

HOUSE BILL No. 2055

By Committee on Federal and State Affairs

1-11

9 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;
10 authorizing operation of certain gaming facilities, electronic gaming
11 machines and other lottery games at certain locations; prohibiting cer-
12 tain acts and providing penalties for violations; amending K.S.A. 60-
13 2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-8814, 74-8823, 74-8830,
14 74-8832 and 74-8838 and K.S.A. 2006 Supp. 12-4516, 19-101a, 21-
15 4619, 74-8711, 74-8810 and 79-4805 and repealing the existing sec-
16 tions; also repealing K.S.A. 2006 Supp. 19-101l.
17

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

19 Section 1. K.S.A. 74-8702 is hereby amended to read as follows: 74-
20 8702. As used in the Kansas lottery act, unless the context otherwise
21 requires:

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

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

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

34 (d) “Electronic gaming machine” means any electronic, electrome-
35 chanical, video or computerized device, contrivance or machine author-
36 ized by the Kansas lottery which, upon insertion of cash, tokens, electronic
37 cards or any consideration, is available to play, operate or simulate the
38 play of a game authorized by the Kansas lottery pursuant to the Kansas
39 expanded lottery act, including, but not limited to, bingo, poker, blackjack,
40 keno and slot machines, and which may deliver or entitle the player op-
41 erating the machine to receive cash, tokens, merchandise or credits that
42 may be redeemed for cash. Electronic gaming machines may use bill val-
43 idators and may be single-position reel-type, single or multi-game video

1 *and single-position multi-game video electronic game, including, but not*
2 *limited to, poker, blackjack and slot machines. Electronic gaming ma-*
3 *chines shall be directly linked to a central computer at a location deter-*
4 *mined by the executive director for purposes of security, monitoring and*
5 *auditing.*

6 (e) *“Electronic gaming machine ticket” means tangible evidence is-*
7 *ssued by an electronic gaming machine, which can be exchanged for cash*
8 *or prizes, or used to place a wager on an electronic gaming machine.*

9 (f) *“Exclusive gaming zone” means: (1) The south Kansas gaming*
10 *zone, which consists of Sedgwick county; and (2) the southwest Kansas*
11 *gaming zone, which consists of Ford county, except that Ford county shall*
12 *not be an exclusive gaming zone until a dual racetrack facility, as defined*
13 *in K.S.A. 74-8802, and amendments thereto, in Ford county is licensed*
14 *by the Kansas racing and gaming commission.*

15 ~~(h)~~ (g) *“Executive director” means the executive director of the Kan-*
16 *sas lottery.*

17 ~~(e) “Gaming equipment” means any electric, electronic or mechani-~~
18 ~~cal device or other equipment unique to the Kansas lottery used directly~~
19 ~~in the operation of any lottery and in the determination of winners pur-~~
20 ~~suant to this act.~~

21 (h) *“Expired electronic gaming machine ticket” means any electronic*
22 *gaming machine ticket, which has not been exchanged for cash or prizes,*
23 *or used to place a wager on an electronic gaming machine, within 6*
24 *months of issuance.*

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

32 (j) *“Gray machine” means any mechanical, electro-mechanical or*
33 *electronic device, capable of being used for gambling, that is: (1) Not*
34 *authorized by the Kansas lottery, (2) not linked to a lottery central com-*
35 *puter system, (3) available to the public for play or (4) capable of simu-*
36 *lating a game played on an electronic gaming machine or any similar*
37 *gambling game authorized pursuant to the Kansas expanded lottery act.*

38 ~~(k)~~ (k) *“Kansas lottery” means the state agency created by this act to*
39 *operate a lottery or lotteries pursuant to this act.*

40 (l) *“Lottery” or “state lottery” means the lottery or lotteries operated*
41 *pursuant to this act.*

42 (m) *“Lottery facility games” means any electronic gaming machines*
43 *and any other games which, as of January 1, 2007, are authorized to be*

1 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
2 9802, and amendments thereto, located within the boundaries of this state.

3 (n) "Lottery gaming enterprise" means an entertainment enterprise
4 which includes a lottery gaming facility authorized pursuant to the Kansas
5 expanded lottery act and ancillary lottery gaming facility operations that
6 have a coordinated business or marketing strategy. A lottery gaming en-
7 terprise shall be designed to attract to its lottery gaming facility consumers
8 who reside outside the immediate area of such enterprise.

9 (o) "Lottery gaming facility" means that portion of a building used
10 for the purposes of operating, managing and maintaining lottery facility
11 games.

12 (p) "Lottery gaming facility expenses" means normal business ex-
13 penses, as defined in the lottery gaming facility management contract,
14 associated with the ownership and operation of a lottery gaming facility.

15 (q) "Lottery gaming facility management contract" means a contract,
16 subcontract or collateral agreement between the state and a lottery gam-
17 ing facility manager for the management of a lottery gaming facility, the
18 business of which is owned and operated by the Kansas lottery, negotiated
19 and signed by the executive director on behalf of the state.

20 (r) "Lottery gaming facility manager" means a corporation, limited
21 liability company, resident Kansas American Indian tribe or other busi-
22 ness entity authorized to construct and manage, or manage alone, pur-
23 suant to a lottery gaming facility management contract with the Kansas
24 lottery, and on behalf of the state, a lottery gaming enterprise and lottery
25 gaming facility.

26 (s) "Lottery gaming facility revenues" means the total revenues from
27 lottery facility games at a lottery gaming facility after all related prizes
28 are paid.

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

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

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

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

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

43 (A) Any food vending machine defined by K.S.A. 36-501, and amend-

- 1 *ments thereto;*
- 2 (B) *any nonprescription drug machine authorized under K.S.A. 65-*
- 3 *650, and amendments thereto;*
- 4 (C) *any machine which dispenses only bottled or canned soft drinks,*
- 5 *chewing gum, nuts or candies;*
- 6 (D) *any machine excluded from the definition of gambling devices*
- 7 *under subsection (d) of K.S.A. 21-4302, and amendments thereto; or*
- 8 (E) *any electronic gaming machine or lottery facility game operated*
- 9 *in accordance with the provisions of the Kansas expanded lottery act.*
- 10 ~~(u)~~ (u) *“Lottery retailer” means any person with whom the Kansas*
- 11 *lottery has contracted to sell lottery tickets or shares, or both, to the*
- 12 *public.*
- 13 ~~(f) “Lottery” or “state lottery” means the lottery or lotteries operated~~
- 14 ~~pursuant to this act.~~
- 15 ~~(g)~~ (v) (1) *“Major procurement” means any gaming product or*
- 16 *service, including but not limited to facilities, advertising and promotional*
- 17 *services, annuity contracts, prize payment agreements, consulting serv-*
- 18 *ices, equipment, tickets and other products and services unique to the*
- 19 *Kansas lottery, but not including materials, supplies, equipment and serv-*
- 20 *ices common to the ordinary operations of state agencies.*
- 21 (2) *“Major procurement” shall not mean any product, service or other*
- 22 *matter covered by or addressed in the Kansas expanded lottery act or a*
- 23 *lottery gaming facility management contract or racetrack gaming facility*
- 24 *management contract executed pursuant to the Kansas expanded lottery*
- 25 *act.*
- 26 (w) *“Net electronic gaming machine income” means all cash or other*
- 27 *consideration utilized to play an electronic gaming machine operated at*
- 28 *a racetrack gaming facility, less all cash or other consideration paid out*
- 29 *to winning players as prizes.*
- 30 (x) *“Nonexclusive gaming zone” means: (1) The northeast Kansas*
- 31 *gaming zone, which consists of Wyandotte county; and (2) the southeast*
- 32 *Kansas gaming zone, which consists of Crawford and Cherokee counties.*
- 33 (y) *“Organization licensee” has the meaning provided by K.S.A. 74-*
- 34 *8802, and amendments thereto.*
- 35 (z) *“Parimutuel licensee” means a facility owner licensee or facility*
- 36 *manager licensee under the Kansas parimutuel racing act.*
- 37 (aa) *“Parimutuel licensee location” means a racetrack facility, as de-*
- 38 *finied in K.S.A. 74-8802, and amendments thereto, owned or managed by*
- 39 *the parimutuel licensee. A parimutuel licensee location may include any*
- 40 *existing structure at such racetrack facility or any structure that may be*
- 41 *constructed on real estate where such racetrack facility is located.*
- 42 ~~(h)~~ (bb) *“Person” means any natural person, association, limited lia-*
- 43 *bility company, corporation or partnership.*

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

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

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

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

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

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

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

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

22 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-~~
 23 ~~650, and amendments thereto;~~

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

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

28 New Sec. 2. (a) Sections 2 through 47, and amendments thereto,
 29 shall be known and may be cited as the Kansas expanded lottery act. The
 30 Kansas expanded lottery act shall be part of and supplemental to the
 31 Kansas lottery act.

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

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

40 New Sec. 3. (a) The Kansas lottery may operate lottery gaming fa-
 41 cilities in nonexclusive gaming zones.

42 (b) Not more than 30 days after the effective date of this act the
 43 lottery commission shall adopt and publish in the Kansas register the

1 procedure for receiving, considering and approving, proposed lottery
2 gaming facility management contracts. Such procedure shall include pro-
3 visions for review of competitive proposals within a nonexclusive gaming
4 zone and the date by which proposed lottery gaming facility management
5 contracts must be received by the lottery commission if they are to receive
6 consideration.

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

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

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

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

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

38 (1) (A) The prospective lottery gaming facility manager is a resident
39 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
40 to financial resources to support the activities required of a lottery gaming
41 facility manager under the Kansas expanded lottery act; and (ii) has three
42 consecutive years' experience in the management of gaming which would
43 be class III gaming, as defined in K.S.A. 46-2301, and amendments

- 1 thereto, operated pursuant to state or federal law; or
- 2 (B) the prospective lottery gaming facility manager is not a resident
3 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
4 to financial resources to support the activities required of a lottery gaming
5 facility manager under the Kansas expanded lottery act; (ii) is current in
6 filing all applicable tax returns and in payment of all taxes, interest and
7 penalties owed to the state of Kansas and any taxing subdivision where
8 such prospective manager is located in the state of Kansas, excluding
9 items under formal appeal pursuant to applicable statutes; and (iii) has
10 three consecutive years' experience in the management of gaming which
11 would be class III gaming, as defined in K.S.A. 46-2301, and amendments
12 thereto, operated pursuant to state or federal law; and
- 13 (2) The commission determines that the proposed development con-
14 sists of an investment in infrastructure, including ancillary lottery gaming
15 facility operations, of at least \$200,000,000.
- 16 (h) Any management contract approved by the commission under
17 this section shall:
- 18 (1) Have a maximum initial term of 25 years from the date of opening
19 of the lottery gaming facility. At the end of the initial term, the contract
20 may be renewed by mutual consent of the state and the lottery gaming
21 facility manager;
- 22 (2) specify the total amount to be paid to the lottery gaming facility
23 manager pursuant to the contract;
- 24 (3) establish a mechanism to facilitate payment of lottery gaming fa-
25 cility expenses, payment of the lottery gaming facility manager's share of
26 the lottery gaming facility revenues and distribution of the state's share
27 of the lottery gaming facility revenues;
- 28 (4) include a provision for the lottery gaming facility manager to pay
29 the costs of oversight and regulation of the lottery gaming facility manager
30 and the operations of the lottery gaming facility by the Kansas racing and
31 gaming commission;
- 32 (5) establish the types of lottery facility games to be installed in such
33 facility;
- 34 (6) provide for the prospective lottery gaming facility manager, upon
35 approval of the proposed lottery gaming facility management contract, to
36 pay to the state treasurer a privilege fee of \$35,000,000 for the privilege
37 of being selected as a lottery gaming facility manager, which fee shall be
38 deposited in the state treasury and credited to the lottery gaming facility
39 manager fund, which is hereby created in the state treasury;
- 40 (7) incorporate terms and conditions for the ancillary lottery gaming
41 facility operations;
- 42 (8) designate as key employees, subject to approval of the executive
43 director, any employees or contractors providing services or functions

- 1 which are related to lottery facility games authorized by a management
2 contract;
- 3 (9) include financing commitments for construction;
- 4 (10) include a resolution of endorsement from the city governing
5 body, if the proposed facility is within the corporate limits of a city, or
6 from the county commission, if the proposed facility is located in the
7 unincorporated area of the county;
- 8 (11) include a requirement that any parimutuel licensee developing
9 a lottery gaming facility pursuant to this act comply with all orders and
10 rules and regulations of the Kansas racing and gaming commission with
11 regard to the conduct of live racing, including the same minimum days
12 of racing as specified in section 15, and amendments thereto, for operation
13 of electronic gaming machines at racetrack gaming facilities;
- 14 (12) include a provision for the state to receive not less than 24% of
15 lottery gaming facility revenues, 25% of which shall be paid to the Kansas
16 regents institution deferred facility maintenance trust fund established by
17 section 39, and amendments thereto, 25% of which shall be paid to the
18 Kansas gaming revenue property tax relief fund established by section 38,
19 and amendments thereto, 25% of which shall be paid to the Kansas re-
20 tirant obligation trust fund established by section 40, and amendments
21 thereto, and 25% of which shall be paid to the state general fund;
- 22 (13) include a provision for 1% of lottery gaming facility revenues to
23 be paid to the problem gambling grant fund established by K.S.A. 2006
24 Supp. 79-4805, and amendments thereto;
- 25 (14) include a provision for 1% of lottery gaming facility revenues to
26 be paid to the Kansas charitable gaming fund established by section 37,
27 and amendments thereto;
- 28 (15) if the prospective lottery gaming facility manager is an American
29 Indian tribe, include a provision that such tribe agrees to waive its sov-
30 ereign immunity with respect to any actions arising from or to enforce
31 either the Kansas expanded lottery act or any provision of the lottery
32 gaming facility management contract; any action brought by an injured
33 patron or by the state of Kansas; any action for purposes of enforcing the
34 workers compensation act or any other employment or labor law; and any
35 action to enforce laws, rules and regulations and codes pertaining to
36 health, safety and consumer protection; and for any other purpose
37 deemed necessary by the executive director to protect patrons or em-
38 ployees and promote fair competition between the tribe and others seek-
39 ing a lottery gaming facility management contract;
- 40 (16) (A) if the lottery gaming facility is located in a nonexclusive gam-
41 ing zone comprised of one county and is not located within a city, include
42 a provision for payment of an amount equal to 3% of the lottery gaming
43 facility revenues to the county in which the lottery gaming facility is lo-

1 cated; or (B) if the lottery gaming facility is located in a nonexclusive
2 gaming zone comprised of one county and is located within a city, include
3 provision for payment of an amount equal to 1.5% of the lottery gaming
4 facility revenues to the city in which the lottery gaming facility is located
5 and an amount equal to 1.5% of such revenues to the county in which
6 such facility is located;

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

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

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

37 (20) include enforceable provisions: (A) Prohibiting the state, until
38 July 1, 2012, from (i) entering into management contracts for more than
39 one lottery gaming facility or similar gaming facility to be located in the
40 southeast Kansas gaming zone, (ii) designating additional areas of the state
41 where operation of lottery gaming facilities or similar gaming facilities
42 would be authorized or (iii) operating an aggregate of more than 5,000
43 electronic gaming machines at all parimutuel licensee locations in the

1 northeast, southeast and south Kansas gaming zones; and (B) requiring
2 the state to repay to the lottery gaming facility manager an amount equal
3 to the privilege fee paid by such lottery gaming facility manager, plus
4 interest on such amount, compounded annually at the rate of 10%, if the
5 state violates the prohibition provision described in (A); and

6 (21) include enforceable provisions: (A) Requiring that, if, before July
7 1, 2032, the state enters into management contracts for more than two
8 lottery gaming facilities or similar gaming facilities, one to be located in
9 the northeast Kansas gaming zone and one to be located in the southeast
10 Kansas gaming zone, designates additional areas of the state where op-
11 eration of lottery gaming facilities or similar gaming facilities would be
12 authorized or operates an aggregate of more than 5,000 electronic gaming
13 machines at all parimutuel licensee locations in the northeast, southeast
14 and south Kansas gaming zones: (i) The manager of any additional gaming
15 facility shall make an investment in infrastructure in an amount not less
16 than \$200,000,000, increased to adjust for inflation in the manner pro-
17 vided by the management contract but not less than 5% per year; and (ii)
18 the manager of the additional gaming facility or the manager or operator
19 of any additional electronic gaming machines at a parimutuel licensee
20 location shall pay a privilege fee in an amount not less than the privilege
21 fee required pursuant to this act as it exists on July 1, 2007, increased to
22 adjust for inflation in the manner provided by the management contract
23 but not less than 5% per year; and (B) requiring the state to repay to the
24 lottery gaming facility manager an amount equal to the privilege fee paid
25 by such lottery gaming facility manager, plus interest on such amount,
26 compounded annually at the rate of 10%, if the state violates the prohi-
27 bition provision described in (A).

