

CORRECTED

Session of 2013

Senate Substitute for HOUSE BILL No. 2055

By Committee on Federal and State Affairs

3-26

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack
2 gaming facilities; amending K.S.A. 2012 Supp. 12-4516, 21-6109, 21-
3 6110, 21-6614, 60-2102, 72-6624, 74-8702, 74-8710, 74-8716, 74-
4 8733, 74-8734, 74-8736, 74-8750, 74-8751, 74-8752, 74-8753, 74-
5 8754, 74-8755, 74-8756, 74-8757, 74-8758, 74-8760, 74-8762, 74-
6 8764, 74-8765, 74-8766, 74-8771 and 74-8772 and repealing the
7 existing sections; also repealing K.S.A. 2012 Supp. 74-8740, 74-8741,
8 74-8742, 74-8743, 74-8744, 74-8745, 74-8746, 74-8747, 74-8749 and
9 74-8767.

10

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

12 Section 1. K.S.A. 2012 Supp. 12-4516 is hereby amended to read as
13 follows: 12-4516. (a) (1) Except as provided in subsection (b), (c) and (d),
14 any person who has been convicted of a violation of a city ordinance of
15 this state may petition the convicting court for the expungement of such
16 conviction and related arrest records if three or more years have elapsed
17 since the person:

18

(A) Satisfied the sentence imposed; or

19

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

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

25

(b) No person may petition for expungement until five or more years
26 have elapsed since the person satisfied the sentence imposed or the terms
27 of a diversion agreement or was discharged from probation, parole,
28 conditional release or a suspended sentence, if such person was convicted
29 of the violation of a city ordinance which would also constitute:

30

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
31 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto;

32

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

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

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

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

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

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

10 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

11 (c) No person may petition for expungement until 10 or more years
12 have elapsed since the person satisfied the sentence imposed or the terms
13 of a diversion agreement or was discharged from probation, parole,
14 conditional release or a suspended sentence, if such person was convicted
15 of the violation of a city ordinance which would also constitute a violation
16 of K.S.A. 8-1567, and amendments thereto.

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

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

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

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

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

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

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

38 (f) At the hearing on the petition, the court shall order the petitioner's
39 arrest record, conviction or diversion expunged if the court finds 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 or
42 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 (g) When the court has ordered an arrest record, conviction or
4 diversion expunged, the order of expungement shall state the information
5 required to be contained in the petition. The clerk of the court shall send a
6 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 employment as a detective with a private
18 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
19 as security personnel with a private patrol operator, as defined by K.S.A.
20 75-7b01, and amendments thereto; or with an institution, as defined in
21 K.S.A. 76-12a01, and amendments thereto, of the department of social and
22 rehabilitation services;

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

25 (C) to aid in determining the petitioner's qualifications for
26 employment with the Kansas lottery or for work in sensitive areas within
27 the Kansas lottery as deemed appropriate by the executive director of the
28 Kansas lottery;

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

35 (E) to aid in determining the petitioner's qualifications for the
36 following under the Kansas expanded lottery act: (i) Lottery gaming
37 facility manager or prospective manager, ~~racetrack gaming facility~~
38 ~~manager or prospective manager~~, licensee or certificate holder; or (ii) an
39 officer, director, employee, owner, agent or contractor thereof;

40 (F) upon application for a commercial driver's license under K.S.A.
41 8-2,125 through 8-2,142, and amendments thereto;

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

1 (H) to aid in determining the petitioner's qualifications to be an
2 employee of a tribal gaming commission or to hold a license issued
3 pursuant to a tribal-state gaming compact;

4 (I) in any application for registration as a broker-dealer, agent,
5 investment adviser or investment adviser representative all as defined in
6 K.S.A. 17-12a102, and amendments thereto;

7 (J) in any application for employment as a law enforcement officer, as
8 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

9 (K) for applications received on and after July 1, 2006, to aid in
10 determining the petitioner's qualifications for a license to carry a concealed
11 weapon pursuant to the personal and family protection act, K.S.A. 2012
12 Supp. 75-7c01 et seq., and amendments thereto;

13 (3) the court, in the order of expungement, may specify other
14 circumstances under which the arrest, conviction or diversion is to be
15 disclosed; and

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

19 (h) Whenever a person is convicted of an ordinance violation, pleads
20 guilty and pays a fine for such a violation, is placed on parole or probation
21 or is granted a suspended sentence for such a violation, the person shall be
22 informed of the ability to expunge the arrest records or conviction.
23 Whenever a person enters into a diversion agreement, the person shall be
24 informed of the ability to expunge the diversion.

25 (i) Subject to the disclosures required pursuant to subsection (g), in
26 any application for employment, license or other civil right or privilege, or
27 any appearance as a witness, a person whose arrest records, conviction or
28 diversion of an offense has been expunged under this statute may state that
29 such person has never been arrested, convicted or diverted of such offense.

30 (j) Whenever the record of any arrest, conviction or diversion has
31 been expunged under the provisions of this section or under the provisions
32 of any other existing or former statute, the custodian of the records of
33 arrest, conviction, diversion and incarceration relating to that crime shall
34 not disclose the existence of such records, except when requested by:

35 (1) The person whose record was expunged;

36 (2) a private detective agency or a private patrol operator, and the
37 request is accompanied by a statement that the request is being made in
38 conjunction with an application for employment with such agency or
39 operator by the person whose record has been expunged;

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

42 (4) the secretary of ~~social and rehabilitation~~ *for aging and disability*
43 services, or a designee of the secretary, for the purpose of obtaining

1 information relating to employment in an institution, as defined in K.S.A.
2 76-12a01, and amendments thereto, of the department ~~of social and~~
3 ~~rehabilitation for aging and disability~~ services of any person whose record
4 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 prosecution
9 of an offense that requires a prior conviction as one of the elements of such
10 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, or
15 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 and gaming commission, or a
23 designee of the commission, and the request is accompanied by a
24 statement that the request is being made to aid in determining
25 qualifications for executive director of the commission, for employment
26 with the commission, for work in sensitive areas in parimutuel racing as
27 deemed appropriate by the executive director of the commission or for
28 licensure, renewal of licensure or continued licensure by the commission;

29 (10) the Kansas racing and gaming commission, or a designee of the
30 commission, and the request is accompanied by a statement that the
31 request is being made to aid in determining qualifications of the following
32 under the Kansas expanded lottery act: (A) Lottery gaming facility
33 managers and prospective managers, ~~racetrack gaming facility managers~~
34 ~~and prospective managers~~, licensees and certificate holders; and (B) their
35 officers, directors, employees, owners, agents and contractors;

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
38 qualifications: (A) To be an employee of the state gaming agency; or (B)
39 to be an employee of a tribal gaming commission or to hold a license
40 issued pursuant to a tribal-state gaming compact;

41 (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 as

1 a broker-dealer, agent, investment adviser or investment adviser
2 representative by such agency and the application was submitted by the
3 person whose record has been expunged;

4 (13) the attorney general, and the request is accompanied by a
5 statement that the request is being made to aid in determining
6 qualifications for a license to carry a concealed weapon pursuant to the
7 personal and family protection act;

8 (14) the Kansas sentencing commission;

9 (15) the Kansas commission on peace officers' standards and training
10 and the request is accompanied by a statement that the request is being
11 made to aid in determining certification eligibility as a law enforcement
12 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

13 (16) a law enforcement agency and the request is accompanied by a
14 statement that the request is being made to aid in determining eligibility
15 for employment as a law enforcement officer as defined by K.S.A. 22-
16 2202, and amendments thereto.

17 Sec. 2. K.S.A. 2012 Supp. 21-6109 is hereby amended to read as
18 follows: 21-6109. As used in K.S.A. 2012 Supp. 21-6109 through 21-6116,
19 and amendments thereto:

20 (a) "Access point" means the area within a ten foot radius outside of
21 any doorway, open window or air intake leading into a building or facility
22 that is not exempted pursuant to subsection (d) of K.S.A. 2012 Supp. 21-
23 6110, and amendments thereto.

24 (b) "Bar" means any indoor area that is operated and licensed for the
25 sale and service of alcoholic beverages, including alcoholic liquor as
26 defined in K.S.A. 41-102, and amendments thereto, or cereal malt
27 beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-
28 premises consumption.

29 (c) "Employee" means any person who is employed by an employer
30 in consideration for direct or indirect monetary wages or profit, and any
31 person who volunteers their services for a nonprofit entity.

32 (d) "Employer" means any person, partnership, corporation,
33 association or organization, including municipal or nonprofit entities,
34 which employs one or more individual persons.

35 (e) "Enclosed area" means all space between a floor and ceiling
36 which is enclosed on all sides by solid walls, windows or doorways which
37 extend from the floor to the ceiling, including all space therein screened by
38 partitions which do not extend to the ceiling or are not solid or similar
39 structures. For purposes of this section, the following shall not be
40 considered an "enclosed area": (1) Rooms or areas, enclosed by walls,
41 windows or doorways, having neither a ceiling nor a roof and which are
42 completely open to the elements and weather at all times; and (2) rooms or
43 areas, enclosed by walls, fences, windows or doorways and a roof or

1 ceiling, having openings that are permanently open to the elements and
2 weather and which comprise an area that is at least 30% of the total
3 perimeter wall area of such room or area.

4 (f) "Food service establishment" means any place in which food is
5 served or is prepared for sale or service on the premises. Such term shall
6 include, but not be limited to, fixed or mobile restaurants, coffee shops,
7 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
8 shops, soda fountains, taverns, private clubs, roadside kitchens,
9 commissaries and any other private, public or nonprofit organization or
10 institution routinely serving food and any other eating or drinking
11 establishment or operation where food is served or provided for the public
12 with or without charge.

13 (g) "Gaming floor" means the area of a lottery gaming facility ~~or~~
14 ~~racetrack gaming facility, as those terms are defined in K.S.A. 74-8702,~~
15 and amendments thereto, where patrons engage in Class III gaming. The
16 gaming floor shall not include any areas used for accounting, maintenance,
17 surveillance, security, administrative offices, storage, cash or cash
18 counting, records, food service, lodging or entertainment, except that the
19 gaming floor may include a bar where alcoholic beverages are served so
20 long as the bar is located entirely within the area where Class III gaming is
21 conducted.

22 (h) "Medical care facility" means a physician's office, general
23 hospital, special hospital, ambulatory surgery center or recuperation center,
24 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
25 hospital licensed under K.S.A. 75-3307b, and amendments thereto.

26 (i) "Outdoor recreational facility" means a hunting, fishing, shooting
27 or golf club, business or enterprise operated primarily for the benefit of its
28 owners, members and their guests and not normally open to the general
29 public.

