

SENATE Substitute for HOUSE BILL No. 2180

By Committee on Federal and State Affairs

3-24

10 AN ACT concerning the Kansas expanded lottery act; relating to race-
11 track gaming facilities; creating the Kansas agricultural opportunity act;
12 amending [**K.S.A. 21-4010, as amended by section 3 of 2010**
13 **House Bill No. 2221, and**] K.S.A. 2009 Supp. 74-8734, 74-8741, [**74-**
14 **8742,**] 74-8744, 74-8747, 74-8751 and 74-8768 and repealing the ex-
15 isting sections.

16

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

18 New Section 1. Sections 1 through 3, and amendments thereto, shall
19 be known and may be cited as the Kansas agricultural opportunity act,
20 and shall apply to implementation and operation of parimutuel racetrack
21 facilities authorized to offer lottery gaming facility games pursuant to
22 K.S.A. 74-8733 *et seq.*, and amendments thereto, and shall provide for
23 the establishment of a framework for encouraging economic opportunity
24 in rural Kansas through the expansion of horse and greyhound ownership,
25 breeding and investment.

26 New Sec. 2. (a) The official horse registering agency designated by
27 the Kansas racing and gaming commission pursuant to K.S.A. 74-8830,
28 and amendments thereto, shall be responsible for implementing proce-
29 dures and making recommendations related to the operation of live horse
30 racing pursuant to the requirements of section 3, and amendments
31 thereto.

32 (b) The official greyhound registering agency designated by the Kan-
33 sas racing and gaming commission pursuant to K.S.A. 74-8832, and
34 amendments thereto, shall be responsible for implementing procedures
35 and making recommendations related to the operation of live greyhound
36 racing pursuant to the requirements of section 3, and amendments
37 thereto.

38 New Sec. 3. (a) On or before December 1, the official breed regis-
39 tering agencies for both horse and greyhound breeds shall make recom-
40 mendations to the Kansas racing and gaming commission for implemen-
41 tation of programs which will maximize the benefit to economic
42 development in rural Kansas from purse supplements paid pursuant to
43 K.S.A. 2009 Supp. 74-8747, and amendments thereto. Such recommen-

1 dations made by each breed registering agency shall consider the
2 following:

3 (1) Increasing the number of registered breed horses bred in Kansas
4 and mares and stallions domiciled in Kansas;

5 (2) increasing the number of greyhounds whelped in Kansas and
6 greyhounds in Kansas;

7 (3) increasing the number of horses and greyhounds owned by Kan-
8 sas residents for the purposes of live racing; and

9 (4) creating jobs in Kansas associated with breeding and racing of
10 horses and greyhounds.

11 (b) On or before January 15, the official breed registering agencies
12 shall submit the following reports to the Kansas racing and gaming
13 commission:

14 (1) The number of horses bred in Kansas and the number of mares
15 and stallions domiciled in Kansas during the previous calendar year;

16 (2) the number of whelped greyhounds registered in Kansas during
17 the previous calendar year;

18 (3) the estimated number of horses and greyhounds owned by Kansas
19 residents during the previous calendar year; and

20 (4) the estimated amount of total purses paid by Kansas parimutuel
21 racetrack facilities with separate total amounts for each source of purse
22 funds.

23 Sec. 4. K.S.A. 2009 Supp. 74-8734 is hereby amended to read as
24 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
25 facility in each gaming zone.

26 (b) Not more than 30 days after the effective date of this act the
27 lottery commission shall adopt and publish in the Kansas register the
28 procedure for receiving, considering and approving, proposed lottery
29 gaming facility management contracts. Such procedure shall include pro-
30 visions for review of competitive proposals within a gaming zone and the
31 date by which proposed lottery gaming facility management contracts
32 must be received by the lottery commission if they are to receive
33 consideration.

34 (c) The lottery commission shall adopt standards to promote the in-
35 tegrity of the gaming and finances of lottery gaming facilities, which shall
36 apply to all management contracts, shall meet or exceed industry stan-
37 dards for monitoring and controlling the gaming and finances of gaming
38 facilities and shall give the executive director sufficient authority to mon-
39 itor and control the gaming operation and to ensure its integrity and
40 security.

41 (d) The Kansas lottery commission may approve management con-
42 tracts with one or more prospective lottery gaming facility managers to
43 manage, or construct and manage, on behalf of the state of Kansas and

1 subject to the operational control of the Kansas lottery, a lottery gaming
2 facility or lottery gaming enterprise at specified destination locations
3 within the northeast, south central, southwest and southeast Kansas gam-
4 ing zones where the commission determines the operation of such facility
5 would promote tourism and economic development. The commission
6 shall approve or disapprove a proposed management contract within 90
7 days after the deadline for receipt of proposals established pursuant to
8 subsection (b).

9 (e) In determining whether to approve a management contract with
10 a prospective lottery gaming facility manager to manage a lottery gaming
11 facility or lottery gaming enterprise pursuant to this section, the com-
12 mission shall take into consideration the following factors: The size of the
13 proposed facility; the geographic area in which such facility is to be lo-
14 cated; the proposed facility's location as a tourist and entertainment des-
15 tination; the estimated number of tourists that would be attracted by the
16 proposed facility; the number and type of lottery facility games to be
17 operated at the proposed facility; and agreements related to ancillary lot-
18 tery gaming facility operations.

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

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

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

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

41 (2) the commission determines that the proposed development cons-
42 sists of an investment in infrastructure, including ancillary lottery gaming
43 facility operations, of at least \$225,000,000 in the northeast, ~~southeast~~ and

1 south central Kansas gaming zones ~~and~~, of at least \$100,000,000 in the
2 southeast Kansas gaming zone and of at least \$50,000,000 in the south-
3 west Kansas gaming zone. The commission, in determining whether the
4 minimum investment required by this subsection is met, shall not include
5 any amounts derived from or financed by state or local retailers' sales tax
6 revenues.

