stallions and Kansas-bred horses;
- 34 (3) determine qualifications of Kansas-bred horses and establish clas-  
35 ses of Kansas-bred horses for registration purposes and for the purpose  
36 of awarding purse supplements, stakes and awards pursuant to K.S.A. 74-  
37 8829 and amendments thereto; and
- 38 (4) establish a schedule of fees for the registration of Kansas-domi-  
39 ciled mares, Kansas-domiciled stallions and Kansas-bred horses sufficient  
40 to provide for all expenses incurred in the administration of the Kansas  
41 horse breeding development fund created pursuant to K.S.A. 74-8829  
42 and amendments thereto.
- 43 (b) The commission ~~may~~ *shall* contract with and designate an official

1 registering agency to implement the registration of horses. *The board of*  
2 *directors of the official registering agency shall consist of five represen-*  
3 *tatives of the quarter horse breed and five representatives of the thor-*  
4 *oughbred breed. Representatives shall be selected by each breed organi-*  
5 *zation from their respective memberships pursuant to rules and*  
6 *regulations adopted by the Kansas racing and gaming commission. In*  
7 *order to be eligible to serve on the board, a participant must be a legal*  
8 *resident of the state of Kansas and a member of the Kansas quarter horse*  
9 *racing association or the Kansas thoroughbred association. 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 fees received for registration of horses necessary to pay*  
14 *its expenses for such registration.*

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

20 Sec. 53. K.S.A. 74-8832 is hereby amended to read as follows: 74-  
21 8832. (a) The commission shall, by rules and regulations, establish a  
22 schedule of fees for the registration of Kansas-whelped greyhounds  
23 which, together with the amount provided pursuant to K.S.A. 74-8830  
24 and amendments thereto, shall be sufficient to provide for all expenses  
25 incurred in the administration of the Kansas greyhound breeding devel-  
26 opment fund created pursuant to K.S.A. 74-8831 and amendments  
27 thereto.

28 (b) The commission ~~may~~ *shall* contract with and designate an official  
29 registering agency to implement the registration of greyhounds. Such  
30 agency shall operate under the supervision of the commission and be  
31 subject to rules and regulations of the commission. The official registering  
32 agency shall receive no compensation *from the Kansas racing and gaming*  
33 *commission* except the amount provided pursuant to K.S.A. ~~74-8830~~ 74-  
34 8831, and amendments thereto, and fees received for registration of grey-  
35 hounds necessary to pay its expenses for such registration.

36 (c) The commission ~~may~~ *shall* contract with and designate an agency  
37 to provide for the distribution of purse supplements from the Kansas  
38 greyhound breeding development fund. Such agency shall operate under  
39 the supervision of the commission and be subject to rules and regulations  
40 of the commission.

41 New Sec. 54. (a) The Kansas racing and gaming commission shall  
42 establish a greyhound promotion and development fund which shall be  
43 funded through a voluntary greyhound purse checkoff program which

1 shall provide for the deduction of 2% from all purses paid to kennels and  
2 greyhound owners who participate in the program. Greyhound owners  
3 and kennel operators shall be provided an opportunity annually to not  
4 participate in the program by signing a form approved by the Kansas  
5 racing and gaming commission. Moneys deposited into the fund shall be  
6 used for the development, promotion and representation of the grey-  
7 hound industry in Kansas and shall be distributed to the organization  
8 contracted with by the Kansas racing and gaming commission to admin-  
9 ister the official greyhound registry in Kansas.

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

12 Sec. 55. K.S.A. 2005 Supp. 19-101a is hereby amended to read as  
13 follows: 19-101a. (a) The board of county commissioners may transact all  
14 county business and perform all powers of local legislation and adminis-  
15 tration it deems appropriate, subject only to the following limitations,  
16 restrictions or prohibitions:

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

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

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

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

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

28 (6) Counties may not legislate on social welfare administered under  
29 state law enacted pursuant to or in conformity with public law No. 271—  
30 74th congress, or amendments thereof.

