

HOUSE BILL No. 2568

By Committee on Federal and State Affairs

3-7

9 AN ACT concerning gambling; relating to destination casinos; amending
10 K.S.A. 2006 Supp. 12-4516, 12-4516a, 19-101a, 21-4619, 79-2959, 79-
11 4805 and 79-4806 and repealing the existing sections; also repealing
12 K.S.A. 2006 Supp. 19-101l, 21-4619c and K.S.A. 2005 Supp. 19-101a
13 as amended by section 4 of chapter 192 of the 2006 Session Laws of
14 Kansas.

15

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

17 New Section 1. Sections 1 through 10, and amendments thereto,
18 shall be known and cited as the Kansas destination casino act.

19 New Sec. 2. As used in this act, unless the context otherwise
20 requires:

21 (a) “Ancillary destination enterprise operations” means a service, fa-
22 cility, or operation, such as a restaurant, hotel, entertainment venue, or
23 meeting space that is part of a destination enterprise which may be either
24 publicly or privately owned and is likely to attract or retain consumers at
25 a destination enterprise and its related destination casino.

26 (b) “Base year assessed valuation” means the assessed valuation of all
27 real property within the boundaries of a destination casino and enterprise
28 district.

29 (c) “Casino tax increment” means that amount of real property taxes
30 collected from real property located within a destination casino and en-
31 terprise district that is in excess of the amount of real property taxes which
32 is collected from the base year assessed valuation.

33 (d) “Certificate of authority” means a written approval of the com-
34 mission for establishment of a destination enterprise, pending approval
35 by the local voters, pursuant to this act.

36 (e) “Commission” means the Kansas destination casino commission
37 established pursuant to this act.

38 (f) “Destination casino” means a gaming operation with destination
39 casino games, which is managed and owned by the commission and which
40 is designed as part of a destination enterprise to attract gaming consumers
41 from outside its immediate area.

42 (g) “Destination casino and enterprise district” means the specific
43 area declared by the board of county commissioners to be a separate

1 taxing district wherein is located a destination casino and destination
2 enterprise.

3 (h) "Destination casino expenses" means the normal business ex-
4 penses, as defined by the commission pursuant to generally accepted
5 accounting principles (GAAP), associated with the operation of a desti-
6 nation casino. Destination casino expenses also shall include an annual
7 payment of \$1.25 million of each destination casino revenues to the prob-
8 lem gambling grant fund established by K.S.A. 2006 Supp. 79-4805, and
9 amendments thereto.

10 (i) "Destination casino games" means electronic gaming machine
11 games and any other games which, as of July 1, 2007, are authorized to
12 be conducted or operated at a tribal gaming facility, as defined in K.S.A.
13 74-9802, and amendments thereto, located within the boundaries of this
14 state.

15 (j) "Destination casino net revenues" means the balance of destina-
16 tion casino revenues remaining after deducting destination casino
17 expenses.

18 (k) "Destination casino revenues" mean the total revenues from des-
19 tination casino games at a destination casino after all related prizes are
20 paid.

21 (l) "Destination enterprise" means an entertainment enterprise
22 which may be either publicly or privately owned and which includes a
23 destination casino authorized pursuant to this act and ancillary destination
24 enterprise operations that have a common business or marketing strategy.
25 A destination enterprise shall be designed to attract gaming consumers
26 from outside its immediate area to its destination casino. If the destination
27 enterprise is privately owned, the destination enterprise manager shall
28 provide financing for construction and development of the destination
29 enterprise, including its destination casino.

30 (m) "Destination enterprise manager" means a person authorized by
31 the commission to construct, operate and manage a destination
32 enterprise.

33 (n) "Key gaming employee" means any natural person 21 years of age
34 or older employed by the commission including, but not limited to: (1)
35 Assistant destination casino manager; (2) destination casino games man-
36 ager; (3) accounting department personnel; (4) count room employees;
37 (5) cage department employees, including cashiers and main bank em-
38 ployees; (6) vault department employees; (7) approvers of credit; (8) sur-
39 veillance department employees; (9) security department employees; (10)
40 floor managers; (11) electronic gaming machine technicians; (12) custo-
41 dians of electronic gaming machines, including persons with access to
42 cash and accounting records within such machines; (13) collection per-
43 sonnel; (14) internal auditors of the destination enterprise manager; (15)

1 any employee whose total cash compensation is in excess of \$50,000 per
2 year; and (16) any other type of employee specified by the executive
3 director.