7 (h) Any management contract approved by the commission under
8 this section shall:

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

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

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

19 (4) include a provision for the lottery gaming facility manager to pay
20 the costs of oversight and regulation of the lottery gaming facility manager
21 and the operations of the lottery gaming facility by the Kansas racing and
22 gaming commission *and the Kansas lottery*;

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

25 (6) provide for the prospective lottery gaming facility manager, upon
26 approval of the proposed lottery gaming facility management contract, to
27 pay to the state treasurer a privilege fee ~~[, nonrefundable, except as~~
28 ~~**provided in K.S.A. 2009 Supp. 74-8738, and amendments thereto,],**~~
29 ~~**nonrefundable, except as provided in K.S.A. 2009 Supp. 74-8738,**~~
30 ~~**and amendments thereto, and except in circumstances when a lot-**~~
31 ~~**tery facility management contract is disapproved by either the lot-**~~
32 ~~**tery gaming facility review board or the Kansas racing and gaming**~~
33 ~~**commission pursuant to K.S.A. 2009 Supp. 74-8736, and amend-**~~
34 ~~**ments thereto]**~~ of: (A) \$25,000,000 for the privilege of being selected as
35 a lottery gaming facility manager of a lottery gaming facility in the north-
36 east, ~~southeast~~ or south central Kansas gaming zone ~~and~~; (B) \$11,000,000
37 for the privilege of being selected as a lottery gaming facility manager of
38 a lottery gaming facility in the southeast Kansas gaming zone; and (C)
39 \$5,500,000 for the privilege of being selected as a lottery gaming facility
40 manager of a lottery gaming facility in the southwest Kansas gaming zone.
41 Such fee shall be deposited in the state treasury and credited to the lottery
42 gaming facility manager fund, which is hereby created in the state
43 treasury;

- 1 (7) incorporate terms and conditions for the ancillary lottery gaming
2 facility operations;
- 3 (8) designate as key employees, subject to approval of the executive
4 director, any employees or contractors providing services or functions
5 which are related to lottery facility games authorized by a management
6 contract;
- 7 (9) include financing commitments for construction;
- 8 (10) include a resolution of endorsement from the city governing
9 body, if the proposed facility is within the corporate limits of a city, or
10 from the county commission, if the proposed facility is located in the
11 unincorporated area of the county;
- 12 (11) include a requirement that any parimutuel licensee developing
13 a lottery gaming facility pursuant to this act comply with all orders and
14 rules and regulations of the Kansas racing and gaming commission with
15 regard to the conduct of live racing, including the same minimum days
16 of racing as specified in K.S.A. 2009 Supp. 74-8746, and amendments
17 thereto, for operation of electronic gaming machines at racetrack gaming
18 facilities;
- 19 (12) include a provision for the state to receive not less than 22% of
20 lottery gaming facility revenues, which shall be paid to the expanded
21 lottery act revenues fund established by K.S.A. 2009 Supp. 74-8768, and
22 amendments thereto;
- 23 (13) include a provision for 2% of lottery gaming facility revenues to
24 be paid to the problem gambling and addictions grant fund established
25 by K.S.A. 2009 Supp. 79-4805, and amendments thereto;
- 26 (14) if the prospective lottery gaming facility manager is an American
27 Indian tribe, include a provision that such tribe agrees to waive its sov-
28 ereign immunity with respect to any actions arising from or to enforce
29 either the Kansas expanded lottery act or any provision of the lottery
30 gaming facility management contract; any action brought by an injured
31 patron or by the state of Kansas; any action for purposes of enforcing the
32 workers compensation act or any other employment or labor law; and any
33 action to enforce laws, rules and regulations and codes pertaining to
34 health, safety and consumer protection; and for any other purpose
35 deemed necessary by the executive director to protect patrons or em-
36 ployees and promote fair competition between the tribe and others seek-
37 ing a lottery gaming facility management contract;
- 38 (15) (A) if the lottery gaming facility is located in the northeast or
39 southwest Kansas gaming zone and is not located within a city, include a
40 provision for payment of an amount equal to 3% of the lottery gaming
41 facility revenues to the county in which the lottery gaming facility is lo-
42 cated; or (B) if the lottery gaming facility is located in the northeast or
43 southwest Kansas gaming zone and is located within a city, include pro-

1 vision for payment of an amount equal to 1.5% of the lottery gaming
2 facility revenues to the city in which the lottery gaming facility is located
3 and an amount equal to 1.5% of such revenues to the county in which
4 such facility is located;

5 (16) (A) if the lottery gaming facility is located in the southeast or
6 south central Kansas gaming zone and is not located within a city, include
7 a provision for payment of an amount equal to 2% of the lottery gaming
8 facility revenues to the county in which the lottery gaming facility is lo-
9 cated and an amount equal to 1% of such revenues to the other county
10 in such zone; or (B) if the lottery gaming facility is located in the southeast
11 or south central Kansas gaming zone and is located within a city, provide
12 for payment of an amount equal to 1% of the lottery gaming facility
13 revenues to the city in which the lottery gaming facility is located, an
14 amount equal to 1% of such revenues to the county in which such facility
15 is located and an amount equal to 1% of such revenues to the other county
16 in such zone;

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

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

35 (19) include enforceable provisions: (A) Prohibiting the state, until
36 July 1, 2032, from (i) entering into management contracts for more than
37 four lottery gaming facilities or similar gaming facilities, one to be located
38 in the northeast Kansas gaming zone, one to be located in the south
39 central Kansas gaming zone, one to be located in the southwest Kansas
40 gaming zone and one to be located in the southeast Kansas gaming zone,
41 (ii) designating additional areas of the state where operation of lottery
42 gaming facilities or similar gaming facilities would be authorized or (iii)
43 operating an aggregate of more than 2,800 electronic gaming machines

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

6 (i) The power of eminent domain shall not be used to acquire any
7 interest in real property for use in a lottery gaming enterprise.

