

As Amended by House Committee

HOUSE BILL No. 2173

By Committee on Federal and State Affairs

1-26

1 AN ACT concerning gaming; relating to the Kansas expanded lottery act;
2 making and concerning appropriations for the fiscal year ending June
3 30, 2018, for the Kansas lottery; relating to the state debtor setoff
4 program; relating to horse and greyhound racing; amending K.S.A. 74-
5 8836 and K.S.A. 2016 Supp. [4-8734] 74-8741, 74-8744, 74-8746, 74-
6 8747, 74-8766, 74-8814 and 75-6204 and repealing the existing
7 sections.

8 Be it enacted by the Legislature of the State of Kansas:
9
10 Section 1.

KANSAS LOTTERY

11
12 (a) There is appropriated for the above agency from the following
13 special revenue fund or funds for the fiscal year ending June 30, 2018, all
14 moneys now or hereafter lawfully credited to and available in such fund or
15 funds, except that expenditures other than refunds authorized by law and
16 transfers to other state agencies shall not exceed the following:

17 Privilege fee repayment fund..... No limit
18 Escrow account repayment fund..... No limit
19 Litigation cost reimbursement fund..... No limit

20 New Sec. 2. On or before December 1, the official breed registering
21 agencies for both horse and greyhound breeds, as designated by the
22 Kansas racing and gaming commission in K.S.A. 74-8830 and 74-8832,
23 and amendments thereto, shall make recommendations to the Kansas
24 racing and gaming commission for implementation of programs which will
25 maximize the benefit to economic development in rural Kansas.]

26 New Sec. 3. (a) Prior to any lottery gaming facility manager,
27 racetrack gaming facility manager or facility owner licensee paying any
28 prize requiring the completion of an internal revenue service form W-2G,
29 the manager or licensee shall cause the person winning the prize to be
30 matched against the state debtor files maintained by the director of
31 accounts and reports as prescribed under K.S.A. 75-6201 et seq., and
32 amendments thereto. If such person is listed in the state debtor files, the
33 prize shall be withheld by the lottery gaming facility manager, racetrack
34 gaming facility manager or the facility owner licensee to the extent of such
35 person's debt as set forth in the state debtor files.

36 (b) The lottery gaming facility manager, racetrack gaming facility

74-8743,

Proposed Balloon Amendments
House Bill No. 2173
Senate Federal and State Affairs
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Office of Revisor of Statutes

WHEREAS, In light of the historic support for the availability of horse and dog racing in the
state, the long history and heritage of the greyhound and horse industry in the state and the
support for the availability of electronic gaming machines at race facilities, this act is aimed
at resurrecting these well-known and existing facilities; and
WHEREAS, Allowing horse and dog racetracks to be economically viable will improve the
Kansas economy, promote tourism and protect the state's reputation in the greyhound and
horse industry, which has existed in Kansas long before the advent of casinos and electronic
gaming; and
WHEREAS, There are positive economic and agribusiness benefits derived from revitalizing
our existing race tracks, which have been idle since the passage of 2007 Senate Bill No. 66
due to the inability to make a sustainable profit, including farms and breeding operations;
and
WHEREAS, It has been 10 years since the vote to approve and place electronic gaming
machines at Wichita Greyhound Park in Sedgwick County; and
WHEREAS, An economic study has estimated that passage of this act and the resulting
capital investments in the racetracks will result in a significant number of new jobs and a
significant increase in state and local tax revenue without the need for economic
development incentives; and
WHEREAS, That economic study has also estimated that the passage of this act will channel
millions of dollars annually to farmers and ranchers who have been struggling in the current
farm and ranch economy, and will benefit greyhound and horse breeders and the support
services employed by these breeders; and
WHEREAS, The existence of current lottery gaming facility management contracts is
herby acknowledged and it is the intent of the legislature to protect the state from financial
exposure in the event lottery gaming facility managers request the repayment of privilege
fees paid to the state; and
WHEREAS, The current tax structure for racetracks needs to be aligned with that of the
casinos in order to allow the racetracks to open and operate as intended.
Now, therefore:

1 manager and facility owner licensee shall not be subject to any civil,
2 criminal or administrative liability for any actions taken pursuant to this
3 section, unless such actions are intentional, malicious or wanton by such
4 lottery gaming facility manager, racetrack gaming facility manager, facility
5 owner licensee or employees or agents thereof. The sole remedy at law for
6 any person who claims that a prize was wrongfully withheld pursuant to
7 this section shall be to submit an appeal to the department of
8 administration pursuant to K.S.A. 75-6201 et seq, and amendments
9 thereto.

10 (c) Moneys withheld, based on the state debtor files, shall be remitted
11 to the state treasurer in accordance with K.S.A. 75-4215, and amendments
12 thereto. The state treasurer shall deposit the entire amount in the state
13 treasury and credit it to the department of administration's setoff clearing
14 fund.

15 (d) As used in this section:

16 (1) "Facility owner licensee" shall have the same meaning as that
17 term is defined in K.S.A. 74-8802, and amendments thereto.

18 (2) "Racetrack gaming facility manager" shall have the same meaning
19 as that term is defined in K.S.A. 74-8702, and amendments thereto.

20 (3) "Lottery gaming facility manager" shall have the same meaning as
21 that term is defined in K.S.A. 74-8702, and amendments thereto.

22 (4) "Prize" shall have the same meaning as that term is defined in
23 K.S.A. 74-8702, and amendments thereto, and any winnings from
24 parimutuel wagering as provided by the Kansas parimutuel racing act in
25 K.S.A. 74-8801 et seq, and amendments thereto.

26 (e) Nothing in this section shall apply to Native American tribal
27 gaming facilities.

28 (f) This section shall be a part of and supplemental to the state debtor
29 selfoff program.

30 ~~New Sec. 4. (a) The board of county commissioners of Sedgewick~~
31 ~~county shall submit upon presentation of a valid petition, to the qualified~~
32 ~~voters of the county a proposition to permit the operation of electronic~~
33 ~~gaming machines at an existing parimutuel racetrack within that county,~~
34 ~~namely Wichita Greyhound park. The petition shall be signed by not fewer~~
35 ~~than 5,000 qualified voters of the county. The following shall appear on~~
36 ~~the petition: "We request an election to determine whether the operation of~~
37 ~~electronic gaming machines at the Wichita Greyhound Park by the Kansas~~
38 ~~lottery shall be permitted in Sedgewick county."~~

39 ~~(b) Upon the submission of a petition, the county election officer~~
40 ~~shall determine whether a sufficient number of qualified voters of the~~
41 ~~county have signed such petition. If the petition is deemed valid, the~~
42 ~~county election officer shall cause the following proposition to be placed~~
43 ~~on the ballot at the election called for that purpose and to be held no later]~~

1 than 120 days after the petition is deemed valid. "Shall the operation of
2 electronic gaming machines at the Wichita Greyhound Park by the Kansas
3 lottery be permitted in Sedgwick county?"

4 (c) If a majority of the votes cast and counted at the election is in
5 favor of permitting the operation of such machines, the executive director
6 may enter into a contract with the parimutuel racetrack facility licensee or
7 the facility owner licensee at the Wichita greyhound park in Sedgwick
8 county to operate such machines at its existing location in the county. If a
9 majority of the votes cast and counted at an election under this section is
10 against permitting the operation of electronic gaming machines at the
11 Wichita greyhound park in Sedgwick county, the Kansas lottery shall not
12 operate such machines in the county, unless a subsequent election results
13 in a favorable vote. The county election officer shall transmit a copy of the
14 certification of the results of the election to the executive director and to
15 the Kansas racing and gaming commission.

16 (d) This section shall be a part of and supplemental to the Kansas
17 expanded lottery act.]