30 (j) "Place of employment" means any enclosed area under the control
31 of a public or private employer, including, but not limited to, work areas,
32 auditoriums, elevators, private offices, employee lounges and restrooms,
33 conference and meeting rooms, classrooms, employee cafeterias, stairwells
34 and hallways, that is used by employees during the course of employment.
35 For purposes of this section, a private residence shall not be considered a
36 "place of employment" unless such residence is used as a day care home,
37 as defined in K.S.A. 65-530, and amendments thereto.

38 (k) "Private club" means an outdoor recreational facility operated
39 primarily for the use of its owners, members and their guests that in its
40 ordinary course of business is not open to the general public for which use
41 of its facilities has substantial dues or membership fee requirements for its
42 members.

43 (l) "Public building" means any building owned or operated by: (1)

1 The state, including any branch, department, agency, bureau, commission,
2 authority or other instrumentality thereof; (2) any county, city, township,
3 other political subdivision, including any commission, authority, agency or
4 instrumentality thereof; or (3) any other separate corporate instrumentality
5 or unit of the state or any municipality.

6 (m) "Public meeting" means any meeting open to the public pursuant
7 to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of
8 this state.

9 (n) "Public place" means any enclosed areas open to the public or
10 used by the general public including, but not limited to: Banks, bars, food
11 service establishments, retail service establishments, retail stores, public
12 means of mass transportation, passenger elevators, health care institutions
13 or any other place where health care services are provided to the public,
14 medical care facilities, educational facilities, libraries, courtrooms, public
15 buildings, restrooms, grocery stores, school buses, museums, theaters,
16 auditoriums, arenas and recreational facilities. For purposes of this section,
17 a private residence shall not be considered a "public place" unless such
18 residence is used as a day care home, as defined in K.S.A. 65-530, and
19 amendments thereto.

20 (o) "Smoking" means possession of a lighted cigarette, cigar, pipe or
21 burning tobacco in any other form or device designed for the use of
22 tobacco.

23 (p) "Tobacco shop" means any indoor area operated primarily for the
24 retail sale of tobacco, tobacco products or smoking devices or accessories,
25 and which derives not less than 65% of its gross receipts from the sale of
26 tobacco.

27 (q) "Substantial dues or membership fee requirements" means
28 initiation costs, dues or fees proportional to the cost of membership in
29 similarly-situated outdoor recreational facilities that are not considered
30 nominal and implemented to otherwise avoid or evade restrictions of a
31 statewide ban on smoking.

32 Sec. 3. K.S.A. 2012 Supp. 21-6110 is hereby amended to read as
33 follows: 21-6110. (a) It shall be unlawful, with no requirement of a
34 culpable mental state, to smoke in an enclosed area or at a public meeting
35 including, but not limited to:

36 (1) Public places;

37 (2) taxicabs and limousines;

38 (3) restrooms, lobbies, hallways and other common areas in public
39 and private buildings, condominiums and other multiple-residential
40 facilities;

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

1 (5) access points of all buildings and facilities not exempted pursuant
2 to subsection (d); and

3 (6) any place of employment.

4 (b) Each employer having a place of employment that is an enclosed
5 area shall provide a smoke-free workplace for all employees. Such
6 employer shall also adopt and maintain a written smoking policy which
7 shall prohibit smoking without exception in all areas of the place of
8 employment. Such policy shall be communicated to all current employees
9 within one week of its adoption and shall be communicated to all new
10 employees upon hiring. Each employer shall provide a written copy of the
11 smoking policy upon request to any current or prospective employee.

12 (c) Notwithstanding any other provision of this section, K.S.A. 2012
13 Supp. 21-6111 or 21-6112, and amendments thereto, the proprietor or other
14 person in charge of an adult care home, as defined in K.S.A. 39-923, and
15 amendments thereto, or a medical care facility, may designate a portion of
16 such adult care home, or the licensed long-term care unit of such medical
17 care facility, as a smoking area, and smoking may be permitted within such
18 designated smoking area.

19 (d) The provisions of this section shall not apply to:

20 (1) The outdoor areas of any building or facility beyond the access
21 points of such building or facility;

22 (2) private homes or residences, except when such home or residence
23 is used as a day care home, as defined in K.S.A. 65-530, and amendments
24 thereto;

25 (3) a hotel or motel room rented to one or more guests if the total
26 percentage of such hotel or motel rooms in such hotel or motel does not
27 exceed 20%;

28 (4) the gaming floor of a lottery gaming facility ~~or racetrack gaming~~
29 ~~facility, as those terms are~~ defined in K.S.A. 74-8702, and amendments
30 thereto;

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

35 (6) that portion of a licensed long-term care unit of a medical care
36 facility that is expressly designated as a smoking area by the proprietor or
37 other person in charge of such medical care facility pursuant to subsection
38 (c) and that is fully enclosed and ventilated and to which access is
39 restricted to the residents and their guests;

40 (7) tobacco shops;

41 (8) a class A or class B club defined in K.S.A. 41-2601, and
42 amendments thereto, which: (A) Held a license pursuant to K.S.A. 41-
43 2606 et seq., and amendments thereto, as of January 1, 2009; and (B)

1 notifies the secretary of health and environment in writing, not later than
2 90 days after the effective date of this act, that it wishes to continue to
3 allow smoking on its premises;

4 (9) a private club in designated areas where minors are prohibited;
5 and

6 (10) any benefit cigar dinner or other cigar dinner of a substantially
7 similar nature that:

8 (A) Is conducted specifically and exclusively for charitable purposes
9 by a nonprofit organization which is exempt from federal income taxation
10 pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

11 (B) is conducted no more than once per calendar year by such
12 organization; and

13 (C) has been held during each of the previous three years prior to
14 January 1, 2011.

15 Sec. 4. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as
16 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d) and
17 (e), any person convicted in this state of a traffic infraction, cigarette or
18 tobacco infraction, misdemeanor or a class D or E felony, or for crimes
19 committed on or after July 1, 1993, nondrug crimes ranked in severity
20 levels 6 through 10, or for crimes committed on or after July 1, 1993, but
21 prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid,
22 or for crimes committed on or after July 1, 2012, any felony ranked in
23 severity level 5 of the drug grid may petition the convicting court for the
24 expungement of such conviction or related arrest records if three or more
25 years have elapsed since the person: (A) Satisfied the sentence imposed; or
26 (B) was discharged from probation, a community correctional services
27 program, parole, postrelease supervision, conditional release or a
28 suspended sentence.

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

34 (b) Except as provided in subsections (c), (d) and (e), no person may
35 petition for expungement until five or more years have elapsed since the
36 person satisfied the sentence imposed, the terms of a diversion agreement
37 or was discharged from probation, a community correctional services
38 program, parole, postrelease supervision, conditional release or a
39 suspended sentence, if such person was convicted of a class A, B or C
40 felony, or for crimes committed on or after July 1, 1993, if convicted of an
41 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
42 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
43 any felony ranked in severity levels 1 through 3 of the drug grid, or for

1 crimes committed on or after July 1, 2012, any felony ranked in severity
2 levels 1 through 4 of the drug grid, or:

3 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
4 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as
5 prohibited by any law of another state which is in substantial conformity
6 with that statute;

7 (2) driving while the privilege to operate a motor vehicle on the
8 public highways of this state has been canceled, suspended or revoked, as
9 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
10 any law of another state which is in substantial conformity with that
11 statute;

12 (3) perjury resulting from a violation of K.S.A. 8-261a, and
13 amendments thereto, or resulting from the violation of a law of another
14 state which is in substantial conformity with that statute;

15 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and
16 amendments thereto, relating to fraudulent applications or violating the
17 provisions of a law of another state which is in substantial conformity with
18 that statute;

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

21 (6) failing to stop at the scene of an accident and perform the duties
22 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
23 amendments thereto, or required by a law of another state which is in
24 substantial conformity with those statutes;

25 (7) violating the provisions of K.S.A. 40-3104, and amendments
26 thereto, relating to motor vehicle liability insurance coverage; or

27 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

28 (c) No person may petition for expungement until 10 or more years
29 have elapsed since the person satisfied the sentence imposed, the terms of
30 a diversion agreement or was discharged from probation, a community
31 correctional services program, parole, postrelease supervision, conditional
32 release or a suspended sentence, if such person was convicted of a
33 violation of K.S.A. 8-1567, and amendments thereto, including any
34 diversion for such violation.

35 (d) There shall be no expungement of convictions for the following
36 offenses or of convictions for an attempt to commit any of the following
37 offenses:

38 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
39 2012 Supp. 21-5503, and amendments thereto;

40 (2) indecent liberties with a child or aggravated indecent liberties
41 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
42 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

43 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of

- 1 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
2 2012 Supp. 21-5504, and amendments thereto;
- 3 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
4 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;
- 5 (5) indecent solicitation of a child or aggravated indecent solicitation
6 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
7 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 8 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
9 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
- 10 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
11 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;
- 12 (8) endangering a child or aggravated endangering a child, as defined
13 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
14 21-5601, and amendments thereto;
- 15 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
16 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;
- 17 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
18 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
- 19 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
20 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
- 21 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior
22 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- 23 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
24 its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
- 25 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
26 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;
- 27 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
28 or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim
29 was less than 18 years of age at the time the crime was committed;
- 30 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
31 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- 32 (17) a violation of K.S.A. 8-2,144, and amendments thereto,
33 including any diversion for such violation; or
- 34 (18) any conviction for any offense in effect at any time prior to July
35 1, 2011, that is comparable to any offense as provided in this subsection.
- 36 (e) Notwithstanding any other law to the contrary, for any offender
37 who is required to register as provided in the Kansas offender registration
38 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
39 expungement of any conviction or any part of the offender's criminal
40 record while the offender is required to register as provided in the Kansas
41 offender registration act.
- 42 (f) (1) When a petition for expungement is filed, the court shall set a
43 date for a hearing of such petition and shall cause notice of such hearing to

1 be given to the prosecutor and the arresting law enforcement agency. The
2 petition shall state the:

- 3 (A) Defendant's full name;
- 4 (B) full name of the defendant at the time of arrest, conviction or
5 diversion, if different than the defendant's current name;
- 6 (C) defendant's sex, race and date of birth;
- 7 (D) crime for which the defendant was arrested, convicted or
8 diverted;
- 9 (E) date of the defendant's arrest, conviction or diversion; and
- 10 (F) identity of the convicting court, arresting law enforcement
11 authority or diverting authority.

12 (2) Except as otherwise provided by law, a petition for expungement
13 shall be accompanied by a docket fee in the amount of \$100. On and after
14 April 12, 2012, through June 30, 2013, the supreme court may impose a
15 charge, not to exceed \$19 per case, to fund the costs of non-judicial
16 personnel. The charge established in this section shall be the only fee
17 collected or moneys in the nature of a fee collected for the case. Such
18 charge shall only be established by an act of the legislature and no other
19 authority is established by law or otherwise to collect a fee.

