

SENATE BILL No. 598

By Committee on Ways and Means

3-31

9 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;
10 authorizing operation of certain gaming facilities, electronic gaming
11 machines and other lottery games at certain locations; prohibiting cer-
12 tain acts and providing penalties for violations; relating to administra-
13 tion and enforcement of the bingo act; amending K.S.A. 60-2102, 74-
14 8702, 74-8710, 74-8716, 74-8723, 74-8810, 74-8814, 74-8823, 74-8830,
15 74-8832 and 74-8838 and K.S.A. 2005 Supp. 12-4516, 19-101a, 21-
16 4619, 74-8711 and 79-4805 and repealing 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) *“Accelerated racetrack gaming facility payment” means the ad-*
23 *vanced payment to the state treasurer of a portion of the state’s future*
24 *share of net electronic gaming machine income pursuant to the final race-*
25 *track gaming facility management contract between the executive director*
26 *and a racetrack gaming facility manager for the operation of electronic*
27 *gaming machines at a parimutuel licensee location.*

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

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

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

- 1 *and single-position multi-game video electronic game, including, but not*
2 *limited to, poker, blackjack and slot machines. Electronic gaming ma-*
3 *chines shall be directly linked to a central computer at a location deter-*
4 *mined by the executive director for purposes of security, monitoring and*
5 *auditing.*
- 6 (e) *“Exclusive gaming zone” means the southwest Kansas gaming*
7 *zone, which consists of Ford county, except that Ford county shall not be*
8 *an exclusive gaming zone until a dual racetrack facility, as defined in*
9 *K.S.A. 74-8802, and amendments thereto, in Ford county is licensed by*
10 *the Kansas racing and gaming commission.*
- 11 ~~(f)~~ (f) *“Executive director” means the executive director of the Kan-*
12 *sas lottery.*
- 13 ~~(e)~~ ~~“Gaming equipment” means any electric, electronic or mechani-~~
14 ~~cal device or other equipment unique to the Kansas lottery used directly~~
15 ~~in the operation of any lottery and in the determination of winners pur-~~
16 ~~suant to this act.~~
- 17 (g) *“Gaming equipment” means any electric, electronic, computerized*
18 *or electromechanical machine, mechanism, supply or device or any other*
19 *equipment, which is: (1) Unique to the Kansas lottery and used pursuant*
20 *to the Kansas lottery act; and (2) integral to the operation of an electronic*
21 *gaming machine or lottery facility game; and (3) affects the results of an*
22 *electronic gaming machine or lottery facility game by determining win or*
23 *loss.*
- 24 (h) *“Gray machine” means any mechanical, electro-mechanical or*
25 *electronic device, capable of being used for gambling, that is: (1) Not*
26 *authorized by the Kansas lottery, (2) not linked to a lottery central com-*
27 *puter system, (3) available to the public for play or (4) capable of simu-*
28 *lating a game played on an electronic gaming machine or any similar*
29 *gambling game authorized pursuant to the Kansas expanded lottery act.*
- 30 ~~(i)~~ (i) *“Kansas lottery” means the state agency created by this act to*
31 *operate a lottery or lotteries pursuant to this act.*
- 32 (j) *“Lottery” or “state lottery” means the lottery or lotteries operated*
33 *pursuant to this act.*
- 34 (k) *“Lottery facility games” means any electronic gaming machines*
35 *and any other games which, as of January 1, 2006, are authorized to be*
36 *conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-*
37 *9802, and amendments thereto, located within the boundaries of this state.*
- 38 (l) *“Lottery gaming enterprise” means an entertainment enterprise*
39 *which includes a lottery gaming facility authorized pursuant to the Kansas*
40 *expanded lottery act and ancillary lottery gaming facility operations that*
41 *have a coordinated business or marketing strategy. A lottery gaming en-*
42 *terprise shall be designed to attract to its lottery gaming facility consumers*
43 *who reside outside the immediate area of such enterprise.*

- 1 (m) *“Lottery gaming facility” means that portion of a building used*
2 *for the purposes of operating, managing and maintaining lottery facility*
3 *games.*
- 4 (n) *“Lottery gaming facility expenses” means normal business ex-*
5 *penses, as defined in the lottery gaming facility management contract,*
6 *associated with the ownership and operation of a lottery gaming facility.*
- 7 (o) *“Lottery gaming facility management contract” means a contract,*
8 *subcontract or collateral agreement between the state and a lottery gam-*
9 *ing facility manager for the management of a lottery gaming facility, the*
10 *business of which is owned and operated by the Kansas lottery, negotiated*
11 *and signed by the executive director on behalf of the state.*
- 12 (p) *“Lottery gaming facility manager” means a corporation, limited*
13 *liability company, resident Kansas American Indian tribe or other busi-*
14 *ness entity authorized to construct and manage, or manage alone, pur-*
15 *suant to a lottery gaming facility management contract with the Kansas*
16 *lottery, and on behalf of the state, a lottery gaming enterprise and lottery*
17 *gaming facility.*
- 18 (q) *“Lottery gaming facility revenues” means the total revenues from*
19 *lottery facility games at a lottery gaming facility after all related prizes*
20 *are paid.*
- 21 (r) (1) *“Lottery machine” means any machine or device that allows*
22 *a player to insert cash or other form of consideration and may deliver as*
23 *the result of an element of chance, regardless of the skill required by the*
24 *player, a prize or evidence of a prize, including, but not limited to:*
- 25 (A) *Any machine or device in which the prize or evidence of a prize*
26 *is determined by both chance and the player’s or players’ skill, including,*
27 *but not limited to, any machine or device on which a lottery game or*
28 *lottery games, such as poker or blackjack, are played;*
- 29 (B) *any machine or device in which the prize or evidence of a prize*
30 *is determined only by chance, including, but not limited to, any slot ma-*
31 *chine or bingo machine; or*
- 32 (C) *any lottery ticket vending machine, such as a keno ticket vending*
33 *machine, pull-tab vending machine or an instant-bingo vending machine.*
- 34 (2) *“Lottery machine” shall not mean:*
- 35 (A) *Any food vending machine defined by K.S.A. 36-501, and amend-*
36 *ments thereto;*
- 37 (B) *any nonprescription drug machine authorized under K.S.A. 65-*
38 *650, and amendments thereto;*
- 39 (C) *any machine which dispenses only bottled or canned soft drinks,*
40 *chewing gum, nuts or candies;*
- 41 (D) *any machine excluded from the definition of gambling devices*
42 *under subsection (d) of K.S.A. 21-4302, and amendments thereto; or*
- 43 (E) *any electronic gaming machine or lottery facility game operated*

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

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

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

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

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

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

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

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

17 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-~~
18 ~~650, and amendments thereto;~~

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

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

23 New Sec. 2. (a) Sections 2 through 45, and amendments thereto,
24 shall be known and may be cited as the Kansas expanded lottery act. The
25 Kansas expanded lottery act shall be part of and supplemental to the
26 Kansas lottery act.

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

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

35 New Sec. 3. (a) The Kansas lottery may operate one lottery gaming
36 facility in each nonexclusive gaming zone.

37 (b) Not more than 30 days after the effective date of this act the
38 lottery commission shall adopt and publish in the Kansas register the
39 procedure for receiving, considering and approving, proposed lottery
40 gaming facility management contracts. Such procedure shall include pro-
41 visions for review of competitive proposals within a nonexclusive gaming
42 zone and the date by which proposed lottery gaming facility management
43 contracts must be received by the lottery commission if they are to receive

1 consideration.

2 (c) The lottery commission shall adopt standards to promote the in-
3 tegrity of the gaming and finances of lottery gaming facilities, which shall
4 apply to all management contracts, shall meet or exceed industry stan-
5 dards for monitoring and controlling the gaming and finances of gaming
6 facilities and shall give the executive director sufficient authority to mon-
7 itor and control the gaming operation and to ensure its integrity and
8 security.

9 (d) The Kansas lottery commission may approve management con-
10 tracts with one or more prospective lottery gaming facility managers to
11 manage, or construct and manage, on behalf of the state of Kansas and
12 subject to the operational control of the Kansas lottery, a lottery gaming
13 facility or lottery gaming enterprise at specified destination locations
14 within the northeast and southeast Kansas gaming zones where the com-
15 mission determines the operation of such facility would promote tourism
16 and economic development. The commission shall approve or disapprove
17 a proposed management contract within 90 days after the deadline for
18 receipt of proposals established pursuant to subsection (b).

19 (e) In determining whether to approve a management contract with
20 a prospective lottery gaming facility manager to manage a lottery gaming
21 facility or lottery gaming enterprise pursuant to this section, the com-
22 mission shall take into consideration the following factors: The size of the
23 proposed facility; the geographic area in which such facility is to be lo-
24 cated; the proposed facility's location as a tourist and entertainment des-
25 tination; the estimated number of tourists that would be attracted by the
26 proposed facility; the number and type of lottery facility games to be
27 operated at the proposed facility; and agreements related to ancillary lot-
28 tery gaming facility operations.

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

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

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

40 (B) the prospective lottery gaming facility manager is not a resident
41 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
42 to financial resources to support the activities required of a lottery gaming
43 facility manager under the Kansas expanded lottery act; (ii) is current in

1 filing all applicable tax returns and in payment of all taxes, interest and
2 penalties owed to the state of Kansas and any taxing subdivision where
3 such prospective manager is located in the state of Kansas, excluding
4 items under formal appeal pursuant to applicable statutes; and (iii) has
5 three consecutive years' experience in the management of gaming which
6 would be class III gaming, as defined in K.S.A. 46-2301, and amendments
7 thereto, operated pursuant to state or federal law; and
8 (2) the commission determines that the proposed development con-
9 sists of an investment in infrastructure, including ancillary lottery gaming
10 facility operations, of at least \$200,000,000.
11 (h) Any management contract approved by the commission under
12 this section shall:
13 (1) Have a maximum initial term of 15 years from the date of opening
14 of the lottery gaming facility. At the end of the initial term, the contract
15 may be renewed by mutual consent of the state and the lottery gaming
16 facility manager;
17 (2) specify the total amount to be paid to the lottery gaming facility
18 manager pursuant to the contract;
19 (3) establish a mechanism to facilitate payment of lottery gaming fa-
20 cility expenses, payment of the lottery gaming facility manager's share of
21 the lottery gaming facility revenues and distribution of the state's share
22 of the lottery gaming facility revenues;
23 (4) include a provision for the lottery gaming facility manager to pay
24 the costs of oversight and regulation of the lottery gaming facility manager
25 and the operations of the lottery gaming facility by the Kansas racing and
26 gaming commission;
27 (5) establish the types of lottery facility games to be installed in such
28 facility;
29 (6) provide for the prospective lottery gaming facility manager, upon
30 approval of the proposed lottery gaming facility management contract, to
31 pay to the state treasurer a privilege fee of \$40,000,000 for the privilege
32 of being selected as a lottery gaming facility manager, which fee shall be
33 deposited in the state treasury and credited to the lottery gaming facility
34 manager fund, which is hereby created in the state treasury;
35 (7) incorporate terms and conditions for the ancillary lottery gaming
36 facility operations;
37 (8) designate as key employees, subject to approval of the executive
38 director, any employees or contractors providing services or functions
39 which are related to lottery facility games authorized by a management
40 contract;
41 (9) include financing commitments for construction;
42 (10) include a resolution of endorsement from the city governing
43 body, if the proposed facility is within the corporate limits of a city, or

1 from the county commission, if the proposed facility is located in the
2 unincorporated area of the county;

3 (11) include a requirement that any parimutuel licensee developing
4 a lottery gaming facility pursuant to this act comply with all orders and
5 rules and regulations of the Kansas racing and gaming commission with
6 regard to the conduct of live racing, including the same minimum days
7 of racing as specified in section 16, and amendments thereto, for opera-
8 tion of electronic gaming machines at racetrack gaming facilities;

9 (12) include a provision for the state to receive not less than 24% of
10 lottery gaming facility revenues, 75% of which shall be paid to the Kansas
11 education opportunity trust fund established by section 40, and amend-
12 ments thereto, and 25% of which shall be paid to the Kansas gaming
13 revenue property tax relief fund established by section 39, and amend-
14 ments thereto;

15 (13) include a provision for 1% of lottery gaming facility revenues to
16 be paid to the problem gambling grant fund established by K.S.A. 2005
17 Supp. 79-4805, and amendments thereto;

18 (14) include a provision for 1% of lottery gaming facility revenues to
19 be paid to the Kansas charitable gaming fund established by section 38,
20 and amendments thereto;

21 (15) if the prospective lottery gaming facility manager is an American
22 Indian tribe, include a provision that such tribe agrees to waive its sov-
23 ereign immunity with respect to any actions arising from or to enforce
24 either the Kansas expanded lottery act or any provision of the lottery
25 gaming facility management contract; any action brought by an injured
26 patron or by the state of Kansas; any action for purposes of enforcing the
27 workers compensation act or any other employment or labor law; and any
28 action to enforce laws, rules and regulations and codes pertaining to
29 health, safety and consumer protection; and for any other purpose
30 deemed necessary by the executive director to protect patrons or em-
31 ployees and promote fair competition between the tribe and others seek-
32 ing a lottery gaming facility management contract;

33 (16) (A) if the lottery gaming facility is located in a nonexclusive gam-
34 ing zone comprised of one county and is not located within a city, include
35 a provision for payment of an amount equal to 3% of the lottery gaming
36 facility revenues to the county in which the lottery gaming facility is lo-
37 cated; or (B) if the lottery gaming facility is located in a nonexclusive
38 gaming zone comprised of one county and is located within a city, include
39 provision for payment of an amount equal to 1.5% of the lottery gaming
40 facility revenues to the city in which the lottery gaming facility is located
41 and an amount equal to 1.5% of such revenues to the county in which
42 such facility is located;

43 (17) (A) if the lottery gaming facility is located in a nonexclusive gam-

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

12 (18) allow the lottery gaming facility manager to manage the lottery
13 gaming facility in a manner consistent with this act and applicable law,
14 but shall place full, complete and ultimate ownership and operational
15 control of the gaming operation of the lottery gaming facility with the
16 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
17 retain the power to overrule any action of the lottery gaming facility man-
18 ager affecting the gaming operation without prior notice. The Kansas
19 lottery shall retain full control over all decisions concerning lottery gaming
20 facility games;

21 (19) include provisions for the Kansas racing and gaming commission
22 to oversee all lottery gaming facility operations, including, but not limited
23 to: Oversight of internal controls; oversight of security of facilities; per-
24 formance of background investigations, determination of qualifications
25 and credentialing of employees, contractors and agents of the lottery gam-
26 ing facility manager and of ancillary lottery gaming facility operations, as
27 determined by the Kansas racing and gaming commission; auditing of
28 lottery gaming facility revenues; enforcement of all state laws and main-
29 tenance of the integrity of gaming operations; and

30 (20) include enforceable provisions: (A) Prohibiting the state, until
31 July 1, 2016, from (i) entering into management contracts for more than
32 three lottery gaming facilities or similar gaming facilities, one to be lo-
33 cated in the northeast Kansas gaming zone, one to be located in the
34 southeast Kansas gaming zone and one to be located in the south Kansas
35 gaming zone; (ii) designating additional areas of the state where operation
36 of lottery gaming facilities or similar gaming facilities would be author-
37 ized; or (iii) operating an aggregate of more than 3,800 electronic gaming
38 machines at all parimutuel locations; and (B) requiring the state to repay
39 to the lottery gaming facility manager an amount equal to three times the
40 privilege fee paid by such lottery gaming facility manager, plus interest
41 on such amount, compounded annually at the rate of 10%, if the state
42 violates the prohibition provision described in (A).

