

*[As Amended by Senate Committee of the Whole]*

*As Amended by Senate Committee*

(Corrected)

Session of 2006

**SENATE BILL No. 587**

By Committee on Federal and State Affairs

3-7

13 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;  
14 authorizing operation of certain gaming facilities, electronic gaming  
15 machines and other lottery games at certain locations; prohibiting cer-  
16 tain acts and providing penalties for violations; amending K.S.A. 60-  
17 2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-8810, 74-8814, 74-8823,  
18 74-8830, 74-8832 and 74-8838 and K.S.A. 2005 Supp. 12-4516, 19-  
19 101a, 21-4619, 74-8711 and 79-4805 and repealing the existing  
20 sections.

21

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

22 Section 1. K.S.A. 74-8702 is hereby amended to read as follows: 74-  
23 8702. As used in the Kansas lottery act, unless the context otherwise  
24 requires:  
25

26 (a) “Accelerated racetrack gaming facility payment” means the ad-  
27 vanced payment to the state treasurer of a portion of the state’s future  
28 share of net electronic gaming machine income pursuant to the final race-  
29 track gaming facility management contract between the executive director  
30 and a racetrack gaming facility manager for the operation of electronic  
31 gaming machines at a parimutuel licensee location.

32 (b) “Ancillary lottery gaming facility operations” means additional  
33 non-lottery facility game products and services not owned and operated  
34 by the state which may be included in the overall development associated  
35 with the lottery gaming facility. Such operations may include, but are not  
36 limited to, restaurants, hotels, motels, museums or entertainment facilities.

37 ~~(a)~~ (c) “Commission” means the Kansas lottery commission.

38 (d) “Electronic gaming machine” means any electronic, electrome-  
39 chanical, video or computerized device, contrivance or machine author-  
40 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic  
41 cards or any consideration, is available to play, operate or simulate the  
42 play of a game authorized by the Kansas lottery pursuant to the Kansas  
43 expanded lottery act, including, but not limited to, bingo, poker, blackjack,

- 1 keno and slot machines, and which may deliver or entitle the player op-  
2 erating the machine to receive cash, tokens, merchandise or credits that  
3 may be redeemed for cash. Electronic gaming machines may use bill val-  
4 idators and may be single-position reel-type, single or multi-game video  
5 and single-position multi-game video electronic game, including, but not  
6 limited to, poker, blackjack and slot machines. Electronic gaming ma-  
7 chines shall be directly linked to a central computer at a location deter-  
8 mined by the executive director for purposes of security, monitoring and  
9 auditing.
- 10 (e) “Exclusive gaming zone” means: (1) The south Kansas gaming  
11 zone, which consists of Sedgwick county; and (2) the southwest Kansas  
12 gaming zone, which consists of Ford county, except that Ford county shall  
13 not be an exclusive gaming zone until a dual racetrack facility, as defined  
14 in K.S.A. 74-8802, and amendments thereto, in Ford county is licensed  
15 by the Kansas racing and gaming commission.
- 16 ~~(f)~~ (f) “Executive director” means the executive director of the Kan-  
17 sas lottery.
- 18 ~~(c)~~ “Gaming equipment” means any electric, electronic or mechani-  
19 cal device or other equipment unique to the Kansas lottery used directly  
20 in the operation of any lottery and in the determination of winners pur-  
21 suant to this act.
- 22 (g) “Gaming equipment” means any electric, electronic, computerized  
23 or electromechanical machine, mechanism, supply or device or any other  
24 equipment, which is: (1) Unique to the Kansas lottery and used pursuant  
25 to the Kansas lottery act; and (2) integral to the operation of an electronic  
26 gaming machine or lottery facility game; and (3) affects the results of an  
27 electronic gaming machine or lottery facility game by determining win or  
28 loss.
- 29 (h) “Gray machine” means any mechanical, electro-mechanical or  
30 electronic device, capable of being used for gambling, that is: (1) Not  
31 authorized by the Kansas lottery, (2) not linked to a lottery central com-  
32 puter system, (3) available to the public for play or (4) capable of simu-  
33 lating a game played on an electronic gaming machine or any similar  
34 gambling game authorized pursuant to the Kansas expanded lottery act.
- 35 ~~(i)~~ (i) “Kansas lottery” means the state agency created by this act to  
36 operate a lottery or lotteries pursuant to this act.
- 37 (j) “Lottery” or “state lottery” means the lottery or lotteries operated  
38 pursuant to this act.
- 39 (k) “Lottery facility games” means any electronic gaming machines  
40 and any other games which, as of January 1, 2006, are authorized to be  
41 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-  
42 9802, and amendments thereto, located within the boundaries of this state.
- 43 (l) “Lottery gaming enterprise” means an entertainment enterprise

1 *which includes a lottery gaming facility authorized pursuant to the Kansas*  
2 *expanded lottery act and ancillary lottery gaming facility operations that*  
3 *have a coordinated business or marketing strategy. A lottery gaming en-*  
4 *terprise shall be designed to attract to its lottery gaming facility consumers*  
5 *who reside outside the immediate area of such enterprise.*

6 (m) *“Lottery gaming facility” means that portion of a building used*  
7 *for the purposes of operating, managing and maintaining lottery facility*  
8 *games.*

9 (n) *“Lottery gaming facility expenses” means normal business ex-*  
10 *penses, as defined in the lottery gaming facility management contract,*  
11 *associated with the ownership and operation of a lottery gaming facility.*

12 (o) *“Lottery gaming facility management contract” means a contract,*  
13 *subcontract or collateral agreement between the state and a lottery gam-*  
14 *ing facility manager for the management of a lottery gaming facility, the*  
15 *business of which is owned and operated by the Kansas lottery, negotiated*  
16 *and signed by the executive director on behalf of the state.*

17 (p) *“Lottery gaming facility manager” means a corporation, limited*  
18 *liability company, resident Kansas American Indian tribe or other busi-*  
19 *ness entity authorized to construct and manage, or manage alone, pur-*  
20 *suant to a lottery gaming facility management contract with the Kansas*  
21 *lottery, and on behalf of the state, a lottery gaming enterprise and lottery*  
22 *gaming facility.*

23 (q) *“Lottery gaming facility revenues” means the total revenues from*  
24 *lottery facility games at a lottery gaming facility after all related prizes*  
25 *are paid.*

26 (r) (1) *“Lottery machine” means any machine or device that allows*  
27 *a player to insert cash or other form of consideration and may deliver as*  
28 *the result of an element of chance, regardless of the skill required by the*  
29 *player, a prize or evidence of a prize, including, but not limited to:*

30 (A) *Any machine or device in which the prize or evidence of a prize*  
31 *is determined by both chance and the player’s or players’ skill, including,*  
32 *but not limited to, any machine or device on which a lottery game or*  
33 *lottery games, such as poker or blackjack, are played;*

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

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

39 (2) *“Lottery machine” shall not mean:*

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

42 (B) *any nonprescription drug machine authorized under K.S.A. 65-*  
43 *650, and amendments thereto;*

- 1     (C) *any machine which dispenses only bottled or canned soft drinks,*  
 2 *chewing gum, nuts or candies;*
- 3     (D) *any machine excluded from the definition of gambling devices*  
 4 *under subsection (d) of K.S.A. 21-4302, and amendments thereto; or*
- 5     (E) *any electronic gaming machine or lottery facility game operated*  
 6 *in accordance with the provisions of the Kansas expanded lottery act.*
- 7     ~~(s)~~ (s) “Lottery retailer” means any person with whom the Kansas  
 8 lottery has contracted to sell lottery tickets or shares, or both, to the  
 9 public.
- 10    ~~(f) “Lottery” or “state lottery” means the lottery or lotteries operated~~  
 11 ~~pursuant to this act.~~
- 12    ~~(g)~~ (t) (1) “Major procurement” means any gaming product or  
 13 service, including but not limited to facilities, advertising and promotional  
 14 services, annuity contracts, prize payment agreements, consulting serv-  
 15 ices, equipment, tickets and other products and services unique to the  
 16 Kansas lottery, but not including materials, supplies, equipment and serv-  
 17 ices common to the ordinary operations of state agencies.
- 18     (2) “Major procurement” shall not mean any product, service or other  
 19 matter covered by or addressed in the Kansas expanded lottery act or a  
 20 lottery gaming facility management contract or racetrack gaming facility  
 21 management contract executed pursuant to the Kansas expanded lottery  
 22 act.
- 23     (u) “Net electronic gaming machine income” means all cash or other  
 24 consideration utilized to play an electronic gaming machine operated at  
 25 a racetrack gaming facility, less all cash or other consideration paid out  
 26 to winning players as prizes.
- 27     (v) “Nonexclusive gaming zone” means: (1) The northeast Kansas  
 28 gaming zone, which consists of Wyandotte county; and (2) the southeast  
 29 Kansas gaming zone, which consists of Crawford and Cherokee counties.
- 30     (w) “Organization licensee” has the meaning provided by K.S.A. 74-  
 31 8802, and amendments thereto.
- 32     (x) “Parimutuel licensee” means a facility owner licensee or facility  
 33 manager licensee under the Kansas parimutuel racing act.
- 34     (y) “Parimutuel licensee location” means a racetrack facility, as de-  
 35 fined in K.S.A. 74-8802, and amendments thereto, owned or managed by  
 36 the parimutuel licensee. A parimutuel licensee location may include any  
 37 existing structure at such racetrack facility or any structure that may be  
 38 constructed on real estate where such racetrack facility is located.
- 39    ~~(h)~~ (z) “Person” means any natural person, association, limited liabil-  
 40 ity company, corporation or partnership.
- 41    ~~(i)~~ (aa) “Prize” means any prize paid directly by the Kansas lottery  
 42 pursuant to ~~its~~ the Kansas lottery act or the Kansas expanded lottery act  
 43 or any rules and regulations adopted pursuant to either act.

- 1       (bb) “Progressive electronic game” means a game played on an elec-  
2       tronic gaming machine for which the payoff increases uniformly as the  
3       game is played and for which the jackpot, determined by application of  
4       a formula to the income of independent, local or interlinked electronic  
5       gaming machines, may be won.
- 6       (cc) “Racetrack gaming facility” means that portion of a parimutuel  
7       licensee location where electronic gaming machines are operated, man-  
8       aged and maintained.
- 9       (dd) “Racetrack gaming facility management contract” means an  
10       agreement between the Kansas lottery and a racetrack gaming facility  
11       manager, negotiated and signed by the executive director on behalf of the  
12       state, for placement of electronic gaming machines owned and operated  
13       by the state at a racetrack gaming facility.
- 14       (ee) “Racetrack gaming facility manager” means a parimutuel li-  
15       censee specifically certified by the Kansas lottery to become a certified  
16       racetrack gaming facility manager and offer electronic gaming machines  
17       for play at the racetrack gaming facility.
- 18       (ff) “Returned ticket” means any ticket which was transferred to a  
19       lottery retailer, which was not sold by the lottery retailer and which was  
20       returned to the Kansas lottery for refund by issuance of a credit or  
21       otherwise.
- 22       ~~(j)~~ (gg) “Share” means any intangible manifestation authorized by the  
23       Kansas lottery to prove participation in a lottery game, *except as provided*  
24       *by the Kansas expanded lottery act.*
- 25       ~~(k)~~ (hh) “Ticket” means any tangible evidence issued by the Kansas  
26       lottery to prove participation in a lottery game *other than a lottery facility*  
27       *game.*
- 28       (ii) “Token” means a representative of value, of metal or other ma-  
29       terial, which is not legal tender, redeemable for cash only by the issuing  
30       lottery gaming facility manager or racetrack gaming facility manager and  
31       which is issued and sold by a lottery gaming facility manager or racetrack  
32       gaming facility manager for the sole purpose of playing an electronic  
33       gaming machine or lottery facility game.
- 34       ~~(l)~~ (jj) “Vendor” means any person who has entered into a major  
35       procurement contract with the Kansas lottery.
- 36       ~~(m)~~ “Returned ticket” means any ticket which was transferred to a  
37       lottery retailer, which was not sold by the lottery retailer and which was  
38       returned to the Kansas lottery for refund by issuance of a credit or  
39       otherwise.
- 40       ~~(n)~~ (kk) “Video lottery machine” means any electronic video game  
41       machine that, upon insertion of cash, is available to play or simulate the  
42       play of a video game authorized by the commission, including, but not  
43       limited to, bingo, poker, black jack and keno, and which uses a video

1 display and microprocessors and in which, by chance, the player may  
2 receive free games or credits that can be redeemed for cash.

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

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

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

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

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

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

19 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-~~  
20 ~~650, and amendments thereto;~~

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

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

25 New Sec. 2. (a) Sections 2 through ~~42~~ **44**, and amendments thereto,  
26 shall be known and may be cited as the Kansas expanded lottery act. The  
27 Kansas expanded lottery act shall be part of and supplemental to the  
28 Kansas lottery act.

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

33 (c) Any action challenging the constitutionality of or arising out of any  
34 provision of this act, any lottery gaming facility management contract or  
35 any racetrack gaming facility management contract entered into pursuant  
36 to this act shall be brought in the district court of Shawnee county.

37 New Sec. 3. (a) The Kansas lottery may operate one lottery gaming  
38 facility in each nonexclusive gaming zone.

39 (b) Not more than 30 days after the effective date of this act the  
40 lottery commission shall adopt and publish in the Kansas register the  
41 procedure for receiving, considering and approving, proposed lottery  
42 gaming facility management contracts. Such procedure shall include pro-  
43 visions for review of competitive proposals within a nonexclusive gaming

1 zone and the date by which proposed lottery gaming facility management  
2 contracts must be received by the lottery commission if they are to receive  
3 consideration.

4 (c) The lottery commission shall adopt standards to promote the in-  
5 tegrity of the gaming and finances of lottery gaming facilities, which shall  
6 apply to all management contracts, shall meet or exceed industry stan-  
7 dards for monitoring and controlling the gaming and finances of gaming  
8 facilities and shall give the executive director sufficient authority to mon-  
9 itor and control the gaming operation and to ensure its integrity and  
10 security.

11 (d) The Kansas lottery commission may approve management con-  
12 tracts with one or more prospective lottery gaming facility managers to  
13 manage, or construct and manage, on behalf of the state of Kansas and  
14 subject to the operational control of the Kansas lottery, a lottery gaming  
15 facility or lottery gaming enterprise at specified destination locations  
16 within the northeast and southeast Kansas gaming zones where the com-  
17 mission determines the operation of such facility would promote tourism  
18 and economic development. The commission shall approve or disapprove  
19 a proposed management contract within 90 days after the deadline for  
20 receipt of proposals established pursuant to subsection (b).

21 (e) In determining whether to approve a management contract with  
22 a prospective lottery gaming facility manager to manage a lottery gaming  
23 facility or lottery gaming enterprise pursuant to this section, the com-  
24 mission shall take into consideration the following factors: The size of the  
25 proposed facility; the geographic area in which such facility is to be lo-  
26 cated; the proposed facility's location as a tourist and entertainment des-  
27 tination; the estimated number of tourists that would be attracted by the  
28 proposed facility; the number and type of lottery facility games to be  
29 operated at the proposed facility; and agreements related to ancillary lot-  
30 tery gaming facility operations.

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

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

35 (1) ~~[(A)]~~ The prospective lottery gaming facility manager is a resident  
36 Kansas American Indian tribe and, at a minimum: ~~(A)~~ ~~[(i)]~~ Has sufficient  
37 access to financial resources to support the activities required of a lottery  
38 gaming facility manager under the Kansas expanded lottery act; and ~~(B)~~  
39 ~~[(i)]~~ has three consecutive years' experience in the management of gam-  
40 ing which would be class III gaming, as defined in K.S.A. 46-2301, and  
41 amendments thereto, operated pursuant to state or federal law; or

42 ~~(2)~~ ~~[(B)]~~ the prospective lottery gaming facility manager is not a res-  
43 ident Kansas American Indian tribe and, at a minimum: ~~(A)~~ ~~[(i)]~~ Has

1 sufficient access to financial resources to support the activities required  
2 of a lottery gaming facility manager under the Kansas expanded lottery  
3 act; ~~(B)~~ **[(ii)]** is current in filing all applicable tax returns and in payment  
4 of all taxes, interest and penalties owed to the state of Kansas and any  
5 taxing subdivision where such prospective manager is located in the state  
6 of Kansas, excluding items under formal appeal pursuant to applicable  
7 statutes; and ~~(C)~~ **[(iii)]** has three consecutive years' experience in the  
8 management of gaming which would be class III gaming, as defined in  
9 K.S.A. 46-2301, and amendments thereto, operated pursuant to state or  
10 federal law]; **and**

11 **[(2) The commission determines that the proposed development**  
12 **consists of an investment in infrastructure, including ancillary lot-**  
13 **tery gaming facility operations, of at least \$200,000,000].**

14 (h) Any management contract approved by the commission under  
15 this section shall:

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

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

22 (3) establish a mechanism to facilitate payment of lottery gaming fa-  
23 cility expenses, payment of the lottery gaming facility manager's share of  
24 the lottery gaming facility revenues and distribution of the state's share  
25 of the lottery gaming facility revenues;

26 (4) include a provision for the lottery gaming facility manager to pay  
27 the costs of oversight and regulation of the lottery gaming facility manager  
28 and the operations of the lottery gaming facility by the Kansas racing and  
29 gaming commission;

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

32 (6) provide for the prospective lottery gaming facility manager, upon  
33 approval of the proposed lottery gaming facility management contract, to  
34 pay to the state treasurer a privilege fee of \$35,000,000 for the privilege  
35 of being selected as a lottery gaming facility manager, which fee shall be  
36 deposited in the state treasury and credited to the lottery gaming facility  
37 manager fund, which is hereby created in the state treasury;

38 (7) incorporate terms and conditions for the ancillary lottery gaming  
39 facility operations;

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



- 1 (9) include financing commitments for construction;
- 2 (10) include a resolution of endorsement from the city governing  
3 body, if the proposed facility is within the corporate limits of a city, or  
4 from the county commission, if the proposed facility is located in the  
5 unincorporated area of the county;
- 6 (11) include a requirement that any parimutuel licensee developing  
7 a lottery gaming facility pursuant to this act comply with all orders and  
8 rules and regulations of the Kansas racing and gaming commission with  
9 regard to the conduct of live racing, including the same minimum days  
10 of racing as specified in section 15, and amendments thereto, for opera-  
11 tion of electronic gaming machines at racetrack gaming facilities;
- 12 (12) include a provision for the state to receive not less than 24% of  
13 lottery gaming facility revenues, 75% of which shall be paid to the ~~state~~  
14 ~~general fund~~ **Kansas education opportunity trust fund established**  
15 **by section 39, and amendments thereto**, and 25% of which shall be  
16 paid to the ~~local ad valorem tax reduction fund created by K.S.A. 79-2959~~  
17 **Kansas gaming revenue property tax relief fund established by sec-**  
18 **tion 38**, and amendments thereto;
- 19 (13) include a provision for 1% of lottery gaming facility revenues to  
20 be paid to the problem gambling grant fund established by K.S.A. 2005  
21 Supp. 79-4805, and amendments thereto;
- 22 (14) include a provision for 1% of lottery gaming facility revenues to  
23 be paid to the Kansas charitable gaming fund established by section 37,  
24 and amendments thereto;
- 25 (15) if the prospective lottery gaming facility manager is an American  
26 Indian tribe, include a provision that such tribe agrees to waive its sov-  
27 ereign immunity with respect to any actions arising from or to enforce  
28 either the Kansas expanded lottery act or any provision of the lottery  
29 gaming facility management contract; any action brought by an injured  
30 patron or by the state of Kansas; any action for purposes of enforcing the  
31 workers compensation act or any other employment or labor law; and any  
32 action to enforce laws, rules and regulations and codes pertaining to  
33 health, safety and consumer protection; and for any other purpose  
34 deemed necessary by the executive director to protect patrons or em-  
35 ployees and promote fair competition between the tribe and others seek-  
36 ing a lottery gaming facility management contract;
- 37 (16) (A) if the lottery gaming facility is located in a nonexclusive gam-  
38 ing zone comprised of one county and is not located within a city, include  
39 a provision for payment of an amount equal to 3% of the lottery gaming  
40 facility revenues to the county in which the lottery gaming facility is lo-  
41 cated; or (B) if the lottery gaming facility is located in a nonexclusive  
42 gaming zone comprised of one county and is located within a city, include  
43 provision for payment of an amount equal to 1.5% of the lottery gaming

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

4 (17) (A) if the lottery gaming facility is located in a nonexclusive gam-  
5 ing zone comprised of more than one county and is not located within a  
6 city, include a provision for payment of an amount equal to 2% of the  
7 lottery gaming facility revenues to the county in which the lottery gaming  
8 facility is located and an amount equal to 1% of such revenues to the  
9 other county in such zone; or (B) if the lottery gaming facility is located  
10 in a nonexclusive gaming zone comprised of more than one county and  
11 is located within a city, provide for payment of an amount equal to 1%  
12 of the lottery gaming facility revenues to the city in which the lottery  
13 gaming facility is located, an amount equal to 1.% of such revenues to  
14 the county in which such facility is located and an amount equal to 1%  
15 of such revenues to the other county in such zone;

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

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

34 (20) *include enforceable provisions: (A) Prohibiting the state,*  
35 *until July 1, 2011, from (i) entering into management contracts for*  
36 *more than two lottery gaming facilities or similar gaming facilities,*  
37 *one to be located in the northeast Kansas gaming zone and one to*  
38 *be located in the southeast Kansas gaming zone, (ii) designating*  
39 *additional areas of the state where operation of lottery gaming fa-*  
40 *cilities or similar gaming facilities would be authorized or (iii) op-*  
41 *erating an aggregate of more than 5,000 electronic gaming ma-*  
42 *chines at all parimutuel [licensee] locations; and (B) requiring the*  
43 *state to repay to the racetrack [lottery] gaming facility manager an*

1 **amount equal to the privilege fee paid by such ~~racetrack~~ [lottery]**  
2 **gaming facility manager, plus interest on such amount, com-**  
3 **pounded annually at the rate of 10%, if the state violates the pro-**  
4 **hibition provision described in (A).**

5 (i) Any proposed management contract for which the privilege fee  
6 has not been paid to the state treasurer within 30 days after the date of  
7 approval of the management contract shall be null and void.