20 (3) All petitions for expungement shall be docketed in the original
21 criminal action. Any person who may have relevant information about the
22 petitioner may testify at the hearing. The court may inquire into the
23 background of the petitioner and shall have access to any reports or
24 records relating to the petitioner that are on file with the secretary of
25 corrections or the prisoner review board.

26 (g) At the hearing on the petition, the court shall order the petitioner's
27 arrest record, conviction or diversion expunged if the court finds that:

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

31 (2) the circumstances and behavior of the petitioner warrant the
32 expungement; and

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

34 (h) When the court has ordered an arrest record, conviction or
35 diversion expunged, the order of expungement shall state the information
36 required to be contained in the petition. The clerk of the court shall send a
37 certified copy of the order of expungement to the Kansas bureau of
38 investigation which shall notify the federal bureau of investigation, the
39 secretary of corrections and any other criminal justice agency which may
40 have a record of the arrest, conviction or diversion. After the order of
41 expungement is entered, the petitioner shall be treated as not having been
42 arrested, convicted or diverted of the crime, except that:

43 (1) Upon conviction for any subsequent crime, the conviction that

1 was expunged may be considered as a prior conviction in determining the
2 sentence to be imposed;

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

5 (A) In any application for licensure as a private detective, private
6 detective agency, certification as a firearms trainer pursuant to K.S.A.
7 2012 Supp. 75-7b21, and amendments thereto, or employment as a
8 detective with a private detective agency, as defined by K.S.A. 75-7b01,
9 and amendments thereto; as security personnel with a private patrol
10 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
11 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
12 the department of social and rehabilitation services;

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

15 (C) to aid in determining the petitioner's qualifications for
16 employment with the Kansas lottery or for work in sensitive areas within
17 the Kansas lottery as deemed appropriate by the executive director of the
18 Kansas lottery;

19 (D) to aid in determining the petitioner's qualifications for executive
20 director of the Kansas racing and gaming commission, for employment
21 with the commission or for work in sensitive areas in parimutuel racing as
22 deemed appropriate by the executive director of the commission, or to aid
23 in determining qualifications for licensure or renewal of licensure by the
24 commission;

25 (E) to aid in determining the petitioner's qualifications for the
26 following under the Kansas expanded lottery act: (i) Lottery gaming
27 facility manager or prospective manager, ~~racetrack gaming facility~~
28 ~~manager or prospective manager~~, licensee or certificate holder; or (ii) an
29 officer, director, employee, owner, agent or contractor thereof;

30 (F) upon application for a commercial driver's license under K.S.A.
31 8-2,125 through 8-2,142, and amendments thereto;

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

34 (H) to aid in determining the petitioner's qualifications to be an
35 employee of a tribal gaming commission or to hold a license issued
36 pursuant to a tribal-state gaming compact;

37 (I) in any application for registration as a broker-dealer, agent,
38 investment adviser or investment adviser representative all as defined in
39 K.S.A. 17-12a102, and amendments thereto;

40 (J) in any application for employment as a law enforcement officer as
41 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

42 (K) for applications received on and after July 1, 2006, to aid in
43 determining the petitioner's qualifications for a license to carry a concealed

1 weapon pursuant to the personal and family protection act, K.S.A. 2012
2 Supp. 75-7c01 et seq., and amendments thereto;

3 (3) the court, in the order of expungement, may specify other
4 circumstances under which the conviction is to be disclosed;

5 (4) the conviction may be disclosed in a subsequent prosecution for
6 an offense which requires as an element of such offense a prior conviction
7 of the type expunged; and

8 (5) upon commitment to the custody of the secretary of corrections,
9 any previously expunged record in the possession of the secretary of
10 corrections may be reinstated and the expungement disregarded, and the
11 record continued for the purpose of the new commitment.

12 (i) Whenever a person is convicted of a crime, pleads guilty and pays
13 a fine for a crime, is placed on parole, postrelease supervision or
14 probation, is assigned to a community correctional services program, is
15 granted a suspended sentence or is released on conditional release, the
16 person shall be informed of the ability to expunge the arrest records or
17 conviction. Whenever a person enters into a diversion agreement, the
18 person shall be informed of the ability to expunge the diversion.

19 (j) Subject to the disclosures required pursuant to subsection (h), in
20 any application for employment, license or other civil right or privilege, or
21 any appearance as a witness, a person whose arrest records, conviction or
22 diversion of a crime has been expunged under this statute may state that
23 such person has never been arrested, convicted or diverted of such crime,
24 but the expungement of a felony conviction does not relieve an individual
25 of complying with any state or federal law relating to the use or possession
26 of firearms by persons convicted of a felony.

27 (k) Whenever the record of any arrest, conviction or diversion has
28 been expunged under the provisions of this section or under the provisions
29 of any other existing or former statute, the custodian of the records of
30 arrest, conviction, diversion and incarceration relating to that crime shall
31 not disclose the existence of such records, except when requested by:

32 (1) The person whose record was expunged;

33 (2) a private detective agency or a private patrol operator, and the
34 request is accompanied by a statement that the request is being made in
35 conjunction with an application for employment with such agency or
36 operator by the person whose record has been expunged;

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

39 (4) the secretary ~~of social and rehabilitation~~ *for aging and disability*
40 services, or a designee of the secretary, for the purpose of obtaining
41 information relating to employment in an institution, as defined in K.S.A.
42 76-12a01, and amendments thereto, of the department ~~of social and~~
43 ~~rehabilitation~~ *for aging and disability* services of any person whose record

1 has been expunged;

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

4 (6) a prosecutor, and such request is accompanied by a statement that
5 the request is being made in conjunction with a prosecution of an offense
6 that requires a prior conviction as one of the elements of such offense;

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

13 (8) the Kansas lottery, and the request is accompanied by a statement
14 that the request is being made to aid in determining qualifications for
15 employment with the Kansas lottery or for work in sensitive areas within
16 the Kansas lottery as deemed appropriate by the executive director of the
17 Kansas lottery;

18 (9) the governor or the Kansas racing and gaming commission, or a
19 designee of the commission, and the request is accompanied by a
20 statement that the request is being made to aid in determining
21 qualifications for executive director of the commission, for employment
22 with the commission, for work in sensitive areas in parimutuel racing as
23 deemed appropriate by the executive director of the commission or for
24 licensure, renewal of licensure or continued licensure by the commission;

25 (10) the Kansas racing and gaming commission, or a designee of the
26 commission, and the request is accompanied by a statement that the
27 request is being made to aid in determining qualifications of the following
28 under the Kansas expanded lottery act: (A) Lottery gaming facility
29 managers and prospective managers, ~~racetrack gaming facility managers~~
30 ~~and prospective managers~~, licensees and certificate holders; and (B) their
31 officers, directors, employees, owners, agents and contractors;

32 (11) the Kansas sentencing commission;

33 (12) the state gaming agency, and the request is accompanied by a
34 statement that the request is being made to aid in determining
35 qualifications: (A) To be an employee of the state gaming agency; or (B)
36 to be an employee of a tribal gaming commission or to hold a license
37 issued pursuant to a tribal-gaming compact;

38 (13) the Kansas securities commissioner or a designee of the
39 commissioner, and the request is accompanied by a statement that the
40 request is being made in conjunction with an application for registration as
41 a broker-dealer, agent, investment adviser or investment adviser
42 representative by such agency and the application was submitted by the
43 person whose record has been expunged;

1 (14) the Kansas commission on peace officers' standards and training
2 and the request is accompanied by a statement that the request is being
3 made to aid in determining certification eligibility as a law enforcement
4 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

5 (15) a law enforcement agency and the request is accompanied by a
6 statement that the request is being made to aid in determining eligibility
7 for employment as a law enforcement officer as defined by K.S.A. 22-
8 2202, and amendments thereto;

9 (16) the attorney general and the request is accompanied by a
10 statement that the request is being made to aid in determining
11 qualifications for a license to carry a concealed weapon pursuant to the
12 personal and family protection act; or

13 (17) the Kansas bureau of investigation for the purposes of:

14 (A) Completing a person's criminal history record information within
15 the central repository, in accordance with K.S.A. 22-4701 et seq., and
16 amendments thereto; or

17 (B) providing information or documentation to the federal bureau of
18 investigation, in connection with the national instant criminal background
19 check system, to determine a person's qualification to possess a firearm.

20 (l) The provisions of subsection (k)(17) shall apply to records created
21 prior to, on and after July 1, 2011.

22 Sec. 5. K.S.A. 2012 Supp. 60-2102 is hereby amended to read as
23 follows: 60-2102. (a) *Appeal to court of appeals as matter of right*. Except
24 for any order or final decision of a district magistrate judge, the appellate
25 jurisdiction of the court of appeals may be invoked by appeal as a matter
26 of right from:

27 (1) An order that discharges, vacates or modifies a provisional
28 remedy.

29 (2) An order that grants, continues, modifies, refuses or dissolves an
30 injunction, or an order that grants or refuses relief in the form of
31 mandamus, quo warranto or habeas corpus.

32 (3) An order that appoints a receiver or refuses to wind up a
33 receivership or to take steps to accomplish the purposes thereof, such as
34 directing sales or other disposal of property, or an order involving the tax
35 or revenue laws, the title to real estate, the constitution of this state or the
36 constitution, laws or treaties of the United States.

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

41 (b) *Appeal to supreme court as matter of right*. The appellate
42 jurisdiction of the supreme court may be invoked by appeal as a matter of
43 right from:

1 (1) A preliminary or final decision in which a statute of this state has
2 been held unconstitutional as a violation of Article 6 of the Kansas
3 constitution pursuant to K.S.A. 2012 Supp. 72-64b03, and amendments
4 thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed
5 within 30 days of the date the preliminary or final decision is filed.

6 (2) A final decision of the district court in any action challenging the
7 constitutionality of or arising out of any provision of the Kansas expanded
8 lottery act; ~~or any lottery gaming facility management contract or any~~
9 ~~racetrack gaming facility management contract~~ entered into pursuant to the
10 Kansas expanded lottery act.

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

23 Sec. 6. K.S.A. 2012 Supp. 72-6624 is hereby amended to read as
24 follows: 72-6624. (a) As used in this section:

25 (1) "School district" means unified school district No. 404, unified
26 school district No. 493, unified school district No. 499 and unified school
27 district No. 508.

28 (2) "Property" means any property, and improvements thereon,
29 comprising a ~~racetrack gaming facility~~ or lottery gaming facility under the
30 Kansas expanded lottery act located in Cherokee county.