43 (i) Any proposed management contract for which the privilege fee

- 1 has not been paid to the state treasurer within 30 days after the date of
2 approval of the management contract shall be null and void.
- 3 (j) Management contracts authorized by this section may include pro-
4 visions relating to:
- 5 (1) Accounting procedures to determine the lottery gaming facility
6 revenues, unclaimed prizes and credits;
- 7 (2) minimum requirements for a lottery gaming facility manager to
8 provide qualified oversight, security and supervision of the lottery facility
9 games including the use of qualified personnel with experience in appli-
10 cable technology;
- 11 (3) eligibility requirements for employees, contractors or agents of a
12 lottery gaming facility manager who will have responsibility for or involve-
13 ment with actual gaming activities or for the handling of cash or tokens;
- 14 (4) background investigations to be performed by the Kansas racing
15 and gaming commission;
- 16 (5) credentialing requirements for any employee, contractor or agent
17 of the lottery gaming facility manager or of any ancillary lottery gaming
18 facility operation as provided by the Kansas expanded lottery act or rules
19 and regulations adopted pursuant thereto;
- 20 (6) provision for termination of the management contract by either
21 party for cause; and
- 22 (7) any other provision deemed necessary by the parties, including
23 such other terms and restrictions as necessary to conduct any lottery fa-
24 cility game in a legal and fair manner.
- 25 (k) A management contract shall not constitute property, nor shall it
26 be subject to attachment, garnishment or execution, nor shall it be alien-
27 able or transferable, except upon approval by the executive director, nor
28 shall it be subject to being encumbered or hypothecated. The trustee of
29 any insolvent or bankrupt lottery gaming facility manager may continue
30 to operate pursuant to the management contract under order of the ap-
31 propriate court for no longer than one year after the bankruptcy or in-
32 solvency of such manager.
- 33 (l) A lottery gaming facility manager, on behalf of the state, shall
34 purchase or lease for the Kansas lottery all lottery facility games. All lot-
35 tery facility games shall be subject to the ultimate control of the Kansas
36 lottery in accordance with this act.
- 37 (m) A lottery gaming facility shall comply with any planning and zon-
38 ing regulations of the city or county in which it is to be located. The
39 executive director shall not contract with any prospective lottery gaming
40 facility manager for the operation and management of such lottery gaming
41 facility unless such manager first receives any necessary approval under
42 planning and zoning requirements of the city or county in which it is to
43 be located.

- 1 (n) Prior to expiration of the term of a lottery gaming facility man-
2 agement contract, the lottery commission may negotiate a new lottery
3 gaming facility management contract with the lottery gaming facility man-
4 ager if the new contract is substantially the same as the existing contract.
5 Otherwise, the lottery gaming facility review board shall be reconstituted
6 and a new lottery gaming facility management contract shall be negotiated
7 and approved in the manner provided by this act.
- 8 New Sec. 4. (a) There is hereby created the lottery gaming facility
9 review board. The board shall consist of:
- 10 (1) Three members appointed by the governor;
11 (2) one member appointed by the president of the senate;
12 (3) one member appointed by the minority leader of the senate;
13 (4) one member appointed by the speaker of the house of represen-
14 tatives; and
15 (5) one member appointed by the minority leader of the house of
16 representatives.
- 17 (b) To be eligible for appointment to the board, a person shall submit
18 to the appointing authority evidence of significant business experience,
19 particularly in business development and location of new businesses to
20 maximize revenue.
- 21 (c) A person shall not be eligible for appointment to the board if the
22 person:
- 23 (1) Is a resident of or owns property in a nonexclusive gaming zone;
24 (2) has an interest in any business domiciled in or conducting a sig-
25 nificant portion of its business in a nonexclusive gaming zone; or
26 (3) has, or has had during the preceding two years, either directly or
27 indirectly, a financial interest in or is, or has been during the preceding
28 two years, employed by or a consultant to a prospective lottery gaming
29 facility manager or any ancillary lottery gaming facility operations pro-
30 posed by a prospective lottery gaming facility manager.
- 31 (d) Not more than four members of the board shall be members of
32 the same political party.
- 33 (e) The governor shall designate one member of the board to serve
34 as chairperson of the board.
- 35 (f) The vote of at least four members of the board shall be required
36 to take action.
- 37 (g) Subject to the limitations of appropriations therefor, members of
38 the board shall receive such compensation as determined by the governor.
39 Members of the board attending meetings of the board or subcommittee
40 meetings thereof approved by the board shall be paid subsistence allow-
41 ances, mileage and other expenses as provided in K.S.A. 75-3223, and
42 amendments thereto.
- 43 (h) The board is hereby attached to the Kansas racing and gaming

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

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

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

29 (c) Within 30 days after execution of a lottery gaming facility man-
30 agement contract with a parimutuel licensee for development of a lottery
31 gaming facility at a parimutuel licensee location, the parimutuel licensee
32 must submit to the Kansas racing and gaming commission, for approval
33 by the commission, a plan for compliance with the requirements for live
34 racing and purse supplements established pursuant to sections 15 and 37,
35 and amendments thereto. Upon application of a parimutuel licensee, the
36 Kansas racing and gaming commission shall open a proceeding to consider
37 such licensee's proposal for development of a lottery gaming facility at
38 the parimutuel licensee location. Such proposal shall include provisions
39 for: (1) Compliance with the requirements of section 15, and amendments
40 thereto; (2) payment of purse supplements from the appropriate funds
41 established by section 37, and amendments thereto; and (3) a plan for
42 protecting and promoting live racing in Kansas. The Kansas racing and
43 gaming commission shall hear evidence and testimony from all interested

1 parties. Upon a finding by the Kansas racing and gaming commission that
2 the proposal is in the best interest of live racing in Kansas and more
3 beneficial to live racing than placement of electronic gaming machines at
4 such parimutuel licensee location, the Kansas racing and gaming com-
5 mission may approve such proposal. The Kansas racing and gaming com-
6 mission shall notify the lottery gaming facility review board of the com-
7 mission's approval or disapproval of the proposal. If the Kansas racing
8 and gaming commission does not approve the proposal, the lottery gaming
9 facility review board shall not give further consideration to the lottery
10 gaming facility management contract with the parimutuel licensee and
11 the executive director shall direct the state treasurer to refund, without
12 interest, the privilege fee paid pursuant to such contract.

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

24 (2) If the board cannot reach agreement that a lottery gaming facility
25 management contract is the best possible such contract, the board shall
26 request the executive director to renegotiate the contract or contracts
27 until the board determines that the best possible such contract or con-
28 tracts have been executed.

29 (e) Upon a determination by the lottery gaming facility review board
30 that a lottery gaming facility management contract is the best possible
31 such contract, the board shall submit the contract to the Kansas racing
32 and gaming commission for approval. The Kansas racing and gaming com-
33 mission shall conduct such background investigations of prospective lot-
34 tery gaming facility managers, their directors and officers and any other
35 persons having an interest in such prospective managers, as determined
36 in accordance with rules and regulations adopted by the Kansas racing
37 and gaming commission. Upon completion of such investigations and ap-
38 proval of the background of the prospective lottery gaming facility man-
39 ager, directors, officers and other persons having an interest in such pro-
40 spective manager, but not more than 10 days after receiving the
41 recommendation of the lottery gaming facility review board, the Kansas
42 racing and gaming commission shall vote to approve in whole or reject in
43 whole the recommendation of the lottery gaming facility review board. If

1 the Kansas racing and gaming commission does not approve the back-
2 ground of such prospective lottery gaming facility manager, directors,
3 officers and other persons having an interest in such prospective manager
4 or does not approve the recommendation of the lottery gaming facility
5 review board, the Kansas racing and gaming commission shall notify the
6 executive director of the lottery and the process for selection of a lottery
7 gaming facility manager shall begin again in the manner provided in sec-
8 tions 3 and 4, and amendments thereto.

9 (f) If the Kansas racing and gaming commission approves a lottery
10 gaming facility management contract submitted to it in accordance with
11 subsection (e), the executive director of the Kansas racing and gaming
12 commission shall notify the board of county commissioners of the county
13 where the lottery gaming facility is proposed to be located.

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

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

36 (b) Upon the adoption of a resolution calling for an election pursuant
37 to this section, the county election officer shall cause the following propo-
38 sition to be placed on the ballot at the election called for that purpose:
39 "Shall the Kansas lottery be authorized to operate a lottery gaming facility
40 in _____ county?"

41 (c) If a majority of the votes cast and counted at such election is in
42 favor of approving the operation of a lottery gaming facility within the
43 county, the lottery gaming facility management contract for operation of

1 a lottery gaming facility within the county shall be binding on both parties
2 to the contract. If a majority of the votes cast and counted at an election
3 under this section is against permitting the operation of a lottery gaming
4 facility within the county, the lottery gaming facility management contract
5 for the operation of a lottery gaming facility within the county shall be
6 null and void. The county election officer shall transmit a copy of the
7 certification of the results of the election to the executive director.

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

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

15 (1) The lottery commission determines that after December 31,
16 2004, the county has held an election of qualified voters pursuant to the
17 county's home rule authority: (A) At which the ballot question was in
18 substantial compliance with the requirements of this section; (B) which
19 was administered by the county election officer in a manner consistent
20 with the requirements of state election law; and (C) at which a majority
21 of the votes cast and counted was in favor of the proposition; or

22 (2) the county has held an election pursuant to section 7, and amend-
23 ments thereto, and a majority of the votes cast and counted was in favor
24 of the proposition to authorize operation of a lottery gaming facility and
25 the placement of electronic gaming machines within the county.

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

30 New Sec. 7. The following proposition shall be submitted to the
31 qualified electors of Sedgwick county at the state general election in No-
32 vember 2006: "Shall the Kansas lottery be authorized to operate a lottery
33 gaming facility and to place electronic gaming machines in Sedgwick
34 county?" Such election shall be conducted, and the votes counted and
35 canvassed, in the manner provided by law for question submitted elec-
36 tions of the county. The county election officer of Sedgwick county shall
37 transmit a copy of the certification of the results of the election to the
38 executive director and to the county commission of Sedgwick county.

39 New Sec. 8. (a) Upon receipt of a copy of the certification of the
40 results of the election pursuant to section 6, and amendments thereto:

41 (1) If the certification shows that a majority of the voters voted against
42 the operation of a lottery gaming facility in the county, the executive
43 director shall direct the state treasurer to refund, without interest, all

1 privilege fees paid pursuant to lottery gaming facility management con-
2 tracts for a lottery gaming facility in the county.

3 (2) If the certification shows that a majority of the voters voted in
4 favor of the operation of a lottery gaming facility in the county, the ex-
5 ecutive director shall direct the state treasurer to refund, without interest,
6 all privilege fees paid pursuant to lottery gaming facility management
7 contracts for a lottery gaming facility in the county, other than the lottery
8 gaming facility management contract which is binding as provided by
9 section 6, and amendments thereto. Thereupon, the state treasurer shall
10 transfer to the state general fund an amount equal to the privilege fee
11 paid pursuant to the lottery gaming facility management contract which
12 is binding as provided by section 6, and amendments thereto, and the
13 lottery gaming facility manager fund shall be abolished.

14 (b) If the election requirement of section 6, and amendments thereto,
15 is waived by the lottery commission, as provided by subsection (e) of that
16 section, the executive director shall direct the state treasurer to refund,
17 without interest, all privilege fees paid pursuant to lottery gaming facility
18 management contracts for a lottery gaming facility in the county, other
19 than the lottery gaming facility management contract which is binding as
20 provided by section 6, and amendments thereto. Thereupon, the state
21 treasurer shall transfer to the state general fund an amount equal to the
22 privilege fee paid pursuant to the lottery gaming facility management
23 contract which is binding as provided by section 6, and amendments
24 thereto, and the lottery gaming facility manager fund shall be abolished,
25 except that, in the case of a lottery gaming facility to be located in
26 Sedgwick county, \$15,000,000 shall be transferred to the state general
27 fund and \$25,000,000 shall be remitted to the county treasurer of
28 Sedgwick county. Upon receipt of such amount, the Sedgwick county
29 treasurer shall deposit the entire amount in the county treasury and shall
30 credit it to a special affordable airfare fund in the county treasury. Moneys
31 in such special fund shall be under the direction and control of the board
32 of county commissioners and shall be expended only to provide more air
33 flight options, more competition for air travel and affordable air fares for
34 Kansas during the five-year period immediately following receipt of such
35 amount.

36 New Sec. 9. The sale or service by lottery gaming facility managers
37 or ancillary lottery gaming facility operations and the consumption by
38 patrons of lottery gaming facilities of alcohol, liquor, wine, spirits, cereal
39 malt beverages and other intoxicating liquors is hereby permitted upon
40 and in lottery gaming facilities and ancillary lottery gaming facility oper-
41 ations. The provisions of K.S.A. 41-719, and amendments thereto, relating
42 to alcoholic liquor shall not be applicable to lottery gaming facilities and
43 ancillary lottery gaming facility operations.

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

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

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

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

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

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

24 (c) A racetrack gaming facility management contract to place elec-
25 tronic gaming machines at a parimutuel licensee location in the southwest
26 Kansas gaming zone shall require the racetrack gaming facility manager
27 to remit to the county treasurer of Ford county an exclusive gaming zone
28 privilege fee of \$3,000,000, payable upon approval by the Kansas racing
29 and gaming commission of construction of a parimutuel racetrack facility
30 in such zone.

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

32 (1) The term of the contract;

33 (2) provisions for the Kansas racing and gaming commission to over-
34 see all racetrack gaming facility operations, including, but not limited to:
35 Oversight of internal controls; oversight of security of facilities; perform-
36 ance of background investigations, determination of qualifications and any
37 required certification or licensing of officers, directors, board members,
38 employees, contractors and agents of the racetrack gaming facility man-
39 ager; auditing of net electronic gaming machine income and maintenance
40 of the integrity of electronic gaming machine operations;

41 (3) provisions for the racetrack gaming facility manager to pay the
42 costs of oversight and regulation of the racetrack gaming facility manager
43 under this act and such manager's racetrack gaming facility operations by

1 the Kansas racing and gaming commission; and
2 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
3 2016, from (i) entering into management contracts for more than three
4 lottery gaming facilities or similar gaming facilities, one to be located in
5 the northeast Kansas gaming zone, one to be located in the southeast
6 Kansas gaming zone and one to be located in the south Kansas gaming
7 zone; (ii) designating additional areas of the state where operation of
8 lottery gaming facilities or similar gaming facilities would be authorized;
9 or (iii) operating an aggregate of more than 3,800 electronic gaming ma-
10 chines at all parimutuel locations; and (B) requiring the state to repay to
11 the racetrack gaming facility manager an amount equal to three times the
12 privilege fee paid by such racetrack gaming facility manager, plus interest
13 on such amount, compounded annually at the rate of 10%, if the state
14 violates the prohibition provision described in (A).
15 (e) Racetrack gaming facility management contracts authorized by
16 this section may include provisions relating to:
17 (1) Accounting procedures to determine net electronic gaming ma-
18 chine income, unclaimed prizes and credits;
19 (2) minimum requirements for a racetrack gaming facility manager
20 to provide qualified oversight, security and supervision of electronic gam-
21 ing machines including the use of qualified personnel with experience in
22 applicable technology;
23 (3) eligibility requirements for employees, contractors or agents of a
24 racetrack gaming facility manager who will have responsibility for or in-
25 volvement with electronic gaming machines or for the handling of cash
26 or tokens;
27 (4) background investigations to be performed by the Kansas racing
28 and gaming commission;
29 (5) credentialing or certification requirements of any employee, con-
30 tractor or agent as provided by the Kansas expanded lottery act or rules
31 and regulations adopted pursuant thereto;
32 (6) provision for termination of the management contract by either
33 party for cause; and
34 (7) any other provision deemed necessary by the parties, including
35 such other terms and restrictions as necessary to conduct racetrack gam-
36 ing facility operations in a legal and fair manner.
37 (f) A racetrack gaming facility management contract shall not consti-
38 tute property, nor shall it be subject to attachment, garnishment or exe-
39 cution, nor shall it be alienable or transferable, except upon approval by
40 the executive director, nor shall it be subject to being encumbered or
41 hypothecated.
42 (g) Any proposed racetrack gaming facility management contract for
43 which the exclusive gaming zone privilege fee has not been paid to the

1 state treasurer within 30 days after the fee becomes payable pursuant to
2 subsection (c) shall be null and void.