8 **(j) A person who is the manager of the racetrack gaming facility**  
9 **in a nonexclusive gaming zone shall not be eligible to be the man-**  
10 **ager of the lottery gaming facility in such zone.**

11 ~~(j)~~ **(k)** Management contracts authorized by this section may include  
12 provisions relating to:

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

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

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

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

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

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

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

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

41 ~~(l)~~ **(m)** (1) The Kansas lottery shall be the licensee and owner of all  
42 software programs used at a lottery gaming facility for any lottery facility  
43 game.

1 (2) A lottery gaming facility manager, on behalf of the state, shall  
2 purchase or lease for the Kansas lottery all lottery facility games. All lot-  
3 tery facility games shall be subject to the ultimate control of the Kansas  
4 lottery in accordance with this act.

5 ~~(m)~~ (n) A lottery gaming facility shall comply with any planning and  
6 zoning regulations of the city or county in which it is to be located. The  
7 executive director shall not contract with any prospective lottery gaming  
8 facility manager for the operation and management of such lottery gaming  
9 facility unless such manager first receives any necessary approval under  
10 planning and zoning requirements of the city or county in which it is to  
11 be located.

12 ~~(n)~~ (o) Prior to expiration of the term of a lottery gaming facility  
13 management contract, the lottery commission may negotiate a new lottery  
14 gaming facility management contract with the lottery gaming facility man-  
15 ager if the new contract is substantially the same as the existing contract.  
16 Otherwise, the lottery gaming facility review board shall be reconstituted  
17 and a new lottery gaming facility management contract shall be negotiated  
18 and approved in the manner provided by this act.

19 New Sec. 4. (a) There is hereby created the lottery gaming facility  
20 review board. The board shall consist of:

21 (1) Three members appointed by the governor;  
22 (2) two members appointed by the president of the senate; and  
23 (3) two members appointed by the speaker of the house of  
24 representatives.

25 (b) To be eligible for appointment to the board, a person shall submit  
26 to the appointing authority evidence of significant business experience,  
27 particularly in business development and location of new businesses to  
28 maximize revenue.

29 (c) A person shall not be eligible for appointment to the board if the  
30 person:

31 (1) Is a resident of or owns property in a nonexclusive gaming zone;

32 (2) has an interest in any business domiciled in or conducting a sig-  
33 nificant portion of its business in a nonexclusive gaming zone; or

34 (3) has, or has had during the preceding two years, either directly or  
35 indirectly, a financial interest in or is, or has been during the preceding  
36 two years, employed by or a consultant to a prospective lottery gaming  
37 facility manager or any ancillary lottery gaming facility operations pro-  
38 posed by a prospective lottery gaming facility manager.

39 (d) Not more than four members of the board shall be members of  
40 the same political party.

41 (e) The governor shall designate one member of the board to serve  
42 as chairperson of the board.

43 (f) The vote of at least four members of the board shall be required

1 to take action.

2 (g) Subject to the limitations of appropriations therefor, members of  
3 the board shall receive such compensation as determined by the governor.  
4 Members of the board attending meetings of the board or subcommittee  
5 meetings thereof approved by the board shall be paid subsistence allow-  
6 ances, mileage and other expenses as provided in K.S.A. 75-3223, and  
7 amendments thereto.

8 (h) The board is hereby attached to the Kansas racing and gaming  
9 commission as a part thereof. All budgeting, purchasing and related man-  
10 agement functions of the board shall be administered by the executive  
11 director of the Kansas racing and gaming commission and the executive  
12 director shall provide office and meeting space and such clerical and other  
13 staff assistance as may be necessary to assist the board in carrying out its  
14 powers, duties and functions under this act. The board may employ any  
15 experts, consultants or other professionals at the expense of a prospective  
16 lottery gaming facility manager to provide assistance in evaluating a lottery  
17 gaming facility management contract submitted to the board.

18 New Sec. 5. (a) Upon approval of a lottery gaming facility manage-  
19 ment contract by the commission, but not later than 90 days after the  
20 deadline for receipt of proposals established pursuant to subsection (b)  
21 of section 3, and amendments thereto, the executive director and the  
22 prospective lottery gaming facility manager shall execute the contract,  
23 which shall be binding upon the parties only upon a determination by the  
24 lottery gaming facility review board pursuant to this section that the con-  
25 tract is the best possible such contract, approval of the contract by the  
26 Kansas racing and gaming commission pursuant to this section and ap-  
27 proval by the voters of the county where the lottery gaming facility will  
28 be located as provided by section 6, and amendments thereto.

29 (b) Upon execution of a lottery gaming facility management contract  
30 or contracts by the executive director, the executive director shall submit  
31 such contract or contracts to the lottery gaming facility review board. The  
32 board shall determine which contract best maximizes revenue, encour-  
33 ages tourism and otherwise serves the interests of the people of Kansas.  
34 In making its determination, the board shall conduct public hearings, take  
35 testimony, solicit the advice of experts and investigate the merits of each  
36 contract submitted by the executive director.

37 (c) Within 30 days after execution of a lottery gaming facility man-  
38 agement contract with a parimutuel licensee for development of a lottery  
39 gaming facility at a parimutuel licensee location, the parimutuel licensee  
40 must submit to the Kansas racing and gaming commission, for approval  
41 by the commission, a plan for compliance with the requirements for live  
42 racing and purse supplements established pursuant to sections 14 and 36,  
43 and amendments thereto. Upon application of a parimutuel licensee, the

1 Kansas racing and gaming commission shall open a proceeding to consider  
2 such licensee's proposal for development of a lottery gaming facility at  
3 the parimutuel licensee location. Such proposal shall include provisions  
4 for: (1) Compliance with the requirements of section 14, and amendments  
5 thereto; (2) payment of purse supplements from the appropriate funds  
6 established by section 36, and amendments thereto; and (3) a plan for  
7 protecting and promoting live racing in Kansas. The Kansas racing and  
8 gaming commission shall hear evidence and testimony from all interested  
9 parties. Upon a finding by the Kansas racing and gaming commission that  
10 the proposal is in the best interest of live racing in Kansas and more  
11 beneficial to live racing than placement of electronic gaming machines at  
12 such parimutuel licensee location, the Kansas racing and gaming com-  
13 mission may approve such proposal. The Kansas racing and gaming com-  
14 mission shall notify the lottery gaming facility review board of the com-  
15 mission's approval or disapproval of the proposal. If the Kansas racing  
16 and gaming commission does not approve the proposal, the lottery gaming  
17 facility review board shall not give further consideration to the lottery  
18 gaming facility management contract with the parimutuel licensee and  
19 the executive director shall direct the state treasurer to refund, without  
20 interest, the privilege fee paid pursuant to such contract.

21 (d) (1) Not more than 60 days after all lottery gaming facility man-  
22 agement contracts for a lottery gaming facility in a nonexclusive gaming  
23 zone have been submitted to the lottery gaming facility review board, the  
24 board: (A) If more than one lottery gaming facility management contract  
25 has been submitted for a lottery gaming facility in a nonexclusive gaming  
26 zone, shall select by public vote the lottery gaming facility management  
27 contract, if any, which the board determines is the best possible such  
28 contract; or (B) if the executive director submits only one lottery gaming  
29 facility management contract for a lottery gaming facility in a nonexclusive  
30 gaming zone, shall determine whether such contract is the best possible  
31 such contract.

32 (2) If the board cannot reach agreement that a lottery gaming facility  
33 management contract is the best possible such contract, the board shall  
34 request the executive director to renegotiate the contract or contracts  
35 until the board determines that the best possible such contract or con-  
36 tracts have been executed.

37 (e) Upon a determination by the lottery gaming facility review board  
38 that a lottery gaming facility management contract is the best possible  
39 such contract, the board shall submit the contract to the Kansas racing  
40 and gaming commission for approval. The Kansas racing and gaming com-  
41 mission shall conduct such background investigations of prospective lot-  
42 tery gaming facility managers, their directors and officers and any other  
43 persons having an interest in such prospective managers, as determined

1 in accordance with rules and regulations adopted by the Kansas racing  
2 and gaming commission. Upon completion of such investigations and ap-  
3 proval of the background of the prospective lottery gaming facility man-  
4 ager, directors, officers and other persons having an interest in such pro-  
5 spective manager, but not more than 10 days after receiving the  
6 recommendation of the lottery gaming facility review board, the Kansas  
7 racing and gaming commission shall vote to approve in whole or reject in  
8 whole the recommendation of the lottery gaming facility review board. If  
9 the Kansas racing and gaming commission does not approve the back-  
10 ground of such prospective lottery gaming facility manager, directors,  
11 officers and other persons having an interest in such prospective manager  
12 or does not approve the recommendation of the lottery gaming facility  
13 review board, the Kansas racing and gaming commission shall notify the  
14 executive director of the lottery and the process for selection of a lottery  
15 gaming facility manager shall begin again in the manner provided in sec-  
16 tions 3 and 4, and amendments thereto.

17 (f) If the Kansas racing and gaming commission approves a lottery  
18 gaming facility management contract submitted to it in accordance with  
19 subsection (e), the executive director of the Kansas racing and gaming  
20 commission shall notify the board of county commissioners of the county  
21 where the lottery gaming facility is proposed to be located.

22 (g) The deadline for receipt of proposals established pursuant to sub-  
23 section (b) of section 3, and amendments thereto, the time limit imposed  
24 by subsection (a) for action by the lottery commission, the time limit  
25 imposed by subsection (d) for action by the lottery gaming facility review  
26 board or the time limit imposed by subsection (e) for action by the Kansas  
27 racing and gaming commission, upon application by the respective com-  
28 mission or board, may be extended by the governor for a period not to  
29 exceed 60 days if the governor, in the governor's discretion, determines  
30 that the respective commission or board has acted on good faith to comply  
31 with the time limit. Failure to comply with any such time limit, unless  
32 extended as provided by this subsection, or to comply with an extended  
33 time limit authorized by this subsection, shall render the respective com-  
34 mission or board subject to relief in the form of mandamus, injunction  
35 or other legal remedy.

36 New Sec. 6. (a) Upon receipt of notice from the executive director  
37 of the Kansas racing and gaming commission pursuant to subsection (f)  
38 of section 5, and amendments thereto, the board of county commissioners  
39 by resolution shall submit to the qualified voters of the county a propo-  
40 sition to permit the operation of a lottery gaming facility within the county  
41 pursuant to this section. The proposition shall be submitted to the voters  
42 at a special election called by the board of county commissioners for that  
43 purpose and held not less than 90 days after the notice is received.

- 1 (b) Upon the adoption of a resolution calling for an election pursuant  
2 to this section, the county election officer shall cause the following prop-  
3 osition to be placed on the ballot at the election called for that purpose:  
4 “Shall the Kansas lottery be authorized to operate a lottery gaming facility  
5 in \_\_\_\_\_ county?”
- 6 (c) If a majority of the votes cast and counted at such election is in  
7 favor of approving the operation of a lottery gaming facility within the  
8 county, the lottery gaming facility management contract for operation of  
9 a lottery gaming facility within the county shall be binding on both parties  
10 to the contract. If a majority of the votes cast and counted at an election  
11 under this section is against permitting the operation of a lottery gaming  
12 facility within the county, the lottery gaming facility management contract  
13 for the operation of a lottery gaming facility within the county shall be  
14 null and void. The county election officer shall transmit a copy of the  
15 certification of the results of the election to the executive director.
- 16 (d) The election provided for by this section shall be conducted, and  
17 the votes counted and canvassed, in the manner provided by law for  
18 question submitted elections of the county.
- 19 (e) The lottery commission may waive the requirement that an elec-  
20 tion be held pursuant to this section if the lottery commission determines  
21 that after December 31, 2004, a county has held an election of qualified  
22 voters pursuant to the county’s home rule authority: (1) At which the  
23 ballot question was in substantial compliance with the requirements of  
24 this section; (2) which was administered by the county election officer in  
25 a manner consistent with the requirements of state election law; and (3)  
26 at which a majority of the votes cast and counted was in favor of the  
27 proposition.
- 28 (f) The question of the operation of a lottery gaming facility in a  
29 county may be submitted at the same election as the question of place-  
30 ment of electronic gaming machines at a parimutuel licensee location in  
31 the county under section 12, and amendments thereto.
- 32 New Sec. 7. Upon receipt of a copy of the certification of the results  
33 of the election pursuant to section 6, and amendments thereto:
- 34 (a) If the certification shows that a majority of the voters voted against  
35 the operation of a lottery gaming facility in the county, the executive  
36 director shall direct the state treasurer to refund, without interest, all  
37 privilege fees paid pursuant to lottery gaming facility management con-  
38 tracts for a lottery gaming facility in the county.
- 39 (b) If the certification shows that a majority of the voters voted in  
40 favor of the operation of a lottery gaming facility in the county, the ex-  
41 ecutive director shall direct the state treasurer to refund, without interest,  
42 all privilege fees paid pursuant to lottery gaming facility management  
43 contracts for a lottery gaming facility in the county, other than the lottery



1 gaming facility management contract which is binding as provided by  
2 section 6, and amendments thereto. Thereupon, the state treasurer shall  
3 transfer to the state general fund an amount equal to the privilege fee  
4 paid pursuant to the lottery gaming facility management contract which  
5 is binding as provided by section 6, and amendments thereto, ~~to the state~~  
6 ~~general fund~~ and the lottery gaming facility manager fund shall be  
7 abolished.

8 New Sec. 8. The sale or service by lottery gaming facility managers  
9 or ancillary lottery gaming facility operations and the consumption by  
10 patrons of lottery gaming facilities of alcohol, liquor, wine, spirits, cereal  
11 malt beverages and other intoxicating liquors is hereby permitted upon  
12 and in lottery gaming facilities and ancillary lottery gaming facility oper-  
13 ations. The provisions of K.S.A. 41-719, and amendments thereto, relating  
14 to alcoholic liquor shall not be applicable to lottery gaming facilities and  
15 ancillary lottery gaming facility operations.

16 New Sec. 9. (a) Subject to the provisions of subsection (b), the Kan-  
17 sas lottery shall enter into racetrack gaming facility management contracts  
18 to place electronic gaming machines at parimutuel licensee locations as  
19 provided by sections 10 through 16, and amendments thereto.

20 (b) The Kansas lottery shall not place electronic gaming machines at  
21 any parimutuel licensee location unless the commission has adopted rules  
22 and regulations as provided in sections 10 through 16, and amendments  
23 thereto.

24 New Sec. 10. (a) The executive director of the Kansas lottery shall  
25 negotiate a racetrack gaming facility management contract to place elec-  
26 tronic gaming machines at one parimutuel licensee location in each no-  
27 nexclusive gaming zone and in each exclusive gaming zone.

28 (b) To be eligible to enter into a racetrack gaming facility manage-  
29 ment contract the prospective racetrack gaming facility manager shall, at  
30 a minimum:

31 (1) Have sufficient access to financial resources to support the activ-  
32 ities required of a racetrack gaming facility manager under the Kansas  
33 expanded lottery act; and

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

39 (c) (1) A racetrack gaming facility management contract to place  
40 electronic gaming machines at a parimutuel licensee location in the south  
41 Kansas gaming zone shall require the racetrack gaming facility manager  
42 to remit to the county treasurer of Sedgwick county an exclusive gaming  
43 zone privilege fee of \$10,000,000, payable upon execution of the contract.

- 1 (2) A racetrack gaming facility management contract to place elec-  
2 tronic gaming machines at a parimutuel licensee location in the southwest  
3 Kansas gaming zone shall require the racetrack gaming facility manager  
4 to remit to the county treasurer of Ford county an exclusive gaming zone  
5 privilege fee of \$3,000,000, payable upon approval by the Kansas racing  
6 and gaming commission of construction of a parimutuel racetrack facility  
7 in such zone.
- 8 (d) A racetrack gaming facility management contract shall include:
- 9 (1) The term of the contract;
- 10 (2) provisions for the Kansas racing and gaming commission to over-  
11 see all racetrack gaming facility operations, including, but not limited to:  
12 Oversight of internal controls; oversight of security of facilities; perform-  
13 ance of background investigations, determination of qualifications and any  
14 required certification or licensing of officers, directors, board members,  
15 employees, contractors and agents of the racetrack gaming facility man-  
16 ager; auditing of net electronic gaming machine income and maintenance  
17 of the integrity of electronic gaming machine operations; ~~and~~
- 18 (3) provisions for the racetrack gaming facility manager to pay the  
19 costs of oversight and regulation of the racetrack gaming facility manager  
20 under this act and such manager's racetrack gaming facility operations by  
21 the Kansas racing and gaming commission; *and*
- 22 (4) ***enforceable provisions: (A) Prohibiting the state, until July***  
23 ***1, 2011, from (i) entering into management contracts for more than***  
24 ***two lottery gaming facilities or similar gaming facilities, one to be***  
25 ***located in the northeast Kansas gaming zone and one to be located***  
26 ***in the southeast Kansas gaming zone, (ii) designating additional ar-***  
27 ***reas of the state where operation of lottery gaming facilities or sim-***  
28 ***ilar gaming facilities would be authorized or (iii) operating an ag-***  
29 ***gregate of more than 5,000 electronic gaming machines at all***  
30 ***parimutuel [licensee] locations; and (B) requiring the state to repay***  
31 ***to the racetrack gaming facility manager an amount equal to the***  
32 ***privilege fee paid by such racetrack gaming facility manager, plus***  
33 ***interest on such amount, compounded annually at the rate of 10%,***  
34 ***if the state violates the prohibition provision described in (A).***
- 35 (e) Racetrack gaming facility management contracts authorized by  
36 this section may include provisions relating to:
- 37 (1) Accounting procedures to determine net electronic gaming ma-  
38 chine income, unclaimed prizes and credits;
- 39 (2) minimum requirements for a racetrack gaming facility manager  
40 to provide qualified oversight, security and supervision of electronic gam-  
41 ing machines including the use of qualified personnel with experience in  
42 applicable technology;
- 43 (3) eligibility requirements for employees, contractors or agents of a

1 racetrack gaming facility manager who will have responsibility for or in-  
2 volvement with electronic gaming machines or for the handling of cash  
3 or tokens;

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

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

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

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

14 **(j) A person who is the manager of a lottery gaming facility in**  
15 **a nonexclusive gaming zone shall not be eligible to be the manager**  
16 **of the racetrack gaming facility in such zone.**

17 ~~(j)~~ **(k)** A racetrack gaming facility management contract shall not con-  
18 stitute property, nor shall it be subject to attachment, garnishment or  
19 execution, nor shall it be alienable or transferable, except upon approval  
20 by the executive director, nor shall it be subject to being encumbered or  
21 hypothecated.

22 ~~(k)~~ **(l)** Any proposed racetrack gaming facility management contract  
23 for which the exclusive gaming zone privilege fee has not been paid to  
24 the state treasurer within 30 days after the fee becomes payable pursuant  
25 to subsection (c) shall be null and void.