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

31 (j) Management contracts authorized by this section may include pro-
32 visions relating to:

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

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

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

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

- 1 (5) credentialing requirements for any employee, contractor or agent
2 of the lottery gaming facility manager or of any ancillary lottery gaming
3 facility operation as provided by the Kansas expanded lottery act or rules
4 and regulations adopted pursuant thereto;
- 5 (6) provision for termination of the management contract by either
6 party for cause; and
- 7 (7) any other provision deemed necessary by the parties, including
8 such other terms and restrictions as necessary to conduct any lottery fa-
9 cility game in a legal and fair manner.
- 10 (k) A management contract shall not constitute property, nor shall it
11 be subject to attachment, garnishment or execution, nor shall it be alien-
12 able or transferable, except upon approval by the executive director, nor
13 shall it be subject to being encumbered or hypothecated. The trustee of
14 any insolvent or bankrupt lottery gaming facility manager may continue
15 to operate pursuant to the management contract under order of the ap-
16 propriate court for no longer than one year after the bankruptcy or in-
17 solvency of such manager.
- 18 (l) A lottery gaming facility manager, on behalf of the state, may pur-
19 chase or lease for the Kansas lottery all lottery facility games. All lottery
20 facility games shall be subject to the ultimate control of the Kansas lottery
21 in accordance with this act.
- 22 (m) A lottery gaming facility shall comply with any planning and zon-
23 ing regulations of the city or county in which it is to be located. The
24 executive director shall not contract with any prospective lottery gaming
25 facility manager for the operation and management of such lottery gaming
26 facility unless such manager first receives any necessary approval under
27 planning and zoning requirements of the city or county in which it is to
28 be located.
- 29 (n) Prior to expiration of the term of a lottery gaming facility man-
30 agement contract, the lottery commission may negotiate a new lottery
31 gaming facility management contract with the lottery gaming facility man-
32 ager if the new contract is substantially the same as the existing contract.
33 Otherwise, the lottery gaming facility review board shall be reconstituted
34 and a new lottery gaming facility management contract shall be negotiated
35 and approved in the manner provided by this act.
- 36 New Sec. 4. (a) There is hereby created the lottery gaming facility
37 review board. The board shall consist of:
- 38 (1) Three members appointed by the governor;
39 (2) two members appointed by the president of the senate; and
40 (3) two members appointed by the speaker of the house of
41 representatives.
- 42 (b) To be eligible for appointment to the board, a person shall submit
43 to the appointing authority evidence of significant business experience,

1 particularly in business development and location of new businesses to
2 maximize revenue.

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

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

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

8 (3) has, or has had during the preceding two years, either directly or
9 indirectly, a financial interest in or is, or has been during the preceding
10 two years, employed by or a consultant to a prospective lottery gaming
11 facility manager or any ancillary lottery gaming facility operations pro-
12 posed by a prospective lottery gaming facility manager.

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

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

17 (f) The vote of at least four members of the board shall be required
18 to take action.

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

25 (h) The board is hereby attached to the Kansas racing and gaming
26 commission as a part thereof. All budgeting, purchasing and related man-
27 agement functions of the board shall be administered by the executive
28 director of the Kansas racing and gaming commission and the executive
29 director shall provide office and meeting space and such clerical and other
30 staff assistance as may be necessary to assist the board in carrying out its
31 powers, duties and functions under this act. The board may employ any
32 experts, consultants or other professionals at the expense of a prospective
33 lottery gaming facility manager to provide assistance in evaluating a lottery
34 gaming facility management contract submitted to the board.

35 New Sec. 5. (a) Upon approval of a lottery gaming facility manage-
36 ment contract by the commission, but not later than 90 days after the
37 deadline for receipt of proposals established pursuant to subsection (b)
38 of section 3, and amendments thereto, the executive director and the
39 prospective lottery gaming facility manager shall execute the contract,
40 which shall be binding upon the parties only upon a determination by the
41 lottery gaming facility review board pursuant to this section that the con-
42 tract is the best possible such contract, approval of the contract by the
43 Kansas racing and gaming commission pursuant to this section and ap-

1 proval by the voters of the county where the lottery gaming facility will
2 be located as provided by section 6, and amendments thereto.

3 (b) Upon execution of a lottery gaming facility management contract
4 or contracts by the executive director, the executive director shall submit
5 such contract or contracts to the lottery gaming facility review board. The
6 board shall determine which contract best maximizes revenue, encour-
7 ages tourism and otherwise serves the interests of the people of Kansas.
8 In making its determination, the board shall conduct public hearings, take
9 testimony, solicit the advice of experts and investigate the merits of each
10 contract submitted by the executive director.

11 (c) Within 30 days after execution of a lottery gaming facility man-
12 agement contract with a parimutuel licensee for development of a lottery
13 gaming facility at a parimutuel licensee location, the parimutuel licensee
14 must submit to the Kansas racing and gaming commission, for approval
15 by the commission, a plan for compliance with the requirements for live
16 racing and purse supplements established pursuant to sections 14 and 36,
17 and amendments thereto. Upon application of a parimutuel licensee, the
18 Kansas racing and gaming commission shall open a proceeding to consider
19 such licensee's proposal for development of a lottery gaming facility at
20 the parimutuel licensee location. Such proposal shall include provisions
21 for: (1) Compliance with the requirements of section 14, and amendments
22 thereto; (2) payment of purse supplements from the appropriate funds
23 established by section 36, and amendments thereto; and (3) a plan for
24 protecting and promoting live racing in Kansas. The Kansas racing and
25 gaming commission shall hear evidence and testimony from all interested
26 parties. Upon a finding by the Kansas racing and gaming commission that
27 the proposal is in the best interest of live racing in Kansas and more
28 beneficial to live racing than placement of electronic gaming machines at
29 such parimutuel licensee location, the Kansas racing and gaming com-
30 mission may approve such proposal. The Kansas racing and gaming com-
31 mission shall notify the lottery gaming facility review board of the com-
32 mission's approval or disapproval of the proposal. If the Kansas racing
33 and gaming commission does not approve the proposal, the lottery gaming
34 facility review board shall not give further consideration to the lottery
35 gaming facility management contract with the parimutuel licensee and
36 the executive director shall direct the state treasurer to refund, without
37 interest, the privilege fee paid pursuant to such contract.

38 (d) (1) Not more than 60 days after all lottery gaming facility man-
39 agement contracts for a lottery gaming facility in a nonexclusive gaming
40 zone have been submitted to the lottery gaming facility review board, the
41 board shall select by public vote the lottery gaming facility management
42 contract or contracts, if any, which the board determines are the best
43 possible such contract or contracts.

1 (2) If the board cannot reach agreement that a lottery gaming facility
2 management contract or contracts are the best possible such contract or
3 contracts, the board shall request the executive director to renegotiate
4 the contract or contracts until the board determines that the best possible
5 such contract or contracts have been executed.

6 (e) Upon a determination by the lottery gaming facility review board
7 that one or more lottery gaming facility management contracts are the
8 best possible such contracts, the board shall submit the contract or con-
9 tracts to the Kansas racing and gaming commission for approval. The
10 Kansas racing and gaming commission shall conduct such background
11 investigations of prospective lottery gaming facility managers, their direc-
12 tors and officers and any other persons having an interest in such pro-
13 spective managers, as determined in accordance with rules and regula-
14 tions adopted by the Kansas racing and gaming commission. Upon
15 completion of such investigations and approval of the background of the
16 prospective lottery gaming facility manager, directors, officers and other
17 persons having an interest in such prospective manager, but not more
18 than 10 days after receiving the recommendation of the prospective lot-
19 tery gaming facility manager by the lottery gaming facility review board,
20 the Kansas racing and gaming commission shall vote to approve in whole
21 or reject in whole the recommendation of the lottery gaming facility re-
22 view board. If the Kansas racing and gaming commission approves the
23 background of no such prospective lottery gaming facility manager, di-
24 rectors, officers and other persons having an interest in such prospective
25 manager or approves no recommendation of the lottery gaming facility
26 review board, the Kansas racing and gaming commission shall notify the
27 executive director of the lottery and the process for selection of a lottery
28 gaming facility manager or managers shall begin again in the manner
29 provided in sections 3 and 4, and amendments thereto.

30 (f) If the Kansas racing and gaming commission approves a lottery
31 gaming facility management contract submitted to it in accordance with
32 subsection (e), the executive director of the Kansas racing and gaming
33 commission shall notify the board of county commissioners of the county
34 where the lottery gaming facility is proposed to be located.

35 (g) The deadline for receipt of proposals established pursuant to sub-
36 section (b) of section 3, and amendments thereto, the time limit imposed
37 by subsection (a) for action by the lottery commission, the time limit
38 imposed by subsection (d) for action by the lottery gaming facility review
39 board or the time limit imposed by subsection (e) for action by the Kansas
40 racing and gaming commission, upon application by the respective com-
41 mission or board, may be extended by the governor for a period not to
42 exceed 60 days if the governor, in the governor's discretion, determines
43 that the respective commission or board has acted on good faith to comply

1 with the time limit. Failure to comply with any such time limit, unless
2 extended as provided by this subsection, or to comply with an extended
3 time limit authorized by this subsection, shall render the respective com-
4 mission or board subject to relief in the form of mandamus, injunction
5 or other legal remedy.

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

14 (b) Upon the adoption of a resolution calling for an election pursuant
15 to this section, the county election officer shall cause the following propo-
16 sition to be placed on the ballot at the election called for that purpose:
17 “Shall the Kansas lottery be authorized to operate a lottery gaming facility
18 in _____ county?”

19 (c) If a majority of the votes cast and counted at such election is in
20 favor of approving the operation of a lottery gaming facility within the
21 county, the lottery gaming facility management contract for operation of
22 a lottery gaming facility within the county shall be binding on both parties
23 to the contract. If a majority of the votes cast and counted at an election
24 under this section is against permitting the operation of a lottery gaming
25 facility within the county, the lottery gaming facility management contract
26 for the operation of a lottery gaming facility within the county shall be
27 null and void. The county election officer shall transmit a copy of the
28 certification of the results of the election to the executive director.

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

32 (e) The lottery commission may waive the requirement that an elec-
33 tion be held pursuant to this section if the lottery commission determines
34 that after December 31, 2004, a county has held an election of qualified
35 voters pursuant to the county’s home rule authority: (1) At which the
36 ballot question was in substantial compliance with the requirements of
37 this section; (2) which was administered by the county election officer in
38 a manner consistent with the requirements of state election law; and (3)
39 at which a majority of the votes cast and counted was in favor of the
40 proposition.

41 A ballot question submitted prior to April 15, 2005, which uses the
42 phrase “destination casino” shall be deemed valid for the purposes of this
43 subsection.

1 (f) The question of the operation of a lottery gaming facility in a
2 county may be submitted at the same election as the question of place-
3 ment of electronic gaming machines at a parimutuel licensee location in
4 the county under section 12, and amendments thereto.

5 New Sec. 7. Upon receipt of a copy of the certification of the results
6 of the election pursuant to section 6, and amendments thereto:

7 (a) If the certification shows that a majority of the voters voted against
8 the operation of a lottery gaming facility in the county, the executive
9 director shall direct the state treasurer to refund, without interest, all
10 privilege fees paid pursuant to lottery gaming facility management con-
11 tracts for a lottery gaming facility in the county.

12 (b) If the certification shows that a majority of the voters voted in
13 favor of the operation of a lottery gaming facility in the county, the ex-
14 ecutive director shall direct the state treasurer to refund, without interest,
15 all privilege fees paid pursuant to lottery gaming facility management
16 contracts for a lottery gaming facility in the county, other than the lottery
17 gaming facility management contract which is binding as provided by
18 section 6, and amendments thereto. Thereupon, the state treasurer shall
19 transfer to the state general fund an amount equal to the privilege fee
20 paid pursuant to the lottery gaming facility management contract which
21 is binding as provided by section 6, and amendments thereto, the lottery
22 gaming facility manager fund shall be abolished.

23 New Sec. 8. The sale or service by lottery gaming facility managers
24 or ancillary lottery gaming facility operations and the consumption by
25 patrons of lottery gaming facilities of alcohol, liquor, wine, spirits, cereal
26 malt beverages and other intoxicating liquors is hereby permitted upon
27 and in lottery gaming facilities and ancillary lottery gaming facility oper-
28 ations. The provisions of K.S.A. 41-719, and amendments thereto, relating
29 to alcoholic liquor shall not be applicable to lottery gaming facilities and
30 ancillary lottery gaming facility operations.

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

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

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

43 (b) To be eligible to enter into a racetrack gaming facility manage-

1 ment contract the prospective racetrack gaming facility manager shall, at
2 a minimum:

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

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

11 (c) (1) A racetrack gaming facility management contract to place
12 electronic gaming machines at a parimutuel licensee location in the south
13 Kansas gaming zone shall require the racetrack gaming facility manager
14 to remit to the county treasurer of Sedgwick county an exclusive gaming
15 zone privilege fee of \$5,000,000, payable upon execution of the contract.

16 (2) A racetrack gaming facility management contract to place elec-
17 tronic gaming machines at a parimutuel licensee location in the southwest
18 Kansas gaming zone shall require the racetrack gaming facility manager
19 to remit to the county treasurer of Ford county an exclusive gaming zone
20 privilege fee of \$3,000,000, payable upon approval by the Kansas racing
21 and gaming commission of construction of a parimutuel racetrack facility
22 in such zone.

23 (d) A racetrack gaming facility management contract shall include:

24 (1) An initial term of not less than 15 nor more than 25 years from
25 the date of the opening of the racetrack gaming facility and a provision
26 for renewal of the contract at the end of the initial term by mutual consent
27 of the commission and the racetrack gaming facility manager;

28 (2) provisions for the Kansas racing and gaming commission to over-
29 see all racetrack gaming facility operations, including, but not limited to:
30 Oversight of internal controls; oversight of security of facilities; perform-
31 ance of background investigations, determination of qualifications and any
32 required certification or licensing of officers, directors, board members,
33 employees, contractors and agents of the racetrack gaming facility man-
34 ager; auditing of net electronic gaming machine income and maintenance
35 of the integrity of electronic gaming machine operations;

36 (3) provisions for payment of the costs of oversight and regulation of
37 the racetrack gaming facility manager under this act and such manager's
38 racetrack gaming facility operations by the Kansas racing and gaming
39 commission as lottery gaming facility expenses;

40 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
41 2012, from (i) entering into management contracts for more than two
42 lottery gaming facilities or similar gaming facilities, one to be located in
43 the northeast Kansas gaming zone and one to be located in the southeast

1 Kansas gaming zone, (ii) designating additional areas of the state where
2 operation of lottery gaming facilities or similar gaming facilities would be
3 authorized or (iii) operating an aggregate of more than 5,000 electronic
4 gaming machines at all parimutuel licensee locations in the northeast,
5 southeast and south Kansas gaming zones; and (B) requiring the state to
6 repay to the racetrack gaming facility manager an amount equal to the
7 privilege fee paid by such racetrack gaming facility manager, plus interest
8 on such amount, compounded annually at the rate of 10%, if the state
9 violates the prohibition provision described in (A); and

10 (5) enforceable provisions: (A) Requiring that, if, before July 1, 2032,
11 the state enters into management contracts for more than two lottery
12 gaming facilities or similar gaming facilities, one to be located in the
13 northeast Kansas gaming zone and one to be located in the southeast
14 Kansas gaming zone, designates additional areas of the state where op-
15 eration of lottery gaming facilities or similar gaming facilities would be
16 authorized or operates an aggregate of more than 5,000 electronic gaming
17 machines at all parimutuel licensee locations in the northeast, southeast
18 and south Kansas gaming zones: (i) The manager of any additional gaming
19 facility shall make an investment in infrastructure in an amount not less
20 than \$200,000,000, increased to adjust for inflation in the manner pro-
21 vided by the management contract but not less than 5% per year; and (ii)
22 the manager of the additional gaming facility or the manager or operator
23 of any additional electronic gaming machines at a parimutuel licensee
24 location shall pay a privilege fee in an amount not less than the privilege
25 fee required pursuant to this act as it exists on July 1, 2007, increased to
26 adjust for inflation in the manner provided by the management contract
27 but not less than 5% per year; and (B) requiring the state to repay to the
28 racetrack gaming facility manager an amount equal to the privilege fee
29 paid by such racetrack gaming facility manager, plus interest on such
30 amount, compounded annually at the rate of 10%, if the state violates the
31 prohibition provision described in (A).