4 (o) “Market study” means an objective, scientific study commissioned
5 by the commission to determine the feasibility and profitability of a pro-
6 posed destination casino. The proponent of a proposal for a privately
7 owned destination enterprise shall pay for any market study required by
8 this act for such proposal.

9 New Sec. 3. (a) There is hereby created the Kansas destination ca-
10 sino commission, which shall be composed of five members who shall be
11 appointed by the governor, subject to confirmation by the senate as pro-
12 vided by K.S.A. 75-4315b, and amendments thereto. Except as provided
13 by K.S.A. 46-2601, and amendments thereto, no person appointed to the
14 commission shall exercise any power, duty or function as a member of
15 the commission until confirmed by the senate. All members of the com-
16 mission shall be citizens of the United States and residents of this state.
17 Not more than three of the five members shall be members of the same
18 political party. A chairperson of the commission shall be designated by
19 the governor from the membership of the commission.

20 (b) Except as provided by subsection (c), the members of the com-
21 mission shall serve for terms of four years and until their successors are
22 appointed and confirmed, except that the members first appointed shall
23 serve for terms designated by the governor as follows: One member shall
24 serve for a term of one year, one shall serve for a term of two years, one
25 shall serve for a term of three years and two shall serve for terms of four
26 years. Any vacancy occurring in the membership of the commission shall
27 be filled in the same manner as the original appointment for the remain-
28 der of the unexpired term.

29 (c) A person shall not be eligible for appointment to the commission
30 if, within two years before appointment, such person, or such person’s
31 spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or
32 stepparent, has been employed by or had any financial interest in any
33 business engaged in operating gaming or a lottery, selling goods or serv-
34 ices used in the operation of gaming or a lottery or representing the
35 gaming or lottery industry.

36 (d) The commission shall hold at least four regular meetings each
37 year and such additional meetings as the chairperson deems desirable.
38 Special meetings shall be called by the chairperson upon written request
39 of the executive director or any three members of the commission. All
40 meetings shall be held at a place and time fixed by the chairperson. A
41 majority of the members of the commission shall constitute a quorum to
42 transact its business.

43 (e) The commission shall consult with and advise the executive di-

1 rector relating to the development, construction and operation of casino
2 gambling, shall assist the director in the establishment of policies and
3 shall review and approve the proposed annual budget for the commission
4 prepared by the executive director, subject to all state laws governing
5 budget procedures for state agencies.

6 (f) The commission, in conjunction with the executive director, shall
7 make an ongoing study of the operation and administration of casinos in
8 operation in other states or countries, of available literature on the sub-
9 ject, of federal laws and regulations which may affect the operation of the
10 casinos and of the reaction of citizens of this state to existing or proposed
11 features of casino gambling, with a view toward implementing improve-
12 ments that will tend to serve the purposes of this act.

13 (g) Subject to the limitations of appropriations therefor, members of
14 the commission shall receive such compensation as determined by the
15 governor. Members of the commission attending meetings of the com-
16 mission or subcommittee meetings thereof approved by the commission
17 shall be paid subsistence allowances, mileage and other expenses as pro-
18 vided in K.S.A. 75-3223, and amendments thereto.

19 (h) All costs and expenses of the commission shall be paid out of
20 destination casino revenues once one or more such casinos are
21 operational.

22 New Sec. 4. (a) (1) The governor shall appoint, subject to confir-
23 mation by the senate as provided by K.S.A. 75-4315b, and amendments
24 thereto, an executive director of the commission, to serve at the pleasure
25 of the governor and under the direction and supervision of the commis-
26 sion. Before appointing any person as executive director, the governor
27 shall cause the Kansas bureau of investigation to conduct a criminal his-
28 tory record check and background investigation of the person.

29 (2) The executive director shall: (A) Be in the unclassified service
30 under the Kansas civil service act; (B) devote full time to the executive
31 director's assigned duties; (C) receive such compensation as determined
32 by the governor, subject to the limitations of appropriations therefor; (D)
33 be a citizen of the United States and an actual resident of Kansas during
34 employment by the commission; (E) not have been convicted of a felony
35 under the laws of any state or of the United States prior to or during
36 employment by the commission; and (F) have familiarity with the casino
37 gambling industry sufficient to fulfill the duties of the office of executive
38 director.