3 New Sec. 12. (a) The executive director shall submit the proposed
4 racetrack gaming facility management contract to the commission for the
5 commission's approval. Upon approval of the Kansas lottery commission,
6 the executive director shall submit such contract to the Kansas racing and
7 gaming commission for approval. The Kansas racing and gaming com-
8 mission shall conduct such background investigations of the proposed
9 racetrack gaming facility manager, and its officers, directors, employees,
10 owners, agents and contractors, as determined in accordance with rules
11 and regulations adopted by the Kansas racing and gaming commission.
12 Upon completion of such investigations and approval of the background
13 of the proposed racetrack gaming facility manager, and its officers, direc-
14 tors, employees, owners, agents and contractors, the Kansas racing and
15 gaming commission shall vote to approve or reject the contract in whole.
16 If the Kansas racing and gaming commission rejects the contract, the
17 Kansas racing and gaming commission shall notify the executive director
18 of the lottery and make recommendations regarding negotiation of the
19 contract. The executive director may then resume negotiations with the
20 proposed racetrack gaming facility manager.

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

26 New Sec. 13. (a) Upon receipt of notice of approval by the Kansas
27 racing and gaming commission of a racetrack gaming facility management
28 contract for placement of electronic gaming machines at a parimutuel
29 licensee location in a county, the board of county commissioners of the
30 county by resolution shall submit to the qualified voters of the county a
31 proposition to permit the placement of electronic gaming machines in
32 the county pursuant to this section. The proposition shall be submitted
33 to the voters at a special election called by the board of county commis-
34 sioners for that purpose and held not less than 90 days after the notice is
35 received.

36 (b) Upon the adoption of a resolution calling for an election pursuant
37 to this section, the county election officer shall cause the following propo-
38 sition to be placed on the ballot at the election called for that purpose:
39 "Shall the Kansas lottery be authorized to place electronic gaming ma-
40 chine in _____ county?"

41 (c) If a majority of the votes cast and counted at such election is in
42 favor of approving the placement of electronic gaming machines in the
43 county, the racetrack gaming facility management contract for placement

1 of electronic gaming machines at a parimutuel licensee location in the
2 county shall be binding on both parties to the contract. If a majority of
3 the votes cast and counted at an election under this section is against
4 permitting placement of electronic gaming machines in the county, the
5 racetrack gaming facility management contract for placement of elec-
6 tronic gaming machines at a parimutuel licensee location in the county
7 shall be null and void. The county election officer shall transmit a copy
8 of the certification of the results of the election to the executive director.

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

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

16 (1) The lottery commission determines that after December 31,
17 2004, the county has held an election of qualified voters pursuant to the
18 county's home rule authority: (A) At which the ballot question was in
19 substantial compliance with the requirements of this section; (B) which
20 was administered by the county election officer in a manner consistent
21 with the requirements of state election law; and (C) at which a majority
22 of the votes cast and counted was in favor of the proposition; or

23 (2) the county has held an election pursuant to section 7, and amend-
24 ments thereto, and a majority of the votes cast and counted was in favor
25 of the proposition to authorize operation of a lottery gaming facility and
26 the placement of electronic gaming machines within the county.

27 (f) The question of the placement of electronic gaming machines in
28 a county may be submitted at the same election as the question of op-
29 eration of a lottery gaming facility in the county under section 6, and
30 amendments thereto.

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

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

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

41 (1) The number of electronic gaming machines to be placed at each
42 racetrack gaming facility, subject to the following: Not more than 1,000
43 electronic gaming machines shall be placed at the racetrack gaming fa-

1 cility in the northeast Kansas gaming zone; not more than 800 electronic
2 gaming machines shall be placed at the racetrack gaming facility in the
3 southeast Kansas gaming zone; not more than 1,200 electronic gaming
4 machines shall be placed at the racetrack gaming facility in the south
5 Kansas gaming zone; and not more than 800 electronic gaming machines
6 shall be placed at the racetrack gaming facility in the southwest Kansas
7 gaming zone;

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

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

12 (4) rules and regulations and procedures for the accounting and re-
13 porting of the payments required from racetrack gaming facility managers
14 under section 36, and amendments thereto, including the calculations
15 required for such payments.

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

26 (b) All information and data pertaining to a vendor's criminal record,
27 family and background furnished to or obtained by the Kansas lottery or
28 Kansas racing and gaming commission pursuant to sections 11 through
29 17, and amendments thereto, from any source shall be considered con-
30 fidential and shall not be revealed, in whole or part. Such information
31 shall be released upon the lawful order of a court of competent jurisdic-
32 tion or to a duly authorized law enforcement agency.

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

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

38 (1) No electronic gaming machines shall be operated at a parimutuel
39 licensee location in Sedgwick county unless, during the first full calendar
40 year and each year thereafter in which electronic gaming machines are
41 operated at such location, the parimutuel licensee conducts at such lo-
42 cation at least 100 live greyhound races each calendar week for the num-
43 ber of weeks raced during calendar year 2003 with at least 13 live races

1 conducted each day for not less than five days per week.

2 (2) No electronic gaming machines shall be operated at a parimutuel
3 licensee location in Wyandotte county unless, during the first full calendar
4 year and each year thereafter in which electronic gaming machines are
5 operated at such location, the parimutuel licensee conducts live horse
6 racing programs for at least 60 days, with at least 10 live races conducted
7 each program, and must offer and make a reasonable effort to conduct a
8 minimum number of three live races restricted for quarter horses each
9 day and seven live thoroughbred races each day, of which not less than
10 two races each day shall be limited to registered Kansas-bred horses ap-
11 portioned in the same ratio that live races are offered, except that the
12 licensee shall not be required to conduct the second live race restricted
13 to Kansas-bred horses unless there are at least seven qualified entries for
14 such race, and with at least 100 live greyhound races each calendar week
15 for at least the same number of weeks raced during calendar year 2003,
16 with at least 13 live races conducted each day for not less than five days
17 per week.

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

25 (4) No electronic gaming machines shall be operated at a parimutuel
26 licensee location in Ford county unless, during the first full calendar year
27 and each year thereafter in which electronic gaming machines are oper-
28 ated at such location, the parimutuel licensee conducts live horse racing
29 programs for at least 45 days, with at least 10 live races conducted each
30 program, and must offer and make a reasonable effort to conduct a min-
31 imum number of three live races restricted for quarter horses each day
32 and seven live thoroughbred races each day, of which not less than two
33 races each day shall be limited to registered Kansas-bred horses appor-
34 tioned in the same ratio that live races are offered, except that the licensee
35 shall not be required to conduct the second live race restricted to Kansas-
36 bred horses unless there are at least seven qualified entries for such race,
37 and with at least 85 live greyhound races each calendar week for the
38 number of weeks raced during calendar year 2003 in Sedgwick county,
39 with at least 12 live races conducted each day for not less than five days
40 per week.

41 (5) If a parimutuel licensee has not held live races pursuant to a
42 schedule approved by the Kansas racing and gaming commission in the
43 preceding 12 months, the Kansas racing and gaming commission shall

1 hold a hearing to determine the number of days of live racing required
2 for the remaining days of the first calendar year of operation to qualify
3 for operation of electronic gaming machines. At such hearing, the com-
4 mission shall receive testimony and evidence from affected breed groups,
5 the licensee and others, as the Kansas racing and gaming commission
6 deems appropriate concerning the schedule of live race days. The oper-
7 ation of electronic gaming machines shall not commence more than 90
8 days prior to the start of live racing at such facility.

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

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

21 (1) To the racetrack gaming facility manager, an amount equal to the
22 following as a management fee and net lease for facilities used for the
23 operation of electronic gaming machines at the racetrack gaming facility:
24 (A) For the first five years after commencement of the operation of elec-
25 tronic gaming machines at the racetrack gaming facility, 35% of the first
26 \$150 of the average net electronic gaming machine income per machine
27 per day at the racetrack gaming facility plus 25% of the remainder of the
28 average net electronic gaming machine income per machine per day at
29 the racetrack gaming facility; and (B) thereafter, 25% of the average net
30 electronic gaming machine income per machine per day at the racetrack
31 gaming facility;

32 (2) 7% of net electronic gaming machine income shall be credited to
33 the live horse racing purse supplement fund established by section 37,
34 and amendments thereto, except that the amount of net electronic gam-
35 ing machine income credited to the fund during any fiscal year from
36 electronic gaming machines at a racetrack gaming facility shall not exceed
37 an amount equal to the average of \$3,750 per electronic gaming machine
38 at each location and any moneys in excess of such amount shall be dis-
39 tributed between the state and the racetrack gaming facility manager in
40 accordance with the racetrack gaming facility management contract;

41 (3) 7% of net electronic gaming machine income shall be credited to
42 the live greyhound racing purse supplement fund established by section
43 37, and amendments thereto, except that the amount of net electronic

1 gaming machine income credited to the fund during any fiscal year from
2 electronic gaming machines at a racetrack gaming facility shall not exceed
3 an amount equal to the average of \$3,750 per electronic gaming machine
4 at each location and any moneys in excess of such amount shall be dis-
5 tributed between the state and the racetrack gaming facility manager in
6 accordance with the racetrack gaming facility management contract;

7 (4) 1.5% of net electronic gaming machine income shall be remitted
8 to the city, if any, and 1.5% of net electronic gaming machine income
9 shall be remitted to the county where the racetrack gaming facility is
10 located, except that 3% of net electronic gaming machine income shall
11 be remitted to such county if the racetrack gaming facility is not located
12 in a city;

13 (5) 1% of net electronic gaming machine income shall be credited to
14 the problem gambling grant fund established by K.S.A. 2005 Supp. 79-
15 4805, and amendments thereto;

16 (6) subject to the provisions of subsection (e), 1% of net electronic
17 gaming machine income shall be credited to the Kansas charitable gaming
18 fund established by section 38, and amendments thereto;

19 (7) 1% of net electronic gaming machine income shall be credited to
20 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
21 and amendments thereto;

22 (8) to the state, an amount equal to the following: (A) For the first
23 five years after commencement of the operation of electronic gaming
24 machines at the racetrack gaming facility, 30% of the first \$150 of the
25 average net electronic gaming machine income per machine per day at
26 the racetrack gaming facility plus 40% of the remainder of the average
27 net electronic gaming machine income per machine per day at the race-
28 track gaming facility; and (B) thereafter, 40% of the average net electronic
29 gaming machine income per machine per day at the racetrack gaming
30 facility; and

31 (9) 15% of electronic gaming machine income shall be used for gam-
32 ing expenses, subject to agreement between the Kansas lottery and the
33 racetrack gaming facility manager.

34 (b) Of amounts distributed to the state pursuant to subsection (a)(8),
35 25% shall be credited to the Kansas gaming revenue property tax relief
36 fund established by section 39, and amendments thereto, and 75% shall
37 be credited to the Kansas education opportunity trust fund established
38 by section 40 and amendments thereto.

39 (c) A racetrack gaming facility management contract shall establish
40 an accelerated racetrack gaming facility payment of \$15,000 per elec-
41 tronic gaming machine installed at the parimutuel licensee location. Such
42 payment shall be due and payable one month before the end of the fiscal
43 year in which the racetrack gaming facility management contract is exe-

1 cuted or in which the parimutuel licensee location opens, if not open
2 when the contract is executed. Revenues credited to the Kansas education
3 opportunity trust fund and the Kansas gaming revenue property tax relief
4 fund prior to the date the accelerated racetrack gaming facility payment
5 is due shall be credited against the amount which would otherwise be
6 due pursuant to this subsection. During the five fiscal years following the
7 year in which payment of the accelerated racetrack gaming facility pay-
8 ment is made by a racetrack gaming facility manager, the state shall repay
9 to such manager an amount equal to the accelerated racetrack gaming
10 facility payment made by such manager minus any credit allowed against
11 such accelerated payment pursuant to this subsection. The amount of the
12 repayment in any fiscal year shall not exceed 20% of the moneys credited
13 to the Kansas education opportunity trust fund and the Kansas gaming
14 revenue property tax relief fund during such fiscal year from net elec-
15 tronic gaming machine income derived from electronic gaming machines
16 at such manager's racetrack gaming facility.

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

22 (e) If the racetrack gaming facility manager pays to the organization
23 licensee at the parimutuel licensee location an amount based on the net
24 electronic gaming machine income which the racetrack gaming facility
25 manager receives pursuant to this act:

26 (1) The organization licensee shall be required to pay to the executive
27 director such amount paid by the racetrack gaming facility manager but
28 not to exceed an amount equal to 1% of net electronic gaming machine
29 income received by such manager. The executive director shall remit to
30 the state treasurer all such amounts received from the organization li-
31 censee. Upon receipt thereof, the state treasurer shall deposit the entire
32 amount in the state treasury and credit it to the Kansas charitable gaming
33 fund.

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

39 (3) The racetrack gaming facility manager, in addition to the amount
40 provided pursuant to subsection (a)(1), shall be paid an amount equal to
41 the amount paid by such manager to the organization licensee at the
42 parimutuel licensee location based on the net electronic gaming machine
43 income but not to exceed an amount equal to 1% of net electronic gaming

1 machine income received by such manager.

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

10 New Sec. 19. (a) Electronic gaming machines operated pursuant to
11 this act, including those operated as lottery facility games, shall:

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

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

17 (3) be on-line and in constant communication with a central com-
18 puter situated at a location determined by the executive director and
19 specified in the lottery gaming facility or racetrack gaming facility man-
20 agement contract; and

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

23 (b) The communications systems selected by the executive director
24 shall not limit or favor the participation of a manufacturer, distributor or
25 supplier of an electronic gaming machine. The communications systems
26 shall employ widely accepted gaming industry communications protocols.
27 The costs associated with installation and implementation of the com-
28 munications systems shall be paid pursuant to the terms of the manage-
29 ment contract authorizing placement of electronic gaming machines pur-
30 suant to this act.

31 New Sec. 20. (a) Each specific type of electronic gaming machine
32 and lottery facility game shall be approved by the Kansas racing and gam-
33 ing commission. The Kansas racing and gaming commission shall examine
34 prototypes of electronic gaming machines and lottery facility games and
35 shall notify the lottery gaming facility manager or racetrack gaming facility
36 manager which types of electronic gaming machines or lottery facility
37 games are in compliance with the requirements of this act. The use of
38 progressive electronic gaming machines is expressly permitted.

39 (b) No electronic gaming machine or lottery facility game shall be
40 operated pursuant to this act unless the executive director of the racing
41 and gaming commission first issues a certificate for such machine or game
42 authorizing its use at a specified location. Each electronic gaming ma-
43 chine and lottery facility game shall have such certificate prominently

1 displayed thereon. Any electronic gaming machine or lottery facility game
2 which does not display the certificate required by this section is contra-
3 band and a public nuisance subject to confiscation by any law enforce-
4 ment officer.

