

## HOUSE BILL No. 2340

By Committee on Federal and State Affairs

2-12

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AN ACT concerning lotteries; authorizing electronic gaming machines and other lottery games at certain locations; amending K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp. 19-101a and 79-4805 and repealing the existing sections.

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

Section 1. K.S.A. 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*

1 *company*, corporation or partnership.

2 (i) "Prize" means any prize paid directly by the Kansas lottery pur-  
3 suant to its rules and regulations.

4 (j) "Share" means any intangible manifestation authorized by the  
5 Kansas lottery to prove participation in a lottery game.

6 (k) "Ticket" means any tangible evidence issued by the Kansas lottery  
7 to prove participation in a lottery game.

8 (l) "Vendor" means any person who has entered into a major pro-  
9 curement contract with the Kansas lottery.

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

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

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

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

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

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

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

34 (A) Any food vending machine defined by K.S.A. 36-501, and amend-  
35 ments thereto;

36 (B) any nonprescription drug machine authorized under K.S.A. 65-  
37 650, and amendments thereto;

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

40 (D) *any electronic gaming machine operated in accordance with the*  
41 *provisions of the Kansas gaming act; or*

42 (E) any machine excluded from the definition of gambling devices  
43 under subsection (d) of K.S.A. 21-4302, and amendments thereto.

1 (p) “Electronic gaming machine” means any electronic, electrome-  
2 chanical, video or computerized device, contrivance or machine author-  
3 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic  
4 cards or any consideration, is available to play, operate or simulate the  
5 play of a game authorized by the Kansas lottery at a parimutuel licensee  
6 location or location authorized pursuant to section 22, and amendments  
7 thereto, including, but not limited to, bingo, poker, blackjack, keno and  
8 slot machines, and which may deliver or entitle the player operating the  
9 machine to receive cash, tokens, merchandise or credits that may be re-  
10 deemed for cash. Electronic gaming machines may use bill validators and  
11 may be single-position reel-type, single or multi-game video and single-  
12 position multi-game video electronic game, including but not limited to,  
13 poker, blackjack and slot machines. Electronic gaming machines shall be  
14 directly linked to a central computer at a location determined by the  
15 executive director for purposes of security, monitoring and auditing.

16 (q) “Facility owner licensee,” “facility manager licensee” and “organ-  
17 ization licensee” have the meanings provided by K.S.A. 74-8802, and  
18 amendments thereto.

19 (r) “Key gaming employee” means any natural person 21 years of age  
20 or older employed by or under contract with a lottery gaming machine  
21 contractor or employed by or under contract with a person providing on  
22 or off-site management or employee-related services to the lottery gaming  
23 machine contractor, including, but not limited to: (1) Gaming machine  
24 contractor manager and assistant manager; (2) facilities operator man-  
25 ager; (3) electronic games manager; (4) accounting department personnel;  
26 (5) count room employees; (6) cage department employees, including cash-  
27 iers and main bank employees; (7) vault department employees; (8) ap-  
28 provers of credit; (9) surveillance department employees; (10) security  
29 department employees; (11) floor managers; (12) electronic gaming ma-  
30 chine technicians; (13) custodians of electronic gambling machines, in-  
31 cluding persons with access to cash and accounting records within such  
32 machines; (14) collection personnel; (15) internal auditors of the lottery  
33 gaming machine contractor; (16) any employee whose total cash compen-  
34 sation is in excess of \$50,000 per year; and (17) any other type of employee  
35 specified by contract pursuant to section 22, and amendments thereto.

36 (s) “Lottery gaming machine contractor” means any parimutuel li-  
37 censee with which the executive director has contracted for the placement  
38 of an electronic gaming machine pursuant to this act or any person with  
39 which the executive director has contracted to operate electronic gaming  
40 machines pursuant to section 22, and amendments thereto.

41 (t) “Net machine income” means the total of all cash and the face  
42 value of all tokens or electronic cards placed in an electronic gaming  
43 machine, less cash, merchandise or credits that may be redeemed for cash

1 *paid to players as winnings.*

2 (u) *“Parimutuel licensee” means a facility owner licensee or a facility*  
3 *manager licensee.*

4 (v) *“Parimutuel licensee location” means: (1) A racetrack facility, as*  
5 *defined by K.S.A. 74-8802, and amendments thereto, where live horse*  
6 *racing or live greyhound racing has been authorized or for which an*  
7 *application for authorization to conduct live horse racing or live grey-*  
8 *hound racing pursuant to the Kansas parimutuel racing act is pending*  
9 *prior to February 1, 2000; (2) a facility located on real estate where such*  
10 *racetrack facility is located; or (3) a racetrack facility located at, on or*  
11 *immediately adjacent to the real estate of Eureka Downs or Anthony*  
12 *Downs. A parimutuel licensee location may include any existing structure*  
13 *at a racetrack facility described in this subsection or any structure that*  
14 *may be constructed on real estate where such racetrack facility is located.*

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

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

24 (y) *“Token” means a metal or other representative of value, which is*  
25 *not legal tender, redeemable for cash only by the issuing lottery gaming*  
26 *machine contractor at the contractor’s parimutuel licensee location or*  
27 *location authorized pursuant to section 22, and amendments thereto, and*  
28 *issued and sold by a lottery gaming machine contractor for the sole pur-*  
29 *pose of playing an electronic gaming machine.*

30 New Sec. 2. (a) Sections 2 through 24, and amendments thereto,  
31 shall be known as the Kansas gaming act and shall be part of and supple-  
32 mental to the Kansas lottery act.

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

37 New Sec. 3. (a) The executive director may contract with parimutuel  
38 licensees for the operation and management, by the state of Kansas, of  
39 electronic gaming machines at parimutuel licensee locations in counties  
40 where a proposition submitted pursuant to section 5, and amendments  
41 thereto, has been approved by the voters of such county. Such contracts  
42 shall be subject to the provisions of this act and rules and regulations  
43 adopted under this act but shall not be subject to the provisions of K.S.A.

1 75-3738 through 75-3744, and amendments thereto.

2 (b) The executive director shall select as lottery gaming machine con-  
3 tractors such parimutuel licensees as the executive director deems best  
4 able to serve the public convenience and promote marketing plans de-  
5 veloped by the Kansas lottery. In the selection of lottery gaming machine  
6 contractors, the executive director shall consider factors such as financial  
7 responsibility, security of the licensee location, integrity, reputation, vol-  
8 ume of expected sales and such other factors as the executive director  
9 may deem appropriate.

10 (c) The executive director may charge an administrative application  
11 fee, reasonably related to the costs of processing the application, to ap-  
12 plicants to become lottery gaming machine contractors.

13 (d) A contract shall not constitute property, nor shall it be subject to  
14 attachment, garnishment or execution, nor shall it be alienable or trans-  
15 ferable, except upon approval by the executive director, or subject to  
16 being encumbered or hypothecated. No interest in the contract shall de-  
17 scend by the laws of testate or intestate devolution but any interest shall  
18 cease and expire upon the death of the lottery machine contractor or  
19 interest holders in the lottery machine contractor except that executors,  
20 administrators or representatives of the estate of any deceased contractor  
21 and the trustee of any insolvent or bankrupt licensee may continue to  
22 operate pursuant to the contract under order of the appropriate court for  
23 no longer than one year after the death, bankruptcy or insolvency of such  
24 licensee.