31 (3) "State aid" means general state aid, supplemental general state
32 aid, capital improvements state aid, capital outlay state aid and any other
33 state aid paid, distributed or allocated to school districts under the school
34 district finance and quality performance act or other law, and any other
35 state aid paid, distributed or allocated to school districts on the basis of the
36 assessed valuation of school districts.

37 (b) For the purposes of computing the assessed valuation of school
38 districts for the payment, distribution or allocation of state aid and the
39 levying of school taxes, $\frac{1}{4}$ of the assessed valuation of such property shall
40 be assigned to each of the school districts.

41 (c) The provisions of this section shall not apply if the property is not
42 or ceases to be used as a ~~racetrack gaming facility~~ or lottery gaming
43 facility under the Kansas expanded lottery act.

1 Sec. 7. K.S.A. 2012 Supp. 74-8702 is hereby amended to read as
2 follows: 74-8702. As used in the Kansas lottery act, unless the context
3 otherwise requires:

4 (a) "Ancillary lottery gaming facility operations" means additional
5 non-lottery facility game products and services not owned and operated by
6 the state which may be included in the overall development associated
7 with the lottery gaming facility. Such operations may include, but are not
8 limited to, restaurants, hotels, motels, museums or entertainment facilities.

9 (b) "Commission" means the Kansas lottery commission.

10 (c) "Electronic gaming machine" means any electronic,
11 electromechanical, video or computerized device, contrivance or machine
12 authorized by the Kansas lottery which, upon insertion of cash, tokens,
13 electronic cards or any consideration, is available to play, operate or
14 simulate the play of a game authorized by the Kansas lottery pursuant to
15 the Kansas expanded lottery act, including, but not limited to, bingo,
16 poker, blackjack, keno and slot machines, and which may deliver or entitle
17 the player operating the machine to receive cash, tokens, merchandise or
18 credits that may be redeemed for cash. Electronic gaming machines may
19 use bill validators and may be single-position reel-type, single or multi-
20 game video and single-position multi-game video electronic game,
21 including, but not limited to, poker, blackjack and slot machines.
22 Electronic gaming machines shall be directly linked to a central computer
23 at a location determined by the executive director for purposes of security,
24 monitoring and auditing.

25 (d) "Executive director" means the executive director of the Kansas
26 lottery.

27 (e) "Gaming equipment" means any electric, electronic, computerized
28 or electromechanical machine, mechanism, supply or device or any other
29 equipment, which is: (1) Unique to the Kansas lottery and used pursuant to
30 the Kansas lottery act; ~~and~~ (2) integral to the operation of an electronic
31 gaming machine or lottery facility game; and (3) affects the results of an
32 electronic gaming machine or lottery facility game by determining win or
33 loss.

34 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
35 which consists of Wyandotte county; (2) the southeast Kansas gaming
36 zone, which consists of Crawford and Cherokee counties; (3) the south
37 central Kansas gaming zone, which consists of Sedgwick and Sumner
38 counties; and (4) the southwest Kansas gaming zone, which consists of
39 Ford county.

40 (g) "Gray machine" means any mechanical, electro-mechanical or
41 electronic device, capable of being used for gambling, that is: (1) Not
42 authorized by the Kansas lottery; ; (2) not linked to a lottery central
43 computer system; ; (3) available to the public for play; or (4) capable of

1 simulating a game played on an electronic gaming machine or any similar
2 gambling game authorized pursuant to the Kansas expanded lottery act.

3 (h) "Kansas lottery" means the state agency created by this act to
4 operate a lottery or lotteries pursuant to this act.

5 (i) "Lottery" or "state lottery" means the lottery or lotteries operated
6 pursuant to this act.

7 (j) "Lottery facility games" means any electronic gaming machines
8 and any other games which, as of January 1, 2007, are authorized to be
9 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
10 9802, and amendments thereto, located within the boundaries of this state.

11 (k) "Lottery gaming enterprise" means an entertainment enterprise
12 which includes a lottery gaming facility authorized pursuant to the Kansas
13 expanded lottery act and ancillary lottery gaming facility operations that
14 have a coordinated business or marketing strategy. A lottery gaming
15 enterprise shall be designed to attract to its lottery gaming facility
16 consumers who reside outside the immediate area of such enterprise.

17 (l) "Lottery gaming facility" means that portion of a building used for
18 the purposes of operating, managing and maintaining lottery facility
19 games.

20 (m) "Lottery gaming facility expenses" means normal business
21 expenses, as defined in the lottery gaming facility management contract,
22 associated with the ownership and operation of a lottery gaming facility.

23 (n) "Lottery gaming facility management contract" means a contract,
24 subcontract or collateral agreement between the state and a lottery gaming
25 facility manager for the management of a lottery gaming facility, the
26 business of which is owned and operated by the Kansas lottery, negotiated
27 and signed by the executive director on behalf of the state.

28 (o) "Lottery gaming facility manager" means a corporation, limited
29 liability company, resident Kansas American Indian tribe or other business
30 entity authorized to construct and manage, or manage alone, pursuant to a
31 lottery gaming facility management contract with the Kansas lottery, and
32 on behalf of the state, a lottery gaming enterprise and lottery gaming
33 facility.

34 (p) "Lottery gaming facility revenues" means the total revenues from
35 lottery facility games at a lottery gaming facility after all related prizes are
36 paid.

37 (q) (1) "Lottery machine" means any machine or device that allows a
38 player to insert cash or other form of consideration and may deliver as the
39 result of an element of chance, regardless of the skill required by the
40 player, a prize or evidence of a prize, including, but not limited to:

41 (A) Any machine or device in which the prize or evidence of a prize
42 is determined by both chance and the player's or players' skill, including,
43 but not limited to, any machine or device on which a lottery game or

1 lottery games, such as poker or blackjack, are played;

2 (B) any machine or device in which the prize or evidence of a prize is
3 determined only by chance, including, but not limited to, any slot machine
4 or bingo machine; or

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

7 (2) "Lottery machine" shall not mean:

8 (A) Any food vending machine defined by K.S.A. 36-501, and
9 amendments thereto;

10 (B) any nonprescription drug machine authorized under K.S.A. 65-
11 650, and amendments thereto;

12 (C) any machine which dispenses only bottled or canned soft drinks,
13 chewing gum, nuts or candies;

14 (D) any machine excluded from the definition of gambling devices
15 under subsection (d) of K.S.A. 21-4302, prior to its repeal, or K.S.A. 2012
16 Supp. 21-6403, and amendments thereto; or

17 (E) any electronic gaming machine or lottery facility game operated
18 in accordance with the provisions of the Kansas expanded lottery act.

19 (r) "Lottery retailer" means any person with whom the Kansas lottery
20 has contracted to sell lottery tickets or shares, or both, to the public.

21 (s) (1) "Major procurement" means any gaming product or service,
22 including, but not limited to, facilities, advertising and promotional
23 services, annuity contracts, prize payment agreements, consulting services,
24 equipment, tickets and other products and services unique to the Kansas
25 lottery, but not including materials, supplies, equipment and services
26 common to the ordinary operations of state agencies.

27 (2) "Major procurement" shall not mean any product, service or other
28 matter covered by or addressed in the Kansas expanded lottery act or a
29 lottery gaming facility management contract ~~or racetrack gaming facility
30 management contract~~ executed pursuant to the Kansas expanded lottery
31 act.

32 ~~(t) "Net electronic gaming machine income" means all cash or other
33 consideration utilized to play an electronic gaming machine operated at a
34 racetrack gaming facility, less all cash or other consideration paid out to
35 winning players as prizes.~~

36 ~~(u) (i) "Organization licensee" has the meaning provided by K.S.A.
37 74-8802, and amendments thereto.~~

38 ~~(v) "Parimutuel licensee" means a facility owner licensee or facility
39 manager licensee under the Kansas parimutuel racing act.~~

40 ~~(w) "Parimutuel licensee location" means a racetrack facility, as
41 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
42 by the parimutuel licensee. A parimutuel licensee location may include any
43 existing structure at such racetrack facility or any structure that may be~~

1 ~~constructed on real estate where such racetrack facility is located.~~

2 ~~(x) (u) "Person" means any natural person, association, limited~~
3 ~~liability company, corporation or partnership.~~

4 ~~(y) (v) "Prize" means any prize paid directly by the Kansas lottery~~
5 ~~pursuant to the Kansas lottery act or the Kansas expanded lottery act or~~
6 ~~any rules and regulations adopted pursuant to either act.~~

7 ~~(z) (w) "Progressive electronic game" means a game played on an~~
8 ~~electronic gaming machine for which the payoff increases uniformly as the~~
9 ~~game is played and for which the jackpot, determined by application of a~~
10 ~~formula to the income of independent, local or interlinked electronic~~
11 ~~gaming machines, may be won.~~

12 ~~(aa) "Racetrack gaming facility" means that portion of a parimutuel~~
13 ~~licensee location where electronic gaming machines are operated,~~
14 ~~managed and maintained.~~

15 ~~(bb) "Racetrack gaming facility management contract" means an~~
16 ~~agreement between the Kansas lottery and a racetrack gaming facility~~
17 ~~manager, negotiated and signed by the executive director on behalf of the~~
18 ~~state, for placement of electronic gaming machines owned and operated by~~
19 ~~the state at a racetrack gaming facility.~~

20 ~~(cc) "Racetrack gaming facility manager" means a parimutuel~~
21 ~~licensee specifically certified by the Kansas lottery to become a certified~~
22 ~~racetrack gaming facility manager and offer electronic gaming machines~~
23 ~~for play at the racetrack gaming facility.~~

24 ~~(dd) (x) "Returned ticket" means any ticket which was transferred to a~~
25 ~~lottery retailer, which was not sold by the lottery retailer and which was~~
26 ~~returned to the Kansas lottery for refund by issuance of a credit or~~
27 ~~otherwise.~~

28 ~~(ee) (y) "Share" means any intangible manifestation authorized by the~~
29 ~~Kansas lottery to prove participation in a lottery game, except as provided~~
30 ~~by the Kansas expanded lottery act.~~

31 ~~(ff) (z) "Ticket" means any tangible evidence issued by the Kansas~~
32 ~~lottery to prove participation in a lottery game other than a lottery facility~~
33 ~~game.~~

34 ~~(gg) (aa) "Token" means a representative of value, of metal or other~~
35 ~~material, which is not legal tender, redeemable for cash only by the issuing~~
36 ~~lottery gaming facility manager or racetrack gaming facility manager and~~
37 ~~which is issued and sold by a lottery gaming facility manager or racetrack~~
38 ~~gaming facility manager for the sole purpose of playing an electronic~~
39 ~~gaming machine or lottery facility game.~~

40 ~~(hh) (bb) "Vendor" means any person who has entered into a major~~
41 ~~procurement contract with the Kansas lottery.~~

42 ~~(ii) (cc) "Video lottery machine" means any electronic video game~~
43 ~~machine that, upon insertion of cash, is available to play or simulate the~~

1 play of a video game authorized by the commission, including, but not
2 limited to, bingo, poker, black jack and keno, and which uses a video
3 display and microprocessors and in which, by chance, the player may
4 receive free games or credits that can be redeemed for cash.

