

## HOUSE BILL No. 2987

By Committee on Tourism

2-15

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AN ACT concerning lotteries; authorizing electronic gaming machines at certain locations; amending K.S.A. 2001 Supp. 19-101a, 74-8702, 74-8710, 74-8711 and 74-8836 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*Section 1. K.S.A. 2001 Supp. 74-8702 is hereby amended to read as follows: 74-8702.As used in the Kansas lottery act, unless the context otherwise requires:

(a) "Commission" means the Kansas lottery commission.

(b) "Executive director" means the executive director of the Kansas lottery.

~~(c) "Gaming equipment" means any electric, electronic or mechanical device or other equipment unique to the Kansas lottery used directly in the operation of any lottery and in the determination of winners pursuant to this act.~~

(c) "Gaming equipment" means any electric, electronic, computerized or electromechanical machine, mechanism, supply or device, or any other equipment, which is: (1) Unique to the Kansas lottery and used pursuant to the Kansas lottery act; (2) integral to the operation of an electronic gaming machine; or (3) affects the results of an electronic gaming machine by determining win or loss.

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

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

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

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

(h) "Person" means any natural person, association, *limited liability company*, corporation or partnership.

(i) "Prize" means any prize paid directly by the Kansas lottery pur-

1 suant to its rules and regulations.

2 (j) “Share” means any intangible manifestation authorized by the  
3 Kansas lottery to prove participation in a lottery game.

4 (k) “Ticket” means any tangible evidence issued by the Kansas lottery  
5 to prove participation in a lottery game.

6 (l) “Vendor” means any person who has entered into a major pro-  
7 curement contract with the Kansas lottery.

8 (m) “Returned ticket” means any ticket which was transferred to a  
9 lottery retailer, which was not sold by the lottery retailer and which was  
10 returned to the Kansas lottery for refund by issuance of a credit or  
11 otherwise.

12 ~~(n) “Video lottery machine” means any electronic video game ma-  
13 chine that, upon insertion of cash, is available to play or simulate the play  
14 of a video game authorized by the commission, including but not limited  
15 to bingo, poker, black jack and keno, and which uses a video display and  
16 microprocessors and in which, by chance, the player may receive free  
17 games or credits that can be redeemed for cash.~~

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

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

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

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

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

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

34 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-  
35 650, and amendments thereto;~~

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

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

40 (n) *“Electronic card” means a card purchased from a lottery gaming  
41 machine operator for use on an electronic gaming machine.*

42 (o) (1) *“Electronic gaming machine” means any electronic, electro-  
43 mechanical, video or computerized device, contrivance or machine au-*

1 *thorized by the Kansas lottery which, upon the insertion of cash, tokens,*  
2 *electronic cards or any consideration, is available to play, operate or sim-*  
3 *ulate the play of, a game authorized by the Kansas lottery at a parimutuel*  
4 *licensee location, including but not limited to, bingo, poker, blackjack,*  
5 *keno and slot machines and which may deliver or entitle the player op-*  
6 *erating the machine to receive cash, tokens, merchandise or credits that*  
7 *may be redeemed for cash. Electronic gaming machines may use bill val-*  
8 *idators and may be single-position reel-type, single or multi-game video*  
9 *and single-position multi-game video electronic games including, but not*  
10 *limited to, bingo, poker, blackjack, keno and slot machines. Electronic*  
11 *gaming machines shall be linked to a central computer at a location de-*  
12 *termined by the executive director for purposes of security, monitoring*  
13 *and auditing.*

14 (2) *“Electronic gaming machine” shall not include any casino table*  
15 *game, such as craps, poker, blackjack, roulette, keno, layout, numbers,*  
16 *tickets, baccarat, Klondike table, punchboard, punch cards, faro layout,*  
17 *ticket or pull tab or video lottery machine.*

18 (p) *“Key gaming employee” means any natural person 21 years of age*  
19 *or older employed by or under contract with a lottery gaming machine*  
20 *operator or employed by or under contract with a person providing on or*  
21 *off-site management or employee-related services to the lottery gaming*  
22 *machine operator including, but not limited to: (1) Gaming operator man-*  
23 *ager and assistant manager; (2) facilities operator manager; (3) electronic*  
24 *games manager; (4) accounting department personnel; (5) count room*  
25 *employees; (6) cage department employees, including cashiers and main*  
26 *bank employees; (7) vault department employees; (8) approvers of credit;*  
27 *(9) surveillance department employees; (10) security department employ-*  
28 *ees; (11) floor managers; (12) electronic gaming device technicians; (13)*  
29 *custodians of electronic gambling devices, including persons with access*  
30 *to cash and accounting records within such devices; (14) collection per-*  
31 *sonnel; (15) internal auditors of the lottery gaming machine operator; and*  
32 *(16) any employee whose total cash compensation is in excess of \$50,000*  
33 *per year.*

34 (q) *“Facility owner licensee,” “facility manager licensee,” “organiza-*  
35 *tion licensee” and “racetrack facility” have the meanings provided by*  
36 *K.S.A. 74-8802, and amendments thereto.*

37 (r) *“Lottery gaming machine operator” means any parimutuel li-*  
38 *censee with which the executive director has contracted for the placement*  
39 *of an electronic gaming machine pursuant to this act.*

40 (s) *“Net machine income” means the total of all cash and the face*  
41 *value of all tokens or electronic cards placed in an electronic gaming*  
42 *machine, less cash, merchandise or credits that may be redeemed for cash*  
43 *paid to players as winnings.*

1 (t) *“Parimutuel licensee” means a facility owner licensee or a facility*  
2 *manager licensee.*

3 (u) *“Parimutuel licensee location” means: (1) A racetrack facility lo-*  
4 *cated on or immediately adjacent to the real estate of a parimutuel licensee*  
5 *where live horse racing or live greyhound racing has been authorized or*  
6 *for which application for authorization is pending prior to February 1,*  
7 *2000, to be conducted pursuant to the Kansas parimutuel racing act; or*  
8 *(2) a racetrack facility located at or immediately adjacent to the real estate*  
9 *of Eureka Downs or Anthony Downs. A parimutuel licensee location may*  
10 *include any of the existing structures located on the real estate where the*  
11 *live horse racing or live greyhound racing is authorized to be conducted*  
12 *or any other structures that may be constructed on or immediately ad-*  
13 *acent to such real estate.*

14 (v) *“Progressive electronic game” means a game played on an elec-*  
15 *tronic gaming machine for which the payoff increases uniformly as the*  
16 *game is played and for which the jackpot, determined by application of*  
17 *a formula to the income of independent, local or interlinked electronic*  
18 *gaming machines, may be won.*

19 (w) *“Technology provider” means any person or entity other than a*  
20 *lottery gaming machine operator that designs, manufactures, installs, op-*  
21 *erates, distributes, supplies or replaces an electronic gaming machine for*  
22 *sale, lease or use in accordance with this act.*

23 (x) *“Token” means a metal or other representative of value, which is*  
24 *not legal tender, redeemable for cash only by the issuing lottery gaming*  
25 *machine operator at its parimutuel licensee location and issued and sold*  
26 *by a lottery gaming machine operator for the sole purpose of playing an*  
27 *electronic gaming machine.*

28 New Sec. 2. (a) Sections 2 through 24, and amendments thereto,  
29 shall be known as the Kansas gaming revenue recovery act and shall be  
30 part of and supplemental to the Kansas lottery act.

31 (b) If any provision of this act or the application thereof to any person  
32 or circumstance is held invalid, the invalidity shall not affect any other  
33 provision or application of the act which can be given effect without the  
34 invalid provision or application. To this end the provisions of this act are  
35 severable.