25 (e) Each lottery gaming machine contractor shall be issued a lottery  
26 gaming machine contractor certificate which shall be conspicuously dis-  
27 played at the place where the lottery gaming machine contractor is au-  
28 thorized to operate and manage electronic gaming machines.

29 (f) To be selected as a lottery gaming machine contractor, a pari-  
30 mutuel licensee must:

31 (1) Have sufficient financial resources to support the activities re-  
32 quired under this act;

33 (2) be current in payment of all taxes, interest and penalties owed to  
34 any taxing subdivision where the parimutuel licensee is located; and

35 (3) be current in filing all applicable tax returns and in payment of  
36 all taxes, interest and penalties owed to the state of Kansas, excluding  
37 items under formal appeal pursuant to applicable statutes.

38 (g) The lottery gaming machine contractor, at its own expense, shall  
39 purchase for the Kansas lottery a license for all software programs used  
40 by such lottery gaming machine contractor to operate electronic gaming  
41 machines. The Kansas lottery shall be the licensee and owner of all such  
42 software programs and shall sublicense such software programs to each  
43 lottery gaming machine contractor. A lottery gaming machine contractor

1 may own or lease, on behalf of the Kansas lottery and at the contractor's  
2 own expense, electronic gaming machines or the Kansas lottery with the  
3 consent of the contractor may lease such machines, subject to reimburse-  
4 ment of the Kansas lottery by the contractor for all expenses related to  
5 leasing, installing, operating and managing such machines. Electronic  
6 gaming machines purchased or leased by the lottery gaming machine  
7 contractor, at its own expense, may be installed, operated or managed,  
8 owned or leased by a lottery gaming machine contractor or by a tech-  
9 nology provider under contract with the lottery gaming machine contrac-  
10 tor as provided by this act. All electronic gaming machines under this act  
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 (h) Each contract between the Kansas lottery and a lottery gaming  
17 machine contractor shall provide that the Kansas lottery shall receive all  
18 of the net machine income derived from the operation of electronic gam-  
19 ing machines at the parimutuel licensee location.

20 (i) Contracts authorized by this section may include provisions relat-  
21 ing to:

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

24 (2) The location and operation of electronic gaming machines at the  
25 parimutuel licensee location. Except as provided by this act, the days and  
26 hours of operation and the number of such electronic gaming machines  
27 shall not be restricted.

28 (3) Minimum requirements for an electronic gaming machine con-  
29 tractor to provide qualified oversight, security and supervision of the op-  
30 eration of electronic gaming machines at the parimutuel licensee location,  
31 including the use of qualified personnel with experience in applicable  
32 technology.

33 (4) The eligibility requirements for employees of a lottery gaming  
34 machine contractor who will have responsibility for the handling of cash  
35 or tokens. Such requirements may include a background investigation  
36 performed by the Kansas racing and gaming commission and that any key  
37 gaming employee shall be licensed as provided in section 16, and amend-  
38 ments thereto.

39 (5) Provision for termination of the contract by either party for cause,  
40 including but not limited to, failure of the lottery gaming machine con-  
41 tractor to maintain a parimutuel license in accordance with K.S.A. 74-  
42 8801 *et seq.*, and amendments thereto, failure of the lottery gaming ma-  
43 chine contractor to collect and remit net machine income pursuant to

1 section 8, and amendments thereto.

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

4 (j) The initial term of a contract pursuant to this section shall be not  
5 less than the remaining term of the Kansas lottery. Such contract may be  
6 renewed with each extension of the Kansas lottery as provided in K.S.A.  
7 74-8723, and amendments thereto.

8 (k) (1) The Kansas lottery shall examine prototypes of electronic  
9 gaming machines and shall notify the Kansas racing and gaming commis-  
10 sion which such types of electronic gaming machines are in compliance  
11 with the requirements of this act.

12 (2) No electronic gaming machine shall be operated at a parimutuel  
13 licensee location pursuant to this act unless the executive director of the  
14 Kansas racing and gaming commission first issues a certificate for such  
15 machine authorizing its use at a specified parimutuel licensee location.

16 (3) Each electronic gaming machine shall have the certificate prom-  
17 inently displayed thereon. Any machine which does not display the cer-  
18 tificate required by this section is contraband and a public nuisance sub-  
19 ject to confiscation by any law enforcement officer.

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

32 (l) Electronic gaming machines operated pursuant to this act shall:

33 (1) Pay out an average of not less than 87% of the amount wagered  
34 over the life of the machine;

35 (2) be directly linked to a central lottery communications system to  
36 provide auditing and other program information as approved by the Kan-  
37 sas lottery. The executive director shall select the computer system most  
38 suitable for conducting the monitoring and auditing functions required  
39 by this act. The communications systems certified by the Kansas lottery  
40 shall not limit participation to only one electronic gaming machine man-  
41 ufacturer, distributor, supplier or provider; and

42 (3) be on-line and in constant communication with a central com-  
43 puter located at a location determined by the executive director. The

1 lottery gaming machine contractor shall lease or purchase at its own ex-  
2 pense for the Kansas lottery all gaming equipment necessary to imple-  
3 ment such central communications and auditing functions.

4 (m) No employee, contractor or other person in any way affiliated  
5 with a lottery gaming machine contractor shall loan money to or otherwise  
6 extend credit to patrons of a parimutuel licensee location.

7 New Sec. 4. In addition to the powers granted pursuant to K.S.A.  
8 74-8704 and section 3, and amendments thereto, the executive director  
9 shall have the power to:

10 (a) Enter into contracts with parimutuel licensees for placement and  
11 replacement of electronic gaming machines at parimutuel licensee loca-  
12 tions. Such contracts shall be subject to rules and regulations adopted  
13 pursuant to this act but shall not be subject to the provisions of K.S.A.  
14 75-3738 through 75-3744, and amendments thereto.

15 (b) Examine or cause to be examined by any agent or representative  
16 designated by the executive director any books, papers, records or mem-  
17 oranda of any lottery gaming machine contractor for the purpose of as-  
18 certaining compliance with the provisions of the Kansas lottery act or rules  
19 and regulations adopted thereunder.

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

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

37 (e) Inspect and approve, prior to publication or distribution, all ad-  
38 vertising by a lottery gaming machine contractor which includes any ref-  
39 erence to the Kansas lottery.

40 New Sec. 5. (a) Electronic gaming machines shall be operated pur-  
41 suant to this act only in counties where, in accordance with this section,  
42 the qualified voters of the county have voted to permit operation of elec-  
43 tronic gaming machines at parimutuel licensee locations within the

1 county.

2 (b) The board of county commissioners of any county where there is  
3 a parimutuel licensee location may submit by resolution, and shall submit  
4 upon presentation of a petition filed in accordance with subsection (c),  
5 to the qualified voters of the county a proposition to permit the operation  
6 of electronic gaming machines at parimutuel licensee locations within the  
7 county. The proposition shall be submitted to the voters either in a coun-  
8 tywide special election called by the board of county commissioners for  
9 that purpose and held not less than 90 days after the resolution is adopted  
10 or the petition is filed or at the next general election, as shall be specified  
11 by the board of county commissioners or in the petition, as the case may  
12 be.