5 Sec. 8. K.S.A. 2012 Supp. 74-8710 is hereby amended to read as
6 follows: 74-8710. (a) The commission, upon the recommendation of the
7 executive director, shall adopt rules and regulations governing the
8 establishment and operation of a state lottery, sales of lottery tickets and
9 the operation of lottery gaming facilities ~~and racetrack gaming facilities~~ as
10 necessary to carry out the purposes of the Kansas lottery act and the
11 Kansas expanded lottery act. Temporary rules and regulations may be
12 adopted by the commission without being subject to the provisions and
13 requirements of K.S.A. 77-415 through 77-438, and amendments thereto,
14 but shall be subject to approval by the attorney general as to legality and
15 shall be filed with the secretary of state and published in the Kansas
16 register. Temporary and permanent rules and regulations may include, but
17 shall not be limited to:

18 (1) Subject to the provisions of subsection (c), the types of lottery
19 games to be conducted, including, but not limited to, instant lottery, on-
20 line, traditional games, lottery facility games and electronic gaming
21 machine games but not including games on video lottery machines or
22 lottery machines.

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

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

29 (4) The frequency of the drawings or selections of winning tickets or
30 shares.

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

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

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

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

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

39 (10) Provisions for confidentiality of information submitted by
40 vendors pursuant to K.S.A. 74-8705, and amendments thereto.

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

43 (12) The major procurement contracts or portions thereof to be

1 awarded to minority business enterprises pursuant to subsection (a) of
2 K.S.A. 74-8705, and amendments thereto, and procedures for the award
3 thereof.

4 (13) Rules and regulations to implement, administer and enforce the
5 provisions of the Kansas expanded lottery act. Such rules and regulations
6 shall include, but not be limited to, rules and regulations which govern
7 management contracts and which are designed to: (A) Ensure the integrity
8 of electronic gaming machines and other lottery facility games and the
9 finances of lottery gaming facilities ~~and racetrack gaming facilities~~; and
10 (B) alleviate problem gambling, including a requirement that each lottery
11 gaming facility ~~and each racetrack gaming facility~~ maintain a self-
12 exclusion list by which individuals may exclude themselves from access to
13 electronic gaming machines and other lottery facility games.

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

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

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

26 Sec. 9. K.S.A. 2012 Supp. 74-8716 is hereby amended to read as
27 follows: 74-8716. (a) It is unlawful for the executive director, a member of
28 the commission or any employee of the Kansas lottery, or any person
29 residing in the household thereof to:

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

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

41 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
42 or a person who contracts or seeks to contract with the state to supply
43 gaming equipment, materials, tickets or consulting services for use in the

1 lottery to offer, pay, give or make 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 to a person, knowing such person is the executive director, a member
5 of the commission or an employee of the Kansas lottery, or a person
6 residing in the household thereof.

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

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

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

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

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

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

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

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

41 (i) If the executive director, a member of the commission or an
42 employee of the Kansas lottery, or any person residing in the household
43 thereof, is convicted of an act described by this section, such executive

1 director, member or employee shall be removed from office or
2 employment with the Kansas lottery.

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

6 Sec. 10. K.S.A. 2012 Supp. 74-8733 is hereby amended to read as
7 follows: 74-8733. (a) K.S.A. 2012 Supp. 74-8733 through 74-8773, and
8 amendments thereto, shall be known and may be cited as the Kansas
9 expanded lottery act. The Kansas expanded lottery act shall be part of and
10 supplemental to the Kansas lottery act.

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

15 (c) Any action challenging the constitutionality of or arising out of
16 any provision of this act, ~~or any lottery gaming facility management~~
17 ~~contract or any racetrack gaming facility management contract~~ entered into
18 pursuant to this act shall be brought in the district court of Shawnee
19 county.

20 Sec. 11. K.S.A. 2012 Supp. 74-8734 is hereby amended to read as
21 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
22 facility in each gaming zone.

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

31 (c) The lottery commission shall adopt standards to promote the
32 integrity of the gaming and finances of lottery gaming facilities, which
33 shall apply to all management contracts, shall meet or exceed industry
34 standards for monitoring and controlling the gaming and finances of
35 gaming facilities and shall give the executive director sufficient authority
36 to monitor and control the gaming operation and to ensure its integrity and
37 security.

38 (d) The Kansas lottery commission may approve management
39 contracts with one or more prospective lottery gaming facility managers to
40 manage, or construct and manage, on behalf of the state of Kansas and
41 subject to the operational control of the Kansas lottery, a lottery gaming
42 facility or lottery gaming enterprise at specified destination locations
43 within the northeast, south central, southwest and southeast Kansas

1 gaming zones where the commission determines the operation of such
2 facility would promote tourism and economic development. The
3 commission shall approve or disapprove a proposed management contract
4 within 90 days after the deadline for receipt of proposals established
5 pursuant to subsection (b).

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

16 (f) Subject to the requirements of this section, the commission shall
17 approve at least one proposed lottery gaming facility management contract
18 for a lottery gaming facility in each gaming zone.

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

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

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

38 (2) the commission determines that the proposed development
39 consists of an investment in infrastructure, including ancillary lottery
40 gaming facility operations, of at least \$225,000,000 in the northeast-
41 ~~southeast~~ and south central Kansas gaming zones and \$50,000,000 in the
42 *southeast and* southwest Kansas gaming zone. The commission, in
43 determining whether the minimum investment required by this subsection

1 is met, shall not include any amounts derived from or financed by state or
2 local retailers' sales tax revenues.

3 (h) Any management contract approved by the commission under this
4 section shall:

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

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

11 (3) establish a mechanism to facilitate payment of lottery gaming
12 facility expenses, payment of the lottery gaming facility manager's share of
13 the lottery gaming facility revenues and distribution of the state's share of
14 the lottery gaming facility revenues;

15 (4) include a provision for the lottery gaming facility manager to pay
16 the costs of oversight and regulation of the lottery gaming facility manager
17 and the operations of the lottery gaming facility by the Kansas racing and
18 gaming commission;

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

21 (6) provide for the prospective lottery gaming facility manager, upon
22 approval of the proposed lottery gaming facility management contract, to
23 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of
24 being selected as a lottery gaming facility manager of a lottery gaming
25 facility in the northeast, ~~southeast~~ or south central Kansas gaming zone
26 and \$5,500,000 for the privilege of being selected as a lottery gaming
27 facility manager of a lottery gaming facility in the *southeast and* southwest
28 Kansas gaming zone. Such fee shall be deposited in the state treasury and
29 credited to the lottery gaming facility manager fund, which is hereby
30 created in the state treasury;

31 (7) incorporate terms and conditions for the ancillary lottery gaming
32 facility operations;

33 (8) designate as key employees, subject to approval of the executive
34 director, any employees or contractors providing services or functions
35 which are related to lottery facility games authorized by a management
36 contract;

37 (9) include financing commitments for construction;

38 (10) include a resolution of endorsement from the city governing
39 body, if the proposed facility is within the corporate limits of a city, or
40 from the county commission, if the proposed facility is located in the
41 unincorporated area of the county;

42 ~~(11) include a requirement that any parimutuel licensee developing a~~
43 ~~lottery gaming facility pursuant to this act comply with all orders and rules~~

1 ~~and regulations of the Kansas racing and gaming commission with regard~~
2 ~~to the conduct of live racing, including the same minimum days of racing~~
3 ~~as specified in K.S.A. 2012 Supp. 74-8746, and amendments thereto, for~~
4 ~~operation of electronic gaming machines at racetrack gaming facilities;~~

5 ~~(12) (11)~~ include a provision for the state to receive not less than 22%
6 of lottery gaming facility revenues, which shall be paid to the expanded
7 lottery act revenues fund established by K.S.A. 2012 Supp. 74-8768, and
8 amendments thereto;

9 ~~(13) (12)~~ include a provision for 2% of lottery gaming facility
10 revenues to be paid to the problem gambling and addictions grant fund
11 established by K.S.A. 2012 Supp. 79-4805, and amendments thereto;

12 ~~(14) (13)~~ if the prospective lottery gaming facility manager is an
13 American Indian tribe, include a provision that such tribe agrees to waive
14 its sovereign immunity with respect to any actions arising from or to
15 enforce either the Kansas expanded lottery act or any provision of the
16 lottery gaming facility management contract; any action brought by an
17 injured patron or by the state of Kansas; any action for purposes of
18 enforcing the workers compensation act or any other employment or labor
19 law; and any action to enforce laws, rules and regulations and codes
20 pertaining to health, safety and consumer protection; and for any other
21 purpose deemed necessary by the executive director to protect patrons or
22 employees and promote fair competition between the tribe and others
23 seeking a lottery gaming facility management contract;

24 ~~(15) (14) (A)~~ if the lottery gaming facility is located in the northeast
25 or southwest Kansas gaming zone and is not located within a city, include
26 a provision for payment of an amount equal to 3% of the lottery gaming
27 facility revenues to the county in which the lottery gaming facility is
28 located; or (B) if the lottery gaming facility is located in the northeast or
29 southwest Kansas gaming zone and is located within a city, include
30 provision for payment of an amount equal to 1.5% of the lottery gaming
31 facility revenues to the city in which the lottery gaming facility is located
32 and an amount equal to 1.5% of such revenues to the county in which such
33 facility is located;

34 ~~(16) (15) (A)~~ if the lottery gaming facility is located in the southeast
35 or south central Kansas gaming zone and is not located within a city,
36 include a provision for payment of an amount equal to 2% of the lottery
37 gaming facility revenues to the county in which the lottery gaming facility
38 is located and an amount equal to 1% of such revenues to the other county
39 in such zone; or (B) if the lottery gaming facility is located in the southeast
40 or south central Kansas gaming zone and is located within a city, provide
41 for payment of an amount equal to 1% of the lottery gaming facility
42 revenues to the city in which the lottery gaming facility is located, an
43 amount equal to 1% of such revenues to the county in which such facility

1 is located and an amount equal to 1% of such revenues to the other county
2 in such zone;

