

HOUSE BILL No. 2569

By Committee on Federal and State Affairs

3-7

9 AN ACT concerning gambling; relating to destination casinos; amending
10 K.S.A. 2006 Supp. 12-4516, 12-4516a, 19-101a, 21-4619, 79-2959, 79-
11 4805 and 79-4806 and repealing the existing sections; also repealing
12 K.S.A. 2006 Supp. 19-101l, 21-4619c and K.S.A. 2005 Supp. 19-101a
13 as amended by section 4 of chapter 192 of the 2006 Session Laws of
14 Kansas are hereby repealed.

15

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

17 New Section 1. Sections 1 through 10, and amendments thereto,
18 shall be known and cited as the Kansas destination casino act.

19 New Sec. 2. As used in this act, unless the context otherwise
20 requires:

21 (a) “Accelerated destination casino net payment” means the ad-
22 vanced payment to the state treasurer of a portion of the state’s future
23 share of destination casino net revenues upon the final contract between
24 the commission and a destination enterprise manager for the construction
25 of a destination enterprise pursuant to this act. The commission may
26 authorize an accelerated destination casino net payment of up to \$15,000
27 for each gaming machine to be operated at a destination casino. If the
28 commission authorizes an accelerated destination casino net payment, it
29 shall set a schedule for the destination casino manager’s recovery of the
30 accelerated destination casino net payment from the state’s share of the
31 destination casino net revenues of no shorter than five years. In any year,
32 the amount of the recovery destination casino manager’s recovery of the
33 accelerated destination casino net payment from the state’s share of the
34 destination casino net revenues shall not exceed 20% of the total amount
35 of the accelerated destination casino net payment.

36 (b) “Ancillary destination enterprise operations” means a service, fa-
37 cility, or operation, such as a restaurant, hotel, entertainment venue, or
38 meeting space that is part of a destination enterprise and is likely to attract
39 or retain consumers at a destination enterprise and its related destination
40 casino.

41 (c) “Base year assessed valuation” means the assessed valuation of all
42 real property within the boundaries of a destination casino and enterprise
43 district.

- 1 (d) "Casino license agreement" means a franchise agreement con-
2 tract, subcontract, or collateral agreement between the state and the des-
3 tination enterprise manager and destination casino manager, implement-
4 ing the certificate of authority granted by the commission.
- 5 (e) "Casino tax increment" means that amount of real property taxes
6 collected from real property located within a destination casino and en-
7 terprise district that is in excess of the amount of real property taxes which
8 is collected from the base year assessed valuation.
- 9 (f) "Certificate of authority" means a written approval of the com-
10 mission for establishment of a destination enterprise and destination cas-
11 sino, pending approval by the local voters, pursuant to this act.
- 12 (g) "Commission" means the Kansas destination casino commission
13 established pursuant to this act.
- 14 (h) "Destination casino" means a gaming operation with destination
15 casino games, which has been granted a license agreement by the state
16 of Kansas, approved by the commission and managed by the destination
17 casino manager, which is designed as part of a destination enterprise to
18 attract gaming consumers from outside its immediate area.
- 19 (i) "Destination casino and enterprise district" means the specific
20 area declared by the board of county commissioners to be a separate
21 taxing district wherein is located a destination casino and destination
22 enterprise.
- 23 (j) "Destination casino expenses" means the normal business ex-
24 penses, as defined by the commission in the certificate of authority and
25 the executive director in the license agreement pursuant to generally ac-
26 cepted accounting principles (GAAP), associated with the operation of a
27 destination casino. Destination casino expenses also shall include an an-
28 nual payment of \$1.25 million of each destination casino revenues to the
29 problem gambling grant fund established by K.S.A. 2006 Supp. 79-4805,
30 and amendments thereto.
- 31 (k) "Destination casino games" means electronic gaming machine
32 games and any other games which, as of July 1, 2007, are authorized to
33 be conducted or operated at a tribal gaming facility, as defined in K.S.A.
34 74-9802, and amendments thereto, located within the boundaries of this
35 state.
- 36 (l) "Destination casino manager" means a person authorized, pursu-
37 ant to a casino license agreement with the commission, to operate and
38 manage a destination casino. A "destination casino manager" and a "des-
39 tination enterprise manager" may be the same person.
- 40 (m) "Destination casino net revenues" means the balance of desti-
41 nation casino revenues remaining after deducting destination casino
42 expenses.
- 43 (n) "Destination casino revenues" mean the total revenues from des-

1 tination casino games at a destination casino after all related prizes are
2 paid.

3 (o) “Destination enterprise” means an entertainment enterprise
4 which includes a destination casino authorized pursuant to this act and
5 ancillary destination enterprise operations that have a common business
6 or marketing strategy. A destination enterprise shall be designed to attract
7 gaming consumers from outside its immediate area to its destination ca-
8 sino. The destination enterprise manager shall provide financing for con-
9 struction and development of the destination enterprise, including its des-
10 tination casino.

11 (p) “Destination enterprise manager” means a person authorized by
12 the commission to construct, operate and manage a destination enter-
13 prise. A “destination casino manager” and a “destination enterprise man-
14 ager” may be the same person.

15 (q) “Key gaming employee” means any natural person 21 years of age
16 or older employed by or under contract with a destination enterprise
17 manager or destination casino manager or employed by or under contract
18 with a person providing on or off-site management or employee-related
19 services to the destination enterprise manager or destination casino man-
20 ager, including, but not limited to: (1) Assistant destination casino man-
21 ager; (2) destination casino games manager; (3) accounting department
22 personnel; (4) count room employees; (5) cage department employees,
23 including cashiers and main bank employees; (6) vault department em-
24 ployees; (7) approvers of credit; (8) surveillance department employees;
25 (9) security department employees; (10) floor managers; (11) electronic
26 gaming machine technicians; (12) custodians of electronic gaming ma-
27 chines, including persons with access to cash and accounting records
28 within such machines; (13) collection personnel; (14) internal auditors of
29 the destination enterprise manager; (15) any employee whose total cash
30 compensation is in excess of \$50,000 per year; and (16) any other type of
31 employee specified by the executive director.

32 (r) “Market study” means an objective, scientific study commissioned
33 by the commission. The proponent of a proposal for a destination casino
34 and destination enterprise shall pay for any market study required by this
35 act for such proposal.

36 New Sec. 3. (a) There is hereby created the Kansas destination ca-
37 sino commission, which shall be composed of five members who shall be
38 appointed by the governor, subject to confirmation by the senate as pro-
39 vided by K.S.A. 75-4315b, and amendments thereto. Except as provided
40 by K.S.A. 46-2601, and amendments thereto, no person appointed to the
41 commission shall exercise any power, duty or function as a member of
42 the commission until confirmed by the senate. All members of the com-
43 mission shall be citizens of the United States and residents of this state.

1 Not more than three of the five members shall be members of the same
2 political party. A chairperson of the commission shall be designated by
3 the governor from the membership of the commission.

4 (b) Except as provided by subsection (c), the members of the com-
5 mission shall serve for terms of four years and until their successors are
6 appointed and confirmed, except that the members first appointed shall
7 serve for terms designated by the governor as follows: One member shall
8 serve for a term of one year, one shall serve for a term of two years, one
9 shall serve for a term of three years and two shall serve for terms of four
10 years. Any vacancy occurring in the membership of the commission shall
11 be filled in the same manner as the original appointment for the remain-
12 der of the unexpired term.

13 (c) A person shall not be eligible for appointment to the commission
14 if, within two years before appointment, such person, or such person's
15 spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or
16 stepparent, has been employed by or had any financial interest in any
17 business engaged in operating gaming or a lottery, selling goods or serv-
18 ices used in the operation of gaming or a lottery or representing the
19 gaming or lottery industry.