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

22 (d) Upon the adoption of a resolution or the submission of a valid  
23 petition calling for an election pursuant to this section, the county election  
24 officer shall cause the following propositions to be placed on the ballot  
25 at the election called for that purpose: “Shall the operation of electronic  
26 gaming machines by the Kansas lottery be permitted in \_\_\_\_\_  
27 county at parimutuel licensee locations?”

28 (e) If a majority of the votes cast and counted at such election is in  
29 favor of permitting the operation of such machines at parimutuel licensee  
30 locations, the executive director may enter into contracts with such li-  
31 censees to operate such machines at parimutuel licensee locations in the  
32 county. If a majority of the votes cast and counted at an election under  
33 this section is against permitting the operation of electronic gaming ma-  
34 chines at parimutuel licensee locations in the county, the Kansas lottery  
35 shall not operate such machines in the county. The county election officer  
36 shall transmit a copy of the certification of the results of the election to  
37 the executive director and to the Kansas racing and gaming commission.

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

41 (g) If in any election provided for by this section a majority of the  
42 votes cast and counted is against the proposition permitting the operation  
43 of electronic gaming machines in the county, another election submitting

1 the same proposition shall not be held for at least four years from the  
2 date of such election.

3 New Sec. 6. (a) All purse supplements paid pursuant to this act shall  
4 be according to the point schedule in effect on January 1, 2002, at the  
5 racetrack facility in Sedgwick county. All purse supplements paid pursu-  
6 ant to this section shall be in addition to purses and supplements paid  
7 under K.S.A. 74-8801 et seq., and amendments thereto.

8 (b) Except as provided in subsection (e), no electronic gaming ma-  
9 chine shall be operated pursuant to this act at a parimutuel licensee lo-  
10 cation unless the facility where the electronic gaming machine is operated  
11 displays live and simulcast parimutuel races on video terminals and has  
12 installed parimutuel windows for wagering on parimutuel races.

13 (c) Except as provided in subsection (d):

14 (1) No electronic gaming machine shall be operated pursuant to this  
15 act at a parimutuel licensee location in Sedgwick county unless, during  
16 the first full calendar year and each year thereafter in which electronic  
17 gaming machines are operated at such location, the parimutuel licensee  
18 shall conduct at such location at least eight live racing programs each  
19 calendar week for 49 weeks, with at least 13 live races conducted each  
20 program.

21 (2) No electronic gaming machine shall be operated pursuant to this  
22 act at a parimutuel licensee location in Wyandotte county unless, during  
23 the first full calendar year and each year thereafter in which electronic  
24 gaming machines are operated at such location, the parimutuel licensee  
25 shall conduct live horse racing programs for at least 60 days, with at least  
26 ten live races conducted each program; with a minimum of seven live  
27 thoroughbred and three live quarterhorse races per day and at least eight  
28 live dog racing programs each calendar week for at least 49 weeks, with  
29 at least 13 live races conducted each program.

30 (3) No electronic gaming machine shall be operated pursuant to this  
31 act at a parimutuel licensee location in Crawford county unless, during  
32 the first full calendar year and each year thereafter in which electronic  
33 gaming machines are operated at such location, the parimutuel licensee  
34 shall conduct at such location live racing the number of days agreed upon  
35 by the organization licensee and the parimutuel licensee but not less than  
36 150 days, comprised of at least seven live racing programs each calendar  
37 week, with at least 13 live races conducted each program.

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

1 (e) The Kansas racing and gaming commission may authorize the  
2 operation of electronic gaming machines at the racetrack facility at Eu-  
3 reka Downs and the racetrack facility at Anthony Downs on days when  
4 simulcast parimutuel races are displayed at such facility without requiring  
5 live horse racing or live greyhound racing at such facility. The Kansas  
6 racing and gaming commission shall not authorize the operation of such  
7 machines at such racetrack facility unless the qualified voters of the  
8 county where such racetrack facility is located have voted pursuant to  
9 section 5, and amendments thereto, to permit operation of such machines  
10 within the county.

11 New Sec. 7. Expenditures from all funds created pursuant to this  
12 section shall be made in accordance with appropriations acts upon war-  
13 rants of the director of accounts and reports issued pursuant to vouchers  
14 approved by the chair of the Kansas racing and gaming commission or  
15 the chair's designee.

16 (a) There is hereby established in the state treasury the live horse  
17 racing purse supplement fund. Moneys available in such fund shall be  
18 paid to parimutuel licensees for distribution as purse supplements in ac-  
19 cordance with rules and regulations of the Kansas racing and gaming  
20 commission. Such moneys shall be distributed from the separate horse  
21 purse supplement accounts maintained pursuant to this section, in ac-  
22 cordance with rules and regulations of the Kansas racing and gaming  
23 commission, provided that not less than \$1,600,000 shall be guaranteed  
24 annually by parimutuel licensees to be charged against the accounts of  
25 such licensees on a pro rata basis. Such rules and regulations shall provide  
26 that an amount not to exceed 20% of the total amount credited to such  
27 fund shall be transferred to the credit of the horse breeding development  
28 fund created pursuant to K.S.A. 74-8829, and amendments thereto.

29 (b) There is hereby established in the state treasury the live dog rac-  
30 ing purse supplement fund. Moneys available in such fund shall be paid  
31 to parimutuel licensees for distribution as purse supplements in accord-  
32 ance with rules and regulations of the Kansas racing and gaming com-  
33 mission. Such rules and regulations shall provide that, in addition to purse  
34 supplements paid to winners of live dog races at each parimutuel licensee  
35 location, the lottery gaming machine contractor at the parimutuel licensee  
36 location shall pay to the owner of each winner that is a Kansas-whelped  
37 greyhound an additional amount equal to \$60 per point for each point  
38 awarded to the winner. In addition, such rules and regulations shall pro-  
39 vide that an amount not to exceed 20% of the total amount credited to  
40 such fund shall be transferred to the credit of the greyhound breeding  
41 development fund, created pursuant to K.S.A. 74-8831, and amendments  
42 thereto.

43 (c) There is hereby established in the state treasury the electronic

1 gaming machine fund. A separate account for each lottery gaming ma-  
2 chine contractor shall be maintained in the electronic gaming machine  
3 fund for receipt of money from such contractor.

4 (d) There is hereby established in the state treasury the electronic  
5 gaming machine operation and regulatory fund. Moneys in such fund shall  
6 be used to pay for the expenses of the Kansas lottery and the Kansas  
7 racing and gaming commission attributable to the operation and regula-  
8 tion of electronic gaming machines. Moneys in such fund may be ex-  
9 pended only pursuant to appropriation and moneys in excess of those  
10 appropriated to the Kansas lottery and the Kansas racing and gaming  
11 commission may be transferred to the state general fund and expended  
12 as provided by appropriation.

13 New Sec. 8. (a) The executive director shall collect all net machine  
14 income from each lottery gaming machine contractor who is a parimutuel  
15 licensee. The executive director shall remit the entire amount to the state  
16 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.  
17 Upon receipt of the remittance, the state treasurer shall deposit the entire  
18 amount in the state treasury and credit it to the respective account main-  
19 tained for such contractor in the electronic gaming machine fund estab-  
20 lished pursuant to section 7, and amendments thereto.