18 New Sec. 5. (a) If the Kansas lottery enters into a racetrack gaming
19 facility management contract for the placement of electronic gaming
20 machines at a parimutuel licensee location in any Kansas gaming zone,
21 the executive director shall give notice thereof to the lottery gaming
22 facility manager in each of the Kansas gaming zones. Such notice shall
23 advise that each lottery gaming facility manager shall have 60 days from
24 the effective date of the racetrack gaming facility management contract to
25 file or become a party to an action seeking to obtain a judgment that such
26 racetrack gaming facility management contract violates the provisions of
27 K.S.A. 2016 Supp. 74-8734(h)(19) or 74-8741(c)(4), and amendments
28 thereto, or that such racetrack gaming facility management contract creates
29 a material breach of the lottery gaming facility manager's gaming facility
30 management contract thereby entitling the lottery gaming facility manager
31 to recover the privilege fee filed by the lottery gaming facility manager,
32 plus an amount equal to the accrued interest thereon at a rate of 10%
33 compounded annually from the date when the privilege fee was paid to the
34 effective date of such racetrack gaming facility management contract. Any
35 such action shall be commenced in the district court of Shawnee county.]

36 (b) (1) If a timely action is commenced as provided in subsection (a),
37 within 60 days following the end of the 60-day period prescribed in
38 subsection (a), [the racetrack gaming facility manager that is a party to such
39 racetrack gaming facility management contract shall place into escrow
40 cash or a surety bond in a total amount equal to the privilege fees paid by
41 the lottery gaming facility managers that are parties to the action, plus an
42 amount equal to the accrued interest on each of the privilege fees at the
43 rate of 10% compounded annually from the date the privilege fee was filed

(a) The attorney general may file an action in quo warranto in the supreme court within 90 days from the effective date of this act on the question of the authority of a public official to act in accordance with the provisions of K.S.A. 2016 Supp. 74-8743, and amendments thereto. Such action may not be filed by any party except the attorney general, and shall only be filed in the supreme court.

(b) No action for specific performance, anticipatory breach or breach of contract, the basis of which is that a racetrack gaming facility management contract violates the provisions of K.S.A. 2016 Supp. 74-8734(h)(19) or 74-8741(c)(4), and amendments thereto, or that such racetrack gaming facility management contract creates a material breach of the lottery gaming facility manager's gaming facility management contract, shall be deemed to have accrued until such date as the Kansas lottery enters into a racetrack gaming facility license location in any Kansas gaming zone, or such date a final order is issued in any action brought by the attorney general pursuant to subsection (a), whichever occurs later. Any such action shall be commenced in the district court of Shawnee county within 60 days from the date the cause of action accrued.

(c) No claim for equitable relief, including injunctive relief may be brought in any action filed pursuant to this subsection except by the attorney general in an action brought under subsection (a). *

(d) If an action is commenced in accordance with subsection (b), within 60 days following the filing of such action,

those

1 to the effective date of such racetrack gaming facility management
 2 contract. This requirement shall be included in each racetrack gaming
 3 facility management contract, so that the failure of the racetrack gaming
 4 facility manager to place cash or a surety bond in escrow in a timely
 5 manner shall constitute a material breach of the racetrack gaming facility
 6 management contract and shall be cause for termination of such contract.
 7 The total amount of the cash or surety bond placed in escrow shall be
 8 verified by the executive director. If a surety bond is placed in escrow, the
 9 surety bond shall be executed by the surety in favor of the Kansas lottery,
 10 and the cash or surety bond shall be held by the escrow agent designated
 11 by the Kansas lottery pursuant to an escrow agreement executed by the
 12 executive director.

13 ~~(2) Upon placing cash or a surety bond in escrow in accordance with~~
 14 ~~subsection (b)(1), the racetrack gaming facility manager may proceed with~~
 15 ~~the construction and operation of the racetrack gaming facility governed~~
 16 ~~by the racetrack gaming facility management contract, without exposure to~~
 17 ~~a restraining order or injunction requested by any party for any purpose in~~
 18 ~~any action pursuant to this section or otherwise.~~

19 ~~(3) If a timely action is commenced in accordance with subsection~~
 20 ~~(e), each lottery gaming facility manager that is a party to the action, at the~~
 21 ~~time it becomes a party, shall place into escrow with the Kansas lottery, as~~
 22 ~~liquidated damages, the sum of \$5,000,000 either in cash or surety bond. If~~
 23 ~~a surety bond is placed in escrow, a surety bond shall be executed by the~~
 24 ~~surety in favor of the Kansas lottery, and the cash or surety bond shall be~~
 25 ~~held by the escrow agent designated by the Kansas lottery pursuant to an~~
 26 ~~escrow agreement executed by the executive director.~~

27 ~~(c)(1) If a timely action is commenced as provided in subsection (a),~~
 28 ~~and a court of competent jurisdiction determines pursuant to a final, non-~~
 29 ~~appealable order that the racetrack gaming facility management contract~~
 30 ~~does not violate the provisions of K.S.A. 2016 Supp. 74-8734(h)(19) or~~
 31 ~~74-8741(c)(4), and amendments thereto, or create a material breach of any~~
 32 ~~lottery gaming facility management contract entered into with the Kansas~~
 33 ~~lottery by any of the lottery gaming facility managers who are a party to~~
 34 ~~such action, the executive director shall release and discharge back to the~~
 35 ~~racetrack gaming facility manager the cash or surety bond held in escrow~~
 36 ~~pursuant to subsection (b)(1). The executive director also shall direct the~~
 37 ~~escrow agent holding in escrow cash or a surety bond pursuant to~~
 38 ~~subsection (b)(3) to pay any such cash to the executive director, and the~~
 39 ~~executive director also shall make demand on the surety for any surety~~
 40 ~~bond held in escrow pursuant to subsection (b)(3). The executive director~~
 41 ~~shall remit that portion of any cash or the proceeds of any such surety~~
 42 ~~bond as is sufficient to reimburse the racetrack gaming facility manager~~
 43 ~~for court costs and other costs of the action, including attorney fees, to the]~~

Every six months following the effective date of such racetrack gaming facility management contract, the racetrack gaming facility manager also shall place into escrow cash or a surety bond in an additional amount equal to the interest continuing to accrue on the privilege fees paid by the lottery gaming facility managers that are parties to the action, as determined by the executive director.

(e) , in any action commenced in accordance with subsection (b),

(d)

1 ~~state treasurer. Upon receipt of such remittance, the state treasurer shall~~
 2 ~~deposit such amount in the state treasury to the credit of the litigation cost~~
 3 ~~reimbursement fund. The remaining balance of any cash or the proceeds of~~
 4 ~~any surety bond shall be deposited by the executive director in the~~
 5 ~~expanded lottery act revenue fund. If there is more than one cash deposit~~
 6 ~~or surety bond placed in escrow pursuant to subsection (b)(3),~~
 7 ~~reimbursement of the racetrack gaming facility manager, as provided~~
 8 ~~above, shall be made on a pro-rata basis.]~~

in any action commenced in accordance with subsection (b),

9 (2) ~~If a timely action is commenced as provided in subsection (a), and]~~
 10 ~~a court of competent jurisdiction determines in a final, non-appealable~~
 11 ~~order, that the racetrack gaming management contract violates the~~
 12 ~~provisions of K.S.A. 2016 Supp. 74-8734(h)(19) or 74-8741(c)(4), and~~
 13 ~~amendments thereto, or creates a material breach of any lottery gaming~~
 14 ~~facility management contract entered into with the Kansas lottery by any~~
 15 ~~of the lottery gaming facility managers that are a party to such action, the~~
 16 ~~executive director shall release and discharge back to each lottery gaming~~
 17 ~~facility manager the cash or surety bond held in escrow pursuant to~~
 18 ~~subsection (b)(3). The executive director also shall direct the escrow agent~~
 19 ~~holding in escrow cash or a surety bond pursuant to subsection (b)(1) to~~
 20 ~~pay such cash to the executive director, and the executive director also~~
 21 ~~shall make demand on the surety for any surety bond held in escrow~~
 22 ~~pursuant to subsection (b)(1). The total amount of cash and proceeds of~~
 23 ~~any surety bond shall enable the repayment of any privilege fees and~~
 24 ~~accrued interest thereon to any lottery gaming facility manager in whose~~
 25 ~~favor final judgment has been rendered in such action. The executive~~
 26 ~~director shall remit all such cash and the proceeds of any surety bond to~~
 27 ~~the state treasurer. Upon receipt of such remittance, the state treasurer shall~~
 28 ~~deposit the entire amount in the state treasury to the credit of the privilege~~
 29 ~~fee repayment fund.~~