20 (d) The commission shall hold at least four regular meetings each
21 year and such additional meetings as the chairperson deems desirable.
22 Special meetings shall be called by the chairperson upon written request
23 of the executive director or any three members of the commission. All
24 meetings shall be held at a place and time fixed by the chairperson. A
25 majority of the members of the commission shall constitute a quorum to
26 transact its business.

27 (e) The commission shall consult with and advise the executive di-
28 rector relating to the operation of casino gambling, shall assist the director
29 in the establishment of policies and shall review and approve the proposed
30 annual budget for the commission prepared by the executive director,
31 subject to all state laws governing budget procedures for state agencies.

32 (f) The commission, in conjunction with the executive director, shall
33 make an ongoing study of the operation and administration of casinos in
34 operation in other states or countries, of available literature on the sub-
35 ject, of federal laws and regulations which may affect the operation of the
36 casinos and of the reaction of citizens of this state to existing or proposed
37 features of casino gambling, with a view toward implementing improve-
38 ments that will tend to serve the purposes of this act.

39 (g) Subject to the limitations of appropriations therefor, members of
40 the commission shall receive such compensation as determined by the
41 governor. Members of the commission attending meetings of the com-
42 mission or subcommittee meetings thereof approved by the commission
43 shall be paid subsistence allowances, mileage and other expenses as pro-

1 vided in K.S.A. 75-3223, and amendments thereto.

2 New Sec. 4. (a) (1) The governor shall appoint, subject to confir-
3 mation by the senate as provided by K.S.A. 75-4315b, and amendments
4 thereto, an executive director of the commission, to serve at the pleasure
5 of the governor and under the direction and supervision of the commis-
6 sion. Before appointing any person as executive director, the governor
7 shall cause the Kansas bureau of investigation to conduct a criminal his-
8 tory record check and background investigation of the person.

9 (2) The executive director shall: (A) Be in the unclassified service
10 under the Kansas civil service act; (B) devote full time to the executive
11 director's assigned duties; (C) receive such compensation as determined
12 by the governor, subject to the limitations of appropriations therefor; (D)
13 be a citizen of the United States and an actual resident of Kansas during
14 employment by the commission; (E) not have been convicted of a felony
15 under the laws of any state or of the United States prior to or during
16 employment by the commission; and (F) have familiarity with the casino
17 gambling industry sufficient to fulfill the duties of the office of executive
18 director.

19 (3) The executive director shall: (A) Recommend to the commission
20 the number and qualifications of employees necessary to implement and
21 enforce the provisions of this act; (B) employ persons for those positions
22 approved by the commission, subject to the limitations of appropriations
23 therefor; and (C) perform such other duties as directed by the
24 commission.

25 (b) (1) The executive director shall appoint an inspector of casinos
26 to serve at the pleasure of the executive director. Before appointing any
27 person as inspector of casinos, the executive director shall cause the Kan-
28 sas bureau of investigation to conduct a criminal history record check and
29 background investigation of the person.

30 (2) The inspector of casinos shall: (A) Be in the unclassified service
31 under the Kansas civil service act; (B) devote full time to the inspector's
32 assigned duties; (C) receive such compensation as determined by the
33 executive director, subject to the limitations of appropriations therefor;
34 (D) be a citizen of the United States and an actual resident of Kansas
35 during employment as inspector of casinos; (E) not have been convicted
36 of a felony under the laws of any state or of the United States prior to or
37 during employment by the commission; and (F) be a certified public
38 accountant with at least three years of auditing experience.

39 (3) The inspector of casinos shall: (A) Inspect and audit the conduct
40 of casino gambling by organization licensees, including the equipment
41 and facilities used and procedures followed; (B) train and supervise such
42 personnel as employed by the executive director to assist with such duties;
43 and (C) perform such other duties as directed by the executive director.

- 1 (c) (1) The executive director shall appoint a director of security to
2 serve at the pleasure of the executive director. Before appointing any
3 person as director of security, the executive director shall cause the Kan-
4 sas bureau of investigation to conduct a criminal history record check and
5 background investigation of the person.
- 6 (2) The director of security shall: (A) Be in the unclassified service
7 under the Kansas civil service act; (B) devote full time to the security
8 director's assigned duties; (C) receive such compensation as determined
9 by the executive director, subject to the limitations of appropriations
10 therefor; (D) be a citizen of the United States and an actual resident of
11 Kansas during employment as director of security; (E) not have been
12 convicted of a felony under the laws of any state or of the United States
13 prior to or during employment by the commission; and (F) be a profes-
14 sional law enforcement officer with a minimum of five years' experience
15 in the field of law enforcement and at least a bachelor's degree in law
16 enforcement administration, law, criminology or a related science or, in
17 lieu thereof, a minimum of 10 years' experience in the field of law
18 enforcement.
- 19 (3) The director of security shall: (A) Conduct investigations relating
20 to compliance with the provisions of this act and rules and regulations of
21 the commission; (B) recommend proper security measures to organiza-
22 tion licensees; (C) train and supervise such personnel as employed by the
23 executive director to assist with such duties; and (D) perform such other
24 duties as directed by the executive director.
- 25 (d) Except as otherwise provided by this act, all employees of the
26 commission shall be in the classified service under the Kansas civil service
27 act.
- 28 (e) No employee of the commission shall have been convicted of a
29 felony under the laws of any state or of the United States prior to or
30 during employment by the commission. Before employing any person,
31 the commission shall cause a criminal history record check of the person
32 to be conducted.
- 33 New Sec. 5. (a) The commission and its designated employees may
34 observe and inspect all destination casino facilities in Kansas, including,
35 but not limited to, all machines, equipment and facilities used for casino
36 gambling.
- 37 (b) Commission members and hearing officers designated by the
38 commission may administer oaths and take depositions to the same extent
39 and subject to the same limitations as would apply if the deposition was
40 in aid of a civil action in the district court.
- 41 (c) The commission may examine, or cause to be examined by any
42 agent or representative designated by the commission, any books, papers,
43 records or memoranda of any destination casino operator in Kansas, for

1 the purpose of ascertaining compliance with any provision of this act or
2 any rule and regulation adopted hereunder.

3 (d) The commission may issue subpoenas to compel access to or for
4 the production of any books, papers, records or memoranda in the cus-
5 tody or control of any licensee or officer, member, employee or agent of
6 any destination casino operator, or to compel the appearance of any li-
7 censee or officer, member, employee or agent of any such operator in
8 this state, for the purpose of ascertaining compliance with any of the
9 provisions of this act or any rule and regulation adopted hereunder. Sub-
10 poenas issued pursuant to this subsection may be served upon individuals
11 and corporations in the same manner provided in K.S.A. 60-304, and
12 amendments thereto, for the service of process by any officer authorized
13 to serve subpoenas in civil actions or by the commission or an agent or
14 representative designated by the commission. In the case of the refusal
15 of any person to comply with any such subpoena, the executive director
16 may make application to the district court of any county where such
17 books, papers, records, memoranda or person is located for an order to
18 comply.

19 (e) The commission shall have the authority, after notice and an op-
20 portunity for hearing in accordance with rules and regulations adopted
21 by the commission, to exclude, or cause to be expelled, from any desti-
22 nation casino facility, or to prohibit a destination casino operator from
23 conducting business with any person:

24 (1) Who has violated the provisions of this act or any rule and regu-
25 lation or order of the commission;

26 (2) who has been convicted of a violation of the racing or gambling
27 laws of this or any other state or of the United States or has been adju-
28 dicated of committing as a juvenile an act which, if committed by an adult,
29 would constitute such a violation; or

30 (3) whose presence, in the opinion of the commission, reflects ad-
31 versely on the honesty and integrity of casino gambling.