32 (e) Racetrack gaming facility management contracts authorized by
33 this section may include provisions relating to:

34 (1) Accounting procedures to determine net electronic gaming ma-
35 chine income, unclaimed prizes and credits;

36 (2) minimum requirements for a racetrack gaming facility manager
37 to provide qualified oversight, security and supervision of electronic gam-
38 ing machines including the use of qualified personnel with experience in
39 applicable technology;

40 (3) eligibility requirements for employees, contractors or agents of a
41 racetrack gaming facility manager who will have responsibility for or in-
42 volvement with electronic gaming machines or for the handling of cash
43 or tokens;

- 1 (4) background investigations to be performed by the Kansas racing
2 and gaming commission;
- 3 (5) credentialing or certification requirements of any employee, con-
4 tractor or agent as provided by the Kansas expanded lottery act or rules
5 and regulations adopted pursuant thereto;
- 6 (6) provision for termination of the management contract by either
7 party for cause; and
- 8 (7) any other provision deemed necessary by the parties, including
9 such other terms and restrictions as necessary to conduct racetrack gam-
10 ing facility operations in a legal and fair manner.
- 11 (f) A person who is the manager of a lottery gaming facility in a no-
12 nexclusive gaming zone shall not be eligible to be the manager of the
13 racetrack gaming facility in such zone.
- 14 (g) A racetrack gaming facility management contract shall not con-
15 stitute property, nor shall it be subject to attachment, garnishment or
16 execution, nor shall it be alienable or transferable, except upon approval
17 by the executive director, nor shall it be subject to being encumbered or
18 hypothecated.
- 19 (h) Any proposed racetrack gaming facility management contract for
20 which the exclusive gaming zone privilege fee has not been paid to the
21 state treasurer within 30 days after the fee becomes payable pursuant to
22 subsection (c) shall be null and void.
- 23 New Sec. 11. (a) The executive director shall submit the proposed
24 racetrack gaming facility management contract to the commission for the
25 commission's approval. Upon approval of the Kansas lottery commission,
26 the executive director shall submit such contract to the Kansas racing and
27 gaming commission for approval. The Kansas racing and gaming com-
28 mission shall conduct such background investigations of the proposed
29 racetrack gaming facility manager, and its officers, directors, employees,
30 owners, agents and contractors, as determined in accordance with rules
31 and regulations adopted by the Kansas racing and gaming commission.
32 Upon completion of such investigations and approval of the background
33 of the proposed racetrack gaming facility manager, and its officers, direc-
34 tors, employees, owners, agents and contractors, the Kansas racing and
35 gaming commission shall vote to approve or reject the contract in whole.
36 If the Kansas racing and gaming commission rejects the contract, the
37 Kansas racing and gaming commission shall notify the executive director
38 of the lottery and make recommendations regarding negotiation of the
39 contract. The executive director may then resume negotiations with the
40 proposed racetrack gaming facility manager.
- 41 (b) If the Kansas racing and gaming commission approves a racetrack
42 gaming facility management contract submitted to it in accordance with
43 this section, the executive director of the Kansas racing and gaming com-

1 mission shall notify the board of county commissioners of the county
2 where the parimutuel licensee location is located.

3 New Sec. 12. (a) Upon receipt of notice of approval by the Kansas
4 racing and gaming commission of a racetrack gaming facility management
5 contract for placement of electronic gaming machines at a parimutuel
6 licensee location in a county, the board of county commissioners of the
7 county by resolution shall submit to the qualified voters of the county a
8 proposition to permit the placement of electronic gaming machines in
9 the county pursuant to this section. The proposition may be submitted to
10 the voters at a special election called by the board of county commission-
11 ers for that purpose and held not less than 60 nor more than 90 days after
12 the notice is received.

13 (b) Upon the adoption of a resolution calling for an election pursuant
14 to this section, the county election officer shall cause the following prop-
15 osition to be placed on the ballot at the election called for that purpose:
16 “Shall the Kansas Lottery be authorized to place electronic gaming ma-
17 chines in _____ county?”

18 (c) If a majority of the votes cast and counted at such election is in
19 favor of approving the placement of electronic gaming machines in the
20 county, the racetrack gaming facility management contract for placement
21 of electronic gaming machines at a parimutuel licensee location in the
22 county shall be binding on both parties to the contract. If a majority of
23 the votes cast and counted at an election under this section is against
24 permitting placement of electronic gaming machines in the county, the
25 racetrack gaming facility management contract for placement of elec-
26 tronic gaming machines at a parimutuel licensee location in the county
27 shall be null and void. The county election officer shall transmit a copy
28 of the certification of the results of the election to the executive director.

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

32 (e) The lottery commission may waive the requirement that an elec-
33 tion be held pursuant to this section if the lottery commission determines
34 that after December 31, 2004, a county has held an election of qualified
35 voters pursuant to the county’s home rule authority: (1) At which the
36 ballot question was in substantial compliance with the requirements of
37 this section; (2) which was administered by the county election officer in
38 a manner consistent with the requirements of state election law; and (3)
39 at which a majority of the votes cast and counted was in favor of the
40 proposition.

41 (f) The question of the placement of electronic gaming machines in
42 a county may be submitted at the same election as the question of op-
43 eration of a lottery gaming facility in the county under section 6, and

1 amendments thereto.

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

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

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

12 (1) The number of electronic gaming machines to be placed at each
13 racetrack gaming facility, subject to the limitation that the total number
14 of electronic gaming machines placed at all racetrack gaming facilities in
15 the state shall not exceed 5,000 electronic gaming machines at all pari-
16 mutuel licensee locations in the northeast, southeast and south Kansas
17 gaming zones;

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

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

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

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

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

43 (c) Notice of the contents of any information released, except to a

1 duly authorized law enforcement agency pursuant to this section, shall be
2 given to any applicant, certificate holder or vendor in a manner prescribed
3 by the rules and regulations adopted by the commission.

4 New Sec. 15. (a) Except as provided in subsection (b):

5 (1) No electronic gaming machines shall be operated at a parimutuel
6 licensee location in Sedgwick county unless, during the first full calendar
7 year and each year thereafter in which electronic gaming machines are
8 operated at such location, the parimutuel licensee conducts at such lo-
9 cation at least 100 live greyhound races each calendar week for the num-
10 ber of weeks raced during calendar year 2003 with at least 13 live races
11 conducted each day for not less than five days per week.

12 (2) No electronic gaming machines shall be operated at a parimutuel
13 licensee location in Wyandotte county unless, during the first full calendar
14 year and each year thereafter in which electronic gaming machines are
15 operated at such location, the parimutuel licensee conducts live horse
16 racing programs for at least 60 days, with at least 10 live races conducted
17 each program, and must offer and make a reasonable effort to conduct a
18 minimum number of three live races restricted for quarter horses each
19 day and seven live thoroughbred races each day, of which not less than
20 two races each day shall be limited to registered Kansas-bred horses ap-
21 portioned in the same ratio that live races are offered, except that the
22 licensee shall not be required to conduct the second live race restricted
23 to Kansas-bred horses unless there are at least seven qualified entries for
24 such race, and with at least 100 live greyhound races each calendar week
25 for at least the same number of weeks raced during calendar year 2003,
26 with at least 13 live races conducted each day for not less than five days
27 per week.

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

35 (4) No electronic gaming machines shall be operated at a parimutuel
36 licensee location in Ford county unless, during the first full calendar year
37 and each year thereafter in which electronic gaming machines are oper-
38 ated at such location, the parimutuel licensee conducts live horse racing
39 programs for at least 45 days, with at least 10 live races conducted each
40 program, and must offer and make a reasonable effort to conduct a min-
41 imum number of three live races restricted for quarter horses each day
42 and seven live thoroughbred races each day, of which not less than two
43 races each day shall be limited to registered Kansas-bred horses appor-

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

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

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

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

31 (1) To the racetrack gaming facility manager, as a management fee
32 and net lease for facilities used for the operation of, electronic gaming
33 machines at the racetrack gaming facility, 25% of the net electronic gam-
34 ing machine income at the racetrack gaming facility plus reimbursement
35 of lottery gaming facility expenses pursuant to the terms of the lottery
36 gaming facility management contract;

37 (2) 7% of net electronic gaming machine income shall be credited to
38 the live horse racing purse supplement fund established by section 36,
39 and amendments thereto;

40 (3) 7% of net electronic gaming machine income shall be credited to
41 the live greyhound racing purse supplement fund established by section
42 36, and amendments thereto;

43 (4) (A) if the racetrack gaming facility is located in an exclusive or

1 nonexclusive gaming zone comprised of one county and is not located
2 within a city, 3% of net electronic gaming machine income shall be re-
3 mitted to the county in which the racetrack gaming facility is located; or
4 (B) if the racetrack gaming facility is located in an exclusive or nonexclu-
5 sive gaming zone comprised of one county and is located within a city,
6 1.5% of net electronic gaming machine income shall be remitted to the
7 city in which the racetrack gaming facility is located and 1.5% of such
8 income shall be remitted to the county in which such facility is located;

9 (5) (A) if the racetrack gaming facility is located in a nonexclusive
10 gaming zone comprised of more than one county and is not located within
11 a city, 2.5% of net electronic gaming machine income shall be remitted
12 to the county in which the racetrack gaming facility is located and 0.5%
13 of net electronic gaming machine income shall be remitted to the other
14 county in such gaming zone; or (B) if the racetrack gaming facility is
15 located in a nonexclusive gaming zone comprised of more than one county
16 and is located within a city, 1.25% of net electronic gaming machine
17 income shall be remitted to the city in which the racetrack gaming facility
18 is located, 1.25% of net electronic gaming machine income shall be re-
19 mitted to the county in which such facility is located and 0.5% of net
20 electronic gaming machine income shall be remitted to the other county
21 in such zone;

22 (6) 1% of net electronic gaming machine income shall be credited to
23 the problem gambling grant fund established by K.S.A. 2006 Supp. 79-
24 4805, and amendments thereto;

25 (7) 1% of net electronic gaming machine income shall be remitted to
26 the organization licensee licensed to conduct races at the parimutual li-
27 censee location as provided by the racetrack gaming facility management
28 contract;

29 (8) 1% of net electronic gaming machine income shall be credited to
30 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
31 and amendments thereto;

32 (9) to the state, an amount equal to 30% of the net electronic gaming
33 machine income at the racetrack gaming facility plus any amounts dis-
34 tributed to the state pursuant to paragraph (10); and

35 (10) 25% of electronic gaming machine income shall be used for fa-
36 cility expenses as defined in the lottery gaming facility management con-
37 tract. Any balance remaining after such expenses are paid shall be divided
38 between the state and the racetrack gaming facility manager pursuant to
39 the terms of the management contract.

40 (b) Of amounts distributed to the state pursuant to subsection (a)(9),
41 25% shall be credited to the Kansas gaming revenue property tax relief
42 fund established by section 38, and amendments thereto, 25% shall be
43 credited to the Kansas regents institution deferred facility maintenance

1 trust fund established by section 39, and amendments thereto, 25% shall
2 be credited to the Kansas retirant obligation trust fund established by
3 section 40, and amendments thereto, and 25% shall be credited to the
4 state general fund.

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

27 (d) A racetrack gaming facility management contract may include
28 provisions for a parimutuel licensee or any other entity to pay the pari-
29 mutuel licensee's expenses related to electronic gaming machines, as the
30 executive director deems appropriate, subject to the requirements of sub-
31 section (a)(9).

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

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

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

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

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

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

10 (b) The communications systems selected by the executive director
11 shall not limit or favor the participation of a manufacturer, distributor or
12 supplier of an electronic gaming machine. The communications systems
13 shall employ widely accepted gaming industry communications protocols.
14 The costs associated with installation and implementation of the com-
15 munications systems shall be paid pursuant to the terms of the manage-
16 ment contract authorizing placement of electronic gaming machines pur-
17 suant to this act.

18 New Sec. 19. (a) Each specific type of electronic gaming machine
19 and lottery facility game shall be approved by the Kansas racing and gam-
20 ing commission. The Kansas racing and gaming commission shall examine
21 prototypes of electronic gaming machines and lottery facility games and
22 shall notify the lottery gaming facility manager or racetrack gaming facility
23 manager which types of electronic gaming machines or lottery facility
24 games are in compliance with the requirements of this act. The use of
25 progressive electronic gaming machines is expressly permitted.

26 (b) No electronic gaming machine or lottery facility game shall be
27 operated pursuant to this act unless the executive director of the racing
28 and gaming commission first issues a certificate for such machine or game
29 authorizing its use at a specified location. Each electronic gaming ma-
30 chine and lottery facility game shall have such certificate prominently
31 displayed thereon. Any electronic gaming machine or lottery facility game
32 which does not display the certificate required by this section is contra-
33 band and a public nuisance subject to confiscation by any law enforce-
34 ment officer.

35 (c) The executive director of the racing and gaming commission shall
36 require any manufacturer, supplier, provider, lottery gaming facility man-
37 ager, racetrack gaming facility manager or other person seeking the ex-
38 amination and certification of electronic gaming machines or lottery fa-
39 cility games to pay the anticipated actual costs of the examination in
40 advance. After the completion of the examination, the executive director
41 of the Kansas racing and gaming commission shall refund any overpay-
42 ment or charge and collect amounts sufficient to reimburse the executive
43 director for any underpayment of actual costs. The executive director of

1 the Kansas racing and gaming commission may contract for the exami-
2 nation of electronic gaming machines and lottery facility games required
3 by this section, and may rely upon testing done by or for other states
4 regulating electronic gaming machines or lottery facility games, if the
5 executive director deems such testing to be reliable and in the best in-
6 terest of the state of Kansas.

7 (d) The executive director of the Kansas lottery or the executive di-
8 rector of the Kansas racing and gaming commission may remove from
9 play and confiscate any electronic gaming machine or gray machine that
10 does not comply with the requirements of the Kansas expanded lottery
11 act. Any electronic gaming machine that the executive director or the
12 executive director of the racing and gaming commission determines has
13 been modified or the design of which has been modified without the
14 consent of the executive director of the Kansas lottery may be removed
15 from play, confiscated by either such executive director and disposed of
16 in any manner allowed by law.

17 New Sec. 20. The Kansas racing and gaming commission, through
18 rules and regulations, shall establish:

19 (a) A certification requirement, and enforcement procedure, for of-
20 ficers, directors, key employees and persons directly or indirectly owning
21 a 5% or more interest in a lottery gaming facility manager or racetrack
22 gaming facility manager. Such certification requirement shall include
23 compliance with such security, fitness and background investigations and
24 standards as the executive director of the Kansas racing and gaming com-
25 mission deems necessary to determine whether such person's reputation,
26 habits or associations pose a threat to the public interest of the state or
27 to the reputation of or effective regulation and control of the lottery gam-
28 ing facility or racetrack gaming facility. Any person convicted of any fel-
29 ony, a crime involving gambling or a crime of moral turpitude prior to
30 applying for a certificate hereunder or at any time thereafter shall be
31 deemed unfit. The Kansas racing and gaming commission shall conduct
32 the security, fitness and background checks required pursuant to this
33 subsection. Certification pursuant to this subsection shall not be assign-
34 able or transferable;

35 (b) a certification requirement, and enforcement procedure, for
36 those persons, including electronic gaming machine manufacturers, tech-
37 nology providers and computer system providers, who propose to contract
38 with a lottery gaming facility manager, a racetrack gaming facility manager
39 or the state for the provision of goods or services related to a lottery
40 gaming facility or racetrack gaming facility, including management serv-
41 ices. Such certification requirements shall include compliance with such
42 security, fitness and background investigations and standards of officers,
43 directors, key gaming employees and persons directly or indirectly owning

1 a 5% or more interest in such entity as the executive director of the Kansas
2 racing and gaming commission deems necessary to determine whether
3 such person's reputation, habits and associations pose a threat to the pub-
4 lic interest of the state or to the reputation of or effective regulation and
5 control of the lottery gaming facility or racetrack gaming facility. Any
6 person convicted of any felony, a crime involving gambling or a crime of
7 moral turpitude prior to applying for a certificate hereunder or at any
8 time thereafter shall be deemed unfit. If the executive director of the
9 racing and gaming commission determines the certification standards of
10 another state are comprehensive, thorough and provide similar adequate
11 safeguards, the executive director may certify an applicant already certi-
12 fied in such state without the necessity of a full application and back-
13 ground check. The Kansas racing and gaming commission shall conduct
14 the security, fitness and background checks required pursuant to this
15 subsection. Certification pursuant to this subsection shall not be assign-
16 able or transferable;

17 (c) provisions for revocation of a certification required by subsection
18 (a) or (b) upon a finding that the certificate holder, an officer or director
19 thereof or a person directly or indirectly owning a 5% or more interest
20 therein: (1) Has knowingly provided false or misleading material infor-
21 mation to the Kansas lottery or its employees; or (2) has been convicted
22 of a felony, gambling related offense or any crime of moral turpitude; and

23 (d) provisions for suspension, revocation or nonrenewal of a certifi-
24 cation required by subsection (a) or (b) upon a finding that the certificate
25 holder, an officer or director thereof or a person directly or indirectly
26 owning a 5% or more interest therein: (1) Has failed to notify the Kansas
27 lottery about a material change in ownership of the certificate holder, or
28 any change in the directors or officers thereof; (2) is delinquent in re-
29 mitting money owed to the Kansas lottery; (3) has violated any provision
30 of any contract between the Kansas lottery and the certificate holder; or
31 (4) has violated any provision of the Kansas expanded lottery act or any
32 rule and regulation adopted hereunder.

33 New Sec. 21. (a) The executive director of the Kansas lottery and
34 the executive director of the Kansas racing and gaming commission, or
35 their designees, may observe and inspect all electronic gaming machines,
36 lottery facility games, lottery gaming facilities, racetrack gaming facilities
37 and all related equipment and facilities operated by a lottery gaming fa-
38 cility manager or racetrack gaming facility manager.