36 New Sec. 3. (a) Subject to the provisions of this act, the executive  
37 director may contract with parimutuel licensees for the operation and  
38 management of electronic gaming machines at parimutuel licensee lo-  
39 cations in the state of Kansas. The executive director shall contract only  
40 with parimutuel licensees in counties in which a proposition submitted  
41 pursuant to section 5, and amendments thereto, has been approved by  
42 the voters of such county.

43 (b) The lottery gaming machine operator shall purchase a license for

1 all software programs used by such lottery gaming machine operator to  
2 operate electronic gaming machines. The cost of such license shall be  
3 paid by the operator, but such license shall be owned by the Kansas  
4 lottery. The Kansas lottery shall be the licensee and owner of all such  
5 software programs and shall sublicense such software programs to each  
6 lottery gaming machine operator. Electronic gaming machines purchased  
7 or leased by the lottery gaming machine operator at its own expense may  
8 be installed, operated or managed, owned or leased by a lottery gaming  
9 machine operator or by a technology provider under contract with the  
10 lottery gaming machine operator as provided by this act. Such machines  
11 shall be subject to the ultimate control of the Kansas lottery in accordance  
12 with this act. Each specific type of electronic gaming machine shall be  
13 approved by the Kansas lottery in accordance with K.S.A. 74-8710, and  
14 amendments thereto. The use of progressive electronic gaming machines  
15 is expressly permitted.

16 (c) Each contract between the executive director and a lottery gaming  
17 machine operator shall provide that the Kansas lottery receive all of the  
18 net machine income derived from the operation of electronic gaming  
19 machines at the parimutuel licensee location.

20 (d) The initial term of such contract shall be not less than the re-  
21 maining term of the Kansas lottery and shall renew with each extension  
22 of the Kansas lottery as provided in K.S.A. 74-8723, and amendments  
23 thereto.

24 (e) Contracts authorized by this section may include provisions relat-  
25 ing to:

26 (1) Accounting procedures to determine the net machine income,  
27 unclaimed merchandise and credits.

28 (2) The location and operation of electronic gaming machines at the  
29 parimutuel licensee location. Except as provided by this act, the days and  
30 hours of operation and the number of such electronic gaming machines  
31 shall not be restricted.

32 (3) Minimum requirements for an electronic gaming machine oper-  
33 ator to provide qualified oversight, security and supervision of the oper-  
34 ation of electronic gaming machines at the parimutuel licensee location,  
35 including the use of qualified personnel with experience in applicable  
36 technology.

37 (4) The eligibility requirements for employees of a lottery gaming  
38 machine operator who will have responsibility for the handling of cash or  
39 tokens. Such requirements may include a background investigation per-  
40 formed by the Kansas racing and gaming commission and that any key  
41 gaming employee shall be licensed as provided in section 22, and amend-  
42 ments thereto.

43 (5) Provision for termination of the contract by either party for cause,

1 including but not limited to, failure of the lottery gaming machine op-  
2 erator to maintain a parimutuel license in accordance with K.S.A. 74-  
3 8801 *et seq.*, and amendments thereto, failure of the lottery gaming ma-  
4 chine operator to collect and remit net machine income pursuant to  
5 section 8, and amendments thereto.

6 (6) Any other provision deemed necessary by the parties pursuant to  
7 this section.

8 (f) The Kansas lottery shall examine prototypes of electronic gaming  
9 machines and shall notify the Kansas racing and gaming commission  
10 which types of electronic gaming machines are in compliance with the  
11 requirements of this act.

12 (g) No electronic gaming machine shall be operated pursuant to this  
13 act unless the executive director of the Kansas racing and gaming com-  
14 mission first issues a certificate for such machine authorizing its use at a  
15 specified parimutuel licensee facility. Each machine shall have the cer-  
16 tificate prominently displayed thereon. Any machine which does not dis-  
17 play the certificate required by this section is contraband and a public  
18 nuisance subject to confiscation by any law enforcement officer.

19 (h) The executive director shall require any manufacturer, supplier,  
20 provider, lottery gaming machine operator or other person seeking the  
21 examination and certification of electronic gaming machines to pay the  
22 anticipated actual costs of the examination in advance. After the comple-  
23 tion of the examination, the executive director shall refund any over-  
24 payment or charge and collect amounts sufficient to reimburse the ex-  
25 ecutive director for any underpayment of actual costs. The executive  
26 director may contract for the examination of electronic gaming machines  
27 as required by this subsection, and may rely upon testing done by or for  
28 other states regulating electronic gaming machines, if the executive di-  
29 rector deems such testing to be reliable and in the best interest of the  
30 state of Kansas.

31 (i) Electronic gaming machines operated pursuant to this act shall:

32 (1) Pay out an average of not less than 87% of the amount wagered;

33 (2) be linked to a central lottery communications system to provide  
34 auditing and other program information as approved by the Kansas lot-  
35 tery. The communications systems certified by the Kansas lottery shall  
36 not limit participation to only one electronic gaming machine manufac-  
37 turer, distributor, supplier or provider; and

38 (3) be on-line and in constant communication with a central com-  
39 puter located at a location determined by the executive director. The  
40 lottery gaming machine operator shall purchase at its expense for the  
41 Kansas lottery all gaming equipment necessary to implement such central  
42 communications and auditing functions.

43 New Sec. 4. In addition to the powers granted pursuant to K.S.A.

1 74-8704 and section 3, and amendments thereto, the executive director  
2 shall have the power to:

3 (a) Enter into contracts with parimutuel licensees for placement and  
4 replacement of electronic gaming machines at parimutuel licensee loca-  
5 tions. Such contracts shall be subject to rules and regulations adopted  
6 pursuant to this act but shall not be subject to the provisions of K.S.A.  
7 75-3738 through 75-3744, and amendments thereto.

8 (b) Examine or cause to be examined by any agent or representative  
9 designated by the executive director any books, papers, records or mem-  
10 oranda of any lottery gaming machine operator for the purpose of ascer-  
11 taining compliance with the provisions of the Kansas lottery act or this  
12 act or rules and regulations adopted thereunder.

13 (c) Issue subpoenas to compel access to or for the production of any  
14 books, papers, records or memoranda in the custody or control of any  
15 lottery gaming machine operator or such operator's agents or employees,  
16 or to compel the appearance of any lottery gaming machine operator or  
17 such operator's agents or employees for the purpose of ascertaining com-  
18 pliance with the provisions of this act or rules and regulations adopted  
19 hereunder. Subpoenas issued under the provisions of this subsection may  
20 be served upon natural persons and corporations in the manner provided  
21 in K.S.A. 60-304, and amendments thereto, for the service of process by  
22 any officer authorized to serve subpoenas in civil actions or by the exec-  
23 utive director or an agent or representative designated by the executive  
24 director. In the case of the refusal of any person to comply with any such  
25 subpoena, the executive director may make application to the district  
26 court of any county where such books, papers, records, memoranda or  
27 person is located for an order to comply.

28 (d) Inspect and view the operation of all machines, systems or facil-  
29 ities where electronic gaming machines controlled and operated by the  
30 Kansas lottery are located.

31 (e) Inspect and approve, prior to publication or distribution, all ad-  
32 vertising by a lottery gaming machine operator which includes any ref-  
33 erence to the Kansas lottery.

34 New Sec. 5. (a) Electronic gaming machines shall be operated pur-  
35 suant to this act only in counties where, in accordance with this section,  
36 the qualified voters of the county have voted to permit operation of elec-  
37 tronic gaming machines at parimutuel racetracks within the county.

38 (b) The board of county commissioners of any county in which a  
39 parimutuel licensee is located, by resolution, may submit and upon pres-  
40 entation of a petition filed in accordance with subsection (c), shall submit  
41 to the qualified voters of the county a proposition to permit the operation  
42 of electronic gaming machines at parimutuel racetracks within the county.  
43 The proposition shall be submitted to the voters either in a countywide

1 special election called by the board of county commissioners for that  
2 purpose and held not less than 90 days after the resolution is adopted or  
3 the petition is filed or at the next general election as shall be specified by  
4 the board of county commissioners or in the petition, as the case may be.