32 (f) The commission shall review and approve all proposed construc-
33 tion and major renovations to destination casino facilities.

34 (g) The commission shall require fingerprinting of all persons nec-
35 essary to verify qualification for employment by the commission or to
36 verify qualification for any destination casino operator and key gaming
37 employees. The commission shall submit such fingerprints to the Kansas
38 bureau of investigation and to the federal bureau of investigation for the
39 purposes of verifying the identity of such persons and obtaining records
40 of criminal arrests and convictions.

41 (h) The commission may receive from commission security person-
42 nel, the Kansas bureau of investigation or other criminal justice agencies,
43 including, but not limited to, the federal bureau of investigation and the

1 federal internal revenue service, such criminal history record information
2 (including arrest and nonconviction data), criminal intelligence informa-
3 tion and information relating to criminal and background investigations
4 as necessary for the purpose of determining qualifications of destination
5 casino operators and key gaming employees, employees of the commis-
6 sion and applicants for employment by the commission. Upon the written
7 request of the chairperson of the commission, the commission may re-
8 ceive from the district courts such information relating to juvenile pro-
9 ceedings as necessary for the purpose of determining qualifications of
10 employees of and applicants for employment by the commission and de-
11 termining qualifications of destination casino operators and key gaming
12 employees. Such information, other than conviction data, shall be confi-
13 dential and shall not be disclosed except to members and employees of
14 the commission as necessary to determine qualifications of such desti-
15 nation casino operators, employees and applicants. Any other disclosure
16 of such confidential information is a class A misdemeanor and shall con-
17 stitute grounds for removal from office, termination of employment or
18 denial, revocation or suspension of any license issued under this act.

19 (i) The commission, in accordance with K.S.A. 75-4319, and amend-
20 ments thereto, may recess for a closed or executive meeting to receive
21 and discuss information received by the commission concerning criminal
22 background information and to negotiate with licensees of or applicants
23 for destination casino operators by the commission regarding any such
24 information.

25 (j) The commission may enter into agreements with the federal bu-
26 reau of investigation, the federal internal revenue service, the Kansas
27 attorney general or any state, federal or local agency as necessary to carry
28 out the duties of the commission under this act.

29 (k) The commission shall establish a base salary of at least \$10 per
30 hour for employees of destination casinos and shall require annual in-
31 creases in such salaries based upon the consumer price index for all urban
32 areas (CPI-U).

33 (l) The commission shall establish rules and regulations which:

34 (1) Prohibit the use of credit cards, debit cards and electronic benefit
35 transfer cards or other federal or state assistance benefits if these are in
36 a form other than cash, by any person at a destination casino;

37 (2) prohibit the location of ATM and credit card cash advance ma-
38 chines on the premises of any destination casino or in any parking facility
39 or parking lot serving such casino;

40 (3) prohibit the extension of credit by a destination casino to any
41 person;

42 (4) prohibit the destination casino from cashing any payroll check,
43 third party check, public assistance check or business check for any per-

1 son; and

2 (5) require a destination casino to enforce a weekly loss limit per
3 person not to exceed \$500.

4 (m) The commission shall adopt such rules and regulations as nec-
5 essary to implement and enforce the provisions of this act.

6 New Sec. 6. (a) The commission shall review proposals for destina-
7 tion enterprises and destination casinos submitted to the commission by
8 applicants seeking to become destination enterprise operators and des-
9 tination casino operators.

10 (b) The commission shall charge applicants an administrative appli-
11 cation fee of not less than \$35 million as determined by subsection (b) of
12 section 6, and amendments thereto. The commission shall order a market
13 study to be conducted of each proposal to determine whether such pro-
14 posal is feasible and would be profitable the cost of the market study shall
15 be paid for out of the proceeds of the application fee. If such study con-
16 cludes the proposal is not feasible and would not be profitable the re-
17 mainder of the application fee shall be returned to the applicant. If the
18 market study concludes the proposal is feasible and will be profitable, the
19 remainder of the application fee shall be deposited in the state general
20 fund.

21 (c) The commission shall issue certificates of authority for the estab-
22 lishment of destination casinos. A certificate of authority may be issued
23 only for destination casinos which will be located in a boarder county of
24 this state which is adjacent to a border county of another state in which
25 is located a destination casino.

26 (d) Subject to the provisions of section 7, and amendments thereto,
27 the commission, in its discretion, may issue a certificate of authority for
28 the proposed destination casino, if the commission determines that:

29 (1) The proposal constitutes a destination enterprise and a destination
30 casino;

31 (2) the proposal: (A) Includes ancillary destination enterprise oper-
32 ations which would provide for dining, lodging, meetings, conferences and
33 entertainment other than gaming; and (B) demonstrates through a market
34 study that, considering all other competing gaming and other entertain-
35 ment venues, the proposal would (i) be economically feasible, (ii) be prof-
36 itable for the state and (iii) not render economically infeasible any other
37 destination enterprise, destination casino or tribal gaming facility which
38 is approved by the state and in which the state has a financial stake;

39 (3) the proposed destination enterprise shall consist of an investment
40 in infrastructure, including ancillary destination enterprise operations, of
41 at least \$250 million;

42 (4) the applicant: (A) Has sufficient access to financial resources to
43 support the activities required under this act; (B) is current in payment

1 of all taxes, interest and penalties owed to any taxing subdivision where
2 the person is located in Kansas; and (C) is current in filing all applicable
3 tax returns and in payment of all taxes, interest and penalties owed to the
4 state of Kansas, excluding items under formal appeal pursuant to appli-
5 cable statutes;

6 (5) the applicant, the principals and the officers and directors, if a
7 corporation, have completed acceptable background investigations by
8 federal or state authorities; and

9 (6) the applicant has submitted the highest and best bid for such
10 casino license agreement provided under subsection (d) and has provided
11 a market study supporting such applicant's proposal.

12 (e) The highest and best bid must meet the following criteria:

13 (1) It must represent the largest total investment, of acceptable bids,
14 for the destination casino and the destination casino enterprise with the
15 minimum acceptable amount of at least \$250 million;

16 (2) it must provide for the highest percentage of destination casino
17 net revenues to be paid to the state general fund with the minimum
18 amount of the bid to be at least 28% of the destination casino net reve-
19 nues; and

20 (3) it must provide the highest application fee with the minimum
21 acceptable fee of at least \$35 million.

22 New Sec. 7. (a) Destination casino gaming shall be operated pursu-
23 ant to this act only in counties where the qualified electors have voted to
24 permit the operation of such gaming and such gaming has been approved
25 by the qualified electors in any county located in Kansas which is adjacent
26 to the county in which the proposed destination casino will be located.

27 (b) The board of county commissioners of any county covered by this
28 section may submit the proposition to the voters by passage of a resolution
29 calling for such election. Such board shall pass a resolution submitting
30 the proposition if presented with a sufficient petition by qualified electors
31 as provided by subsection (c).

32 (c) A petition to submit a proposition to the qualified electors of a
33 county pursuant to this section shall be filed with the election officer.
34 The petition shall be signed by qualified electors of the county equal in
35 number to not less than 10% of the voters of the county who voted for
36 the office of secretary of state at the last preceding general election at
37 which such office was elected. The following shall appear on the petition:
38 "We request an election to determine whether the operation of a desti-
39 nation casino shall be permitted in _____ county."

40 (d) Upon the adoption of a resolution calling for an election pursuant
41 to this section, the county election officer shall cause the following
42 proposition to be placed on the ballot at the election called for that pur-
43 pose: "Shall the operation of a destination casino be permitted in

1 _____ county?”.