(d)

(d)

(f)

(d)

(e)(2)

30 ~~[(d)] In the event any proceeds from the surety bond held in escrow~~
 31 ~~under subsection (b)(1)] are remitted to the state treasurer for repayment to~~
 32 ~~a lottery gaming facility manager pursuant to subsection (e)(2), the Kansas~~
 33 ~~lottery shall thereafter reimburse an equal amount to the racetrack gaming~~
 34 ~~facility manager. Such reimbursement payments shall be paid monthly~~
 35 ~~from the escrow account repayment fund. The amount of each monthly~~
 36 ~~reimbursement payment shall be a percentage of the funds in the expanded~~
 37 ~~lottery act revenue fund that were received by the Kansas lottery pursuant~~
 38 ~~to K.S.A. 2016 Supp. 74-8747(a)(1), and amendments thereto, as~~
 39 ~~hereinafter provided. Such percentage shall be agreed to by the executive~~
 40 ~~director and the racetrack gaming facility manager in each racetrack~~
 41 ~~gaming facility management contract, except that such percentage shall~~
 42 ~~not be less than 50% of the funds in the expanded lottery act revenue fund~~
 43 ~~that were received by the Kansas lottery pursuant to K.S.A. 2016 Supp.~~

1 74-8747(a)(1), and amendments thereto. The executive director shall
 2 certify the amount to be paid under this subsection to the director of
 3 accounts and reports. Upon receipt of such certification, the director of
 4 accounts and reports shall transfer such certified amount from the
 5 expanded lottery act revenue fund to the escrow account repayment fund.
 6 Transfers from the expanded lottery act revenue fund under this subsection
 7 shall only be made from those funds held in the expanded lottery act
 8 revenue fund that were received by the Kansas lottery pursuant to K.S.A.
 9 2016 Supp. 74-8747(a)(1), and amendments thereto, as net electronic
 10 gaming machine income from the racetrack gaming facility to which the
 11 racetrack gaming facility management contract applies. All funds
 12 transferred to the escrow account repayment fund pursuant to this
 13 subsection shall be expended by the Kansas lottery for the purposes of this
 14 subsection.

15 ~~§)(1)~~ The privilege fee repayment fund is hereby created in the state
 16 treasury and shall be administered by the Kansas lottery. The privilege fee
 17 repayment fund shall consist of those moneys credited to the privilege fee
 18 repayment fund pursuant to subsection ~~§)(2)~~ All expenditures from the
 19 privilege fee repayment fund shall be for the repayment of privilege fees,
 20 including accrued interest thereon, pursuant to subsection ~~§)(2)~~ and shall
 21 be made in accordance with appropriation acts upon warrants of the
 22 director of accounts and reports issued pursuant to vouchers approved by
 23 the executive director.

24 (2) The escrow account repayment fund is hereby created in the state
 25 treasury and shall be administered by the Kansas lottery. The escrow
 26 account repayment fund shall consist of those moneys credited to the
 27 escrow account repayment fund pursuant to subsection ~~§)(1)~~ All
 28 expenditures from the escrow account repayment fund shall be for
 29 reimbursement to the racetrack gaming facility manager of the proceeds
 30 from the cash or surety bond held in escrow under subsection ~~§)(1)~~ that
 31 are remitted to the state treasurer for payment to a lottery gaming facility
 32 manager pursuant to subsection ~~§)(2)~~ and shall be made in accordance
 33 with appropriation acts upon warrants of the director of accounts and
 34 reports issued pursuant to vouchers approved by the executive director.

35 ~~§)(3)~~ The litigation cost reimbursement fund is hereby created in the
 36 state treasury and shall be administered by the Kansas lottery. The
 37 litigation cost reimbursement fund shall consist of those moneys credited
 38 to the litigation cost reimbursement fund pursuant to subsection ~~§)(1)~~. All
 39 expenditures from the litigation cost reimbursement fund shall be for
 40 reimbursement to the racetrack gaming facility manager for court costs
 41 and other costs of the action described in subsection (e), including attorney
 42 fees, and shall be made in accordance with appropriation acts upon
 43 warrants of the director of accounts and reports issued pursuant to

(e)

(e)(2)

(f)

(d)

(e)(2)

~~Vouchers approved by the executive director.]~~
~~(d)~~ For purposes of this section, the Kansas expanded lottery act and the Kansas parimutuel racing act, a racetrack gaming facility manager, as defined in K.S.A. 2016 Supp. 74-8702, and amendments thereto, may also be a facility owner licensee, as defined in K.S.A. 74-8802, and amendments thereto.

~~(g)~~ The provisions of this section shall be a part of and supplemental to the Kansas expanded lottery act.

New Sec. 6. There is hereby established in the state treasury the Kansas horse council fund, which shall be administered by the Kansas racing and gaming commission and which shall be funded by 0.1% of net electronic gaming machine income in the south-central Kansas gaming zone, as provided in K.S.A. 2016 Supp. 74-8747, and amendments thereto. All expenditures from this fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the Kansas racing and gaming commission. The moneys credited to this fund shall be used for the development, promotion and representation of the equine industry in Kansas and shall be distributed to the Kansas horse council by contract with the Kansas racing and gaming commission for these purposes.

~~Sec. 7. K.S.A. 2016 Supp. 74-8734 is hereby amended to read as follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming facility in each gaming zone.~~

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

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

~~(d) The Kansas lottery commission may approve management contracts with one or more prospective lottery gaming facility managers to manage or construct and manage, on behalf of the state of Kansas and subject to the operational control of the Kansas lottery, a lottery gaming~~

New Sec. 3. On or before December 1, 2017, and each December 1 thereafter, the official breed registering agencies for both horse and greyhound breeds, as designated by the Kansas racing and gaming commission in K.S.A. 74-8830 and 74-8832, and amendments thereto, shall make recommendations to the Kansas racing and gaming commission for implementation of programs that will maximize the benefit to economic development in rural Kansas.