5 (c) A petition to submit a proposition to the qualified voters of a  
6 county pursuant to this section shall be filed with the county election  
7 officer. The petition shall be signed by qualified voters of the county equal  
8 in number to not less than 10% of the voters of the county who voted for  
9 the office of secretary of state at the last preceding general election at  
10 which such office was elected. The following shall appear on the petition:  
11 “We request an election to determine whether the operation of electronic  
12 gaming machines by the Kansas lottery shall be permitted at parimutuel  
13 licensee locations in \_\_\_\_\_ county.”

14 (d) Upon the adoption of a resolution or the submission of a valid  
15 petition calling for an election pursuant to this section, the county election  
16 officer shall cause the following proposition to be placed on the ballot at  
17 the election called for that purpose: “Shall the operation of electronic  
18 gaming machines by the Kansas lottery be permitted at parimutuel li-  
19 censee locations in \_\_\_\_\_ county?”

20 (e) If a majority of the votes cast and counted at such election is in  
21 favor of the proposition, the executive director may enter contracts with  
22 parimutuel licensees to operate such games at parimutuel licensee loca-  
23 tions in the county. If a majority of the votes cast and counted at an  
24 election under this section is against the proposition, the Kansas lottery  
25 shall not operate such games in the county. The county election officer  
26 shall transmit a copy of the certification of the results of the election to  
27 the executive director of the lottery and the executive director of the  
28 racing and gaming commission.

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

32 (g) If in any election provided for by this section a majority of the  
33 votes cast and counted is against permitting the operation of electronic  
34 gaming machines in the county, another election submitting the issue of  
35 the operation of electronic gaming machines in the county shall not be  
36 held for at least two years from the date of such election.

37 New Sec. 6. (a) All purse supplements paid pursuant to this act shall  
38 be in accordance with the point schedule in effect on January 1, 1999, at  
39 the parimutuel licensee location in Sedgwick county. All purse supple-  
40 ments paid pursuant to this section shall be in addition to purses and  
41 supplements paid under K.S.A. 74-8801 et seq., and amendments thereto.

42 (b) Except as provided in subsection (e), no electronic gaming ma-  
43 chine shall be operated pursuant to this act unless the facility in which



1 the electronic gaming machine is operated displays live and simulcast  
2 parimutuel races on video terminals and has installed parimutuel windows  
3 for wagering on parimutuel races.

4 (c) Except as provided in subsection (d), no electronic gaming ma-  
5 chine shall be operated at the following locations unless:

6 (1) During the first full calendar year and each year thereafter in  
7 which electronic gaming machines are operated, the parimutuel licensee  
8 shall conduct at the parimutuel licensee location in Sedgwick county at  
9 least eight live racing programs each calendar week for the number of  
10 weeks equal to or greater than the number of weeks raced during the  
11 1998 calendar year with at least 13 live races conducted each program.

12 (2) During the first full calendar year and each year thereafter in  
13 which electronic gaming machines are operated, the parimutuel licensee  
14 shall conduct at the parimutuel licensee location in Wyandotte county at  
15 least seven live racing programs each calendar week for the number of  
16 weeks equal to or greater than the number of weeks raced during the  
17 1998 calendar year with at least 13 live races conducted each program  
18 and also shall conduct at least 60 days of live horse racing with a minimum  
19 of seven live thoroughbred and three live quarterhorse races per day.

20 (3) During the first full calendar year and each year thereafter in  
21 which electronic gaming machines are operated, the parimutuel licensee  
22 shall conduct at the parimutuel licensee location in Crawford county live  
23 racing the number of days agreed upon by the organization licensee and  
24 the parimutuel licensee but not less than 150 days, comprised of at least  
25 seven live racing programs each calendar week with at least 13 live races  
26 conducted each program.

27 (d) The Kansas racing and gaming commission may provide excep-  
28 tions to the requirements of subsection (c) for a parimutuel licensee con-  
29 ducting live racing when events beyond the control of the licensee may  
30 render racing impossible or impractical. Such events shall include any  
31 natural or man-made disaster, shortage of qualified racing animals due to  
32 kennel sickness or state imposed limitations on operations.

33 (e) The Kansas racing and gaming commission may authorize the  
34 operation of electronic gaming machines at the racetrack facility at Eu-  
35 reka Downs and the racetrack facility at Anthony Downs on days when  
36 simulcast parimutuel races are displayed at such facility without requiring  
37 live horse racing or live greyhound racing at such facility. The Kansas  
38 racing and gaming commission shall not authorize the operation of such  
39 machines at such racetrack facility unless the qualified voters of the  
40 county where such racetrack facility is located have voted pursuant to  
41 section 5, and amendments thereto, to permit operation of such machines  
42 within the county.

43 New Sec. 7. (a) There is hereby created in the state treasury the live

1 horse racing purse supplement fund. An amount equal to 20% of the  
2 moneys in the live horse racing purse supplement fund shall be trans-  
3 ferred to the horse breeding development fund created pursuant to  
4 K.S.A. 74-8829, and amendments thereto, to be expended as provided  
5 therein. The balance in such fund shall be paid to parimutuel licensees  
6 for distribution as purse supplements in accordance with rules and reg-  
7 ulations of the Kansas racing and gaming commission, upon recommen-  
8 dation of the respective thoroughbred and quarterhorse breed organiza-  
9 tions. Such moneys shall be distributed from the separate horse purse  
10 supplement accounts maintained pursuant to this section, in accordance  
11 with rules and regulations of the Kansas racing and gaming commission,  
12 provided that not less than \$1,600,000 shall be guaranteed annually by  
13 parimutuel licensees to be charged against the accounts of such licensees  
14 on a pro rata basis.

15 (b) There is hereby created in the state treasury the live dog racing  
16 purse supplement fund. Moneys available in such fund shall be paid to  
17 parimutuel licensees for distribution as purse supplements in accordance  
18 with rules and regulations of the Kansas racing and gaming commission.  
19 Such rules and regulations shall provide that, in addition to purse sup-  
20 plements paid to winners of live dog races at each parimutuel licensee  
21 location, the lottery gaming machine operator at the parimutuel licensee  
22 location shall pay to each winner that is a Kansas-whelped greyhound an  
23 additional amount equal to \$60 per point for each point awarded to the  
24 winner. Such rules and regulations also shall provide that a portion of the  
25 moneys available in such fund, in an amount not to exceed 20% of such  
26 fund shall be transferred to the greyhound breeding development fund  
27 created pursuant to K.S.A. 74-8831, and amendments thereto, to be ex-  
28 pended as provided therein.

29 New Sec. 8. (a) There is hereby created in the state treasury the  
30 electronic gaming machine fund. Each lottery gaming machine operator  
31 shall remit all net machine income to the executive director not less than  
32 once each week. The executive director shall collect and remit to the state  
33 treasurer in accordance with K.S.A. 75-4215, and amendments thereto,  
34 all net machine income received from lottery gaming machine operators.  
35 Upon receipt of the remittance, the state treasurer shall deposit the entire  
36 amount in the state treasury and credit it to the electronic gaming ma-  
37 chine fund. Separate accounts shall be maintained in the electronic gam-  
38 ing machine fund for receipt of funds from each lottery gaming machine  
39 operator.