2 (e) If a majority of the qualified electors voting at such election, in
3 all counties required to conduct an election, vote in favor of permitting
4 the operation of a destination casino, the commission may enter into a
5 casino license agreement with a licensee to operate a destination casino
6 in the county. If a majority of the qualified electors voting at an election
7 under this section in any of the counties required to conduct an election
8 pursuant to this section vote against permitting the operation of a desti-
9 nation casino the proposed destination casino shall not be approved by
10 the commission.

11 New Sec. 8. (a) Upon approval by the qualified electors of a desti-
12 nation casino as required by section 7, and amendments thereto, the
13 board of county commissioners of the county wherein the destination
14 casino shall be located, shall create a destination casino and enterprise
15 district by the passage of a resolution.

16 (b) Beginning with the first payment of taxes which are levied follow-
17 ing the date of the establishment of the redevelopment district, real prop-
18 erty taxes received by the county treasurer resulting from taxes which are
19 levied subject to the provisions of this act by and for the benefit of a
20 taxing subdivision, as defined in K.S.A. 12-1770a, and amendments
21 thereto, on property located within such district constituting a separate
22 taxing unit under the provisions of this section, shall be divided as follows:

23 (1) From the taxes levied each year subject to the provisions of this
24 act by or for each of the taxing subdivisions upon property located within
25 a redevelopment district constituting a separate taxing unit under the
26 provisions of this act, the county treasurer first shall allocate and pay to
27 each such taxing subdivision all of the real property taxes collected which
28 are produced from the base year assessed valuation.

29 (2) Any real property taxes produced from that portion of the current
30 assessed valuation of real property within such district constituting a sep-
31 arate taxing unit under the provisions of this section in excess of the base
32 year assessed valuation shall be allocated on an equal basis and paid by
33 the county treasurer to each county treasurer of each county which was
34 required to hold an election pursuant to section 7, and amendments
35 thereto. Such moneys shall be placed in the county general fund.

36 New Sec. 9. (a) It is unlawful for the executive director, a member
37 of the commission or any employee of the commission, or any person
38 residing in the household thereof to:

39 (1) Have, either directly or indirectly, an interest in a business know-
40 ing that such business contracts with the commission or with a destination
41 casino or destination enterprise, whether such interest is as a natural
42 person, partner, member of an association, stockholder or director or
43 officer of a corporation; or

1 (2) accept or agree to accept any economic opportunity, gift, loan,
2 gratuity, special discount, favor or service, or hospitality other than food
3 and beverages, having an aggregate value of \$20 or more in any calendar
4 year from a person knowing that such person contracts or seeks to con-
5 tract with the commission or with a destination casino or destination
6 enterprise.

7 (b) It is unlawful for a destination casino operator or destination en-
8 terprise operator, an applicant for destination casino operator or desti-
9 nation enterprise operator or a person who contracts or seeks to contract
10 with the state to supply gaming equipment, materials or consulting serv-
11 ices for use in casino gambling to offer, pay, give or make any economic
12 opportunity, gift, loan, gratuity, special discount, favor or service, or hos-
13 pitality other than food and beverages, having an aggregate value of \$20
14 or more in any calendar year to a person, knowing such person is the
15 executive director, a member of the commission or an employee of the
16 commission, or a person residing in the household thereof.

17 (c) Violation of this section is a class A misdemeanor.

18 (d) If the executive director, a member of the commission or an em-
19 ployee of the Kansas lottery, or any person residing in the household
20 thereof, is convicted of an act described by this section, such executive
21 director, member or employee shall be removed from office or employ-
22 ment with the commission.

23 (e) In addition to the provisions of this section, all other provisions
24 of law relating to conflicts of interest of state employees shall apply to the
25 members of the commission and employees of the Kansas lottery.

26 New Sec. 10. The attorney general shall appoint, with the approval
27 of the executive director, an assistant attorney general who shall be as-
28 signed exclusively to assist the Kansas destination casino commission in
29 the enforcement of the criminal and civil provisions of this act. Such
30 attorney shall receive an annual salary fixed by the attorney general with
31 the approval of the executive director. Such salary shall be paid by the
32 commission.

33 Sec. 11. K.S.A. 2006 Supp. 79-2959 is hereby amended to read as
34 follows: 79-2959. (a) There is hereby created the local ad valorem tax
35 reduction fund. All moneys transferred or credited to such fund under
36 the provisions of this act or any other law shall be apportioned and dis-
37 tributed in the manner provided herein.

38 (b) On January 15 and on July 15 of each year, the director of ac-
39 counts and reports shall make transfers in equal amounts which in the
40 aggregate equal 3.63% of the total retail sales and compensating taxes
41 credited to the state general fund pursuant to articles 36 and 37 of chapter
42 79 of Kansas Statutes Annotated and acts amendatory thereof and sup-
43 plemental thereto during the preceding calendar year from the state gen-

1 eral fund to the local ad valorem tax reduction fund, except that no mon-
2 eys shall be transferred from the state general fund to the local ad valorem
3 tax reduction fund during state fiscal years 2007 and 2008, and the amount
4 of the transfer on each such date shall be \$6,750,000 during the fiscal
5 year 2010, ~~\$13,500,000~~ *at least \$75,000,000* during fiscal year 2011,
6 ~~\$20,250,000 during fiscal year 2012, and \$27,000,000 during fiscal year~~
7 ~~2013~~ and all fiscal years thereafter. All such transfers are subject to re-
8 duction under K.S.A. 75-6704 and amendments thereto. All transfers
9 made in accordance with the provisions of this section shall be considered
10 to be demand transfers from the state general fund.

11 (c) The state treasurer shall apportion and pay the amounts trans-
12 ferred under subsection (b) to the several county treasurers on January
13 15 and on July 15 in each year as follows: (1) Sixty-five percent of the
14 amount to be distributed shall be apportioned on the basis of the popu-
15 lation figures of the counties certified to the secretary of state pursuant
16 to K.S.A. 11-201 and amendments thereto on July 1 of the preceding
17 year; and (2) thirty-five percent of such amount shall be apportioned on
18 the basis of the equalized assessed tangible valuations on the tax rolls of
19 the counties on November 1 of the preceding year as certified by the
20 director of property valuation.

21 Sec. 12. K.S.A. 2006 Supp. 79-4805 is hereby amended to read as
22 follows: 79-4805. (a) There is hereby established in the state treasury the
23 problem gambling grant fund. All moneys credited to such fund shall be
24 used only for the awarding of grants under this section. Such fund shall
25 be administered in accordance with this section and the provisions of
26 appropriation acts.

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

31 (c) (1) There is hereby established a state grant program to provide
32 assistance for the direct treatment of persons diagnosed as suffering from
33 pathological gambling and to provide funding for research regarding the
34 impact of gambling on residents of Kansas. Research grants awarded un-
35 der this section may include, but need not be limited to, grants for de-
36 termining the effectiveness of education and prevention efforts on the
37 prevalence of pathological gambling in Kansas. All grants shall be made
38 after open solicitation of proposals and evaluation of proposals against
39 criteria established in rules and regulations adopted by the secretary of
40 the department of social and rehabilitation services. Both public and pri-
41 vate entities shall be eligible to apply for and receive grants under the
42 provisions of this section.

43 (2) *On and after the first payment is made to the problem gambling*

1 *grant fund as provided in section 2, and amendments thereto, moneys*
2 *from such fund may be used to treat alcohol, drug abuse and other ad-*
3 *dictive behaviors in persons diagnosed as suffering from pathological*
4 *gambling.*

5 (d) The secretary of the department of social and rehabilitation serv-
6 ices is hereby authorized to receive moneys from any grants, gifts, con-
7 tributions or bequests made for the purpose of funding grants under this
8 section and to expend such moneys for the purpose for which received.