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

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

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

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

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

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

40 (2) the commission determines that the proposed development
 41 consists of an investment in infrastructure, including ancillary lottery
 42 gaming facility operations, of at least \$225,000,000 in the northeast and
 43 south central Kansas gaming zones and of at least \$50,000,000 in the

~~1 Southeast and southwest Kansas gaming zones. The commission, in
2 determining whether the minimum investment required by this subsection
3 is met, shall not include any amounts derived from or financed by state or
4 local retailers' sales tax revenues.~~

~~5 (h) Any management contract approved by the commission under this
6 section shall:~~

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

~~11 (2) Specify the total amount to be paid to the lottery gaming facility
12 manager pursuant to the contract;~~

~~13 (3) Establish a mechanism to facilitate payment of lottery gaming
14 facility expenses, payment of the lottery gaming facility manager's share of
15 the lottery gaming facility revenues and distribution of the state's share of
16 the lottery gaming facility revenues;~~

~~17 (4) Include a provision for the lottery gaming facility manager to pay
18 the costs of oversight and regulation of the lottery gaming facility manager
19 and the operations of the lottery gaming facility by the Kansas racing and
20 gaming commission;~~

~~21 (5) Establish the types of lottery facility games to be installed in such
22 facility;~~

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

~~33 (7) Incorporate terms and conditions for the ancillary lottery gaming
34 facility operations;~~

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

~~39 (9) Include financing commitments for construction;~~

~~40 (10) Include a resolution of endorsement from the city governing
41 body, if the proposed facility is within the corporate limits of a city or
42 from the county commission, if the proposed facility is located in the
43 unincorporated area of the county;]~~

1 ~~[(11) include a requirement that any parimutuel licensee developing a~~
2 ~~lottery gaming facility pursuant to this act comply with all orders and rules~~
3 ~~and regulations of the Kansas racing and gaming commission with regard~~
4 ~~to the conduct of live racing, including the same minimum days of racing~~
5 ~~as specified in K.S.A. 2016 Supp. 74-8746, and amendments thereto, for~~
6 ~~operation of electronic gaming machines at racetrack gaming facilities;~~
7 ~~(12) include a provision for the state to receive not less than 22% of~~
8 ~~lottery gaming facility revenues, which shall be paid to the expanded~~
9 ~~lottery act revenues fund established by K.S.A. 2016 Supp. 74-8768, and~~
10 ~~amendments thereto;~~

11 ~~(13) include a provision for 2% of lottery gaming facility revenues to~~
12 ~~be paid to the problem gambling and addictions grant fund established by~~
13 ~~K.S.A. 2016 Supp. 79-4805, and amendments thereto;~~

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

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

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

1 for the city in which the lottery gaming facility is located, an amount equal
2 to 1% of such revenues to the county in which such facility is located and
3 an amount equal to 1% of such revenue to the other county in such zone;

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

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

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

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

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

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

1 ~~(f) Management contracts authorized by this section may include~~
2 ~~provisions relating to:~~

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

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

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

13 ~~(4) Background investigations to be performed by the Kansas racing~~
14 ~~and gaming commission;~~

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

19 ~~(6) Provision for termination of the management contract by either~~
20 ~~party for cause, and~~

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

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

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

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

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

1 ~~planning and zoning requirements of the city or county in which it is to be~~
2 ~~located.~~

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

10 ~~(q) For purposes of this section, the term "similar gaming facilities"~~
11 ~~does not include any racetrack gaming facility as that term is defined in~~
12 ~~K.S.A. 74-8702, and amendments thereto, that was authorized on the~~
13 ~~effective date of this act.]~~

14 Sec. 8. K.S.A. 2016 Supp. 74-8741 is hereby amended to read as
15 follows: 74-8741. (a) The executive director of the Kansas lottery shall
16 negotiate a racetrack gaming facility management contract to place
17 electronic gaming machines at one parimutuel licensee location in each
18 gaming zone except the southwest Kansas gaming zone.

19 (b) To be eligible to enter into a racetrack gaming facility
20 management contract the prospective racetrack gaming facility manager
21 shall, at a minimum:

22 (1) Have sufficient access to financial resources to support the
23 activities required of a racetrack gaming facility manager under the Kansas
24 expanded lottery act; and

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

30 (c) A racetrack gaming facility management contract shall include:

31 (1) The term of the contract;

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

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

1 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
2 2032, from: (i) Entering into management contracts for more than three
3 ~~four~~ lottery gaming facilities or similar gaming facilities, one to be located
4 in the northeast Kansas gaming zone, one to be located in the south central
5 Kansas gaming zone ~~and~~, one to be located in the southeast Kansas
6 gaming zone; ~~and one to be located in the southwest Kansas gaming zone;~~
7 (ii) designating additional areas of the state where operation of lottery
8 gaming facilities or similar gaming facilities would be authorized; or (iii)
9 operating an aggregate of more than 2,800 electronic gaming machines at
10 all parimutuel licensee locations; and (B) requiring the state to repay to the
11 racetrack gaming facility manager an amount equal to the privilege fee
12 paid by such racetrack gaming facility manager, plus interest on such
13 amount, compounded annually at the rate of 10%, if the state violates the
14 prohibition provision described in (A); ~~and~~
15 (5) ~~provisions for the distribution of the net electronic gaming~~
16 ~~machine income from the racetrack gaming facility, which shall be in~~
17 ~~accordance with K.S.A. 2016 Supp. 74-8747, and amendments thereto.~~
18 (d) Racetrack gaming facility management contracts authorized by
19 this section may include provisions relating to:
20 (1) Accounting procedures to determine net electronic gaming
21 machine income, unclaimed prizes and credits;
22 (2) minimum requirements for a racetrack gaming facility manager to
23 provide qualified oversight, security and supervision of electronic gaming
24 machines including the use of qualified personnel with experience in
25 applicable technology;
26 (3) eligibility requirements for employees, contractors or agents of a
27 racetrack gaming facility manager who will have responsibility for or
28 involvement with electronic gaming machines or for the handling of cash
29 or tokens;
30 (4) background investigations to be performed by the Kansas racing
31 and gaming commission;
32 (5) credentialing or certification requirements of any employee,
33 contractor or agent as provided by the Kansas expanded lottery act or rules
34 and regulations adopted pursuant thereto;
35 (6) provision for termination of the management contract by either
36 party for cause; and
37 (7) any other provision deemed necessary by the parties, including
38 such other terms and restrictions as necessary to conduct racetrack gaming
39 facility operations in a legal and fair manner.
40 (e) A person who is the manager of a lottery gaming facility in a
41 gaming zone shall not be eligible to be the manager of the racetrack
42 gaming facility in the same zone.
43 (f) A racetrack gaming facility management contract shall not

1 constitute property, nor shall it be subject to attachment, garnishment or
2 execution, nor shall it be alienable or transferable, except upon approval
3 by the executive director, nor shall it be subject to being encumbered or
4 hypothecated.

5 ~~(g) For purposes of this section, the term "similar gaming facilities" does not include any racetrack gaming facility or that term is defined in K.S.A. 74-8702, and amendments thereto, that was authorized on the effective date of this act.~~

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Sec. 9. K.S.A. 2016 Supp. 74-8744 is hereby amended to read as follows: 74-8744. (a) In accordance with rules and regulations adopted by the commission, the executive director shall have general responsibility for the implementation and administration of the provisions of this act relating to racetrack gaming facility operations, including the responsibility to:

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

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

(A) The number of electronic gaming machines allocated for placement at each racetrack gaming facility, subject to the provisions of subsection (b);

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

(C) the kind, type, number and location of electronic gaming machines at any racetrack gaming facility; and

(D) rules and regulations and procedures for the accounting and reporting of the payments required from racetrack gaming facility managers under K.S.A. 2016 Supp. 74-8766, and amendments thereto, including the calculations required for such payments.

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

(1) At least 600 400 electronic gaming machines shall be allocated to and placed at each racetrack gaming facility.

(2) The total number of electronic gaming machines allocated to and placed at all racetrack gaming facilities in the state shall not exceed 2,800.

Until lottery gaming facility management contracts for lottery gaming facilities in all gaming zones become binding, the total number of electronic gaming machines placed at all racetrack gaming facilities shall not exceed 2,200. When lottery gaming facility management contracts for

Sec. 6. K.S.A. 2016 Supp. 74-8743 is hereby amended to read as follows: 74-8743. (a) The board of county commissioners of each county where there is a parimutuel license location by resolution shall may submit to the qualified voters of the county a proposition to permit the placement of electronic gaming machines in the county as provided in this section, or, upon presentation of a valid petition signed by not fewer than 5,000 qualified voters of the county, shall submit such proposition to the qualified voters of the county. The proposition shall be submitted to the voters at a special election called by the board of county commissioners for that purpose and held not more than 180 days after the effective date of this act.