26 New Sec. 11. (a) The executive director shall submit the proposed  
27 racetrack gaming facility management contract to the commission for the  
28 commission's approval. Upon approval of the Kansas lottery commission,  
29 the executive director shall submit such contract to the Kansas racing and  
30 gaming commission for approval. The Kansas racing and gaming com-  
31 mission shall conduct such background investigations of the proposed  
32 racetrack gaming facility manager, and its officers, directors, employees,  
33 owners, agents and contractors, as determined in accordance with rules  
34 and regulations adopted by the Kansas racing and gaming commission.  
35 Upon completion of such investigations and approval of the background  
36 of the proposed racetrack gaming facility manager, and its officers, direc-  
37 tors, employees, owners, agents and contractors, the Kansas racing and  
38 gaming commission shall vote to approve or reject the contract in whole.  
39 If the Kansas racing and gaming commission rejects the contract, the  
40 Kansas racing and gaming commission shall notify the executive director  
41 of the lottery and make recommendations regarding negotiation of the  
42 contract. The executive director may then resume negotiations with the  
43 proposed racetrack gaming facility manager.

- 1 (b) If the Kansas racing and gaming commission approves a racetrack  
2 gaming facility management contract submitted to it in accordance with  
3 this section, the executive director of the Kansas racing and gaming com-  
4 mission shall notify the board of county commissioners of the county  
5 where the parimutuel licensee location is located.
- 6 New Sec. 12. (a) Upon receipt of notice of approval by the Kansas  
7 racing and gaming commission of a racetrack gaming facility management  
8 contract for placement of electronic gaming machines at a parimutuel  
9 licensee location in a county, the board of county commissioners of the  
10 county by resolution shall submit to the qualified voters of the county a  
11 proposition to permit the placement of electronic gaming machines in  
12 the county pursuant to this section. The proposition shall be submitted  
13 to the voters at a special election called by the board of county commis-  
14 sioners for that purpose and held not less than 90 days after the notice is  
15 received.
- 16 (b) Upon the adoption of a resolution calling for an election pursuant  
17 to this section, the county election officer shall cause the following prop-  
18 osition to be placed on the ballot at the election called for that purpose:  
19 “Shall the Kansas Lottery be authorized to place electronic gaming ma-  
20 chines in \_\_\_\_\_ county?”
- 21 (c) If a majority of the votes cast and counted at such election is in  
22 favor of approving the placement of electronic gaming machines in the  
23 county, the racetrack gaming facility management contract for placement  
24 of electronic gaming machines at a parimutuel licensee location in the  
25 county shall be binding on both parties to the contract. If a majority of  
26 the votes cast and counted at an election under this section is against  
27 permitting placement of electronic gaming machines in the county, the  
28 racetrack gaming facility management contract for placement of elec-  
29 tronic gaming machines at a parimutuel licensee location in the county  
30 shall be null and void. The county election officer shall transmit a copy  
31 of the certification of the results of the election to the executive director.
- 32 (d) The election provided for by this section shall be conducted, and  
33 the votes counted and canvassed, in the manner provided by law for  
34 question submitted elections of the county.
- 35 (e) The lottery commission may waive the requirement that an elec-  
36 tion be held pursuant to this section if the lottery commission determines  
37 that after December 31, 2004, a county has held an election of qualified  
38 voters pursuant to the county’s home rule authority: (1) At which the  
39 ballot question was in substantial compliance with the requirements of  
40 this section; (2) which was administered by the county election officer in  
41 a manner consistent with the requirements of state election law; and (3)  
42 at which a majority of the votes cast and counted was in favor of the  
43 proposition.

1 (f) The question of the placement of electronic gaming machines in  
2 a county may be submitted at the same election as the question of op-  
3 eration of a lottery gaming facility in the county under section 6, and  
4 amendments thereto.

5 New Sec. 13. In accordance with rules and regulations adopted by  
6 the commission, the executive director shall have general responsibility  
7 for the implementation and administration of the provisions of this act  
8 relating to racetrack gaming facility operations:

9 (a) certify net electronic gaming machine income by inspecting re-  
10 cords, conducting audits, having agents of the Kansas lottery on site or  
11 by any other reasonable means; and

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

15 (1) The number of electronic gaming machines to be placed at each  
16 racetrack gaming facility, subject to the limitation that the total number  
17 of electronic gaming machines placed at all racetrack gaming facilities in  
18 the state shall not exceed ~~7,000~~ **5,000**;

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

21 (3) the kind, type, number and location of electronic gaming ma-  
22 chines at any racetrack gaming facility; and

23 (6) rules and regulations and procedures for the accounting and re-  
24 porting of the payments required from racetrack gaming facility managers  
25 under section 35, and amendments thereto, including the calculations  
26 required for such payments.

27 New Sec. 14. (a) All information and data required to be furnished  
28 to the Kansas lottery or the Kansas racing and gaming commission pur-  
29 suant to sections 10 through 16, and amendments thereto, or which may  
30 otherwise be obtained, relative to the finances, earnings or revenue, ex-  
31 cept the net electronic gaming machine income, of any vendor shall be  
32 considered confidential and shall not be revealed in whole or in part  
33 without permission of the vendor, except (1) in the course of the necessary  
34 administration of the Kansas expanded lottery act, (2) upon the lawful  
35 order of a court of competent jurisdiction or (3) to a duly authorized law  
36 enforcement agency.

37 (b) All information and data pertaining to a vendor's criminal record,  
38 family and background furnished to or obtained by the Kansas lottery or  
39 Kansas racing and gaming commission pursuant to sections 10 through  
40 16, and amendments thereto, from any source shall be considered con-  
41 fidential and shall not be revealed, in whole or part. Such information  
42 shall be released upon the lawful order of a court of competent jurisdic-  
43 tion or to a duly authorized law enforcement agency.

- 1 (c) Notice of the contents of any information released, except to a  
2 duly authorized law enforcement agency pursuant to this section, shall be  
3 given to any applicant, certificate holder or vendor in a manner prescribed  
4 by the rules and regulations adopted by the commission.
- 5 New Sec. 15. (a) Except as provided in subsection (b):
- 6 (1) No electronic gaming machines shall be operated at a parimutuel  
7 licensee location in Sedgwick county unless, during the first full calendar  
8 year and each year thereafter in which electronic gaming machines are  
9 operated at such location, the parimutuel licensee conducts at such lo-  
10 cation at least 100 live greyhound races each calendar week for the num-  
11 ber of weeks raced during calendar year 2003 with at least 13 live races  
12 conducted each day for not less than five days per week.
- 13 (2) No electronic gaming machines shall be operated at a parimutuel  
14 licensee location in Wyandotte county unless, during the first full calendar  
15 year and each year thereafter in which electronic gaming machines are  
16 operated at such location, the parimutuel licensee conducts live horse  
17 racing programs for at least 60 days, with at least 10 live races conducted  
18 each program, and must offer and make a reasonable effort to conduct a  
19 minimum number of three live races restricted for quarter horses each  
20 day and seven live thoroughbred races each day, of which not less than  
21 two races each day shall be limited to registered Kansas-bred horses ap-  
22 portioned in the same ratio that live races are offered, except that the  
23 licensee shall not be required to conduct the second live race restricted  
24 to Kansas-bred horses unless there are at least seven qualified entries for  
25 such race, and with at least 100 live greyhound races each calendar week  
26 for at least the same number of weeks raced during calendar year 2003,  
27 with at least 13 live races conducted each day for not less than five days  
28 per week.
- 29 (3) No electronic gaming machines shall be operated at a parimutuel  
30 licensee location in Crawford county unless, during the first full calendar  
31 year and each year thereafter in which electronic gaming machines are  
32 operated at such location, the parimutuel licensee conducts at such lo-  
33 cation at least 85 live greyhound races each calendar week for the number  
34 of weeks raced during calendar year 2003 in Sedgwick county, with at  
35 least 12 live races conducted each day for not less than five days per week.
- 36 (4) No electronic gaming machines shall be operated at a parimutuel  
37 licensee location in Ford county unless, during the first full calendar year  
38 and each year thereafter in which electronic gaming machines are oper-  
39 ated at such location, the parimutuel licensee conducts live horse racing  
40 programs for at least 45 days, with at least 10 live races conducted each  
41 program, and must offer and make a reasonable effort to conduct a min-  
42 imum number of three live races restricted for quarter horses each day  
43 and seven live thoroughbred races each day, of which not less than two

1 races each day shall be limited to registered Kansas-bred horses appor-  
2 tioned in the same ratio that live races are offered, except that the licensee  
3 shall not be required to conduct the second live race restricted to Kansas-  
4 bred horses unless there are at least seven qualified entries for such race,  
5 and with at least 85 live greyhound races each calendar week for the  
6 number of weeks raced during calendar year 2003 in Sedgwick county,  
7 with at least 12 live races conducted each day for not less than five days  
8 per week.

9 (5) If a parimutuel licensee has not held live races pursuant to a  
10 schedule approved by the Kansas racing and gaming commission in the  
11 preceding 12 months, the Kansas racing and gaming commission shall  
12 hold a hearing to determine the number of days of live racing required  
13 for the remaining days of the first calendar year of operation to qualify  
14 for operation of electronic gaming machines. At such hearing, the com-  
15 mission shall receive testimony and evidence from affected breed groups,  
16 the licensee and others, as the Kansas racing and gaming commission  
17 deems appropriate concerning the schedule of live race days. The oper-  
18 ation of electronic gaming machines shall not commence more than 90  
19 days prior to the start of live racing at such facility.

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

30 New Sec. 16. (a) Net electronic gaming machine income from a race-  
31 track gaming facility shall be distributed as follows:

32 (1) To the racetrack gaming facility manager, an amount equal to the  
33 following as a management fee and net lease for facilities used for the  
34 operation of electronic gaming machines at the racetrack gaming facility:  
35 (A) For the first five years after commencement of the operation of elec-  
36 tronic gaming machines at the racetrack gaming facility, 35% of the first  
37 \$150 of the average net electronic gaming machine income per machine  
38 per day at the racetrack gaming facility plus 25% of the remainder of the  
39 average net electronic gaming machine income per machine per day at  
40 the racetrack gaming facility; and (B) thereafter, 25% of the average net  
41 electronic gaming machine income per machine per day at the racetrack  
42 gaming facility;

43 (2) 7% of net electronic gaming machine income shall be credited to

- 1 the live horse racing purse supplement fund established by section 36,  
2 and amendments thereto, except that the amount of net electronic gam-  
3 ing machine income credited to the fund during any fiscal year from  
4 electronic gaming machines at a racetrack gaming facility shall not exceed  
5 an amount equal to the average of \$3,750 per electronic gaming machine  
6 at each location and any moneys in excess of such amount shall be dis-  
7 tributed between the state and the racetrack gaming facility manager in  
8 accordance with the racetrack gaming facility management contract;
- 9 (3) 7% of net electronic gaming machine income shall be credited to  
10 the live greyhound racing purse supplement fund established by section  
11 36, and amendments thereto, except that the amount of net electronic  
12 gaming machine income credited to the fund during any fiscal year from  
13 electronic gaming machines at a racetrack gaming facility shall not exceed  
14 an amount equal to the average of \$3,750 per electronic gaming machine  
15 at each location and any moneys in excess of such amount shall be dis-  
16 tributed between the state and the racetrack gaming facility manager in  
17 accordance with the racetrack gaming facility management contract;
- 18 (4) 1.5% of net electronic gaming machine income shall be remitted  
19 to the city, if any, and 1.5% of net electronic gaming machine income  
20 shall be remitted to the county where the racetrack gaming facility is  
21 located, except that 3% of net electronic gaming machine income shall  
22 be remitted to such county if the racetrack gaming facility is not located  
23 in a city;
- 24 (5) 1% of net electronic gaming machine income shall be credited to  
25 the problem gambling grant fund established by K.S.A. 2005 Supp. 79-  
26 4805, and amendments thereto;
- 27 (6) subject to the provisions of subsection (e), 1% of net electronic  
28 gaming machine income shall be credited to the Kansas charitable gaming  
29 fund established by section 37, and amendments thereto;
- 30 (7) 1% of net electronic gaming machine income shall be credited to  
31 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,  
32 and amendments thereto;
- 33 (8) to the state, an amount equal to the following: (A) For the first  
34 five years after commencement of the operation of electronic gaming  
35 machines at the racetrack gaming facility, 30% of the first \$150 of the  
36 average net electronic gaming machine income per machine per day at  
37 the racetrack gaming facility plus 40% of the remainder of the average  
38 net electronic gaming machine income per machine per day at the race-  
39 track gaming facility; and (B) thereafter, 40% of the average net electronic  
40 gaming machine income per machine per day at the racetrack gaming  
41 facility; and
- 42 (9) 15% of electronic gaming machine income shall be used for gam-  
43 ing expenses, subject to agreement between the Kansas lottery and the



1 racetrack gaming facility manager.

2 (b) Of amounts distributed to the state pursuant to subsection (a)(8),  
3 25% shall be credited to the ~~local ad valorem tax reduction fund created~~  
4 ~~by K.S.A. 79-2959~~ **Kansas gaming revenue property tax relief fund**  
5 **established by section 38**, and amendments thereto, and 75% shall be  
6 credited to the ~~state general fund~~ **Kansas education opportunity trust**  
7 **fund established by section 39, and amendments thereto.**

8 (c) A racetrack gaming facility management contract shall establish  
9 an accelerated racetrack gaming facility payment of \$15,000 per elec-  
10 tronic gaming machine installed at the parimutuel licensee location. Such  
11 payment shall be due and payable one month before the end of the fiscal  
12 year in which the racetrack gaming facility management contract is exe-  
13 cuted or in which the parimutuel licensee location opens, if not open  
14 when the contract is executed. Revenues credited to the ~~state general~~  
15 ~~fund and the local ad valorem tax reduction~~ **Kansas education oppor-**  
16 **tunity trust fund and the Kansas gaming revenue property tax relief**  
17 fund prior to the date the accelerated racetrack gaming facility payment  
18 is due shall be credited against the amount which would otherwise be  
19 due pursuant to this subsection. During the five fiscal years following the  
20 year in which payment of the accelerated racetrack gaming facility pay-  
21 ment is made by a racetrack gaming facility manager, the state shall repay  
22 to such manager an amount equal to the accelerated racetrack gaming  
23 facility payment made by such manager minus any credit allowed against  
24 such accelerated payment pursuant to this subsection. The amount of the  
25 repayment in any fiscal year shall not exceed 20% of the moneys credited  
26 to the ~~state general fund and the local ad valorem tax reduction~~ **Kansas**  
27 **education opportunity trust fund and the Kansas gaming revenue**  
28 **property tax relief** fund during such fiscal year from net electronic gam-  
29 ing machine income derived from electronic gaming machines at such  
30 manager's racetrack gaming facility.

31 (d) A racetrack gaming facility management contract may include  
32 provisions for a parimutuel licensee or any other entity to pay the pari-  
33 mutuel licensee's expenses related to electronic gaming machines, as the  
34 executive director deems appropriate, subject to the requirements of sub-  
35 section (a)(8).

36 (e) If the racetrack gaming facility manager pays to the organization  
37 licensee at the parimutuel licensee location an amount based on the net  
38 electronic gaming machine income which the racetrack gaming facility  
39 manager receives pursuant to this act:

40 (1) The organization licensee shall be required to pay to the executive  
41 director such amount paid by the racetrack gaming facility manager but  
42 not to exceed an amount equal to 1% of net electronic gaming machine  
43 income received by such manager. The executive director shall remit to

1 the state treasurer all such amounts received from the organization li-  
2 censee. Upon receipt thereof, the state treasurer shall deposit the entire  
3 amount in the state treasury and credit it to the Kansas charitable gaming  
4 fund.

5 (2) If the amount paid to the organization licensee based on the net  
6 electronic gaming machine income is less than 1% of net electronic gam-  
7 ing machine income, the balance of the 1% provided for by subsection  
8 (a)(6) shall be credited to the Kansas charitable gaming fund from money  
9 remitted to the state treasurer by the racetrack gaming facility manager.

10 (3) The racetrack gaming facility manager, in addition to the amount  
11 provided pursuant to subsection (a)(1), shall be paid an amount equal to  
12 the amount paid by such manager to the organization licensee at the  
13 parimutuel licensee location based on the net electronic gaming machine  
14 income but not to exceed an amount equal to 1% of net electronic gaming  
15 machine income received by such manager.

16 New Sec. 17. The Kansas lottery commission, upon the recommen-  
17 dation of the executive director, shall adopt rules and regulations neces-  
18 sary to carry out the purposes of this act. Temporary rules and regulations  
19 may be adopted by the commission without being subject to the provi-  
20 sions and requirements of K.S.A. 77-415 through 77-438, and amend-  
21 ments thereto, but shall be subject to approval by the attorney general as  
22 to legality and shall be filed with the secretary of state and published in  
23 the Kansas register.

24 New Sec. 18. (a) Electronic gaming machines operated pursuant to  
25 this act, including those operated as lottery facility games, shall:

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

28 (2) be directly linked to a central lottery communications system to  
29 provide monitoring, auditing and other available program information to  
30 the Kansas lottery;

31 (3) be on-line and in constant communication with a central com-  
32 puter situated at a location determined by the executive director and  
33 specified in the lottery gaming facility or racetrack gaming facility man-  
34 agement contract; and

35 (4) be subject to deactivation at any time by order of the executive  
36 director.

37 (b) The communications systems selected by the executive director  
38 shall not limit participation to only one electronic gaming machine man-  
39 ufacturer, distributor, supplier or provider. The lottery gaming facility  
40 manager or racetrack gaming facility manager shall lease or purchase for  
41 the Kansas lottery and at such gaming facility manager's expense all equip-  
42 ment necessary to implement such central communications and auditing  
43 functions.

1 New Sec. 19. (a) Each specific type of electronic gaming machine  
2 and lottery facility game shall be approved by the Kansas racing and gam-  
3 ing commission. The Kansas racing and gaming commission shall examine  
4 prototypes of electronic gaming machines and lottery facility games and  
5 shall notify the lottery gaming facility manager or racetrack gaming facility  
6 manager which types of electronic gaming machines or lottery facility  
7 games are in compliance with the requirements of this act. The use of  
8 progressive electronic gaming machines is expressly permitted.

9 (b) No electronic gaming machine or lottery facility game shall be  
10 operated pursuant to this act unless the executive director of the racing  
11 and gaming commission first issues a certificate for such machine or game  
12 authorizing its use at a specified location. Each electronic gaming ma-  
13 chine and lottery facility game shall have such certificate prominently  
14 displayed thereon. Any electronic gaming machine or lottery facility game  
15 which does not display the certificate required by this section is contra-  
16 band and a public nuisance subject to confiscation by any law enforce-  
17 ment officer.

18 (c) The executive director of the racing and gaming commission shall  
19 require any manufacturer, supplier, provider, lottery gaming facility man-  
20 ager, racetrack gaming facility manager or other person seeking the ex-  
21 amination and certification of electronic gaming machines or lottery fa-  
22 cility games to pay the anticipated actual costs of the examination in  
23 advance. After the completion of the examination, the executive director  
24 of the Kansas racing and gaming commission shall refund any overpay-  
25 ment or charge and collect amounts sufficient to reimburse the executive  
26 director for any underpayment of actual costs. The executive director of  
27 the Kansas racing and gaming commission may contract for the exami-  
28 nation of electronic gaming machines and lottery facility games required  
29 by this section, and may rely upon testing done by or for other states  
30 regulating electronic gaming machines or lottery facility games, if the  
31 executive director deems such testing to be reliable and in the best in-  
32 terest of the state of Kansas.

33 (d) The executive director of the Kansas lottery or the executive di-  
34 rector of the Kansas racing and gaming commission may remove from  
35 play and confiscate any electronic gaming machine or gray machine that  
36 does not comply with the requirements of the Kansas expanded lottery  
37 act. Any electronic gaming machine that the executive director or the  
38 executive director of the racing and gaming commission determines has  
39 been modified or the design of which has been modified without the  
40 consent of the executive director of the Kansas lottery may be removed  
41 from play, confiscated by either such executive director and disposed of  
42 in any manner allowed by law.