9 (e) All grants made in accordance with this section shall be made from
10 the problem gambling grant fund. The secretary shall administer the pro-
11 visions of this section and shall adopt rules and regulations establishing
12 criteria for qualification to receive grants and such other matters deemed
13 necessary by the secretary for the administration of this section. Such
14 rules and regulations shall include, but need not be limited to, a require-
15 ment that each recipient of a grant to provide treatment for pathological
16 gamblers report at least annually to the secretary the grantee's measurable
17 achievement of specific outcome goals.

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

21 Sec. 13. K.S.A. 2006 Supp. 79-4806 is hereby amended to read as
22 follows: 79-4806. *Except as provided by section 2, and amendments*
23 *thereto*, on July 1 of each year or as soon thereafter as sufficient moneys
24 are available, \$80,000 credited to the state gaming revenues fund shall
25 be transferred and credited to the problem gambling grant fund estab-
26 lished by K.S.A. 2006 Supp. 79-4805, and amendments thereto.

27 Sec. 14. K.S.A. 2006 Supp. 12-4516 is hereby amended to read as
28 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
29 person who has been convicted of a violation of a city ordinance of this
30 state may petition the convicting court for the expungement of such con-
31 viction and related arrest records if three or more years have elapsed
32 since the person:

33 (A) Satisfied the sentence imposed; or

34 (B) was discharged from probation, parole or a suspended sentence.

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

40 (b) No person may petition for expungement until five or more years
41 have elapsed since the person satisfied the sentence imposed or the terms
42 of a diversion agreement or was discharged from probation, parole, con-
43 ditional release or a suspended sentence, if such person was convicted of

1 the violation of a city ordinance which would also constitute:

2 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
3 ments thereto;

4 (2) driving while the privilege to operate a motor vehicle on the public
5 highways of this state has been canceled, suspended or revoked, as pro-
6 hibited by K.S.A. 8-262, and amendments thereto;

7 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-
8 ments thereto;

9 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,
10 and amendments thereto, relating to fraudulent applications;

11 (5) any crime punishable as a felony wherein a motor vehicle was
12 used in the perpetration of such crime;

13 (6) failing to stop at the scene of an accident and perform the duties
14 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;

15 (7) a violation of the provisions of K.S.A. 40-3104, and amendments
16 thereto, relating to motor vehicle liability insurance coverage; or

17 (8) a violation of K.S.A. 21-3405b, and amendments thereto.

18 (c) There shall be no expungement of convictions or diversions for a
19 violation of a city ordinance which would also constitute a violation of
20 K.S.A. 8-1567 or 8-2,144, and amendments thereto.

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

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

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

28 (4) the crime for which the defendant was arrested, convicted or
29 diverted;

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

31 (6) the identity of the convicting court, arresting law enforcement
32 agency or diverting authority. A municipal court may prescribe a fee to
33 be charged as costs for a person petitioning for an order of expungement
34 pursuant to this section. Any person who may have relevant information
35 about the petitioner may testify at the hearing. The court may inquire
36 into the background of the petitioner and shall have access to any reports
37 or records relating to the petitioner that are on file with the secretary of
38 corrections or the Kansas parole board.

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

42 (1) The petitioner has not been convicted of a felony in the past two
43 years and no proceeding involving any such crime is presently pending

- 1 or being instituted against the petitioner;
- 2 (2) the circumstances and behavior of the petitioner warrant the
3 expungement; and
- 4 (3) the expungement is consistent with the public welfare.
- 5 (f) When the court has ordered an arrest record, conviction or diver-
6 sion expunged, the order of expungement shall state the information re-
7 quired to be contained in the petition. The clerk of the court shall send
8 a certified copy of the order of expungement to the Kansas bureau of
9 investigation which shall notify the federal bureau of investigation, the
10 secretary of corrections and any other criminal justice agency which may
11 have a record of the arrest, conviction or diversion. After the order of
12 expungement is entered, the petitioner shall be treated as not having been
13 arrested, convicted or diverted of the crime, except that:
- 14 (1) Upon conviction for any subsequent crime, the conviction that
15 was expunged may be considered as a prior conviction in determining the
16 sentence to be imposed;
- 17 (2) the petitioner shall disclose that the arrest, conviction or diversion
18 occurred if asked about previous arrests, convictions or diversions:
- 19 (A) In any application for employment as a detective with a private
20 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
21 as security personnel with a private patrol operator, as defined by K.S.A.
22 75-7b01, and amendments thereto; or with an institution, as defined in
23 K.S.A. 76-12a01, and amendments thereto, of the department of social
24 and rehabilitation services;
- 25 (B) in any application for admission, or for an order of reinstatement,
26 to the practice of law in this state;
- 27 (C) to aid in determining the petitioner's qualifications for employ-
28 ment with the Kansas lottery or for work in sensitive areas within the
29 Kansas lottery as deemed appropriate by the executive director of the
30 Kansas lottery;
- 31 (D) *to aid in determining the petitioner's qualifications for executive*
32 *director of the Kansas destination casino commission, for employment*
33 *with the commission or for work in sensitive areas of casino gambling as*
34 *deemed appropriate by the executive director or in aid in determining the*
35 *qualifications of a person seeking a license as a destination casino man-*
36 *ager, key gaming employees or the renewal of such license.*
- 37 ~~(D)~~ (E) to aid in determining the petitioner's qualifications for ex-
38 ecutive director of the Kansas racing commission, for employment with
39 the commission or for work in sensitive areas in parimutuel racing as
40 deemed appropriate by the executive director of the commission, or to
41 aid in determining qualifications for licensure or renewal of licensure by
42 the commission;
- 43 ~~(E)~~ (F) upon application for a commercial driver's license under

- 1 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- 2 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an
3 employee of the state gaming agency;
- 4 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an
5 employee of a tribal gaming commission or to hold a license issued pur-
6 suant to a tribal-state gaming compact;
- 7 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
8 investment adviser or investment adviser representative all as defined in
9 K.S.A. 2006 Supp. 17-12a102, and amendments thereto;
- 10 (3) the court, in the order of expungement, may specify other cir-
11 cumstances under which the arrest, conviction or diversion is to be dis-
12 closed; and
- 13 (4) the conviction may be disclosed in a subsequent prosecution for
14 an offense which requires as an element of such offense a prior conviction
15 of the type expunged; or
- 16 ~~(I)~~ (5) in any application for employment as a law enforcement officer
17 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto.
- 18 (g) Whenever a person is convicted of an ordinance violation, pleads
19 guilty and pays a fine for such a violation, is placed on parole or probation
20 or is granted a suspended sentence for such a violation, the person shall
21 be informed of the ability to expunge the arrest records or conviction.
22 Whenever a person enters into a diversion agreement, the person shall
23 be informed of the ability to expunge the diversion.
- 24 (h) Subject to the disclosures required pursuant to subsection (f), in
25 any application for employment, license or other civil right or privilege,
26 or any appearance as a witness, a person whose arrest records, conviction
27 or diversion of an offense has been expunged under this statute may state
28 that such person has never been arrested, convicted or diverted of such
29 offense.
- 30 (i) Whenever the record of any arrest, conviction or diversion has
31 been expunged under the provisions of this section or under the provi-
32 sions of any other existing or former statute, the custodian of the records
33 of arrest, conviction, diversion and incarceration relating to that crime
34 shall not disclose the existence of such records, except when requested
35 by:
- 36 (1) The person whose record was expunged;
- 37 (2) a private detective agency or a private patrol operator, and the
38 request is accompanied by a statement that the request is being made in
39 conjunction with an application for employment with such agency or op-
40 erator by the person whose record has been expunged;
- 41 (3) a court, upon a showing of a subsequent conviction of the person
42 whose record has been expunged;
- 43 (4) the secretary of social and rehabilitation services, or a designee of