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

11 (k) A person who is the manager of the racetrack gaming facility in a
12 gaming zone shall not be eligible to be the manager of the lottery gaming
13 facility in the same zone.

14 (l) Management contracts authorized by this section may include pro-
15 visions relating to:

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

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

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

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

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

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

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

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

- 1 (n) (1) The Kansas lottery shall be the licensee and owner of all soft-
2 ware programs used at a lottery gaming facility for any lottery facility
3 game.
- 4 (2) A lottery gaming facility manager, on behalf of the state, shall
5 purchase or lease for the Kansas lottery all lottery facility games. All lot-
6 tery facility games shall be subject to the ultimate control of the Kansas
7 lottery in accordance with this act.
- 8 (o) A lottery gaming facility shall comply with any planning and zon-
9 ing regulations of the city or county in which it is to be located. The
10 executive director shall not contract with any prospective lottery gaming
11 facility manager for the operation and management of such lottery gaming
12 facility unless such manager first receives any necessary approval under
13 planning and zoning requirements of the city or county in which it is to
14 be located.
- 15 (p) Prior to expiration of the term of a lottery gaming facility man-
16 agement contract, the lottery commission may negotiate a new lottery
17 gaming facility management contract with the lottery gaming facility man-
18 ager if the new contract is substantially the same as the existing contract.
19 Otherwise, the lottery gaming facility review board shall be reconstituted
20 and a new lottery gaming facility management contract shall be negotiated
21 and approved in the manner provided by this act.
- 22 Sec. 5. K.S.A. 2009 Supp. 74-8741 is hereby amended to read as
23 follows: 74-8741. (a) The executive director of the Kansas lottery shall
24 negotiate a racetrack gaming facility management contract to place elec-
25 tronic gaming machines at one parimutuel licensee location in each gam-
26 ing zone except the southwest Kansas gaming zone.
- 27 (b) To be eligible to enter into a racetrack gaming facility manage-
28 ment contract the prospective racetrack gaming facility manager shall, at
29 a minimum:
- 30 (1) Have sufficient access to financial resources to support the activ-
31 ities required of a racetrack gaming facility manager under the Kansas
32 expanded lottery act; and
- 33 (2) be current in filing all applicable tax returns and in payment of
34 all taxes, interest and penalties owed to the state of Kansas and any taxing
35 subdivision where such prospective manager is located in the state of
36 Kansas, excluding items under formal appeal pursuant to applicable
37 statutes.
- 38 (c) A racetrack gaming facility management contract shall include:
- 39 (1) The term of the contract;
- 40 (2) provisions for the Kansas racing and gaming commission to over-
41 see all racetrack gaming facility operations, including, but not limited to:
42 Oversight of internal controls; oversight of security of facilities; perform-
43 ance of background investigations, determination of qualifications and any

1 required certification or licensing of officers, directors, board members,
2 employees, contractors and agents of the racetrack gaming facility man-
3 ager; auditing of net electronic gaming machine income and maintenance
4 of the integrity of electronic gaming machine operations;

5 (3) provisions for the racetrack gaming facility manager to pay the
6 costs of oversight and regulation of the racetrack gaming facility manager
7 under this act and such manager's racetrack gaming facility operations by
8 the Kansas racing and gaming commission *and the Kansas lottery*; ~~and~~

9 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
10 2032, from (i) entering into management contracts for more than ~~three~~
11 *four* lottery gaming facilities or similar gaming facilities, one to be located
12 in the northeast Kansas gaming zone, one to be located in the south
13 central Kansas gaming zone ~~and~~, one to be located in the southeast Kansas
14 gaming zone *and one to be located in the southwest Kansas gaming zone*,
15 (ii) designating additional areas of the state where operation of lottery
16 gaming facilities or similar gaming facilities would be authorized or (iii)
17 operating an aggregate of more than 2,800 electronic gaming machines
18 at all parimutuel licensee locations; and (B) requiring the state to repay
19 to the racetrack gaming facility manager an amount equal to the privilege
20 fee paid by such racetrack gaming facility manager, plus interest on such
21 amount, compounded annually at the rate of 10%, if the state violates the
22 prohibition provision described in (A); ~~and~~

23 ***[(5) a resolution of endorsement from the city governing body,***
24 ***if the proposed facility is within the corporate limits of a city, or***
25 ***from the county commission, if the proposed facility is located in***
26 ***the unincorporated area of the county.]***

27 (d) Racetrack gaming facility management contracts authorized by
28 this section may include provisions relating to:

29 (1) Accounting procedures to determine net electronic gaming ma-
30 chine income, unclaimed prizes and credits;

31 (2) minimum requirements for a racetrack gaming facility manager
32 to provide qualified oversight, security and supervision of electronic gam-
33 ing machines including the use of qualified personnel with experience in
34 applicable technology;

35 (3) eligibility requirements for employees, contractors or agents of a
36 racetrack gaming facility manager who will have responsibility for or in-
37 volvement with electronic gaming machines or for the handling of cash
38 or tokens;

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

41 (5) credentialing or certification requirements of any employee, con-
42 tractor or agent as provided by the Kansas expanded lottery act or rules
43 and regulations adopted pursuant thereto;

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

3 (7) any other provision deemed necessary by the parties, including
4 such other terms and restrictions as necessary to conduct racetrack gam-
5 ing facility operations in a legal and fair manner.

6 (e) A person who is the manager of a lottery gaming facility in a
7 gaming zone shall not be eligible to be the manager of the racetrack
8 gaming facility in the same zone.

9 (f) A racetrack gaming facility management contract shall not consti-
10 tute property, nor shall it be subject to attachment, garnishment or exe-
11 cution, nor shall it be alienable or transferable, except upon approval by
12 the executive director, nor shall it be subject to being encumbered or
13 hypothecated.