5 (c) The executive director of the racing and gaming commission shall
6 require any manufacturer, supplier, provider, lottery gaming facility man-
7 ager, racetrack gaming facility manager or other person seeking the ex-
8 amination and certification of electronic gaming machines or lottery fa-
9 cility games to pay the anticipated actual costs of the examination in
10 advance. After the completion of the examination, the executive director
11 of the Kansas racing and gaming commission shall refund any overpay-
12 ment or charge and collect amounts sufficient to reimburse the executive
13 director for any underpayment of actual costs. The executive director of
14 the Kansas racing and gaming commission may contract for the exami-
15 nation of electronic gaming machines and lottery facility games required
16 by this section, and may rely upon testing done by or for other states
17 regulating electronic gaming machines or lottery facility games, if the
18 executive director deems such testing to be reliable and in the best in-
19 terest of the state of Kansas.

20 (d) The executive director of the Kansas lottery or the executive di-
21 rector of the Kansas racing and gaming commission may remove from
22 play and confiscate any electronic gaming machine or gray machine that
23 does not comply with the requirements of the Kansas expanded lottery
24 act. Any electronic gaming machine that the executive director or the
25 executive director of the racing and gaming commission determines has
26 been modified or the design of which has been modified without the
27 consent of the executive director of the Kansas lottery may be removed
28 from play, confiscated by either such executive director and disposed of
29 in any manner allowed by law.

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

32 (a) A certification requirement, and enforcement procedure, for of-
33 ficers, directors, key employees and persons directly or indirectly owning
34 a 5% or more interest in a lottery gaming facility manager or racetrack
35 gaming facility manager. Such certification requirement shall include
36 compliance with such security, fitness and background investigations and
37 standards as the executive director of the Kansas racing and gaming com-
38 mission deems necessary to determine whether such person's reputation,
39 habits or associations pose a threat to the public interest of the state or
40 to the reputation of or effective regulation and control of the lottery gam-
41 ing facility or racetrack gaming facility. Any person convicted of any fel-
42 ony, a crime involving gambling or a crime of moral turpitude prior to
43 applying for a certificate hereunder or at any time thereafter shall be

1 deemed unfit. The Kansas racing and gaming commission shall conduct
2 the security, fitness and background checks required pursuant to this
3 subsection. Certification pursuant to this subsection shall not be assign-
4 able or transferable;

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

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

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

1 (4) has violated any provision of the Kansas expanded lottery act or any
2 rule and regulation adopted hereunder.

3 New Sec. 22. (a) The executive director of the Kansas lottery and
4 the executive director of the Kansas racing and gaming commission, or
5 their designees, may observe and inspect all electronic gaming machines,
6 lottery facility games, lottery gaming facilities, racetrack gaming facilities
7 and all related equipment and facilities operated by a lottery gaming fa-
8 cility manager or racetrack gaming facility manager.

9 (b) In addition to any other powers granted pursuant to this act, the
10 executive director of the racing and gaming commission shall have the
11 power to:

12 (1) Examine, or cause to be examined by any agent or representative
13 designated by such executive director, any books, papers, records or
14 memoranda of any lottery gaming facility manager or racetrack gaming
15 facility manager, or of any business involved in electronic gaming ma-
16 chines or lottery facility games authorized pursuant to the Kansas ex-
17 panded lottery act, for the purpose of ascertaining compliance with any
18 provision of the Kansas lottery act, the Kansas expanded lottery act, or
19 any rules and regulations adopted thereunder;

20 (2) investigate alleged violations of the Kansas expanded lottery act
21 and alleged violations of any rules and regulations, orders and final de-
22 cisions of the Kansas lottery commission, the executive director of the
23 Kansas lottery, the Kansas racing and gaming commission or the executive
24 director of the Kansas racing and gaming commission;

25 (3) request a court to issue subpoenas to compel access to or for the
26 production of any books, papers, records or memoranda in the custody
27 or control of any lottery gaming facility manager or racetrack gaming
28 facility manager related to the management of the lottery gaming facility
29 or racetrack gaming facility, or to compel the appearance of any lottery
30 gaming facility manager or racetrack gaming facility manager for the pur-
31 pose of ascertaining compliance with the provisions of the Kansas lottery
32 act and the Kansas expanded lottery act or rules and regulations adopted
33 thereunder;

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

37 (5) take any other action as may be reasonable or appropriate to en-
38 force the provisions of the Kansas expanded lottery act and any rules and
39 regulations, orders and final decisions of the executive director of the
40 Kansas lottery, the Kansas lottery commission, the executive director of
41 the Kansas racing commission or the Kansas racing and gaming
42 commission.

43 (c) Appropriate security measures shall be required in any and all

1 areas where electronic gaming machines and other lottery facility games
2 authorized pursuant to the Kansas expanded lottery act are located or
3 operated. The executive director of the Kansas racing and gaming com-
4 mission shall approve all such security measures.

5 (d) The executive director of the Kansas racing and gaming commis-
6 sion shall require an annual audit of the operations of each lottery gaming
7 facility and ancillary lottery gaming facility operations and each racetrack
8 gaming facility as determined by the commission. Such audit shall be
9 conducted by the Kansas racing and gaming commission or a licensed
10 accounting firm approved by the executive director of the Kansas racing
11 and gaming commission and shall be conducted at the expense of the
12 lottery gaming facility manager or racetrack facility manager.

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

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

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

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

36 New Sec. 25. As a condition precedent to contracting for the privi-
37 lege of being a lottery gaming facility manager or a racetrack gaming
38 facility manager, such manager shall file with the secretary of state of this
39 state a written and irrevocable consent that any action or garnishment
40 proceeding may be commenced against such manager in the proper court
41 of any county in this state by the service of process on a resident agent,
42 and stipulating and agreeing that such service shall be valid and binding
43 as if service had been made upon such manager. Such written consent

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

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

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

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

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

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

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

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

40 (1) Less than 21 years of age;

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

43 (3) the executive director, a member or an employee of the Kansas

1 racing and gaming commission;

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

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

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

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

12 Violation of this subsection is a class A nonperson misdemeanor upon
13 conviction for a first offense. Violation of this subsection is a severity level
14 9, nonperson felony upon conviction for the second or a subsequent
15 offense.

16 (b) Except as authorized in subsection (c), it is unlawful for any lottery
17 gaming facility manager, or its employees or agents, to allow any person
18 to play electronic gaming machines or lottery facility games at a lottery
19 gaming facility or share in winnings of such person knowing such person
20 to be:

21 (1) Under 21 years of age;

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

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

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

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

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

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

36 Violation of this subsection is a class A nonperson misdemeanor upon
37 conviction for a first offense. Violation of this subsection is a severity level
38 9, nonperson felony upon conviction for a second or subsequent offense.

39 (c) The executive director of the Kansas racing and gaming commis-
40 sion may authorize in writing any employee of the Kansas racing and
41 gaming commission and any employee of a lottery vendor to play an elec-
42 tronic gaming machine game or a lottery facility game to verify the proper
43 operation thereof with respect to security and contract compliance. Any

1 prize awarded as a result of such ticket purchase shall become the prop-
2 erty of the Kansas lottery and be added to the prize pools of subsequent
3 electronic gaming machine games or lottery facility games. No money or
4 merchandise shall be awarded to any employee playing an electronic gam-
5 ing machine game or a lottery facility game pursuant to this subsection.

6 New Sec. 29. Except for persons acting in accordance with rules and
7 regulations of the Kansas racing and gaming commission or by written
8 authority of the executive director of the Kansas racing and gaming com-
9 mission in performing installation, maintenance and repair services, any
10 person who, with the intent to manipulate the outcome, pay out or op-
11 eration of an electronic gaming machine game or a lottery facility game,
12 manipulates by physical, electrical or mechanical means the outcome, pay
13 out or operation of such game shall be guilty of a severity level 8, non-
14 person felony.

15 New Sec. 30. (a) Except in accordance with rules and regulations of
16 the Kansas racing and gaming commission or by written authority from
17 the executive director of the Kansas racing and gaming commission in
18 performing installation, maintenance, inspection and repair services, it is
19 a class A nonperson misdemeanor for the following to place a wager on
20 or play an electronic gaming machine game or a lottery facility game at a
21 lottery gaming facility in this state: The executive director of the Kansas
22 lottery, a member of the Kansas lottery commission or any employee or
23 agent of the Kansas lottery; the executive director, a member or any
24 employee or agent of the Kansas racing and gaming commission; or the
25 lottery gaming facility manager or any employee of the lottery gaming
26 facility manager.

27 (b) Except in accordance with rules and regulations of the Kansas
28 racing and gaming commission or by written authority from the executive
29 director of the Kansas racing and gaming commission in performing in-
30 stallation, maintenance, inspection and repair services, it is a class A non-
31 person misdemeanor for the following to place a wager on or play an
32 electronic gaming machine at a racetrack gaming facility in this state: The
33 executive director of the Kansas lottery, a member of the Kansas lottery
34 commission or any employee or agent of the Kansas lottery; the executive
35 director, a member or any employee or agent of the Kansas racing and
36 gaming commission; or the racetrack gaming facility manager or any em-
37 ployee of the racetrack gaming facility manager.

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

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

1 shall be lawful for any person to use gaming billets, tokens or similar
2 objects therein which are approved by the Kansas racing and gaming
3 commission;

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

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

19 (d) Any duly authorized agent or employee of the Kansas racing and
20 gaming commission, a lottery gaming facility manager or a racetrack gam-
21 ing facility manager may possess and use any of the devices described in
22 subsections (c)(3) and (c)(4) in furtherance of inspection or testing as
23 provided in the Kansas expanded lottery act or in furtherance of such
24 person's employment at any location where any electronic gaming ma-
25 chine or similar gaming device or drop box is authorized pursuant to the
26 Kansas expanded lottery act.

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

30 New Sec. 32. (a) As used in this section:

31 (1) "Affiliated person" means:

32 (A) Any member of the immediate family of a state or local official;
33 or

34 (B) any partnership, firm, corporation or limited liability company
35 with which a state or local official is associated or in which a state or local
36 official has an interest, or any partner, officer, director or employee
37 thereof while the state or local official is associated with such partnership,
38 firm, corporation or company.

39 (2) "State or local official" means:

40 (A) Any state officer or employee required to file a written statement
41 of substantial interests pursuant to the state governmental ethics law and
42 any other state officer or employee with responsibility for matters affect-
43 ing activities or operations of any lottery gaming facility or racetrack gam-

1 ing facility;

2 (B) the governor or any full-time professional employee of the office
3 of the governor;

4 (C) any member of the legislature and any full-time professional em-
5 ployee of the legislature;

6 (D) any justice of the supreme court, judge of the court of appeals
7 or judge of the district court;

8 (E) the head of any state agency, the assistant or deputy heads of any
9 state agency, or the head of any division within a state agency; or

10 (F) any member of the governing body of a city or county where a
11 lottery gaming facility or racetrack gaming facility is located; any munic-
12 ipal or county judge of such city or county; any city, county or district
13 attorney of such city or county; and any member of or attorney for the
14 planning board or zoning board of such city or county and any professional
15 planner or consultant regularly employed or retained by such planning
16 board or zoning board.

17 (b) No state or local official or affiliated person shall hold, directly or
18 indirectly, an interest in, be employed by, represent or appear for a lottery
19 gaming facility or racetrack gaming facility, or for any lottery gaming fa-
20 cility manager or racetrack gaming facility manager, or any holding or
21 intermediary company with respect thereto, in connection with any cause,
22 application or matter.

23 No state or local official or affiliated person shall represent, appear for
24 or negotiate on behalf of any person submitting a proposal for a lottery
25 gaming facility or racetrack gaming facility, or on behalf of any lottery
26 gaming facility manager or racetrack gaming facility manager, or any hold-
27 ing or intermediary company with respect thereto, in connection with any
28 cause, application or matter.

29 (c) No state or local official or affiliated person, within five years
30 immediately subsequent to the termination of the office or employment
31 of the official, shall hold, directly or indirectly, an interest in, be employed
32 by or represent, appear for or negotiate on behalf of any person submit-
33 ting a proposal for a lottery gaming facility or racetrack gaming facility,
34 or on behalf of any lottery gaming facility manager or racetrack gaming
35 facility manager, in connection with any cause, application or matter, or
36 on behalf of any holding or intermediary company with respect thereto,
37 in connection with any phase of development of a lottery gaming facility
38 or racetrack gaming facility or any other matter whatsoever related to
39 activities or operations of a lottery gaming facility or racetrack gaming
40 facility.

41 (d) No state or local official shall solicit or accept, directly or indi-
42 rectly, any complimentary service or discount from any person submitting
43 a proposal for a lottery gaming facility or racetrack gaming facility, or

1 from any lottery gaming facility manager or racetrack gaming facility man-
2 ager, which such official knows or has reason to know is other than a
3 service or discount that is offered to members of the general public in
4 like circumstance.

5 (e) No state or local official shall influence, or attempt to influence,
6 by use of official authority, the decision of the Kansas lottery commission,
7 lottery gaming facility review board or Kansas racing and gaming com-
8 mission pursuant to this act; the investigation of a proposal for a lottery
9 gaming facility or racetrack gaming facility pursuant to this act; or any
10 proceeding to enforce the provisions of this act or rules and regulations
11 of the Kansas lottery commission or Kansas racing and gaming commis-
12 sion. Any such attempt shall be reported promptly to the attorney general.

13 (f) Willful violation of this section is a class A misdemeanor.

14 New Sec. 33. Each person subject to a background check pursuant
15 to the Kansas expanded lottery act shall be subject to a state and national
16 criminal history records check which conforms to applicable federal stan-
17 dards for the purpose of verifying the identity of the applicant and
18 whether the person has been convicted of any crime that would disqualify
19 the person from engaging in activities pursuant to this act. The executive
20 director is authorized to use the information obtained from the national
21 criminal history record check to determine the person's eligibility to en-
22 gage in such activities.

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

32 New Sec. 35. The Kansas lottery, lottery gaming facility managers,
33 racetrack gaming facility managers, lottery gaming facility management
34 contracts and racetrack gaming facility management contracts under the
35 Kansas expanded lottery act shall not be subject to the provisions of and
36 restrictions on major procurement contracts, including, but not limited
37 to, the provisions of K.S.A. 74-8705, and amendments thereto.

38 New Sec. 36. (a) There is hereby established in the state treasury the
39 expanded lottery act revenues fund. Separate accounts shall be main-
40 tained in such fund for receipt of moneys from each lottery gaming facility
41 manager and racetrack gaming facility manager. All expenditures from
42 the fund shall be made in accordance with appropriation acts upon war-
43 rants of the director of accounts and reports issued pursuant to vouchers

1 approved by the executive director for the purposes set forth in this act.

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

11 (c) The executive director shall certify weekly to the director of ac-
12 counts and reports the percentages or amounts to be transferred from
13 each account maintained in the expanded lottery act revenues fund to the
14 Kansas education opportunity trust fund and the Kansas gaming revenue
15 property tax relief fund, the live horse racing supplement fund, the live
16 greyhound racing purse supplement fund, the Kansas charitable gaming
17 fund and the problem gambling grant fund, as provided by the lottery
18 gaming facility management contract or section 17, and amendments
19 thereto. Upon receipt of the certification, the director of accounts and
20 reports shall transfer amounts from each such account in accordance with
21 the certification of the executive director. Once each month, the executive
22 director shall cause amounts from each such account to be paid to cities,
23 counties and lottery gaming facility managers in accordance with the lot-
24 tery gaming facility management contract and to racetrack gaming facility
25 managers in accordance with section 17, and amendments thereto.