40 (b) Not less than once each week, the state treasurer shall transfer  
41 the following amounts from the total receipts credited to each account in  
42 the electronic gaming machine fund:

43 (1) To the problem gambling grant fund established pursuant to

- 1 K.S.A. 2001 Supp. 79-4805, and amendments thereto, 0.25%;
- 2 (2) to the city where the parimutuel licensee location is located, 1%;
- 3 (3) to the county where the parimutuel licensee location is located,
- 4 1%;
- 5 (4) to the soldiers and veterans fund established pursuant to section
- 6 25, and amendments thereto, 0.25%;
- 7 (5) to the live dog racing purse supplement fund established pursuant
- 8 to section 7, and amendments thereto, 3.5%;
- 9 (6) to the live horse racing purse supplement fund established pur-
- 10 suant to section 7, and amendments thereto, 3.5%;
- 11 (7) to the nonprofit organization licensed by the Kansas racing and
- 12 gaming commission to conduct races at the parimutuel licensee location,
- 13 1%; and
- 14 (8) to the state general fund, 21%.

15 (c) After distribution of moneys pursuant to subsection (b), the state

16 treasurer, not less than once each week, shall remit the balance in the

17 account for each lottery gaming machine operator to such lottery gaming

18 machine operator.

19 New Sec. 9. (a) Except as provided in subsection (c), it is unlawful

20 for any parimutuel licensee to allow any person to play electronic gaming

21 machines or share in winnings of a person knowing such person to be:

- 22 (1) Under 21 years of age;
- 23 (2) the executive director, a member of the commission or an em-
- 24 ployee of the Kansas lottery;
- 25 (3) an officer or employee of a vendor contracting with the Kansas
- 26 lottery to supply gaming equipment or tickets to the Kansas lottery for
- 27 use in the operation of any lottery conducted pursuant to this act;
- 28 (4) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
- 29 parent or stepparent of a person described by subsection (a)(2) or (3); or
- 30 (5) a person who resides in the same household as any person de-
- 31 scribed by subsection (a)(2) or (3).

32 (b) Violation of subsection (a) is a class A nonperson misdemeanor

33 upon conviction for a first offense. Violation of subsection (a) is a severity

34 level 9, nonperson felony upon conviction for a second or subsequent

35 offense.

36 (c) The executive director may authorize in writing any employee of

37 the Kansas lottery and any employee of a lottery vendor to play an elec-

38 tronic gaming machine to verify the proper operation thereof with respect

39 to security and contract compliance. Any prize awarded as a result of such

40 ticket purchase shall become the property of the Kansas lottery and be

41 added to the prize pools of subsequent lottery games. No money or mer-

42 chandise shall be awarded to any employee playing an electronic gaming

43 machine pursuant to this subsection.

1 New Sec. 10. A parimutuel licensee shall post one or more signs on  
2 licensed premises at points of entry to the areas where electronic gaming  
3 machines are located to inform patrons of the toll-free number available  
4 to provide information and referral services regarding compulsive or  
5 problem gaming. The text shall be determined by the secretary of the  
6 department of social and rehabilitation services. Failure by the parimutuel  
7 licensee to post and maintain such signs shall be cause for the imposition  
8 of a fine not to exceed \$500 per day.

9 New Sec. 11. Each lottery gaming machine operator shall provide  
10 access for the executive director, the executive director's designee or the  
11 commission to all its records and the physical premises where the elec-  
12 tronic gaming machine activities occur for the purpose of monitoring or  
13 inspecting the electronic gaming machines and gaming equipment. None  
14 of the information disclosed pursuant to this subsection shall be subject  
15 to disclosure under the Kansas open records act, K.S.A. 45-216 et seq.,  
16 and amendments thereto.

17 New Sec. 12. (a) Wagers shall be received only from a person present  
18 at a parimutuel licensee location. No person present at a parimutuel li-  
19 censee location shall place or attempt to place a wager on behalf of an-  
20 other person who is not present at a parimutuel licensee location.

21 (b) Violation of this section is a class A nonperson misdemeanor upon  
22 a conviction for a first offense. Violation of this section is a severity level  
23 9, nonperson felony upon conviction for a second or subsequent offense.

24 New Sec. 13. A person under age 21 shall not be permitted in an  
25 area of a parimutuel licensee location where gaming is being conducted,  
26 except for a person at least 18 years of age who is an employee of the  
27 parimutuel licensee. No employee under age 21 shall perform any func-  
28 tion involved in gaming by the patrons. No person under age 21 shall be  
29 permitted to make a wager on an electronic gaming machine.

30 New Sec. 14. If a disagreement arises between the executive director  
31 and the Kansas racing and gaming commission with regard to their re-  
32 spective duties or responsibilities in carrying out the purposes of the Kan-  
33 sas lottery act, such disagreement shall be resolved by the governor in a  
34 manner not inconsistent with the provisions of such act.

35 New Sec. 15. Pursuant to section 2 of the federal act entitled "An  
36 Act to Prohibit Transportation of Gambling Devices in Interstate and  
37 Foreign Commerce," 15 U.S.C. 1171 through 1777, the legislature of the  
38 state of Kansas hereby declares and proclaims that it is exempt from the  
39 provision of section 2 of such act to the extent that such gambling devices  
40 are being transported to or from the Kansas lottery or to or from a lottery  
41 gaming machine operator at a parimutuel licensee location within the  
42 state of Kansas.

43 New Sec. 16. Except for persons acting in accordance with the rules

1 and regulations of the Kansas lottery and the Kansas racing and gaming  
2 commission in performing installation, maintenance and repair services,  
3 any person who, with the intent to manipulate the outcome, pay-off or  
4 operation of an electronic gaming machine, manipulates the outcome,  
5 pay-off or operation of an electronic gaming machine by physical, elec-  
6 trical or mechanical means shall be guilty of a severity level 8, nonperson  
7 felony.

8 New Sec. 17. Nothing in this act shall restrict the jurisdiction of the  
9 Kansas racing and gaming commission to regulate activities conducted at  
10 parimutuel licensee facilities including the premises on which electronic  
11 gaming machines are operated. The days and hours of operation and the  
12 number of electronic gaming machines shall not be restricted unless oth-  
13 erwise authorized by this act.

14 New Sec. 18. All sales of electronic gaming machine games shall be  
15 exempt from sales taxes imposed pursuant to K.S.A. 12-187 *et seq.* and  
16 79-3601 *et seq.*, and amendments thereto.

17 New Sec. 19. (a) The Kansas racing and gaming commission and its  
18 designated employees may observe and inspect all electronic gaming ma-  
19 chines and facilities operated by licensees.

20 (b) The Kansas racing and gaming commission may examine, or cause  
21 to be examined by any agent or representative designated by the com-  
22 mission, any books, papers, records or memoranda of any licensee, or of  
23 any racetrack or business involved in electronic gaming for the purpose  
24 of ascertaining compliance with any provision of this act or any rule and  
25 regulation adopted hereunder.

26 (c) The Kansas racing and gaming commission may adopt rules and  
27 regulations with respect to security, safety and honest conduct at all par-  
28 imutuel licensee locations.

29 (d) The Kansas racing and gaming commission shall have the power  
30 to investigate alleged violations of this act and any rules and regulations.

31 (e) The Kansas racing and gaming commission shall have the power  
32 to authorize security measures required in any areas where electronic  
33 gaming machines are located.

34 (f) The Kansas racing and gaming commission shall have the power  
35 to take any other action as may be reasonable or appropriate to enforce  
36 the provisions of this act and any rules and regulations.

37 (g) The Kansas racing and gaming commission shall require an annual  
38 audit of the electronic gaming machine operations of each lottery gaming  
39 machine operator contracting with the Kansas lottery. Such audit shall be  
40 conducted by a licensed accounting firm approved by the Kansas racing  
41 and gaming commission. Such audit shall be conducted at the expense of  
42 the lottery gaming machine operator to which such audit applies.