14 **[Sec. 6. K.S.A. 2009 Supp. 74-8742 is hereby amended to read**
15 **as follows: 74-8742. (a) The executive director shall submit the pro-**
16 **posed racetrack gaming facility management contract to the com-**
17 **mission for the commission's approval. The commission shall not ap-**
18 **prove a management contract unless the commission determines that the**
19 **proposed development consists of an investment in infrastructure of at**
20 **least \$50,000,000 in the northeast and south central Kansas gaming zones,**
21 **and of at least \$25,000,000 in the southeast Kansas gaming zone. The**
22 **commission, in determining whether the minimum investment required**
23 **by this subsection is met, shall not include any amounts derived from or**
24 **financed by state or local retailers' sales tax revenues.**

25 **[(b) Upon approval of the Kansas lottery commission, the exec-**
26 **utive director shall submit such contract to the Kansas racing and**
27 **gaming commission for approval. The Kansas racing and gaming**
28 **commission shall conduct such background investigations of the**
29 **proposed racetrack gaming facility manager, and its officers, direc-**
30 **tors, employees, owners, agents and contractors, as determined in**
31 **accordance with rules and regulations adopted by the Kansas racing**
32 **and gaming commission. Upon completion of such investigations**
33 **and approval of the background of the proposed racetrack gaming**
34 **facility manager, and its officers, directors, employees, owners,**
35 **agents and contractors, the Kansas racing and gaming commission**
36 **shall vote to approve or reject the contract in whole. If the Kansas**
37 **racing and gaming commission rejects the contract, the Kansas rac-**
38 **ing and gaming commission shall notify the executive director of the**
39 **lottery and make recommendations regarding negotiation of the**
40 **contract. The executive director may then resume negotiations with**
41 **the proposed racetrack gaming facility manager.]**

42 Sec. ~~6~~ [7.] K.S.A. 2009 Supp. 74-8744 is hereby amended to read
43 as follows: 74-8744. (a) In accordance with rules and regulations adopted

1 by the commission, the executive director shall have general responsibility
2 for the implementation and administration of the provisions of this act
3 relating to racetrack gaming facility operations, including the responsi-
4 bility to:

5 (1) Certify net electronic gaming machine income by inspecting re-
6 cords, conducting audits, having agents of the Kansas lottery on site or
7 by any other reasonable means; and

8 (2) assist the commission in the promulgation of rules and regulations
9 concerning the operation of racetrack gaming facilities, which rules and
10 regulations shall include, without limitation, the following:

11 (A) The number of electronic gaming machines allocated for place-
12 ment at each racetrack gaming facility, subject to the provisions of sub-
13 section (b);

14 (B) standards for advertising, marketing and promotional materials
15 used by racetrack gaming facility managers;

16 (C) the kind, type, number and location of electronic gaming ma-
17 chines at any racetrack gaming facility; and

18 (D) rules and regulations and procedures for the accounting and re-
19 porting of the payments required from racetrack gaming facility managers
20 under K.S.A. 2009 Supp. 74-8766, and amendments thereto, including
21 the calculations required for such payments.

22 (b) Rules and regulations establishing the minimum and maximum
23 number of electronic gaming machines allocated for placement at each
24 racetrack gaming facility shall be adopted and published not later than
25 120 days after the effective date of this act. Such rules and regulations
26 shall be subject to the following:

27 (1) At least 600, *but not more than 1,200* electronic gaming machines
28 shall be allocated to and placed at each racetrack gaming facility.

29 (2) The total number of electronic gaming machines allocated to and
30 placed at all racetrack gaming facilities in the state shall not exceed 2,800.
31 ~~Until lottery gaming facility management contracts for lottery gaming~~
32 ~~facilities in all gaming zones become binding, the total number of elec-~~
33 ~~tronic gaming machines placed at all racetrack gaming facilities shall not~~
34 ~~exceed 2,200. When lottery gaming facility management contracts for~~
35 ~~lottery gaming facilities in all gaming zones have become binding, the~~
36 ~~lottery commission shall take privilege fee bids from the lottery gaming~~
37 ~~facility manager and racetrack gaming facility manager in each gaming~~
38 ~~zone for the remaining electronic gaming machines allocated to but not~~
39 ~~yet placed at the racetrack gaming facility in such zone. The minimum~~
40 ~~bid shall be a privilege fee of \$2,500 per electronic gaming machine. If~~
41 ~~the racetrack gaming facility manager submits the highest bid, the lottery~~
42 ~~commission shall place the remaining electronic gaming machines at the~~
43 ~~racetrack gaming facility. If the lottery gaming facility manager submits~~

1 ~~the highest bid, the commission shall not place any additional electronic~~
2 ~~gaming machines at the racetrack gaming facility.~~

3 (3) ~~In addition to any privilege fee paid pursuant to paragraph (2),~~
4 Each racetrack gaming facility manager shall pay a privilege fee of \$2,500
5 for each electronic gaming machine placed at the racetrack gaming facility
6 ~~for which a privilege fee is not paid pursuant to paragraph (2).~~

7 (4) The racetrack gaming facility manager shall pay the privilege fees
8 provided by this subsection to the executive director, who shall remit the
9 entire amount to the state treasurer in accordance with K.S.A. 75-4215,
10 and amendments thereto. Upon receipt of the remittance, the state trea-
11 surer shall deposit the entire amount in the state treasury and credit it to
12 the expanded lottery act revenues fund.