21 (b) Not less than once each week, the state treasurer shall transfer  
22 the following percentages of the balance in each account in the electronic  
23 gaming machine fund for receipt of moneys from lottery gaming machine  
24 contractors which are parimutuel licensees:

25 (1) To the respective lottery gaming machine contractor, 66%;

26 (2) to the problem gambling grant fund established pursuant to  
27 K.S.A. 2002 Supp. 79-4805, and amendments thereto, 0.5%, except that  
28 such transfer shall be to the credit of the state general fund at such time  
29 as the balance in such fund is equal to the amount of \$4,000,000, but if  
30 the balance in such fund falls below the amount of \$3,000,000, such trans-  
31 fers shall resume;

32 (3) to the state general fund, 20%;

33 (4) to the nonprofit organization licensed by the Kansas racing and  
34 gaming commission to conduct races at the parimutuel licensee location,  
35 1%;

36 (5) to any city where the parimutuel location is located, 1%;

37 (6) to the county where the parimutuel location is located, 1%;

38 (7) to the live dog racing purse supplement fund, 4%;

39 (8) to the live horse racing purse supplement fund, 6%; and

40 (9) to the electronic gaming machine operation and regulatory fund  
41 established pursuant to section 7, and amendments thereto, 1%.

42 For purposes of this subsection, the unified government of Wyandotte  
43 county shall be deemed both a city and a county.

1 (c) After distribution of moneys pursuant to subsection (b), the state  
2 treasurer, not less than once each week, shall remit to the lottery gaming  
3 machine contractor the balance in the account maintained for such  
4 contractor.

5 New Sec. 9. (a) Except as when authorized in accordance with sub-  
6 section (c), it is unlawful for any lottery gaming machine contractor or its  
7 employees or agents to allow any person to play electronic gaming ma-  
8 chines or share in winnings of a person knowing such person to be:

9 (1) Under 21 years of age;

10 (2) the executive director, a member of the commission or an em-  
11 ployee of the Kansas lottery;

12 (3) the executive director or any member or employee of the Kansas  
13 racing and gaming commission;

14 (4) an officer or employee of a vendor contracting with the Kansas  
15 lottery to supply gaming equipment or tickets to the Kansas lottery for  
16 use in the operation of any lottery conducted pursuant to this act;

17 (5) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,  
18 parent or stepparent of a person described by subsection (a)(2), (a)(3) or  
19 (a)(4); or

20 (6) a person who resides in the same household as any person de-  
21 scribed by subsection (a)(2), (a)(3) or (a)(4).

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

26 (c) The executive director may authorize in writing any employee of  
27 the Kansas lottery and any employee of a lottery vendor to play an elec-  
28 tronic gaming machine or a lottery game authorized pursuant to section  
29 22, and amendments thereto, to verify the proper operation thereof with  
30 respect to security and contract compliance. Any prize awarded as a result  
31 of such ticket purchase shall become the property of the Kansas lottery  
32 and be added to the prize pools of subsequent lottery games. No money  
33 or merchandise shall be awarded to any employee playing an electronic  
34 gaming machine or lottery game pursuant to this subsection.

35 New Sec. 10. Each lottery gaming machine contractor shall post one  
36 or more signs at the location where the contractor operates electronic  
37 gaming machines to inform patrons of the toll-free number available to  
38 provide information and referral services regarding compulsive or prob-  
39 lem gambling. The text shall be determined by the secretary of the de-  
40 partment of social and rehabilitation services. Failure by a lottery gaming  
41 machine contractor to post and maintain such signs shall be cause for the  
42 imposition of a fine not to exceed \$500 per day.

43 New Sec. 11. Each lottery gaming machine contractor shall provide

1 access for the executive director, the executive director's designee or the  
2 commission to all its records and the physical premises where the elec-  
3 tronic gaming machine activities occur for the purpose of monitoring or  
4 inspecting the electronic gaming machines and gaming equipment. None  
5 of the information disclosed pursuant to this subsection shall be subject  
6 to disclosure under the Kansas open records act, K.S.A. 45-216 et seq.,  
7 and amendments thereto.

8 New Sec. 12. (a) Wagers shall be received only from a person at the  
9 location where the electronic gaming machine or other lottery game is  
10 authorized pursuant to the Kansas gaming act. No person present at such  
11 location shall place or attempt to place a wager on behalf of another  
12 person who is not present at such location.

13 (b) Violation of this section is a class A nonperson misdemeanor upon  
14 a conviction for a first offense. Violation of this section is a severity level  
15 9, nonperson felony upon conviction for a second or subsequent offense.

16 New Sec. 13. A person under age 21 shall not be permitted in an  
17 area of any location where any electronic gaming machine or other lottery  
18 game authorized pursuant to the Kansas gaming act is being conducted,  
19 except for a person at least 18 years of age who is an employee of the  
20 lottery gaming machine contractor. No employee under age 21 shall per-  
21 form any function involved in gaming by the patrons. No person under  
22 age 21 shall be permitted to make a wager on an electronic gaming ma-  
23 chine or in a lottery game authorized pursuant to section 22, and amend-  
24 ments thereto.

25 New Sec. 14. Pursuant to section 2 of the federal act entitled "An  
26 Act to Prohibit Transportation of Gambling Devices in Interstate and  
27 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,  
28 acting by and through the duly elected and qualified members of the  
29 legislature, does hereby in this section, and in accordance with and in  
30 compliance with the provisions of section 2 of such federal act, declare  
31 and proclaim that it is exempt from the provision of section 2 of such  
32 federal act to the extent that such gambling devices are being transported  
33 to or from the Kansas lottery or to or from a lottery gaming machine  
34 contractor at a location within the state of Kansas where electronic gaming  
35 machines or other lottery games are authorized pursuant to the Kansas  
36 gaming act.

37 New Sec. 15. Except for persons acting in accordance with rules and  
38 regulations of the Kansas lottery and rules and regulations of the Kansas  
39 racing and gaming commission in performing installation, maintenance  
40 and repair services, any person who, with the intent to manipulate the  
41 outcome, pay-off or operation of an electronic gaming machine, manip-  
42 ulates the outcome, pay-off or operation of an electronic gaming machine  
43 by physical, electrical or mechanical means shall be guilty of a severity

1 level 8, nonperson felony.

2 New Sec. 16. (a) The Kansas racing and gaming commission and its  
3 designated employees may observe and inspect all electronic gaming ma-  
4 chines, gaming equipment and facilities operated by a lottery gaming  
5 machine contractor.

6 (b) The Kansas racing and gaming commission may examine, or cause  
7 to be examined by any agent or representative designated by such com-  
8 mission, any books, papers, records or memoranda of any lottery gaming  
9 machine contractor, or of any business involved in electronic gaming or  
10 lottery games authorized pursuant to the Kansas gaming act, for the pur-  
11 pose of ascertaining compliance with any provision of the Kansas gaming  
12 act or any rules and regulations adopted thereunder.

13 (c) The Kansas racing and gaming commission may adopt rules and  
14 regulations with respect to security, safety and honest conduct at any  
15 location where electronic gaming machines or other lottery games are  
16 authorized pursuant to the Kansas gaming act.

17 (d) The Kansas racing and gaming commission shall have the power  
18 to investigate alleged violations of the Kansas gaming act and alleged  
19 violations of any rules and regulations, orders and final decisions of such  
20 commission.