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

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

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

40 (10) No county may levy ad valorem taxes under the authority of this  
41 section upon real property located within any redevelopment project area  
42 established under the authority of K.S.A. 12-1772, and amendments  
43 thereto, unless the resolution authorizing the same specifically authorized

- 1 a portion of the proceeds of such levy to be used to pay the principal of  
2 and interest upon bonds issued by a city under the authority of K.S.A.  
3 12-1774, and amendments thereto.
- 4 (11) Counties shall have no power under this section to exempt from  
5 any statute authorizing or requiring the levy of taxes and providing sub-  
6 stitute and additional provisions on the same subject, unless the resolution  
7 authorizing the same specifically provides for a portion of the proceeds  
8 of such levy to be used to pay a portion of the principal and interest on  
9 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
10 ments thereto.
- 11 (12) Counties may not exempt from or effect changes in the provi-  
12 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 13 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101  
14 through 12-1,109, and amendments thereto, counties may not levy and  
15 collect taxes on incomes from whatever source derived.
- 16 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
17 430, and amendments thereto.
- 18 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
19 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 20 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
21 13-13a26, and amendments thereto.
- 22 (B) This provision shall expire on June 30, 2006.
- 23 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
24 71-301a, and amendments thereto.
- 25 (B) This provision shall expire on June 30, 2006.
- 26 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
27 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 28 (19) Counties may not exempt from or effect changes in the provi-  
29 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
30 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
31 through 12-1270 and 12-1276, and amendments thereto.
- 32 (20) Counties may not exempt from or effect changes in the provi-  
33 sions of K.S.A. 19-211, and amendments thereto.
- 34 (21) Counties may not exempt from or effect changes in the provi-  
35 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 36 (22) Counties may not regulate the production or drilling of any oil  
37 or gas well in any manner which would result in the duplication of reg-  
38 ulation by the state corporation commission and the Kansas department  
39 of health and environment pursuant to chapter 55 and chapter 65 of the  
40 Kansas Statutes Annotated, and amendments thereto, and any rules and  
41 regulations adopted pursuant thereto. Counties may not require any li-  
42 cense or permit for the drilling or production of oil and gas wells. Counties  
43 may not impose any fee or charge for the drilling or production of any



1 oil or gas well.

2 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
3 41a04, and amendments thereto.

4 (24) Counties may not exempt from or effect changes in K.S.A. 79-  
5 1611, and amendments thereto.

6 (25) Counties may not exempt from or effect changes in K.S.A. 79-  
7 1494, and amendments thereto.

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

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

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

15 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
16 2017 or 79-2101, and amendments thereto.

17 (30) Counties may not exempt from or effect changes in K.S.A. 2-  
18 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
19 1,178 through 65-1,199, and amendments thereto.

20 (31) Counties may not exempt from or effect changes in K.S.A. 2005  
21 Supp. 80-121, and amendments thereto.

22 (32) Counties may not exempt from or effect changes in K.S.A. 19-  
23 228, and amendments thereto.

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

27 (34) Counties may not exempt from or effect changes in K.S.A. 2005  
28 Supp. 26-601, and amendments thereto.

29 (35) (A) From and after November 15, 2005, counties may not ex-  
30 empt from or effect changes in the Kansas liquor control act except as  
31 provided by paragraph (B).

32 (B) From and after November 15, 2005, counties may adopt resolu-  
33 tions which are not in conflict with the Kansas liquor control act.

34 (36) (A) From and after November 15, 2005, counties may not ex-  
35 empt from or effect changes in the Kansas cereal malt beverage act except  
36 as provided by paragraph (B).

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

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

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

43 (b) Counties shall apply the powers of local legislation granted in

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

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

14 Sec. 56. K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830 and 74-  
15 8832 and K.S.A. 2005 Supp. 19-101a and 74-8711 are hereby repealed.

16 Sec. 57. This act shall take effect and be in force from and after its  
17 publication in the Kansas register.