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

42 (1) Examine, or cause to be examined by any agent or representative
43 designated by such executive director, any books, papers, records or

- 1 memoranda of any lottery gaming facility manager or racetrack gaming
2 facility manager, or of any business involved in electronic gaming ma-
3 chines or lottery facility games authorized pursuant to the Kansas ex-
4 panded lottery act, for the purpose of ascertaining compliance with any
5 provision of the Kansas lottery act, the Kansas expanded lottery act, or
6 any rules and regulations adopted thereunder;
- 7 (2) investigate alleged violations of the Kansas expanded lottery act
8 and alleged violations of any rules and regulations, orders and final de-
9 cisions of the Kansas lottery commission, the executive director of the
10 Kansas lottery, the Kansas racing and gaming commission or the executive
11 director of the Kansas racing and gaming commission;
- 12 (3) request a court to issue subpoenas to compel access to or for the
13 production of any books, papers, records or memoranda in the custody
14 or control of any lottery gaming facility manager or racetrack gaming
15 facility manager related to the management of the lottery gaming facility
16 or racetrack gaming facility, or to compel the appearance of any lottery
17 gaming facility manager or racetrack gaming facility manager for the pur-
18 pose of ascertaining compliance with the provisions of the Kansas lottery
19 act and the Kansas expanded lottery act or rules and regulations adopted
20 thereunder;
- 21 (4) inspect and approve, prior to publication or distribution, all ad-
22 vertising by a lottery gaming facility manager or racetrack gaming facility
23 manager which includes any reference to the Kansas lottery; and
- 24 (5) take any other action as may be reasonable or appropriate to en-
25 force the provisions of the Kansas expanded lottery act and any rules and
26 regulations, orders and final decisions of the executive director of the
27 Kansas lottery, the Kansas lottery commission, the executive director of
28 the Kansas racing commission or the Kansas racing and gaming
29 commission.
- 30 (c) Appropriate security measures shall be required in any and all
31 areas where electronic gaming machines and other lottery facility games
32 authorized pursuant to the Kansas expanded lottery act are located or
33 operated. The executive director of the Kansas racing and gaming com-
34 mission shall approve all such security measures.
- 35 (d) The executive director of the Kansas racing and gaming commis-
36 sion shall require an annual audit of the operations of each lottery gaming
37 facility and ancillary lottery gaming facility operations and each racetrack
38 gaming facility as determined by the commission. Such audit shall be
39 conducted by the Kansas racing and gaming commission or a licensed
40 accounting firm approved by the executive director of the Kansas racing
41 and gaming commission and shall be conducted at the expense of the
42 lottery gaming facility manager or racetrack facility manager.
- 43 (e) None of the information disclosed pursuant to subsection (b) or

1 (d) shall be subject to disclosure under the Kansas open records act,
2 K.S.A. 45-216 et seq., and amendments thereto.

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

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

8 New Sec. 23. Each lottery gaming facility manager and each race-
9 track gaming facility manager shall hold the executive director, the com-
10 mission and the state harmless from and defend any and all claims which
11 may be asserted against the executive director, the commission and the
12 state, or the agents or employees thereof, arising from the operation of
13 electronic gaming machines, lottery facility games or other lottery-type
14 games pursuant to the Kansas expanded lottery act. This section may be
15 satisfied by procurement of insurance by the lottery gaming facility man-
16 ager or racetrack gaming facility manager, naming the executive director,
17 the commission and the state as additional insured parties. Procurement
18 of such insurance by a lottery gaming facility manager shall be a lottery
19 gaming facility expense of the lottery gaming facility. The provisions of
20 this section shall not apply to any claims arising from a negligent act or
21 omission or willful or malicious misconduct of the executive director, the
22 commission or the state, or the agents or employees thereof.

23 New Sec. 24. As a condition precedent to contracting for the privi-
24 lege of being a lottery gaming facility manager or a racetrack gaming
25 facility manager, such manager shall file with the secretary of state of this
26 state a written and irrevocable consent that any action or garnishment
27 proceeding may be commenced against such manager in the proper court
28 of any county in this state by the service of process on a resident agent,
29 and stipulating and agreeing that such service shall be valid and binding
30 as if service had been made upon such manager. Such written consent
31 shall state that the courts of this state have jurisdiction over the person
32 of the lottery gaming facility manager or racetrack gaming facility man-
33 ager and are the proper and convenient forum for such action and shall
34 waive the right to request a change of jurisdiction or venue to a court
35 outside this state and that all actions arising under this act and com-
36 menced by such manager shall be brought in this state's courts as the
37 proper and convenient forum. Such consent shall be executed by the
38 lottery gaming facility manager or racetrack gaming facility manager and,
39 if a corporation, by the president and secretary of such corporate man-
40 ager. Such consent shall be accompanied by a certified copy of the order
41 or resolution of the board of directors, trustees or managers authorizing
42 the president and secretary to execute the same.

43 New Sec. 25. (a) Wagers shall be received only from a person at the

1 location where the electronic gaming machine or lottery facility game is
2 authorized pursuant to the Kansas expanded lottery act. No person pres-
3 ent at such location shall place or attempt to place a wager on behalf of
4 another person who is not present at such location.

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

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

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

14 New Sec. 26. (a) A person less than 21 years of age shall not be
15 permitted in an area where electronic gaming machines or lottery facility
16 games are being conducted, except for a person at least 18 years of age
17 who is an employee of the lottery gaming facility manager or the racetrack
18 gaming facility manager. No employee under age 21 shall perform any
19 function involved in gaming by the patrons.

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

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

27 (1) Less than 21 years of age;

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

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

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

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

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

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

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

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

3 (b) Except as authorized in subsection (c), it is unlawful for any lottery
4 gaming facility manager, or its employees or agents, to allow any person
5 to play electronic gaming machines or lottery facility games at a lottery
6 gaming facility or share in winnings of such person knowing such person
7 to be:

8 (1) Under 21 years of age;

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

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

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

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

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

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

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

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

36 New Sec. 28. Except for persons acting in accordance with rules and
37 regulations of the Kansas racing and gaming commission or by written
38 authority of the executive director of the Kansas racing and gaming com-
39 mission in performing installation, maintenance and repair services, any
40 person who, with the intent to manipulate the outcome, pay out or op-
41 eration of an electronic gaming machine game or a lottery facility game,
42 manipulates by physical, electrical or mechanical means the outcome, pay
43 out or operation of such game shall be guilty of a severity level 8, non-

1 person felony.

2 New Sec. 29. (a) Except in accordance with rules and regulations of
3 the Kansas racing and gaming commission or by written authority from
4 the executive director of the Kansas racing and gaming commission in
5 performing installation, maintenance, inspection and repair services, it is
6 a class A nonperson misdemeanor for the following to place a wager on
7 or play an electronic gaming machine game or a lottery facility game at a
8 lottery gaming facility in this state: The executive director of the Kansas
9 lottery, a member of the Kansas lottery commission or any employee or
10 agent of the Kansas lottery; the executive director, a member or any
11 employee or agent of the Kansas racing and gaming commission; or the
12 lottery gaming facility manager or any employee of the lottery gaming
13 facility manager.

14 (b) Except in accordance with rules and regulations of the Kansas
15 racing and gaming commission or by written authority from the executive
16 director of the Kansas racing and gaming commission in performing in-
17 stallation, maintenance, inspection and repair services, it is a class A non-
18 person misdemeanor for the following to place a wager on or play an
19 electronic gaming machine at a racetrack gaming facility in this state: The
20 executive director of the Kansas lottery, a member of the Kansas lottery
21 commission or any employee or agent of the Kansas lottery; the executive
22 director, a member or any employee or agent of the Kansas racing and
23 gaming commission; or the racetrack gaming facility manager or any em-
24 ployee of the racetrack gaming facility manager.

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

27 (1) Use other than a lawful coin or legal tender of the United States
28 of America, or to use coin not of the same denomination as the coin
29 intended to be used in an electronic gaming machine, except that in the
30 playing of any electronic gaming machine or similar gaming device, it
31 shall be lawful for any person to use gaming billets, tokens or similar
32 objects therein which are approved by the Kansas racing and gaming
33 commission;

34 (2) possess or use, while on premises where electronic gaming ma-
35 chines are authorized pursuant to the Kansas expanded lottery act, any
36 cheating or thieving device, including, but not limited to, tools, wires,
37 drills, coins attached to strings or wires or electronic or magnetic devices
38 to facilitate removing from any electronic gaming machine any money or
39 contents thereof, except that a duly authorized agent or employee of the
40 Kansas racing and gaming commission, lottery gaming facility manager
41 or racetrack gaming facility manager may possess and use any of the
42 foregoing only in furtherance of the agent's or employee's employment
43 at the lottery gaming facility or racetrack gaming facility; or

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

6 (d) Any duly authorized agent or employee of the Kansas racing and
7 gaming commission, a lottery gaming facility manager or a racetrack gam-
8 ing facility manager may possess and use any of the devices described in
9 subsections (c)(3) and (c)(4) in furtherance of inspection or testing as
10 provided in the Kansas expanded lottery act or in furtherance of such
11 person's employment at any location where any electronic gaming ma-
12 chine or similar gaming device or drop box is authorized pursuant to the
13 Kansas expanded lottery act.

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

17 New Sec. 31. (a) As used in this section:

18 (1) "Affiliated person" means:

19 (A) Any person residing in the household of a state or local official;
20 or

21 (B) any partnership, firm, corporation or limited liability company
22 with which a state or local official is associated or in which a state or local
23 official has an interest, or any partner, officer, director or employee
24 thereof while the state or local official is associated with such partnership,
25 firm, corporation or company.

26 (2) "State or local official" means:

27 (A) Any state officer or employee required to file a written statement
28 of substantial interests pursuant to the state governmental ethics law and
29 any other state officer or employee with responsibility for matters affect-
30 ing activities or operations of any lottery gaming facility or racetrack gam-
31 ing facility;

32 (B) the governor or any full-time professional employee of the office
33 of the governor;

34 (C) any member of the legislature and any full-time professional em-
35 ployee of the legislature;

36 (D) any justice of the supreme court, judge of the court of appeals
37 or judge of the district court;

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

40 (F) any member of the governing body of a city or county where a
41 lottery gaming facility or racetrack gaming facility is located; any munic-
42 ipal or county judge of such city or county; any city, county or district
43 attorney of such city or county; and any member of or attorney for the

1 planning board or zoning board of such city or county and any professional
2 planner or consultant regularly employed or retained by such planning
3 board or zoning board.

4 (b) No state or local official or affiliated person shall hold, directly or
5 indirectly, an interest in, be employed by, represent or appear for a lottery
6 gaming facility or racetrack gaming facility, or for any lottery gaming fa-
7 cility manager or racetrack gaming facility manager, or any holding or
8 intermediary company with respect thereto, in connection with any cause,
9 application or matter.

10 No state or local official or affiliated person shall represent, appear for
11 or negotiate on behalf of any person submitting a proposal for a lottery
12 gaming facility or racetrack gaming facility, or on behalf of any lottery
13 gaming facility manager or racetrack gaming facility manager, or any hold-
14 ing or intermediary company with respect thereto, in connection with any
15 cause, application or matter.

16 (c) No state or local official or affiliated person, within five years
17 immediately subsequent to the termination of the office or employment
18 of the official, shall hold, directly or indirectly, an interest in, be employed
19 by or represent, appear for or negotiate on behalf of any person submit-
20 ting a proposal for a lottery gaming facility or racetrack gaming facility,
21 or on behalf of any lottery gaming facility manager or racetrack gaming
22 facility manager, in connection with any cause, application or matter, or
23 on behalf of any holding or intermediary company with respect thereto,
24 in connection with any phase of development of a lottery gaming facility
25 or racetrack gaming facility or any other matter whatsoever related to
26 activities or operations of a lottery gaming facility or racetrack gaming
27 facility.

28 (d) No state or local official shall solicit or accept, directly or indi-
29 rectly, any complimentary service or discount from any person submitting
30 a proposal for a lottery gaming facility or racetrack gaming facility, or
31 from any lottery gaming facility manager or racetrack gaming facility man-
32 ager, which such official knows or has reason to know is other than a
33 service or discount that is offered to members of the general public in
34 like circumstance.

35 (e) No state or local official shall influence, or attempt to influence,
36 by use of official authority, the decision of the Kansas lottery commission,
37 lottery gaming facility review board or Kansas racing and gaming com-
38 mission pursuant to this act; the investigation of a proposal for a lottery
39 gaming facility or racetrack gaming facility pursuant to this act; or any
40 proceeding to enforce the provisions of this act or rules and regulations
41 of the Kansas lottery commission or Kansas racing and gaming commis-
42 sion. Any such attempt shall be reported promptly to the attorney general.

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

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

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

19 New Sec. 34. The Kansas lottery, lottery gaming facility managers,
20 racetrack gaming facility managers, lottery gaming facility management
21 contracts and racetrack gaming facility management contracts under the
22 Kansas expanded lottery act shall not be subject to the provisions of and
23 restrictions on major procurement contracts, including, but not limited
24 to, the provisions of K.S.A. 74-8705, and amendments thereto.

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

32 (b) All lottery gaming facility revenues from lottery gaming facilities
33 and all net electronic gaming machine income from racetrack gaming
34 facilities shall be paid daily and electronically to the executive director.
35 The executive director shall remit all moneys received therefrom to the
36 state treasurer in accordance with K.S.A. 75-4215, and amendments
37 thereto. Upon receipt of the remittance, the state treasurer shall deposit
38 the entire amount in the state treasury and credit it to the respective
39 account maintained for the lottery gaming facility manager or racetrack
40 gaming facility manager in the expanded lottery act revenues fund.

41 (c) The executive director shall certify weekly to the director of ac-
42 counts and reports the percentages or amounts to be transferred from
43 each account maintained in the expanded lottery act revenues fund to the

1 Kansas education trust fund, Kansas gaming revenue property tax relief
2 fund, the live horse racing supplement fund, the live greyhound racing
3 purse supplement fund, the Kansas charitable gaming fund and the prob-
4 lem gambling grant fund, as provided by the lottery gaming facility man-
5 agement contract or section 16, and amendments thereto. Upon receipt
6 of the certification, the director of accounts and reports shall transfer
7 amounts from each such account in accordance with the certification of
8 the executive director. Once each month, the executive director shall
9 cause amounts from each such account to be paid to cities, counties and
10 lottery gaming facility managers in accordance with the lottery gaming
11 facility management contract and to racetrack gaming facility managers
12 and organization licensees in accordance with section 16, and amend-
13 ments thereto, or the racetrack gaming facility management contract.

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

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

20 (2) Twenty-five percent of all moneys credited to the live horse racing
21 purse supplement fund shall be transferred to the Kansas horse breeding
22 development fund created pursuant to K.S.A. 74-8829, and amendments
23 thereto. Two percent of the moneys credited to the live horse racing purse
24 supplement fund shall be distributed to the official registering agency
25 designated pursuant to K.S.A. 74-8830, and amendments thereto, to be
26 used for horse registration, administration, development, representation
27 and promotion of the Kansas horse racing and breeding industries. A
28 complete financial accounting for the use of the funds received pursuant
29 to this subsection shall be provided annually to the Kansas racing and
30 gaming commission. Fifty percent of the moneys credited to the Kansas
31 horse breeding development fund pursuant to this section shall be used
32 as purse supplements for registered Kansas-bred foals and distributed
33 based upon recommendation from the official horse breed registering
34 agency and approval of the Kansas racing and gaming commission. The
35 balance of funds credited to the Kansas horse breeding development fund
36 pursuant to this section shall be used as breed awards for registered Kan-
37 sas-bred broodmares and stallions. The Kansas racing and gaming com-
38 mission shall distribute such moneys credited to the Kansas horse breed-
39 ing development fund in accordance with K.S.A. 74-8829, and
40 amendments thereto.

41 (3) Based on the contribution to the Kansas horse racing and breed-
42 ing industries in Kansas, the balance in the live horse race purse supple-
43 ment fund shall be distributed in accordance with rules and regulations

1 adopted by the Kansas racing and gaming commission with recommen-
2 dations by the official registering agency designated pursuant to K.S.A.
3 74-8830, and amendments thereto.

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

20 (c) All purse supplements paid pursuant to this act shall be according
21 to the point schedule in effect on January 1, 2003, at the respective par-
22 imutuel licensee locations. All purse supplements paid pursuant to this
23 section shall be in addition to purses and supplements paid under K.S.A.
24 74-8801 et seq., and amendments thereto.

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

31 (b) Moneys in the Kansas charitable gaming fund shall be distributed
32 by the Kansas charitable gaming foundation board to organizations veri-
33 fied by the board to be nonprofit organizations which are located within
34 the state and are exempt from federal income taxation pursuant to section
35 501(c)(3) of the internal revenue code of 1986, as in effect on the effective
36 date of this act. Such moneys shall be distributed at least four times each
37 year and shall be distributed equally among Kansas congressional districts.
38 Organizations wishing to receive such moneys shall submit to the board
39 a written application or request containing such information as required
40 by the commission.