21 (e) Appropriate security measures shall be required in any and all  
22 areas where electronic gaming machines or other lottery games author-  
23 ized pursuant to the Kansas gaming act are located or operated. The  
24 Kansas racing and gaming commission shall approve all such security  
25 measures.

26 (f) The Kansas racing and gaming commission may provide by rules  
27 and regulations for the licensure of key gaming employees and technology  
28 providers. Such rules and regulations may specify employment applica-  
29 tion forms, fees and procedures for suspension or revocation of any key  
30 gaming employee license or technology provider license.

31 (g) The Kansas racing and gaming commission shall require an annual  
32 audit of the electronic gaming machine operations of each lottery gaming  
33 machine contractor contracting with the Kansas lottery. Such audit shall  
34 be conducted by a licensed accounting firm approved by the Kansas rac-  
35 ing and gaming commission. Such audit shall be conducted at the expense  
36 of the lottery gaming machine contractor to which such audit applies.

37 (h) The Kansas racing and gaming commission shall have the power  
38 to take any other action as may be reasonable or appropriate to enforce  
39 the provisions of this act and any rules and regulations, orders and final  
40 decisions of such commission.

41 New Sec. 17. (a) It is a class A nonperson misdemeanor for a legis-  
42 lator, state elected official, elected official or employee of a city or county  
43 in which there is located a facility where electronic gaming machines or

1 other lottery games are operated pursuant to the Kansas gaming act, the  
2 executive director, any member of the lottery commission, any employee  
3 of the Kansas lottery or any member, employee or appointee of the Kan-  
4 sas racing and gaming commission, including stewards and racing judges,  
5 knowingly to:

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

11 (2) participate directly or indirectly as an owner, operator, manager  
12 or consultant in electronic or other gaming in Kansas;

13 (3) while in Kansas place a wager on or bet or play an electronic  
14 gaming machine or other lottery game authorized pursuant to the Kansas  
15 gaming act;

16 (4) accept any compensation, gift, loan, entertainment, favor or serv-  
17 ice from any parimutuel licensee or lottery gaming machine contractor,  
18 except such suitable facilities and services within a racetrack facility op-  
19 erated by an organization licensee or within a facility authorized pursuant  
20 to section 22, and amendments thereto, as may be required to facilitate  
21 the performance of the executive director's, member's, employee's or  
22 appointee's official duties;

23 (5) enter into any business dealing, venture or contract with a lottery  
24 gaming machine contractor or an owner or lessee of a parimutuel licensee  
25 location in Kansas; or

26 (6) engage in any activity described in subsection (a)(1), (2), (4) or  
27 (5) within two years from the last day of service as such legislator, em-  
28 ployee of a city or county in which there is located a facility where elec-  
29 tronic gaming machines or other lottery games are operated pursuant to  
30 the Kansas gaming act, executive director, member, employee or  
31 appointee.

32 (b) The provisions of subsection (a)(3) shall not apply to legislators  
33 or employees of cities or counties in which a parimutuel racetrack facility  
34 is located.

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

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

43 (2) possess or use, while on the premises of a lottery gaming machine

1 contractor or a parimutuel licensee location or location where electronic  
2 gaming machines or other lottery games are authorized pursuant to sec-  
3 tion 22, and amendments thereto, any cheating or thieving device, in-  
4 cluding but not limited to, tools, wires, drills, coins attached to strings or  
5 wires or electronic or magnetic devices to facilitate removing from any  
6 electronic gaming machine any money or contents thereof, except that a  
7 duly authorized agent or employee of the Kansas lottery, the Kansas rac-  
8 ing and gaming commission, a parimutuel licensee or a lottery gaming  
9 machine contractor may possess and use any of the foregoing only in  
10 furtherance of the agent's or employee's employment at the parimutuel  
11 licensee location or location where electronic gaming machines or other  
12 lottery games are authorized pursuant to section 22, and amendments  
13 thereto; or

14 (3) possess or use while on the premises of any parimutuel licensee  
15 location or location where electronic gaming machines or other lottery  
16 games are authorized pursuant to section 22, and amendments thereto,  
17 any key or device designed for the purpose of or suitable for opening or  
18 entering any electronic gaming machine or similar gaming device or drop  
19 box, except that a duly authorized agent or employee of the Kansas lottery,  
20 the Kansas racing and gaming commission, a parimutuel licensee or a  
21 lottery gaming machine contractor may possess and use any of the fore-  
22 going only in furtherance of the agent's or employee's employment at the  
23 parimutuel licensee location or location where electronic gaming ma-  
24 chines or other lottery games are authorized pursuant to section 22, and  
25 amendments thereto.

26 New Sec. 18. (a) No lottery gaming machine contractor, organization  
27 licensee or facility manager licensee shall permit any business not owned  
28 and operated by the organization licensee to provide electronic gaming  
29 machine equipment or services, as designated by rules and regulations of  
30 the Kansas racing and gaming commission, to an organization licensee  
31 unless such business has been issued an electronic gaming machine  
32 equipment or services license by the Kansas racing and gaming commis-  
33 sion. Such equipment and services shall include, but are not limited to,  
34 surveillance, electronic computer components, random number genera-  
35 tor or cabinet thereof and token redemption equipment or services.

36 (b) No lottery gaming machine contractor shall permit any business  
37 to provide electronic gaming machine equipment or services or gaming  
38 equipment or services, as designated by rules and regulations of the Kan-  
39 sas racing and gaming commission, for use at a location pursuant to sec-  
40 tion 22, and amendments thereto, unless such business has been issued  
41 an electronic gaming machine equipment or services license or gaming  
42 equipment or services license by the Kansas racing and gaming commis-  
43 sion. Such equipment and services shall include, but are not limited to,

1 surveillance, electronic computer components, random number genera-  
2 tor or cabinet thereof and token redemption equipment or services.

3 (c) Businesses required to be licensed pursuant to this section shall  
4 apply for licenses in a manner and upon forms prescribed and furnished  
5 by the Kansas racing and gaming commission. The Kansas racing and  
6 gaming commission shall require disclosure of information about the  
7 owners and officers of each applicant and may require such owners and  
8 officers to submit to fingerprinting. The Kansas racing and gaming com-  
9 mission also may require disclosure of information about and fingerprint-  
10 ing of such employees of each applicant as the commission considers  
11 necessary. Licenses issued pursuant to this section shall be issued for a  
12 period of time established by the Kansas racing and gaming commission  
13 but not to exceed 10 years. The Kansas racing and gaming commission,  
14 by rules and regulations, shall establish a schedule of application fees and  
15 license fees for such licenses based upon the type and size of business.  
16 The application fee shall not be refundable if the business fails to qualify  
17 for a license. If the application fee is insufficient to pay the reasonable  
18 expenses of processing the application and investigating the applicant's  
19 qualifications for licensure, the Kansas racing and gaming commission  
20 shall require the applicant to pay to the Kansas racing and gaming com-  
21 mission, at such times and in such form as required by the Kansas racing  
22 and gaming commission, any additional amounts necessary to pay such  
23 expenses. No license shall be issued to an applicant until the applicant  
24 has paid such additional amounts in full, and such amounts shall not be  
25 refundable except to the extent that they exceed the actual expenses of  
26 processing the application and investigating the applicant's qualifications  
27 for licensure.