(b) Upon the adoption of a resolution calling for an election pursuant to this section, or the submission of a petition, which the county election officer has determined has been signed by a sufficient number of qualified voters of the county, the county election officer shall cause the following proposition to be placed on the ballot at the election called for that purpose: "Shall the operation of electronic gaming machines by the Kansas Lottery be authorized to place electronic gaming machines at Wichita Greyhound Park in Sedgwick county?" The proposition shall be submitted to the voters at a special election called by the board of county commissioners for that purpose and held no later than 120 days after the petition is deemed valid.

(c) If a majority of the votes cast and counted at such election is in favor of approving the placement of electronic gaming machines in the county, the Kansas lottery may place and operate electronic gaming machines at a parimutuel license location in the county, subject to the provisions of this act. If a majority of the votes cast and counted at an election under this section is against permitting placement of electronic gaming machines in the county, the Kansas lottery shall not place or operate electronic gaming machines at a parimutuel license location in the county. The county election officer shall transmit a copy of the certification of the results of the election to the executive director.

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

(e) The lottery commission may waive the requirement that an election be held pursuant to this section if the lottery commission determines that after December 31, 2004, and before the effective date of this act, the county has held an election of qualified voters pursuant to the county's home rule authority. (1) At which the ballot question was in substantial compliance with the requirements of this section; (2) which was administered by the county election officer in a manner consistent with the requirements of state election law; and (3) at which a majority of the votes cast and counted was in favor of the proposition.

(f) The question of the placement of electronic gaming machines in a county may be submitted at the same election as the question of operation of a lottery gaming facility in the county under K.S.A. 2016 Supp. 74-8737, and amendments thereto.

~~1 lottery gaming facilities in all gaming zones have become binding, the
2 lottery commission shall take privilege fee bids from the lottery gaming
3 facility manager and racetrack gaming facility manager in each gaming
4 zone for the remaining electronic gaming machines allocated to but not yet
5 placed at the racetrack gaming facility in such zone. The minimum bid
6 shall be a privilege fee of \$2,500 per electronic gaming machine. If the
7 racetrack gaming facility manager submits the highest bid, the lottery
8 commission shall place the remaining electronic gaming machines at the
9 racetrack gaming facility. If the lottery gaming facility manager submits
10 the highest bid, the commission shall not place any additional electronic
11 gaming machines at the racetrack gaming facility.~~

~~12 (3) In addition to any privilege fee paid pursuant to paragraph (2),
13 Each racetrack gaming facility manager shall pay a privilege fee of \$2,500
14 for each electronic gaming machine placed at the racetrack gaming facility
15 for which a privilege fee is not paid pursuant to paragraph (2).~~

~~16 (4) The racetrack gaming facility manager shall pay the privilege fees
17 provided by this subsection to the executive director, who shall remit the
18 entire amount to the state treasurer in accordance with K.S.A. 75-4215,
19 and amendments thereto. Upon receipt of the remittance, the state treasurer
20 shall deposit the entire amount in the state treasury and credit it to the
21 expanded lottery act revenues fund.~~

~~22 Sec. 10. K.S.A. 2016 Supp. 74-8746 is hereby amended to read as
23 follows: 74-8746. (a) Except as provided in subsection (b):~~

~~24 (1) No electronic gaming machines shall be operated at a parimutuel
25 licensee location in Sedgewick county unless, during the first full calendar
26 year and each year thereafter in which electronic gaming machines are
27 operated at such location, the parimutuel licensee conducts at such location
28 at least 100 live greyhound races each calendar week for the number of
29 weeks raced during calendar year 2003 at least 50 weeks with at least 13
30 live races conducted each day for not less than five days per week.~~

~~31 (2) No electronic gaming machines shall be operated at a parimutuel
32 licensee location in Wyandotte county unless, during the first full calendar
33 year and each year thereafter in which electronic gaming machines are
34 operated at such location, the parimutuel licensee conducts live horse
35 racing programs for at least 60 days, with at least 10 live races conducted
36 each program, and must offer and make a reasonable effort to conduct a
37 minimum number of three live races restricted for quarter horses each day
38 and seven live thoroughbred races each day, of which not less than two
39 races each day shall be limited to registered Kansas-bred horses
40 apportioned in the same ratio that live races are offered, except that the
41 licensee shall not be required to conduct the second live race restricted to
42 Kansas-bred horses unless there are at least seven qualified entries for such
43 race, and with at least 100 live greyhound races each calendar week for at~~

~~least the same number of weeks raced during calendar year 2003, with at least 13 live races conducted each day for not less than five days per week.~~

(3) No electronic gaming machines shall be operated at a parimutuel licensee location in Crawford county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts at such location at least 85 live greyhound races each calendar week for the number of weeks ~~raced during calendar year 2003 in Sedgwick county, at least 25 weeks~~ with at least 12 live races conducted each day for not less than five days per week.

(4) If a parimutuel licensee has not held live races pursuant to a schedule approved by the Kansas racing and gaming commission in the preceding 12 months, the Kansas racing and gaming commission shall hold a hearing to determine the number of days of live racing required for the remaining days of the first calendar year of operation to qualify for operation of electronic gaming machines. At such hearing, the commission shall receive testimony and evidence from affected breed groups, the licensee and others, as the Kansas racing and gaming commission deems appropriate concerning the schedule of live race days. ~~The operation of electronic gaming machines shall not commence more than 90 days prior to the start of live racing at such facility.~~

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

Sec. 11. K.S.A. 2016 Supp. 74-8747 is hereby amended to read as follows: 74-8747. (a) *A racetrack gaming facility management contract shall include provisions for net electronic gaming machine income from a racetrack gaming facility shall to be distributed as follows:*

(1) ~~To the racetrack gaming facility manager, An amount equal to 25% 22% of net electronic gaming machine income shall be credited to the expanded lottery act revenues fund.~~

(2) *7% of net electronic gaming machine income derived from electronic gaming machines located at racetrack gaming facilities licensed to conduct live horse races during the first and second years of operation, and 14% of net electronic gaming machine*

1 income derived from electronic gaming machines located at such
 2 racetrack gaming facilities during the third and subsequent years of
 3 operation shall be credited to the live horse racing purse supplement fund
 4 established by K.S.A. 2016 Supp. 74-8767, and amendments thereto,
 5 except that the amount of net electronic gaming machine income credited
 6 to the fund during any fiscal year from electronic gaming machines at a
 7 racetrack gaming facility shall not exceed an amount equal to the average
 8 of \$3,750 per electronic gaming machine at each location and any moneys
 9 in excess of such amount shall be distributed between the state and the
 10 racetrack gaming facility manager in accordance with the racetrack
 11 gaming facility management contract;

12 (3) an amount equal to 7% of net electronic gaming machine income
 13 derived from electronic gaming machines located at racetrack gaming
 14 facilities licensed to conduct greyhound races shall be credited to the live
 15 greyhound racing purse supplement fund established by K.S.A. 2016
 16 Supp. 74-8767, and amendments thereto, except that the amount of net
 17 electronic gaming machine income credited to the fund during any fiscal
 18 year from electronic gaming machines at a racetrack gaming facility shall
 19 not exceed an amount equal to the average of \$3,750 per electronic gaming
 20 machine at each location and any moneys in excess of such amount shall
 21 be distributed between the state and the racetrack gaming facility manager
 22 in accordance with the racetrack gaming facility management contract;