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

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

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

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

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

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

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

37 New Sec. 38. (a) There is hereby established in the state treasury the
38 Kansas charitable gaming fund. All expenditures from the Kansas chari-
39 table gaming fund shall be made in accordance with appropriation acts
40 upon warrants of the director of accounts and reports issued pursuant to
41 vouchers approved by the chairperson of the Kansas charitable gaming
42 foundation board.

43 (b) Moneys in the Kansas charitable gaming fund shall be distributed

1 by the Kansas charitable gaming foundation board to organizations veri-
2 fied by the board to be nonprofit organizations which are located within
3 the state and are exempt from federal income taxation pursuant to section
4 501(c)(3) of the internal revenue code of 1986, as in effect on the effective
5 date of this act. Such moneys shall be distributed at least four times each
6 year and shall be distributed equally among Kansas congressional districts.
7 Organizations wishing to receive such moneys shall submit to the board
8 a written application or request containing such information as required
9 by the commission.

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

- 12 (A) Three members appointed by the governor;
- 13 (B) one member appointed by the president of the senate;
- 14 (C) one member appointed by the speaker of the house of
15 representatives;
- 16 (D) one member appointed by the minority leader of the senate; and
- 17 (E) one member appointed by the minority leader of the house of
18 representatives.

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

21 (3) Members first appointed to the board shall serve terms as follows:
22 Two members appointed by the governor shall serve terms of two years
23 and one shall serve a term of four years, as designated by the governor;
24 the member appointed by the speaker of the house of representatives
25 shall serve a term of two years; the member appointed by the president
26 of the senate shall serve a term of four years; the member appointed by
27 the minority leader of the house of representatives shall serve a term of
28 four years; and the member appointed by the minority leader of the sen-
29 ate shall serve a term of two years.

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

32 (5) Subject to the limitations of appropriations therefor, members of
33 the board shall receive such compensation as determined by the governor.
34 Members of the board attending meetings of the board or subcommittee
35 meetings thereof approved by the board shall be paid subsistence allow-
36 ances, mileage and other expenses as provided in K.S.A. 75-3223, and
37 amendments thereto.

38 (6) The Kansas charitable gaming foundation board is hereby at-
39 tached to the Kansas racing and gaming commission as a part thereof. All
40 budgeting, purchasing and related management functions of the board
41 shall be administered by the executive director of the Kansas racing and
42 gaming commission and the executive director shall provide office and
43 meeting space and such clerical and other staff assistance as may be nec-

1 essary to assist the board in carrying out its powers, duties and functions
2 under this act.

3 New Sec. 39. (a) There is hereby established in the state treasury the
4 Kansas gaming revenue property tax relief fund. All moneys transferred
5 or credited to such fund under the provisions of this act or any other law
6 shall be apportioned and distributed in the manner provided by this
7 section.

8 (b) The state treasurer shall apportion and pay the amounts in the
9 Kansas gaming revenue property tax relief fund to county treasurers on
10 January 15 and on July 15 in each year in the same manner as provided
11 by subsection (c) of K.S.A. 79-2959, and amendments thereto, for distri-
12 butions of moneys in the local ad valorem tax reduction fund.

13 (c) Upon receipt of payment from the state treasurer pursuant to
14 subsection (b), the county treasurer shall distribute the entire amount
15 paid among the county and all cities in the county in the same manner
16 as provided by subsection (a) of K.S.A. 79-2961, and amendments thereto,
17 for distribution of moneys paid to county treasurers from the local ad
18 valorem tax reduction fund.

19 (d) The director of accounts and reports shall draw warrants on the
20 state treasurer in favor of the several county treasurers on the dates and
21 in the amounts apportioned to the several counties as provided in this
22 section. Each such warrant shall be paid directly by the state treasurer to
23 the county treasurer of the county in whose favor the warrant is drawn.

24 New Sec. 40. (a) There is hereby established in the state treasury the
25 Kansas education opportunity trust fund. Amounts deposited in such fund
26 shall be expended solely for the purpose of supplementing the state's
27 obligation to fund preschool, kindergarten, elementary, secondary and
28 postsecondary education programs. Expenditures from the Kansas edu-
29 cation opportunity trust fund shall be made pursuant to appropriation
30 acts. Such funding shall be supplemental to, and not in lieu of, any state
31 revenues appropriated during the 2006 regular legislative session to fund
32 educational programs for the fiscal year ending June 30, 2007.

33 (b) Unless the payment or transfer has been authorized pursuant to
34 a separate appropriation act which has been approved by a majority vote
35 of the members of the house of representatives and a majority vote of
36 the members of the senate, the state treasurer shall not make transfers
37 or payments pursuant to an appropriation for any purpose other than
38 supplementing the funding of education programs as described in sub-
39 section (a). Such payment or transfer shall be made only upon certifica-
40 tion of the governor that such payment meets the requirements of this
41 section.

42 New Sec. 41. Each person subject to a background check pursuant
43 to the Kansas expanded lottery act shall be subject to a state and national

1 criminal history records check which conforms to applicable federal stan-
2 dards for the purpose of verifying the identity of the applicant and
3 whether the person has been convicted of any crime that would disqualify
4 the person from engaging in activities pursuant to this act. The executive
5 director of the Kansas racing and gaming commission is authorized to use
6 the information obtained from the national criminal history record check
7 to determine the person's eligibility to engage in such activities.

8 New Sec. 42. (a) No taxes, fees, charges, transfers or distributions,
9 other than those provided for in the Kansas expanded lottery act, shall be
10 made or levied by any city, county or other municipality from or against
11 lottery gaming facility revenues of lottery gaming facilities or net elec-
12 tronic gaming machine income of racetrack gaming facilities.

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

17 New Sec. 43. Pursuant to section 2 of the federal act entitled "An
18 Act to Prohibit Transportation of Gambling Devices in Interstate and
19 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
20 acting by and through the duly elected and qualified members of the
21 legislature, does hereby in this section, and in accordance with and in
22 compliance with the provisions of section 2 of such federal act, declare
23 and proclaims that it is exempt from the provision of section 2 of such
24 federal act to the extent that such gambling devices as described therein
25 are being transported to or from the Kansas lottery or to or from a lottery
26 gaming facility or racetrack gaming facility or a location within the state
27 of Kansas where such gambling devices are authorized pursuant to the
28 Kansas expanded lottery act.

29 New Sec. 44. The Kansas racing and gaming commission shall adopt
30 such rules and regulations as the commission deems necessary to carry
31 out the duties and functions of the commission pursuant to the Kansas
32 expanded lottery act. Such rules and regulations shall include, but not be
33 limited to, rules and regulations:

34 (a) Promoting the integrity of the gaming and finances of lottery gam-
35 ing facilities and racetrack gaming facilities and shall meet or exceed in-
36 dustry standards for monitoring and controlling the gaming and finances
37 of lottery gaming facility operations and racetrack gaming facility opera-
38 tions and shall give the Kansas racing and gaming commission sufficient
39 authority to monitor and control the gaming operation and to ensure its
40 integrity and security;

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

43 (c) requiring reporting of information about any lottery gaming fa-

1 cility manager or racetrack gaming facility manager, and its employees,
2 vendors and finances, necessary or desirable to ensure the security of
3 lottery gaming facility and racetrack gaming facility operations. None of
4 the information disclosed pursuant to this subsection shall be subject to
5 disclosure under the Kansas open records act;

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

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

25 New Sec. 45. The Kansas racing and gaming commission shall ap-
26 point or employ such officers and employees as the commission deems
27 necessary to implement, administer and enforce the provisions of the
28 Kansas expanded lottery act and may designate not more than 25 of such
29 officers and employees to be in the unclassified service under the Kansas
30 civil service act.

31 New Sec. 46. (a) A racetrack facility shall not be subject to subdivi-
32 sion regulations of a city but shall be subject to the Kansas fire prevention
33 code adopted by the state fire marshal.

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

36 Sec. 47. K.S.A. 74-8710 is hereby amended to read as follows: 74-
37 8710. (a) The commission, upon the recommendation of the executive
38 director, shall adopt rules and regulations governing the establishment
39 and operation of a state lottery, *sales of lottery tickets and the operation*
40 *of lottery gaming facilities and racetrack gaming facilities* as necessary to
41 carry out the purposes of ~~this~~ *the Kansas lottery act and the Kansas ex-*
42 *expanded lottery act*. Temporary rules and regulations may be adopted by
43 the commission without being subject to the provisions and requirements

1 of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
2 subject to approval by the attorney general as to legality and shall be filed
3 with the secretary of state and published in the Kansas register. Tem-
4 porary and permanent rules and regulations may include but shall not be
5 limited to:

6 (1) Subject to the provisions of subsection (c), the types of lottery
7 games to be conducted, including, but not limited to, instant lottery, on-
8 line ~~and~~ traditional games, *lottery facility games and electronic gaming*
9 *machine games* but not including games on video lottery machines or
10 lottery machines.

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

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

17 (4) The frequency of the drawings or selections of winning tickets or
18 shares.

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

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

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

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

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

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

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

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

35 (13) *Rules and regulations to implement, administer and enforce the*
36 *provisions of the Kansas expanded lottery act. Such rules and regulations*
37 *shall include, but not be limited to, rules and regulations which govern*
38 *management contracts and which are designed to (A) ensure the integrity*
39 *of electronic gaming machines and other lottery facility games and the*
40 *finances of lottery gaming facilities and (B) alleviate problem gambling,*
41 *including a requirement that each lottery gaming facility and each race-*
42 *track gaming facility maintain a self-exclusion list by which individuals*
43 *may exclude themselves from access to electronic gaming machines and*

1 *other lottery facility games.*

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

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

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

14 Sec. 48. K.S.A. 2005 Supp. 74-8711 is hereby amended to read as
15 follows: 74-8711. (a) There is hereby established in the state treasury the
16 lottery operating fund.

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

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

31 (1) The payment of expenses of the lottery, which shall include all
32 costs incurred in the operation and administration of the Kansas lottery;
33 all costs resulting from contracts entered into for the purchase or lease
34 of goods and services needed for operation of the lottery, including but
35 not limited to supplies, materials, tickets, independent studies and sur-
36 veys, data transmission, advertising, printing, promotion, incentives, pub-
37 lic relations, communications and distribution of tickets and shares; and
38 reimbursement of costs of facilities and services provided by other state
39 agencies;

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

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

43 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,

1 and amendments thereto;

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

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

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

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

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

19 Sec. 49. K.S.A. 74-8716 is hereby amended to read as follows: 74-
20 8716. (a) It is unlawful for the executive director, a member of the com-
21 mission or any employee of the Kansas lottery, or any person residing in
22 the household thereof to:

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

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

34 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
35 or a person who contracts or seeks to contract with the state to supply
36 gaming equipment, materials, tickets or consulting services for use in the
37 lottery to offer, pay, give or make any economic opportunity, gift, loan,
38 gratuity, special discount, favor or service, or hospitality other than food
39 and beverages, having an aggregate value of \$20 or more in any calendar
40 year to a person, knowing such person is the executive director, a member
41 of the commission or an employee of the Kansas lottery, or a person
42 residing in the household thereof.

43 (c) *It shall be unlawful for any person to serve as executive director,*

- 1 *a member of the commission or an employee of the Kansas lottery while*
2 *or within five years after holding, either directly or indirectly, a financial*
3 *interest or being employed by or a consultant to any of the following:*
- 4 (1) *Any lottery gaming facility manager, subcontractor or agent of a*
5 *lottery gaming facility manager, manufacturer or vendor of electronic*
6 *gaming machines or central computer system provider, or any business*
7 *which sells goods or services to a lottery gaming facility manager; or*
- 8 (2) *any licensee pursuant to the Kansas parimutuel racing act, other*
9 *than the Kansas lottery or a person holding a license on behalf of the*
10 *Kansas lottery, or any business which sells goods or services to a pari-*
11 *mutuel licensee.*
- 12 (d) *No person who holds a license issued by the Kansas racing and*
13 *gaming commission shall serve as executive director or as a member of*
14 *the commission or shall be employed by the Kansas lottery while or within*
15 *five years after holding such license.*
- 16 (e) *No person shall participate, directly or indirectly, as an owner,*
17 *owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse,*
18 *entered in a race meeting conducted in this state while executive director,*
19 *a member of the commission or an employee of the Kansas lottery.*
- 20 (f) *It shall be unlawful for the executive director, a member of the*
21 *commission or an employee of the Kansas lottery to accept any compen-*
22 *sation, gift, loan, entertainment, favor or service from any lottery gaming*
23 *facility manager, subcontractor or agent of a lottery gaming facility man-*
24 *ager, manufacturer or vendor of electronic gaming machines or central*
25 *computer system provider.*
- 26 (g) *It shall be unlawful for the executive director, a member of the*
27 *commission or an employee of the Kansas lottery to accept any compen-*
28 *sation, gift, loan, entertainment, favor or service from any licensee pur-*
29 *suant to the Kansas parimutuel racing act, except such suitable facilities*
30 *and services within a racetrack facility operated by an organization li-*
31 *censee as may be required to facilitate the performance of the executive*
32 *director's, member's or employee's official duties.*
- 33 ~~(h)~~ (h) *Violation of this section is a class A misdemeanor.*
- 34 ~~(i)~~ (i) *If the executive director, a member of the commission or an*
35 *employee of the Kansas lottery, or any person residing in the household*
36 *thereof, is convicted of an act described by this section, such executive*
37 *director, member or employee shall be removed from office or employ-*
38 *ment with the Kansas lottery.*
- 39 ~~(j)~~ (j) *In addition to the provisions of this section, all other provisions*
40 *of law relating to conflicts of interest of state employees shall apply to the*
41 *members of the commission and employees of the Kansas lottery.*
- 42 Sec. 50. K.S.A. 74-8723 is hereby amended to read as follows: 74-
43 8723. (a) The Kansas lottery and the office of executive director of the

1 Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,
2 and the Kansas lottery commission, created by K.S.A. 74-8709, and
3 amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~
4 2022.

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

7 Sec. 51. K.S.A. 74-8810 is hereby amended to read as follows: 74-
8 8810. (a) It is a class A nonperson misdemeanor for any person to have
9 a financial interest, directly or indirectly, in any racetrack facility within
10 the state of Kansas or in any host facility for a simulcast race displayed in
11 this state:

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

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

19 *(b) It is a class A nonperson misdemeanor for any person to hold any*
20 *paid position with any facility manager licensee, facility owner licensee*
21 *or organization licensee or to have any financial interest, directly or in-*
22 *directly, in any racetrack facility within the state of Kansas:*

23 (1) *While such person is a member of the Kansas legislature or during*
24 *the five years immediately following such person's term as such member;*
25 *or*

26 (2) *if such person is (A) the spouse of a member of the Kansas legis-*
27 *lature, (B) the spouse of a person who has been a member of the Kansas*
28 *legislature during the preceding five years or (C) one of the following*
29 *blood-relatives, half-relatives or step-relatives of a member of the Kansas*
30 *legislature or a person who has been a member of the Kansas legislature*
31 *during the preceding five years: Parent, grandparent, brother, sister,*
32 *child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-*
33 *law, brother-in-law or sister-in-law.*

34 ~~(b)~~ (c) It is a class A nonperson misdemeanor for any member, em-
35 ployee or appointee of the commission, including stewards and racing
36 judges, to knowingly:

37 (1) Participate in the operation of or have a financial interest in any
38 business which has been issued a concessionaire license, racing or wa-
39 gering equipment or services license, facility owner license or facility
40 manager license, or any business which sells goods or services to an or-
41 ganization licensee;

42 (2) participate directly or indirectly as an owner, owner-trainer or
43 trainer of a horse or greyhound, or as a jockey of a horse, entered in a

1 race meeting conducted in this state;

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

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

9 ~~(c)~~ (d) (1) Except as provided in paragraph (2), it is a class A non-
10 person misdemeanor for any member, employee or appointee of the com-
11 mission, or any spouse, parent, grandparent, brother, sister, child, son-
12 in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law,
13 brother-in-law or sister-in-law thereof, to:

14 (A) Hold any license issued by the commission, except that a steward
15 or racing judge shall hold an occupation license to be such a steward or
16 judge; or

17 (B) enter into any business dealing, venture or contract with an owner
18 or lessee of a racetrack facility in Kansas.