13 Sec. ~~7~~ [8.] K.S.A. 2009 Supp. 74-8747 is hereby amended to read
14 as follows: 74-8747. (a) Net electronic gaming machine income from a
15 racetrack gaming facility [**located in the south central or southeast**
16 **Kansas gaming zone**] shall be distributed as follows:

17 (1) To the racetrack gaming facility manager, an amount equal to ~~25%~~
18 ~~not more than 58%~~ of net electronic gaming machine income;

19 (2) 7% of net electronic gaming machine income shall be credited to
20 the live horse racing purse supplement fund established by K.S.A. 2009
21 Supp. 74-8767, and amendments thereto, ~~except that the amount of net~~
22 ~~electronic gaming machine income credited to the fund during any fiscal~~
23 ~~year from electronic gaming machines at a racetrack gaming facility shall~~
24 ~~not exceed an amount equal to the average of \$3,750 per electronic gam-~~
25 ~~ing machine at each location and any moneys in excess of such amount~~
26 ~~shall be distributed between the state and the racetrack gaming facility~~
27 ~~manager in accordance with the racetrack gaming facility management~~
28 ~~contract;~~

29 (3) 7% of net electronic gaming machine income shall be credited to
30 the live greyhound racing purse supplement fund established by K.S.A.
31 2009 Supp. 74-8767, and amendments thereto, ~~except that the amount~~
32 ~~of net electronic gaming machine income credited to the fund during any~~
33 ~~fiscal year from electronic gaming machines at a racetrack gaming facility~~
34 ~~shall not exceed an amount equal to the average of \$3,750 per electronic~~
35 ~~gaming machine at each location and any moneys in excess of such~~
36 ~~amount shall be distributed between the state and the racetrack gaming~~
37 ~~facility manager in accordance with the racetrack gaming facility man-~~
38 ~~agement contract;~~

39 ~~(4) (A) if the racetrack gaming facility is located in the northeast Kan-~~
40 ~~sas gaming zone and is not located within a city, include a provision for~~
41 ~~payment of an amount equal to 3% of the racetrack gaming facility rev-~~
42 ~~enues net electronic gaming machine income to the county in which the~~
43 ~~racetrack gaming facility is located, or (B) if the racetrack gaming facility~~

1 ~~is located in the northeast Kansas gaming zone and is located within a~~
2 ~~city, include provision for payment of an amount equal to 1.5% of the~~
3 ~~racetrack gaming facility revenues net electronic gaming machine income~~
4 ~~to the city in which the racetrack gaming facility is located and an amount~~
5 ~~equal to 1.5% of such revenues income to the county in which such facility~~
6 ~~is located;~~
7 ~~(5) [(4)]~~ (A) if the racetrack gaming facility ~~is located in the south-~~
8 ~~east or south central Kansas gaming zone and~~ is not located within a city,
9 include a provision for payment of an amount equal to 2% of the ~~racetrack~~
10 ~~gaming facility revenues net electronic gaming machine income~~ to the
11 county in which the racetrack gaming facility is located and an amount
12 equal to 1% of such ~~revenues~~ income to the other county in such zone;
13 or (B) if the racetrack gaming facility ~~is located in the southeast or south~~
14 ~~central Kansas gaming zone and~~ is located within a city, provide for pay-
15 ment of an amount equal to 1% of the ~~racetrack gaming facility revenues~~
16 ~~net electronic gaming machine income~~ to the city in which the racetrack
17 gaming facility is located, an amount equal to 1% of such ~~revenues~~ income
18 to the county in which such facility is located and an amount equal to 1%
19 of such ~~revenues~~ income to the other county in such zone;
20 ~~(6) [(5)]~~ 2% of net electronic gaming machine income shall be cred-
21 ited to the problem gambling and addictions grant fund established by
22 K.S.A. 2009 Supp. 79-4805, and amendments thereto;
23 ~~(7) [(6)]~~ 1% of net electronic gaming machine income shall be cred-
24 ited to the Kansas horse fair racing benefit fund established by K.S.A. 74-
25 8838, and amendments thereto; and
26 ~~(8) [(7)]~~ 40% not less than 22% of net electronic gaming machine
27 income shall be credited to the expanded lottery act revenues fund; and
28 ~~(9)~~ 15% of electronic gaming machine income shall be used for gam-
29 ing expenses, subject to agreement between the Kansas lottery and the
30 racetrack gaming facility manager.
31 (b) A racetrack gaming facility management contract may include
32 provisions for a parimutuel licensee or any other entity to pay the pari-
33 mutuel licensee's expenses related to electronic gaming machines, as the
34 executive director deems appropriate, subject to the requirements of sub-
35 section (a)(9).
36 **[New Sec. 9. (a) Net electronic gaming machine income from a**
37 **racetrack gaming facility located in the northeast Kansas gaming**
38 **zone shall be distributed as follows:**
39 **[(1) To the racetrack gaming facility manager, an amount equal**
40 **to 25% of net electronic gaming machine income;**
41 **[(2) 7% of net electronic gaming machine income shall be cred-**
42 **ited to the live horse racing purse supplement fund established by**
43 **K.S.A. 2009 Supp. 74-8767, and amendments thereto, except that**