23 (4) (A) if the racetrack gaming facility is located in the northeast
 24 Kansas gaming zone and is not located within a city, include a provision
 25 for payment of an amount equal to 3% of the racetrack gaming facility
 26 revenues 2% of net electronic gaming machine income shall be paid to the
 27 county in which the racetrack gaming facility is located; or (B) if the
 28 racetrack gaming facility is located in the northeast Kansas gaming zone
 29 and is located within a city, include provision for payment of an amount
 30 equal to 1.5% of the racetrack gaming facility revenues 1% of net
 31 electronic gaming machine income shall be paid to the city in which the
 32 racetrack gaming facility is located and an amount equal to 1.5% of such
 33 revenues 1% of net electronic gaming machine income shall be paid to the
 34 county in which such facility is located;

35 (5) (A) if the racetrack gaming facility is located in the southeast or
 36 south central Kansas gaming zone and is not located within a city, include
 37 a provision for payment of an amount equal to 2% of the racetrack gaming
 38 facility revenues 2% of net electronic gaming machine income shall be
 39 paid to the county in which the racetrack gaming facility is located and an
 40 amount equal to 1% of such revenues to the other county in such zone; or
 41 (B) if the racetrack gaming facility is located in the southeast or south
 42 central Kansas gaming zone and is located within a city, provide for
 43 payment of an amount equal to 1% of the racetrack gaming facility

an amount equal to

1 revenues 1% of net electronic gaming machine income shall be paid to the
2 city in which the racetrack gaming facility is located; and an amount equal
3 to 1% of such revenues net electronic gaming machine income shall be
4 paid to the county in which such facility is located and an amount equal to
5 1% of such revenues to the other county in such zone;

6 (6) (A) if the racetrack gaming facility is located in the southeast
7 Kansas gaming zone and is not located within a city, 12% of net
8 electronic gaming machine income shall be paid to the county in which
9 the racetrack gaming facility is located and 1% of net electronic
10 gaming machine income shall be paid to the other county in such zone;
11 or

12 (B) if the racetrack gaming facility is located in the southeast
13 Kansas gaming zone and is located within a city, 1% of the net
14 electronic gaming machine income shall be paid to the city in which
15 the racetrack gaming facility is located, 1% of net electronic gaming
16 machine income shall be paid to the county in which the racetrack
17 gaming facility is located and 1% of net electronic gaming machine
18 income shall be paid to the other county in such zone;

19 (7) 2% an amount equal to 0.5% of net electronic gaming
20 machine income shall be credited to the problem gambling and additions
21 grant fund established by K.S.A. 2016 Supp. 79-4805, and amendments
22 thereto;

23 (8) (A) an amount equal to 1% of net electronic gaming machine
24 income derived from electronic gaming machines located at a racetrack
25 gaming facility located in the northeast Kansas gaming zone shall be
26 credited to the Kansas horse fair racing benefit fund established by K.S.A.
27 74-8838, and amendments thereto; and

28 (B) an amount equal to 0.4% of net electronic gaming machine
29 income derived from electronic gaming machines located at racetrack
30 gaming facilities located in the southeast Kansas gaming zone or south
31 central Kansas gaming zone shall be credited to the Kansas horse fair
32 racing benefit fund established by K.S.A. 74-8838, and amendments
33 thereto;

34 (9) 40% of net electronic gaming machine income shall be
35 credited to the expanded lottery net revenues fund an amount equal to
36 0.1% of net electronic gaming machine income derived from electronic
37 gaming machines located at a racetrack gaming facility located in the
38 south central Kansas gaming zone shall be credited to the Kansas horse
39 council fund established by section 6, and amendments thereto; and

40 (10) 15% of electronic gaming machine income shall be used for
41 gaming expenses, subject to agreement between the Kansas lottery and the
42 remaining balance of net electronic gaming machine income shall be paid
43 to the racetrack gaming facility manager.

an amount equal to

1 (b) A racetrack gaming facility management contract may include
2 provisions for a parimutuel licensee or any other entity to pay the
3 parimutuel licensee's expenses related to electronic gaming machines, as
4 the executive director deems appropriate; ~~subject to the requirements of~~
5 ~~subsection (e)(9).~~

6 Sec. 12. K.S.A. 2016 Supp. 74-8766 is hereby amended to read as
7 follows: 74-8766. (a) There is hereby established in the state treasury the
8 expanded lottery receipts fund. Separate accounts shall be maintained in
9 such fund for receipt of moneys from each lottery gaming facility manager
10 and racetrack gaming facility manager. All expenditures from the fund
11 shall be made in accordance with appropriation acts upon warrants of the
12 director of accounts and reports issued pursuant to vouchers approved by
13 the executive director for the purposes set forth in this act.

14 (b) All lottery gaming facility revenues from lottery gaming facilities
15 and all net electronic gaming machine income from racetrack gaming
16 facilities shall be paid daily and electronically to the executive director.
17 The executive director shall remit all moneys received therefrom to the
18 state treasurer in accordance with K.S.A. 75-4215, and amendments
19 thereto. Upon receipt of the remittance, the state treasurer shall deposit the
20 entire amount in the state treasury and credit it to the respective account
21 maintained for the lottery gaming facility manager or racetrack gaming
22 facility manager in the expanded lottery receipts fund.

23 (c) The executive director shall certify weekly to the director of
24 accounts and reports the percentages or amounts to be transferred from
25 each account maintained in the expanded lottery receipts fund to the
26 expanded lottery act revenues fund, the live horse racing supplement fund,
27 the live greyhound racing purse supplement fund and the problem
28 gambling and addictions grant fund, as provided by the lottery gaming
29 facility management contract or K.S.A. 2016 Supp. 74-8747, and
30 amendments thereto. Upon receipt of the certification, the director of
31 accounts and reports shall transfer amounts from each such account in
32 accordance with the certification of the executive director. Once each
33 month, the executive director shall cause amounts from each such account
34 to be paid to cities, counties and lottery gaming facility managers in
35 accordance with the lottery gaming facility management contract and to
36 racetrack gaming facility managers in accordance with K.S.A. 2016 Supp.
37 74-8747, and amendments thereto.

38 (d) Amounts remaining in an account in the expanded lottery receipts
39 fund after transfers and payments pursuant to subsection (c) and section 17-
40 *and amendments thereto*, shall be distributed in accordance with the
41 related lottery gaming facility management contract or racetrack gaming
42 facility management contract.

43 Sec. 13. K.S.A. 2016 Supp. 74-8814 is hereby amended to read as

1 follows: 74-8814. (a) Subject to the provisions of subsection (b), the
2 commission shall establish by rules and regulations an application fee not
3 exceeding \$500 \$50 for any of the following ~~which organizations that~~
4 ~~applies for an organization license and the a license fee for any of the~~
5 ~~following granted an organization license shall be \$100 of \$25 for each~~
6 ~~day of racing approved by the commission for any of the following~~
7 ~~organizations that are granted an organization license:~~

8 ~~(1)—Any fair association other than the Greenwood county and~~
9 ~~Anthony fair associations; any horsemen's nonprofit organization; or the~~
10 ~~national greyhound association of Abilene, Kansas, if: (A) (1) Such~~
11 ~~association conducts not more than two race meetings each year; (B) (2)~~
12 ~~such race meets are held within the boundaries of the county where the~~
13 ~~applicant is located; and (C) (3) such race meetings are held for a total of~~
14 ~~not more than 40 days per year; or~~

15 ~~(2)—the Greenwood county fair association or a horsemen's nonprofit~~
16 ~~organization, with respect to race meetings conducted by such association~~
17 ~~or organization at Eureka Downs, or the Anthony fair association or a~~
18 ~~horsemen's nonprofit organization, with respect to race meetings~~
19 ~~conducted by such association or organization at Anthony Downs, for~~
20 ~~which the number of race meetings and days and the dates thereof, shall~~
21 ~~be specified by the commission.~~

22 (b) The commission shall adopt rules and regulations providing for
23 expedited, simplified and less costly procedures and requirements for fair
24 associations and horsemen's nonprofit organizations applying for or
25 holding a license to conduct race meetings.