43 (h) Following completion of three years from the date upon which

1 electronic gaming machines begin operation by each lottery gaming ma-  
2 chine operator pursuant to contract with the Kansas lottery, the Kansas  
3 racing and gaming commission shall prepare an economic impact report  
4 for the Kansas legislature detailing the costs and benefits of lottery gaming  
5 machine operations. The report shall be filed with the president of the  
6 senate and speaker of the house prior to the first legislative session fol-  
7 lowing completion of the report. Such report shall include information  
8 on the use or distribution of net and gross machine income received from  
9 the electronic gaming machine operations of each lottery gaming machine  
10 operator, including comparable electronic gaming machine operations in  
11 states within as close proximity to Kansas as possible, competitive market  
12 analysis, tax benefits, payroll, capital investment and such other matters  
13 that the Kansas racing and gaming commission may require. The Kansas  
14 racing and gaming commission may contract for the services of such in-  
15 dependent professionals as may be required to complete such report.  
16 Expenses for such report shall be paid pursuant to appropriation from  
17 the electronic gaming machine operation and regulatory fund.

18 New Sec. 20. (a) It is a class A nonperson misdemeanor for the ex-  
19 ecutive director, any member of the lottery commission, any employee  
20 of the Kansas lottery or any member, employee or appointee of the Kan-  
21 sas racing and gaming commission, including stewards and racing judges,  
22 knowingly to:

23 (1) Participate in the operation of or have a financial interest in any  
24 business which has been issued a concessionaire license, racing or wa-  
25 gering or electronic gaming machine equipment or services license, fa-  
26 cility owner license or facility manager license, or any business which sells  
27 goods or services to an organization licensee;

28 (2) participate directly or indirectly as an owner, operator, manager  
29 or consultant in electronic gaming in Kansas;

30 (3) place a wager on or bet or play an electronic gaming machine at  
31 a parimutuel licensee location in Kansas;

32 (4) accept any compensation, gift, loan, entertainment, favor or serv-  
33 ice from any licensee, except such suitable facilities and services within a  
34 racetrack facility operated by an organization licensee as may be required  
35 to facilitate the performance of the executive director's, member's, em-  
36 ployee's or appointee's official duties;

37 (5) enter into any business dealing, venture or contract with an owner  
38 or lessee of a parimutuel licensee location in Kansas; or

39 (6) engage in any activity described in subsection (1), (2), (4) or (5)  
40 within two years from the last day of service as such executive director,  
41 member, employee or appointee.

42 (b) It is a class A nonperson misdemeanor for any member, employee  
43 or appointee of the Kansas racing and gaming commission, including

1 stewards and racing judges, knowingly to violate any of the provisions of  
2 subsection (a).

3 (c) It is a severity level 8, nonperson felony for any person playing or  
4 using any electronic gaming machine at a parimutuel licensee location in  
5 Kansas knowingly to:

6 (1) Use other than a lawful coin or legal tender of the United States  
7 of America, or to use coin not of the same denomination as the coin  
8 intended to be used in an electronic gaming machine, except that in the  
9 playing of any electronic gaming machine or similar gaming device, it  
10 shall be lawful for any person to use gaming billets, tokens or similar  
11 objects therein which are approved by the Kansas lottery;

12 (2) possess or use, while on the premises of a parimutuel licensee  
13 location any cheating or thieving device, including but not limited to,  
14 tools, wires, drills, coins attached to strings or wires or electronic or mag-  
15 netic devices to facilitate removing from any electronic gaming machine  
16 any money or contents thereof, except that a duly authorized employee  
17 of the Kansas lottery, Kansas racing and gaming commission or a pari-  
18 mutuel licensee may possess and use any of the foregoing only in fur-  
19 therance of the employee's employment at the parimutuel licensee lo-  
20 cation; or

21 (3) possess or use, while on the premises of any parimutuel licensee  
22 location any key or device designed for the purpose of or suitable for  
23 opening or entering any electronic gaming machine or similar gaming  
24 device or drop box. An authorized employee of the Kansas lottery, Kansas  
25 racing and gaming commission or a parimutuel licensee may possess and  
26 use any such key or device only in furtherance of the employee's em-  
27 ployment at the parimutuel licensee location.

28 New Sec. 21. (a) No person shall operate an electronic gaming ma-  
29 chine while intoxicated. The Kansas racing and gaming commission shall  
30 adopt rules and regulations governing identification of persons who are  
31 intoxicated and procedures for removal of such persons from premises  
32 where electronic gaming machines are operated. Such rules and regula-  
33 tions may include requirements the employees of a parimutuel licensee  
34 be trained in controlling intoxicated persons within a parimutuel licensee  
35 location.

36 (b) No parimutuel licensee shall offer or serve any cereal malt bev-  
37 erage or alcoholic liquor in violation of K.S.A. 41-2640, and amendments  
38 thereto.

39 New Sec. 22. (a) No organization licensee or facility manager li-  
40 censee shall permit any business not owned and operated by the organ-  
41 ization licensee to provide electronic gaming machine equipment or serv-  
42 ices, as designated by the Kansas racing and gaming commission, to an  
43 organization licensee unless such business has been issued an electronic

1 gaming machine equipment or services license by the Kansas racing and  
2 gaming commission. Such equipment and services include, but are not  
3 limited to, surveillance, electronic computer components, random num-  
4 ber generator or cabinet thereof and token redemption equipment or  
5 services.

6 (b) Businesses required to be licensed pursuant to this section shall  
7 apply for electronic gaming machine equipment or services licenses in a  
8 manner and upon forms prescribed and furnished by the Kansas racing  
9 and gaming commission. The Kansas racing and gaming commission shall  
10 require disclosure of information about the owners and officers of each  
11 applicant and shall require such owners, officers and employees to submit  
12 to fingerprinting. Electronic gaming machine equipment or services li-  
13 censes shall be issued for a period of time established by the Kansas racing  
14 and gaming commission but not to exceed 10 years. The Kansas racing  
15 and gaming commission shall establish a schedule of application fees and  
16 license fees for racing or wagering or electronic gaming machine equip-  
17 ment or services licenses based upon the type and size of business. The  
18 application fee shall not be refundable if the business fails to qualify for  
19 a license. If the application fee is insufficient to pay the reasonable ex-  
20 penses of processing the application and investigating the applicant's qual-  
21 ifications for licensure, the Kansas racing and gaming commission shall  
22 require the applicant to pay to the Kansas racing and gaming commission,  
23 at such times and in such form as required by the Kansas racing and  
24 gaming commission, any additional amounts necessary to pay such ex-  
25 penses. No license shall be issued to an applicant until the applicant has  
26 paid such additional amounts in full, and such amounts shall not be re-  
27 fundable except to the extent that they exceed the actual expenses of  
28 processing the application and investigating the applicant's qualifications  
29 for licensure.

30 (c) The Kansas racing and gaming commission may require applicants  
31 as a condition of licensure to consent to allow agents of the Kansas bureau  
32 of investigation or security personnel of the Kansas racing and gaming  
33 commission to search without warrant the licensee's premises and per-  
34 sonal property and the persons of its owners, officers and employees while  
35 engaged in the licensee's business within the racetrack facility or adjacent  
36 facilities under the control of the organization licensee for the purpose  
37 of investigating criminal violations of this act or violations of rules and  
38 regulations of the Kansas racing and gaming commission.