19 (2) This subsection shall not apply to any racing judge holding an
20 occupation license, if such racing judge is employed at a racetrack facility
21 and such racing judge's relative, as listed above, is a licensed owner,
22 owner-trainer or trainer of a greyhound that races at a different racetrack
23 facility.

24 ~~(d)~~ (e) It is a class A nonperson misdemeanor for any officer, director
25 or member of an organization licensee, other than a fair association or
26 horsemen's nonprofit organization, to:

27 (1) Receive, for duties performed as an officer or director of such
28 licensee, any compensation or reimbursement or payment of expenses in
29 excess of the amounts provided by K.S.A. 75-3223 and amendments
30 thereto for board members' compensation, mileage and expenses; or

31 (2) enter into any business dealing, venture or contract with the or-
32 ganization licensee or, other than in the capacity of an officer or director
33 of the organization licensee, with a facility owner licensee, facility man-
34 ager licensee, racing or wagering equipment or services licensee or con-
35 cessionaire licensee, or with any host facility for a simulcast race displayed
36 in this state.

37 ~~(e)~~ (f) It is a class A nonperson misdemeanor for any facility owner
38 licensee or facility manager licensee, other than a horsemen's association,
39 or any officer, director, employee, stockholder or shareholder thereof or
40 any person having an ownership interest therein, to participate directly
41 or indirectly as an owner, owner-trainer or trainer of a horse or grey-
42 hound, or as a jockey of a horse, entered in a live race conducted in this
43 state.

- 1 ~~(f)~~ (g) It is a class A nonperson misdemeanor for any licensee of the
2 commission, or any person who is an officer, director, member or em-
3 ployee of a licensee, to place a wager at a racetrack facility located in
4 Kansas on an entry in a horse or greyhound race if:
- 5 (1) The commission has by rules and regulations designated such per-
6 son's position as a position which could influence the outcome of such
7 race or the parimutuel wagering thereon; and
- 8 (2) such race is conducted at or simulcast to the racetrack facility
9 where the licensee is authorized to engage in licensed activities.
- 10 ~~(g)~~ (h) It is a class B nonperson misdemeanor for any person to use
11 any animal or fowl in the training or racing of racing greyhounds.
- 12 ~~(h)~~ (i) It is a class A nonperson misdemeanor for any person to:
- 13 (1) Sell a parimutuel ticket or an interest in such a ticket to a person
14 knowing such person to be under ~~18~~ 21 years of age, upon conviction of
15 the first offense;
- 16 (2) accept, transmit or deliver, from a person outside a racetrack fa-
17 cility, anything of value to be wagered in any parimutuel system of wa-
18 gering within a racetrack facility, upon conviction of the first offense;
- 19 (3) administer or conspire to administer any drug or medication to a
20 horse or greyhound within the confines of a racetrack facility in violation
21 of rules and regulations of the commission, upon conviction of the first
22 offense;
- 23 (4) possess or conspire to possess, within the confines of a racetrack
24 facility, any drug or medication for administration to a horse or greyhound
25 in violation of rules and regulations of the commission, upon conviction
26 of the first offense;
- 27 (5) possess or conspire to possess, within the confines of a racetrack
28 facility, equipment for administering drugs or medications to horses or
29 greyhounds in violation of rules and regulations of the commission, upon
30 conviction of the first offense;
- 31 (6) enter any horse or greyhound in any race knowing such horse or
32 greyhound to be ineligible to compete in such race pursuant to K.S.A.
33 74-8812 and amendments thereto; or
- 34 (7) prepare or cause to be prepared an application for registration of
35 a horse pursuant to K.S.A. 74-8830 and amendments thereto knowing
36 that such application contains false information.
- 37 ~~(i)~~ (j) It is a severity level 8, nonperson felony for any person to:
- 38 (1) Sell a parimutuel ticket or an interest in such a ticket to a person
39 knowing such person to be under ~~18~~ 21 years of age, upon conviction of
40 the second or a subsequent offense;
- 41 (2) accept, transmit or deliver, from any person outside a racetrack
42 facility, anything of value to be wagered in any parimutuel system of
43 wagering within a racetrack facility, upon the second or a subsequent

- 1 conviction;
- 2 (3) conduct or assist in the conduct of a horse or greyhound race, or
- 3 the display of a simulcast race, where the parimutuel system of wagering
- 4 is used or is intended to be used and where no license has been issued
- 5 to an organization to conduct or simulcast such race;
- 6 (4) enter any horse or greyhound in any race conducted by an organ-
- 7 ization licensee knowing that the class or grade in which such horse or
- 8 greyhound is entered is not the true class or grade or knowing that the
- 9 name under which such horse or greyhound is entered is not the name
- 10 under which such horse or greyhound has been registered and has pub-
- 11 licly performed;
- 12 (5) use or conspire to use any device, other than an ordinary whip for
- 13 horses or a mechanical lure for greyhounds, for the purpose of affecting
- 14 the speed of any horse or greyhound at any time during a race conducted
- 15 by an organization licensee;
- 16 (6) possess or conspire to possess, within the confines of a racetrack
- 17 facility, any device, other than an ordinary whip for horses or a mechanical
- 18 lure for greyhounds, designed or intended to affect the speed of a horse
- 19 or greyhound;
- 20 (7) administer or conspire to administer any drug or medication to a
- 21 horse or greyhound within the confines of a racetrack facility in violation
- 22 of rules and regulations of the commission, upon conviction of the second
- 23 or a subsequent offense;
- 24 (8) possess or conspire to possess, within the confines of a racetrack
- 25 facility, any drug or medication for administration to a horse or greyhound
- 26 in violation of rules and regulations of the commission, upon conviction
- 27 of the second or a subsequent offense;
- 28 (9) possess or conspire to possess, within the confines of a racetrack
- 29 facility, equipment for administering drugs or medications to horses or
- 30 greyhounds in violation of rules and regulations of the commission, upon
- 31 conviction of the second or a subsequent offense;
- 32 (10) sponge the nostrils or windpipe of a horse for the purpose of
- 33 stimulating or depressing such horse or affecting its speed at any time
- 34 during a race meeting conducted by an organization licensee;
- 35 (11) alter or attempt to alter the natural outcome of any race con-
- 36 ducted by, or any simulcast race displayed by, an organization licensee or
- 37 transmit or receive an altered race or delayed broadcast race if parimutuel
- 38 wagering is conducted or solicited after off time of the race;
- 39 (12) influence or attempt to influence, by the payment or promise of
- 40 payment of money or other valuable consideration, any person to alter
- 41 the natural outcome of any race conducted by, or any simulcast race
- 42 displayed by, an organization licensee;
- 43 (13) influence or attempt to influence any member, employee or ap-

1 pointee of the commission, by the payment or promise of payment of
 2 money or other valuable consideration, in the performance of any official
 3 duty of that member, employee or appointee;

4 (14) fail to report to the commission or to one of its employees or
 5 appointees knowledge of any violation of this act by another person for
 6 the purpose of stimulating or depressing any horse or greyhound, or af-
 7 fecting its speed, at any time during any race conducted by an organiza-
 8 tion licensee;

9 (15) commit any of the following acts with respect to the prior racing
 10 record, pedigree, identity or ownership of a registered horse or greyhound
 11 in any matter related to the breeding, buying, selling or racing of the
 12 animal: (A) Falsify, conceal or cover up, by any trick, scheme or device,
 13 a material fact; (B) make any false, fictitious or fraudulent statement or
 14 representation; or (C) make or use any false writing or document knowing
 15 that it contains any false, fictitious or fraudulent statement or entry; or

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

18 ~~(j)~~ (k) (1) No person less than ~~18~~ 21 years of age shall purchase a
 19 parimutuel ticket or an interest in such a ticket.

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

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

27 Sec. 52. K.S.A. 74-8814 is hereby amended to read as follows: 74-
 28 8814. (a) Subject to the provisions of subsection (b), the commission shall
 29 establish by rules and regulations an application fee not exceeding \$500
 30 for any of the following which applies for an organization license and the
 31 license fee for any of the following granted an organization license shall
 32 be \$100 for each day of racing approved by the commission:

33 (1) Any fair association other than the Greenwood county and An-
 34 thony fair associations, any horsemen's nonprofit organization or the na-
 35 tional greyhound association of Abilene, Kansas, if: (A) Such association
 36 conducts not more than two race meetings each year; (B) such race meets
 37 are held within the boundaries of the county where the applicant is lo-
 38 cated; and (C) such race meetings are held for a total of not more than
 39 ~~21~~ 40 days per year; or

40 (2) the Greenwood county fair association or a horsemen's nonprofit
 41 organization, with respect to race meetings conducted by such association
 42 or organization at Eureka Downs, or the Anthony fair association or a
 43 horsemen's nonprofit organization, with respect to race meetings con-

1 ducted by such association or organization at Anthony Downs, for which
2 the number of race meetings and days, and the dates thereof, shall be
3 specified by the commission.

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

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

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

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

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

20 Sec. 53. K.S.A. 74-8823 is hereby amended to read as follows: 74-
21 8823. (a) There is hereby imposed a tax on the gross sum wagered by the
22 parimutuel method as follows:

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

25 (2) except as provided by subsection (a)(3), for live greyhound races
26 conducted in this state at a racetrack facility for the racing of only grey-
27 hounds: (A) During the first four years when racing with parimutuel wa-
28 gering is conducted at such facility, a tax at the rate of $\frac{3}{16}$ of the total
29 daily takeout from parimutuel pools for live greyhound races; and (B)
30 thereafter, from parimutuel pools for each live greyhound performance,
31 a tax at the rate of $\frac{3}{16}$ of the first \$400,000 wagered, $\frac{4}{16}$ of the next
32 \$200,000 wagered and $\frac{5}{16}$ of any amounts wagered exceeding \$600,000;

33 (3) for live greyhound races conducted in this state at a dual racetrack
34 facility or at a racetrack facility owned by a licensee whose license au-
35 thORIZES the construction of a dual racetrack facility: (A) During the first
36 seven years when racing with parimutuel wagering is conducted at such
37 facility, a tax at the rate of $\frac{3}{16}$ of the total daily takeout from parimutuel
38 pools for live greyhound races; and (B) thereafter, from parimutuel pools
39 for each live greyhound performance, a tax at the rate of $\frac{3}{16}$ of the first
40 \$600,000 wagered, $\frac{4}{16}$ of the next \$200,000 wagered and $\frac{5}{16}$ of any
41 amounts wagered exceeding \$800,000; and

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

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

3 (c) The tax imposed by this section shall be remitted to the commis-
4 sion by each organization licensee by the next business day following the
5 day on which the wagers took place. The commission shall remit any such
6 tax moneys received to the state treasurer in accordance with the provi-
7 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
8 such remittance, the state treasurer shall deposit the entire amount in the
9 state treasury to the credit of the state racing fund created by K.S.A. 74-
10 8826, and amendments thereto, except as provided by K.S.A. 74-8838,
11 and amendments thereto.

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

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

17 Sec. 54. K.S.A. 74-8830 is hereby amended to read as follows: 74-
18 8830. (a) The commission shall, by rules and regulations:

19 (1) Qualify stallions for participation in Kansas-registered stallion
20 awards;

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

23 (3) determine qualifications of Kansas-bred horses and establish clas-
24 ses of Kansas-bred horses for registration purposes and for the purpose
25 of awarding purse supplements, stakes and awards pursuant to K.S.A. 74-
26 8829 and amendments thereto; and

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

32 (b) The commission may contract with and designate an official reg-
33 istering agency to implement the registration of horses. *The board of*
34 *directors of the official registering agency shall consist of five represen-*
35 *tatives of the quarter horse breed and five representatives of the thor-*
36 *oughbred breed. Representatives shall be selected by each breed organi-*
37 *zation from their respective memberships pursuant to rules and*
38 *regulations adopted by the Kansas racing and gaming commission. In*
39 *order to be eligible to serve on the board, a participant must be a legal*
40 *resident of the state of Kansas and a member of the Kansas quarter horse*
41 *racing association or the Kansas thoroughbred association. Such agency*
42 *shall operate under the supervision of the commission and be subject to*
43 *rules and regulations of the commission. The official registering agency*

1 shall receive no compensation *from the Kansas racing and gaming com-*
2 *mission* except fees received for registration of horses necessary to pay
3 its expenses for such registration.

4 (c) The commission may contract with and designate an agency to
5 provide for the distribution of purse supplements, stakes and awards from
6 the Kansas horse breeding development fund. Such agency shall operate
7 under the supervision of the commission and be subject to rules and
8 regulations of the commission.

9 Sec. 55. K.S.A. 74-8832 is hereby amended to read as follows: 74-
10 8832. (a) The commission shall, by rules and regulations, establish a
11 schedule of fees for the registration of Kansas-whelped greyhounds
12 which, together with the amount provided pursuant to K.S.A. 74-8830
13 and amendments thereto, shall be sufficient to provide for all expenses
14 incurred in the administration of the Kansas greyhound breeding devel-
15 opment fund created pursuant to K.S.A. 74-8831 and amendments
16 thereto.

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

25 (c) The commission may contract with and designate an agency to
26 provide for the distribution of purse supplements from the Kansas grey-
27 hound breeding development fund. Such agency shall operate under the
28 supervision of the commission and be subject to rules and regulations of
29 the commission.

30 Sec. 56. K.S.A. 74-8838 is hereby amended to read as follows: 74-
31 8838. (a) The state treasurer shall credit $\frac{1}{3}$ of the taxes on the takeout
32 from parimutuel pools for simulcast races, as certified by the executive
33 director, to the horse fair racing benefit fund, which is hereby created in
34 the state treasury.