26 (c) The Kansas racing and gaming commission shall investigate
27 ~~perform a criminal history records check and credit history check of:~~

28 (1) The president, vice-president, secretary and treasurer of a fair
29 association, and such other members as the commission considers
30 necessary, to determine eligibility for an organization license; and

31 (2) each officer and each director of a nonprofit horsemen's
32 organization, and such other members or shareholders as the commission
33 considers necessary to determine eligibility for an organization license.

34 (d) Except as otherwise provided by this section, all applicants for
35 organization licenses for the conduct of race meetings pursuant to the
36 provisions of this section shall be required to comply with all the
37 provisions of K.S.A. 74-8813, and amendments thereto.

38 Sec. 14. K.S.A. 74-8836 is hereby amended to read as follows: 74-
39 8836. (a) Any organization licensee that conducts at least 150 60 days of
40 live racing during a calendar year, or is in compliance with the provisions
41 of K.S.A. 2016 Supp. 74-8746, and amendments thereto, or a fair
42 association that conducts fewer than 22 40 days of live racing during a
43 calendar year may apply to the commission for a simulcasting license to

1 display simulcast horse or greyhound races and to conduct intertrack
2 parimutuel wagering thereon. If the organization licensee conducts races at
3 a racetrack facility that is owned by a facility owner licensee, both
4 licensees shall join in the application. ~~A simulcasting licensee granted to a~~
5 ~~fair association that conducts fewer than 22 days of live racing shall~~
6 ~~restrict the fair association's display of simulcast races to a number of~~
7 ~~days, including days on which it conducts live races, equal to not more~~
8 ~~than twice the number of days on which it conducts live races.~~

9 (b) (1) A simulcasting licensee granted to an organization licensee
10 other than a fair association shall authorize the display of simulcast races
11 at the racetrack facility where the live races are conducted so long as the
12 licensee conducts at least eight live races per day and an average of 10 live
13 races per day per week is in compliance with the provisions of K.S.A. 2016
14 Supp. 74-8746, and amendments hereto. If a simulcasting licensee
15 conducts live horse races on a day when simulcast races are displayed by
16 the licensee and the licensee conducts fewer than an average of 10 live
17 horse races per day per week, not less than 80% of the races on which
18 wagers are taken by the licensee during such week shall be live races
19 conducted by the licensee unless approved by the recognized horsemen's
20 group or upon a finding by the commission that the organization licensee
21 was unable to do so for reasonable cause. If a simulcast licensee conducts
22 live greyhound races on a day when simulcast races also are displayed by
23 the licensee and the licensee schedules fewer than 13 live greyhound races
24 during a performance on such day, not less than 80% of the races on which
25 wagers are taken by the licensee during such performance shall be live
26 races conducted by the licensee.

27 (2) A simulcasting licensee granted to a fair association shall authorize
28 the display of simulcast races at the racetrack facility where the races are
29 conducted ~~only if live races are scheduled for two or more days of the~~
30 ~~same calendar week, except that the licensee may conduct simulcast races~~
31 ~~in the week immediately before and immediately after a live meeting if the~~
32 ~~total number of days on which simulcast races are displayed does not~~
33 ~~exceed the total authorized in subsection (a). In no case shall the live meet~~
34 ~~or simulcast races allowed under this subsection exceed 10 consecutive~~
35 ~~weeks. For purposes of this subsection, a calendar week shall be measured~~
36 ~~from Monday through the following Sunday.~~

37 (3) ~~Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2),~~
38 ~~a fair association may apply to the commission for not more than five~~
39 ~~additional days of simulcasting of special events. In addition, the~~
40 ~~commission may authorize a fair association to display additional~~
41 ~~simulcast races but, if such fair association is less than 100 miles from an~~
42 ~~organization licensee that is not a fair association, it also shall secure~~
43 ~~written consent from that organization licensee.~~

1 (4)—Notwithstanding the provisions of subsection (b)(1), if an
2 emergency causes the cancellation of all or any live races scheduled for a
3 day or performance by a simulcasting licensee, the commission or the
4 commission's designee may authorize the licensee to display any simulcast
5 races previously scheduled for such day or performance.

6 (5) (4) Notwithstanding the provisions of subsection (b)(1), the
7 commission may authorize the licensee to display simulcast special racing
8 events as designated by the commission.

9 (c) The application for a simulcasting license shall be filed with the
10 commission at a time and place prescribed by rules and regulations of the
11 commission. The application shall be in a form and include such
12 information as the commission prescribes.

13 (d) To qualify for a simulcasting license the applicant shall:

14 (1) Comply with the interstate horse racing act of 1978 (15 U.S.C. §
15 3001 et seq.) as in effect December 31, 1991;

16 (2) Submit with the application a written approval of the proposed
17 simulcasting schedule signed by: (A) The recognized horsemen's group for
18 the track, if the applicant is licensed to conduct only horse races, and
19 horse races or greyhound races, or both, are to be simulcast; (B) the
20 recognized greyhound owners' group, if the applicant is licensed to
21 conduct only greyhound races and only greyhound races are to be
22 simulcast; (C) both the recognized greyhound owners' group and a
23 recognized horsemen's group, if the applicant is licensed to conduct only
24 greyhound races and horse races are to be simulcast; (D) the recognized
25 greyhound owners' group, if the applicant is licensed to conduct both
26 greyhound and horse races, only greyhound races are to be simulcast and
27 races are to be simulcast only while the applicant is conducting live
28 greyhound races; (E) the recognized horsemen's group for the track, if the
29 applicant is licensed to conduct both greyhound and horse races, only
30 horse races are to be simulcast and races are to be simulcast only while the
31 applicant is conducting live horse races; or (F) both the recognized
32 greyhound owners' group and the recognized horsemen's group for the
33 track, if the applicant is licensed to conduct both greyhound races and
34 horse races and horse races are to be simulcast while the applicant is
35 conducting live greyhound races or greyhound races are to be simulcast
36 while the applicant is conducting live horse races; and

37 (3) Submit, in accordance with rules and regulations of the
38 commission and before the simulcasting of a race, a written copy of each
39 contract or agreement which the applicant proposes to enter into with
40 regard to such race, and any proposed modification of any such contract or
41 agreement.

42 (e) The term of a simulcasting license shall be one year.

43 (f) A simulcasting licensee may apply to the commission or its

1 designee for changes in the licensee's approved simulcasting schedule if
2 such changes are approved by the respective recognized greyhound
3 owners' group or recognized horsemen's group needed throughout the term
4 of the license. Application shall be made upon forms furnished by the
5 commission and shall contain such information as the commission
6 prescribes.

7 (g) Except as provided by subsection (j), the takeout for simulcast
8 horse and greyhound races shall be the same as it is for the live horse and
9 greyhound races conducted during the current or next live race meeting at
10 the racetrack facility where the simulcast races are displayed. For
11 simulcast races the tax imposed on amounts wagered shall be as provided
12 by K.S.A. 74-8823, and amendments thereto. Of the balance of the takeout
13 remaining after deduction of taxes, an amount equal to a percentage, to be
14 determined by the commission, of the gross sum wagered on simulcast
15 races shall be used for purses, as follows:

16 (1) For greyhound races conducted by the licensee, if the simulcast
17 race is a greyhound race and the licensee conducts only live greyhound
18 races;

19 (2) for horse races conducted by the licensee, if the simulcast race is a
20 horse race and the licensee conducts only live horse races;

21 (3) for horse races and greyhound races, as determined by both the
22 recognized horsemen's group and the recognized greyhound owners'
23 group, if the simulcast race is a greyhound race and the licensee does not
24 conduct or is not currently conducting live greyhound races; or

25 (4) for horse races and greyhound races, as determined by both the
26 recognized horsemen's group and the recognized greyhound owners'
27 group, if the simulcast is a horse race and the licensee does not conduct or
28 is not currently conducting live horse races. That portion of simulcast
29 purse money determined to be used for horse purses shall be apportioned
30 by the commission to the various horse race meetings held in any calendar
31 year based upon the number of live horse race dates comprising such horse
32 race meetings in the preceding calendar year.