39 (d) Action taken by the Kansas racing and gaming commission con-  
40 cerning the license of an electronic gaming machine equipment or serv-  
41 ices business shall be in accordance with the Kansas administrative pro-  
42 cedure act. The Kansas racing and gaming commission may refuse to issue  
43 an electronic gaming machine equipment or services license to any busi-



1 ness if any person who owns a 5% or more interest in such business, any  
2 person who is an officer of such business or any person employed by such  
3 business within the racetrack facility:

4 (1) Within the last five years: (A) Has been convicted of a felony in  
5 a court of the United States or any state or territory of the United States  
6 or has been adjudicated as a juvenile of an act which, if committed by an  
7 adult, would constitute a felony; (B) has been convicted of two or more  
8 acts of violence in a court of the United States or any state or territory of  
9 the United States; or (C) has been convicted of a violation of any law of  
10 the United States or any state or territory of the United States involving  
11 gambling or controlled substances or has been adjudicated as a juvenile  
12 an act which, if committed by an adult, would constitute such a violation;

13 (2) fails to disclose any material fact or provides information, knowing  
14 such information to be false, in connection with the application for the  
15 license;

16 (3) has been found by the Kansas racing and gaming commission to  
17 have violated any provision of this act or any rule and regulation of the  
18 Kansas racing and gaming commission;

19 (4) is not current in filing all applicable tax returns and in payment  
20 of all taxes, interest and penalties owed to the state and any political  
21 subdivision thereof, excluding items under formal appeal pursuant to ap-  
22 plicable statutes; or

23 (5) has had any occupation or gaming license revoked, suspended or  
24 denied.

25 (e) The Kansas racing and gaming commission may suspend or re-  
26 voke the electronic gaming machine equipment or services license of any  
27 business for any reason which would justify refusal to issue such a license.  
28 Proceedings to suspend or revoke such license shall be conducted by the  
29 Kansas racing and gaming commission or its appointed hearing officer in  
30 accordance with the provisions of the Kansas administrative procedure  
31 act.

32 (f) The Kansas racing and gaming commission may provide by rules  
33 and regulations for the temporary suspension of an electronic gaming  
34 machine equipment or services license by summary adjudicative pro-  
35 ceedings in accordance with the Kansas administrative procedure act  
36 upon finding that there is probable cause to believe that grounds exist for  
37 a permanent suspension or revocation of such license. Such suspension  
38 shall be for a period not exceeding 30 days. Upon expiration of such  
39 suspension, the license shall be restored unless the license has been sus-  
40 pended or revoked as a result of proceedings conducted pursuant to sub-  
41 section (e).

42 (g) The Kansas racing and gaming commission may provide by rules  
43 and regulations for the licensure of key gaming employees. Such rules

1 and regulations may specify employment application forms, fees and pro-  
2 cedures for suspension or revocation of any key gaming employee license.

3 New Sec. 23. No taxes, fees, charges, transfers or distributions, other  
4 than those provided for in this act, shall be made or levied on or against  
5 the net machine income of the Kansas lottery by any city, county or other  
6 political or taxing subdivision of the state.

7 New Sec. 24. Each lottery gaming machine operator shall hold the  
8 state, the executive director of the Kansas lottery, the Kansas lottery com-  
9 mission, the executive director of the Kansas racing and gaming commis-  
10 sion and the Kansas racing and gaming commission harmless from and  
11 defend and pay for the defense of any and all claims which may be as-  
12 serted against the state, the executive director, the Kansas lottery com-  
13 mission, the executive director of the Kansas racing and gaming commis-  
14 sion, the Kansas racing and gaming commission or any employee of the  
15 state arising from the operation of electronic gaming machines located at  
16 the parimutuel licensee location of that lottery gaming machine operator.  
17 The provisions of this section shall not apply to any claims arising from  
18 the negligence or willful misconduct of the executive director, the Kansas  
19 lottery commission, the executive director of the Kansas racing and gam-  
20 ing commission, the Kansas racing and gaming commission, the state or  
21 the employees thereof.

22 New Sec. 25. (a) There is hereby established in the state treasury the  
23 soldiers and veterans fund. Moneys in such fund shall be used only for:

24 (1) The establishment and maintenance of the state system of vet-  
25 erans cemeteries pursuant to K.S.A. 2001 Supp. 73-1232, and amend-  
26 ments thereto; and

27 (2) the payment of costs of maintaining the Kansas soldiers' home  
28 and the Kansas veterans' home and the care of residents of such homes.

29 (b) All expenditures from the veterans cemeteries fund shall be made  
30 in accordance with appropriation acts upon warrants of the director of  
31 accounts and reports issued pursuant to vouchers approved by the exec-  
32 utive director of the Kansas commission of veterans affairs or by a person  
33 designated by the executive director.

34 Sec. 26. K.S.A. 2001 Supp. 19-101a is hereby amended to read as  
35 follows: 19-101a. (a) The board of county commissioners may transact all  
36 county business and perform all powers of local legislation and adminis-  
37 tration it deems appropriate, subject only to the following limitations,  
38 restrictions or prohibitions:

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

41 (2) Counties may not consolidate or alter county boundaries.

42 (3) Counties may not affect the courts located therein.

43 (4) Counties shall be subject to acts of the legislature prescribing

1 limits of indebtedness.

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

7 (6) Counties may not legislate on social welfare administered under  
8 state law enacted pursuant to or in conformity with public law No. 271—  
9 74th congress, or amendments thereof.

10 (7) Counties shall be subject to all acts of the legislature concerning  
11 elections, election commissioners and officers and their duties as such  
12 officers and the election of county officers.

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

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

19 (10) No county may levy ad valorem taxes under the authority of this  
20 section upon real property located within any redevelopment project area  
21 established under the authority of K.S.A. 12-1772, and amendments  
22 thereto, unless the resolution authorizing the same specifically authorized  
23 a portion of the proceeds of such levy to be used to pay the principal of  
24 and interest upon bonds issued by a city under the authority of K.S.A.  
25 12-1774, and amendments thereto.

26 (11) Counties shall have no power under this section to exempt from  
27 any statute authorizing or requiring the levy of taxes and providing sub-  
28 stitute and additional provisions on the same subject, unless the resolution  
29 authorizing the same specifically provides for a portion of the proceeds  
30 of such levy to be used to pay a portion of the principal and interest on  
31 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
32 ments thereto.

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

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

38 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
39 430, and amendments thereto.

40 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
41 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

42 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
43 13-13a26, and amendments thereto.

- 1 (B) This provision shall expire on June 30, 2003.
- 2 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
3 2001 Supp. 71-301a, and amendments thereto.
- 4 (B) This provision shall expire on June 30, 2003.
- 5 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
6 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 7 (19) Counties may not exempt from or effect changes in the provi-  
8 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
9 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
10 through 12-1270 and 12-1276, and amendments thereto.
- 11 (20) Counties may not exempt from or effect changes in the provi-  
12 sions of K.S.A. 19-211, and amendments thereto.
- 13 (21) Counties may not exempt from or effect changes in the provi-  
14 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 15 (22) Counties may not regulate the production or drilling of any oil  
16 or gas well in any manner which would result in the duplication of reg-  
17 ulation by the state corporation commission and the Kansas department  
18 of health and environment pursuant to chapter 55 and chapter 65 of the  
19 Kansas Statutes Annotated and any rules and regulations adopted pur-  
20 suant thereto. Counties may not require any license or permit for the  
21 drilling or production of oil and gas wells. Counties may not impose any  
22 fee or charge for the drilling or production of any oil or gas well.
- 23 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
24 41a04, and amendments thereto.
- 25 (24) Counties may not exempt from or effect changes in K.S.A. 79-  
26 1611, and amendments thereto.
- 27 (25) Counties may not exempt from or effect changes in K.S.A. 79-  
28 1494, and amendments thereto.
- 29 (26) Counties may not exempt from or effect changes in subsection  
30 (b) of K.S.A. 19-202, and amendments thereto.
- 31 (27) Counties may not exempt from or effect changes in subsection  
32 (b) of K.S.A. 19-204, and amendments thereto.
- 33 (28) Counties may not levy or impose an excise, severance or any  
34 other tax in the nature of an excise tax upon the physical severance and  
35 production of any mineral or other material from the earth or water.
- 36 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
37 2017 or 79-2101, and amendments thereto.
- 38 (30) Counties may not exempt from or effect changes in K.S.A. 2-  
39 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219 or 65-171d or  
40 K.S.A. 2001 Supp. 17-5909 or 65-1,178 through 65-1,199, and amend-  
41 ments thereto.
- 42 (31) Counties may not exempt from or effect changes in K.S.A. 2001  
43 Supp. 80-121, and amendments thereto.