- 1 the secretary, for the purpose of obtaining information relating to em-
2 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
3 ments thereto, of the department of social and rehabilitation services of
4 any person whose record has been expunged;
- 5 (5) a person entitled to such information pursuant to the terms of the
6 expungement order;
- 7 (6) a prosecuting attorney, and such request is accompanied by a
8 statement that the request is being made in conjunction with a prosecu-
9 tion of an offense that requires a prior conviction as one of the elements
10 of such offense;
- 11 (7) the supreme court, the clerk or disciplinary administrator thereof,
12 the state board for admission of attorneys or the state board for discipline
13 of attorneys, and the request is accompanied by a statement that the
14 request is being made in conjunction with an application for admission,
15 or for an order of reinstatement, to the practice of law in this state by the
16 person whose record has been expunged;
- 17 (8) the Kansas lottery, and the request is accompanied by a statement
18 that the request is being made to aid in determining qualifications for
19 employment with the Kansas lottery or for work in sensitive areas within
20 the Kansas lottery as deemed appropriate by the executive director of the
21 Kansas lottery;
- 22 (9) the governor or the Kansas racing commission, or a designee of
23 the commission, and the request is accompanied by a statement that the
24 request is being made to aid in determining qualifications for executive
25 director of the commission, for employment with the commission, for
26 work in sensitive areas in parimutuel racing as deemed appropriate by
27 the executive director of the commission or for licensure, renewal of
28 licensure or continued licensure by the commission;
- 29 (10) the state gaming agency, and the request is accompanied by a
30 statement that the request is being made to aid in determining qualifi-
31 cations: (A) To be an employee of the state gaming agency; or (B) to be
32 an employee of a tribal gaming commission or to hold a license issued
33 pursuant to a tribal-state gaming compact;
- 34 (11) *the Kansas destination casino commission, and the request is*
35 *accompanied by a statement that the request is being made to aid in*
36 *determining qualifications to be an employee of the commission or for*
37 *work in sensitive areas of casino gambling as deemed appropriate by the*
38 *executive director or in aid in determining the qualifications of a person*
39 *seeking a license as a destination casino manager, key gaming employees*
40 *or the renewal of such license;*
- 41 ~~(11)~~ (12) 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 ~~(12)~~ (13) the attorney general, and the request is accompanied by a
5 statement that the request is being made to aid in determining qualifi-
6 cations for a license to carry a concealed weapon pursuant to the personal
7 and family protection act;
8 ~~(13)~~ (14) the Kansas sentencing commission;
9 ~~(14)~~ (15) the Kansas law enforcement training commission and the
10 request is accompanied by a statement that the request is being made to
11 aid in determining certification eligibility as a law enforcement officer
12 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or
13 ~~(15)~~ (16) a law enforcement agency and the request is accompanied
14 by a statement that the request is being made to aid in determining eli-
15 gibility for employment as a law enforcement officer as defined by K.S.A.
16 22-2202, and amendments thereto.

17 Sec. 15. K.S.A. 2006 Supp. 12-4516a is hereby amended to read as
18 follows: 12-4516a. (a) Any person who has been arrested on a violation
19 of a city ordinance of this state may petition the court for the expunge-
20 ment of such arrest record.

21 (b) When a petition for expungement is filed, the court shall set a
22 date for hearing on such petition and shall cause notice of such hearing
23 to be given to the prosecuting attorney and the arresting law enforcement
24 agency. When a petition for expungement is filed, the official court file
25 shall be separated from the other records of the court, and shall be dis-
26 closed only to a judge of the court and members of the staff of the court
27 designated by a judge of the district court, the prosecuting attorney, the
28 arresting law enforcement agency, or any other person when authorized
29 by a court order, subject to any conditions imposed by the order. The
30 petition shall state: (1) The petitioner's full name;

31 (2) the full name of the petitioner at the time of arrest, if different
32 than the petitioner's current name;

33 (3) the petitioner's sex, race and date of birth;

34 (4) the crime for which the petitioner was arrested;

35 (5) the date of the petitioner's arrest, and

36 (6) the identity of the arresting law enforcement agency.

37 A municipal court may prescribe a fee to be charged as costs for a
38 person petitioning for an order of expungement pursuant to this section,
39 except that no fee shall be charged to a person who was arrested as a
40 result of being a victim of identity theft under K.S.A. 2006 Supp. 21-4018,
41 and amendments thereto. Any person who may have relevant information
42 about the petitioner may testify at the hearing. The court may inquire
43 into the background of the petitioner.

- 1 (c) At the hearing on a petition for expungement, the court shall order
2 the arrest record and subsequent court proceedings, if any, expunged
3 upon finding: (1) The arrest occurred because of mistaken identity;
4 (2) a court has found that there was no probable cause for the arrest;
5 (3) the petitioner was found not guilty in court proceedings; or
6 (4) the expungement would be in the best interests of justice and (A)
7 charges have been dismissed; or (B) no charges have been or are likely
8 to be filed.
- 9 (d) When the court has ordered expungement of an arrest record and
10 subsequent court proceedings, if any, the order shall state the information
11 required to be stated in the petition and shall state the grounds for
12 expungement under subsection (c). The clerk of the court shall send a
13 certified copy of the order to the Kansas bureau of investigation which
14 shall notify the federal bureau of investigation, the secretary of corrections
15 and any other criminal justice agency which may have a record of the
16 arrest. If an order of expungement is entered, the petitioner shall be
17 treated as not having been arrested.
- 18 (e) If the ground for expungement is as provided in subsection (c)(4),
19 the court shall determine whether, in the interest of public welfare, the
20 records should be available for any of the following purposes: (1) In any
21 application for employment as a detective with a private detective agency,
22 as defined by K.S.A. 75-7b01 and amendments thereto; as security per-
23 sonnel with a private patrol operator, as defined by K.S.A. 75-7b01 and
24 amendments thereto; or with an institution, as defined in K.S.A. 76-12a01
25 and amendments thereto, of the department of social and rehabilitation
26 services;
- 27 (2) in any application for admission, or for an order of reinstatement,
28 to the practice of law in this state;
- 29 (3) to aid in determining the petitioner's qualifications for employ-
30 ment with the Kansas lottery or for work in sensitive areas within the
31 Kansas lottery as deemed appropriate by the executive director of the
32 Kansas lottery;
- 33 (4) to aid in determining the petitioner's qualifications for executive
34 director of the Kansas racing commission, for employment with the com-
35 mission or for work in sensitive areas in parimutuel racing as deemed
36 appropriate by the executive director of the commission, or to aid in
37 determining qualifications for licensure or renewal of licensure by the
38 commission;
- 39 (5) in any application for a commercial driver's license under K.S.A.
40 8-2,125 through 8-2,142 and amendments thereto;
- 41 (6) *to aid in determining the petitioner's qualifications for executive*
42 *director of the Kansas destination casino commission, for employment*
43 *with the commission or for work in the sensitive areas of casino gambling*

1 *as deemed appropriate by the executive director, or to aid in determining*
2 *the qualification for the issuance of a license or renewal of a license for a*
3 *destination casino manager;*

4 ~~(6)~~ (7) to aid in determining the petitioner's qualifications to be an
5 employee of the state gaming agency;

6 ~~(7)~~ (8) to aid in determining the petitioner's qualifications to be an
7 employee of a tribal gaming commission or to hold a license issued pur-
8 suant to a tribal-state gaming compact; or

9 ~~(8)~~ (9) in any other circumstances which the court deems appropriate.