39 (3) The executive director shall: (A) Recommend to the commission
40 the number and qualifications of employees necessary to implement and
41 enforce the provisions of this act; (B) employ persons for those positions
42 approved by the commission, subject to the limitations of appropriations
43 therefor; and (C) perform such other duties as directed by the

1 commission.

2 (b) (1) The executive director shall appoint an inspector of casinos
3 to serve at the pleasure of the executive director. Before appointing any
4 person as inspector of casinos, the executive director shall cause the Kan-
5 sas bureau of investigation to conduct a criminal history record check and
6 background investigation of the person.

7 (2) The inspector of casinos shall: (A) Be in the unclassified service
8 under the Kansas civil service act; (B) devote full time to the inspector's
9 assigned duties; (C) receive such compensation as determined by the
10 executive director, subject to the limitations of appropriations therefor;
11 (D) be a citizen of the United States and an actual resident of Kansas
12 during employment as inspector of casinos; (E) not have been convicted
13 of a felony under the laws of any state or of the United States prior to or
14 during employment by the commission; and (F) be a certified public
15 accountant with at least three years of auditing experience.

16 (3) The inspector of casinos shall: (A) Inspect and audit the conduct
17 of casino gambling including the equipment and facilities used and pro-
18 cedures followed; (B) train and supervise such personnel as employed by
19 the executive director to assist with such duties; and (C) perform such
20 other duties as directed by the executive director.

21 (c) (1) The executive director shall appoint a director of security to
22 serve at the pleasure of the executive director. Before appointing any
23 person as director of security, the executive director shall cause the Kan-
24 sas bureau of investigation to conduct a criminal history record check and
25 background investigation of the person.

26 (2) The director of security shall: (A) Be in the unclassified service
27 under the Kansas civil service act; (B) devote full time to the security
28 director's assigned duties; (C) receive such compensation as determined
29 by the executive director, subject to the limitations of appropriations
30 therefor; (D) be a citizen of the United States and an actual resident of
31 Kansas during employment as director of security; (E) not have been
32 convicted of a felony under the laws of any state or of the United States
33 prior to or during employment by the commission; and (F) be a profes-
34 sional law enforcement officer with a minimum of five years' experience
35 in the field of law enforcement and at least a bachelor's degree in law
36 enforcement administration, law, criminology or a related science or, in
37 lieu thereof, a minimum of 10 years' experience in the field of law
38 enforcement.

39 (3) The director of security shall: (A) Conduct investigations relating
40 to compliance with the provisions of this act and rules and regulations of
41 the commission; (B) recommend proper security measures for casino
42 gambling; (C) train and supervise such personnel as employed by the
43 executive director to assist with such duties; and (D) perform such other

1 duties as directed by the executive director.

2 (d) Except as otherwise provided by this act, all employees of the
3 commission shall be in the classified service under the Kansas civil service
4 act.

5 (e) No employee of the commission shall have been convicted of a
6 felony under the laws of any state or of the United States prior to or
7 during employment by the commission. Before employing any person,
8 the commission shall cause a criminal history record check of the person
9 to be conducted.

10 New Sec. 5. The commission shall have the following powers to:

11 (a) Sue and be sued;

12 (b) have a seal and alter such seal;

13 (c) acquire, hold and dispose of real and personal property;

14 (d) make and execute contracts for the purpose of this act;

15 (e) enter into agreements with and accept gifts, grants, loans and
16 other aid from the federal government, the state, any state agency, any
17 political subdivision of the state, or any person, corporation, foundation
18 or legal entity;

19 (f) procure insurance against any loss in connection with its property
20 and other assets;

21 (g) lease, acquire, construct, sell and otherwise deal in and contract
22 concerning any facilities;

23 (h) authorize the Kansas development finance authority for the pur-
24 poses of subsection (b) of K.S.A. 74-8905, and amendments thereto, to
25 issue bonds for the construction of any destination casinos and destination
26 enterprises plus all amounts required for costs of bond issuance, costs of
27 interest on the bonds issued for such projects and any required reserves
28 for the payment of principal and interest on the bonds. All moneys re-
29 ceived from the issuance of any such bonds shall be deposited and ac-
30 counted for as prescribed by applicable bond covenants. Debt service for
31 such bonds shall be paid from net revenues of destination casinos and
32 from revenues from destination enterprises;

33 (i) observe and inspect all destination casino facilities in Kansas, in-
34 cluding, but not limited to, all machines, equipment and facilities used
35 for casino gambling;