3 ~~(17)~~ (16) allow the lottery gaming facility manager to manage the
4 lottery gaming facility in a manner consistent with this act and applicable
5 law, but shall place full, complete and ultimate ownership and operational
6 control of the gaming operation of the lottery gaming facility with the
7 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
8 retain the power to overrule any action of the lottery gaming facility
9 manager affecting the gaming operation without prior notice. The Kansas
10 lottery shall retain full control over all decisions concerning lottery gaming
11 facility games;

12 ~~(18)~~ (17) include provisions for the Kansas racing and gaming
13 commission to oversee all lottery gaming facility operations, including, but
14 not limited to: Oversight of internal controls; oversight of security of
15 facilities; performance of background investigations, determination of
16 qualifications and credentialing of employees, contractors and agents of
17 the lottery gaming facility manager and of ancillary lottery gaming facility
18 operations, as determined by the Kansas racing and gaming commission;
19 auditing of lottery gaming facility revenues; enforcement of all state laws
20 and maintenance of the integrity of gaming operations; and

21 ~~(19)~~ (18) include enforceable provisions: (A) Prohibiting the state,
22 until July 1, 2032, from (i) entering into management contracts for more
23 than four lottery gaming facilities or similar gaming facilities, one to be
24 located in the northeast Kansas gaming zone, one to be located in the south
25 central Kansas gaming zone, one to be located in the southwest Kansas
26 gaming zone and one to be located in the southeast Kansas gaming zone,
27 (ii) designating additional areas of the state where operation of lottery
28 gaming facilities or similar gaming facilities would be authorized or (iii)
29 operating an aggregate of more than 2,800 electronic gaming machines at
30 all parimutuel licensee locations; and (B) requiring the state to repay to the
31 lottery gaming facility manager an amount equal to the privilege fee paid
32 by such lottery gaming facility manager, plus interest on such amount,
33 compounded annually at the rate of 10%, if the state violates the
34 prohibition provision described in (A).

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

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

40 ~~(k)~~ A person who is the manager of the racetrack gaming facility in a
41 gaming zone shall not be eligible to be the manager of the lottery gaming
42 facility in the same zone.

43 ~~(l)~~ (k) Management contracts authorized by this section may include

1 provisions relating to:

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

4 (2) minimum requirements for a lottery gaming facility manager to
5 provide qualified oversight, security and supervision of the lottery facility
6 games including the use of qualified personnel with experience in
7 applicable technology;

8 (3) eligibility requirements for employees, contractors or agents of a
9 lottery gaming facility manager who will have responsibility for or
10 involvement with actual gaming activities or for the handling of cash or
11 tokens;

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

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

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

20 (7) any other provision deemed necessary by the parties, including
21 such other terms and restrictions as necessary to conduct any lottery
22 facility game in a legal and fair manner.

23 ~~(m)~~ (l) A management contract shall not constitute property, nor shall
24 it be subject to attachment, garnishment or execution, nor shall it be
25 alienable or transferable, except upon approval by the executive director,
26 nor shall it be subject to being encumbered or hypothecated. The trustee of
27 any insolvent or bankrupt lottery gaming facility manager may continue to
28 operate pursuant to the management contract under order of the
29 appropriate court for no longer than one year after the bankruptcy or
30 insolvency of such manager.

31 ~~(m)~~ (m) (1) The Kansas lottery shall be the licensee and owner of all
32 software programs used at a lottery gaming facility for any lottery facility
33 game.

34 (2) A lottery gaming facility manager, on behalf of the state, shall
35 purchase or lease for the Kansas lottery all lottery facility games. All
36 lottery facility games shall be subject to the ultimate control of the Kansas
37 lottery in accordance with this act.

38 ~~(n)~~ (n) A lottery gaming facility shall comply with any planning and
39 zoning regulations of the city or county in which it is to be located. The
40 executive director shall not contract with any prospective lottery gaming
41 facility manager for the operation and management of such lottery gaming
42 facility unless such manager first receives any necessary approval under
43 planning and zoning requirements of the city or county in which it is to be

1 located.

2 (p) (o) Prior to expiration of the term of a lottery gaming facility
3 management contract, the lottery commission may negotiate a new lottery
4 gaming facility management contract with the lottery gaming facility
5 manager if the new contract is substantially the same as the existing
6 contract. Otherwise, the lottery gaming facility review board shall be
7 reconstituted and a new lottery gaming facility management contract shall
8 be negotiated and approved in the manner provided by this act.

9 Sec. 12. K.S.A. 2012 Supp. 74-8736 is hereby amended to read as
10 follows: 74-8736. (a) Upon approval of a lottery gaming facility
11 management contract by the commission, but not later than 90 days after
12 the deadline for receipt of proposals established pursuant to subsection (b)
13 of K.S.A. 2012 Supp. 74-8734, and amendments thereto, the executive
14 director and the prospective lottery gaming facility manager shall execute
15 the contract, which shall be binding upon the parties only upon a
16 determination by the lottery gaming facility review board pursuant to this
17 section that the contract is the best possible such contract, approval of the
18 contract by the Kansas racing and gaming commission pursuant to this
19 section and endorsement by resolution of the city governing body or
20 county commission as required in K.S.A. 2012 Supp. 74-8734, and
21 amendments thereto.

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

30 ~~(c) Within 30 days after execution of a lottery gaming facility~~
31 ~~management contract with a parimutuel licensee for development of a~~
32 ~~lottery gaming facility at a parimutuel licensee location, the parimutuel~~
33 ~~licensee must submit to the Kansas racing and gaming commission, for~~
34 ~~approval by the commission, a plan for compliance with the requirements~~
35 ~~for live racing and purse supplements established pursuant to K.S.A. 2012~~
36 ~~Supp. 74-8745 and 74-8767, and amendments thereto. Upon application of~~
37 ~~a parimutuel licensee, the Kansas racing and gaming commission shall~~
38 ~~open a proceeding to consider such licensee's proposal for development of~~
39 ~~a lottery gaming facility at the parimutuel licensee location. Such proposal~~
40 ~~shall include provisions for: (1) Compliance with the requirements of~~
41 ~~K.S.A. 2012 Supp. 74-8745, and amendments thereto; (2) payment of~~
42 ~~purse supplements from the appropriate funds established by K.S.A. 2012~~
43 ~~Supp. 74-8767, and amendments thereto; and (3) a plan for protecting and~~

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

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

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

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

1 or reject in whole the recommendation of the lottery gaming facility
2 review board. If the Kansas racing and gaming commission does not
3 approve the background of such prospective lottery gaming facility
4 manager, directors, officers and other persons having an interest in such
5 prospective manager or does not approve the recommendation of the
6 lottery gaming facility review board, the Kansas racing and gaming
7 commission shall notify the executive director of the lottery and the
8 process for selection of a lottery gaming facility manager shall begin again
9 in the manner provided in K.S.A. 2012 Supp. 74-8734 and 74-8735, and
10 amendments thereto.

11 ~~(f)~~ (e) The deadline for receipt of proposals established pursuant to
12 subsection (b) of K.S.A. 2012 Supp. 74-8734, and amendments thereto,
13 the time limit imposed by subsection (a) for action by the lottery
14 commission, the time limit imposed by subsection ~~(d)~~ (c) for action by the
15 lottery gaming facility review board or the time limit imposed by
16 subsection ~~(e)~~ (d) for action by the Kansas racing and gaming commission,
17 upon application by the respective commission or board, may be extended
18 by the governor for a period not to exceed 60 days if the governor, in the
19 governor's discretion, determines that the respective commission or board
20 has acted on good faith to comply with the time limit. Failure to comply
21 with any such time limit, unless extended as provided by this subsection,
22 or to comply with an extended time limit authorized by this subsection,
23 shall render the respective commission or board subject to relief in the
24 form of mandamus, injunction or other legal remedy.

25 Sec. 13. K.S.A. 2012 Supp. 74-8750 is hereby amended to read as
26 follows: 74-8750. (a) Each specific type of electronic gaming machine and
27 lottery facility game shall be approved by the Kansas racing and gaming
28 commission. The Kansas racing and gaming commission shall examine
29 prototypes of electronic gaming machines and lottery facility games and
30 shall notify the lottery gaming facility manager or racetrack gaming
31 facility manager which types of electronic gaming machines or lottery
32 facility games are in compliance with the requirements of this act. The use
33 of progressive electronic gaming machines is expressly permitted.

34 (b) No electronic gaming machine or lottery facility game shall be
35 operated pursuant to this act unless the executive director of the racing and
36 gaming commission first issues a certificate for such machine or game
37 authorizing its use at a specified location. Each electronic gaming machine
38 and lottery facility game shall have such certificate prominently displayed
39 thereon. Any electronic gaming machine or lottery facility game which
40 does not display the certificate required by this section is contraband and a
41 public nuisance subject to confiscation by any law enforcement officer.

42 (c) The executive director of the racing and gaming commission shall
43 require any manufacturer, supplier, provider, lottery gaming facility

1 manager, ~~racetrack gaming facility manager~~ or other person seeking the
2 examination and certification of electronic gaming machines or lottery
3 facility games to pay the anticipated actual costs of the examination in
4 advance. After the completion of the examination, the executive director of
5 the Kansas racing and gaming commission shall refund any overpayment
6 or charge and collect amounts sufficient to reimburse the executive
7 director for any underpayment of actual costs. The executive director of
8 the Kansas racing and gaming commission may contract for the
9 examination of electronic gaming machines and lottery facility games
10 required by this section, and may rely upon testing done by or for other
11 states regulating electronic gaming machines or lottery facility games, if
12 the executive director deems such testing to be reliable and in the best
13 interest of the state of Kansas.