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

38 (e) The Kansas racing and gaming commission may refuse to issue a  
39 license pursuant to this section if any person having an interest ownership  
40 in the business, any person who is an officer of the business or any person  
41 employed by the business:

42 (1) Has been convicted of a felony in a court of any state or of the  
43 United States; has been adjudicated in the last 10 years, in any such court

1 of committing as a juvenile an act which, if committed by an adult, would  
2 constitute a felony or has been convicted of a crime in any other state or  
3 country which would constitute a felony, if committed under the same  
4 circumstances pursuant to Kansas law;

5 (2) has been convicted of a violation of any law of any state or of the  
6 United States involving gambling or controlled substances or has been  
7 adjudicated in the last 10 years in any such court of committing as a  
8 juvenile an act which, if committed by an adult, would constitute such a  
9 violation;

10 (3) fails to disclose any material fact or provides information, knowing  
11 such information to be false, in connection with the application for the  
12 license;

13 (4) has been found by the Kansas racing and gaming commission to  
14 have violated any provision of this act or any rule and regulation of the  
15 Kansas racing and gaming commission; or

16 (5) has failed to meet any monetary or tax obligation to the federal  
17 government or to any state or local government.

18 (f) The Kansas racing and gaming commission may suspend or revoke  
19 a license issued pursuant to this section for any reason which would justify  
20 refusal to issue such a license.

21 (g) The Kansas racing and gaming commission may provide by rules  
22 and regulations for the temporary suspension of a license issued pursuant  
23 to this section. Such suspension shall be for a period not exceeding 30  
24 days. Upon expiration of such suspension, the license shall be restored  
25 unless the license has been suspended or revoked as a result of proceed-  
26 ings conducted pursuant to subsection (e).

27 New Sec. 19. No taxes, fees, charges, transfers or distributions, other  
28 than those provided for in this act, shall be made or levied by any city,  
29 county or other municipality from or against net machine income or net  
30 income from lottery games operated pursuant to this act.

31 New Sec. 20. All sales of electronic gaming machine games and other  
32 lottery games authorized by the Kansas gaming act shall be exempt from  
33 sales taxes imposed pursuant to K.S.A. 12-187 *et seq.*, and 79-3601 *et seq.*,  
34 and amendments thereto.

35 New Sec. 21. Each lottery gaming machine contractor shall hold the  
36 executive director of the Kansas lottery, the Kansas lottery commission,  
37 the executive director of the Kansas racing and gaming commission, the  
38 Kansas racing and gaming commission and the state harmless from and  
39 defend and pay for the defense of any and all claims which may be as-  
40 serted against the executive director, the commission, the executive di-  
41 rector of the Kansas racing and gaming commission, the Kansas racing  
42 and gaming commission and the state, or the agents or employees thereof,  
43 arising from the operation of electronic gaming machines or other games

1 pursuant to the Kansas gaming act. The provisions of this section shall  
2 not apply to any claims arising from the negligence or willful misconduct  
3 of the executive director, the commission, the executive director of the  
4 Kansas racing and gaming commission, the Kansas racing and gaming  
5 commission and the state, or the agents or employees thereof.

6 New Sec. 22. (a) Subject to the provisions of subsection (c), the ex-  
7 cutive director, with the approval of the governor, may contract with  
8 persons to operate electronic gaming machines and other lottery games  
9 authorized by the executive director pursuant to subsection (b) at speci-  
10 fied locations in the state where the executive director determines the  
11 operation of such machines and games would promote tourism and ec-  
12 onomic development. Such persons shall be required to meet all quali-  
13 fications, conditions and requirements of a lottery gaming machine con-  
14 tractor which is a parimutuel licensee under this act, other than those  
15 qualifications specifically related to operating a parimutuel facility. All  
16 provisions of this act applicable to the operation of electronic gaming  
17 machines by lottery gaming machine contractors which are parimutuel  
18 licensees shall apply to the operation of such machines. The executive  
19 director shall not contract with any person to operate electronic gaming  
20 machines pursuant to this section unless such person first receives ap-  
21 proval to operate such machines from the governing body of the city  
22 where the machines will be operated or, if the machines will not be lo-  
23 cated within any city, from the board of county commissioners.

24 (b) The executive director may contract with any person who is a  
25 lottery gaming machine contractor pursuant to this section to operate any  
26 other lottery game which is currently authorized to be conducted or op-  
27 erated at a tribal gaming facility, as defined in K.S.A. 74-9802, and amend-  
28 ments thereto, located in this state. Any such contract shall:

29 (1) Specify the lottery game or games which such contractor is au-  
30 thorized to operate;

31 (2) define the net income from such game or games and require such  
32 net income to be paid to the Kansas lottery;

33 (3) designate as key employees any employees or contractors provid-  
34 ing services or functions which are related to lottery games authorized by  
35 the contract and are comparable to services or functions which are related  
36 to electronic gaming machines and are provided by employees or con-  
37 tractors, defined as key employees under K.S.A. 74-8702, and amend-  
38 ments thereto; and

39 (4) include such other terms and restrictions as necessary to conduct  
40 any such game or games in a legal and fair manner.

41 (c) In determining whether to contract with a person to become a  
42 lottery gaming machine contractor pursuant to this section, the executive  
43 director shall take into consideration the following factors: The size of the

1 proposed facility, the estimated number of tourists that would be at-  
2 tracted by the proposed facility, the number of electronic gaming ma-  
3 chines and other lottery games planned to be operated at the proposed  
4 facility, the amount of the contract privilege fee proposed to be paid by  
5 the contractor, the amount of the management fee proposed to be paid  
6 to the contractor and amounts proposed to be paid by the contractor to  
7 the county where the facility will be located and to any city where the  
8 facility will be located.

9 (d) The executive director shall collect from each lottery gaming ma-  
10 chine contractor authorized pursuant to this section all net machine in-  
11 come and all net income from other lottery games operated by such con-  
12 tractor. The executive director shall remit the entire amount to the state  
13 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.  
14 Upon receipt of the remittance, the state treasurer shall deposit the entire  
15 amount in the state treasury and credit it to the respective account main-  
16 tained for such contractor in the electronic gaming machine fund estab-  
17 lished pursuant to section 7, and amendments thereto.

18 (e) Not less than once each week, the state treasurer shall transfer  
19 the following percentages of the balance in the account in the electronic  
20 gaming machine fund for receipt of moneys from the lottery gaming ma-  
21 chine contractor:

22 (1) To the lottery gaming machine contractor, 60% less any amount  
23 paid to a city and county pursuant to subsection (d)(6);

24 (2) to the electronic gaming machine operation and regulation fund  
25 established pursuant to section 7, and amendments thereto, 1%;

26 (3) to the problem gambling grant fund established pursuant to  
27 K.S.A. 2002 Supp. 79-4805, and amendments thereto, 0.5%, except that  
28 such transfer shall be to the credit of the state general fund at such time  
29 as the balance in such fund is equal to the amount of \$4,000,000, but if  
30 the balance in such fund falls below the amount of \$3,000,000, such trans-  
31 fers shall resume;

32 (4) to the state tourism fund established pursuant to K.S.A. 74-9003,  
33 and amendments thereto, 10%;

34 (5) to the state general fund, 25%; and

35 (6) to the county where the facility is located and to any city where  
36 the facility is located, such amounts as may be specified by contract.