1 *the amount of net electronic gaming machine income credited to the*
2 *fund during any fiscal year from electronic gaming machines at a*
3 *racetrack gaming facility shall not exceed an amount equal to the*
4 *average of \$3,750 per electronic gaming machine at each location*
5 *and any moneys in excess of such amount shall be distributed be-*
6 *tween the state and the racetrack gaming facility manager in ac-*
7 *cordance with the racetrack gaming facility management contract;*
8 *[(3) 7% of net electronic gaming machine income shall be cred-*
9 *ited to the live greyhound racing purse supplement fund established*
10 *by K.S.A. 2009 Supp. 74-8767, and amendments thereto, except that*
11 *the amount of net electronic gaming machine income credited to the*
12 *fund during any fiscal year from electronic gaming machines at a*
13 *racetrack gaming facility shall not exceed an amount equal to the*
14 *average of \$3,750 per electronic gaming machine at each location*
15 *and any moneys in excess of such amount shall be distributed be-*
16 *tween the state and the racetrack gaming facility manager in ac-*
17 *cordance with the racetrack gaming facility management contract;*
18 *[(4) (A) if the racetrack gaming facility is not located within a*
19 *city, include a provision for payment of an amount equal to 3% of*
20 *the net electronic gaming machine income to the county in which*
21 *the racetrack gaming facility is located; or (B) if the racetrack gam-*
22 *ing facility is located within a city, include provision for payment*
23 *of an amount equal to 1.5% of the net electronic gaming machine*
24 *income to the city in which the racetrack gaming facility is located*
25 *and an amount equal to 1.5% of such revenues to the county in*
26 *which such facility is located;*
27 *[(5) 2% of net electronic gaming machine income shall be cred-*
28 *ited to the problem gambling and addictions grant fund established*
29 *by K.S.A. 2009 Supp. 79-4805, and amendments thereto;*
30 *[(6) 1% of net electronic gaming machine income shall be cred-*
31 *ited to the Kansas horse fair racing benefit fund established by*
32 *K.S.A. 74-8838, and amendments thereto;*
33 *[(7) 40% of net electronic gaming machine income shall be cred-*
34 *ited to the expanded lottery act revenues fund; and*
35 *[(8) 15% of electronic gaming machine income shall be used for*
36 *gaming expenses, subject to agreement between the Kansas lottery*
37 *and the racetrack gaming facility manager.*
38 *[(b) A racetrack gaming facility management contract may in-*
39 *clude provisions for a parimutuel licensee or any other entity to pay*
40 *the parimutuel licensee's expenses related to electronic gaming ma-*
41 *chines, as the executive director deems appropriate, subject to the*
42 *requirements of subsection (a)(9).*
43 *[(c) On and after January 1, 2013, net electronic gaming ma-*

1 *chine income from a racetrack gaming facility located in the north-*
2 *east Kansas gaming zone shall be distributed as follows:*

3 *[(1) To the racetrack gaming facility manager, an amount equal*
4 *to not more than 58% of net electronic gaming machine income;*

5 *[(2) 7% of net electronic gaming machine income shall be cred-*
6 *ited to the live horse racing purse supplement fund established by*
7 *K.S.A. 2009 Supp. 74-8767, and amendments thereto;*

8 *[(3) 7% of net electronic gaming machine income shall be cred-*
9 *ited to the live greyhound racing purse supplement fund established*
10 *by K.S.A. 2009 Supp. 74-8767, and amendments thereto;*

11 *[(4) (A) if the racetrack gaming facility is not located within a*
12 *city, include a provision for payment of an amount equal to 3% of*
13 *the net electronic gaming machine income to the county in which*
14 *the racetrack gaming facility is located; or (B) if the racetrack gam-*
15 *ing facility is located within a city, include provision for payment*
16 *of an amount equal to 1.5% of the net electronic gaming machine*
17 *income to the city in which the racetrack gaming facility is located*
18 *and an amount equal to 1.5% of such revenues to the county in*
19 *which such facility is located;*

20 *[(5) 2% of net electronic gaming machine income shall be cred-*
21 *ited to the problem gambling and addictions grant fund established*
22 *by K.S.A. 2009 Supp. 79-4805, and amendments thereto;*

23 *[(6) 1% of net electronic gaming machine income shall be cred-*
24 *ited to the Kansas horse fair racing benefit fund established by*
25 *K.S.A. 74-8838, and amendments thereto; and*

26 *[(7) not less than 22% of net electronic gaming machine income*
27 *shall be credited to the expanded lottery act revenues fund.*

28 *[(d) On and after January 1, 2013, a racetrack gaming facility*
29 *management contract may include provisions for a parimutuel li-*
30 *censee or any other entity to pay the parimutuel licensee's expenses*
31 *related to electronic gaming machines, as the executive director*
32 *deems appropriate.]*

33 *Sec. ~~8~~ [10.] K.S.A. 2009 Supp. 74-8751 is hereby amended to read*
34 *as follows: 74-8751. The Kansas racing and gaming commission, through*
35 *rules and regulations, shall establish:*

36 *(a) A certification requirement, and enforcement procedure, for of-*
37 *ficers, directors, key employees and persons directly or indirectly owning*
38 *a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or race-*
39 *track gaming facility manager. Such certification requirement shall in-*
40 *clude compliance with such security, fitness and background investiga-*
41 *tions and standards as the executive director of the Kansas racing and*
42 *gaming commission deems necessary to determine whether such person's*
43 *reputation, habits or associations pose a threat to the public interest of*

1 the state or to the reputation of or effective regulation and control of the
2 lottery gaming facility or racetrack gaming facility. *In the case of a publicly*
3 *traded company subject to the jurisdiction of the United States securities*
4 *and exchange commission, such certification requirements shall require*
5 *such security, fitness and background investigations and standards of of-*
6 *ficers, directors, key gaming employees and persons directly or indirectly*
7 *owning a 5% or more interest in such entity, and specify that such publicly*
8 *traded company annually provide a list of all identifiable shareholders.*
9 *In the case of institutional investors in a publicly traded company, the*
10 *certification requirement shall provide a procedure for issuance of waivers*
11 *of the background investigation requirement by the executive director of*
12 *the Kansas racing and gaming commission.* Any person convicted of any
13 felony, a crime involving gambling or a crime of moral turpitude prior to
14 applying for a certificate hereunder or at any time thereafter shall be
15 deemed unfit. The Kansas racing and gaming commission shall conduct
16 the security, fitness and background checks required pursuant to this
17 subsection. Certification pursuant to this subsection shall not be assign-
18 able or transferable;