33 (h) Except as provided by subsection (j):

34 (1) If a simulcasting licensee has a license to conduct live horse races
35 and the *simulcasting* licensee displays a simulcast horse race: (A) All
36 breakage proceeds shall be remitted by the licensee to the commission not
37 later than the 15th day of the month following the race from which the
38 breakage is derived and the commission shall remit any such proceeds
39 received to the state treasurer in accordance with the provisions of K.S.A.
40 75-4215, and amendments thereto. Upon receipt of each such remittance,
41 the state treasurer shall deposit the entire amount in the state treasury to
42 the credit of the Kansas horse breeding development fund created by
43 K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket

1 proceeds shall be remitted by the licensee to the commission on the 61st
2 day after the end of the calendar year and the commission shall remit any
3 such proceeds received to the state treasurer in accordance with the
4 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
5 each such remittance, the state treasurer shall deposit the entire amount in
6 the state treasury to the credit of the Kansas horse breeding development
7 fund created by K.S.A. 74-8829, and amendments thereto.

8 (2) If a simulcasting licensee has a license to conduct live greyhound
9 races and the *simulcasting* licensee displays a simulcast greyhound race,
10 breakage and unclaimed winning ticket proceeds shall be distributed in the
11 manner provided by K.S.A. 74-8821 and 74-8822, and amendments
12 thereto, for breakage and unclaimed winning ticket proceeds from live
13 greyhound races.

14 (3) If a simulcasting licensee has a license to conduct live racing of
15 only horses and the *simulcasting* licensee displays a simulcast greyhound
16 race, unclaimed winning ticket proceeds shall be distributed in the manner
17 provided by K.S.A. 74-8822, and amendments thereto, for unclaimed
18 winning ticket proceeds from live greyhound races. Breakage for such
19 races shall be distributed for use to benefit greyhound racing as determined
20 by the commission.

21 (4) If a simulcasting licensee has a license to conduct live racing of
22 only greyhounds and the *simulcasting* licensee displays a simulcast horse
23 race: (A) All breakage proceeds shall be remitted by the licensee to the
24 commission not later than the 15th day of the month following the race
25 from which the breakage is derived and the commission shall remit any
26 such proceeds received to the state treasurer in accordance with the
27 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
28 each such remittance, the state treasurer shall deposit the entire amount in
29 the state treasury to the credit of the Kansas horse breeding development
30 fund created by K.S.A. 74-8829, and amendments thereto; and (B) all
31 unclaimed ticket proceeds shall be remitted by the licensee to the
32 commission on the 61st day after the end of the calendar year and the
33 commission shall remit any such proceeds received to the state treasurer in
34 accordance with the provisions of K.S.A. 75-4215, and amendments
35 thereto. Upon receipt of each such remittance, the state treasurer shall
36 deposit the entire amount in the state treasury to the credit of the Kansas
37 horse breeding development fund created by K.S.A. 74-8829, and
38 amendments thereto.

39 (i) The commission may approve a request by two or more
40 simulcasting licensees to combine wagering pools within the state of
41 Kansas pursuant to rules and regulations adopted by the commission.

42 (j) (1) The commission may authorize any simulcasting licensee to
43 participate in an interstate combined wagering pool with one or more other

1 racing jurisdictions.

2 (2) If a licensee participates in an interstate pool, the licensee may
3 adopt the takeout of the host jurisdiction or facility. The amount and
4 manner of paying purses from the takeout in an interstate pool shall be as
5 provided by subsection (g).

6 (3) The tax imposed on amounts wagered in an interstate pool shall
7 be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel
8 taxes may not be imposed on any amounts wagered in an interstate
9 combined wagering pool other than amounts wagered within this
10 jurisdiction.

11 (4) Breakage for interstate combined wagering pools shall be
12 calculated in accordance with the statutes and rules and regulations of the
13 host jurisdiction and shall be allocated among the participating
14 jurisdictions in a manner agreed to among the jurisdictions. Breakage
15 allocated to this jurisdiction shall be distributed as provided by subsection
16 (h).

17 (5) Upon approval of the respective recognized greyhound owners'
18 group or recognized horsemen's group, the commission may permit an
19 organization licensee to simulcast to other racetrack facilities or off-track
20 wagering or intertrack wagering facilities in other jurisdictions one or
21 more races conducted by such licensee, use one or more races conducted
22 by such licensee for an intrastate combined wagering pool or use one or
23 more races conducted by such licensee for an interstate combined
24 wagering pool at off-track wagering or intertrack wagering locations
25 outside the commission's jurisdiction and may allow parimutuel pools in
26 other jurisdictions to be combined with parimutuel pools in the
27 commission's jurisdiction for the purpose of establishing an interstate
28 combined wagering pool.

29 (6) The participation by a simulcasting licensee in a combined
30 interstate wagering pool does not cause that licensee to be considered to be
31 doing business in any jurisdiction other than the jurisdiction in which the
32 licensee is physically located.

33 (k) If the organization licensee, facility owner licensee if any and the
34 recognized horsemen's group or recognized greyhound owners' group are
35 unable to agree concerning a simulcasting application, the matter may be
36 submitted to the commission for determination at the written request of
37 any party in accordance with rules and regulations of the commission.

38 (l) This section shall be part of and supplemental to the Kansas
39 parimutuel racing act.

40 Sec. 15. K.S.A. 2016 Supp. 75-6204 is hereby amended to read as
41 follows: 75-6204. (a) Subject to the limitations provided in this act, if a
42 debtor fails to pay to the state of Kansas or any state agency, foreign state
43 agency, municipality or the federal department of the treasury an amount

1 owed, the director may setoff such amount and a reasonable collection
2 assistance fee determined in accordance with K.S.A. 75-6210, and
3 amendments thereto, against any money held for, or any money owed to,
4 such debtor by the state or, any state agency, *lottery gaming facility
5 manager, racetrack gaming facility manager or facility owner licensee.*

6 (b) The director may enter into an agreement with a municipality for
7 participation in the setoff program for the purpose of assisting in the
8 collection of a debt as defined by K.S.A. 75-6202, and amendments
9 thereto. The director shall include in any such agreement a provision
10 requiring the municipality to certify that the municipality has made at least
11 three attempts to collect a debt prior to submitting such debt to setoff
12 pursuant to this act.

13 (c) (1) Except as provided in subsection (c)(2), the director shall add
14 the cost of collection and the debt for a total amount subject to setoff
15 against a debtor.

16 (2) Any debts due and owing to an individual, the state of Kansas or
17 an agency of another state that are being enforced by the Kansas
18 department for children and families under part D of title IV of the federal
19 social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the
20 cost of collection added to the debt owed and subject to setoff. Such cost
21 of collection shall be paid by the Kansas department for children and
22 families.

23 Sec. 16. K.S.A. 74-8836 ~~and 75-6204~~ and K.S.A. 2016 Supp. ~~§4-~~ 74-8743,
24 ~~§7341~~ 74-8741, 74-8744, 74-8746, 74-8747, 74-8766 ~~and~~ 74-8814 are and 75-6204
25 hereby repealed.

26 Sec. 17. This act shall take effect and be in force from and after its
27 publication in the statute book.

And by renumbering sections accordingly