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

43 (A) Three members appointed by the governor;

- 1 (B) one member appointed by the president of the senate;
2 (C) one member appointed by the speaker of the house of
3 representatives;
4 (D) one member appointed by the minority leader of the senate; and
5 (E) one member appointed by the minority leader of the house of
6 representatives.
- 7 (2) Not more than four members of the board shall be members of
8 the same political party.
- 9 (3) Members first appointed to the board shall serve terms as follows:
10 Two members appointed by the governor shall serve terms of two years
11 and one shall serve a term of four years, as designated by the governor;
12 the member appointed by the speaker of the house of representatives
13 shall serve a term of two years; the member appointed by the president
14 of the senate shall serve a term of four years; the member appointed by
15 the minority leader of the house of representatives shall serve a term of
16 four years; and the member appointed by the minority leader of the sen-
17 ate shall serve a term of two years.
- 18 (4) The governor shall designate one member of the board to serve
19 as chairperson of the board.
- 20 (5) Subject to the limitations of appropriations therefor, members of
21 the board shall receive such compensation as determined by the governor.
22 Members of the board attending meetings of the board or subcommittee
23 meetings thereof approved by the board shall be paid subsistence allow-
24 ances, mileage and other expenses as provided in K.S.A. 75-3223, and
25 amendments thereto.
- 26 (6) The Kansas charitable gaming foundation board is hereby at-
27 tached to the Kansas racing and gaming commission as a part thereof. All
28 budgeting, purchasing and related management functions of the board
29 shall be administered by the executive director of the Kansas racing and
30 gaming commission and the executive director shall provide office and
31 meeting space and such clerical and other staff assistance as may be nec-
32 essary to assist the board in carrying out its powers, duties and functions
33 under this act.
- 34 New Sec. 38. (a) There is hereby established in the state treasury the
35 Kansas gaming revenue property tax relief fund. All moneys transferred
36 or credited to such fund under the provisions of this act or any other law
37 shall be apportioned and distributed in the manner provided by this
38 section.
- 39 (b) The state treasurer shall apportion and pay the amounts in the
40 Kansas gaming revenue property tax relief fund to county treasurers on
41 January 15 and on July 15 in each year in the same manner as provided
42 by subsection (c) of K.S.A. 79-2959, and amendments thereto, for distri-
43 butions of moneys in the local ad valorem tax reduction fund.

1 (c) Upon receipt of payment from the state treasurer pursuant to
2 subsection (b), the county treasurer shall distribute the entire amount
3 paid among the county and all cities and community colleges in the county
4 in the same manner as provided by subsection (a) of K.S.A. 79-2961, and
5 amendments thereto, for distribution of moneys paid to county treasurers
6 from the local ad valorem tax reduction fund.

7 (d) The director of accounts and reports shall draw warrants on the
8 state treasurer in favor of the several county treasurers on the dates and
9 in the amounts apportioned to the several counties as provided in this
10 section. Each such warrant shall be paid directly by the state treasurer to
11 the county treasurer of the county in whose favor the warrant is drawn.

12 New Sec. 39. There is hereby established in the state treasury the
13 Kansas regents institution deferred facility maintenance trust fund.
14 Amounts deposited in such fund shall be expended solely for the purpose
15 of maintaining facilities at the institutions governed by the Kansas board
16 of regents and retiring bonds issued for the purpose of maintaining such
17 facilities. Expenditures from the Kansas regents institution deferred fa-
18 cility maintenance trust fund shall be made pursuant to appropriations
19 acts.

20 New Sec. 40. (a) There is hereby established in the state treasury the
21 Kansas retirant obligation trust fund. Fifty percent of amounts deposited
22 in such fund shall be reserved for providing cost of living adjustments for
23 retirants beginning January 1, 2008. The balance shall be expended solely
24 for the purpose of supplementing the state's obligation pursuant to the
25 provisions of K.S.A. 74-4901, and amendments thereto, as certified by
26 the Kansas public employees retirement system board of trustees pur-
27 suant to K.S.A. 74-4920, and amendments thereto. Expenditures from
28 the Kansas retirant obligation trust fund shall be made pursuant to ap-
29 propriation acts. Such funding shall be supplemental to, and not in lieu
30 of, any state revenues appropriated during the 2006 regular legislative
31 session to fund the Kansas public employees retirement fund for the fiscal
32 year ending June 30, 2007.

33 (b) Unless the payment or transfer has been authorized pursuant to
34 a separate appropriation act which has been approved by a majority vote
35 of the members of the house of representatives and a majority vote of
36 the members of the senate, the state treasurer shall not make transfers
37 or payments from the Kansas retirant obligation trust fund pursuant to
38 an appropriation for any purpose other than supplementing funding of
39 the Kansas public employees retirement fund as described in subsection
40 (a). Such payment or transfer shall be made only upon certification of the
41 governor that such payment meets the requirements of this section.

42 New Sec. 41. Monthly, pursuant to the terms of the racetrack gam-
43 ing facility management contract, the racetrack gaming facility manager

1 shall determine the number of expired electronic gaming machine tickets
2 issued by the racetrack gaming facility which expired during the preced-
3 ing calendar month and the net value of such expired tickets. All moneys
4 held by the racetrack gaming facility manager for the purpose of redeem-
5 ing such expired tickets shall be remitted to the state treasurer not later
6 than the end of the month following the month when such tickets expired.
7 Upon receipt of the remittance, the state treasurer shall deposit the entire
8 amount in the state treasury and credit $\frac{1}{3}$ to the Kansas equine industry
9 research and promotion fund established by section 42, and amendments
10 thereto, and credit the balance to the Kansas charitable fund established
11 by section 37, and amendments thereto.

12 New Sec. 42. (a) There is hereby established in the state treasury the
13 Kansas equine industry research and promotion fund. All expenditures
14 from the Kansas equine industry research and promotion fund shall be
15 made in accordance with appropriation acts upon warrants of the director
16 of accounts and reports issued pursuant to vouchers approved by the
17 chairperson of the Kansas equine industry research and promotion board
18 created.

19 (b) (1) Moneys in the Kansas equine industry research and promo-
20 tion fund shall be distributed by the Kansas equine industry research and
21 promotion board to equine organizations each of which, as verified by the
22 board, must be organized or located within the state, actively involved in
23 the promotion and development of the Kansas equine industry and con-
24 trolled by a board elected by Kansas horse owners. A qualified equine
25 organization wishing to receive such moneys shall submit to the Kansas
26 equine industry research and promotion board a written application or
27 request containing such information as required by the board.

28 (2) The Kansas equine industry research and promotion board shall
29 establish funding distribution guidelines that include, but are not limited
30 to, the issuance of grants for equine research and development, equine
31 industry education and scholarships, equine tourism and event promo-
32 tion, equine therapeutic programs and equine rescue.

33 (c) (1) There is hereby created the Kansas equine industry research
34 and promotion board.

35 (2) The board shall consist of seven members who shall be initially
36 elected at the annual meeting of the Kansas horse council. The board of
37 directors of the Kansas horse council shall act as interim board members
38 until board members can be elected and qualified. In selecting members,
39 the Kansas horse council shall give due regard to selecting a board that
40 is representative of the diverse geographical regions of the state and the
41 equine industry. Each board member appointed on and after the effective
42 date of this act shall be elected for a term of four years except that three
43 of the board members first elected on and after the effective date of this

- 1 act shall be elected for a term of two years. No member may serve more
2 than two consecutive terms. Upon the expiration of a term of a member
3 of the board, such member shall continue to serve as a member of the
4 board until a successor to such member is elected and qualified.
- 5 (3) Each member of the board shall be a resident of this state, shall
6 currently be an equine owner and shall hold a current membership in at
7 least one qualified equine organization. The elections will be held at the
8 annual meeting of the board at a session open to all equine owners.
- 9 (4) The dean of the college of agriculture of Kansas state university
10 or the dean's representative shall serve as a nonvoting member *ex officio*
11 of the board.
- 12 (5) Annually the board shall elect a chairperson from its membership.
- 13 (6) A member of the board may cease to hold such member's position
14 on the board for either of the following reasons, at the discretion of a
15 majority of the board, upon resolution duly adopted by the board dis-
16 missing such member: (A) Failure to attend two or more regular meetings
17 of the board, if unexcused; or (B) failure to meet the requirements of
18 subsection (3)(c).
- 19 (d) Members of the board attending meetings of the board, or at-
20 tending a subcommittee meeting authorized by the board, may be paid
21 compensation and other expenses.
- 22 (e) The board shall meet at least once every calendar quarter regu-
23 larly and hold an annual meeting which shall be open to the public. The
24 board shall determine the day, time and place of each meeting. The chair-
25 person or any three members of the board may call special meetings of
26 the board upon such notice as may be prescribed by the duly adopted
27 procedures of the board.
- 28 (f) In the administration of this act, the board shall have the duty,
29 authority and power to:
- 30 (1) Conduct a campaign of equine industry development through re-
31 search, education and information;
- 32 (2) accept grants and donations;
- 33 (3) enter into such contracts as may be necessary or advisable for the
34 purpose of this section;
- 35 (4) appoint an administrator who is knowledgeable about the equine
36 industry and fix the administrator's compensation. With the approval of
37 the board, the administrator may appoint such other personnel as needed;
- 38 (5) cooperate or contract with any local, state or national organization
39 or agency, whether voluntary or created by the law of any state, or by
40 national law, engaged in work or activities similar to the work and activ-
41 ities of the board and to enter into contracts and agreements with such
42 organizations or agencies for carrying on a joint campaign of research,
43 education and promotion;

- 1 (6) establish an office of the administrator at any place in this state
2 the board may select;
- 3 (7) adopt, rescind, modify and amend all necessary and proper orders,
4 resolutions and procedures for the exercise of its powers and the per-
5 formance of its duties;
- 6 (8) approve an annual budget and establish a reserve. Each project
7 budgeted and approved by the board shall include a stated objective and
8 anticipated results. In the board's annual report to the industry, the board
9 shall include those objectives and actual results; and
- 10 (9) establish guidelines that include, but are not limited to, the issu-
11 ance of grants for research and development, education and scholarships,
12 tourism and event promotion, equine trail development and maintenance,
13 therapeutic programs and equine rescue.
- 14 (g) Meetings of the board shall be subject to the provisions of the
15 open public meetings act, K.S.A. 75-4317 et seq., and amendments
16 thereto, and the records of the board shall be subject to the provisions of
17 the open records act, K.S.A. 45-215 et seq., and amendments thereto.
- 18 New Sec. 43. Each person subject to a background check pursuant
19 to the Kansas expanded lottery act shall be subject to a state and national
20 criminal history records check which conforms to applicable federal stan-
21 dards for the purpose of verifying the identity of the applicant and
22 whether the person has been convicted of any crime that would disqualify
23 the person from engaging in activities pursuant to this act. The executive
24 director of the Kansas racing and gaming commission is authorized to use
25 the information obtained from the national criminal history record check
26 to determine the person's eligibility to engage in such activities.
- 27 New Sec. 44. (a) No taxes, fees, charges, transfers or distributions,
28 other than those provided for in the Kansas expanded lottery act, shall be
29 made or levied by any city, county or other municipality from or against
30 lottery gaming facility revenues of lottery gaming facilities or net elec-
31 tronic gaming machine income of racetrack gaming facilities.
- 32 (b) All sales of games on electronic gaming machines authorized by
33 the Kansas expanded lottery act shall be exempt from sales taxes imposed
34 pursuant to K.S.A. 12-187 et seq., and 79-3601 et seq., and amendments
35 thereto.
- 36 New Sec. 45. Pursuant to section 2 of the federal act entitled "An
37 Act to Prohibit Transportation of Gambling Devices in Interstate and
38 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
39 acting by and through the duly elected and qualified members of the
40 legislature, does hereby in this section, and in accordance with and in
41 compliance with the provisions of section 2 of such federal act, declare
42 and proclaims that it is exempt from the provision of section 2 of such
43 federal act to the extent that such gambling devices as described therein

1 are being transported to or from the Kansas lottery or to or from a lottery
2 gaming facility or racetrack gaming facility or a location within the state
3 of Kansas where such gambling devices are authorized pursuant to the
4 Kansas expanded lottery act.

5 New Sec. 46. The Kansas racing and gaming commission shall adopt
6 such rules and regulations as the commission deems necessary to carry
7 out the duties and functions of the commission pursuant to the Kansas
8 expanded lottery act. Such rules and regulations shall include, but not be
9 limited to, rules and regulations:

10 (a) Promoting the integrity of the gaming and finances of lottery gam-
11 ing facilities and racetrack gaming facilities and shall meet or exceed in-
12 dustry standards for monitoring and controlling the gaming and finances
13 of lottery gaming facility operations and racetrack gaming facility opera-
14 tions and shall give the Kansas racing and gaming commission sufficient
15 authority to monitor and control the gaming operation and to ensure its
16 integrity and security;

17 (b) prescribing the on-site security arrangements for lottery gaming
18 facilities and racetrack gaming facilities;

19 (c) requiring reporting of information about any lottery gaming fa-
20 cility manager or racetrack gaming facility manager, and its employees,
21 vendors and finances, necessary or desirable to ensure the security of
22 lottery gaming facility and racetrack gaming facility operations. None of
23 the information disclosed pursuant to this subsection shall be subject to
24 disclosure under the Kansas open records act;

25 (d) requiring reporting and auditing of financial information of lottery
26 gaming facility managers and racetrack gaming facility managers, includ-
27 ing, but not limited to, the reporting of profits or losses incurred by lottery
28 gaming facility managers and racetrack gaming facility managers and the
29 reporting of such other information as the Kansas racing and gaming
30 commission requires to determine compliance with the Kansas expanded
31 lottery act and rules and regulations adopted hereunder. None of the
32 information disclosed pursuant to this subsection shall be subject to dis-
33 closure under the Kansas open records act; and

34 (e) provisions for oversight of all lottery gaming facility operations
35 and racetrack gaming facility operations, including, but not limited to,
36 oversight of internal controls; oversight of security of facilities; perform-
37 ance of background investigations, determination of qualifications and
38 credentialing of employees, contractors and agents of lottery gaming fa-
39 cility managers, ancillary lottery gaming facility operations and racetrack
40 gaming facilities; auditing of lottery gaming facility revenues and net elec-
41 tronic gaming machine income of racetrack gaming facilities; enforce-
42 ment of all state laws; and maintenance of the integrity of lottery gaming
43 facility and racetrack gaming facility operations.

1 New Sec. 47. The Kansas racing and gaming commission shall ap-
2 point or employ such officers and employees as the commission deems
3 necessary to implement, administer and enforce the provisions of the
4 Kansas expanded lottery act and may designate not more than 25 of such
5 officers and employees to be in the unclassified service under the Kansas
6 civil service act.

7 New Sec. 48. (a) A racetrack facility shall not be subject to subdivi-
8 sion regulations of a city but shall be subject to the Kansas fire prevention
9 code adopted by the state fire marshal.

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

12 Sec. 49. K.S.A. 74-8710 is hereby amended to read as follows: 74-
13 8710. (a) The commission, upon the recommendation of the executive
14 director, shall adopt rules and regulations governing the establishment
15 and operation of a state lottery, *sales of lottery tickets and the operation*
16 *of lottery gaming facilities and racetrack gaming facilities* as necessary to
17 carry out the purposes of ~~this~~ *the Kansas lottery act and the Kansas ex-*
18 *expanded lottery act*. Temporary rules and regulations may be adopted by
19 the commission without being subject to the provisions and requirements
20 of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
21 subject to approval by the attorney general as to legality and shall be filed
22 with the secretary of state and published in the Kansas register. Tem-
23 porary and permanent rules and regulations may include but shall not be
24 limited to:

25 (1) Subject to the provisions of subsection (c), the types of lottery
26 games to be conducted, including, but not limited to, instant lottery, on-
27 line ~~and~~ traditional games, *lottery facility games and electronic gaming*
28 *machine games* but not including games on video lottery machines or
29 lottery machines.

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

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

36 (4) The frequency of the drawings or selections of winning tickets or
37 shares.

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

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

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

43 (8) The amount and method of compensation to be paid to lottery

1 retailers, including special bonuses and incentives.

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

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

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

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

11 (13) *Rules and regulations to implement, administer and enforce the*
12 *provisions of the Kansas expanded lottery act. Such rules and regulations*
13 *shall include, but not be limited to, rules and regulations which govern*
14 *management contracts and which are designed to (A) ensure the integrity*
15 *of electronic gaming machines and other lottery facility games and the*
16 *finances of lottery gaming facilities and (B) alleviate problem gambling,*
17 *including a requirement that each lottery gaming facility and each race-*
18 *track gaming facility maintain a self-exclusion list by which individuals*
19 *may exclude themselves from access to electronic gaming machines and*
20 *other lottery facility games.*

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

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

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

33 Sec. 50. K.S.A. 2006 Supp. 74-8711 is hereby amended to read as
34 follows: 74-8711. (a) There is hereby established in the state treasury the
35 lottery operating fund.