19 (b) a certification requirement, and enforcement procedure, for
20 those persons, including electronic gaming machine manufacturers, tech-
21 nology providers and computer system providers, who propose to contract
22 with a lottery gaming facility manager, a racetrack gaming facility manager
23 or the state for the provision of goods or services related to a lottery
24 gaming facility or racetrack gaming facility, including management serv-
25 ices. Such certification requirements shall include compliance with such
26 security, fitness and background investigations and standards of officers,
27 directors, key gaming employees and persons directly or indirectly owning
28 a ~~0.5%~~ 5% or more interest in such entity as the executive director of the
29 Kansas racing and gaming commission deems necessary to determine
30 whether such person's reputation, habits and associations pose a threat
31 to the public interest of the state or to the reputation of or effective
32 regulation and control of the lottery gaming facility or racetrack gaming
33 facility. *In the case of a publicly traded company subject to the jurisdiction*
34 *of the United States securities and exchange commission or equivalent*
35 *foreign securities law, such certification requirements shall require such*
36 *security, fitness and background investigations and standards of officers,*
37 *directors, key gaming employees and persons directly or indirectly owning*
38 *a 5% or more interest in such entity, and specify that such publicly traded*
39 *company annually provide a list of all identifiable shareholders. In the*
40 *case of institutional investors in a publicly traded company, the certifi-*
41 *cation requirement shall provide a procedure for issuance of waivers of*
42 *the background investigation requirement by the executive director of the*
43 *Kansas racing and gaming commission.* Any person convicted of any fel-

1 ony, a crime involving gambling or a crime of moral turpitude prior to
2 applying for a certificate hereunder or at any time thereafter shall be
3 deemed unfit. If the executive director of the racing and gaming com-
4 mission determines the certification standards of another state are com-
5 prehensive, thorough and provide similar adequate safeguards, the ex-
6 ecutive director may certify an applicant already certified in such state
7 without the necessity of a full application and background check. The
8 Kansas racing and gaming commission shall conduct the security, fitness
9 and background checks required pursuant to this subsection. Certification
10 pursuant to this subsection shall not be assignable or transferable;

11 (c) provisions for revocation of a certification required by subsection
12 (a) or (b) upon a finding that the certificate holder, an officer or director
13 thereof or a person directly or indirectly owning a ~~0.5%~~ 5% or more
14 interest therein: (1) Has knowingly provided false or misleading material
15 information to the Kansas lottery or its employees; or (2) has been con-
16 victed of a felony, gambling related offense or any crime of moral turpi-
17 tude; and

18 (d) provisions for suspension, revocation or nonrenewal of a certifi-
19 cation required by subsection (a) or (b) upon a finding that the certificate
20 holder, an officer or director thereof or a person directly or indirectly
21 owning a ~~0.5%~~ 5% or more interest therein: (1) Has failed to notify the
22 Kansas lottery about a material change in ownership of the certificate
23 holder, or any change in the directors or officers thereof; (2) is delinquent
24 in remitting money owed to the Kansas lottery; (3) has violated any pro-
25 vision of any contract between the Kansas lottery and the certificate
26 holder; or (4) has violated any provision of the Kansas expanded lottery
27 act or any rule and regulation adopted hereunder.

28 Sec. ~~9~~ **[11.]** K.S.A. 2009 Supp. 74-8768 is hereby amended to read
29 as follows: 74-8768. There is hereby created the expanded lottery act
30 revenues fund in the state treasury. All expenditures and transfers from
31 such fund shall be made in accordance with appropriation acts. All mon-
32 eys credited to such fund shall be expended or transferred only for the
33 purposes of reduction of state debt, ~~state infrastructure improvements~~
34 ***[expenditures for deferred maintenance of regents institutions pur-***
35 ***suant to K.S.A. 2009 Supp. 76-7,101 et seq., and amendments***
36 ***thereto]***, *expenditures by the Kansas public employees retirement system*
37 *to be applied to the payment of the unfunded actuarial liability of the*
38 *state for the state of Kansas and participating employers under K.S.A. 74-*
39 *4931, and amendments thereto, portion of such liability, as directed by*
40 *the Kansas public employees retirement system* and reduction of local ad
41 valorem tax in the same manner as provided for allocation of amounts in
42 the local ad valorem tax reduction fund.

43 ***[Sec. 12. On and after July 1, 2010, K.S.A. 21-4010, as amended***

1 *by section 3 of 2010 House Bill No. 2221, is hereby amended to*
2 *read as follows: 21-4010. (a) No person shall smoke in an enclosed*
3 *area or at a public meeting including, but not limited to:*
4 *[(1) Public places;*
5 *[(2) taxicabs and limousines;*
6 *[(3) restrooms, lobbies, hallways and other common areas in*
7 *public and private buildings, condominiums and other multiple-res-*
8 *idential facilities;*
9 *[(4) restrooms, lobbies and other common areas in hotels and*
10 *motels and in at least 80% of the sleeping quarters within a hotel*
11 *or motel that may be rented to guests;*
12 *[(5) access points of all buildings and facilities not exempted*
13 *pursuant to subsection (d); and*
14 *[(6) any place of employment.*
15 *[(b) Each employer having a place of employment that is an*
16 *enclosed area shall provide a smoke-free workplace for all employ-*
17 *ees. Such employer shall also adopt and maintain a written smoking*
18 *policy which shall prohibit smoking without exception in all areas*
19 *of the place of employment. Such policy shall be communicated to*
20 *all current employees within one week of its adoption and shall be*
21 *communicated to all new employees upon hiring. Each employer*
22 *shall provide a written copy of the smoking policy upon request to*
23 *any current or prospective employee.*
24 *[(c) Notwithstanding any other provision of this section, K.S.A.*
25 *21-4011 or 21-4012, and amendments thereto, the proprietor or*
26 *other person in charge of an adult care home, as defined in K.S.A.*
27 *39-923, and amendments thereto, or a medical care facility, may*
28 *designate a portion of such adult care home, or the licensed long-*
29 *term care unit of such medical care facility, as a smoking area, and*
30 *smoking may be permitted within such designated smoking area.*
31 *[(d) The provisions of this section shall not apply to:*
32 *[(1) The outdoor areas of any building or facility beyond the*
33 *access points of such building or facility;*
34 *[(2) private homes or residences, except when such home or res-*
35 *idence is used as a day care home, as defined in K.S.A. 65-530, and*
36 *amendments thereto;*
37 *[(3) a hotel or motel room rented to one or more guests if the*
38 *total percentage of such hotel or motel rooms in such hotel or motel*
39 *does not exceed 20%;*
40 *[(4) the gaming floor of a lottery gaming facility or racetrack gaming*
41 *facility, as those terms are defined in K.S.A. 74-8702, and amendments*
42 *thereto;*
43 *[(5) (4) that portion of an adult care home, as defined in K.S.A.*