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

24 Sec. 14. K.S.A. 2012 Supp. 74-8751 is hereby amended to read as
25 follows: 74-8751. The Kansas racing and gaming commission, through
26 rules and regulations, shall establish:

27 (a) A certification requirement, and enforcement procedure, for
28 officers, directors, key employees and persons directly or indirectly
29 owning a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or
30 racetrack gaming facility manager. Such certification requirement shall
31 include compliance with such security, fitness and background
32 investigations and standards as the executive director of the Kansas racing
33 and gaming commission deems necessary to determine whether such
34 person's reputation, habits or associations pose a threat to the public
35 interest of the state or to the reputation of or effective regulation and
36 control of the lottery gaming facility ~~or racetrack gaming facility~~. Any
37 person convicted of any felony, a crime involving gambling or a crime of
38 moral turpitude prior to applying for a certificate hereunder or at any time
39 thereafter shall be deemed unfit. The Kansas racing and gaming
40 commission shall conduct the security, fitness and background checks
41 required pursuant to this subsection. Certification pursuant to this
42 subsection shall not be assignable or transferable;

43 (b) a certification requirement, and enforcement procedure, for those

1 persons, including electronic gaming machine manufacturers, technology
2 providers and computer system providers, who propose to contract with a
3 lottery gaming facility manager, ~~a racetrack gaming facility manager~~ or the
4 state for the provision of goods or services related to a lottery gaming
5 facility or racetrack gaming facility, including management services. Such
6 certification requirements shall include compliance with such security,
7 fitness and background investigations and standards of officers, directors,
8 key gaming employees and persons directly or indirectly owning a ~~0.5%~~
9 5% or more interest in such entity as the executive director of the Kansas
10 racing and gaming commission deems necessary to determine whether
11 such person's reputation, habits and associations pose a threat to the public
12 interest of the state or to the reputation of or effective regulation and
13 control of the lottery gaming facility ~~or racetrack gaming facility~~. Any
14 person convicted of any felony, a crime involving gambling or a crime of
15 moral turpitude prior to applying for a certificate hereunder or at any time
16 thereafter shall be deemed unfit. If the executive director of the racing and
17 gaming commission determines the certification standards of another state
18 are comprehensive, thorough and provide similar adequate safeguards, the
19 executive director may certify an applicant already certified in such state
20 without the necessity of a full application and background check. The
21 Kansas racing and gaming commission shall conduct the security, fitness
22 and background checks required pursuant to this subsection. Certification
23 pursuant to this subsection shall not be assignable or transferable;

24 (c) provisions for revocation of a certification required by subsection
25 (a) or (b) upon a finding that the certificate holder, an officer or director
26 thereof or a person directly or indirectly owning a ~~0.5%~~ 5% or more
27 interest therein: (1) Has knowingly provided false or misleading material
28 information to the Kansas lottery or its employees; or (2) has been
29 convicted of a felony, gambling related offense or any crime of moral
30 turpitude; and

31 (d) provisions for suspension, revocation or nonrenewal of a
32 certification required by subsection (a) or (b) upon a finding that the
33 certificate holder, an officer or director thereof or a person directly or
34 indirectly owning a ~~0.5%~~ 5% or more interest therein: (1) Has failed to
35 notify the Kansas lottery about a material change in ownership of the
36 certificate holder, or any change in the directors or officers thereof; (2) is
37 delinquent in remitting money owed to the Kansas lottery; (3) has violated
38 any provision of any contract between the Kansas lottery and the
39 certificate holder; or (4) has violated any provision of the Kansas
40 expanded lottery act or any rule and regulation adopted hereunder.

41 Sec. 15. K.S.A. 2012 Supp. 74-8752 is hereby amended to read as
42 follows: 74-8752. (a) The executive director of the Kansas lottery and the
43 executive director of the Kansas racing and gaming commission, or their

1 designees, may observe and inspect all electronic gaming machines, lottery
2 facility games, lottery gaming facilities, ~~racetrack gaming facilities~~ and all
3 related equipment and facilities operated by a lottery gaming facility
4 manager ~~or racetrack gaming facility manager~~.

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

8 (1) Examine, or cause to be examined by any agent or representative
9 designated by such executive director, any books, papers, records or
10 memoranda of any lottery gaming facility manager ~~or racetrack gaming~~
11 ~~facility manager~~, or of any business involved in electronic gaming
12 machines or lottery facility games authorized pursuant to the Kansas
13 expanded lottery act, for the purpose of ascertaining compliance with any
14 provision of the Kansas lottery act, the Kansas expanded lottery act, or any
15 rules and regulations adopted thereunder;

16 (2) investigate alleged violations of the Kansas expanded lottery act
17 and alleged violations of any rules and regulations, orders and final
18 decisions of the Kansas lottery commission, the executive director of the
19 Kansas lottery, the Kansas racing and gaming commission or the executive
20 director of the Kansas racing and gaming commission;

21 (3) request a court to issue subpoenas to compel access to or for the
22 production of any books, papers, records or memoranda in the custody or
23 control of any lottery gaming facility manager ~~or racetrack gaming facility~~
24 ~~manager~~ related to the management of the lottery gaming facility ~~or~~
25 ~~racetrack gaming facility~~, or to compel the appearance of any lottery
26 gaming facility manager ~~or racetrack gaming facility manager~~ for the
27 purpose of ascertaining compliance with the provisions of the Kansas
28 lottery act and the Kansas expanded lottery act or rules and regulations
29 adopted thereunder;

30 (4) inspect and approve, prior to publication or distribution, all
31 advertising by a lottery gaming facility manager ~~or racetrack gaming~~
32 ~~facility manager~~ which includes any reference to the Kansas lottery; and

33 (5) take any other action as may be reasonable or appropriate to
34 enforce the provisions of the Kansas expanded lottery act and any rules
35 and regulations, orders and final decisions of the executive director of the
36 Kansas lottery, the Kansas lottery commission, the executive director of
37 the Kansas racing commission or the Kansas racing and gaming
38 commission.

39 (c) Appropriate security measures shall be required in any and all
40 areas where electronic gaming machines and other lottery facility games
41 authorized pursuant to the Kansas expanded lottery act are located or
42 operated. The executive director of the Kansas racing and gaming
43 commission shall approve all such security measures.

1 (d) The executive director of the Kansas racing and gaming
2 commission shall require an annual audit of the operations of each lottery
3 gaming facility and ancillary lottery gaming facility operations ~~and each~~
4 ~~racetrack gaming facility~~ as determined by the commission. Such audit
5 shall be conducted by the Kansas racing and gaming commission or a
6 licensed accounting firm approved by the executive director of the Kansas
7 racing and gaming commission and shall be conducted at the expense of
8 the lottery gaming facility manager ~~or racetrack facility manager~~.

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

12 Sec. 16. K.S.A. 2012 Supp. 74-8753 is hereby amended to read as
13 follows: 74-8753. (a) No revenue bonds, tax increment financing or
14 similar financing shall be used to finance any part of any lottery gaming
15 enterprise ~~or any racetrack gaming facility~~.

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

18 Sec. 17. K.S.A. 2012 Supp. 74-8754 is hereby amended to read as
19 follows: 74-8754. Each lottery gaming facility manager and each racetrack
20 gaming facility manager shall hold the executive director, the commission
21 and the state harmless from and defend any and all claims which may be
22 asserted against the executive director, the commission and the state, or the
23 agents or employees thereof, arising from the operation of electronic
24 gaming machines, lottery facility games or other lottery-type games
25 pursuant to the Kansas expanded lottery act. This section may be satisfied
26 by procurement of insurance by the lottery gaming facility manager ~~or~~
27 ~~racetrack gaming facility manager~~, naming the executive director, the
28 commission and the state as additional insured parties. Procurement of
29 such insurance by a lottery gaming facility manager shall be a lottery
30 gaming facility expense of the lottery gaming facility ~~and procurement of~~
31 ~~such insurance by a racetrack gaming facility manager shall be a racetrack~~
32 ~~gaming facility expense of the racetrack gaming facility~~. The provisions of
33 this section shall not apply to any claims arising from a negligent act or
34 omission or willful or malicious misconduct of the executive director, the
35 commission or the state, or the agents or employees thereof.

36 Sec. 18. K.S.A. 2012 Supp. 74-8755 is hereby amended to read as
37 follows: 74-8755. As a condition precedent to contracting for the privilege
38 of being a lottery gaming facility manager ~~or a racetrack gaming facility~~
39 ~~manager~~, such manager shall file with the secretary of state of this state a
40 written and irrevocable consent that any action or garnishment proceeding
41 may be commenced against such manager in the proper court of any
42 county in this state by the service of process on a resident agent, and
43 stipulating and agreeing that such service shall be valid and binding as if

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

14 Sec. 19. K.S.A. 2012 Supp. 74-8756 is hereby amended to read as
15 follows: 74-8756. (a) Wagers shall be received only from a person at the
16 location where the electronic gaming machine or lottery facility game is
17 authorized pursuant to the Kansas expanded lottery act. No person present
18 at such location shall place or attempt to place a wager on behalf of
19 another person who is not present at such location.

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

23 ~~(e)~~ (b) No employee or contractor of, or other person who has any
24 legal affiliation with, a lottery gaming facility manager shall loan money to
25 or otherwise extend credit to patrons of a lottery gaming facility.

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

30 Sec. 20. K.S.A. 2012 Supp. 74-8757 is hereby amended to read as
31 follows: 74-8757. (a) A person less than 21 years of age shall not be
32 permitted in an area where electronic gaming machines or lottery facility
33 games are being conducted, except for a person at least 18 years of age
34 who is an employee of the lottery gaming facility manager ~~or the racetrack~~
35 ~~gaming facility manager~~. No employee under age 21 shall perform any
36 function involved in gaming by the patrons.

37 (b) No person under age 21 shall play or make a wager on an
38 electronic gaming machine game or a lottery facility game.

39 Sec. 21. K.S.A. 2012 Supp. 74-8758 is hereby amended to read as
40 follows: 74-8758. (a) ~~Except as authorized in subsection (e), it is unlawful~~
41 ~~for any racetrack gaming facility manager, or any employee or agent~~
42 ~~thereof, to allow any person to play an electronic gaming machine game at~~
43 ~~a racetrack gaming facility, or share in winnings of such person, knowing~~

1 such person to be:

2 (1) ~~Less than 21 years of age;~~

3 (2) ~~the executive director of the Kansas lottery, a member of the~~
4 ~~Kansas lottery commission or an employee of the Kansas lottery;~~

5 (3) ~~the executive director, a member or an employee of the Kansas~~
6 ~~racing and gaming commission;~~

7 (4) ~~an officer or employee of a vendor contracting with the Kansas~~
8 ~~lottery to supply gaming equipment or tickets to the Kansas lottery for use~~
9 ~~in the operation of any lottery conducted pursuant to the Kansas expanded~~
10 ~~lottery act;~~

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

12 (6) ~~a spouse, child, stepchild, brother, stepbrother, sister, stepsister,~~
13 ~~parent or stepparent of a person described by subsection (a)(2), (a)(3), (a)~~
14 ~~(4) or (a)(5); or~~

15 (7) ~~a person who resides in the same household as any person~~
16 ~~described by subsection (a)(2), (a)(3), (a)(4) or (a)(5).~~

17 ~~Violation of this subsection is a class A nonperson misdemeanor upon~~
18 ~~conviction for a first offense. Violation of this subsection is a severity level~~
19 ~~9, nonperson felony upon conviction for the second or a subsequent~~
20 ~~offense.~~

21 (b) ~~Except as authorized in subsection (e) (b), it is unlawful for any~~
22 ~~lottery gaming facility manager, or its employees or agents, to allow any~~
23 ~~person to play electronic gaming machines or lottery facility games at a~~
24 ~~lottery gaming facility or share in winnings of such person knowing such~~
25 ~~person to be:~~

26 (1) Under 21 years of age;

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

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

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

32 (5) an officer or employee of a vendor contracting with the Kansas
33 lottery to supply gaming equipment to the Kansas lottery for use in the
34 operation of any electronic gaming machine or lottery facility game
35 conducted pursuant to the Kansas expanded lottery act;

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

39 (7) a person who resides in the same household as any person
40 described by subsection (b)(2), (b)(3), (b)(4) or (b)(5) (a)(2), (a)(3), (a)(4)
41 or (a)(5).