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

39 (c) *In addition to amounts expended pursuant to subsection (b),*
40 *\$2,000,000 of moneys in the fund shall be expended in each fiscal year*
41 *for capital improvement projects, operations, purse awards or commission*
42 *expenses associated with regulation and oversight of parimutuel activity,*
43 *or any or all of the foregoing, at the racetrack facilities on or adjacent to*

- 1 *premises used by a fair association to conduct fair activities at Eureka*
2 *Downs in Greenwood county and Anthony Downs in Harper county.*
3 *Such moneys shall be expended only on application by the fair association*
4 *licensee and a determination by the commission that the application has*
5 *merit. Any portion of such \$2,000,000 which is not expended in a fiscal*
6 *year shall carry over to subsequent fiscal years and shall be in addition*
7 *to the amount provided to be expended pursuant to this subsection in such*
8 *subsequent fiscal years.*
- 9 (d) *The remaining moneys in the horse fair racing benefit fund shall*
10 *be expended only for:*
- 11 (1) *Reimbursement of the commission for the commission's admin-*
12 *istrative costs, as established by rules and regulations of the commission,*
13 *related to race meetings conducted by a fair association or a horsemen's*
14 *nonprofit organization, including the cost of stewards, racing judges and*
15 *assistant animal health officers performing services at such race meetings;*
- 16 (2) *paying the costs of totalisator expenses incurred by an organiza-*
17 *tion licensee that is a fair association or horsemen's nonprofit*
18 *organization;*
- 19 (3) *paying the costs of background investigations required under the*
20 *Kansas parimutuel racing act for members of a fair association or horse-*
21 *men's nonprofit organization;*
- 22 (4) *purse supplements at race meetings conducted by a fair associa-*
23 *tion or horsemen's nonprofit organization;*
- 24 (5) *basic operating assistance grants to an organization licensee that*
25 *is a fair association or horsemen's nonprofit organization; and*
- 26 (6) *costs for employment of key racing officials, as determined by the*
27 *commission, incurred by an organization licensee that is a fair association*
28 *or horsemen's nonprofit organization.*
- 29 ~~(e)~~ (e) *The commission shall adopt rules and regulations establishing*
30 *procedures for distributing moneys in the horse fair racing benefit fund*
31 *to fair associations and nonprofit horsemen's organizations for the pur-*
32 *poses provided by this section.*
- 33 ~~(f)~~ (f) *Expenditures from the horse fair racing benefit fund related*
34 *to the conduct of a race meeting shall not be allocated to any organization*
35 *licensee for a period exceeding ~~21~~ 40 days.*
- 36 ~~(g)~~ (g) *Expenditures from the horse fair racing benefit fund shall not*
37 *be allocated to any organization licensee to support the conduct of pari-*
38 *mutuel greyhound races unless the organization licensee conducts an*
39 *equal or greater number of parimutuel horse races during the race*
40 *meeting.*
- 41 ~~(h)~~ (h) *Expenditures from the horse fair racing benefit fund shall be*
42 *made in accordance with appropriation acts upon warrants of the director*
43 *of accounts and reports issued pursuant to vouchers approved by the*

1 chairperson of the commission or a person designated by the chairperson.

2 New Sec. 57. (a) The Kansas racing and gaming commission shall
3 establish a greyhound promotion and development fund which shall be
4 funded through a voluntary greyhound purse checkoff program which
5 shall provide for the deduction of 2% from all purses paid to kennels and
6 greyhound owners who participate in the program. Greyhound owners
7 and kennel operators shall be provided an opportunity annually to not
8 participate in the program by signing a form approved by the Kansas
9 racing and gaming commission. Moneys deposited into the fund shall be
10 used for the development, promotion and representation of the grey-
11 hound industry in Kansas and shall be distributed to the organization
12 contracted with by the Kansas racing and gaming commission to admin-
13 ister the official greyhound registry in Kansas.

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

16 New Sec. 58. On and after July 1, 2007:

17 (a) The Kansas racing and gaming commission shall administer and
18 enforce the bingo act.

19 (b) All of the powers, duties and functions of the secretary of revenue,
20 the director of taxation and the administrator of charitable bingo with
21 regard to the bingo act are hereby transferred to and conferred and im-
22 posed upon the Kansas racing and gaming commission.

23 (c) The Kansas racing and gaming commission shall be the successor
24 in every way to the powers, duties and functions of the secretary of rev-
25 enue, the director of taxation and the administrator of charitable bingo
26 with regard to the bingo act. Every act performed in the exercise of such
27 powers, duties and functions by or under the authority of the Kansas
28 racing and gaming commission shall be deemed to have the same force
29 and effect as if performed by the secretary of revenue, the director of
30 taxation or the administrator of charitable bingo with regard to the bingo
31 act.

32 (d) Whenever the secretary of revenue, the director of taxation or the
33 administrator of charitable bingo, or words of like effect, with regard to
34 the bingo law is referred to or designated by statute, contract or other
35 document, the reference or designation shall be deemed to apply to the
36 Kansas racing and gaming commission.

37 (e) All rules and regulations of the secretary of revenue with regard
38 to the bingo act in existence on such date shall continue to be effective
39 and shall be deemed to be duly adopted rules and regulations of the
40 Kansas racing and gaming commission until revised, amended, revoked
41 or nullified pursuant to law.

42 (f) All orders and directives of the secretary of revenue, the director
43 of taxation or the administrator of charitable bingo with regard to the

1 bingo act in existence on such date shall continue to be effective and shall
2 be deemed the orders and directives of the Kansas racing and gaming
3 commission until revised, amended or nullified pursuant to law.

4 (g) The Kansas racing and gaming commission shall succeed to what-
5 ever right, title or interest the secretary of revenue, the director of taxa-
6 tion or the administrator of charitable bingo, with regard to the bingo act,
7 has acquired in any real property in this state, and the commission shall
8 hold the same for and in the name of the state of Kansas.

9 (h) Whenever any statute, contract, deed or other document con-
10 cerns the power or authority of the secretary of revenue, the director of
11 taxation or the administrator of charitable bingo with regard to the bingo
12 act, to acquire, hold or dispose of real property or any interest therein,
13 the Kansas racing and gaming commission shall succeed to such power
14 or authority.

15 New Sec. 59. (a) As used in this section:

16 (1) “Affiliated person” means:

17 (A) Any member of the immediate family of a state or local official;
18 or

19 (B) any partnership, firm, corporation or limited liability company
20 with which a state or local official is associated or in which a state or local
21 official has an interest, or any partner, officer, director or employee
22 thereof while the state or local official is associated with such partnership,
23 firm, corporation or company.

24 (2) “Bingo licensee” means any licensee, as defined in K.S.A. 79-
25 4701, and amendments thereto.

26 (3) “Bingo parlor” means premises upon which a bingo licensee is
27 permitted to manage, operate or conduct games of bingo, whether or not
28 a written lease has been entered into and submitted to the administrator
29 as required in subsection (c) of K.S.A. 79-4703, and amendments thereto,
30 and includes all political subdivisions and other public agencies.

31 (4) “Bingo parlor operator” means any lessor, as defined in K.S.A.
32 79-4701, and amendments thereto.

33 (5) “State or local official” means:

34 (A) Any state officer or employee required to file a written statement
35 of substantial interests pursuant to the state governmental ethics law and
36 any other state officer or employee with responsibility for matters affect-
37 ing activities or operations of bingo licensees, bingo parlors or bingo par-
38 lor operators;

39 (B) the governor or any full-time professional employee of the office
40 of the governor;

41 (C) any member of the legislature and any full-time professional em-
42 ployee of the legislature;

43 (D) any justice of the supreme court, judge of the court of appeals

1 or judge of the district court;

2 (E) the head of any state agency, the assistant or deputy heads of any
3 state agency, or the head of any division within a state agency; or

4 (F) any member of the governing body of a city or county where a
5 bingo parlor is located; any municipal or county judge of such city or
6 county; any city, county or district attorney of such city or county; and
7 any member of or attorney for the planning board or zoning board of
8 such city or county and any professional planner or consultant regularly
9 employed or retained by such planning board or zoning board.

10 (b) No state or local official or affiliated person shall hold, directly or
11 indirectly, an interest in, be employed by, represent or appear for any
12 bingo parlor or bingo parlor owner, or any holding or intermediary com-
13 pany with respect thereto, in connection with any cause, application or
14 matter. No state or local official or affiliated person shall represent, ap-
15 pear for or negotiate on behalf of any bingo parlor or bingo parlor op-
16 erator, or any holding or intermediary company with respect thereto, in
17 connection with any cause, application or matter.

18 (c) No state or local official or affiliated person, within five years
19 immediately subsequent to the termination of the office or employment
20 of the official, shall hold, directly or indirectly, an interest in, be employed
21 by or represent, appear for or negotiate on behalf of any bingo parlor or
22 bingo parlor owner in connection with any cause, application or matter,
23 or on behalf of any holding or intermediary company with respect thereto,
24 in connection with any phase of development of a bingo parlor or any
25 other matter whatsoever related to activities or operations of a bingo
26 parlor.

27 (d) No state or local official shall solicit or accept, directly or indi-
28 rectly, any complimentary service or discount from any bingo parlor
29 owner which such official knows or has reason to know is other than a
30 service or discount that is offered to members of the general public in
31 like circumstance.

32 (e) No state or local official shall influence, or attempt to influence,
33 by use of official authority, the decision of the Kansas racing and gaming
34 commission or its executive director pursuant to the bingo act or any
35 proceeding to enforce the provisions of the bingo act or rules and regu-
36 lations adopted pursuant thereto. Any such attempt shall be reported
37 promptly to the attorney general.

38 (f) Willful violation of this section is a class A misdemeanor.

39 New Sec. 60. On July 1, 2007, officers and employees who, imme-
40 diately prior to such date, were engaged in the performance of powers,
41 duties or functions under the bingo act and who, in the opinion of the
42 Kansas racing and gaming commission, are necessary to perform the pow-
43 ers, duties and functions under the bingo act, shall be transferred to, and

1 shall become officers and employees of the Kansas racing and gaming
2 commission. Any such officer or employee shall retain all retirement ben-
3 efits and all rights of civil service which had accrued to or vested in such
4 officer or employee prior to July 1, 2007. The service of each such officer
5 and employee so transferred shall be deemed to have been continuous.

6 New Sec. 61. On and after July 1, 2007:

7 (a) When any conflict arises as to the disposition of any property,
8 power, duty or function or the unexpended balance of any appropriation
9 as a result of any abolition, transfer, attachment or change made by or
10 under authority of this act, such conflict shall be resolved by the governor,
11 whose decision shall be final.

12 (b) The Kansas racing and gaming commission shall succeed to all
13 property, property rights and records which were used for or pertain to
14 the performance of the powers, duties and functions transferred to the
15 Kansas racing and gaming commission. Any conflict as to the proper dis-
16 position of property or records arising under this section, and resulting
17 from the transfer, attachment or all or part of the powers, duties and
18 functions of the secretary of revenue, the director of taxation or the ad-
19 ministrator of charitable bingo shall be determined by the governor,
20 whose decision shall be final.

21 New Sec. 62. On and after July 1, 2007:

22 (a) No suit, action or other proceeding, judicial or administrative,
23 lawfully commenced, or which could have been commenced, by or against
24 the secretary of revenue, the director of taxation or the administrator of
25 charitable bingo with regard to the bingo act or by or against any officer
26 of the state in such officer's official capacity or in relation to the discharge
27 of such officer's official duties shall abate by reason of the transfers ef-
28 fected under the provisions of this act. The court may allow any such suit,
29 action or other proceeding to be maintained by or against the Kansas
30 racing and gaming commission or any officer affected.

31 (b) No criminal action commenced or which could have been com-
32 menced by the state shall abate by the taking effect of this act.

33 New Sec. 63. On July 1, 2007:

34 (a) The balance of all funds appropriated and reappropriated to the
35 secretary of revenue, the director of taxation or the administrator of char-
36 itable bingo with regard to the bingo act is hereby transferred to the
37 Kansas racing and gaming commission and shall be used only for the
38 purpose for which the appropriation was originally made.

39 (b) The liability for all accrued compensation or salaries of officers
40 and employees who, immediately prior to such date, were engaged in the
41 performance of powers, duties or functions of any state agency or officer
42 transferred by this act, or which becomes a part of the Kansas racing and
43 gaming commission or the powers, duties and functions of which are

1 transferred to the Kansas racing and gaming commission shall be assumed
2 and paid by the Kansas racing and gaming commission.

3 Sec. 64. K.S.A. 2005 Supp. 79-4805 is hereby amended to read as
4 follows: 79-4805. (a) There is hereby established in the state treasury the
5 problem gambling grant fund. All moneys credited to such fund shall be
6 used only for the awarding of grants under this section. Such fund shall
7 be administered in accordance with this section and the provisions of
8 appropriation acts.

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

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

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

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

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

43 Sec. 65. K.S.A. 2005 Supp. 12-4516 is hereby amended to read as

1 follows: 12-4516. (a) (1) Except as provided in subsection (b), any per-
2 son who has been convicted of a violation of a city ordinance of this state
3 may petition the convicting court for the expungement of such conviction
4 and related arrest records if three or more years have elapsed since the
5 person:

- 6 (A) Satisfied the sentence imposed; or
- 7 (B) was discharged from probation, parole or a suspended sentence.

8 (2) Except as provided in subsection (b), any person who has fulfilled
9 the terms of a diversion agreement based on a violation of a city ordinance
10 of this state may petition the court for the expungement of such diversion
11 agreement and related arrest records if three or more years have elapsed
12 since the terms of the diversion agreement were fulfilled.

13 (b) No person may petition for expungement until five or more years
14 have elapsed since the person satisfied the sentence imposed or the terms
15 of a diversion agreement or was discharged from probation, parole, con-
16 ditional release or a suspended sentence, if such person was convicted of
17 the violation of a city ordinance which would also constitute:

- 18 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
19 ments thereto;
- 20 (2) a violation of K.S.A. 8-1567, and amendments thereto;
- 21 (3) driving while the privilege to operate a motor vehicle on the public
22 highways of this state has been canceled, suspended or revoked, as pro-
23 hibited by K.S.A. 8-262, and amendments thereto;
- 24 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-
25 ments thereto;
- 26 (5) a violation of the provisions of the fifth clause of K.S.A. 8-142,
27 and amendments thereto, relating to fraudulent applications;
- 28 (6) any crime punishable as a felony wherein a motor vehicle was
29 used in the perpetration of such crime;
- 30 (7) failing to stop at the scene of an accident and perform the duties
31 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;
- 32 (8) a violation of the provisions of K.S.A. 40-3104, and amendments
33 thereto, relating to motor vehicle liability insurance coverage; or
- 34 (9) a violation of K.S.A. 21-3405b, and amendments thereto.

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

- 39 (2) the full name of the defendant at the time of arrest, conviction or
40 diversion, if different than the defendant's current name;
- 41 (3) the defendant's sex, race and date of birth;
- 42 (4) the crime for which the defendant was arrested, convicted or
43 diverted;

1 (5) the date of the defendant's arrest, conviction or diversion; and
2 (6) the identity of the convicting court, arresting law enforcement
3 agency or diverting authority. A municipal court may prescribe a fee to
4 be charged as costs for a person petitioning for an order of expungement
5 pursuant to this section. Any person who may have relevant information
6 about the petitioner may testify at the hearing. The court may inquire
7 into the background of the petitioner and shall have access to any reports
8 or records relating to the petitioner that are on file with the secretary of
9 corrections or the Kansas parole board.

10 (d) At the hearing on the petition, the court shall order the peti-
11 tioner's arrest record, conviction or diversion expunged if the court finds
12 that:

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

16 (2) the circumstances and behavior of the petitioner warrant the
17 expungement; and

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

19 (e) When the court has ordered an arrest record, conviction or di-
20 version expunged, the order of expungement shall state the information
21 required to be contained in the petition. The clerk of the court shall send
22 a certified copy of the order of expungement to the Kansas bureau of
23 investigation which shall notify the federal bureau of investigation, the
24 secretary of corrections and any other criminal justice agency which may
25 have a record of the arrest, conviction or diversion. After the order of
26 expungement is entered, the petitioner shall be treated as not having been
27 arrested, convicted or diverted of the crime, except that:

28 (1) Upon conviction for any subsequent crime, the conviction that
29 was expunged may be considered as a prior conviction in determining the
30 sentence to be imposed;

31 (2) the petitioner shall disclose that the arrest, conviction or diversion
32 occurred if asked about previous arrests, convictions or diversions:

33 (A) In any application for employment as a detective with a private
34 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
35 as security personnel with a private patrol operator, as defined by K.S.A.
36 75-7b01, and amendments thereto; or with an institution, as defined in
37 K.S.A. 76-12a01, and amendments thereto, of the department of social
38 and rehabilitation services;

39 (B) in any application for admission, or for an order of reinstatement,
40 to the practice of law in this state;

41 (C) to aid in determining the petitioner's qualifications for employ-
42 ment with the Kansas lottery or for work in sensitive areas within the
43 Kansas lottery as deemed appropriate by the executive director of the

1 Kansas lottery;

2 (D) to aid in determining the petitioner's qualifications for executive
3 director of the Kansas racing *and gaming* commission, for employment
4 with the commission or for work in sensitive areas in parimutuel racing
5 as deemed appropriate by the executive director of the commission, or
6 to aid in determining qualifications for licensure or renewal of licensure
7 by the commission;

8 (E) *to aid in determining the petitioner's qualifications for the follow-*
9 *ing under the Kansas expanded lottery act: (i) Lottery gaming facility*
10 *manager or prospective manager, racetrack gaming facility manager or*
11 *prospective manager, licensee or certificate holder; or (ii) an officer, di-*
12 *rector, employee, owner, agent or contractor thereof;*

13 ~~(F)~~ (F) upon application for a commercial driver's license under
14 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

15 ~~(G)~~ (G) to aid in determining the petitioner's qualifications to be an
16 employee of the state gaming agency;

17 ~~(H)~~ (H) to aid in determining the petitioner's qualifications to be an
18 employee of a tribal gaming commission or to hold a license issued pur-
19 suant to a tribal-state gaming compact; or

20 ~~(I)~~ (I) in any application for registration as a broker-dealer, agent,
21 investment adviser or investment adviser representative all as defined in
22 K.S.A. 2005 Supp. 17-12a102, and amendments thereto;

23 (3) the court, in the order of expungement, may specify other cir-
24 cumstances under which the arrest, conviction or diversion is to be dis-
25 closed; and

26 (4) the conviction may be disclosed in a subsequent prosecution for
27 an offense which requires as an element of such offense a prior conviction
28 of the type expunged.