37 For purposes of this subsection, the unified government of Wyandotte  
38 county shall be deemed both a city and a county.

39 (f) After distribution of moneys pursuant to subsection (d), the state  
40 treasurer, not less than once each week, shall remit to the lottery gaming  
41 machine contractor the balance in the account maintained for such  
42 contractor.

43 (g) (1) Electronic gaming machines and other lottery games shall be

1 operated pursuant to this section only if the qualified voters of the county  
2 have voted by a majority vote to permit operation of such machines and  
3 games within the county as follows:

4 The board of county commissioners of any county where there is a  
5 parimutuel licensee location may submit by resolution, and shall submit  
6 upon presentation of a petition filed in accordance with this subsection,  
7 to the qualified voters of the county a proposition to permit the operation  
8 of electronic gaming machines and other lottery games pursuant to this  
9 section within the county. The proposition shall be submitted to the voters  
10 either in a countywide special election called by the board of county  
11 commissioners for that purpose and held not less than 90 days after the  
12 resolution is adopted or the petition is filed or at the next general election,  
13 as shall be specified by the board of county commissioners or in the  
14 petition, as the case may be.

15 A petition to submit a proposition to the qualified voters of a county  
16 pursuant to this section shall be filed with the county election officer.  
17 The petition shall be signed by qualified voters of the county equal in  
18 number to not less than 10% of the voters of the county who voted for  
19 the office of secretary of state at the last preceding general election at  
20 which such office was elected. The following shall appear on the petition:  
21 “We request an election to determine whether the operation of electronic  
22 gaming machines and other casino games by the Kansas lottery shall be  
23 permitted in \_\_\_\_\_ county.”

24 Upon the adoption of a resolution or the submission of a valid petition  
25 calling for an election pursuant to this section, the county election officer  
26 shall cause the following propositions to be placed on the ballot at the  
27 election called for that purpose: “Shall the operation of electronic gaming  
28 machines and other casino games by the Kansas lottery be permitted in  
29 \_\_\_\_\_ county?”

30 If a majority of the votes cast and counted at such election is in favor  
31 of permitting the operation of such machines and games within the  
32 county, the executive director may enter into contracts pursuant to this  
33 section for operation of such machines and games within the county. If  
34 a majority of the votes cast and counted at an election under this section  
35 is against permitting the operation of such machines and games within  
36 the county, the Kansas lottery shall not contract pursuant to this section  
37 for the operation of such machines and games within the county. The  
38 county election officer shall transmit a copy of the certification of the  
39 results of the election to the executive director and to the Kansas racing  
40 and gaming commission.

41 (2) The election provided for by this subsection (g) shall be con-  
42 ducted, and the votes counted and canvassed, in the manner provided by  
43 law for question submitted elections of the county.

1 (3) If in any election provided for by this subsection (g) a majority of  
2 the votes cast and counted is against the proposition permitting the op-  
3 eration of electronic gaming machines and other lottery games in the  
4 county pursuant to this section, another election submitting the same  
5 proposition shall not be held for at least four years from the date of such  
6 election.

7 New Sec. 23. If a disagreement arises between the executive director  
8 and the Kansas racing and gaming commission with regard to their re-  
9 spective duties or responsibilities in carrying out the purposes of the Kan-  
10 sas gaming act, such disagreement shall be resolved by the governor in a  
11 manner not inconsistent with the provisions of this act.

12 New Sec. 24. As a condition precedent to contracting for the privi-  
13 lege of being a lottery gaming machine contractor, the contractor shall  
14 file with the secretary of state of this state written consent, irrevocable,  
15 that any action or garnishment proceeding may be commenced against  
16 such contractor in the proper court of any county in this state in which  
17 the case of action shall arise or in which the plaintiff may reside by the  
18 service of process on a resident agent, and stipulating and agreeing that  
19 such service shall be taken and held in all courts to be as valid and binding  
20 as if due service had been made upon the contractor. The written consent  
21 shall state that the courts of this state have jurisdiction over the person  
22 of such contractor and are the proper and convenient forum for such  
23 action and shall waive the right to request a change of jurisdiction or  
24 venue to a court outside that state and that all actions arising under this  
25 act and commenced by the contractor shall be brought in this state's court  
26 as the proper and convenient forum. Such consent shall be executed by  
27 the contractor and if a corporation, by the president and secretary of the  
28 corporate contractor, and shall be accompanied by a duly certified copy  
29 of the order or resolution of the board of directors, trustees or managers  
30 authorizing the president and secretary to execute the same.

31 Sec. 25. K.S.A. 74-8710 is hereby amended to read as follows: 74-  
32 8710. (a) The commission, upon the recommendation of the executive  
33 director, shall adopt rules and regulations governing the establishment  
34 and operation of a state lottery as necessary to carry out the purposes of  
35 this act. Temporary rules and regulations may be adopted by the com-  
36 mission without being subject to the provisions and requirements of  
37 K.S.A. 77-415 through 77-438, and amendments thereto, but shall be  
38 subject to approval by the attorney general as to legality and shall be filed  
39 with the secretary of state and published in the Kansas register. Tem-  
40 porary and permanent rules and regulations may include but shall not be  
41 limited to:

42 (1) Subject to the provisions of subsection (c), the types of lottery  
43 games to be conducted, including but not limited to instant lottery, on-

1 line and traditional games, but not including games on video lottery ma-  
2 chines or lottery machines.

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

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

9 (4) The frequency of the drawings or selections of winning tickets or  
10 shares.

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

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

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

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

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

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

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

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

27 (13) *Rules and regulations to implement, administer and enforce the*  
28 *provisions of the Kansas gaming act.*

29 (14) *The types of electronic gaming machines to be operated pursuant*  
30 *to the Kansas gaming act.*

31 (15) *The types of lottery games to be operated pursuant to subsection*  
32 *(b) of section 22, and amendments thereto.*

33 (b) No new lottery game shall commence operation after the effective  
34 date of this act unless first approved by the governor or, in the governor's  
35 absence or disability, the lieutenant governor. *This subsection shall not*  
36 *be construed to require approval of games played on an electronic gaming*  
37 *machine or lottery games operated pursuant to subsection (b) of section*  
38 *22, and amendments thereto.*

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

43 Sec. 26. K.S.A. 74-8711 is hereby amended to read as follows: 74-

1 8711. (a) There is hereby established in the state treasury the lottery  
2 operating fund.

3 (b) *Except as otherwise provided by the Kansas gaming act*, the ex-  
4 ecutive director shall remit all moneys collected from the sale of lottery  
5 tickets and shares and any other moneys received by or on behalf of the  
6 Kansas lottery to the state treasurer in accordance with the provisions of  
7 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
8 remittance, the state treasurer shall deposit the entire amount in the state  
9 treasury to the credit of the lottery operating fund. Moneys credited to  
10 the fund shall be expended or transferred only as provided by this act.  
11 Expenditures from such fund shall be made in accordance with appro-  
12 priations acts upon warrants of the director of accounts and reports issued  
13 pursuant to vouchers approved by the executive director or by a person  
14 designated by the executive director.