10 (f) Subject to any disclosures required under subsection (e), in any
11 application for employment, license or other civil right or privilege, or
12 any appearance as a witness, a person whose arrest records have been
13 expunged as provided in this section may state that such person has never
14 been arrested.

15 (g) Whenever a petitioner's arrest records have been expunged as
16 provided in this section, the custodian of the records of arrest, incarcer-
17 ation due to arrest or court proceedings related to the arrest, shall not
18 disclose the arrest or any information related to the arrest, except as
19 directed by the order of expungement or when requested by the person
20 whose arrest record was expunged.

21 Sec. 16. K.S.A. 2006 Supp. 21-4619 is hereby amended to read as
22 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
23 any person convicted in this state of a traffic infraction, cigarette or to-
24 bacco infraction, misdemeanor or a class D or E felony, or for crimes
25 committed on or after July 1, 1993, nondrug crimes ranked in severity
26 levels 6 through 10 or any felony ranked in severity level 4 of the drug
27 grid, may petition the convicting court for the expungement of such con-
28 viction or related arrest records if three or more years have elapsed since
29 the person: (A) Satisfied the sentence imposed; or (B) was discharged
30 from probation, a community correctional services program, parole, post-
31 release supervision, conditional release or a suspended sentence.

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

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

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

1 the first degree as defined in K.S.A. 21-3401, and amendments thereto;
2 (14) murder in the second degree as defined in K.S.A. 21-3402, and
3 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.
4 21-3403, and amendments thereto; (16) involuntary manslaughter as de-
5 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-
6 slaughter while driving under the influence of alcohol or drugs as defined
7 in K.S.A. 2006 Supp. 21-3442, and amendments thereto; (18) sexual bat-
8 tery as defined in K.S.A. 21-3517, and amendments thereto, when the
9 victim was less than 18 years of age at the time the crime was committed;
10 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-
11 ments thereto; (20) a violation of K.S.A. 8-1567, and amendments thereto,
12 including any diversion for such violation; (21) a violation of K.S.A. 8-
13 2,144, and amendments thereto, including any diversion for such viola-
14 tion; or (22) any conviction for any offense in effect at any time prior to
15 the effective date of this act, that is comparable to any offense as provided
16 in this subsection.

17 (d) When a petition for expungement is filed, the court shall set a
18 date for a hearing of such petition and shall cause notice of such hearing
19 to be given to the prosecuting attorney and the arresting law enforcement
20 agency. *Except as otherwise provided by law, a petition for expungement*
21 *shall be accompanied by a payment of a docket fee in the amount of \$100.*

22 The petition shall state: (1) The defendant's full name;

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

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

26 (4) the crime for which the defendant was arrested, convicted or
27 diverted;

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

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

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

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

43 (2) the circumstances and behavior of the petitioner warrant the

1 expungement; and

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

3 (f) When the court has ordered an arrest record, conviction or diver-
4 sion expunged, the order of expungement shall state the information re-
5 quired to be contained in the petition. The clerk of the court shall send
6 a certified copy of the order of expungement to the Kansas bureau of
7 investigation which shall notify the federal bureau of investigation, the
8 secretary of corrections and any other criminal justice agency which may
9 have a record of the arrest, conviction or diversion. After the order of
10 expungement is entered, the petitioner shall be treated as not having been
11 arrested, convicted or diverted of the crime, except that:

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

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

17 (A) In any application for licensure as a private detective, private
18 detective agency, certification as a firearms trainer pursuant to K.S.A.
19 2006 Supp. 75-7b21, and amendments thereto, or employment as a de-
20 tective with a private detective agency, as defined by K.S.A. 75-7b01, and
21 amendments thereto; as security personnel with a private patrol operator,
22 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-
23 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the
24 department of social and rehabilitation services;

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

27 (C) to aid in determining the petitioner's qualifications for employ-
28 ment with the Kansas lottery or for work in sensitive areas within the
29 Kansas lottery as deemed appropriate by the executive director of the
30 Kansas lottery;

31 (D) to aid in determining the petitioner's qualifications for executive
32 director of the Kansas racing commission, for employment with the com-
33 mission or for work in sensitive areas in parimutuel racing as deemed
34 appropriate by the executive director of the commission, or to aid in
35 determining qualifications for licensure or renewal of licensure by the
36 commission;

37 (E) *to aid in determining the petitioner's qualifications for executive*
38 *director of the Kansas destination casino commission, for employment*
39 *with the commission or for work in sensitive areas of casino gambling as*
40 *deemed appropriate by the executive director or in aid in determining the*
41 *qualifications of a person seeking a license as a destination casino man-*
42 *ager, key gaming employees or the renewal of such license;*

43 ~~(E)~~ (F) upon application for a commercial driver's license under

- 1 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- 2 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an
3 employee of the state gaming agency;
- 4 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an
5 employee of a tribal gaming commission or to hold a license issued pur-
6 suant to a tribal-state gaming compact;
- 7 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
8 investment adviser or investment adviser representative all as defined in
9 K.S.A. 2006 Supp. 17-12a102, and amendments thereto; or
- 10 ~~(I)~~ (J) in any application for employment as a law enforcement officer
11 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
- 12 (3) the court, in the order of expungement, may specify other cir-
13 cumstances under which the conviction is to be disclosed;
- 14 (4) the conviction may be disclosed in a subsequent prosecution for
15 an offense which requires as an element of such offense a prior conviction
16 of the type expunged; and
- 17 (5) upon commitment to the custody of the secretary of corrections,
18 any previously expunged record in the possession of the secretary of cor-
19 rections may be reinstated and the expungement disregarded, and the
20 record continued for the purpose of the new commitment.
- 21 (g) Whenever a person is convicted of a crime, pleads guilty and pays
22 a fine for a crime, is placed on parole, postrelease supervision or proba-
23 tion, is assigned to a community correctional services program, is granted
24 a suspended sentence or is released on conditional release, the person
25 shall be informed of the ability to expunge the arrest records or convic-
26 tion. Whenever a person enters into a diversion agreement, the person
27 shall be informed of the ability to expunge the diversion.
- 28 (h) Subject to the disclosures required pursuant to subsection (f), in
29 any application for employment, license or other civil right or privilege,
30 or any appearance as a witness, a person whose arrest records, conviction
31 or diversion of a crime has been expunged under this statute may state
32 that such person has never been arrested, convicted or diverted of such
33 crime, but the expungement of a felony conviction does not relieve an
34 individual of complying with any state or federal law relating to the use
35 or possession of firearms by persons convicted of a felony.
- 36 (i) Whenever the record of any arrest, conviction or diversion has
37 been expunged under the provisions of this section or under the provi-
38 sions of any other existing or former statute, the custodian of the records
39 of arrest, conviction, diversion and incarceration relating to that crime
40 shall not disclose the existence of such records, except when requested
41 by:
- 42 (1) The person whose record was expunged;
- 43 (2) a private detective agency or a private patrol operator, and the

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

1 *rector of the commission, for employment with the commission, for work*
 2 *in sensitive areas in casino gambling as deemed appropriate by the ex-*
 3 *ecutive director or in aid in determining the qualifications of a person*
 4 *seeking a license as a destination casino manager, key gaming employees*
 5 *or the renewal of such license;*

6 ~~(12)~~ (13) the Kansas securities commissioner or a designee of the
 7 commissioner, and the request is accompanied by a statement that the
 8 request is being made in conjunction with an application for registration
 9 as a broker-dealer, agent, investment adviser or investment adviser rep-
 10 resentative by such agency and the application was submitted by the per-
 11 son whose record has been expunged;

12 ~~(13)~~ (14) the Kansas ~~law enforcement training~~ commission *on peace*
 13 *officers' standards and training* and the request is accompanied by a state-
 14 ment that the request is being made to aid in determining certification
 15 eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq.,
 16 and amendments thereto;

17 ~~(14)~~ (15) a law enforcement agency and the request is accompanied
 18 by a statement that the request is being made to aid in determining eli-
 19 gibility for employment as a law enforcement officer as defined by K.S.A.
 20 22-2202, and amendments thereto; or

21 ~~(15)~~ (16) the attorney general and the request is accompanied by a
 22 statement that the request is being made to aid in determining qualifi-
 23 cations for a license to carry a concealed weapon pursuant to the personal
 24 and family protection act.