29 (f) Whenever a person is convicted of an ordinance violation, pleads
30 guilty and pays a fine for such a violation, is placed on parole or probation
31 or is granted a suspended sentence for such a violation, the person shall
32 be informed of the ability to expunge the arrest records or conviction.
33 Whenever a person enters into a diversion agreement, the person shall
34 be informed of the ability to expunge the diversion.

35 (g) Subject to the disclosures required pursuant to subsection (e), in
36 any application for employment, license or other civil right or privilege,
37 or any appearance as a witness, a person whose arrest records, conviction
38 or diversion of an offense has been expunged under this statute may state
39 that such person has never been arrested, convicted or diverted of such
40 offense.

41 (h) Whenever the record of any arrest, conviction or diversion has
42 been expunged under the provisions of this section or under the provi-
43 sions of any other existing or former statute, the custodian of the records

- 1 of arrest, conviction, diversion and incarceration relating to that crime
2 shall not disclose the existence of such records, except when requested
3 by:
- 4 (1) The person whose record was expunged;
 - 5 (2) a private detective agency or a private patrol operator, and the
6 request is accompanied by a statement that the request is being made in
7 conjunction with an application for employment with such agency or op-
8 erator by the person whose record has been expunged;
 - 9 (3) a court, upon a showing of a subsequent conviction of the person
10 whose record has been expunged;
 - 11 (4) the secretary of social and rehabilitation services, or a designee of
12 the secretary, for the purpose of obtaining information relating to em-
13 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
14 ments thereto, of the department of social and rehabilitation services of
15 any person whose record has been expunged;
 - 16 (5) a person entitled to such information pursuant to the terms of the
17 expungement order;
 - 18 (6) a prosecuting attorney, and such request is accompanied by a
19 statement that the request is being made in conjunction with a prosecu-
20 tion of an offense that requires a prior conviction as one of the elements
21 of such offense;
 - 22 (7) the supreme court, the clerk or disciplinary administrator thereof,
23 the state board for admission of attorneys or the state board for discipline
24 of attorneys, and the request is accompanied by a statement that the
25 request is being made in conjunction with an application for admission,
26 or for an order of reinstatement, to the practice of law in this state by the
27 person whose record has been expunged;
 - 28 (8) the Kansas lottery, and the request is accompanied by a statement
29 that the request is being made to aid in determining qualifications for
30 employment with the Kansas lottery or for work in sensitive areas within
31 the Kansas lottery as deemed appropriate by the executive director of the
32 Kansas lottery;
 - 33 (9) the governor or the Kansas racing *and gaming* commission, or a
34 designee of the commission, and the request is accompanied by a state-
35 ment that the request is being made to aid in determining qualifications
36 for executive director of the commission, for employment with the com-
37 mission, for work in sensitive areas in parimutuel racing as deemed ap-
38 propriate by the executive director of the commission or for licensure,
39 renewal of licensure or continued licensure by the commission;
 - 40 (10) *the Kansas racing and gaming commission, or a designee of the*
41 *commission, and the request is accompanied by a statement that the re-*
42 *quest is being made to aid in determining qualifications of the following*
43 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*

- 1 *agers and prospective managers, racetrack gaming facility managers and*
2 *prospective managers, licensees and certificate holders; and (B) their of-*
3 *ficers, directors, employees, owners, agents and contractors;*
4 ~~(10)~~ (11) the state gaming agency, and the request is accompanied
5 by a statement that the request is being made to aid in determining qual-
6 ifications: (A) To be an employee of the state gaming agency; or (B) to
7 be an employee of a tribal gaming commission or to hold a license issued
8 pursuant to a tribal-state gaming compact; or
9 ~~(11)~~ (12) the Kansas securities commissioner, or a designee of the
10 commissioner, and the request is accompanied by a statement that the
11 request is being made in conjunction with an application for registration
12 as a broker-dealer, agent, investment adviser or investment adviser rep-
13 resentative by such agency and the application was submitted by the per-
14 son whose record has been expunged.
- 15 Sec. 66. K.S.A. 2005 Supp. 19-101a is hereby amended to read as
16 follows: 19-101a. (a) The board of county commissioners may transact all
17 county business and perform all powers of local legislation and adminis-
18 tration it deems appropriate, subject only to the following limitations,
19 restrictions or prohibitions:
- 20 (1) Counties shall be subject to all acts of the legislature which apply
21 uniformly to all counties.
- 22 (2) Counties may not consolidate or alter county boundaries.
- 23 (3) Counties may not affect the courts located therein.
- 24 (4) Counties shall be subject to acts of the legislature prescribing
25 limits of indebtedness.
- 26 (5) In the exercise of powers of local legislation and administration
27 authorized under provisions of this section, the home rule power con-
28 ferred on cities to determine their local affairs and government shall not
29 be superseded or impaired without the consent of the governing body of
30 each city within a county which may be affected.
- 31 (6) Counties may not legislate on social welfare administered under
32 state law enacted pursuant to or in conformity with public law No. 271—
33 74th congress, or amendments thereof.
- 34 (7) Counties shall be subject to all acts of the legislature concerning
35 elections, election commissioners and officers and their duties as such
36 officers and the election of county officers.
- 37 (8) Counties shall be subject to the limitations and prohibitions im-
38 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
39 prescribing limitations upon the levy of retailers' sales taxes by counties.
- 40 (9) Counties may not exempt from or effect changes in statutes made
41 nonuniform in application solely by reason of authorizing exceptions for
42 counties having adopted a charter for county government.
- 43 (10) No county may levy ad valorem taxes under the authority of this

- 1 section upon real property located within any redevelopment project area
2 established under the authority of K.S.A. 12-1772, and amendments
3 thereto, unless the resolution authorizing the same specifically authorized
4 a portion of the proceeds of such levy to be used to pay the principal of
5 and interest upon bonds issued by a city under the authority of K.S.A.
6 12-1774, and amendments thereto.
- 7 (11) Counties shall have no power under this section to exempt from
8 any statute authorizing or requiring the levy of taxes and providing sub-
9 stitute and additional provisions on the same subject, unless the resolution
10 authorizing the same specifically provides for a portion of the proceeds
11 of such levy to be used to pay a portion of the principal and interest on
12 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
13 ments thereto.
- 14 (12) Counties may not exempt from or effect changes in the provi-
15 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 16 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
17 through 12-1,109, and amendments thereto, counties may not levy and
18 collect taxes on incomes from whatever source derived.
- 19 (14) Counties may not exempt from or effect changes in K.S.A. 19-
20 430, and amendments thereto.
- 21 (15) Counties may not exempt from or effect changes in K.S.A. 19-
22 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 23 (16) (A) Counties may not exempt from or effect changes in K.S.A.
24 13-13a26, and amendments thereto.
- 25 (B) This provision shall expire on June 30, 2006.
- 26 (17) (A) Counties may not exempt from or effect changes in K.S.A.
27 71-301a, and amendments thereto.
- 28 (B) This provision shall expire on June 30, 2006.
- 29 (18) Counties may not exempt from or effect changes in K.S.A. 19-
30 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 31 (19) Counties may not exempt from or effect changes in the provi-
32 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
33 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
34 through 12-1270 and 12-1276, and amendments thereto.
- 35 (20) Counties may not exempt from or effect changes in the provi-
36 sions of K.S.A. 19-211, and amendments thereto.
- 37 (21) Counties may not exempt from or effect changes in the provi-
38 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 39 (22) Counties may not regulate the production or drilling of any oil
40 or gas well in any manner which would result in the duplication of reg-
41 ulation by the state corporation commission and the Kansas department
42 of health and environment pursuant to chapter 55 and chapter 65 of the
43 Kansas Statutes Annotated, and amendments thereto, and any rules and

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

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

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

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

17 Sec. 67. K.S.A. 2005 Supp. 21-4619 is hereby amended to read as
18 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
19 any person convicted in this state of a traffic infraction, cigarette or to-
20 bacco infraction, misdemeanor or a class D or E felony, or for crimes
21 committed on or after July 1, 1993, nondrug crimes ranked in severity
22 levels 6 through 10 or any felony ranked in severity level 4 of the drug
23 grid, may petition the convicting court for the expungement of such con-
24 viction or related arrest records if three or more years have elapsed since
25 the person: (A) Satisfied the sentence imposed; or (B) was discharged
26 from probation, a community correctional services program, parole, post-
27 release supervision, conditional release or a suspended sentence.

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

33 (b) Except as provided in subsection (c), no person may petition for
34 expungement until five or more years have elapsed since the person sat-
35 isfied the sentence imposed, the terms of a diversion agreement or was
36 discharged from probation, a community correctional services program,
37 parole, postrelease supervision, conditional release or a suspended sen-
38 tence, if such person was convicted of a class A, B or C felony, or for
39 crimes committed on or after July 1, 1993, if convicted of an off-grid
40 felony or any nondrug crime ranked in severity levels 1 through 5 or any
41 felony ranked in severity levels 1 through 3 of the drug grid, or:

42 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
43 ments thereto, or as prohibited by any law of another state which is in

- 1 substantial conformity with that statute;
- 2 (2) a violation of K.S.A. 8-1567, and amendments thereto, or a vio-
- 3 lation of any law of another state, which declares to be unlawful the acts
- 4 prohibited by that statute;
- 5 (3) driving while the privilege to operate a motor vehicle on the public
- 6 highways of this state has been canceled, suspended or revoked, as pro-
- 7 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
- 8 any law of another state which is in substantial conformity with that
- 9 statute;
- 10 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-
- 11 ments thereto, or resulting from the violation of a law of another state
- 12 which is in substantial conformity with that statute;
- 13 (5) violating the provisions of the fifth clause of K.S.A. 8-142, and
- 14 amendments thereto, relating to fraudulent applications or violating the
- 15 provisions of a law of another state which is in substantial conformity with
- 16 that statute;
- 17 (6) any crime punishable as a felony wherein a motor vehicle was
- 18 used in the perpetration of such crime;
- 19 (7) failing to stop at the scene of an accident and perform the duties
- 20 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,
- 21 or required by a law of another state which is in substantial conformity
- 22 with those statutes;
- 23 (8) violating the provisions of K.S.A. 40-3104, and amendments
- 24 thereto, relating to motor vehicle liability insurance coverage; or
- 25 (9) a violation of K.S.A. 21-3405b, prior to its repeal.
- 26 (c) There shall be no expungement of convictions for the following
- 27 offenses or of convictions for an attempt to commit any of the following
- 28 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;
- 29 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and
- 30 amendments thereto; (3) aggravated indecent liberties with a child as
- 31 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy
- 32 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-
- 33 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-
- 34 3506, and amendments thereto; (6) indecent solicitation of a child as
- 35 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-
- 36 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-
- 37 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-
- 38 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.
- 39 21-3603, and amendments thereto; (10) endangering a child as defined
- 40 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as
- 41 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder
- 42 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in
- 43 the first degree as defined in K.S.A. 21-3401, and amendments thereto;

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

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

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

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

20 (4) the crime for which the defendant was arrested, convicted or
21 diverted;

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

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

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

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

37 (2) the circumstances and behavior of the petitioner warrant the
38 expungement; and

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

40 (f) When the court has ordered an arrest record, conviction or diver-
41 sion expunged, the order of expungement shall state the information re-
42 quired to be contained in the petition. The clerk of the court shall send
43 a certified copy of the order of expungement to the Kansas bureau of

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

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

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

1 as a broker-dealer, agent, investment adviser or investment adviser rep-
2 resentative by such agency and the application was submitted by the per-
3 son whose record has been expunged;

4 ~~(13)~~ (14) the Kansas law enforcement training commission and the
5 request is accompanied by a statement that the request is being made to
6 aid in determining certification eligibility as a law enforcement officer
7 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

8 ~~(14)~~ (15) a law enforcement agency and the request is accompanied
9 by a statement that the request is being made to aid in determining eli-
10 gibility for employment as a law enforcement officer as defined by K.S.A.
11 22-2202, and amendments thereto.

12 Sec. 68. K.S.A. 60-2102 is hereby amended to read as follows: 60-
13 2102. (a) ~~As~~ *Appeal to court of appeals as matter of right*. Except for any
14 order or final decision of a district magistrate judge, the appellate juris-
15 diction of the court of appeals may be invoked by appeal as a matter of
16 right from:

17 (1) An order that discharges, vacates or modifies a provisional
18 remedy.

19 (2) An order that grants, continues, modifies, refuses or dissolves an
20 injunction, or an order that grants or refuses relief in the form of man-
21 damus, quo warranto or habeas corpus.

22 (3) An order that appoints a receiver or refuses to wind up a receiv-
23 ership or to take steps to accomplish the purposes thereof, such as di-
24 recting sales or other disposal of property, or an order involving the tax
25 or revenue laws, the title to real estate, the constitution of this state or
26 the constitution, laws or treaties of the United States.

27 (4) A final decision in any action, except in an action where a direct
28 appeal to the supreme court is required by law. In any appeal or cross
29 appeal from a final decision, any act or ruling from the beginning of the
30 proceedings shall be reviewable.

31 (b) *Appeal to supreme court as matter of right*. The appellate juris-
32 diction of the supreme court may be invoked by appeal as a matter of
33 right from:

34 (1) A preliminary or final decision in which a statute of this state has
35 been held unconstitutional as a violation of Article 6 of the Kansas con-
36 stitution pursuant to K.S.A. 2005 Supp. 72-64b03, and amendments
37 thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed
38 within 30 days of the date the preliminary or final decision is filed.

39 (2) *A final decision of the district court in any action challenging the*
40 *constitutionality of or arising out of any provision of the Kansas expanded*
41 *lottery act, any lottery gaming facility management contract or any race-*
42 *track gaming facility management contract entered into pursuant to the*
43 *Kansas expanded lottery act.*

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

13 Sec. 69. K.S.A. 60-2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-
14 8810, 74-8814, 74-8823, 74-8830, 74-8832 and 74-8838 and K.S.A. 2005
15 Supp. 12-4516, 19-101a, 21-4619, 74-8711 and 79-4805 are hereby
16 repealed.

17 Sec. 70. This act shall take effect and be in force from and after its
18 publication in the Kansas register.