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

16 (1) The payment of expenses of the lottery, which shall include all  
17 costs incurred in the operation and administration of the Kansas lottery,  
18 *other than expenses incurred pursuant to the Kansas gaming act*; all costs  
19 resulting from contracts entered into for the purchase or lease of goods  
20 and services needed for operation of the lottery, including but not limited  
21 to supplies, materials, tickets, independent studies and surveys, data  
22 transmission, advertising, printing, promotion, incentives, public rela-  
23 tions, communications and distribution of tickets and shares; and reim-  
24 bursement of costs of facilities and services provided by other state  
25 agencies;

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

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

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

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

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

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

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

42 (2) except for pull-tab lottery tickets and shares, an amount equal to  
43 not less than 30% of total monthly revenues from the sales of lottery

1 tickets and shares less estimated returned tickets. In the case of pull-tab  
2 lottery tickets and shares, an amount equal to not less than 20% of the  
3 total monthly revenues from the sales of pull-tab lottery tickets and shares  
4 less estimated returned tickets.

5 Sec. 27. K.S.A. 2002 Supp. 19-101a is hereby amended to read as  
6 follows: 19-101a. (a) The board of county commissioners may transact all  
7 county business and perform all powers of local legislation and adminis-  
8 tration it deems appropriate, subject only to the following limitations,  
9 restrictions or prohibitions:

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

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

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

14 (4) Counties shall be subject to acts of the legislature prescribing  
15 limits of indebtedness.

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

21 (6) Counties may not legislate on social welfare administered under  
22 state law enacted pursuant to or in conformity with public law No. 271—  
23 74th congress, or amendments thereof.

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

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

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

33 (10) No county may levy ad valorem taxes under the authority of this  
34 section upon real property located within any redevelopment project area  
35 established under the authority of K.S.A. 12-1772, and amendments  
36 thereto, unless the resolution authorizing the same specifically authorized  
37 a portion of the proceeds of such levy to be used to pay the principal of  
38 and interest upon bonds issued by a city under the authority of K.S.A.  
39 12-1774, and amendments thereto.

40 (11) Counties shall have no power under this section to exempt from  
41 any statute authorizing or requiring the levy of taxes and providing sub-  
42 stitute and additional provisions on the same subject, unless the resolution  
43 authorizing the same specifically provides for a portion of the proceeds

1 of such levy to be used to pay a portion of the principal and interest on  
2 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
3 ments thereto.

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

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

9 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
10 430, and amendments thereto.

11 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
12 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

13 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
14 13-13a26, and amendments thereto.

15 (B) This provision shall expire on June 30, 2004.

16 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
17 71-301a, and amendments thereto.

18 (B) This provision shall expire on June 30, 2004.

19 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
20 15,139, 19-15,140 and 19-15,141, and amendments thereto.

21 (19) Counties may not exempt from or effect changes in the provi-  
22 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
23 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
24 through 12-1270 and 12-1276, and amendments thereto.

25 (20) Counties may not exempt from or effect changes in the provi-  
26 sions of K.S.A. 19-211, and amendments thereto.

27 (21) Counties may not exempt from or effect changes in the provi-  
28 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

29 (22) Counties may not regulate the production or drilling of any oil  
30 or gas well in any manner which would result in the duplication of reg-  
31 ulation by the state corporation commission and the Kansas department  
32 of health and environment pursuant to chapter 55 and chapter 65 of the  
33 Kansas Statutes Annotated and any rules and regulations adopted pur-  
34 suant thereto. Counties may not require any license or permit for the  
35 drilling or production of oil and gas wells. Counties may not impose any  
36 fee or charge for the drilling or production of any oil or gas well.

37 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
38 41a04, and amendments thereto.

39 (24) Counties may not exempt from or effect changes in K.S.A. 79-  
40 1611, and amendments thereto.

41 (25) Counties may not exempt from or effect changes in K.S.A. 79-  
42 1494, and amendments thereto.

43 (26) Counties may not exempt from or effect changes in subsection

1 (b) of K.S.A. 19-202, and amendments thereto.

2 (27) Counties may not exempt from or effect changes in subsection  
3 (b) of K.S.A. 19-204, and amendments thereto.

4 (28) Counties may not levy or impose an excise, severance or any  
5 other tax in the nature of an excise tax upon the physical severance and  
6 production of any mineral or other material from the earth or water.

7 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
8 2017 or 79-2101, and amendments thereto.

9 (30) Counties may not exempt from or effect changes in K.S.A. 2-  
10 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d 65-  
11 1,178 through 65-1,199 or K.S.A. 2002 Supp. 17-5909, and amendments  
12 thereto.

13 (31) Counties may not exempt from or effect changes in K.S.A. 2002  
14 Supp. 80-121, and amendments thereto.

15 (32) Counties may not exempt from or effect changes in K.S.A. 19-  
16 228, and amendments thereto.

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

19 (34) *Counties may not exempt from or effect changes in the Kansas*  
20 *gaming act.*

21 (b) Counties shall apply the powers of local legislation granted in  
22 subsection (a) by resolution of the board of county commissioners. If no  
23 statutory authority exists for such local legislation other than that set forth  
24 in subsection (a) and the local legislation proposed under the authority  
25 of such subsection is not contrary to any act of the legislature, such local  
26 legislation shall become effective upon passage of a resolution of the  
27 board and publication in the official county newspaper. If the legislation  
28 proposed by the board under authority of subsection (a) is contrary to an  
29 act of the legislature which is applicable to the particular county but not  
30 uniformly applicable to all counties, such legislation shall become effec-  
31 tive by passage of a charter resolution in the manner provided in K.S.A.  
32 19-101b, and amendments thereto.

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

35 Sec. 28. K.S.A. 2002 Supp. 79-4805 is hereby amended to read as  
36 follows: 79-4805. (a) There is hereby established in the state treasury the  
37 problem gambling grant fund. All moneys credited to such fund shall be  
38 used only for the awarding of grants under this section. Such fund shall  
39 be administered in accordance with this section and the provisions of  
40 appropriation acts.

41 (b) All expenditures from the problem gambling grant fund shall be  
42 made in accordance with appropriation acts upon warrants of the director  
43 of accounts and reports issued pursuant to vouchers approved in the man-

1 ner prescribed by law.

2 (c) There is hereby established a state grant program to provide as-  
3 sistance for the direct treatment of persons diagnosed as suffering from  
4 pathological gambling, *the continued training of addiction professionals,*  
5 *the marketing of programs funded pursuant to this section,* and to provide  
6 funding for research regarding the impact of gambling on residents of  
7 Kansas. Research grants awarded under this section may include, but  
8 need not be limited to, grants for determining the effectiveness of edu-  
9 cation, *treatment* and prevention efforts on the prevalence of pathological  
10 gambling in Kansas. All grants shall be made after open solicitation of  
11 proposals and evaluation of proposals against criteria established in rules  
12 and regulations adopted by the secretary of the department of social and  
13 rehabilitation services. Both public and private entities shall be eligible  
14 to apply for and receive grants under the provisions of this section.

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

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

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

31 Sec. 29. K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp.  
32 19-101a and 79-4805 are hereby repealed.

33 Sec. 30. This act shall take effect and be in force from and after its  
34 publication in the Kansas register.

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