43 New Sec. 20. The Kansas racing and gaming commission, through

1 rules and regulations, shall establish:

2 (a) A certification requirement, and enforcement procedure, for of-  
3 ficers, directors, key employees and persons directly or indirectly owning  
4 a 0.5% or more interest in a lottery gaming facility manager or racetrack  
5 gaming facility manager. Such certification requirement shall include  
6 compliance with such security, fitness and background investigations and  
7 standards as the executive director of the Kansas racing and gaming com-  
8 mission deems necessary to determine whether such person's reputation,  
9 habits or associations pose a threat to the public interest of the state or  
10 to the reputation of or effective regulation and control of the lottery gam-  
11 ing facility or racetrack gaming facility. Any person convicted of any fel-  
12 ony, a crime involving gambling or a crime of moral turpitude prior to  
13 applying for a certificate hereunder or at any time thereafter shall be  
14 deemed unfit. The Kansas racing and gaming commission shall conduct  
15 the security, fitness and background checks required pursuant to this  
16 subsection. Certification pursuant to this subsection shall not be assign-  
17 able or transferable;

18 (b) a certification requirement, and enforcement procedure, for  
19 those persons, including electronic gaming machine manufacturers, tech-  
20 nology providers and computer system providers, who propose to contract  
21 with a lottery gaming facility manager, a racetrack gaming facility manager  
22 or the state for the provision of goods or services related to a lottery  
23 gaming facility or racetrack gaming facility, including management serv-  
24 ices. Such certification requirements shall include compliance with such  
25 security, fitness and background investigations and standards of officers,  
26 directors, key gaming employees and persons directly or indirectly owning  
27 a 0.5% or more interest in such entity as the executive director of the  
28 Kansas racing and gaming commission deems necessary to determine  
29 whether such person's reputation, habits and associations pose a threat  
30 to the public interest of the state or to the reputation of or effective  
31 regulation and control of the lottery gaming facility or racetrack gaming  
32 facility. Any person convicted of any felony, a crime involving gambling  
33 or a crime of moral turpitude prior to applying for a certificate hereunder  
34 or at any time thereafter shall be deemed unfit. If the executive director  
35 of the racing and gaming commission determines the certification stan-  
36 dards of another state are comprehensive, thorough and provide similar  
37 adequate safeguards, the executive director may certify an applicant al-  
38 ready certified in such state without the necessity of a full application and  
39 background check. The Kansas racing and gaming commission shall con-  
40 duct the security, fitness and background checks required pursuant to  
41 this subsection. Certification pursuant to this subsection shall not be as-  
42 signable or transferable;

43 (c) provisions for revocation of a certification required by subsection

1 (a) or (b) upon a finding that the certificate holder, an officer or director  
2 thereof or a person directly or indirectly owning a 0.5% or more interest  
3 therein: (1) Has knowingly provided false or misleading material infor-  
4 mation to the Kansas lottery or its employees; or (2) has been convicted  
5 of a felony, gambling related offense or any crime of moral turpitude; and  
6 (d) provisions for suspension, revocation or nonrenewal of a certifi-  
7 cation required by subsection (a) or (b) upon a finding that the certificate  
8 holder, an officer or director thereof or a person directly or indirectly  
9 owning a 0.5% or more interest therein: (1) Has failed to notify the Kansas  
10 lottery about a material change in ownership of the certificate holder, or  
11 any change in the directors or officers thereof; (2) is delinquent in re-  
12 mitting money owed to the Kansas lottery; (3) has violated any provision  
13 of any contract between the Kansas lottery and the certificate holder; or  
14 (4) has violated any provision of the Kansas expanded lottery act or any  
15 rule and regulation adopted hereunder.

16 New Sec. 21. (a) The executive director of the Kansas lottery and  
17 the executive director of the Kansas racing and gaming commission, or  
18 their designees, may observe and inspect all electronic gaming machines,  
19 lottery facility games, lottery gaming facilities, racetrack gaming facilities  
20 and all related equipment and facilities operated by a lottery gaming fa-  
21 cility manager or racetrack gaming facility manager.

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

25 (1) Examine, or cause to be examined by any agent or representative  
26 designated by such executive director, any books, papers, records or  
27 memoranda of any lottery gaming facility manager or racetrack gaming  
28 facility manager, or of any business involved in electronic gaming ma-  
29 chines or lottery facility games authorized pursuant to the Kansas ex-  
30 panded lottery act, for the purpose of ascertaining compliance with any  
31 provision of the Kansas lottery act, the Kansas expanded lottery act, or  
32 any rules and regulations adopted thereunder;

33 (2) investigate alleged violations of the Kansas expanded lottery act  
34 and alleged violations of any rules and regulations, orders and final de-  
35 cisions of the Kansas lottery commission, the executive director of the  
36 Kansas lottery, the Kansas racing and gaming commission or the executive  
37 director of the Kansas racing and gaming commission;

38 (3) request a court to issue subpoenas to compel access to or for the  
39 production of any books, papers, records or memoranda in the custody  
40 or control of any lottery gaming facility manager or racetrack gaming  
41 facility manager related to the management of the lottery gaming facility  
42 or racetrack gaming facility, or to compel the appearance of any lottery  
43 gaming facility manager or racetrack gaming facility manager for the pur-

1 pose of ascertaining compliance with the provisions of the Kansas lottery  
2 act and the Kansas expanded lottery act or rules and regulations adopted  
3 thereunder;

4 (4) inspect and approve, prior to publication or distribution, all ad-  
5 vertising by a lottery gaming facility manager or racetrack gaming facility  
6 manager which includes any reference to the Kansas lottery; and

7 (5) take any other action as may be reasonable or appropriate to en-  
8 force the provisions of the Kansas expanded lottery act and any rules and  
9 regulations, orders and final decisions of the executive director of the  
10 Kansas lottery, the Kansas lottery commission, the executive director of  
11 the Kansas racing commission or the Kansas racing and gaming  
12 commission.

13 (c) Appropriate security measures shall be required in any and all  
14 areas where electronic gaming machines and other lottery facility games  
15 authorized pursuant to the Kansas expanded lottery act are located or  
16 operated. The executive director of the Kansas racing and gaming com-  
17 mission shall approve all such security measures.

18 (d) The executive director of the Kansas racing and gaming commis-  
19 sion shall require an annual audit of the operations of each lottery gaming  
20 facility and ancillary lottery gaming facility operations and each racetrack  
21 gaming facility as determined by the commission. Such audit shall be  
22 conducted by the Kansas racing and gaming commission or a licensed  
23 accounting firm approved by the executive director of the Kansas racing  
24 and gaming commission and shall be conducted at the expense of the  
25 lottery gaming facility manager or racetrack facility manager.

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

29 New Sec. 22. (a) No revenue bonds, tax increment financing or sim-  
30 ilar financing shall be used to finance any part of any lottery gaming  
31 enterprise or any racetrack gaming facility.

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

34 New Sec. 23. Each lottery gaming facility manager and each race-  
35 track gaming facility manager shall hold the executive director, the com-  
36 mission and the state harmless from and defend any and all claims which  
37 may be asserted against the executive director, the commission and the  
38 state, or the agents or employees thereof, arising from the operation of  
39 electronic gaming machines, lottery facility games or other lottery-type  
40 games pursuant to the Kansas expanded lottery act. This section may be  
41 satisfied by procurement of insurance by the lottery gaming facility man-  
42 ager or racetrack gaming facility manager, naming the executive director,  
43 the commission and the state as additional insured parties. Procurement

1 of such insurance by a lottery gaming facility manager shall be a lottery  
2 gaming facility expense of the lottery gaming facility. The provisions of  
3 this section shall not apply to any claims arising from a negligent act or  
4 omission or willful or malicious misconduct of the executive director, the  
5 commission or the state, or the agents or employees thereof.

6 New Sec. 24. As a condition precedent to contracting for the privi-  
7 lege of being a lottery gaming facility manager or a racetrack gaming  
8 facility manager, such manager shall file with the secretary of state of this  
9 state a written and irrevocable consent that any action or garnishment  
10 proceeding may be commenced against such manager in the proper court  
11 of any county in this state by the service of process on a resident agent,  
12 and stipulating and agreeing that such service shall be valid and binding  
13 as if service had been made upon such manager. Such written consent  
14 shall state that the courts of this state have jurisdiction over the person  
15 of the lottery gaming facility manager or racetrack gaming facility man-  
16 ager and are the proper and convenient forum for such action and shall  
17 waive the right to request a change of jurisdiction or venue to a court  
18 outside this state and that all actions arising under this act and com-  
19 menced by such manager shall be brought in this state's courts as the  
20 proper and convenient forum. Such consent shall be executed by the  
21 lottery gaming facility manager or racetrack gaming facility manager and,  
22 if a corporation, by the president and secretary of such corporate man-  
23 ager. Such consent shall be accompanied by a certified copy of the order  
24 or resolution of the board of directors, trustees or managers authorizing  
25 the president and secretary to execute the same.

26 New Sec. 25. (a) Wagers shall be received only from a person at the  
27 location where the electronic gaming machine or lottery facility game is  
28 authorized pursuant to the Kansas expanded lottery act. No person pres-  
29 ent at such location shall place or attempt to place a wager on behalf of  
30 another person who is not present at such location.

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

34 (c) No employee or contractor of, or other person who has any legal  
35 affiliation with, a lottery gaming facility manager shall loan money to or  
36 otherwise extend credit to patrons of a lottery gaming facility.

37 (d) Violation of this section is a class A nonperson misdemeanor upon  
38 a conviction for a first offense. Violation of this section is a severity level  
39 9, nonperson felony upon conviction for a second or subsequent offense.

40 New Sec. 26. (a) A person less than 21 years of age shall not be  
41 permitted in an area where electronic gaming machines or lottery facility  
42 games are being conducted, except for a person at least 18 years of age  
43 who is an employee of the lottery gaming facility manager or the racetrack

1 gaming facility manager. No employee under age 21 shall perform any  
2 function involved in gaming by the patrons.

3 (b) No person under age 21 shall play or make a wager on an elec-  
4 tronic gaming machine game or a lottery facility game.

5 New Sec. 27. (a) Except as authorized in subsection (c), it is unlawful  
6 for any racetrack gaming facility manager, or any employee or agent  
7 thereof, to allow any person to play an electronic gaming machine game  
8 at a racetrack gaming facility, or share in winnings of such person, know-  
9 ing such person to be:

10 (1) Less than 21 years of age;

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

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

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

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

20 (6) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,  
21 parent or stepparent of a person described by subsection (a)(2), (a)(3),  
22 (a)(4) or (a)(5); or

23 (7) a person who resides in the same household as any person de-  
24 scribed by subsection (a)(2), (a)(3), (a)(4) or (a)(5).

25 Violation of this subsection is a class A nonperson misdemeanor upon  
26 conviction for a first offense. Violation of this subsection is a severity level  
27 9, nonperson felony upon conviction for the second or a subsequent  
28 offense.

29 (b) Except as authorized in subsection (c), it is unlawful for any lottery  
30 gaming facility manager, or its employees or agents, to allow any person  
31 to play electronic gaming machines or lottery facility games at a lottery  
32 gaming facility or share in winnings of such person knowing such person  
33 to be:

34 (1) Under 21 years of age;

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

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

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

40 (5) an officer or employee of a vendor contracting with the Kansas  
41 lottery to supply gaming equipment to the Kansas lottery for use in the  
42 operation of any electronic gaming machine or lottery facility game con-  
43 ducted pursuant to the Kansas expanded lottery act;



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

4 (7) a person who resides in the same household as any person de-  
5 scribed by subsection (b)(2), (b)(3), (b)(4) or (b)(5).

6 Violation of this subsection is a class A nonperson misdemeanor upon  
7 conviction for a first offense. Violation of this subsection is a severity level  
8 9, nonperson felony upon conviction for a second or subsequent offense.

9 (c) The executive director of the Kansas racing and gaming commis-  
10 sion may authorize in writing any employee of the Kansas racing and  
11 gaming commission and any employee of a lottery vendor to play an elec-  
12 tronic gaming machine game or a lottery facility game to verify the proper  
13 operation thereof with respect to security and contract compliance. Any  
14 prize awarded as a result of such ticket purchase shall become the prop-  
15 erty of the Kansas lottery and be added to the prize pools of subsequent  
16 electronic gaming machine games or lottery facility games. No money or  
17 merchandise shall be awarded to any employee playing an electronic gam-  
18 ing machine game or a lottery facility game pursuant to this subsection.

19 New Sec. 28. Except for persons acting in accordance with rules and  
20 regulations of the Kansas racing and gaming commission or by written  
21 authority of the executive director of the Kansas racing and gaming com-  
22 mission in performing installation, maintenance and repair services, any  
23 person who, with the intent to manipulate the outcome, pay out or op-  
24 eration of an electronic gaming machine game or a lottery facility game,  
25 manipulates by physical, electrical or mechanical means the outcome, pay  
26 out or operation of such game shall be guilty of a severity level 8, non-  
27 person felony.

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

40 (b) Except in accordance with rules and regulations of the Kansas  
41 racing and gaming commission or by written authority from the executive  
42 director of the Kansas racing and gaming commission in performing in-  
43 stallation, maintenance, inspection and repair services, it is a class A non-

1 person misdemeanor for the following to place a wager on or play an  
2 electronic gaming machine at a racetrack gaming facility in this state: The  
3 executive director of the Kansas lottery, a member of the Kansas lottery  
4 commission or any employee or agent of the Kansas lottery; the executive  
5 director, a member or any employee or agent of the Kansas racing and  
6 gaming commission; or the racetrack gaming facility manager or any em-  
7 ployee of the racetrack gaming facility manager.

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

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

17 (2) possess or use, while on premises where electronic gaming ma-  
18 chines are authorized pursuant to the Kansas expanded lottery act, any  
19 cheating or thieving device, including, but not limited to, tools, wires,  
20 drills, coins attached to strings or wires or electronic or magnetic devices  
21 to facilitate removing from any electronic gaming machine any money or  
22 contents thereof, except that a duly authorized agent or employee of the  
23 Kansas racing and gaming commission, lottery gaming facility manager  
24 or racetrack gaming facility manager may possess and use any of the  
25 foregoing only in furtherance of the agent's or employee's employment  
26 at the lottery gaming facility or racetrack gaming facility; or

27 (3) possess or use while on the premises of a lottery gaming facility  
28 or racetrack gaming facility, or any location where electronic gaming ma-  
29 chines are authorized pursuant to this act, any key or device designed for  
30 the purpose of or suitable for opening or entering any electronic gaming  
31 machine or similar gaming device or drop box.

32 (d) Any duly authorized agent or employee of the Kansas racing and  
33 gaming commission, a lottery gaming facility manager or a racetrack gam-  
34 ing facility manager may possess and use any of the devices described in  
35 subsections (c)(3) and (c)(4) in furtherance of inspection or testing as  
36 provided in the Kansas expanded lottery act or in furtherance of such  
37 person's employment at any location where any electronic gaming ma-  
38 chine or similar gaming device or drop box is authorized pursuant to the  
39 Kansas expanded lottery act.

40 New Sec. 30. It shall be a severity level 9, nonperson felony for any  
41 person to place in operation or continue to have in place any gray machine  
42 for use by members of the public at any location in this state.

43 ~~New Sec. 31. It is a class A nonperson misdemeanor for any person~~

1 to hold any paid position with any lottery gaming facility manager, any  
2 subcontractor or agent of a lottery gaming facility manager, any ancillary  
3 lottery gaming facility operations or any business which sells goods or  
4 services, including lobbying services, to a lottery gaming facility manager  
5 or to have any financial interest, directly or indirectly, in any lottery gam-  
6 ing facility manager, any subcontractor or agent of a lottery gaming facility  
7 manager, any business which sells goods or services, including lobbying  
8 services, to a lottery gaming facility manager or any ancillary lottery gam-  
9 ing facility operations:

10 —(a)— While such person is a member of the Kansas legislature or during  
11 the five years immediately following such person's term as such member,  
12 or

13 —(b)— if such person is (1) the spouse of a member of the Kansas leg-  
14 islature, (2) the spouse of a person who has been a member of the Kansas  
15 legislature during the preceding five years or (3) one of the following  
16 blood relatives, half relatives or step relatives of a member of the Kansas  
17 legislature or a person who has been a member of the Kansas legislature  
18 during the preceding five years: Parent, grandparent, brother, sister,  
19 child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law,  
20 brother-in-law or sister-in-law.

21 ***New Sec. 31.—(a) Except as provided in subsection (c), it is a***  
22 ***class A nonperson misdemeanor for any person specified in subsec-***  
23 ***tion (b) to:***

24 —(1)— ***Hold any paid position with: (A) Any lottery gaming facility***  
25 ***manager or racetrack gaming facility manager; (B) any subcon-***  
26 ***tractor or agent of any lottery gaming facility manager or racetrack***  
27 ***gaming facility manager; or (C) any ancillary lottery gaming facil-***  
28 ***ity operations;***

29 —(2)— ***have any financial interest, directly or indirectly, in: (A) Any***  
30 ***lottery gaming facility manager or racetrack gaming facility man-***  
31 ***ager; or (B) any subcontractor or agent of a lottery gaming facility***  
32 ***manager or racetrack gaming facility manager; or***

33 —(3)— ***enter into any business dealing, venture or contract, includ-***  
34 ***ing a contract for lobbying, with a lottery gaming facility manager***  
35 ***or racetrack gaming facility manager.***

36 —(b)— ***Except as provided by subsection (c), the provisions of sub-***  
37 ***section (a) shall apply to:***

38 —(1)— ***A person who is currently or has been during the preceding***  
39 ***five years governor, lieutenant governor, attorney general or a***  
40 ***member of the Kansas legislature;***

41 —(2)— ***a person who is: (A) The spouse of a person who is currently***  
42 ***or has been during the preceding five years governor, lieutenant***  
43 ***governor, attorney general or a member of the Kansas legislature;***

1 ~~or (B) one of the following blood relatives, half-relatives or step-~~  
2 ~~relatives of a person who is currently or has been during the pre-~~  
3 ~~ceding five years governor, lieutenant governor, attorney general~~  
4 ~~or a member of the Kansas legislature: Parent, grandparent,~~  
5 ~~brother, sister, child, son-in-law, daughter-in-law, grandchild, un-~~  
6 ~~cle, aunt, parent-in-law, brother-in-law or sister-in-law;~~  
7 ~~—(3) a person who is currently or has been during the preceding~~  
8 ~~five years a member of the lottery gaming facility review board; or~~  
9 ~~—(4) a person who is: (A) The spouse of a person who is currently~~  
10 ~~or has been during the preceding five years a member of the lottery~~  
11 ~~gaming facility review board; or (B) one of the following blood-~~  
12 ~~relatives, half-relatives or step-relatives of a person who is currently~~  
13 ~~or has been during the preceding five years a member of the lottery~~  
14 ~~gaming facility review board: Parent, grandparent, brother, sister,~~  
15 ~~child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-~~  
16 ~~in-law, brother-in-law or sister-in-law.~~  
17 ~~—(c) Subsection (a) shall not apply to any governor, lieutenant~~  
18 ~~governor, attorney general or legislator, or any relative thereof,~~  
19 ~~who has not served as governor, lieutenant governor, attorney gen-~~  
20 ~~eral or legislator after December 31, 2005.~~  
21 *[New Sec. 31. (a) As used in this section:*  
22 *[(1) “Affiliated person” means*  
23 *[(A) Any member of the immediate family of a state or local*  
24 *official; or*  
25 *[(B) any partnership, firm, corporation or limited liability com-*  
26 *pany with which a state or local official is associated or in which a*  
27 *state or local official has an interest, or any partner, officer, director*  
28 *or employee thereof while the state or local official is associated*  
29 *with such partnership, firm, corporation or company.*  
30 *[(2) “State or local official” means:*  
31 *[(A) Any state officer or employee required to file a written*  
32 *statement of substantial interests pursuant to the state govern-*  
33 *mental ethics law and any other state officer or employee with re-*  
34 *sponsibility for matters affecting activities or operations of any lot-*  
35 *tery gaming facility or racetrack gaming facility;*  
36 *[(B) the governor or any full-time professional employee of the*  
37 *office of the governor;*  
38 *[(C) any member of the legislature and any full-time profes-*  
39 *sional employee of the legislature;*  
40 *[(D) any justice of the supreme court, judge of the court of ap-*  
41 *peals or judge of the district court;*  
42 *[(E) the head of any state agency, the assistant or deputy heads*  
43 *of any state agency, or the head of any division within a state*

1 *agency; or*

2 *[(F) any member of the governing body of a city or county*  
3 *where a lottery gaming facility or racetrack gaming facility is lo-*  
4 *cated; any municipal or county judge of such city or county; any*  
5 *city, county or district attorney of such city or county; and any*  
6 *member of or attorney for the planning board or zoning board of*  
7 *such city or county and any professional planner or consultant reg-*  
8 *ularly employed or retained by such planning board or zoning*  
9 *board.*

10 *[(b) No state or local official or affiliated person shall hold, di-*  
11 *rectly or indirectly, an interest in, be employed by, represent or*  
12 *appear for a lottery gaming facility or racetrack gaming facility, or*  
13 *for any lottery gaming facility manager or racetrack gaming facility*  
14 *manager, or any holding or intermediary company with respect*  
15 *thereto, in connection with any cause, application or matter.*

16 *[No state or local official or affiliated person shall represent, ap-*  
17 *pear for or negotiate on behalf of any person submitting a proposal*  
18 *for a lottery gaming facility or racetrack gaming facility, or on be-*  
19 *half of any lottery gaming facility manager or racetrack gaming*  
20 *facility manager, or any holding or intermediary company with re-*  
21 *spect thereto, in connection with any cause, application or matter.*

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

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

42 *[(e) No state or local official shall influence, or attempt to in-*  
43 *fluence, by use of official authority, the decision of the Kansas lot-*

1 ***tery commission, lottery gaming facility review board or Kansas***  
2 ***racing and gaming commission pursuant to this act; the investiga-***  
3 ***tion of a proposal for a lottery gaming facility or racetrack gaming***  
4 ***facility pursuant to this act; or any proceeding to enforce the pro-***  
5 ***visions of this act or rules and regulations of the Kansas lottery***  
6 ***commission or Kansas racing and gaming commission. Any such at-***  
7 ***tempt shall be reported promptly to the attorney general.***

8 ***[(f) Willful violation of this section is a class A misdemeanor.]***

9 New Sec. 32. Each person subject to a background check pursuant  
10 to the Kansas expanded lottery act shall be subject to a state and national  
11 criminal history records check which conforms to applicable federal stan-  
12 dards for the purpose of verifying the identity of the applicant and  
13 whether the person has been convicted of any crime that would disqualify  
14 the person from engaging in activities pursuant to this act. The executive  
15 director is authorized to use the information obtained from the national  
16 criminal history record check to determine the person's eligibility to en-  
17 gage in such activities.