1 (32) Counties may not exempt from or effect changes in K.S.A. 2001  
2 Supp. 19-228, and amendments thereto.

3 (33) *Counties may not exempt from or effect changes in the Kansas*  
4 *lottery act.*

5 (b) Counties shall apply the powers of local legislation granted in  
6 subsection (a) by resolution of the board of county commissioners. If no  
7 statutory authority exists for such local legislation other than that set forth  
8 in subsection (a) and the local legislation proposed under the authority  
9 of such subsection is not contrary to any act of the legislature, such local  
10 legislation shall become effective upon passage of a resolution of the  
11 board and publication in the official county newspaper. If the legislation  
12 proposed by the board under authority of subsection (a) is contrary to an  
13 act of the legislature which is applicable to the particular county but not  
14 uniformly applicable to all counties, such legislation shall become effec-  
15 tive by passage of a charter resolution in the manner provided in K.S.A.  
16 19-101b, and amendments thereto.

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

19 Sec. 27. K.S.A. 2001 Supp. 74-8710 is hereby amended to read as  
20 follows: 74-8710. (a) The commission, upon the recommendation of the  
21 executive director, shall adopt rules and regulations governing the estab-  
22 lishment and operation of a state lottery as necessary to carry out the  
23 purposes of this act. Temporary rules and regulations may be adopted by  
24 the commission without being subject to the provisions and requirements  
25 of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be  
26 subject to approval by the attorney general as to legality and shall be filed  
27 with the secretary of state and published in the Kansas register. Tem-  
28 porary and permanent rules and regulations may include but shall not be  
29 limited to:

30 (1) Subject to the provisions of subsection (c), the types of lottery  
31 games to be conducted, including but not limited to instant lottery, on-  
32 line and traditional games, ~~but not including games on video lottery ma-~~  
33 ~~chines or lottery machines~~ *and the types of electronic gaming machines*  
34 *to be operated at parimutuel licensee locations.*

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

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

41 (4) The frequency of the drawings or selections of winning tickets or  
42 shares.

43 (5) The type or types of locations at which tickets or shares may be

1 sold.

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

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

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

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

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

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

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

16 (13) *Rules and regulations to implement, administer and enforce the*  
17 *provisions of the Kansas gaming revenue recovery act.*

18 (b) No new lottery game, *other than lottery games played on elec-*  
19 *tronic gaming machines*, shall commence operation ~~after the effective~~  
20 ~~date of this act~~ unless first approved by the governor or, in the governor's  
21 absence or disability, the lieutenant governor.

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. 28. K.S.A. 2001 Supp. 74-8711 is hereby amended to read as  
27 follows: 74-8711. (a) There is hereby established in the state treasury the  
28 lottery operating fund.

29 (b) *Except as provided by the Kansas gaming revenue recovery act,*  
30 the executive director shall remit all moneys collected from the sale of  
31 lottery tickets and shares and any other moneys received by or on behalf  
32 of the Kansas lottery to the state treasurer in accordance with the pro-  
33 visions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each  
34 such remittance, the state treasurer shall deposit the entire amount in the  
35 state treasury to the credit of the lottery operating fund. Moneys credited  
36 to the fund shall be expended or transferred only as provided by this act.  
37 Expenditures from such fund shall be made in accordance with appro-  
38 priations acts upon warrants of the director of accounts and reports issued  
39 pursuant to vouchers approved by the executive director or by a person  
40 designated by the executive director.

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

42 (1) The payment of expenses of the lottery, which shall include all  
43 costs incurred in the operation and administration of the Kansas lottery;

1 all costs resulting from contracts entered into for the purchase or lease  
2 of goods and services needed for operation of the lottery, including but  
3 not limited to supplies, materials, tickets, independent studies and sur-  
4 veys, data transmission, advertising, printing, promotion, incentives, pub-  
5 lic relations, communications and distribution of tickets and shares; and  
6 reimbursement of costs of facilities and services provided by other state  
7 agencies;

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

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

11 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,  
12 and amendments thereto;

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

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

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

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

24 (2) except for pull-tab lottery tickets and shares, an amount equal to  
25 not less than 30% of total monthly revenues from the sales of lottery  
26 tickets and shares less estimated returned tickets. In the case of pull-tab  
27 lottery tickets and shares, an amount equal to not less than 20% of the  
28 total monthly revenues from the sales of pull-tab lottery tickets and shares  
29 less estimated returned tickets.

30 Sec. 29. K.S.A. 2001 Supp. 74-8836 is hereby amended to read as  
31 follows: 74-8836. (a) *Except as provided by subsection (l)*, any organization  
32 licensee that conducts at least 150 days of live racing during a calendar  
33 year or a fair association that conducts fewer than 22 days of live racing  
34 during a calendar year may apply to the commission for a simulcasting  
35 license to display simulcast horse or greyhound races and to conduct  
36 intertrack parimutuel wagering thereon. If the organization licensee con-  
37 ducts races at a racetrack facility that is owned by a facility owner licensee,  
38 both licensees shall join in the application. A simulcasting license granted  
39 to a fair association that conducts fewer than 22 days of live racing shall  
40 restrict the fair association's display of simulcast races to a number of  
41 days, including days on which it conducts live races, equal to not more  
42 than twice the number of days on which it conducts live races.

43 (b) (1) A simulcasting license granted to an organization licensee

1 other than a fair association shall authorize the display of simulcast races  
2 at the racetrack facility where the live races are conducted so long as the  
3 licensee conducts at least eight live races per day and an average of 10  
4 live races per day per week. If a simulcasting licensee conducts live horse  
5 races on a day when simulcast races are displayed by the licensee and the  
6 licensee conducts fewer than an average of 10 live horse races per day  
7 per week, not less than 80% of the races on which wagers are taken by  
8 the licensee during such week shall be live races conducted by the li-  
9 censee unless approved by the recognized horsemen's group or upon a  
10 finding by the commission that the organization licensee was unable to  
11 do so for reasonable cause. If a simulcast licensee conducts live greyhound  
12 races on a day when simulcast races are displayed by the licensee and the  
13 licensee schedules fewer than 13 live greyhound races during a perform-  
14 ance on such day, not less than 80% of the races on which wagers are  
15 taken by the licensee during such performance shall be live races con-  
16 ducted by the licensee.

17 (2) A simulcasting license granted to a fair association shall authorize  
18 the display of simulcast races at the racetrack facility where the races are  
19 conducted only if live races are scheduled for two or more days of the  
20 same calendar week, except that the licensee may conduct simulcast races  
21 in the week immediately before and immediately after a live meeting if  
22 the total number of days on which simulcast races are displayed does not  
23 exceed the total authorized in subsection (a). In no case shall the live  
24 meet or simulcast races allowed under this subsection exceed 10 consec-  
25 utive weeks. For purposes of this subsection, a calendar week shall be  
26 measured from Monday through the following Sunday.

27 (3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2),  
28 a fair association may apply to the commission for not more than five  
29 additional days of simulcasting of special events. In addition, the com-  
30 mission may authorize a fair association to display additional simulcast  
31 races but, if such fair association is less than 100 miles from an organi-  
32 zation licensee that is not a fair association, it also shall secure written  
33 consent from that organization licensee.

34 (4) Notwithstanding the provisions of subsection (b)(1), if an emer-  
35 gency causes the cancellation of all or any live races scheduled for a day  
36 or performance by a simulcasting licensee, the commission or the com-  
37 mission's designee may authorize the licensee to display any simulcast  
38 races previously scheduled for such day or performance.