36 (j) administer oaths and take depositions to the same extent and sub-
37 ject to the same limitations as would apply if the deposition was in aid of
38 a civil action in the district court;

39 (k) examine, or cause to be examined by any agent or representative
40 designated by the commission, any books, papers, records or memoranda
41 of any destination casino in Kansas, for the purpose of ascertaining com-
42 pliance with any provision of this act or any rule and regulation adopted
43 hereunder;

- 1 (l) after notice and an opportunity for hearing in accordance with
2 rules and regulations adopted by the commission, to exclude, or cause to
3 be expelled, from any destination casino facility, any person:
- 4 (1) Who has violated the provisions of this act or any rule and regu-
5 lation or order of the commission;
- 6 (2) who has been convicted of a violation of the racing or gambling
7 laws of this or any other state or of the United States or has been adju-
8 dicated of committing as a juvenile an act which, if committed by an adult,
9 would constitute such a violation; or
- 10 (3) whose presence, in the opinion of the commission, reflects ad-
11 versely on the honesty and integrity of casino gambling;
- 12 (m) develop and approve all proposed construction and major reno-
13 vations to destination casino facilities as provided in section 6, and amend-
14 ments thereto;
- 15 (n) require fingerprinting of all persons necessary to verify qualifi-
16 cation for employment by the commission. The commission shall submit
17 such fingerprints to the Kansas bureau of investigation and to the federal
18 bureau of investigation for the purposes of verifying the identity of such
19 persons and obtaining records of criminal arrests and convictions;
- 20 (o) receive from commission security personnel, the Kansas bureau
21 of investigation or other criminal justice agencies, including, but not lim-
22 ited to, the federal bureau of investigation and the federal internal rev-
23 enue service, such criminal history record information (including arrest
24 and nonconviction data), criminal intelligence information and informa-
25 tion relating to criminal and background investigations as necessary for
26 the purpose of determining qualifications of destination casino employees
27 of the commission and applicants for employment by the commission.
28 Upon the written request of the chairperson of the commission, the com-
29 mission may receive from the district courts such information relating to
30 juvenile proceedings as necessary for the purpose of determining quali-
31 fications of employees of and applicants for employment by the commis-
32 sion. Such information, other than conviction data, shall be confidential
33 and shall not be disclosed except to members and employees of the com-
34 mission. Any other disclosure of such confidential information is a class
35 A misdemeanor and shall constitute grounds for removal from office or
36 termination of employment;
- 37 (p) recess, in accordance with K.S.A. 75-4319, and amendments
38 thereto, for a closed or executive meeting to receive and discuss infor-
39 mation received by the commission concerning criminal background
40 information;
- 41 (q) enter into agreements with the federal bureau of investigation,
42 the federal internal revenue service, the Kansas attorney general or any
43 state, federal or local agency as necessary to carry out the duties of the

- 1 commission under this act;
- 2 (r) establish rules and regulations which:
- 3 (1) Prohibit the use of credit cards, debit cards and electronic benefit
4 transfer cards or other federal or state assistance benefits if these are in
5 a form other than cash, by any person at a destination casino;
- 6 (2) prohibit the location of ATM and credit card cash advance ma-
7 chines on the premises of any destination casino or in any parking facility
8 or parking lot serving such casino;
- 9 (3) prohibit the extension of credit by a destination casino to any
10 person;
- 11 (4) prohibit the destination casino from cashing any payroll check,
12 third party check, public assistance check or business check for any per-
13 son; and
- 14 (5) require a destination casino to enforce a weekly loss limit per
15 person not to exceed \$500; and
- 16 (s) adopt such other rules and regulations as necessary to implement
17 and enforce the provisions of this act.
- 18 New Sec. 6. (a) The commission shall develop proposals for desti-
19 nation enterprises and destination casinos and shall review proposals for
20 privately owned and operated destination enterprises submitted to the
21 commission by applicants seeking to become destination enterprise
22 operators.
- 23 (b) The commission shall order a market study to be conducted for
24 each destination casino and destination enterprise proposal to determine
25 whether such proposal is feasible and would be profitable.
- 26 (c) The commission may issue certificates of authority for the estab-
27 lishment of privately owned destination enterprises.
- 28 (d) Subject to the provisions of section 7, and amendments thereto,
29 the commission, in its discretion, may issue a certificate of authority for
30 the proposed destination enterprise, if the commission determines that
31 the proposal:
- 32 (1) Includes ancillary destination enterprise operations which would
33 provide for dining, lodging, meetings, conferences and entertainment
34 other than gaming; and
- 35 (2) demonstrates through a market study that, considering all other
36 competing gaming and other entertainment venues, the proposal would
37 (A) be economically feasible, and (B) be profitable for the state.
- 38 New Sec. 7. (a) Destination casino gaming shall be operated pursu-
39 ant to this act only in counties where the qualified electors have voted to
40 permit the operation of such gaming and such gaming has been approved
41 by the qualified electors in any county located in Kansas which is adjacent
42 to the county in which the proposed destination casino will be located.
- 43 (b) The board of county commissioners of any county covered by this