36 (b) Except as provided by K.S.A. 2006 Supp. 74-8724 *and the Kansas*
37 *expanded lottery act*, and amendments thereto, the executive director
38 shall remit all moneys collected from the sale of lottery tickets and shares
39 and any other moneys received by or on behalf of the Kansas lottery to
40 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
41 and amendments thereto. Upon receipt of each such remittance, the state
42 treasurer shall deposit the entire amount in the state treasury to the credit
43 of the lottery operating fund. Moneys credited to the fund shall be ex-

1 pended or transferred only as provided by this act. Expenditures from
2 such fund shall be made in accordance with appropriations acts upon
3 warrants of the director of accounts and reports issued pursuant to vouch-
4 ers approved by the executive director or by a person designated by the
5 executive director.

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

7 (1) The payment of expenses of the lottery, which shall include all
8 costs incurred in the operation and administration of the Kansas lottery;
9 all costs resulting from contracts entered into for the purchase or lease
10 of goods and services needed for operation of the lottery, including but
11 not limited to supplies, materials, tickets, independent studies and sur-
12 veys, data transmission, advertising, printing, promotion, incentives, pub-
13 lic relations, communications and distribution of tickets and shares; and
14 reimbursement of costs of facilities and services provided by other state
15 agencies;

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

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

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

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

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

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

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

32 (2) except for pull-tab lottery tickets and shares, an amount equal to
33 not less than 30% of total monthly revenues from the sales of lottery
34 tickets and shares less estimated returned tickets. In the case of pull-tab
35 lottery tickets and shares, an amount equal to not less than 20% of the
36 total monthly revenues from the sales of pull-tab lottery tickets and shares
37 less estimated returned tickets.

38 Sec. 51. K.S.A. 74-8716 is hereby amended to read as follows: 74-
39 8716. (a) It is unlawful for the executive director, a member of the com-
40 mission or any employee of the Kansas lottery, or any person residing in
41 the household thereof to:

42 (1) Have, either directly or indirectly, an interest in a business know-
43 ing that such business contracts with the Kansas lottery for a major pro-

1 curement, whether such interest is as a natural person, partner, member
2 of an association, stockholder or director or officer of a corporation; or

3 (2) accept or agree to accept any economic opportunity, gift, loan,
4 gratuity, special discount, favor or service, or hospitality other than food
5 and beverages, having an aggregate value of \$20 or more in any calendar
6 year from a person knowing that such person (A) contracts or seeks to
7 contract with the state to supply gaming equipment, materials, tickets or
8 consulting services for use in the lottery or (B) is a lottery retailer or an
9 applicant for lottery retailer.

10 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
11 or a person who contracts or seeks to contract with the state to supply
12 gaming equipment, materials, tickets or consulting services for use in the
13 lottery to offer, pay, give or make any economic opportunity, gift, loan,
14 gratuity, special discount, favor or service, or hospitality other than food
15 and beverages, having an aggregate value of \$20 or more in any calendar
16 year to a person, knowing such person is the executive director, a member
17 of the commission or an employee of the Kansas lottery, or a person
18 residing in the household thereof.

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

23 (1) *Any lottery gaming facility manager, subcontractor or agent of a*
24 *lottery gaming facility manager, manufacturer or vendor of electronic*
25 *gaming machines or central computer system provider, or any business*
26 *which sells goods or services to a lottery gaming facility manager; or*

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

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

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

39 (f) *It shall be unlawful for the executive director, a member of the*
40 *commission or an employee of the Kansas lottery to accept any compen-*
41 *sation, gift, loan, entertainment, favor or service from any lottery gaming*
42 *facility manager, subcontractor or agent of a lottery gaming facility man-*
43 *ager, manufacturer or vendor of electronic gaming machines or central*

1 computer system provider.

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

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

10 ~~(i)~~ (i) If the executive director, a member of the commission or an
11 employee of the Kansas lottery, or any person residing in the household
12 thereof, is convicted of an act described by this section, such executive
13 director, member or employee shall be removed from office or employ-
14 ment with the Kansas lottery.

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

18 Sec. 52. K.S.A. 74-8723 is hereby amended to read as follows: 74-
19 8723. (a) The Kansas lottery and the office of executive director of the
20 Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,
21 and the Kansas lottery commission, created by K.S.A. 74-8709, and
22 amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~
23 2032.

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

26 Sec. 53. K.S.A. 2006 Supp. 74-8810 is hereby amended to read as
27 follows: 74-8810. (a) It is a class A nonperson misdemeanor for any person
28 to have a financial interest, directly or indirectly, in any racetrack facility
29 within the state of Kansas or in any host facility for a simulcast race
30 displayed in this state:

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

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

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

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

1 or

2 (2) if such person is (A) the spouse of a member of the Kansas legis-
 3 lature, (B) the spouse of a person who has been a member of the Kansas
 4 legislature during the preceding five years or (C) one of the following
 5 blood-relatives, half-relatives or step-relatives of a member of the Kansas
 6 legislature or a person who has been a member of the Kansas legislature
 7 during the preceding five years: Parent, grandparent, brother, sister,
 8 child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-
 9 law, brother-in-law or sister-in-law.

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

13 (1) Participate in the operation of or have a financial interest in any
 14 business which has been issued a concessionaire license, racing or wa-
 15 gering equipment or services license, facility owner license or facility
 16 manager license, or any business which sells goods or services to an or-
 17 ganization licensee;

18 (2) participate directly or indirectly as an owner, owner-trainer or
 19 trainer of a horse or greyhound, or as a jockey of a horse, entered in a
 20 race meeting conducted in this state;

21 (3) place a wager on an entry in a horse or greyhound race conducted
 22 by an organization licensee; or

23 (4) accept any compensation, gift, loan, entertainment, favor or serv-
 24 ice from any licensee, except such suitable facilities and services within a
 25 racetrack facility operated by an organization licensee as may be required
 26 to facilitate the performance of the member's, employee's or appointee's
 27 official duties.

28 ~~(c)~~ (d) (1) Except as provided in paragraph (2), it is a class A non-
 29 person misdemeanor for any member, employee or appointee of the com-
 30 mission, or any spouse, parent, grandparent, brother, sister, child, son-
 31 in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law,
 32 brother-in-law or sister-in-law thereof, to:

33 (A) Hold any license issued by the commission, except that a steward
 34 or racing judge shall hold an occupation license to be such a steward or
 35 judge; or

36 (B) enter into any business dealing, venture or contract with an owner
 37 or lessee of a racetrack facility in Kansas.

38 (2) This subsection shall not apply to any racing judge holding an
 39 occupation license, if such racing judge is employed at a racetrack facility
 40 and such racing judge's relative, as listed above, is a licensed owner,
 41 owner-trainer or trainer of a greyhound that races at a different racetrack
 42 facility.

43 ~~(d)~~ (e) It is a class A nonperson misdemeanor for any officer, director

- 1 or member of an organization licensee, other than a fair association or
 2 horsemen's nonprofit organization, to:
- 3 (1) Receive, for duties performed as an officer or director of such
 4 licensee, any compensation or reimbursement or payment of expenses in
 5 excess of the amounts provided by K.S.A. 75-3223 and amendments
 6 thereto for board members' compensation, mileage and expenses; or
 7 (2) enter into any business dealing, venture or contract with the or-
 8 ganization licensee or, other than in the capacity of an officer or director
 9 of the organization licensee, with a facility owner licensee, facility man-
 10 ager licensee, racing or wagering equipment or services license or con-
 11 cessionaire licensee, or with any host facility for a simulcast race displayed
 12 in this state.
- 13 ~~(e)~~ (f) It is a class A nonperson misdemeanor for any facility owner
 14 licensee or facility manager licensee, other than a horsemen's association,
 15 or any officer, director, employee, stockholder or shareholder thereof or
 16 any person having an ownership interest therein, to participate directly
 17 or indirectly as an owner, owner-trainer or trainer of a horse or grey-
 18 hound, or as a jockey of a horse, entered in a live race conducted in this
 19 state.
- 20 ~~(f)~~ (g) It is a class A nonperson misdemeanor for any licensee of the
 21 commission, or any person who is an officer, director, member or em-
 22 ployee of a licensee, to place a wager at a racetrack facility located in
 23 Kansas on an entry in a horse or greyhound race if:
- 24 (1) The commission has by rules and regulations designated such per-
 25 son's position as a position which could influence the outcome of such
 26 race or the parimutuel wagering thereon; and
 27 (2) such race is conducted at or simulcast to the racetrack facility
 28 where the licensee is authorized to engage in licensed activities.
- 29 ~~(g)~~ (h) It is a class B nonperson misdemeanor for any person to use
 30 any animal or fowl in the training or racing of racing greyhounds.
- 31 ~~(h)~~ (i) It is a class A nonperson misdemeanor for any person to:
- 32 (1) Sell a parimutuel ticket or an interest in such a ticket to a person
 33 knowing such person to be under ~~18~~ 21 years of age, upon conviction of
 34 the first offense;
- 35 (2) accept, transmit or deliver, from a person outside a racetrack fa-
 36 cility, anything of value to be wagered in any parimutuel system of wa-
 37 gering within a racetrack facility, upon conviction of the first offense;
- 38 (3) administer or conspire to administer any drug or medication to a
 39 horse or greyhound within the confines of a racetrack facility in violation
 40 of rules and regulations of the commission, upon conviction of the first
 41 offense;
- 42 (4) possess or conspire to possess, within the confines of a racetrack
 43 facility, any drug or medication for administration to a horse or greyhound

- 1 in violation of rules and regulations of the commission, upon conviction
2 of the first offense;
- 3 (5) possess or conspire to possess, within the confines of a racetrack
4 facility, equipment for administering drugs or medications to horses or
5 greyhounds in violation of rules and regulations of the commission, upon
6 conviction of the first offense;
- 7 (6) enter any horse or greyhound in any race knowing such horse or
8 greyhound to be ineligible to compete in such race pursuant to K.S.A.
9 74-8812 and amendments thereto; or
- 10 (7) prepare or cause to be prepared an application for registration of
11 a horse pursuant to K.S.A. 74-8830 and amendments thereto knowing
12 that such application contains false information.
- 13 ~~(i)~~ (j) It is a severity level 8, nonperson felony for any person to:
- 14 (1) Sell a parimutuel ticket or an interest in such a ticket to a person
15 knowing such person to be under ~~18~~ 21 years of age, upon conviction of
16 the second or a subsequent offense;
- 17 (2) accept, transmit or deliver, from any person outside a racetrack
18 facility, anything of value to be wagered in any parimutuel system of
19 wagering within a racetrack facility, upon the second or a subsequent
20 conviction;
- 21 (3) conduct or assist in the conduct of a horse or greyhound race, or
22 the display of a simulcast race, where the parimutuel system of wagering
23 is used or is intended to be used and where no license has been issued
24 to an organization to conduct or simulcast such race;
- 25 (4) enter any horse or greyhound in any race conducted by an organ-
26 ization licensee knowing that the class or grade in which such horse or
27 greyhound is entered is not the true class or grade or knowing that the
28 name under which such horse or greyhound is entered is not the name
29 under which such horse or greyhound has been registered and has pub-
30 licly performed;
- 31 (5) use or conspire to use any device, other than an ordinary whip for
32 horses or a mechanical lure for greyhounds, for the purpose of affecting
33 the speed of any horse or greyhound at any time during a race conducted
34 by an organization licensee;
- 35 (6) possess or conspire to possess, within the confines of a racetrack
36 facility, any device, other than an ordinary whip for horses or a mechanical
37 lure for greyhounds, designed or intended to affect the speed of a horse
38 or greyhound;
- 39 (7) administer or conspire to administer any drug or medication to a
40 horse or greyhound within the confines of a racetrack facility in violation
41 of rules and regulations of the commission, upon conviction of the second
42 or a subsequent offense;
- 43 (8) possess or conspire to possess, within the confines of a racetrack

- 1 facility, any drug or medication for administration to a horse or greyhound
 2 in violation of rules and regulations of the commission, upon conviction
 3 of the second or a subsequent offense;
- 4 (9) possess or conspire to possess, within the confines of a racetrack
 5 facility, equipment for administering drugs or medications to horses or
 6 greyhounds in violation of rules and regulations of the commission, upon
 7 conviction of the second or a subsequent offense;
- 8 (10) sponge the nostrils or windpipe of a horse for the purpose of
 9 stimulating or depressing such horse or affecting its speed at any time
 10 during a race meeting conducted by an organization licensee;
- 11 (11) alter or attempt to alter the natural outcome of any race con-
 12 ducted by, or any simulcast race displayed by, an organization licensee or
 13 transmit or receive an altered race or delayed broadcast race if parimutuel
 14 wagering is conducted or solicited after off time of the race;
- 15 (12) influence or attempt to influence, by the payment or promise of
 16 payment of money or other valuable consideration, any person to alter
 17 the natural outcome of any race conducted by, or any simulcast race
 18 displayed by, an organization licensee;
- 19 (13) influence or attempt to influence any member, employee or ap-
 20 pointee of the commission, by the payment or promise of payment of
 21 money or other valuable consideration, in the performance of any official
 22 duty of that member, employee or appointee;
- 23 (14) fail to report to the commission or to one of its employees or
 24 appointees knowledge of any violation of this act by another person for
 25 the purpose of stimulating or depressing any horse or greyhound, or af-
 26 fecting its speed, at any time during any race conducted by an organiza-
 27 tion licensee;
- 28 (15) commit any of the following acts with respect to the prior racing
 29 record, pedigree, identity or ownership of a registered horse or greyhound
 30 in any matter related to the breeding, buying, selling or racing of the
 31 animal: (A) Falsify, conceal or cover up, by any trick, scheme or device,
 32 a material fact; (B) make any false, fictitious or fraudulent statement or
 33 representation; or (C) make or use any false writing or document knowing
 34 that it contains any false, fictitious or fraudulent statement or entry; or
- 35 (16) pass or attempt to pass, cash or attempt to cash any altered or
 36 forged parimutuel ticket knowing it to have been altered or forged.
- 37 ~~(j)~~ (k) (1) No person less than ~~18~~ 21 years of age shall purchase a
 38 parimutuel ticket or an interest in such a ticket.
- 39 (2) Any person ~~violating~~ *violating less than 18 years of age who violates* this
 40 subsection shall be subject to adjudication as a juvenile offender pursuant
 41 to the revised Kansas juvenile justice code.
- 42 (3) *Violation of this subsection by a person 18 or more years of age*
 43 *is a class A misdemeanor upon conviction of the first offense and a severity*

1 *level 8, nonperson felony upon conviction of the second or a subsequent*
2 *offense.*

3 Sec. 54. K.S.A. 74-8814 is hereby amended to read as follows: 74-
4 8814. (a) Subject to the provisions of subsection (b), the commission shall
5 establish by rules and regulations an application fee not exceeding \$500
6 for any of the following which applies for an organization license and the
7 license fee for any of the following granted an organization license shall
8 be \$100 for each day of racing approved by the commission:

9 (1) Any fair association other than the Greenwood county and An-
10 thony fair associations, any horsemen's nonprofit organization or the na-
11 tional greyhound association of Abilene, Kansas, if: (A) Such association
12 conducts not more than two race meetings each year; (B) such race meets
13 are held within the boundaries of the county where the applicant is lo-
14 cated; and (C) such race meetings are held for a total of not more than
15 ~~21~~ 40 days per year; or

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

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

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

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

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

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

39 Sec. 55. K.S.A. 74-8823 is hereby amended to read as follows: 74-
40 8823. (a) There is hereby imposed a tax on the gross sum wagered by the
41 parimutuel method as follows:

42 (1) Of the total daily takeout from parimutuel pools for live horse
43 races conducted in this state, a tax at the rate of $\frac{3}{16}$;

- 1 (2) except as provided by subsection (a)(3), for live greyhound races
2 conducted in this state at a racetrack facility for the racing of only grey-
3 hounds: (A) During the first four years when racing with parimutuel wa-
4 gering is conducted at such facility, a tax at the rate of $\frac{3}{16}$ of the total
5 daily takeout from parimutuel pools for live greyhound races; and (B)
6 thereafter, from parimutuel pools for each live greyhound performance,
7 a tax at the rate of $\frac{3}{16}$ of the first \$400,000 wagered, $\frac{4}{16}$ of the next
8 \$200,000 wagered and $\frac{5}{16}$ of any amounts wagered exceeding \$600,000;
- 9 (3) for live greyhound races conducted in this state at a dual racetrack
10 facility or at a racetrack facility owned by a licensee whose license au-
11 thORIZes the construction of a dual racetrack facility: (A) During the first
12 seven years when racing with parimutuel wagering is conducted at such
13 facility, a tax at the rate of $\frac{3}{16}$ of the total daily takeout from parimutuel
14 pools for live greyhound races; and (B) thereafter, from parimutuel pools
15 for each live greyhound performance, a tax at the rate of $\frac{3}{16}$ of the first
16 \$600,000 wagered, $\frac{4}{16}$ of the next \$200,000 wagered and $\frac{5}{16}$ of any
17 amounts wagered exceeding \$800,000; and
- 18 (4) of the total daily takeout from amounts wagered in this jurisdiction
19 on simulcast races displayed in this state, a tax at the rate of $\frac{3}{16}$.
- 20 (b) The tax imposed by this section shall be no less than 3% nor more
21 than 6% of the total money wagered each day at a racetrack facility.
- 22 (c) The tax imposed by this section shall be remitted to the commis-
23 sion by each organization licensee by the next business day following the
24 day on which the wagers took place. The commission shall remit any such
25 tax moneys received to the state treasurer in accordance with the provi-
26 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
27 such remittance, the state treasurer shall deposit the entire amount in the
28 state treasury to the credit of the state racing fund created by K.S.A. 74-
29 8826, and amendments thereto, except as provided by K.S.A. 74-8838,
30 and amendments thereto.
- 31 (d) The commission shall audit and verify that the amount of tax re-
32 ceived from each organization licensee hereunder is correct.
- 33 (e) *Nothing in this section shall be construed to impose any tax on*
34 *amounts wagered on electronic gaming machine games operated pursuant*
35 *to the Kansas expanded lottery act.*
- 36 Sec. 56. K.S.A. 74-8830 is hereby amended to read as follows: 74-
37 8830. (a) The commission shall, by rules and regulations:
- 38 (1) Qualify stallions for participation in Kansas-registered stallion
39 awards;
- 40 (2) provide for the registration of Kansas-domiciled mares, Kansas-
41 domiciled stallions and Kansas-bred horses;
- 42 (3) determine qualifications of Kansas-bred horses and establish clas-
43 ses of Kansas-bred horses for registration purposes and for the purpose

1 of awarding purse supplements, stakes and awards pursuant to K.S.A. 74-
2 8829 and amendments thereto; and

3 (4) establish a schedule of fees for the registration of Kansas-domi-
4 ciled mares, Kansas-domiciled stallions and Kansas-bred horses sufficient
5 to provide for all expenses incurred in the administration of the Kansas
6 horse breeding development fund created pursuant to K.S.A. 74-8829
7 and amendments thereto.