42 Violation of this subsection is a class A nonperson misdemeanor upon
43 conviction for a first offense. Violation of this subsection is a severity level

1 9, nonperson felony upon conviction for a second or subsequent offense.

2 (e) (b) The executive director of the Kansas racing and gaming
3 commission may authorize in writing any employee of the Kansas racing
4 and gaming commission and any employee of a lottery vendor to play an
5 electronic gaming machine game or a lottery facility game to verify the
6 proper operation thereof with respect to security and contract compliance.
7 Any prize awarded as a result of such ticket purchase shall become the
8 property of the Kansas lottery and be added to the prize pools of
9 subsequent electronic gaming machine games or lottery facility games. No
10 money or merchandise shall be awarded to any employee playing an
11 electronic gaming machine game or a lottery facility game pursuant to this
12 subsection.

13 Sec. 22. K.S.A. 2012 Supp. 74-8760 is hereby amended to read as
14 follows: 74-8760. (a) Except in accordance with rules and regulations of
15 the Kansas racing and gaming commission or by written authority from the
16 executive director of the Kansas racing and gaming commission in
17 performing installation, maintenance, inspection and repair services, it is a
18 class A nonperson misdemeanor for the following to place a wager on or
19 play an electronic gaming machine game or a lottery facility game at a
20 lottery gaming facility in this state: The executive director of the Kansas
21 lottery, a member of the Kansas lottery commission or any employee or
22 agent of the Kansas lottery; the executive director, a member or any
23 employee or agent of the Kansas racing and gaming commission; or the
24 lottery gaming facility manager or any employee of the lottery gaming
25 facility manager.

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

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

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

1 which are approved by the Kansas racing and gaming commission;

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

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

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

25 Sec. 23. K.S.A. 2012 Supp. 74-8762 is hereby amended to read as
26 follows: 74-8762. (a) As used in this section:

27 (1) "Affiliated person" means:

28 (A) Any member of the immediate family of a state or local official;
29 or

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

35 (2) "State or local official" means any person who, on or after January
36 9, 2006, is:

37 (A) Any state officer or employee required to file a written statement
38 of substantial interests pursuant to the state governmental ethics law and
39 any other state officer or employee with responsibility for matters affecting
40 activities or operations of any lottery gaming facility or racetrack gaming
41 facility;

42 (B) the governor or any full-time professional employee of the office
43 of the governor;

1 (C) any member of the legislature and any full-time professional
2 employee of the legislature;

3 (D) any justice of the supreme court, judge of the court of appeals or
4 judge of the district court;

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

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

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

20 No state or local official or affiliated person shall represent, appear for
21 or negotiate on behalf of any person submitting a proposal for a lottery
22 gaming facility or racetrack gaming facility, or on behalf of any lottery
23 gaming facility manager ~~or racetrack gaming facility manager~~, or any
24 holding or intermediary company with respect thereto, in connection with
25 any cause, application or matter.

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

38 (d) No state or local official shall solicit or accept, directly or
39 indirectly, any complimentary service or discount from any person
40 submitting a proposal for a lottery gaming facility ~~or racetrack gaming~~
41 ~~facility~~, or from any lottery gaming facility manager ~~or racetrack gaming~~
42 ~~facility manager~~, which such official knows or has reason to know is other
43 than a service or discount that is offered to members of the general public

1 in like circumstance.

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

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

12 Sec. 24. K.S.A. 2012 Supp. 74-8764 is hereby amended to read as
13 follows: 74-8764. Each lottery gaming facility manager ~~and each racetrack~~
14 ~~gaming facility manager~~ shall post one or more signs at the location where
15 such manager operates electronic gaming machines or lottery facility
16 games to inform patrons of the toll-free number available to provide
17 information and referral services regarding compulsive or problem
18 gambling. The text shall be determined by the executive director of the
19 Kansas racing and gaming commission. Failure by a lottery gaming
20 facility manager ~~or racetrack gaming facility manager~~ to post and maintain
21 such signs shall be cause for the imposition of a fine not to exceed \$500
22 per day.

23 Sec. 25. K.S.A. 2012 Supp. 74-8765 is hereby amended to read as
24 follows: 74-8765. The Kansas lottery, lottery gaming facility managers,
25 ~~racetrack gaming facility managers;~~ and lottery gaming facility
26 management contracts ~~and racetrack gaming facility management~~
27 ~~contracts~~ under the Kansas expanded lottery act shall not be subject to the
28 provisions of and restrictions on major procurement contracts, including,
29 but not limited to, the provisions of K.S.A. 74-8705, and amendments
30 thereto.

31 Sec. 26. K.S.A. 2012 Supp. 74-8766 is hereby amended to read as
32 follows: 74-8766. (a) There is hereby established in the state treasury the
33 expanded lottery receipts fund. Separate accounts shall be maintained in
34 such fund for receipt of moneys from each lottery gaming facility manager
35 ~~and racetrack gaming facility manager~~. All expenditures from the fund
36 shall be made in accordance with appropriation acts upon warrants of the
37 director of accounts and reports issued pursuant to vouchers approved by
38 the executive director for the purposes set forth in this act.

39 (b) All lottery gaming facility revenues from lottery gaming facilities
40 ~~and all net electronic gaming machine income from racetrack gaming~~
41 ~~facilities~~ shall be paid daily and electronically to the executive director.
42 The executive director shall remit all moneys received therefrom to the
43 state treasurer in accordance with K.S.A. 75-4215, and amendments

1 thereto. Upon receipt of the remittance, the state treasurer shall deposit the
2 entire amount in the state treasury and credit it to the ~~respective~~ account
3 maintained for the lottery gaming facility manager ~~or racetrack gaming~~
4 ~~facility manager~~ in the expanded lottery receipts fund.

5 (c) The executive director shall certify weekly to the director of
6 accounts and reports the percentages or amounts to be transferred from
7 each account maintained in the expanded lottery receipts fund to the
8 expanded lottery act revenues fund, the live horse racing supplement fund,
9 the live greyhound racing purse supplement fund and the problem
10 gambling and addictions grant fund, as provided by the lottery gaming
11 facility management contract or K.S.A. 2012 Supp. 74-8747, and
12 amendments thereto. Upon receipt of the certification, the director of
13 accounts and reports shall transfer amounts from each such account in
14 accordance with the certification of the executive director. Once each
15 month, the executive director shall cause amounts from each such account
16 to be paid to cities, counties and lottery gaming facility managers in
17 accordance with the lottery gaming facility management contract ~~and to~~
18 ~~racetrack gaming facility managers in accordance with K.S.A. 2012 Supp.~~
19 ~~74-8747, and amendments thereto.~~

20 (d) Amounts remaining in an account in the expanded lottery receipts
21 fund after transfers and payments pursuant to subsection (c) shall be
22 distributed in accordance with the related lottery gaming facility
23 management contract ~~or racetrack gaming facility management contract.~~

24 Sec. 27. K.S.A. 2012 Supp. 74-8771 is hereby amended to read as
25 follows: 74-8771. Pursuant to section 2 of the federal act entitled "An Act
26 to Prohibit Transportation of Gambling Devices in Interstate and Foreign
27 Commerce," 15 U.S.C. §§ 1171 through 1777, the state of Kansas, acting
28 by and through the duly elected and qualified members of the legislature,
29 does hereby in this section, and in accordance with and in compliance with
30 the provisions of section 2 of such federal act, declare and proclaims that it
31 is exempt from the provision of section 2 of such federal act to the extent
32 that such gambling devices as described therein are being transported to or
33 from the Kansas lottery or to or from a lottery gaming facility ~~or racetrack~~
34 ~~gaming facility~~ or a location within the state of Kansas where such
35 gambling devices are authorized pursuant to the Kansas expanded lottery
36 act.

37 Sec. 28. K.S.A. 2012 Supp. 74-8772 is hereby amended to read as
38 follows: 74-8772. The Kansas racing and gaming commission shall adopt
39 such rules and regulations as the commission deems necessary to carry out
40 the duties and functions of the commission pursuant to the Kansas
41 expanded lottery act. Such rules and regulations shall include, but not be
42 limited to, rules and regulations:

43 (a) Promoting the integrity of the gaming and finances of lottery

1 gaming facilities and racetrack gaming facilities and shall meet or exceed
2 industry standards for monitoring and controlling the gaming and finances
3 of lottery gaming facility operations ~~and racetrack gaming facility~~
4 ~~operations~~ and shall give the Kansas racing and gaming commission
5 sufficient authority to monitor and control the gaming operation and to
6 ensure its integrity and security;

7 (b) prescribing the on-site security arrangements for lottery gaming
8 facilities ~~and racetrack gaming facilities~~;

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

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

24 (e) provisions for oversight of all lottery gaming facility operations
25 and racetrack gaming facility operations, including, but not limited to,
26 oversight of internal controls; oversight of security of facilities;
27 performance of background investigations, determination of qualifications
28 and credentialing of employees, contractors and agents of lottery gaming
29 facility managers; *and* ancillary lottery gaming facility operations ~~and~~
30 ~~racetrack gaming facilities~~; auditing of lottery gaming facility revenues
31 ~~and net electronic gaming machine income of racetrack gaming facilities~~;
32 enforcement of all state laws; and maintenance of the integrity of lottery
33 gaming facility ~~and racetrack gaming facility~~ operations.

34 *New Sec. 29. The Kansas lottery commission shall negotiate an*
35 *addendum to existing lottery gaming facility management contracts that*
36 *prohibit the state from operating electronic gaming machines at*
37 *parimutuel licensee locations until after July 1, 2032.*

38 Sec. 30. K.S.A. 2012 Supp. 12-4516, 21-6109, 21-6110, 21-6614, 60-
39 2102, 72-6624, 74-8702, 74-8710, 74-8716, 74-8733, 74-8734, 74-8736,
40 74-8740, 74-8741, 74-8742, 74-8743, 74-8744, 74-8745, 74-8746, 74-
41 8747, 74-8749, 74-8750, 74-8751, 74-8752, 74-8753, 74-8754, 74-8755,
42 74-8756, 74-8757, 74-8758, 74-8760, 74-8762, 74-8764, 74-8765, 74-
43 8766, 74-8767, 74-8771 and 74-8772 are hereby repealed.

1 Sec. 31. This act shall take effect and be in force from and after its
2 publication in the statute book.