1 section may submit the proposition to the voters by passage of a resolution
2 calling for such election. Such board shall pass a resolution submitting
3 the proposition if presented with a sufficient petition by qualified electors
4 as provided by subsection (c).

5 (c) A petition to submit a proposition to the qualified electors of a
6 county pursuant to this section shall be filed with the election officer.
7 The petition shall be signed by qualified electors of the county equal in
8 number to not less than 10% of the voters of the county who voted for
9 the office of secretary of state at the last preceding general election at
10 which such office was elected. The following shall appear on the petition:
11 "We request an election to determine whether the operation of a desti-
12 nation casino shall be permitted in _____ county."

13 (d) Upon the adoption of a resolution calling for an election pursuant
14 to this section, the county election officer shall cause the following
15 proposition to be placed on the ballot at the election called for that
16 purpose: "Shall the operation of a destination casino be permitted
17 in _____ county?"

18 (e) If a majority of the qualified electors voting at such election, in
19 all counties required to conduct an election, vote in favor of permitting
20 the operation of a destination casino, the commission may enter into a
21 casino license agreement with a licensee to operate a destination casino
22 in the county. If a majority of the qualified electors voting at an election
23 under this section in any of the counties required to conduct an election
24 pursuant to this section vote against permitting the operation of a desti-
25 nation casino the proposed destination casino shall not be approved by
26 the commission.

27 New Sec. 8. (a) Upon approval by the qualified electors of a desti-
28 nation casino as required by section 7, and amendments thereto, the
29 board of county commissioners of the county wherein the destination
30 casino shall be located, shall create a destination casino and enterprise
31 district by the passage of a resolution.

32 (b) Beginning with the first payment of taxes which are levied follow-
33 ing the date of the establishment of the redevelopment district, real prop-
34 erty taxes received by the county treasurer resulting from taxes which are
35 levied subject to the provisions of this act by and for the benefit of a
36 taxing subdivision, as defined in K.S.A. 12-1770a, and amendments
37 thereto, on property located within such district constituting a separate
38 taxing unit under the provisions of this section, shall be divided as follows:

39 (1) From the taxes levied each year subject to the provisions of this
40 act by or for each of the taxing subdivisions upon property located within
41 a redevelopment district constituting a separate taxing unit under the
42 provisions of this act, the county treasurer first shall allocate and pay to
43 each such taxing subdivision all of the real property taxes collected which

1 are produced from the base year assessed valuation.

2 (2) Any real property taxes produced from that portion of the current
3 assessed valuation of real property within such district constituting a sep-
4 arate taxing unit under the provisions of this section in excess of the base
5 year assessed valuation shall be allocated on an equal basis and paid by
6 the county treasurer to each county treasurer of each county which was
7 required to hold an election pursuant to section 7, and amendments
8 thereto. Such moneys shall be placed in the county general fund.

9 New Sec. 9. (a) It is unlawful for the executive director, a member
10 of the commission or any employee of the commission, or any person
11 residing in the household thereof to:

12 (1) Have, either directly or indirectly, an interest in a business know-
13 ing that such business contracts with the commission or with a destination
14 casino or destination enterprise, whether such interest is as a natural
15 person, partner, member of an association, stockholder or director or
16 officer of a corporation; or

17 (2) accept or agree to accept any economic opportunity, gift, loan,
18 gratuity, special discount, favor or service, or hospitality other than food
19 and beverages, having an aggregate value of \$20 or more in any calendar
20 year from a person knowing that such person contracts or seeks to con-
21 tract with the commission or with a destination casino or destination
22 enterprise.