1 39-923, and amendments thereto, that is expressly designated as a
2 smoking area by the proprietor or other person in charge of such
3 adult care home pursuant to subsection (c) and that is fully enclosed
4 and ventilated;

5 [~~(6)~~ (5) that portion of a licensed long-term care unit of a med-
6 ical care facility that is expressly designated as a smoking area by
7 the proprietor or other person in charge of such medical care facil-
8 ity pursuant to subsection (c) and that is fully enclosed and venti-
9 lated and to which access is restricted to the residents and their
10 guests;

11 [~~(7)~~ (6) tobacco shops;

12 [~~(8)~~ (7) a class A or class B club defined in K.S.A. 41-2601, and
13 amendments thereto, which (A) held a license pursuant to K.S.A. 41-
14 2606 et seq., and amendments thereto, as of January 1, 2009; and
15 (B) notifies the secretary of health and environment in writing, not
16 later than 90 days after the effective date of this act, that it wishes
17 to continue to allow smoking on its premises; and

18 [~~(9)~~ (8) a private club in designated areas where minors are
19 prohibited.

20 [Sec. 13. On July 1, 2010, K.S.A. 21-4010, as amended by sec-
21 tion 3 of 2010 House Bill No. 2221, is hereby repealed.

22 [Sec. 14. On and after July 1, 2010, K.S.A. 21-4010, as amended
23 by section 3 of 2010 House Bill No. 2221, is hereby amended to
24 read as follows: 21-4010. (a) No person shall smoke in an enclosed
25 area or at a public meeting including, but not limited to:

26 [(1) Public places;

27 [(2) taxicabs and limousines;

28 [(3) restrooms, lobbies, hallways and other common areas in
29 public and private buildings, condominiums and other multiple-res-
30 idential facilities;

31 [(4) restrooms, lobbies and other common areas in hotels and
32 motels and in at least 80% of the sleeping quarters within a hotel
33 or motel that may be rented to guests;

34 [(5) access points of all buildings and facilities not exempted
35 pursuant to subsection (d); and

36 [(6) any place of employment.

37 [(b) Each employer having a place of employment that is an
38 enclosed area shall provide a smoke-free workplace for all employ-
39 ees. Such employer shall also adopt and maintain a written smoking
40 policy which shall prohibit smoking without exception in all areas
41 of the place of employment. Such policy shall be communicated to
42 all current employees within one week of its adoption and shall be
43 communicated to all new employees upon hiring. Each employer

1 *shall provide a written copy of the smoking policy upon request to*
2 *any current or prospective employee.*

3 *[(c) Notwithstanding any other provision of this section, K.S.A.*
4 *21-4011 or 21-4012, and amendments thereto, the proprietor or*
5 *other person in charge of an adult care home, as defined in K.S.A.*
6 *39-923, and amendments thereto, or a medical care facility, may*
7 *designate a portion of such adult care home, or the licensed long-*
8 *term care unit of such medical care facility, as a smoking area, and*
9 *smoking may be permitted within such designated smoking area.*

10 *[(d) The provisions of this section shall not apply to:*

11 *[(1) The outdoor areas of any building or facility beyond the*
12 *access points of such building or facility;*

13 *[(2) private homes or residences, except when such home or res-*
14 *idence is used as a day care home, as defined in K.S.A. 65-530, and*
15 *amendments thereto;*

16 *[(3) a hotel or motel room rented to one or more guests if the*
17 *total percentage of such hotel or motel rooms in such hotel or motel*
18 *does not exceed 20%;*

19 *[(4) the gaming floor of a lottery gaming facility or racetrack*
20 *gaming facility, as those terms are defined in K.S.A. 74-8702, and*
21 *amendments thereto, except that, the provisions of this subsection shall*
22 *expire on January 1, 2014;*

23 *[(5) that portion of an adult care home, as defined in K.S.A. 39-*
24 *923, and amendments thereto, that is expressly designated as a*
25 *smoking area by the proprietor or other person in charge of such*
26 *adult care home pursuant to subsection (c) and that is fully enclosed*
27 *and ventilated;*

28 *[(6) that portion of a licensed long-term care unit of a medical*
29 *care facility that is expressly designated as a smoking area by the*
30 *proprietor or other person in charge of such medical care facility*
31 *pursuant to subsection (c) and that is fully enclosed and ventilated*
32 *and to which access is restricted to the residents and their guests;*

33 *[(7) tobacco shops;*

34 *[(8) a class A or class B club defined in K.S.A. 41-2601, and*
35 *amendments thereto, which (A) held a license pursuant to K.S.A. 41-*
36 *2606 et seq., and amendments thereto, as of January 1, 2009; and*
37 *(B) notifies the secretary of health and environment in writing, not*
38 *later than 90 days after the effective date of this act, that it wishes*
39 *to continue to allow smoking on its premises; and*

40 *[(9) a private club in designated areas where minors are*
41 *prohibited.*

42 *[Sec. 15. On July 1, 2010, K.S.A. 21-4010, as amended by sec-*
43 *tion 3 of 2010 House Bill No. 2221, is hereby repealed.*

- 1 **Sec. ~~16.~~ [16.]** K.S.A. 2009 Supp. 74-8734, 74-8741, [~~74-8742~~] 74-
- 2 8744, 74-8747, 74-8751 and 74-8768 are hereby repealed.
- 3 **Sec. ~~17.~~ [17.]** This act shall take effect and be in force from and
- 4 after its publication in the Kansas register.