18 New Sec. 33. Each lottery gaming facility manager and each race-  
19 track gaming facility manager shall post one or more signs at the location  
20 where such manager operates electronic gaming machines or lottery fa-  
21 cility games to inform patrons of the toll-free number available to provide  
22 information and referral services regarding compulsive or problem gam-  
23 bling. The text shall be determined by the executive director of the Kansas  
24 racing and gaming commission. Failure by a lottery gaming facility man-  
25 ager or racetrack gaming facility manager to post and maintain such signs  
26 shall be cause for the imposition of a fine not to exceed \$500 per day.

27 New Sec. 34. The Kansas lottery, lottery gaming facility managers,  
28 racetrack gaming facility managers, lottery gaming facility management  
29 contracts and racetrack gaming facility management contracts under the  
30 Kansas expanded lottery act shall not be subject to the provisions of and  
31 restrictions on major procurement contracts, including, but not limited  
32 to, the provisions of K.S.A. 74-8705, and amendments thereto.

33 New Sec. 35. (a) There is hereby established in the state treasury the  
34 expanded lottery act revenues fund. Separate accounts shall be main-  
35 tained in such fund for receipt of moneys from each lottery gaming facility  
36 manager and racetrack gaming facility manager. All expenditures from  
37 the fund shall be made in accordance with appropriation acts upon war-  
38 rants of the director of accounts and reports issued pursuant to vouchers  
39 approved by the executive director for the purposes set forth in this act.

40 (b) All lottery gaming facility revenues from lottery gaming facilities  
41 and all net electronic gaming machine income from racetrack gaming  
42 facilities shall be paid daily and electronically to the executive director.  
43 The executive director shall remit all moneys received therefrom to the

1 state treasurer in accordance with K.S.A. 75-4215, and amendments  
2 thereto. Upon receipt of the remittance, the state treasurer shall deposit  
3 the entire amount in the state treasury and credit it to the respective  
4 account maintained for the lottery gaming facility manager or racetrack  
5 gaming facility manager in the expanded lottery act revenues fund.

6 (c) The executive director shall certify weekly to the director of ac-  
7 counts and reports the percentages or amounts to be transferred from  
8 each account maintained in the expanded lottery act revenues fund to the  
9 ~~state general fund, the local ad valorem tax reduction fund~~ **Kansas ed-**  
10 **ucation opportunity trust fund and the Kansas gaming revenue**  
11 **property tax relief**, the live horse racing supplement fund, the live grey-  
12 hound racing purse supplement fund, the Kansas charitable gaming fund  
13 and the problem gambling grant fund, as provided by the lottery gaming  
14 facility management contract or section 16, and amendments thereto.  
15 Upon receipt of the certification, the director of accounts and reports  
16 shall transfer amounts from each such account in accordance with the  
17 certification of the executive director. Once each month, the executive  
18 director shall cause amounts from each such account to be paid to cities,  
19 counties and lottery gaming facility managers in accordance with the lot-  
20 tery gaming facility management contract and to racetrack gaming facility  
21 managers in accordance with section 16, and amendments thereto.

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

26 New Sec. 36. (a) (1) There is hereby established in the state treasury  
27 the live horse racing purse supplement fund.

28 (2) Twenty-five percent of all moneys credited to the live horse racing  
29 purse supplement fund shall be transferred to the Kansas horse breeding  
30 development fund created pursuant to K.S.A. 74-8829, and amendments  
31 thereto. Two percent of the moneys credited to the live horse racing purse  
32 supplement fund shall be distributed to the official registering agency  
33 designated pursuant to K.S.A. 74-8830, and amendments thereto, to be  
34 used for horse registration, administration, development, representation  
35 and promotion of the Kansas horse racing and breeding industries. A  
36 complete financial accounting for the use of the funds received pursuant  
37 to this subsection shall be provided annually to the Kansas racing and  
38 gaming commission. Fifty percent of the moneys credited to the Kansas  
39 horse breeding development fund pursuant to this section shall be used  
40 as purse supplements for registered Kansas-bred foals and distributed  
41 based upon recommendation from the official horse breed registering  
42 agency and approval of the Kansas racing and gaming commission. The  
43 balance of funds credited to the Kansas horse breeding development fund

1 pursuant to this section shall be used as breed awards for registered Kan-  
2 sas-bred broodmares and stallions. The Kansas racing and gaming com-  
3 mission shall distribute such moneys credited to the Kansas horse breed-  
4 ing development fund in accordance with K.S.A. 74-8829, and  
5 amendments thereto.

6 (3) Based on the contribution to the Kansas horse racing and breed-  
7 ing industries in Kansas, the balance in the live horse race purse suppl-  
8 ment fund shall be distributed in accordance with rules and regulations  
9 adopted by the Kansas racing and gaming commission with recommen-  
10 dations by the official registering agency designated pursuant to K.S.A.  
11 74-8830, and amendments thereto.

12 (b) There is hereby established in the state treasury the live grey-  
13 hound racing purse supplement fund. Moneys available in such fund shall  
14 be paid to the parimutuel licensees for distribution as purse supplements  
15 in accordance with rules and regulations of the Kansas racing and gaming  
16 commission. Such rules and regulations shall provide that 25% of the total  
17 amount credited to such fund shall be transferred to the credit of the  
18 Kansas greyhound breeding development fund, created pursuant to  
19 K.S.A. 74-8831, and amendments thereto. Funds transferred into the  
20 Kansas greyhound breeding development fund pursuant to this section  
21 shall be used to supplement special stake races and enhance the amount  
22 per point paid to the owners of Kansas-whelped greyhounds which win  
23 live races at Kansas greyhound tracks in accordance with Kansas racing  
24 and gaming commission rules and regulations. Upon the recommendation  
25 of the official greyhound breed registry, the Kansas racing and gaming  
26 commission may transfer funds from the Kansas greyhound breeding de-  
27 velopment fund to the live greyhound racing purse supplement fund.

28 (c) All purse supplements paid pursuant to this act shall be according  
29 to the point schedule in effect on January 1, 2003, at the respective par-  
30 imutuel licensee locations. All purse supplements paid pursuant to this  
31 section shall be in addition to purses and supplements paid under K.S.A.  
32 74-8801 et seq., and amendments thereto.

33 New Sec. 37. (a) There is hereby established in the state treasury the  
34 Kansas charitable gaming fund. All expenditures from the Kansas chari-  
35 table gaming fund shall be made in accordance with appropriation acts  
36 upon warrants of the director of accounts and reports issued pursuant to  
37 vouchers approved by the chairperson of the Kansas charitable gaming  
38 foundation board.

39 (b) Moneys in the Kansas charitable gaming fund shall be distributed  
40 by the Kansas charitable gaming foundation board to organizations veri-  
41 fied by the board to be nonprofit organizations which are located within  
42 the state and are exempt from federal income taxation pursuant to section  
43 501(c)(3) of the internal revenue code of 1986, as in effect on the effective



1 date of this act. Such moneys shall be distributed at least four times each  
2 year and shall be distributed equally among Kansas congressional districts.  
3 Organizations wishing to receive such moneys shall submit to the board  
4 a written application or request containing such information as required  
5 by the commission.

6 (c)(1) There is hereby created the Kansas charitable gaming foundation  
7 board. The board shall consist of:

- 8 (A) Three members appointed by the governor;
- 9 (B) one member appointed by the president of the senate;
- 10 (C) one member appointed by the speaker of the house of  
11 representatives;
- 12 (D) one member appointed by the minority leader of the senate; and
- 13 (E) one member appointed by the minority leader of the house of  
14 representatives.

15 (2) Not more than four members of the board shall be members of  
16 the same political party.

17 (3) Members first appointed to the board shall serve terms as follows:  
18 Two members appointed by the governor shall serve terms of two years  
19 and one shall serve a term of four years, as designated by the governor;  
20 the member appointed by the speaker of the house of representatives  
21 shall serve a term of two years; the member appointed by the president  
22 of the senate shall serve a term of four years; the member appointed by  
23 the minority leader of the house of representatives shall serve a term of  
24 four years; and the member appointed by the minority leader of the sen-  
25 ate shall serve a term of two years.

26 (4) The governor shall designate one member of the board to serve  
27 as chairperson of the board.

28 (5) Subject to the limitations of appropriations therefor, members of  
29 the board shall receive such compensation as determined by the governor.  
30 Members of the board attending meetings of the board or subcommittee  
31 meetings thereof approved by the board shall be paid subsistence allow-  
32 ances, mileage and other expenses as provided in K.S.A. 75-3223, and  
33 amendments thereto.

34 (6) The Kansas charitable gaming foundation board is hereby at-  
35 tached to the Kansas racing and gaming commission as a part thereof. All  
36 budgeting, purchasing and related management functions of the board  
37 shall be administered by the executive director of the Kansas racing and  
38 gaming commission and the executive director shall provide office and  
39 meeting space and such clerical and other staff assistance as may be nec-  
40 essary to assist the board in carrying out its powers, duties and functions  
41 under this act.

42 ***New Sec. 38. (a) There is hereby established in the state treas-***  
43 ***ury the Kansas gaming revenue property tax relief fund. All moneys***

1 *transferred or credited to such fund under the provisions of this act*  
2 *or any other law shall be apportioned and distributed in the manner*  
3 *provided by this section.*

4 (b) *The state treasurer shall apportion and pay the amounts in*  
5 *the Kansas gaming revenue property tax relief fund to county treas-*  
6 *urers on January 15 and on July 15 in each year in the same manner*  
7 *as provided by subsection (c) of K.S.A. 79-2959, and amendments*  
8 *thereto, for distributions of moneys in the local ad valorem tax re-*  
9 *duction fund.*

10 (c) *Upon receipt of payment from the state treasurer pursuant*  
11 *to subsection (b), the county treasurer shall distribute the entire*  
12 *amount paid among the county and all cities and community col-*  
13 *leges in the county in the same manner as provided by subsection*  
14 *(a) of K.S.A. 79-2961, and amendments thereto, for distribution of*  
15 *moneys paid to county treasurers from the local ad valorem tax*  
16 *reduction fund.*

17 (d) *The director of accounts and reports shall draw warrants*  
18 *on the state treasurer in favor of the several county treasurers on*  
19 *the dates and in the amounts apportioned to the several counties as*  
20 *provided in this section. Each such warrant shall be paid directly*  
21 *by the state treasurer to the county treasurer of the county in whose*  
22 *favor the warrant is drawn.*

23 **New Sec. 39.** (a) *There is hereby established in the state treas-*  
24 *ury the Kansas education opportunity trust fund. Amounts depos-*  
25 *ited in such fund shall be expended solely for the purpose of sup-*  
26 *plementing the state's obligation to fund preschool, kindergarten,*  
27 *elementary, secondary and postsecondary education programs. Ex-*  
28 *penditures from the Kansas education opportunity trust fund shall*  
29 *be made pursuant to appropriations acts.*

30 (b) *Such funding shall be supplemental to, and not in lieu of,*  
31 *any state revenues appropriated during the 2006 regular legislative*  
32 *session to fund educational programs for the fiscal year ending June*  
33 *30, 2007.*

34 (c) *Unless the payment or transfer has been authorized pursu-*  
35 *ant to a separate appropriations act which has been approved by a*  
36 *majority vote of the members of the house of representatives and a*  
37 *majority vote of the members of the senate, the state treasurer shall*  
38 *not make transfers or payments pursuant to an appropriation for*  
39 *any purpose other than supplementing the funding of education*  
40 *programs as described in subsection (a). Such payment or transfer*  
41 *shall be made only upon certification of the governor that such pay-*  
42 *ment meets the requirements of this section.*

43 **New Sec. ~~38~~ 40.** *Each person subject to a background check pur-*

1 suant to the Kansas expanded lottery act shall be subject to a state and  
2 national criminal history records check which conforms to applicable fed-  
3 eral standards for the purpose of verifying the identity of the applicant  
4 and whether the person has been convicted of any crime that would dis-  
5 qualify the person from engaging in activities pursuant to this act. The  
6 executive director of the Kansas racing and gaming commission is au-  
7 thorized to use the information obtained from the national criminal his-  
8 tory record check to determine the person's eligibility to engage in such  
9 activities.

10 New Sec. ~~39~~ **41**. (a) No taxes, fees, charges, transfers or distribu-  
11 tions, other than those provided for in the Kansas expanded lottery act,  
12 shall be made or levied by any city, county or other municipality from or  
13 against lottery gaming facility revenues of lottery gaming facilities or net  
14 electronic gaming machine income of racetrack gaming facilities.

15 (b) All sales of games on electronic gaming machines authorized by  
16 the Kansas expanded lottery act shall be exempt from sales taxes imposed  
17 pursuant to K.S.A. 12-187 et seq., and 79-3601 et seq., and amendments  
18 thereto.

19 New Sec. ~~40~~ **42**. Pursuant to section 2 of the federal act entitled  
20 "An Act to Prohibit Transportation of Gambling Devices in Interstate and  
21 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,  
22 acting by and through the duly elected and qualified members of the  
23 legislature, does hereby in this section, and in accordance with and in  
24 compliance with the provisions of section 2 of such federal act, declare  
25 and proclaims that it is exempt from the provision of section 2 of such  
26 federal act to the extent that such gambling devices as described therein  
27 are being transported to or from the Kansas lottery or to or from a lottery  
28 gaming facility or racetrack gaming facility or a location within the state  
29 of Kansas where such gambling devices are authorized pursuant to the  
30 Kansas expanded lottery act.

31 New Sec. ~~41~~ **43**. The Kansas racing and gaming commission shall  
32 adopt such rules and regulations as the commission deems necessary to  
33 carry out the duties and functions of the commission pursuant to the  
34 Kansas expanded lottery act. Such rules and regulations shall include, but  
35 not be limited to, rules and regulations:

36 (a) Promoting the integrity of the gaming and finances of lottery gam-  
37 ing facilities and racetrack gaming facilities and shall meet or exceed in-  
38 dustry standards for monitoring and controlling the gaming and finances  
39 of lottery gaming facility operations and racetrack gaming facility opera-  
40 tions and shall give the Kansas racing and gaming commission sufficient  
41 authority to monitor and control the gaming operation and to ensure its  
42 integrity and security;

43 (b) prescribing the on-site security arrangements for lottery gaming

1 facilities and racetrack gaming facilities;

2 (c) requiring reporting of information about any lottery gaming fa-  
3 cility manager or racetrack gaming facility manager, and its employees,  
4 vendors and finances, necessary or desirable to ensure the security of  
5 lottery gaming facility and racetrack gaming facility operations. None of  
6 the information disclosed pursuant to this subsection shall be subject to  
7 disclosure under the Kansas open records act;

8 (d) requiring reporting and auditing of financial information of lottery  
9 gaming facility managers and racetrack gaming facility managers, includ-  
10 ing, but not limited to, the reporting of profits or losses incurred by lottery  
11 gaming facility managers and racetrack gaming facility managers and the  
12 reporting of such other information as the Kansas racing and gaming  
13 commission requires to determine compliance with the Kansas expanded  
14 lottery act and rules and regulations adopted hereunder. None of the  
15 information disclosed pursuant to this subsection shall be subject to dis-  
16 closure under the Kansas open records act; and

17 (e) provisions for oversight of all lottery gaming facility operations  
18 and racetrack gaming facility operations, including, but not limited to,  
19 oversight of internal controls; oversight of security of facilities; perform-  
20 ance of background investigations, determination of qualifications and  
21 credentialing of employees, contractors and agents of lottery gaming fa-  
22 cility managers, ancillary lottery gaming facility operations and racetrack  
23 gaming facilities; auditing of lottery gaming facility revenues and net elec-  
24 tronic gaming machine income of racetrack gaming facilities; enforce-  
25 ment of all state laws; and maintenance of the integrity of lottery gaming  
26 facility and racetrack gaming facility operations.

27 New Sec. ~~42~~ **44**. The Kansas racing and gaming commission shall  
28 appoint or employ such officers and employees as the commission deems  
29 necessary to implement, administer and enforce the provisions of the  
30 Kansas expanded lottery act and may designate not more than 25 of such  
31 officers and employees to be in the unclassified service under the Kansas  
32 civil service act.

33 New Sec. ~~43~~ **45**. (a) A racetrack facility shall not be subject to sub-  
34 division regulations of a city but shall be subject to the Kansas fire pre-  
35 vention code adopted by the state fire marshal.

36 (b) This section shall be part of and supplemental to the Kansas par-  
37 imutuel racing act.

38 Sec. ~~44~~ **46**. K.S.A. 74-8710 is hereby amended to read as follows:  
39 74-8710. (a) The commission, upon the recommendation of the executive  
40 director, shall adopt rules and regulations governing the establishment  
41 and operation of a state lottery, *sales of lottery tickets and the operation*  
42 *of lottery gaming facilities and racetrack gaming facilities* as necessary to  
43 carry out the purposes of ~~this~~ *the Kansas lottery act and the Kansas ex-*

- 1 *panded lottery act.* Temporary rules and regulations may be adopted by  
2 the commission without being subject to the provisions and requirements  
3 of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be  
4 subject to approval by the attorney general as to legality and shall be filed  
5 with the secretary of state and published in the Kansas register. Tem-  
6 porary and permanent rules and regulations may include but shall not be  
7 limited to:
- 8 (1) Subject to the provisions of subsection (c), the types of lottery  
9 games to be conducted, including, but not limited to, instant lottery, on-  
10 line ~~and~~ traditional games, *lottery facility games and electronic gaming*  
11 *machine games* but not including games on video lottery machines or  
12 lottery machines.
  - 13 (2) The manner of selecting the winning tickets or shares, except that,  
14 if a lottery game utilizes a drawing of winning numbers, a drawing among  
15 entries or a drawing among finalists, such drawings shall always be open  
16 to the public and shall be recorded on both video and audio tape.
  - 17 (3) The manner of payment of prizes to the holders of winning tickets  
18 or shares.
  - 19 (4) The frequency of the drawings or selections of winning tickets or  
20 shares.
  - 21 (5) The type or types of locations at which tickets or shares may be  
22 sold.
  - 23 (6) The method or methods to be used in selling tickets or shares.
  - 24 (7) Additional qualifications for the selection of lottery retailers and  
25 the amount of application fees to be paid by each.
  - 26 (8) The amount and method of compensation to be paid to lottery  
27 retailers, including special bonuses and incentives.
  - 28 (9) Deadlines for claims for prizes by winners of each lottery game.
  - 29 (10) Provisions for confidentiality of information submitted by ven-  
30 dors pursuant to K.S.A. 74-8705, and amendments thereto.
  - 31 (11) Information required to be submitted by vendors, in addition to  
32 that required by K.S.A. 74-8705, and amendments thereto.
  - 33 (12) The major procurement contracts or portions thereof to be  
34 awarded to minority business enterprises pursuant to subsection (a) of  
35 K.S.A. 74-8705, and amendments thereto, and procedures for the award  
36 thereof.
  - 37 (13) *Rules and regulations to implement, administer and enforce the*  
38 *provisions of the Kansas expanded lottery act. Such rules and regulations*  
39 *shall include, but not be limited to, rules and regulations which govern*  
40 *management contracts and which are designed to (A) ensure the integrity*  
41 *of electronic gaming machines and other lottery facility games and the*  
42 *finances of lottery gaming facilities and (B) alleviate problem gambling,*  
43 *including a requirement that each lottery gaming facility and each race-*

1 *track gaming facility maintain a self-exclusion list by which individuals*  
2 *may exclude themselves from access to electronic gaming machines and*  
3 *other lottery facility games.*

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

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

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

16 Sec. ~~45~~ 47. K.S.A. 2005 Supp. 74-8711 is hereby amended to read  
17 as follows: 74-8711. (a) There is hereby established in the state treasury  
18 the lottery operating fund.