8 (b) The commission ~~may~~ shall contract with and designate an official
9 registering agency to implement the registration of horses. *The board of*
10 *directors of the official registering agency shall consist of five represen-*
11 *tatives of the quarter horse breed and five representatives of the thor-*
12 *oughbred breed. Representatives shall be selected by each breed organi-*
13 *zation from their respective memberships pursuant to rules and*
14 *regulations adopted by the Kansas racing and gaming commission. In*
15 *order to be eligible to serve on the board, a participant must be a legal*
16 *resident of the state of Kansas and a member of the Kansas quarter horse*
17 *racing association or the Kansas thoroughbred association. Such agency*
18 *shall operate under the supervision of the commission and be subject to*
19 *rules and regulations of the commission. The official registering agency*
20 *shall receive no compensation from the Kansas racing and gaming com-*
21 *mission except fees received for registration of horses necessary to pay*
22 *its expenses for such registration.*

23 (c) The commission may contract with and designate an agency to
24 provide for the distribution of purse supplements, stakes and awards from
25 the Kansas horse breeding development fund. Such agency shall operate
26 under the supervision of the commission and be subject to rules and
27 regulations of the commission.

28 Sec. 57. K.S.A. 74-8832 is hereby amended to read as follows: 74-
29 8832. (a) The commission shall, by rules and regulations, establish a
30 schedule of fees for the registration of Kansas-whelped greyhounds
31 which, together with the amount provided pursuant to K.S.A. 74-8830
32 and amendments thereto, shall be sufficient to provide for all expenses
33 incurred in the administration of the Kansas greyhound breeding devel-
34 opment fund created pursuant to K.S.A. 74-8831 and amendments
35 thereto.

36 (b) The commission ~~may~~ shall contract with and designate an official
37 registering agency to implement the registration of greyhounds. Such
38 agency shall operate under the supervision of the commission and be
39 subject to rules and regulations of the commission. The official registering
40 agency shall receive no compensation *from the Kansas racing and gaming*
41 *commission* except the amount provided pursuant to K.S.A. ~~74-8830~~ 74-
42 8831, and amendments thereto, and fees received for registration of grey-
43 hounds necessary to pay its expenses for such registration.

1 (c) The commission may contract with and designate an agency to
2 provide for the distribution of purse supplements from the Kansas grey-
3 hound breeding development fund. Such agency shall operate under the
4 supervision of the commission and be subject to rules and regulations of
5 the commission.

6 Sec. 58. K.S.A. 74-8838 is hereby amended to read as follows: 74-
7 8838. (a) The state treasurer shall credit $\frac{1}{3}$ of the taxes on the takeout
8 from parimutuel pools for simulcast races, as certified by the executive
9 director, to the horse fair racing benefit fund, which is hereby created in
10 the state treasury.

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

15 (c) *In addition to amounts expended pursuant to subsection (b),*
16 *\$2,000,000 of moneys in the fund shall be expended in each fiscal year*
17 *for capital improvement projects, operations, purse awards or commission*
18 *expenses associated with regulation and oversight of parimutuel activity,*
19 *or any or all of the foregoing, at the racetrack facilities on or adjacent to*
20 *premises used by a fair association to conduct fair activities at Eureka*
21 *Downs in Greenwood county and Anthony Downs in Harper county.*
22 *Such moneys shall be expended only on application by the fair association*
23 *licensee and a determination by the commission that the application has*
24 *merit. Any portion of such \$2,000,000 which is not expended in a fiscal*
25 *year shall carry over to subsequent fiscal years and shall be in addition*
26 *to the amount provided to be expended pursuant to this subsection in such*
27 *subsequent fiscal years.*

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

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

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

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

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

43 (5) basic operating assistance grants to an organization licensee that

1 is a fair association or horsemen's nonprofit organization; and
2 (6) costs for employment of key racing officials, as determined by the
3 commission, incurred by an organization licensee that is a fair association
4 or horsemen's nonprofit organization.
5 ~~(e)~~ (e) The commission shall adopt rules and regulations establishing
6 procedures for distributing moneys in the horse fair racing benefit fund
7 to fair associations and nonprofit horsemen's organizations for the pur-
8 poses provided by this section.
9 ~~(f)~~ (f) Expenditures from the horse fair racing benefit fund related
10 to the conduct of a race meeting shall not be allocated to any organization
11 licensee for a period exceeding ~~21~~ 40 days.
12 ~~(g)~~ (g) Expenditures from the horse fair racing benefit fund shall not
13 be allocated to any organization licensee to support the conduct of pari-
14 mutuel greyhound races unless the organization licensee conducts an
15 equal or greater number of parimutuel horse races during the race
16 meeting.
17 ~~(h)~~ (h) Expenditures from the horse fair racing benefit fund shall be
18 made in accordance with appropriation acts upon warrants of the director
19 of accounts and reports issued pursuant to vouchers approved by the
20 chairperson of the commission or a person designated by the chairperson.
21 New Sec. 59. (a) The Kansas racing and gaming commission shall
22 establish a greyhound promotion and development fund which shall be
23 funded through a voluntary greyhound purse checkoff program which
24 shall provide for the deduction of 2% from all purses paid to kennels and
25 greyhound owners who participate in the program. Greyhound owners
26 and kennel operators shall be provided an opportunity annually to not
27 participate in the program by signing a form approved by the Kansas
28 racing and gaming commission. Moneys deposited into the fund shall be
29 used for the development, promotion and representation of the grey-
30 hound industry in Kansas and shall be distributed to the organization
31 contracted with by the Kansas racing and gaming commission to admin-
32 ister the official greyhound registry in Kansas.
33 (b) This section shall be part of and supplemental to the Kansas pari-
34 mutuel racing act.
35 Sec. 60. K.S.A. 2006 Supp. 79-4805 is hereby amended to read as
36 follows: 79-4805. (a) There is hereby established in the state treasury the
37 problem gambling grant fund. All moneys credited to such fund shall be
38 used only for the awarding of grants under this section. Such fund shall
39 be administered in accordance with this section and the provisions of
40 appropriation acts.
41 (b) All expenditures from the problem gambling grant fund shall be
42 made in accordance with appropriation acts upon warrants of the director
43 of accounts and reports issued pursuant to vouchers approved in the man-

1 ner prescribed by law.

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

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

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

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

32 Sec. 61. K.S.A. 2006 Supp. 12-4516 is hereby amended to read as
33 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
34 person who has been convicted of a violation of a city ordinance of this
35 state may petition the convicting court for the expungement of such con-
36 viction and related arrest records if three or more years have elapsed
37 since the person:

38 (A) Satisfied the sentence imposed; or

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

40 (2) Except as provided in subsection (b) or (c), any person who has
41 fulfilled the terms of a diversion agreement based on a violation of a city
42 ordinance of this state may petition the court for the expungement of
43 such diversion agreement and related arrest records if three or more years

1 have elapsed since the terms of the diversion agreement were fulfilled.

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

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

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

12 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-
13 ments thereto;

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

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

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

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

22 (8) a violation of K.S.A. 21-3405b, and amendments thereto.

23 (c) There shall be no expungement of convictions or diversions for a
24 violation of a city ordinance which would also constitute a violation of
25 K.S.A. 8-1567 or 8-2,144, and amendments thereto.

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

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

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

33 (4) the crime for which the defendant was arrested, convicted or
34 diverted;

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

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

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

1 *manager or prospective manager, racetrack gaming facility manager or*
2 *prospective manager, licensee or certificate holder; or (ii) an officer, di-*
3 *rector, employee, owner, agent or contractor thereof;*
4 ~~(E)~~ (F) upon application for a commercial driver's license under
5 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
6 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an
7 employee of the state gaming agency;
8 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an
9 employee of a tribal gaming commission or to hold a license issued pur-
10 suant to a tribal-state gaming compact;
11 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
12 investment adviser or investment adviser representative all as defined in
13 K.S.A. 2006 Supp. 17-12a102, and amendments thereto;
14 (3) the court, in the order of expungement, may specify other cir-
15 cumstances under which the arrest, conviction or diversion is to be dis-
16 closed; and
17 (4) the conviction may be disclosed in a subsequent prosecution for
18 an offense which requires as an element of such offense a prior conviction
19 of the type expunged; or
20 ~~(I)~~ (J) in any application for employment as a law enforcement officer
21 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto.
22 (g) Whenever a person is convicted of an ordinance violation, pleads
23 guilty and pays a fine for such a violation, is placed on parole or probation
24 or is granted a suspended sentence for such a violation, the person shall
25 be informed of the ability to expunge the arrest records or conviction.
26 Whenever a person enters into a diversion agreement, the person shall
27 be informed of the ability to expunge the diversion.
28 (h) Subject to the disclosures required pursuant to subsection (f), in
29 any application for employment, license or other civil right or privilege,
30 or any appearance as a witness, a person whose arrest records, conviction
31 or diversion of an offense has been expunged under this statute may state
32 that such person has never been arrested, convicted or diverted of such
33 offense.
34 (i) Whenever the record of any arrest, conviction or diversion has
35 been expunged under the provisions of this section or under the provi-
36 sions of any other existing or former statute, the custodian of the records
37 of arrest, conviction, diversion and incarceration relating to that crime
38 shall not disclose the existence of such records, except when requested
39 by:
40 (1) The person whose record was expunged;
41 (2) a private detective agency or a private patrol operator, and the
42 request is accompanied by a statement that the request is being made in
43 conjunction with an application for employment with such agency or op-

- 1 erator by the person whose record has been expunged;
- 2 (3) a court, upon a showing of a subsequent conviction of the person
3 whose record has been expunged;
- 4 (4) the secretary of social and rehabilitation services, or a designee of
5 the secretary, for the purpose of obtaining information relating to em-
6 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
7 ments thereto, of the department of social and rehabilitation services of
8 any person whose record has been expunged;
- 9 (5) a person entitled to such information pursuant to the terms of the
10 expungement order;
- 11 (6) a prosecuting attorney, and such request is accompanied by a
12 statement that the request is being made in conjunction with a prosecu-
13 tion of an offense that requires a prior conviction as one of the elements
14 of such offense;
- 15 (7) the supreme court, the clerk or disciplinary administrator thereof,
16 the state board for admission of attorneys or the state board for discipline
17 of attorneys, and the request is accompanied by a statement that the
18 request is being made in conjunction with an application for admission,
19 or for an order of reinstatement, to the practice of law in this state by the
20 person whose record has been expunged;
- 21 (8) the Kansas lottery, and the request is accompanied by a statement
22 that the request is being made to aid in determining qualifications for
23 employment with the Kansas lottery or for work in sensitive areas within
24 the Kansas lottery as deemed appropriate by the executive director of the
25 Kansas lottery;
- 26 (9) the governor or the Kansas racing *and gaming* commission, or a
27 designee of the commission, and the request is accompanied by a state-
28 ment that the request is being made to aid in determining qualifications
29 for executive director of the commission, for employment with the com-
30 mission, for work in sensitive areas in parimutuel racing as deemed ap-
31 propriate by the executive director of the commission or for licensure,
32 renewal of licensure or continued licensure by the commission;
- 33 (10) *the Kansas racing and gaming commission, or a designee of the*
34 *commission, and the request is accompanied by a statement that the re-*
35 *quest is being made to aid in determining qualifications of the following*
36 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*
37 *agers and prospective managers, racetrack gaming facility managers and*
38 *prospective managers, licensees and certificate holders; and (B) their of-*
39 *ficers, directors, employees, owners, agents and contractors;*
- 40 ~~(10)~~ (11) the state gaming agency, and the request is accompanied
41 by a statement that the request is being made to aid in determining qual-
42 ifications: (A) To be an employee of the state gaming agency; or (B) to
43 be an employee of a tribal gaming commission or to hold a license issued

- 1 pursuant to a tribal-state gaming compact;
- 2 ~~(11)~~ (12) the Kansas securities commissioner, or a designee of the
3 commissioner, and the request is accompanied by a statement that the
4 request is being made in conjunction with an application for registration
5 as a broker-dealer, agent, investment adviser or investment adviser rep-
6 resentative by such agency and the application was submitted by the per-
7 son whose record has been expunged;
- 8 ~~(12)~~ (13) the attorney general, and the request is accompanied by a
9 statement that the request is being made to aid in determining qualifi-
10 cations for a license to carry a concealed weapon pursuant to the personal
11 and family protection act;
- 12 ~~(13)~~ (14) the Kansas sentencing commission;
- 13 ~~(14)~~ (15) the Kansas ~~law enforcement training~~ commission *on peace*
14 *officers' standards and training* and the request is accompanied by a state-
15 ment that the request is being made to aid in determining certification
16 eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq.,
17 and amendments thereto; or
- 18 ~~(15)~~ (16) a law enforcement agency and the request is accompanied
19 by a statement that the request is being made to aid in determining eli-
20 gibility for employment as a law enforcement officer as defined by K.S.A.
21 22-2202, and amendments thereto.
- 22 Sec. 62. K.S.A. 2006 Supp. 19-101a is hereby amended to read as
23 follows: 19-101a. (a) The board of county commissioners may transact all
24 county business and perform all powers of local legislation and adminis-
25 tration it deems appropriate, subject only to the following limitations,
26 restrictions or prohibitions:
- 27 (1) Counties shall be subject to all acts of the legislature which apply
28 uniformly to all counties.
- 29 (2) Counties may not affect the courts located therein.
- 30 (3) Counties shall be subject to acts of the legislature prescribing
31 limits of indebtedness.
- 32 (4) In the exercise of powers of local legislation and administration
33 authorized under provisions of this section, the home rule power con-
34 ferred on cities to determine their local affairs and government shall not
35 be superseded or impaired without the consent of the governing body of
36 each city within a county which may be affected.
- 37 (5) Counties may not legislate on social welfare administered under
38 state law enacted pursuant to or in conformity with public law No. 271—
39 74th congress, or amendments thereof.
- 40 (6) Counties shall be subject to all acts of the legislature concerning
41 elections, election commissioners and officers and their duties as such
42 officers and the election of county officers.
- 43 (7) Counties shall be subject to the limitations and prohibitions im-

- 1 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
 2 prescribing limitations upon the levy of retailers' sales taxes by counties.
- 3 (8) Counties may not exempt from or effect changes in statutes made
 4 nonuniform in application solely by reason of authorizing exceptions for
 5 counties having adopted a charter for county government.
- 6 (9) No county may levy ad valorem taxes under the authority of this
 7 section upon real property located within any redevelopment project area
 8 established under the authority of K.S.A. 12-1772, and amendments
 9 thereto, unless the resolution authorizing the same specifically authorized
 10 a portion of the proceeds of such levy to be used to pay the principal of
 11 and interest upon bonds issued by a city under the authority of K.S.A.
 12 12-1774, and amendments thereto.
- 13 (10) Counties shall have no power under this section to exempt from
 14 any statute authorizing or requiring the levy of taxes and providing sub-
 15 stitute and additional provisions on the same subject, unless the resolution
 16 authorizing the same specifically provides for a portion of the proceeds
 17 of such levy to be used to pay a portion of the principal and interest on
 18 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
 19 ments thereto.
- 20 (11) Counties may not exempt from or effect changes in the provi-
 21 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 22 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
 23 through 12-1,109, and amendments thereto, counties may not levy and
 24 collect taxes on incomes from whatever source derived.
- 25 (13) Counties may not exempt from or effect changes in K.S.A. 19-
 26 430, and amendments thereto.
- 27 (14) Counties may not exempt from or effect changes in K.S.A. 19-
 28 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 29 ~~(15) (A) Counties may not exempt from or effect changes in K.S.A.~~
 30 ~~13-13a26, and amendments thereto.~~
- 31 ~~(B) This provision shall expire on June 30, 2006.~~
- 32 ~~(16) (A) Counties may not exempt from or effect changes in K.S.A.~~
 33 ~~71-301a, and amendments thereto.~~
- 34 ~~(B) This provision shall expire on June 30, 2006.~~
- 35 ~~(17) (15)~~ (15) Counties may not exempt from or effect changes in K.S.A.
 36 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 37 ~~(18) (16)~~ (16) Counties may not exempt from or effect changes in the
 38 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and
 39 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260
 40 through 12-1270 and 12-1276, and amendments thereto.
- 41 ~~(19) (17)~~ (17) Counties may not exempt from or effect changes in the
 42 provisions of K.S.A. 19-211, and amendments thereto.
- 43 ~~(20) (18)~~ (18) Counties may not exempt from or effect changes in the

1 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
2 ~~(21)~~ (19) Counties may not regulate the production or drilling of any
3 oil or gas well in any manner which would result in the duplication of
4 regulation by the state corporation commission and the Kansas depart-
5 ment of health and environment pursuant to chapter 55 and chapter 65
6 of the Kansas Statutes Annotated, and amendments thereto, and any rules
7 and regulations adopted pursuant thereto. Counties may not require any
8 license or permit for the drilling or production of oil and gas wells. Coun-
9 ties may not impose any fee or charge for the drilling or production of
10 any oil or gas well.