23 (b) It is unlawful for a destination enterprise operator or a person
24 who contracts or seeks to contract with the commission to supply gaming
25 equipment, materials or consulting services for use in casino gambling to
26 offer, pay, give or make any economic opportunity, gift, loan, gratuity,
27 special discount, favor or service, or hospitality other than food and bev-
28 erages, having an aggregate value of \$20 or more in any calendar year to
29 a person, knowing such person is the executive director, a member of the
30 commission or an employee of the commission, or a person residing in
31 the household thereof.

32 (c) Violation of this section is a class A misdemeanor.

33 (d) If the executive director, a member of the commission or an em-
34 ployee thereof, or any person residing in the household thereof, is con-
35 victed of an act described by this section, such executive director, member
36 or employee shall be removed from office or employment with the
37 commission.

38 (e) In addition to the provisions of this section, all other provisions
39 of law relating to conflicts of interest of state employees shall apply to the
40 members of the commission and employees of the Kansas lottery.

41 New Sec. 10. The attorney general shall appoint, with the approval
42 of the executive director, an assistant attorney general who shall be as-
43 signed exclusively to assist the Kansas destination casino commission in

1 the enforcement of the criminal and civil provisions of this act. Such
2 attorney shall receive an annual salary fixed by the attorney general with
3 the approval of the executive director. Such salary shall be paid by the
4 commission.

5 Sec. 11. K.S.A. 2006 Supp. 79-2959 is hereby amended to read as
6 follows: 79-2959. (a) There is hereby created the local ad valorem tax
7 reduction fund. All moneys transferred or credited to such fund under
8 the provisions of this act or any other law shall be apportioned and dis-
9 tributed in the manner provided herein.

10 (b) On January 15 and on July 15 of each year, the director of ac-
11 counts and reports shall make transfers in equal amounts which in the
12 aggregate equal 3.63% of the total retail sales and compensating taxes
13 credited to the state general fund pursuant to articles 36 and 37 of chapter
14 79 of Kansas Statutes Annotated and acts amendatory thereof and sup-
15 plemental thereto during the preceding calendar year from the state gen-
16 eral fund to the local ad valorem tax reduction fund, except that no mon-
17 eys shall be transferred from the state general fund to the local ad valorem
18 tax reduction fund during state fiscal years 2007 and 2008, and the amount
19 of the transfer on each such date shall be \$6,750,000 during the fiscal
20 year 2010, ~~\$13,500,000~~ *at least \$75,000,000* during fiscal year 2011,
21 ~~\$20,250,000 during fiscal year 2012, and \$27,000,000 during fiscal year~~
22 ~~2013~~ and all fiscal years thereafter. All such transfers are subject to re-
23 duction under K.S.A. 75-6704 and amendments thereto. All transfers
24 made in accordance with the provisions of this section shall be considered
25 to be demand transfers from the state general fund.

26 (c) The state treasurer shall apportion and pay the amounts trans-
27 ferred under subsection (b) to the several county treasurers on January
28 15 and on July 15 in each year as follows: (1) Sixty-five percent of the
29 amount to be distributed shall be apportioned on the basis of the popu-
30 lation figures of the counties certified to the secretary of state pursuant
31 to K.S.A. 11-201 and amendments thereto on July 1 of the preceding
32 year; and (2) thirty-five percent of such amount shall be apportioned on
33 the basis of the equalized assessed tangible valuations on the tax rolls of
34 the counties on November 1 of the preceding year as certified by the
35 director of property valuation.

36 Sec. 12. K.S.A. 2006 Supp. 79-4805 is hereby amended to read as
37 follows: 79-4805. (a) There is hereby established in the state treasury the
38 problem gambling grant fund. All moneys credited to such fund shall be
39 used only for the awarding of grants under this section. Such fund shall
40 be administered in accordance with this section and the provisions of
41 appropriation acts.

42 (b) All expenditures from the problem gambling grant fund shall be
43 made in accordance with appropriation acts upon warrants of the director

1 of accounts and reports issued pursuant to vouchers approved in the man-
2 ner prescribed by law.

3 (c) (1) There is hereby established a state grant program to provide
4 assistance for the direct treatment of persons diagnosed as suffering from
5 pathological gambling and to provide funding for research regarding the
6 impact of gambling on residents of Kansas. Research grants awarded un-
7 der this section may include, but need not be limited to, grants for de-
8 termining the effectiveness of education and prevention efforts on the
9 prevalence of pathological gambling in Kansas. All grants shall be made
10 after open solicitation of proposals and evaluation of proposals against
11 criteria established in rules and regulations adopted by the secretary of
12 the department of social and rehabilitation services. Both public and pri-
13 vate entities shall be eligible to apply for and receive grants under the
14 provisions of this section.