19 (b) Except as provided by K.S.A. 2005 Supp. 74-8724 *and the Kansas*  
20 *expanded lottery act*, and amendments thereto, the executive director  
21 shall remit all moneys collected from the sale of lottery tickets and shares  
22 and any other moneys received by or on behalf of the Kansas lottery to  
23 the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
24 and amendments thereto. Upon receipt of each such remittance, the state  
25 treasurer shall deposit the entire amount in the state treasury to the credit  
26 of the lottery operating fund. Moneys credited to the fund shall be ex-  
27 pended or transferred only as provided by this act. Expenditures from  
28 such fund shall be made in accordance with appropriations acts upon  
29 warrants of the director of accounts and reports issued pursuant to vouch-  
30 ers approved by the executive director or by a person designated by the  
31 executive director.

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

33 (1) The payment of expenses of the lottery, which shall include all  
34 costs incurred in the operation and administration of the Kansas lottery;  
35 all costs resulting from contracts entered into for the purchase or lease  
36 of goods and services needed for operation of the lottery, including but  
37 not limited to supplies, materials, tickets, independent studies and sur-  
38 veys, data transmission, advertising, printing, promotion, incentives, pub-  
39 lic relations, communications and distribution of tickets and shares; and  
40 reimbursement of costs of facilities and services provided by other state  
41 agencies;

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

43 (3) transfers of moneys to the lottery prize payment fund pursuant to

- 1 K.S.A. 74-8712, and amendments thereto;
- 2 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,
- 3 and amendments thereto;
- 4 (5) transfers to the state gaming revenues fund pursuant to subsection
- 5 ~~(d) of this section~~ and as otherwise provided by law; and
- 6 (6) transfers to the county reappraisal fund as prescribed by law.
- 7 (d) The director of accounts and reports shall transfer moneys in the
- 8 lottery operating fund to the state gaming revenues fund created by
- 9 K.S.A. 79-4801, and amendments thereto, on or before the 15th day of
- 10 each month in an amount certified monthly by the executive director and
- 11 determined as follows, whichever is greater:
- 12 (1) An amount equal to the moneys in the lottery operating fund in
- 13 excess of those needed for the purposes described in subsections (c)(1)
- 14 through (c)(4); or
- 15 (2) except for pull-tab lottery tickets and shares, an amount equal to
- 16 not less than 30% of total monthly revenues from the sales of lottery
- 17 tickets and shares less estimated returned tickets. In the case of pull-tab
- 18 lottery tickets and shares, an amount equal to not less than 20% of the
- 19 total monthly revenues from the sales of pull-tab lottery tickets and shares
- 20 less estimated returned tickets.
- 21 ~~Sec. 46-48.~~ K.S.A. 74-8716 is hereby amended to read as follows:
- 22 74-8716. (a) It is unlawful for the executive director, a member of the
- 23 commission or any employee of the Kansas lottery, or any person residing
- 24 in the household thereof to:
- 25 (1) Have, either directly or indirectly, an interest in a business know-
- 26 ing that such business contracts with the Kansas lottery for a major pro-
- 27 curement, whether such interest is as a natural person, partner, member
- 28 of an association, stockholder or director or officer of a corporation; or
- 29 (2) accept or agree to accept any economic opportunity, gift, loan,
- 30 gratuity, special discount, favor or service, or hospitality other than food
- 31 and beverages, having an aggregate value of \$20 or more in any calendar
- 32 year from a person knowing that such person (A) contracts or seeks to
- 33 contract with the state to supply gaming equipment, materials, tickets or
- 34 consulting services for use in the lottery or (B) is a lottery retailer or an
- 35 applicant for lottery retailer.
- 36 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
- 37 or a person who contracts or seeks to contract with the state to supply
- 38 gaming equipment, materials, tickets or consulting services for use in the
- 39 lottery to offer, pay, give or make any economic opportunity, gift, loan,
- 40 gratuity, special discount, favor or service, or hospitality other than food
- 41 and beverages, having an aggregate value of \$20 or more in any calendar
- 42 year to a person, knowing such person is the executive director, a member
- 43 of the commission or an employee of the Kansas lottery, or a person

1 residing in the household thereof.

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

6 (1) *Any lottery gaming facility manager, subcontractor or agent of a*  
7 *lottery gaming facility manager, manufacturer or vendor of electronic*  
8 *gaming machines or central computer system provider, or any business*  
9 *which sells goods or services to a lottery gaming facility manager; or*

10 (2) *any licensee pursuant to the Kansas parimutuel racing act, other*  
11 *than the Kansas lottery or a person holding a license on behalf of the*  
12 *Kansas lottery, or any business which sells goods or services to a pari-*  
13 *mutuel licensee.*

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

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

22 (f) *It shall be unlawful for the executive director, a member of the*  
23 *commission or an employee of the Kansas lottery to accept any compen-*  
24 *sation, gift, loan, entertainment, favor or service from any lottery gaming*  
25 *facility manager, subcontractor or agent of a lottery gaming facility man-*  
26 *ager, manufacturer or vendor of electronic gaming machines or central*  
27 *computer system provider.*

28 (g) *It shall be unlawful for the executive director, a member of the*  
29 *commission or an employee of the Kansas lottery to accept any compen-*  
30 *sation, gift, loan, entertainment, favor or service from any licensee pur-*  
31 *suant to the Kansas parimutuel racing act, except such suitable facilities*  
32 *and services within a racetrack facility operated by an organization li-*  
33 *cencee as may be required to facilitate the performance of the executive*  
34 *director's, member's or employee's official duties.*

35 ~~(h)~~ (h) *Violation of this section is a class A misdemeanor.*

36 ~~(i)~~ (i) *If the executive director, a member of the commission or an*  
37 *employee of the Kansas lottery, or any person residing in the household*  
38 *thereof, is convicted of an act described by this section, such executive*  
39 *director, member or employee shall be removed from office or employ-*  
40 *ment with the Kansas lottery.*

41 ~~(j)~~ (j) *In addition to the provisions of this section, all other provisions*  
42 *of law relating to conflicts of interest of state employees shall apply to the*  
43 *members of the commission and employees of the Kansas lottery.*



1     Sec. ~~47.~~ **49.** K.S.A. 74-8723 is hereby amended to read as follows:  
2     74-8723. (a) The Kansas lottery and the office of executive director of the  
3     Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,  
4     and the Kansas lottery commission, created by K.S.A. 74-8709, and  
5     amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~  
6     2022.

7     (b) This section shall be part of and supplemental to the Kansas lot-  
8     tery act.

9     Sec. ~~48.~~ **50.** K.S.A. 74-8810 is hereby amended to read as follows:  
10    74-8810. (a) It is a class A nonperson misdemeanor for any person to have  
11    a financial interest, directly or indirectly, in any racetrack facility within  
12    the state of Kansas or in any host facility for a simulcast race displayed in  
13    this state:

14    (1) While such person is executive director or a member of the com-  
15    mission or during the five years immediately following such person's term  
16    as executive director or member of the commission; or

17    (2) while such person is an officer, director or member of an organ-  
18    ization licensee, other than a fair association or horsemen's nonprofit or-  
19    ganization, or during the five years immediately following the time such  
20    person is an officer, director or member of such an organization licensee.

21    ***(b) It is a class A nonperson misdemeanor for any person to hold any  
22    paid position with any facility manager licensee, facility owner licensee  
23    or organization licensee or to have any financial interest, directly or in-  
24    directly, in any racetrack facility within the state of Kansas:***

25    (1) While such person is a member of the Kansas legislature or during  
26    the five years immediately following such person's term as such member;  
27    or

28    (2) if such person is (A) the spouse of a member of the Kansas legis-  
29    lature, (B) the spouse of a person who has been a member of the Kansas  
30    legislature during the preceding five years or (C) one of the following  
31    blood-relatives, half-relatives or step-relatives of a member of the Kansas  
32    legislature or a person who has been a member of the Kansas legislature  
33    during the preceding five years: Parent, grandparent, brother, sister,  
34    child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-  
35    law, brother-in-law or sister-in-law.

36    ~~(b)~~ (c) It is a class A nonperson misdemeanor for any member, em-  
37    ployee or appointee of the commission, including stewards and racing  
38    judges, to knowingly:

39    (1) Participate in the operation of or have a financial interest in any  
40    business which has been issued a concessionaire license, racing or wa-  
41    gering equipment or services license, facility owner license or facility  
42    manager license, or any business which sells goods or services to an or-  
43    ganization licensee;

- 1 (2) participate directly or indirectly as an owner, owner-trainer or  
2 trainer of a horse or greyhound, or as a jockey of a horse, entered in a  
3 race meeting conducted in this state;
- 4 (3) place a wager on an entry in a horse or greyhound race conducted  
5 by an organization licensee; or
- 6 (4) accept any compensation, gift, loan, entertainment, favor or serv-  
7 ice from any licensee, except such suitable facilities and services within a  
8 racetrack facility operated by an organization licensee as may be required  
9 to facilitate the performance of the member's, employee's or appointee's  
10 official duties.
- 11 ~~(c)~~ (d) (1) Except as provided in paragraph (2), it is a class A non-  
12 person misdemeanor for any member, employee or appointee of the com-  
13 mission, or any spouse, parent, grandparent, brother, sister, child, son-  
14 in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law,  
15 brother-in-law or sister-in-law thereof, to:
- 16 (A) Hold any license issued by the commission, except that a steward  
17 or racing judge shall hold an occupation license to be such a steward or  
18 judge; or
- 19 (B) enter into any business dealing, venture or contract with an owner  
20 or lessee of a racetrack facility in Kansas.
- 21 (2) This subsection shall not apply to any racing judge holding an  
22 occupation license, if such racing judge is employed at a racetrack facility  
23 and such racing judge's relative, as listed above, is a licensed owner,  
24 owner-trainer or trainer of a greyhound that races at a different racetrack  
25 facility.
- 26 ~~(d)~~ (e) It is a class A nonperson misdemeanor for any officer, director  
27 or member of an organization licensee, other than a fair association or  
28 horsemen's nonprofit organization, to:
- 29 (1) Receive, for duties performed as an officer or director of such  
30 licensee, any compensation or reimbursement or payment of expenses in  
31 excess of the amounts provided by K.S.A. 75-3223 and amendments  
32 thereto for board members' compensation, mileage and expenses; or
- 33 (2) enter into any business dealing, venture or contract with the or-  
34 ganization licensee or, other than in the capacity of an officer or director  
35 of the organization licensee, with a facility owner licensee, facility man-  
36 ager licensee, racing or wagering equipment or services licensee or con-  
37 cessionaire licensee, or with any host facility for a simulcast race displayed  
38 in this state.
- 39 ~~(e)~~ (f) It is a class A nonperson misdemeanor for any facility owner  
40 licensee or facility manager licensee, other than a horsemen's association,  
41 or any officer, director, employee, stockholder or shareholder thereof or  
42 any person having an ownership interest therein, to participate directly  
43 or indirectly as an owner, owner-trainer or trainer of a horse or grey-

1 hound, or as a jockey of a horse, entered in a live race conducted in this  
2 state.

3 ~~(f)~~ (g) It is a class A nonperson misdemeanor for any licensee of the  
4 commission, or any person who is an officer, director, member or em-  
5 ployee of a licensee, to place a wager at a racetrack facility located in  
6 Kansas on an entry in a horse or greyhound race if:

7 (1) The commission has by rules and regulations designated such per-  
8 son's position as a position which could influence the outcome of such  
9 race or the parimutuel wagering thereon; and

10 (2) such race is conducted at or simulcast to the racetrack facility  
11 where the licensee is authorized to engage in licensed activities.

12 ~~(g)~~ (h) It is a class B nonperson misdemeanor for any person to use  
13 any animal or fowl in the training or racing of racing greyhounds.

14 ~~(h)~~ (i) It is a class A nonperson misdemeanor for any person to:

15 (1) Sell a parimutuel ticket or an interest in such a ticket to a person  
16 knowing such person to be under ~~18~~ 21 years of age, upon conviction of  
17 the first offense;

18 (2) accept, transmit or deliver, from a person outside a racetrack fa-  
19 cility, anything of value to be wagered in any parimutuel system of wa-  
20 gering within a racetrack facility, upon conviction of the first offense;

21 (3) administer or conspire to administer any drug or medication to a  
22 horse or greyhound within the confines of a racetrack facility in violation  
23 of rules and regulations of the commission, upon conviction of the first  
24 offense;

25 (4) possess or conspire to possess, within the confines of a racetrack  
26 facility, any drug or medication for administration to a horse or greyhound  
27 in violation of rules and regulations of the commission, upon conviction  
28 of the first offense;

29 (5) possess or conspire to possess, within the confines of a racetrack  
30 facility, equipment for administering drugs or medications to horses or  
31 greyhounds in violation of rules and regulations of the commission, upon  
32 conviction of the first offense;

33 (6) enter any horse or greyhound in any race knowing such horse or  
34 greyhound to be ineligible to compete in such race pursuant to K.S.A.  
35 74-8812 and amendments thereto; or

36 (7) prepare or cause to be prepared an application for registration of  
37 a horse pursuant to K.S.A. 74-8830 and amendments thereto knowing  
38 that such application contains false information.

39 ~~(i)~~ (j) It is a severity level 8, nonperson felony for any person to:

40 (1) Sell a parimutuel ticket or an interest in such a ticket to a person  
41 knowing such person to be under ~~18~~ 21 years of age, upon conviction of  
42 the second or a subsequent offense;

43 (2) accept, transmit or deliver, from any person outside a racetrack

- 1 facility, anything of value to be wagered in any parimutuel system of  
2 wagering within a racetrack facility, upon the second or a subsequent  
3 conviction;
- 4 (3) conduct or assist in the conduct of a horse or greyhound race, or  
5 the display of a simulcast race, where the parimutuel system of wagering  
6 is used or is intended to be used and where no license has been issued  
7 to an organization to conduct or simulcast such race;
- 8 (4) enter any horse or greyhound in any race conducted by an organ-  
9 zation licensee knowing that the class or grade in which such horse or  
10 greyhound is entered is not the true class or grade or knowing that the  
11 name under which such horse or greyhound is entered is not the name  
12 under which such horse or greyhound has been registered and has pub-  
13 licly performed;
- 14 (5) use or conspire to use any device, other than an ordinary whip for  
15 horses or a mechanical lure for greyhounds, for the purpose of affecting  
16 the speed of any horse or greyhound at any time during a race conducted  
17 by an organization licensee;
- 18 (6) possess or conspire to possess, within the confines of a racetrack  
19 facility, any device, other than an ordinary whip for horses or a mechanical  
20 lure for greyhounds, designed or intended to affect the speed of a horse  
21 or greyhound;
- 22 (7) administer or conspire to administer any drug or medication to a  
23 horse or greyhound within the confines of a racetrack facility in violation  
24 of rules and regulations of the commission, upon conviction of the second  
25 or a subsequent offense;
- 26 (8) possess or conspire to possess, within the confines of a racetrack  
27 facility, any drug or medication for administration to a horse or greyhound  
28 in violation of rules and regulations of the commission, upon conviction  
29 of the second or a subsequent offense;
- 30 (9) possess or conspire to possess, within the confines of a racetrack  
31 facility, equipment for administering drugs or medications to horses or  
32 greyhounds in violation of rules and regulations of the commission, upon  
33 conviction of the second or a subsequent offense;
- 34 (10) sponge the nostrils or windpipe of a horse for the purpose of  
35 stimulating or depressing such horse or affecting its speed at any time  
36 during a race meeting conducted by an organization licensee;
- 37 (11) alter or attempt to alter the natural outcome of any race con-  
38 ducted by, or any simulcast race displayed by, an organization licensee or  
39 transmit or receive an altered race or delayed broadcast race if parimutuel  
40 wagering is conducted or solicited after off time of the race;
- 41 (12) influence or attempt to influence, by the payment or promise of  
42 payment of money or other valuable consideration, any person to alter  
43 the natural outcome of any race conducted by, or any simulcast race

1 displayed by, an organization licensee;

2 (13) influence or attempt to influence any member, employee or ap-  
3 pointee of the commission, by the payment or promise of payment of  
4 money or other valuable consideration, in the performance of any official  
5 duty of that member, employee or appointee;

6 (14) fail to report to the commission or to one of its employees or  
7 appointees knowledge of any violation of this act by another person for  
8 the purpose of stimulating or depressing any horse or greyhound, or af-  
9 fecting its speed, at any time during any race conducted by an organiza-  
10 tion licensee;

11 (15) commit any of the following acts with respect to the prior racing  
12 record, pedigree, identity or ownership of a registered horse or greyhound  
13 in any matter related to the breeding, buying, selling or racing of the  
14 animal: (A) Falsify, conceal or cover up, by any trick, scheme or device,  
15 a material fact; (B) make any false, fictitious or fraudulent statement or  
16 representation; or (C) make or use any false writing or document knowing  
17 that it contains any false, fictitious or fraudulent statement or entry; or

18 (16) pass or attempt to pass, cash or attempt to cash any altered or  
19 forged parimutuel ticket knowing it to have been altered or forged.

20 ~~(j)~~ (k) (1) No person less than ~~18~~ 21 years of age shall purchase a  
21 parimutuel ticket or an interest in such a ticket.

22 (2) Any person ~~violating~~ *less than 18 years of age who violates* this  
23 subsection shall be subject to adjudication as a juvenile offender pursuant  
24 to the Kansas juvenile justice code.

25 (3) *Violation of this subsection by a person 18 or more years of age*  
26 *is a class A misdemeanor upon conviction of the first offense and a severity*  
27 *level 8, nonperson felony upon conviction of the second or a subsequent*  
28 *offense.*

29 Sec. ~~49~~ 51. K.S.A. 74-8814 is hereby amended to read as follows:  
30 74-8814. (a) Subject to the provisions of subsection (b), the commission  
31 shall establish by rules and regulations an application fee not exceeding  
32 \$500 for any of the following which applies for an organization license  
33 and the license fee for any of the following granted an organization license  
34 shall be \$100 for each day of racing approved by the commission:

35 (1) Any fair association other than the Greenwood county and An-  
36 thony fair associations, any horsemen's nonprofit organization or the na-  
37 tional greyhound association of Abilene, Kansas, if: (A) Such association  
38 conducts not more than two race meetings each year; (B) such race meets  
39 are held within the boundaries of the county where the applicant is lo-  
40 cated; and (C) such race meetings are held for a total of not more than  
41 ~~21~~ 40 days per year; or

42 (2) the Greenwood county fair association or a horsemen's nonprofit  
43 organization, with respect to race meetings conducted by such association

1 or organization at Eureka Downs, or the Anthony fair association or a  
2 horsemen's nonprofit organization, with respect to race meetings con-  
3 ducted by such association or organization at Anthony Downs, for which  
4 the number of race meetings and days, and the dates thereof, shall be  
5 specified by the commission.

6 (b) The commission shall adopt rules and regulations providing for  
7 simplified and less costly procedures and requirements for fair associa-  
8 tions and horsemen's nonprofit organizations applying for or holding a  
9 license to conduct race meetings.

10 (c) The Kansas ~~bureau of investigation~~ *racing and gaming commis-*  
11 *sion* shall investigate:

12 (1) The president, vice-president, secretary and treasurer of a fair  
13 association, and such other members as the commission considers nec-  
14 essary, to determine eligibility for an organization license;

15 (2) each officer and each director of a nonprofit horsemen's organi-  
16 zation, and such other members or shareholders as the commission con-  
17 siders necessary to determine eligibility for an organization license.

18 (d) Except as otherwise provided by this section, all applicants for  
19 organization licenses for the conduct of race meetings pursuant to the  
20 provisions of this section shall be required to comply with all the provi-  
21 sions of K.S.A. 74-8813 and amendments thereto.