11 ~~(22)~~ (20) Counties may not exempt from or effect changes in K.S.A.
12 79-41a04, and amendments thereto.

13 ~~(23)~~ (21) Counties may not exempt from or effect changes in K.S.A.
14 79-1611, and amendments thereto.

15 ~~(24)~~ (22) Counties may not exempt from or effect changes in K.S.A.
16 79-1494, and amendments thereto.

17 ~~(25)~~ (23) Counties may not exempt from or effect changes in subsec-
18 tion (b) of K.S.A. 19-202, and amendments thereto.

19 ~~(26)~~ (24) Counties may not exempt from or effect changes in subsec-
20 tion (b) of K.S.A. 19-204, and amendments thereto.

21 ~~(27)~~ (25) Counties may not levy or impose an excise, severance or
22 any other tax in the nature of an excise tax upon the physical severance
23 and production of any mineral or other material from the earth or water.

24 ~~(28)~~ (26) Counties may not exempt from or effect changes in K.S.A.
25 79-2017 or 79-2101, and amendments thereto.

26 ~~(29)~~ (27) Counties may not exempt from or effect changes in K.S.A.
27 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
28 1,178 through 65-1,199, and amendments thereto.

29 ~~(30)~~ (28) Counties may not exempt from or effect changes in K.S.A.
30 2006 Supp. 80-121, and amendments thereto.

31 ~~(31)~~ (29) Counties may not exempt from or effect changes in K.S.A.
32 19-228, and amendments thereto.

33 ~~(32)~~ (30) Counties may not exempt from or effect changes in the
34 wireless enhanced 911 act, *in the VoIP enhanced 911 act* or in the pro-
35 visions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

36 ~~(33)~~ (31) Counties may not exempt from or effect changes in K.S.A.
37 2006 Supp. 26-601, and amendments thereto.

38 ~~(34) (A) From and after November 15, 2005;~~ (32) (A) Counties
39 may not exempt from or effect changes in the Kansas liquor control act
40 except as provided by paragraph (B).

41 (B) ~~From and after November 15, 2005;~~ Counties may adopt reso-
42 lutions which are not in conflict with the Kansas liquor control act.

43 ~~(35) (A) From and after November 15, 2005;~~ (33) (A) Counties

1 may not exempt from or effect changes in the Kansas cereal malt beverage
2 act except as provided by paragraph (B).

3 (B) ~~From and after November 15, 2005,~~ Counties may adopt reso-
4 lutions which are not in conflict with the Kansas cereal malt beverage act.

5 (34) *Counties may not exempt from or effect changes in the Kansas*
6 *lottery act.*

7 (35) *Counties may not exempt from or effect changes in the Kansas*
8 *expanded lottery act.*

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

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

23 Sec. 63. K.S.A. 2006 Supp. 21-4619 is hereby amended to read as
24 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
25 any person convicted in this state of a traffic infraction, cigarette or to-
26 bacco infraction, misdemeanor or a class D or E felony, or for crimes
27 committed on or after July 1, 1993, nondrug crimes ranked in severity
28 levels 6 through 10 or any felony ranked in severity level 4 of the drug
29 grid, may petition the convicting court for the expungement of such con-
30 viction or related arrest records if three or more years have elapsed since
31 the person: (A) Satisfied the sentence imposed; or (B) was discharged
32 from probation, a community correctional services program, parole, post-
33 release supervision, conditional release or a suspended sentence.

34 (2) Except as provided in subsections (b) and (c), any person who has
35 fulfilled the terms of a diversion agreement may petition the district court
36 for the expungement of such diversion agreement and related arrest re-
37 cords if three or more years have elapsed since the terms of the diversion
38 agreement were fulfilled.

39 (b) Except as provided in subsection (c), no person may petition for
40 expungement until five or more years have elapsed since the person sat-
41 isfied the sentence imposed, the terms of a diversion agreement or was
42 discharged from probation, a community correctional services program,
43 parole, postrelease supervision, conditional release or a suspended sen-

1 tence, if such person was convicted of a class A, B or C felony, or for
2 crimes committed on or after July 1, 1993, if convicted of an off-grid
3 felony or any nondrug crime ranked in severity levels 1 through 5 or any
4 felony ranked in severity levels 1 through 3 of the drug grid, or:

- 5 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
6 ments thereto, or as prohibited by any law of another state which is in
7 substantial conformity with that statute;
- 8 (2) driving while the privilege to operate a motor vehicle on the public
9 highways of this state has been canceled, suspended or revoked, as pro-
10 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
11 any law of another state which is in substantial conformity with that
12 statute;
- 13 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-
14 ments thereto, or resulting from the violation of a law of another state
15 which is in substantial conformity with that statute;
- 16 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and
17 amendments thereto, relating to fraudulent applications or violating the
18 provisions of a law of another state which is in substantial conformity with
19 that statute;
- 20 (5) any crime punishable as a felony wherein a motor vehicle was
21 used in the perpetration of such crime;
- 22 (6) failing to stop at the scene of an accident and perform the duties
23 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,
24 or required by a law of another state which is in substantial conformity
25 with those statutes;
- 26 (7) violating the provisions of K.S.A. 40-3104, and amendments
27 thereto, relating to motor vehicle liability insurance coverage; or
- 28 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

29 (c) There shall be no expungement of convictions for the following
30 offenses or of convictions for an attempt to commit any of the following
31 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;
32 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and
33 amendments thereto; (3) aggravated indecent liberties with a child as
34 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy
35 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-
36 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-
37 3506, and amendments thereto; (6) indecent solicitation of a child as
38 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-
39 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-
40 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-
41 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.
42 21-3603, and amendments thereto; (10) endangering a child as defined
43 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as

1 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder
2 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in
3 the first degree as defined in K.S.A. 21-3401, and amendments thereto;
4 (14) murder in the second degree as defined in K.S.A. 21-3402, and
5 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.
6 21-3403, and amendments thereto; (16) involuntary manslaughter as de-
7 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-
8 slaughter while driving under the influence of alcohol or drugs as defined
9 in K.S.A. 2006 Supp. 21-3442, and amendments thereto; (18) sexual bat-
10 tery as defined in K.S.A. 21-3517, and amendments thereto, when the
11 victim was less than 18 years of age at the time the crime was committed;
12 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-
13 ments thereto; (20) a violation of K.S.A. 8-1567, and amendments thereto,
14 including any diversion for such violation; (21) a violation of K.S.A. 8-
15 2,144, and amendments thereto, including any diversion for such viola-
16 tion; or (22) any conviction for any offense in effect at any time prior to
17 the effective date of this act, that is comparable to any offense as provided
18 in this subsection.

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

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

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

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

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

29 (6) the identity of the convicting court, arresting law enforcement
30 authority or diverting authority. There shall be no docket fee for filing a
31 petition pursuant to this section. All petitions for expungement shall be
32 docketed in the original criminal action. Any person who may have rel-
33 evant information about the petitioner may testify at the hearing. The
34 court may inquire into the background of the petitioner and shall have
35 access to any reports or records relating to the petitioner that are on file
36 with the secretary of corrections or the Kansas parole board.

37 (e) At the hearing on the petition, the court shall order the peti-
38 tioner's arrest record, conviction or diversion expunged if the court finds
39 that:

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

43 (2) the circumstances and behavior of the petitioner warrant the

1 expungement; and

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

3 (f) When the court has ordered an arrest record, conviction or diver-
4 sion expunged, the order of expungement shall state the information re-
5 quired to be contained in the petition. The clerk of the court shall send
6 a certified copy of the order of expungement to the Kansas bureau of
7 investigation which shall notify the federal bureau of investigation, the
8 secretary of corrections and any other criminal justice agency which may
9 have a record of the arrest, conviction or diversion. After the order of
10 expungement is entered, the petitioner shall be treated as not having been
11 arrested, convicted or diverted of the crime, except that:

12 (1) Upon conviction for any subsequent crime, the conviction that
13 was expunged may be considered as a prior conviction in determining the
14 sentence to be imposed;

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

17 (A) In any application for licensure as a private detective, private
18 detective agency, certification as a firearms trainer pursuant to K.S.A.
19 2006 Supp. 75-7b21, and amendments thereto, or employment as a de-
20 tective with a private detective agency, as defined by K.S.A. 75-7b01, and
21 amendments thereto; as security personnel with a private patrol operator,
22 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-
23 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the
24 department of social and rehabilitation services;

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

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

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

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

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

- 1 ~~(F)~~ (G) to aid in determining the petitioner's qualifications to be an
2 employee of the state gaming agency;
- 3 ~~(G)~~ (H) to aid in determining the petitioner's qualifications to be an
4 employee of a tribal gaming commission or to hold a license issued pur-
5 suant to a tribal-state gaming compact;
- 6 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
7 investment adviser or investment adviser representative all as defined in
8 K.S.A. 2006 Supp. 17-12a102, and amendments thereto; or
- 9 ~~(I)~~ (J) in any application for employment as a law enforcement officer
10 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
- 11 (3) the court, in the order of expungement, may specify other cir-
12 cumstances under which the conviction is to be disclosed;
- 13 (4) the conviction may be disclosed in a subsequent prosecution for
14 an offense which requires as an element of such offense a prior conviction
15 of the type expunged; and
- 16 (5) upon commitment to the custody of the secretary of corrections,
17 any previously expunged record in the possession of the secretary of cor-
18 rections may be reinstated and the expungement disregarded, and the
19 record continued for the purpose of the new commitment.
- 20 (g) Whenever a person is convicted of a crime, pleads guilty and pays
21 a fine for a crime, is placed on parole, postrelease supervision or proba-
22 tion, is assigned to a community correctional services program, is granted
23 a suspended sentence or is released on conditional release, the person
24 shall be informed of the ability to expunge the arrest records or convic-
25 tion. Whenever a person enters into a diversion agreement, the person
26 shall be informed of the ability to expunge the diversion.
- 27 (h) Subject to the disclosures required pursuant to subsection (f), in
28 any application for employment, license or other civil right or privilege,
29 or any appearance as a witness, a person whose arrest records, conviction
30 or diversion of a crime has been expunged under this statute may state
31 that such person has never been arrested, convicted or diverted of such
32 crime, but the expungement of a felony conviction does not relieve an
33 individual of complying with any state or federal law relating to the use
34 or possession of firearms by persons convicted of a felony.
- 35 (i) Whenever the record of any arrest, conviction or diversion has
36 been expunged under the provisions of this section or under the provi-
37 sions of any other existing or former statute, the custodian of the records
38 of arrest, conviction, diversion and incarceration relating to that crime
39 shall not disclose the existence of such records, except when requested
40 by:
- 41 (1) The person whose record was expunged;
- 42 (2) a private detective agency or a private patrol operator, and the
43 request is accompanied by a statement that the request is being made in

- 1 conjunction with an application for employment with such agency or op-
2 erator by the person whose record has been expunged;
- 3 (3) a court, upon a showing of a subsequent conviction of the person
4 whose record has been expunged;
- 5 (4) the secretary of social and rehabilitation services, or a designee of
6 the secretary, for the purpose of obtaining information relating to em-
7 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
8 ments thereto, of the department of social and rehabilitation services of
9 any person whose record has been expunged;
- 10 (5) a person entitled to such information pursuant to the terms of the
11 expungement order;
- 12 (6) a prosecuting attorney, and such request is accompanied by a
13 statement that the request is being made in conjunction with a prosecu-
14 tion of an offense that requires a prior conviction as one of the elements
15 of such offense;
- 16 (7) the supreme court, the clerk or disciplinary administrator thereof,
17 the state board for admission of attorneys or the state board for discipline
18 of attorneys, and the request is accompanied by a statement that the
19 request is being made in conjunction with an application for admission,
20 or for an order of reinstatement, to the practice of law in this state by the
21 person whose record has been expunged;
- 22 (8) the Kansas lottery, and the request is accompanied by a statement
23 that the request is being made to aid in determining qualifications for
24 employment with the Kansas lottery or for work in sensitive areas within
25 the Kansas lottery as deemed appropriate by the executive director of the
26 Kansas lottery;
- 27 (9) the governor or the Kansas racing *and gaming* commission, or a
28 designee of the commission, and the request is accompanied by a state-
29 ment that the request is being made to aid in determining qualifications
30 for executive director of the commission, for employment with the com-
31 mission, for work in sensitive areas in parimutuel racing as deemed ap-
32 propriate by the executive director of the commission or for licensure,
33 renewal of licensure or continued licensure by the commission;
- 34 (10) *the Kansas racing and gaming commission, or a designee of the*
35 *commission, and the request is accompanied by a statement that the re-*
36 *quest is being made to aid in determining qualifications of the following*
37 *under the Kansas expanded lottery act: (A) Lottery gaming facility man-*
38 *agers and prospective managers, racetrack gaming facility managers and*
39 *prospective managers, licensees and certificate holders; and (B) their of-*
40 *ficers, directors, employees, owners, agents and contractors;*
- 41 ~~(10)~~ (11) the Kansas sentencing commission;
- 42 ~~(11)~~ (12) the state gaming agency, and the request is accompanied
43 by a statement that the request is being made to aid in determining qual-

1 ifications: (A) To be an employee of the state gaming agency; or (B) to
 2 be an employee of a tribal gaming commission or to hold a license issued
 3 pursuant to a tribal-gaming compact;

4 ~~(12)~~ (13) the Kansas securities commissioner or a designee of the
 5 commissioner, and the request is accompanied by a statement that the
 6 request is being made in conjunction with an application for registration
 7 as a broker-dealer, agent, investment adviser or investment adviser rep-
 8 resentative by such agency and the application was submitted by the per-
 9 son whose record has been expunged;

10 ~~(13)~~ (14) the Kansas law enforcement training commission on *peace*
 11 *officers' standards and training* and the request is accompanied by a state-
 12 ment that the request is being made to aid in determining certification
 13 eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq.,
 14 and amendments thereto;

15 ~~(14)~~ (15) a law enforcement agency and the request is accompanied
 16 by a statement that the request is being made to aid in determining eli-
 17 gibility for employment as a law enforcement officer as defined by K.S.A.
 18 22-2202, and amendments thereto; or

19 ~~(15)~~ (16) the attorney general and the request is accompanied by a
 20 statement that the request is being made to aid in determining qualifi-
 21 cations for a license to carry a concealed weapon pursuant to the personal
 22 and family protection act.

23 Sec. 64. K.S.A. 60-2102 is hereby amended to read as follows: 60-
 24 2102. (a) ~~As~~ *Appeal to court of appeals as matter of right*. Except for any
 25 order or final decision of a district magistrate judge, the appellate juris-
 26 diction of the court of appeals may be invoked by appeal as a matter of
 27 right from:

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

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

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

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

42 (b) *Appeal to supreme court as matter of right*. The appellate juris-
 43 diction of the supreme court may be invoked by appeal as a matter of

1 right from:

2 (1) A preliminary or final decision in which a statute of this state has
3 been held unconstitutional as a violation of Article 6 of the Kansas con-
4 stitution pursuant to K.S.A. ~~2005~~ 2006 Supp. 72-64b03, and amendments
5 thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed
6 within 30 days of the date the preliminary or final decision is filed.

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

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

24 Sec. 65. K.S.A. 60-2102, 74-8702, 74-8710, 74-8716, 74-8723, 74-
25 8814, 74-8823, 74-8830, 74-8832 and 74-8838 and K.S.A. 2006 Supp. 12-
26 4516, 19-101a, 19-101l, 21-4619, 74-8711, 74-8810 and 79-4805 are
27 hereby repealed.

28 Sec. 66. This act shall take effect and be in force from and after its
29 publication in the Kansas register.