25 (j) *The docket fee collected at the time the petition for expungement*
 26 *is filed shall be disbursed in accordance with K.S.A. 20-362, and amend-*
 27 *ments thereto.*

28 Sec. 17. K.S.A. 2006 Supp. 19-101a is hereby amended to read as
 29 follows: 19-101a. (a) The board of county commissioners may transact all
 30 county business and perform all powers of local legislation and adminis-
 31 tration it deems appropriate, subject only to the following limitations,
 32 restrictions or prohibitions:

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

35 (2) Counties may not affect the courts located therein.

36 (3) Counties shall be subject to acts of the legislature prescribing
 37 limits of indebtedness.

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

43 (5) Counties may not legislate on social welfare administered under

1 state law enacted pursuant to or in conformity with public law No. 271—
2 74th congress, or amendments thereof.

3 (6) Counties shall be subject to all acts of the legislature concerning
4 elections, election commissioners and officers and their duties as such
5 officers and the election of county officers.

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

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

12 (9) No county may levy ad valorem taxes under the authority of this
13 section upon real property located within any redevelopment project area
14 established under the authority of K.S.A. 12-1772, and amendments
15 thereto, unless the resolution authorizing the same specifically authorized
16 a portion of the proceeds of such levy to be used to pay the principal of
17 and interest upon bonds issued by a city under the authority of K.S.A.
18 12-1774, and amendments thereto.

19 (10) Counties shall have no power under this section to exempt from
20 any statute authorizing or requiring the levy of taxes and providing sub-
21 stitute and additional provisions on the same subject, unless the resolution
22 authorizing the same specifically provides for a portion of the proceeds
23 of such levy to be used to pay a portion of the principal and interest on
24 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
25 ments thereto.

26 (11) Counties may not exempt from or effect changes in the provi-
27 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

28 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
29 through 12-1,109, and amendments thereto, counties may not levy and
30 collect taxes on incomes from whatever source derived.

31 (13) Counties may not exempt from or effect changes in K.S.A. 19-
32 430, and amendments thereto.

33 (14) Counties may not exempt from or effect changes in K.S.A. 19-
34 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

35 (15) (A) Counties may not exempt from or effect changes in K.S.A.
36 13-13a26, and amendments thereto.

37 (B) This provision shall expire on June 30, 2006.

38 (16) (A) Counties may not exempt from or effect changes in K.S.A.
39 71-301a, and amendments thereto.

40 (B) This provision shall expire on June 30, 2006.

41 (17) Counties may not exempt from or effect changes in K.S.A. 19-
42 15,139, 19-15,140 and 19-15,141, and amendments thereto.

43 (18) Counties may not exempt from or effect changes in the provi-

- 1 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
2 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
3 through 12-1270 and 12-1276, and amendments thereto.
- 4 (19) Counties may not exempt from or effect changes in the provi-
5 sions of K.S.A. 19-211, and amendments thereto.
- 6 (20) Counties may not exempt from or effect changes in the provi-
7 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 8 (21) Counties may not regulate the production or drilling of any oil
9 or gas well in any manner which would result in the duplication of reg-
10 ulation by the state corporation commission and the Kansas department
11 of health and environment pursuant to chapter 55 and chapter 65 of the
12 Kansas Statutes Annotated, and amendments thereto, and any rules and
13 regulations adopted pursuant thereto. Counties may not require any li-
14 cense or permit for the drilling or production of oil and gas wells. Counties
15 may not impose any fee or charge for the drilling or production of any
16 oil or gas well.
- 17 (22) Counties may not exempt from or effect changes in K.S.A. 79-
18 41a04, and amendments thereto.
- 19 (23) Counties may not exempt from or effect changes in K.S.A. 79-
20 1611, and amendments thereto.
- 21 (24) Counties may not exempt from or effect changes in K.S.A. 79-
22 1494, and amendments thereto.
- 23 (25) Counties may not exempt from or effect changes in subsection
24 (b) of K.S.A. 19-202, and amendments thereto.
- 25 (26) Counties may not exempt from or effect changes in subsection
26 (b) of K.S.A. 19-204, and amendments thereto.
- 27 (27) Counties may not levy or impose an excise, severance or any
28 other tax in the nature of an excise tax upon the physical severance and
29 production of any mineral or other material from the earth or water.
- 30 (28) Counties may not exempt from or effect changes in K.S.A. 79-
31 2017 or 79-2101, and amendments thereto.
- 32 (29) Counties may not exempt from or effect changes in K.S.A. 2-
33 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
34 1,178 through 65-1,199, and amendments thereto.
- 35 (30) Counties may not exempt from or effect changes in K.S.A. 2006
36 Supp. 80-121, and amendments thereto.
- 37 (31) Counties may not exempt from or effect changes in K.S.A. 19-
38 228, and amendments thereto.
- 39 (32) Counties may not exempt from or effect changes in the wireless
40 enhanced 911 act, *in the VoIP enhanced 911 act* or in the provisions of
41 K.S.A. 12-5301 through 12-5308, and amendments thereto.
- 42 (33) Counties may not exempt from or effect changes in K.S.A. 2006
43 Supp. 26-601, and amendments thereto.

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

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

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

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

11 (36) *Counties may not exempt from nor effect changes to the eminent*
12 *domain procedure act.*

13 (37) *Counties may not exempt from nor effect changes to the Kansas*
14 *destination casino act.*

15 (b) Counties shall apply the powers of local legislation granted in
16 subsection (a) by resolution of the board of county commissioners. If no
17 statutory authority exists for such local legislation other than that set forth
18 in subsection (a) and the local legislation proposed under the authority
19 of such subsection is not contrary to any act of the legislature, such local
20 legislation shall become effective upon passage of a resolution of the
21 board and publication in the official county newspaper. If the legislation
22 proposed by the board under authority of subsection (a) is contrary to an
23 act of the legislature which is applicable to the particular county but not
24 uniformly applicable to all counties, such legislation shall become effec-
25 tive by passage of a charter resolution in the manner provided in K.S.A.
26 19-101b, and amendments thereto.

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

29 New Sec. 18. If any provision of this act or the application thereof
30 to any person or circumstances is held invalid, the invalidity shall not
31 affect other provisions or applications of the act which can be given effect
32 without the invalid provision or application and, to this end, the provisions
33 of this act are severable.

34 Sec. 19. K.S.A. 2006 Supp. 12-4516, 12-4516a, 19-101a, 19-101l, 21-
35 4619, 21-4619c, 79-2959, 79-4805, 79-4806 and K.S.A. 2005 Supp. 19-
36 101a as amended by section 4 of chapter 192 of the 2006 Session Laws
37 of Kansas are hereby repealed.

38 Sec. 20. This act shall take effect and be in force from and after its
39 publication in the statute book.