22 Sec. ~~50~~ **52.** K.S.A. 74-8823 is hereby amended to read as follows:  
23 74-8823. (a) There is hereby imposed a tax on the gross sum wagered by  
24 the parimutuel method as follows:

25 (1) Of the total daily takeout from parimutuel pools for live horse  
26 races conducted in this state, a tax at the rate of  $\frac{3}{18}$ ;

27 (2) except as provided by subsection (a)(3), for live greyhound races  
28 conducted in this state at a racetrack facility for the racing of only grey-  
29 hounds: (A) During the first four years when racing with parimutuel wa-  
30 gering is conducted at such facility, a tax at the rate of  $\frac{3}{18}$  of the total  
31 daily takeout from parimutuel pools for live greyhound races; and (B)  
32 thereafter, from parimutuel pools for each live greyhound performance,  
33 a tax at the rate of  $\frac{3}{18}$  of the first \$400,000 wagered,  $\frac{4}{18}$  of the next  
34 \$200,000 wagered and  $\frac{5}{18}$  of any amounts wagered exceeding \$600,000;

35 (3) for live greyhound races conducted in this state at a dual racetrack  
36 facility or at a racetrack facility owned by a licensee whose license au-  
37 thORIZES the construction of a dual racetrack facility: (A) During the first  
38 seven years when racing with parimutuel wagering is conducted at such  
39 facility, a tax at the rate of  $\frac{3}{18}$  of the total daily takeout from parimutuel  
40 pools for live greyhound races; and (B) thereafter, from parimutuel pools  
41 for each live greyhound performance, a tax at the rate of  $\frac{3}{18}$  of the first  
42 \$600,000 wagered,  $\frac{4}{18}$  of the next \$200,000 wagered and  $\frac{5}{18}$  of any  
43 amounts wagered exceeding \$800,000; and

- 1 (4) of the total daily takeout from amounts wagered in this jurisdiction  
2 on simulcast races displayed in this state, a tax at the rate of  $\frac{3}{16}$ s.
- 3 (b) The tax imposed by this section shall be no less than 3% nor more  
4 than 6% of the total money wagered each day at a racetrack facility.
- 5 (c) The tax imposed by this section shall be remitted to the commis-  
6 sion by each organization licensee by the next business day following the  
7 day on which the wagers took place. The commission shall remit any such  
8 tax moneys received to the state treasurer in accordance with the provi-  
9 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each  
10 such remittance, the state treasurer shall deposit the entire amount in the  
11 state treasury to the credit of the state racing fund created by K.S.A. 74-  
12 8826, and amendments thereto, except as provided by K.S.A. 74-8838,  
13 and amendments thereto.
- 14 (d) The commission shall audit and verify that the amount of tax re-  
15 ceived from each organization licensee hereunder is correct.
- 16 (e) *Nothing in this section shall be construed to impose any tax on*  
17 *amounts wagered on electronic gaming machine games operated pursuant*  
18 *to the Kansas expanded lottery act.*
- 19 Sec. ~~51~~ **53.** K.S.A. 74-8830 is hereby amended to read as follows:  
20 74-8830. (a) The commission shall, by rules and regulations:
- 21 (1) Qualify stallions for participation in Kansas-registered stallion  
22 awards;
- 23 (2) provide for the registration of Kansas-domiciled mares, Kansas-  
24 domiciled stallions and Kansas-bred horses;
- 25 (3) determine qualifications of Kansas-bred horses and establish clas-  
26 ses of Kansas-bred horses for registration purposes and for the purpose  
27 of awarding purse supplements, stakes and awards pursuant to K.S.A. 74-  
28 8829 and amendments thereto; and
- 29 (4) establish a schedule of fees for the registration of Kansas-domi-  
30 ciled mares, Kansas-domiciled stallions and Kansas-bred horses sufficient  
31 to provide for all expenses incurred in the administration of the Kansas  
32 horse breeding development fund created pursuant to K.S.A. 74-8829  
33 and amendments thereto.
- 34 (b) The commission may contract with and designate an official reg-  
35 istering agency to implement the registration of horses. *The board of*  
36 *directors of the official registering agency shall consist of five represen-*  
37 *tatives of the quarter horse breed and five representatives of the thor-*  
38 *oughbred breed. Representatives shall be selected by each breed organi-*  
39 *zation from their respective memberships pursuant to rules and*  
40 *regulations adopted by the Kansas racing and gaming commission. In*  
41 *order to be eligible to serve on the board, a participant must be a legal*  
42 *resident of the state of Kansas and a member of the Kansas quarter horse*  
43 *racing association or the Kansas thoroughbred association. Such agency*

1 shall operate under the supervision of the commission and be subject to  
2 rules and regulations of the commission. The official registering agency  
3 shall receive no compensation *from the Kansas racing and gaming com-*  
4 *mission* except fees received for registration of horses necessary to pay  
5 its expenses for such registration.

6 (c) The commission may contract with and designate an agency to  
7 provide for the distribution of purse supplements, stakes and awards from  
8 the Kansas horse breeding development fund. Such agency shall operate  
9 under the supervision of the commission and be subject to rules and  
10 regulations of the commission.

11 Sec. ~~52~~ **54**. K.S.A. 74-8832 is hereby amended to read as follows:  
12 74-8832. (a) The commission shall, by rules and regulations, establish a  
13 schedule of fees for the registration of Kansas-whelped greyhounds  
14 which, together with the amount provided pursuant to K.S.A. 74-8830  
15 and amendments thereto, shall be sufficient to provide for all expenses  
16 incurred in the administration of the Kansas greyhound breeding devel-  
17 opment fund created pursuant to K.S.A. 74-8831 and amendments  
18 thereto.

19 (b) The commission may contract with and designate an official reg-  
20 istering agency to implement the registration of greyhounds. Such agency  
21 shall operate under the supervision of the commission and be subject to  
22 rules and regulations of the commission. The official registering agency  
23 shall receive no compensation *from the Kansas racing and gaming com-*  
24 *mission* except the amount provided pursuant to K.S.A. ~~74-8830~~ 74-8831,  
25 and amendments thereto, and fees received for registration of greyhounds  
26 necessary to pay its expenses for such registration.

27 (c) The commission may contract with and designate an agency to  
28 provide for the distribution of purse supplements from the Kansas grey-  
29 hound breeding development fund. Such agency shall operate under the  
30 supervision of the commission and be subject to rules and regulations of  
31 the commission.

32 Sec. ~~53~~ **55**. K.S.A. 74-8838 is hereby amended to read as follows:  
33 74-8838. (a) The state treasurer shall credit  $\frac{1}{3}$  of the taxes on the takeout  
34 from parimutuel pools for simulcast races, as certified by the executive  
35 director, to the horse fair racing benefit fund, which is hereby created in  
36 the state treasury.

37 (b) *Twenty-five percent of all moneys credited to the horse fair racing*  
38 *benefit fund may be expended, upon application to the commission, for*  
39 *capital improvements to racetrack facilities on or adjacent to premises*  
40 *used by a fair association to conduct fair racing activities.*

41 (c) *In addition to amounts expended pursuant to subsection (b),*  
42 *\$2,000,000 of moneys in the fund shall be expended in each fiscal year*  
43 *for capital improvement projects, operations, purse awards or commission*



1 *expenses associated with regulation and oversight of parimutuel activity,*  
2 *or any or all of the foregoing, at the racetrack facilities on or adjacent to*  
3 *premises used by a fair association to conduct fair activities at Eureka*  
4 *Downs in Greenwood county and Anthony Downs in Harper county.*  
5 *Such moneys shall be expended only on application by the fair association*  
6 *licensee and a determination by the commission that the application has*  
7 *merit. Any portion of such \$2,000,000 which is not expended in a fiscal*  
8 *year shall carry over to subsequent fiscal years and shall be in addition*  
9 *to the amount provided to be expended pursuant to this subsection in such*  
10 *subsequent fiscal years.*

11 *(d) The remaining moneys in the horse fair racing benefit fund shall*  
12 *be expended only for:*

13 *(1) Reimbursement of the commission for the commission's admin-*  
14 *istrative costs, as established by rules and regulations of the commission,*  
15 *related to race meetings conducted by a fair association or a horsemen's*  
16 *nonprofit organization, including the cost of stewards, racing judges and*  
17 *assistant animal health officers performing services at such race meetings;*

18 *(2) paying the costs of totalisator expenses incurred by an organiza-*  
19 *tion licensee that is a fair association or horsemen's nonprofit*  
20 *organization;*

21 *(3) paying the costs of background investigations required under the*  
22 *Kansas parimutuel racing act for members of a fair association or horse-*  
23 *men's nonprofit organization;*

24 *(4) purse supplements at race meetings conducted by a fair associa-*  
25 *tion or horsemen's nonprofit organization;*

26 *(5) basic operating assistance grants to an organization licensee that*  
27 *is a fair association or horsemen's nonprofit organization; and*

28 *(6) costs for employment of key racing officials, as determined by the*  
29 *commission, incurred by an organization licensee that is a fair association*  
30 *or horsemen's nonprofit organization.*

31 ~~(e)~~ *(e) The commission shall adopt rules and regulations establishing*  
32 *procedures for distributing moneys in the horse fair racing benefit fund*  
33 *to fair associations and nonprofit horsemen's organizations for the pur-*  
34 *poses provided by this section.*

35 ~~(f)~~ *(f) Expenditures from the horse fair racing benefit fund related*  
36 *to the conduct of a race meeting shall not be allocated to any organization*  
37 *licensee for a period exceeding ~~21~~ 40 days.*

38 ~~(g)~~ *(g) Expenditures from the horse fair racing benefit fund shall not*  
39 *be allocated to any organization licensee to support the conduct of pari-*  
40 *mutuel greyhound races unless the organization licensee conducts an*  
41 *equal or greater number of parimutuel horse races during the race*  
42 *meeting.*

43 ~~(h)~~ *(h) Expenditures from the horse fair racing benefit fund shall be*

1 made in accordance with appropriation acts upon warrants of the director  
2 of accounts and reports issued pursuant to vouchers approved by the  
3 chairperson of the commission or a person designated by the chairperson.

4 New Sec. ~~54.~~ **56.** (a) The Kansas racing and gaming commission shall  
5 establish a greyhound promotion and development fund which shall be  
6 funded through a voluntary greyhound purse checkoff program which  
7 shall provide for the deduction of 2% from all purses paid to kennels and  
8 greyhound owners who participate in the program. Greyhound owners  
9 and kennel operators shall be provided an opportunity annually to not  
10 participate in the program by signing a form approved by the Kansas  
11 racing and gaming commission. Moneys deposited into the fund shall be  
12 used for the development, promotion and representation of the grey-  
13 hound industry in Kansas and shall be distributed to the organization  
14 contracted with by the Kansas racing and gaming commission to admin-  
15 ister the official greyhound registry in Kansas.

16 (b) This section shall be part of and supplemental to the Kansas par-  
17 imutuel racing act.

18 Sec. ~~55.~~ **57.** K.S.A. 2005 Supp. 79-4805 is hereby amended to read  
19 as follows: 79-4805. (a) There is hereby established in the state treasury  
20 the problem gambling grant fund. All moneys credited to such fund shall  
21 be used only for the awarding of grants under this section. Such fund  
22 shall be administered in accordance with this section and the provisions  
23 of appropriation acts.

24 (b) All expenditures from the problem gambling grant fund shall be  
25 made in accordance with appropriation acts upon warrants of the director  
26 of accounts and reports issued pursuant to vouchers approved in the man-  
27 ner prescribed by law.

28 (c) There is hereby established a state grant program to provide as-  
29 sistance for the direct treatment of persons diagnosed as suffering from  
30 pathological gambling and to provide funding for research regarding the  
31 impact of gambling on residents of Kansas. Research grants awarded un-  
32 der this section may include, but need not be limited to, grants for de-  
33 termining the effectiveness of education and prevention efforts on the  
34 prevalence of pathological gambling in Kansas. All grants shall be made  
35 after open solicitation of proposals and evaluation of proposals against  
36 criteria established in rules and regulations adopted by the ~~secretary of~~  
37 ~~the department of social and rehabilitation services~~ *Kansas racing and*  
38 *gaming commission*. Both public and private entities shall be eligible to  
39 apply for and receive grants under the provisions of this section.

40 (d) The ~~secretary of the department of social and rehabilitation serv-~~  
41 ~~ices~~ *Kansas racing and gaming commission* is hereby authorized to receive  
42 moneys from any grants, gifts, contributions or bequests made for the  
43 purpose of funding grants under this section and to expend such moneys

1 for the purpose for which received.

2 (e) All grants made in accordance with this section shall be made from  
3 the problem gambling grant fund. The ~~secretary~~ *Kansas racing and gam-*  
4 *ing commission* shall administer the provisions of this section and shall  
5 adopt rules and regulations establishing criteria for qualification to receive  
6 grants and such other matters deemed necessary by the ~~secretary~~ *com-*  
7 *mission* for the administration of this section. Such rules and regulations  
8 shall include, but need not be limited to, a requirement that each recip-  
9 ient of a grant to provide treatment for pathological gamblers report at  
10 least annually to the ~~secretary~~ *commission* the grantee's measurable  
11 achievement of specific outcome goals.

12 (f) For the purpose of this section “pathological gambling” means the  
13 disorder by that name described in the most recent edition of the diag-  
14 nostic and statistical manual.

15 ~~Sec. 56-58.~~ **58.** K.S.A. 2005 Supp. 12-4516 is hereby amended to read  
16 as follows: 12-4516. (a) (1) Except as provided in subsection (b), any  
17 person who has been convicted of a violation of a city ordinance of this  
18 state may petition the convicting court for the expungement of such con-  
19 viction and related arrest records if three or more years have elapsed  
20 since the person:

21 (A) Satisfied the sentence imposed; or

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

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

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

33 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
34 ments thereto;

35 (2) a violation of K.S.A. 8-1567, and amendments thereto;

36 (3) driving while the privilege to operate a motor vehicle on the public  
37 highways of this state has been canceled, suspended or revoked, as pro-  
38 hibited by K.S.A. 8-262, and amendments thereto;

39 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
40 ments thereto;

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

43 (6) any crime punishable as a felony wherein a motor vehicle was

- 1 used in the perpetration of such crime;
- 2 (7) failing to stop at the scene of an accident and perform the duties  
3 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;
- 4 (8) a violation of the provisions of K.S.A. 40-3104, and amendments  
5 thereto, relating to motor vehicle liability insurance coverage; or
- 6 (9) a violation of K.S.A. 21-3405b, and amendments thereto.
- 7 (c) When a petition for expungement is filed, the court shall set a  
8 date for a hearing of such petition and shall cause notice of such hearing  
9 to be given to the prosecuting attorney and the arresting law enforcement  
10 agency. The petition shall state: (1) The defendant's full name;
- 11 (2) the full name of the defendant at the time of arrest, conviction or  
12 diversion, if different than the defendant's current name;
- 13 (3) the defendant's sex, race and date of birth;
- 14 (4) the crime for which the defendant was arrested, convicted or  
15 diverted;
- 16 (5) the date of the defendant's arrest, conviction or diversion; and
- 17 (6) the identity of the convicting court, arresting law enforcement  
18 agency or diverting authority. A municipal court may prescribe a fee to  
19 be charged as costs for a person petitioning for an order of expungement  
20 pursuant to this section. Any person who may have relevant information  
21 about the petitioner may testify at the hearing. The court may inquire  
22 into the background of the petitioner and shall have access to any reports  
23 or records relating to the petitioner that are on file with the secretary of  
24 corrections or the Kansas parole board.
- 25 (d) At the hearing on the petition, the court shall order the peti-  
26 tioner's arrest record, conviction or diversion expunged if the court finds  
27 that:
- 28 (1) The petitioner has not been convicted of a felony in the past two  
29 years and no proceeding involving any such crime is presently pending  
30 or being instituted against the petitioner;
- 31 (2) the circumstances and behavior of the petitioner warrant the  
32 expungement; and
- 33 (3) the expungement is consistent with the public welfare.
- 34 (e) When the court has ordered an arrest record, conviction or di-  
35 version expunged, the order of expungement shall state the information  
36 required to be contained in the petition. The clerk of the court shall send  
37 a certified copy of the order of expungement to the Kansas bureau of  
38 investigation which shall notify the federal bureau of investigation, the  
39 secretary of corrections and any other criminal justice agency which may  
40 have a record of the arrest, conviction or diversion. After the order of  
41 expungement is entered, the petitioner shall be treated as not having been  
42 arrested, convicted or diverted of the crime, except that:
- 43 (1) Upon conviction for any subsequent crime, the conviction that

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

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

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

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

13 (C) to aid in determining the petitioner's qualifications for employ-  
14 ment with the Kansas lottery or for work in sensitive areas within the  
15 Kansas lottery as deemed appropriate by the executive director of the  
16 Kansas lottery;

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

23 (E) *to aid in determining the petitioner's qualifications for the follow-*  
24 *ing under the Kansas expanded lottery act: (i) Lottery gaming facility*  
25 *manager or prospective manager, racetrack gaming facility manager or*  
26 *prospective manager, licensee or certificate holder; or (ii) an officer, di-*  
27 *rector, employee, owner, agent or contractor thereof;*

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

30 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an  
31 employee of the state gaming agency;

32 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an  
33 employee of a tribal gaming commission or to hold a license issued pur-  
34 suant to a tribal-state gaming compact; or

35 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,  
36 investment adviser or investment adviser representative all as defined in  
37 K.S.A. 2005 Supp. 17-12a102, and amendments thereto;

38 (3) the court, in the order of expungement, may specify other cir-  
39 cumstances under which the arrest, conviction or diversion is to be dis-  
40 closed; and

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

- 1 (f) Whenever a person is convicted of an ordinance violation, pleads  
2 guilty and pays a fine for such a violation, is placed on parole or probation  
3 or is granted a suspended sentence for such a violation, the person shall  
4 be informed of the ability to expunge the arrest records or conviction.  
5 Whenever a person enters into a diversion agreement, the person shall  
6 be informed of the ability to expunge the diversion.
- 7 (g) Subject to the disclosures required pursuant to subsection (e), in  
8 any application for employment, license or other civil right or privilege,  
9 or any appearance as a witness, a person whose arrest records, conviction  
10 or diversion of an offense has been expunged under this statute may state  
11 that such person has never been arrested, convicted or diverted of such  
12 offense.
- 13 (h) Whenever the record of any arrest, conviction or diversion has  
14 been expunged under the provisions of this section or under the provi-  
15 sions of any other existing or former statute, the custodian of the records  
16 of arrest, conviction, diversion and incarceration relating to that crime  
17 shall not disclose the existence of such records, except when requested  
18 by:
- 19 (1) The person whose record was expunged;
  - 20 (2) a private detective agency or a private patrol operator, and the  
21 request is accompanied by a statement that the request is being made in  
22 conjunction with an application for employment with such agency or op-  
23 erator by the person whose record has been expunged;
  - 24 (3) a court, upon a showing of a subsequent conviction of the person  
25 whose record has been expunged;
  - 26 (4) the secretary of social and rehabilitation services, or a designee of  
27 the secretary, for the purpose of obtaining information relating to em-  
28 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
29 ments thereto, of the department of social and rehabilitation services of  
30 any person whose record has been expunged;
  - 31 (5) a person entitled to such information pursuant to the terms of the  
32 expungement order;
  - 33 (6) a prosecuting attorney, and such request is accompanied by a  
34 statement that the request is being made in conjunction with a prosecu-  
35 tion of an offense that requires a prior conviction as one of the elements  
36 of such offense;
  - 37 (7) the supreme court, the clerk or disciplinary administrator thereof,  
38 the state board for admission of attorneys or the state board for discipline  
39 of attorneys, and the request is accompanied by a statement that the  
40 request is being made in conjunction with an application for admission,  
41 or for an order of reinstatement, to the practice of law in this state by the  
42 person whose record has been expunged;
  - 43 (8) the Kansas lottery, and the request is accompanied by a statement

1 that the request is being made to aid in determining qualifications for  
 2 employment with the Kansas lottery or for work in sensitive areas within  
 3 the Kansas lottery as deemed appropriate by the executive director of the  
 4 Kansas lottery;

5 (9) the governor or the Kansas racing *and gaming* commission, or a  
 6 designee of the commission, and the request is accompanied by a state-  
 7 ment that the request is being made to aid in determining qualifications  
 8 for executive director of the commission, for employment with the com-  
 9 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
 10 propriate by the executive director of the commission or for licensure,  
 11 renewal of licensure or continued licensure by the commission;

12 (10) *the Kansas racing and gaming commission, or a designee of the*  
 13 *commission, and the request is accompanied by a statement that the re-*  
 14 *quest is being made to aid in determining qualifications of the following*  
 15 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*  
 16 *agers and prospective managers, racetrack gaming facility managers and*  
 17 *prospective managers, licensees and certificate holders; and (B) their of-*  
 18 *ficers, directors, employees, owners, agents and contractors;*

19 ~~(10)~~ (11) the state gaming agency, and the request is accompanied  
 20 by a statement that the request is being made to aid in determining qual-  
 21 ifications: (A) To be an employee of the state gaming agency; or (B) to  
 22 be an employee of a tribal gaming commission or to hold a license issued  
 23 pursuant to a tribal-state gaming compact; or

24 ~~(11)~~ (12) the Kansas securities commissioner, or a designee of the  
 25 commissioner, and the request is accompanied by a statement that the  
 26 request is being made in conjunction with an application for registration  
 27 as a broker-dealer, agent, investment adviser or investment adviser rep-  
 28 resentative by such agency and the application was submitted by the per-  
 29 son whose record has been expunged.