39 (5) Notwithstanding the provisions of subsection (b)(1), the commis-  
40 sion may authorize the licensee to display simulcast special racing events  
41 as designated by the commission.

42 (c) The application for a simulcasting license shall be filed with the  
43 commission at a time and place prescribed by rules and regulations of



1 the commission. The application shall be in a form and include such  
2 information as the commission prescribes.

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

4 (1) Comply with the interstate horse racing act of 1978 (15 U.S.C.  
5 3001 *et seq.*) as in effect December 31, 1991;

6 (2) submit with the application a written approval of the proposed  
7 simulcasting schedule signed by: (A) The recognized horsemen's group  
8 for the track, if the applicant is licensed to conduct only horse races; (B)  
9 the recognized greyhound owners' group, if the applicant is licensed to  
10 conduct only greyhound races and only greyhound races are to be si-  
11 mulcast; (C) both the recognized greyhound owners' group and a rec-  
12 ognized horsemen's group, if the applicant is licensed to conduct only  
13 greyhound races and horse races are to be simulcast; (D) the recognized  
14 greyhound owners' group, if the applicant is licensed to conduct both  
15 greyhound and horse races, only greyhound races are to be simulcast and  
16 races are to be simulcast only while the applicant is conducting live grey-  
17 hound races; (E) the recognized horsemen's group for the track, if the  
18 applicant is licensed to conduct both greyhound and horse races, only  
19 horse races are to be simulcast and races are to be simulcast only while  
20 the applicant is conducting live horse races; or (F) both the recognized  
21 greyhound owners' group and the recognized horsemen's group for the  
22 track, if the applicant is licensed to conduct both greyhound races and  
23 horse races and horse races are to be simulcast while the applicant is  
24 conducting live greyhound races or greyhound races are to be simulcast  
25 while the applicant is conducting live horse races; and

26 (3) submit, in accordance with rules and regulations of the commis-  
27 sion and before the simulcasting of a race, a written copy of each contract  
28 or agreement which the applicant proposes to enter into with regard to  
29 such race, and any proposed modification of any such contract or  
30 agreement.

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

32 (f) A simulcasting licensee may apply to the commission or its des-  
33 ignee for changes in the licensee's approved simulcasting schedule if such  
34 changes are approved by the respective recognized greyhound owners'  
35 group or recognized horsemen's group needed throughout the term of  
36 the license. Application shall be made upon forms furnished by the com-  
37 mission and shall contain such information as the commission prescribes.

38 (g) Except as provided by subsection (j), the takeout for simulcast  
39 horse and greyhound races shall be the same as it is for the live horse  
40 and greyhound races conducted during the current or next live race meet-  
41 ing at the racetrack facility where the simulcast races are displayed. For  
42 simulcast races the tax imposed on amounts wagered shall be as provided  
43 by K.S.A. 74-8823, and amendments thereto. Of the balance of the tak-

1 eout remaining after deduction of taxes, an amount equal to a percentage,  
2 to be determined by the commission, of the gross sum wagered on si-  
3 mulcast races shall be used for purses, as follows:

4 (1) For greyhound races conducted by the licensee, if the simulcast  
5 race is a greyhound race and the licensee conducts only live greyhound  
6 races;

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

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

13 (4) for horse races and greyhound races, as determined by both the  
14 recognized horsemen's group and the recognized greyhound owners'  
15 group, if the simulcast is a horse race and the licensee does not conduct  
16 or is not currently conducting live horse races. That portion of simulcast  
17 purse money determined to be used for horse purses shall be apportioned  
18 by the commission to the various horse race meetings held in any calendar  
19 year based upon the number of live horse race dates comprising such  
20 horse race meetings in the preceding calendar year.

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

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

39 (2) If a simulcasting licensee has a license to conduct live greyhound  
40 races and the licensee displays a simulcast greyhound race, breakage and  
41 unclaimed winning ticket proceeds shall be distributed in the manner  
42 provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for  
43 breakage and unclaimed winning ticket proceeds from live greyhound

1 races.

2 (3) If a simulcasting licensee has a license to conduct live racing of  
3 only horses and the licensee displays a simulcast greyhound race, un-  
4 claimed winning ticket proceeds shall be distributed in the manner pro-  
5 vided by K.S.A. 74-8822, and amendments thereto, for unclaimed win-  
6 ning ticket proceeds from live greyhound races. Breakage for such races  
7 shall be distributed for use to benefit greyhound racing as determined by  
8 the commission.

9 (4) If a simulcasting licensee has a license to conduct live racing of  
10 only greyhounds and the licensee displays a simulcast horse race: (A) All  
11 breakage proceeds shall be remitted by the licensee to the commission  
12 not later than the 15th day of the month following the race from which  
13 the breakage is derived and the commission shall remit any such proceeds  
14 received to the state treasurer in accordance with the provisions of K.S.A.  
15 75-4215, and amendments thereto. Upon receipt of each such remittance,  
16 the state treasurer shall deposit the entire amount in the state treasury  
17 to the credit of the Kansas horse breeding development fund created by  
18 K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket  
19 proceeds shall be remitted by the licensee to the commission on the 61st  
20 day after the end of the calendar year and the commission shall remit any  
21 such proceeds received to the state treasurer in accordance with the pro-  
22 visions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each  
23 such remittance, the state treasurer shall deposit the entire amount in the  
24 state treasury to the credit of the Kansas horse breeding development  
25 fund created by K.S.A. 74-8829, and amendments thereto.

26 (i) The commission may approve a request by two or more simul-  
27 casting licensees to combine wagering pools within the state of Kansas  
28 pursuant to rules and regulations adopted by the commission.

29 (j) (1) The commission may authorize any simulcasting licensee to  
30 participate in an interstate combined wagering pool with one or more  
31 other racing jurisdictions.

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

36 (3) The tax imposed on amounts wagered in an interstate pool shall  
37 be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel  
38 taxes may not be imposed on any amounts wagered in an interstate com-  
39 bined wagering pool other than amounts wagered within this jurisdiction.

40 (4) Breakage for interstate combined wagering pools shall be calcu-  
41 lated in accordance with the statutes and rules and regulations of the host  
42 jurisdiction and shall be allocated among the participating jurisdictions in  
43 a manner agreed to among the jurisdictions. Breakage allocated to this

1 jurisdiction shall be distributed as provided by subsection (h).

2 (5) Upon approval of the respective recognized greyhound owners'  
3 group or recognized horsemen's group, the commission may permit an  
4 organization licensee to simulcast to other racetrack facilities or off-track  
5 wagering or intertrack wagering facilities in other jurisdictions one or  
6 more races conducted by such licensee, use one or more races conducted  
7 by such licensee for an intrastate combined wagering pool or use one or  
8 more races conducted by such licensee for an interstate combined wa-  
9 gering pool at off-track wagering or intertrack wagering locations outside  
10 the commission's jurisdiction and may allow parimutuel pools in other  
11 jurisdictions to be combined with parimutuel pools in the commission's  
12 jurisdiction for the purpose of establishing an interstate combined wa-  
13 gering pool.

14 (6) The participation by a simulcasting licensee in a combined inter-  
15 state wagering pool does not cause that licensee to be considered to be  
16 doing business in any jurisdiction other than the jurisdiction in which the  
17 licensee is physically located.

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

23 (l) *The commission, by rules and regulations, may provide exceptions*  
24 *to the requirements of subsection (a) for the display of simulcast racing*  
25 *at Eureka Downs and Anthony Downs.*

26 (m) This section shall be part of and supplemental to the Kansas  
27 parimutuel racing act.

28 Sec. 30. K.S.A. 2001 Supp. 19-101a, 74-8702, 74-8710, 74-8711 and  
29 74-8836 are hereby repealed.

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

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