30 Sec. ~~57.~~ **59.** K.S.A. 2005 Supp. 19-101a is hereby amended to read  
 31 as follows: 19-101a. (a) The board of county commissioners may transact  
 32 all county business and perform all powers of local legislation and admin-  
 33 istration it deems appropriate, subject only to the following limitations,  
 34 restrictions or prohibitions:

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

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

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

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

41 (5) In the exercise of powers of local legislation and administration  
 42 authorized under provisions of this section, the home rule power con-  
 43 ferred on cities to determine their local affairs and government shall not

1 be superseded or impaired without the consent of the governing body of  
2 each city within a county which may be affected.

3 (6) Counties may not legislate on social welfare administered under  
4 state law enacted pursuant to or in conformity with public law No. 271—  
5 74th congress, or amendments thereof.

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

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

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

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

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

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

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

34 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
35 430, and amendments thereto.

36 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
37 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

38 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
39 13-13a26, and amendments thereto.

40 (B) This provision shall expire on June 30, 2006.

41 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
42 71-301a, and amendments thereto.

43 (B) This provision shall expire on June 30, 2006.



- 1 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
2 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 3 (19) Counties may not exempt from or effect changes in the provi-  
4 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
5 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
6 through 12-1270 and 12-1276, and amendments thereto.
- 7 (20) Counties may not exempt from or effect changes in the provi-  
8 sions of K.S.A. 19-211, and amendments thereto.
- 9 (21) Counties may not exempt from or effect changes in the provi-  
10 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 11 (22) Counties may not regulate the production or drilling of any oil  
12 or gas well in any manner which would result in the duplication of reg-  
13 ulation by the state corporation commission and the Kansas department  
14 of health and environment pursuant to chapter 55 and chapter 65 of the  
15 Kansas Statutes Annotated, and amendments thereto, and any rules and  
16 regulations adopted pursuant thereto. Counties may not require any li-  
17 cense or permit for the drilling or production of oil and gas wells. Counties  
18 may not impose any fee or charge for the drilling or production of any  
19 oil or gas well.
- 20 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
21 41a04, and amendments thereto.
- 22 (24) Counties may not exempt from or effect changes in K.S.A. 79-  
23 1611, and amendments thereto.
- 24 (25) Counties may not exempt from or effect changes in K.S.A. 79-  
25 1494, and amendments thereto.
- 26 (26) Counties may not exempt from or effect changes in subsection  
27 (b) of K.S.A. 19-202, and amendments thereto.
- 28 (27) Counties may not exempt from or effect changes in subsection  
29 (b) of K.S.A. 19-204, and amendments thereto.
- 30 (28) Counties may not levy or impose an excise, severance or any  
31 other tax in the nature of an excise tax upon the physical severance and  
32 production of any mineral or other material from the earth or water.
- 33 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
34 2017 or 79-2101, and amendments thereto.
- 35 (30) Counties may not exempt from or effect changes in K.S.A. 2-  
36 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
37 1,178 through 65-1,199, and amendments thereto.
- 38 (31) Counties may not exempt from or effect changes in K.S.A. 2005  
39 Supp. 80-121, and amendments thereto.
- 40 (32) Counties may not exempt from or effect changes in K.S.A. 19-  
41 228, and amendments thereto.
- 42 (33) Counties may not exempt from or effect changes in the wireless  
43 enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308,

1 and amendments thereto.

2 (34) Counties may not exempt from or effect changes in K.S.A. 2005  
3 Supp. 26-601, and amendments thereto.

4 (35) (A) From and after November 15, 2005, counties may not ex-  
5 empt from or effect changes in the Kansas liquor control act except as  
6 provided by paragraph (B).

7 (B) From and after November 15, 2005, counties may adopt resolu-  
8 tions which are not in conflict with the Kansas liquor control act.

9 (36) (A) From and after November 15, 2005, counties may not ex-  
10 empt from or effect changes in the Kansas cereal malt beverage act except  
11 as provided by paragraph (B).

12 (B) From and after November 15, 2005, counties may adopt resolu-  
13 tions which are not in conflict with the Kansas cereal malt beverage act.

14 (37) *Counties may not exempt from or effect changes in the Kansas*  
15 *lottery act.*

16 (38) *Counties may not exempt from or effect changes in the Kansas*  
17 *expanded lottery act.*

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

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

32 ~~Sec. 58-60.~~ K.S.A. 2005 Supp. 21-4619 is hereby amended to read  
33 as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),  
34 any person convicted in this state of a traffic infraction, cigarette or to-  
35 bacco infraction, misdemeanor or a class D or E felony, or for crimes  
36 committed on or after July 1, 1993, nondrug crimes ranked in severity  
37 levels 6 through 10 or any felony ranked in severity level 4 of the drug  
38 grid, may petition the convicting court for the expungement of such con-  
39 viction or related arrest records if three or more years have elapsed since  
40 the person: (A) Satisfied the sentence imposed; or (B) was discharged  
41 from probation, a community correctional services program, parole, post-  
42 release supervision, conditional release or a suspended sentence.

43 (2) Except as provided in subsections (b) and (c), any person who has

1 fulfilled the terms of a diversion agreement may petition the district court  
2 for the expungement of such diversion agreement and related arrest re-  
3 cords if three or more years have elapsed since the terms of the diversion  
4 agreement were fulfilled.

5 (b) Except as provided in subsection (c), no person may petition for  
6 expungement until five or more years have elapsed since the person sat-  
7 isfied the sentence imposed, the terms of a diversion agreement or was  
8 discharged from probation, a community correctional services program,  
9 parole, postrelease supervision, conditional release or a suspended sen-  
10 tence, if such person was convicted of a class A, B or C felony, or for  
11 crimes committed on or after July 1, 1993, if convicted of an off-grid  
12 felony or any nondrug crime ranked in severity levels 1 through 5 or any  
13 felony ranked in severity levels 1 through 3 of the drug grid, or:

14 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
15 ments thereto, or as prohibited by any law of another state which is in  
16 substantial conformity with that statute;

17 (2) a violation of K.S.A. 8-1567, and amendments thereto, or a vio-  
18 lation of any law of another state, which declares to be unlawful the acts  
19 prohibited by that statute;

20 (3) driving while the privilege to operate a motor vehicle on the public  
21 highways of this state has been canceled, suspended or revoked, as pro-  
22 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
23 any law of another state which is in substantial conformity with that  
24 statute;

25 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
26 ments thereto, or resulting from the violation of a law of another state  
27 which is in substantial conformity with that statute;

28 (5) violating the provisions of the fifth clause of K.S.A. 8-142, and  
29 amendments thereto, relating to fraudulent applications or violating the  
30 provisions of a law of another state which is in substantial conformity with  
31 that statute;

32 (6) any crime punishable as a felony wherein a motor vehicle was  
33 used in the perpetration of such crime;

34 (7) failing to stop at the scene of an accident and perform the duties  
35 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,  
36 or required by a law of another state which is in substantial conformity  
37 with those statutes;

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

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

41 (c) There shall be no expungement of convictions for the following  
42 offenses or of convictions for an attempt to commit any of the following  
43 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;

1 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and  
2 amendments thereto; (3) aggravated indecent liberties with a child as  
3 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy  
4 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-  
5 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-  
6 3506, and amendments thereto; (6) indecent solicitation of a child as  
7 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-  
8 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-  
9 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-  
10 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.  
11 21-3603, and amendments thereto; (10) endangering a child as defined  
12 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as  
13 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder  
14 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in  
15 the first degree as defined in K.S.A. 21-3401, and amendments thereto;  
16 (14) murder in the second degree as defined in K.S.A. 21-3402, and  
17 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.  
18 21-3403, and amendments thereto; (16) involuntary manslaughter as de-  
19 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-  
20 slaughter while driving under the influence of alcohol or drugs as defined  
21 in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual bat-  
22 tery as defined in K.S.A. 21-3517, and amendments thereto, when the  
23 victim was less than 18 years of age at the time the crime was committed;  
24 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-  
25 ments thereto; or (20) any conviction for any offense in effect at any time  
26 prior to the effective date of this act, that is comparable to any offense  
27 as provided in this subsection.

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

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

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

35 (4) the crime for which the defendant was arrested, convicted or  
36 diverted;

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

38 (6) the identity of the convicting court, arresting law enforcement  
39 authority or diverting authority. There shall be no docket fee for filing a  
40 petition pursuant to this section. All petitions for expungement shall be  
41 docketed in the original criminal action. Any person who may have rel-  
42 evant information about the petitioner may testify at the hearing. The  
43 court may inquire into the background of the petitioner and shall have

- 1 access to any reports or records relating to the petitioner that are on file  
2 with the secretary of corrections or the Kansas parole board.
- 3 (e) At the hearing on the petition, the court shall order the peti-  
4 tioner's arrest record, conviction or diversion expunged if the court finds  
5 that:
- 6 (1) The petitioner has not been convicted of a felony in the past two  
7 years and no proceeding involving any such crime is presently pending  
8 or being instituted against the petitioner;
- 9 (2) the circumstances and behavior of the petitioner warrant the  
10 expungement; and
- 11 (3) the expungement is consistent with the public welfare.
- 12 (f) When the court has ordered an arrest record, conviction or diver-  
13 sion expunged, the order of expungement shall state the information re-  
14 quired to be contained in the petition. The clerk of the court shall send  
15 a certified copy of the order of expungement to the Kansas bureau of  
16 investigation which shall notify the federal bureau of investigation, the  
17 secretary of corrections and any other criminal justice agency which may  
18 have a record of the arrest, conviction or diversion. After the order of  
19 expungement is entered, the petitioner shall be treated as not having been  
20 arrested, convicted or diverted of the crime, except that:
- 21 (1) Upon conviction for any subsequent crime, the conviction that  
22 was expunged may be considered as a prior conviction in determining the  
23 sentence to be imposed;
- 24 (2) the petitioner shall disclose that the arrest, conviction or diversion  
25 occurred if asked about previous arrests, convictions or diversions:
- 26 (A) In any application for licensure as a private detective, private  
27 detective agency, certification as a firearms trainer pursuant to K.S.A.  
28 2005 Supp. 75-7b21, and amendments thereto, or employment as a de-  
29 tective with a private detective agency, as defined by K.S.A. 75-7b01, and  
30 amendments thereto; as security personnel with a private patrol operator,  
31 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-  
32 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the  
33 department of social and rehabilitation services;
- 34 (B) in any application for admission, or for an order of reinstatement,  
35 to the practice of law in this state;
- 36 (C) to aid in determining the petitioner's qualifications for employ-  
37 ment with the Kansas lottery or for work in sensitive areas within the  
38 Kansas lottery as deemed appropriate by the executive director of the  
39 Kansas lottery;
- 40 (D) to aid in determining the petitioner's qualifications for executive  
41 director of the Kansas racing *and gaming* commission, for employment  
42 with the commission or for work in sensitive areas in parimutuel racing  
43 as deemed appropriate by the executive director of the commission, or

1 to aid in determining qualifications for licensure or renewal of licensure  
2 by the commission;

3 ~~(E)~~ *to aid in determining the petitioner's qualifications for the follow-*  
4 *ing under the Kansas expanded lottery act: (i) Lottery gaming facility*  
5 *manager or prospective manager, racetrack gaming facility manager or*  
6 *prospective manager, licensee or certificate holder; or (ii) an officer, di-*  
7 *rector, employee, owner, agent or contractor thereof;*

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

10 ~~(G)~~ *(G) to aid in determining the petitioner's qualifications to be an*  
11 *employee of the state gaming agency;*

12 ~~(H)~~ *(H) to aid in determining the petitioner's qualifications to be an*  
13 *employee of a tribal gaming commission or to hold a license issued pur-*  
14 *suant to a tribal-state gaming compact;*

15 ~~(I)~~ *(I) in any application for registration as a broker-dealer, agent,*  
16 *investment adviser or investment adviser representative all as defined in*  
17 *K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or*

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

20 (3) the court, in the order of expungement, may specify other cir-  
21 cumstances under which the conviction is to be disclosed;

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

25 (5) upon commitment to the custody of the secretary of corrections,  
26 any previously expunged record in the possession of the secretary of cor-  
27 rections may be reinstated and the expungement disregarded, and the  
28 record continued for the purpose of the new commitment.

29 (g) Whenever a person is convicted of a crime, pleads guilty and pays  
30 a fine for a crime, is placed on parole, postrelease supervision or proba-  
31 tion, is assigned to a community correctional services program, is granted  
32 a suspended sentence or is released on conditional release, the person  
33 shall be informed of the ability to expunge the arrest records or convic-  
34 tion. Whenever a person enters into a diversion agreement, the person  
35 shall be informed of the ability to expunge the diversion.

36 (h) Subject to the disclosures required pursuant to subsection (f), in  
37 any application for employment, license or other civil right or privilege,  
38 or any appearance as a witness, a person whose arrest records, conviction  
39 or diversion of a crime has been expunged under this statute may state  
40 that such person has never been arrested, convicted or diverted of such  
41 crime, but the expungement of a felony conviction does not relieve an  
42 individual of complying with any state or federal law relating to the use  
43 or possession of firearms by persons convicted of a felony.

- 1 (i) Whenever the record of any arrest, conviction or diversion has  
2 been expunged under the provisions of this section or under the provi-  
3 sions of any other existing or former statute, the custodian of the records  
4 of arrest, conviction, diversion and incarceration relating to that crime  
5 shall not disclose the existence of such records, except when requested  
6 by:
- 7 (1) The person whose record was expunged;
  - 8 (2) a private detective agency or a private patrol operator, and the  
9 request is accompanied by a statement that the request is being made in  
10 conjunction with an application for employment with such agency or op-  
11 erator by the person whose record has been expunged;
  - 12 (3) a court, upon a showing of a subsequent conviction of the person  
13 whose record has been expunged;
  - 14 (4) the secretary of social and rehabilitation services, or a designee of  
15 the secretary, for the purpose of obtaining information relating to em-  
16 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
17 ments thereto, of the department of social and rehabilitation services of  
18 any person whose record has been expunged;
  - 19 (5) a person entitled to such information pursuant to the terms of the  
20 expungement order;
  - 21 (6) a prosecuting attorney, and such request is accompanied by a  
22 statement that the request is being made in conjunction with a prosecu-  
23 tion of an offense that requires a prior conviction as one of the elements  
24 of such offense;
  - 25 (7) the supreme court, the clerk or disciplinary administrator thereof,  
26 the state board for admission of attorneys or the state board for discipline  
27 of attorneys, and the request is accompanied by a statement that the  
28 request is being made in conjunction with an application for admission,  
29 or for an order of reinstatement, to the practice of law in this state by the  
30 person whose record has been expunged;
  - 31 (8) the Kansas lottery, and the request is accompanied by a statement  
32 that the request is being made to aid in determining qualifications for  
33 employment with the Kansas lottery or for work in sensitive areas within  
34 the Kansas lottery as deemed appropriate by the executive director of the  
35 Kansas lottery;
  - 36 (9) the governor or the Kansas racing *and gaming* commission, or a  
37 designee of the commission, and the request is accompanied by a state-  
38 ment that the request is being made to aid in determining qualifications  
39 for executive director of the commission, for employment with the com-  
40 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
41 propriate by the executive director of the commission or for licensure,  
42 renewal of licensure or continued licensure by the commission;
  - 43 (10) *the Kansas racing and gaming commission, or a designee of the*

1 *commission, and the request is accompanied by a statement that the re-*  
2 *quest is being made to aid in determining qualifications of the following*  
3 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*  
4 *agers and prospective managers, racetrack gaming facility managers and*  
5 *prospective managers, licensees and certificate holders; and (B) their of-*  
6 *ficers, directors, employees, owners, agents and contractors;*  
7 ~~(10)~~ (11) the Kansas sentencing commission;  
8 ~~(11)~~ (12) the state gaming agency, and the request is accompanied  
9 by a statement that the request is being made to aid in determining qual-  
10 ifications: (A) To be an employee of the state gaming agency; or (B) to  
11 be an employee of a tribal gaming commission or to hold a license issued  
12 pursuant to a tribal-gaming compact;  
13 ~~(12)~~ (13) the Kansas securities commissioner or a designee of the  
14 commissioner, and the request is accompanied by a statement that the  
15 request is being made in conjunction with an application for registration  
16 as a broker-dealer, agent, investment adviser or investment adviser rep-  
17 resentative by such agency and the application was submitted by the per-  
18 son whose record has been expunged;  
19 ~~(13)~~ (14) the Kansas law enforcement training commission and the  
20 request is accompanied by a statement that the request is being made to  
21 aid in determining certification eligibility as a law enforcement officer  
22 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or  
23 ~~(14)~~ (15) a law enforcement agency and the request is accompanied  
24 by a statement that the request is being made to aid in determining eli-  
25 gibility for employment as a law enforcement officer as defined by K.S.A.  
26 22-2202, and amendments thereto.  
27 **Sec. 59. 61.** K.S.A. 60-2102 is hereby amended to read as follows:  
28 60-2102. (a) ~~As~~ *Appeal to court of appeals as matter of right.* Except for  
29 any order or final decision of a district magistrate judge, the appellate  
30 jurisdiction of the court of appeals may be invoked by appeal as a matter  
31 of right from:  
32 (1) An order that discharges, vacates or modifies a provisional  
33 remedy.  
34 (2) An order that grants, continues, modifies, refuses or dissolves an  
35 injunction, or an order that grants or refuses relief in the form of man-  
36 damus, quo warranto or habeas corpus.  
37 (3) An order that appoints a receiver or refuses to wind up a receiv-  
38 ership or to take steps to accomplish the purposes thereof, such as di-  
39 recting sales or other disposal of property, or an order involving the tax  
40 or revenue laws, the title to real estate, the constitution of this state or  
41 the constitution, laws or treaties of the United States.  
42 (4) A final decision in any action, except in an action where a direct  
43 appeal to the supreme court is required by law. In any appeal or cross



1 appeal from a final decision, any act or ruling from the beginning of the  
2 proceedings shall be reviewable.

3 (b) *Appeal to supreme court as matter of right.* The appellate juris-  
4 diction of the supreme court may be invoked by appeal as a matter of  
5 right from:

6 (1) A preliminary or final decision in which a statute of this state has  
7 been held unconstitutional as a violation of Article 6 of the Kansas con-  
8 stitution pursuant to K.S.A. 2005 Supp. 72-64b03, and amendments  
9 thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed  
10 within 30 days of the date the preliminary or final decision is filed.

11 (2) *A final decision of the district court in any action challenging the*  
12 *constitutionality of or arising out of any provision of the Kansas expanded*  
13 *lottery act, any lottery gaming facility management contract or any race-*  
14 *track gaming facility management contract entered into pursuant to the*  
15 *Kansas expanded lottery act.*

16 (c) *Other appeals.* When a district judge, in making in a civil action  
17 an order not otherwise appealable under this section, is of the opinion  
18 that such order involves a controlling question of law as to which there is  
19 substantial ground for difference of opinion and that an immediate appeal  
20 from the order may materially advance the ultimate termination of the  
21 litigation, the judge shall so state in writing in such order. The court of  
22 appeals may thereupon, in its discretion, permit an appeal to be taken  
23 from such order, if application is made to it within 10 days after the entry  
24 of the order under such terms and conditions as the supreme court fixes  
25 by rule. Application for an appeal hereunder shall not stay proceedings  
26 in the district court unless the district judge or an appellate court or a  
27 judge thereof so orders.

28 Sec. ~~60~~ **62.** K.S.A. 60-2102, 74-8702, 74-8710, 74-8716, 74-8723,  
29 74-8810, 74-8814, 74-8823, 74-8830, 74-8832 and 74-8838 and K.S.A.  
30 2005 Supp. 12-4516, 19-101a, 21-4619, 74-8711 and 79-4805 are hereby  
31 repealed.

32 Sec. ~~61~~ **63.** This act shall take effect and be in force from and after  
33 its publication in the Kansas register.