15 (2) *On and after the first payment is made to the problem gambling*
16 *grant fund as provided in section 2, and amendments thereto, moneys*
17 *from such fund may be used to treat alcohol, drug abuse and other ad-*
18 *dictive behaviors in persons diagnosed as suffering from pathological*
19 *gambling.*

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

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

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

36 Sec. 13. K.S.A. 2006 Supp. 79-4806 is hereby amended to read as
37 follows: 79-4806. *Except as provided by section 2, and amendments*
38 *thereto, on July 1 of each year or as soon thereafter as sufficient moneys*
39 *are available, \$80,000 credited to the state gaming revenues fund shall*
40 *be transferred and credited to the problem gambling grant fund estab-*
41 *lished by K.S.A. 2006 Supp. 79-4805, and amendments thereto.*

42 Sec. 14. K.S.A. 2006 Supp. 12-4516 is hereby amended to read as
43 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any

- 1 person who has been convicted of a violation of a city ordinance of this
2 state may petition the convicting court for the expungement of such con-
3 viction and related arrest records if three or more years have elapsed
4 since the person:
- 5 (A) Satisfied the sentence imposed; or
 - 6 (B) was discharged from probation, parole or a suspended sentence.
- 7 (2) Except as provided in subsection (b) or (c), any person who has
8 fulfilled the terms of a diversion agreement based on a violation of a city
9 ordinance of this state may petition the court for the expungement of
10 such diversion agreement and related arrest records if three or more years
11 have elapsed since the terms of the diversion agreement were fulfilled.
- 12 (b) No person may petition for expungement until five or more years
13 have elapsed since the person satisfied the sentence imposed or the terms
14 of a diversion agreement or was discharged from probation, parole, con-
15 ditional release or a suspended sentence, if such person was convicted of
16 the violation of a city ordinance which would also constitute:
- 17 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
18 ments thereto;
 - 19 (2) driving while the privilege to operate a motor vehicle on the public
20 highways of this state has been canceled, suspended or revoked, as pro-
21 hibited by K.S.A. 8-262, and amendments thereto;
 - 22 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-
23 ments thereto;
 - 24 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,
25 and amendments thereto, relating to fraudulent applications;
 - 26 (5) any crime punishable as a felony wherein a motor vehicle was
27 used in the perpetration of such crime;
 - 28 (6) failing to stop at the scene of an accident and perform the duties
29 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;
 - 30 (7) a violation of the provisions of K.S.A. 40-3104, and amendments
31 thereto, relating to motor vehicle liability insurance coverage; or
 - 32 (8) a violation of K.S.A. 21-3405b, and amendments thereto.
- 33 (c) There shall be no expungement of convictions or diversions for a
34 violation of a city ordinance which would also constitute a violation of
35 K.S.A. 8-1567 or 8-2,144, and amendments thereto.
- 36 (d) When a petition for expungement is filed, the court shall set a
37 date for a hearing of such petition and shall cause notice of such hearing
38 to be given to the prosecuting attorney and the arresting law enforcement
39 agency. The petition shall state:
- 40 (1) The defendant's full name;
 - 41 (2) the full name of the defendant at the time of arrest, conviction or
42 diversion, if different than the defendant's current name;
 - 43 (3) the defendant's sex, race and date of birth;
 - (4) the crime for which the defendant was arrested, convicted or

1 diverted;

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

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

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

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

17 (2) the circumstances and behavior of the petitioner warrant the
18 expungement; and

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

20 (f) When the court has ordered an arrest record, conviction or diver-
21 sion expunged, the order of expungement shall state the information re-
22 quired to be contained in the petition. The clerk of the court shall send
23 a certified copy of the order of expungement to the Kansas bureau of
24 investigation which shall notify the federal bureau of investigation, the
25 secretary of corrections and any other criminal justice agency which may
26 have a record of the arrest, conviction or diversion. After the order of
27 expungement is entered, the petitioner shall be treated as not having been
28 arrested, convicted or diverted of the crime, except that:

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

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

34 (A) In any application for employment as a detective with a private
35 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
36 as security personnel with a private patrol operator, as defined by K.S.A.
37 75-7b01, and amendments thereto; or with an institution, as defined in
38 K.S.A. 76-12a01, and amendments thereto, of the department of social
39 and rehabilitation services;

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

42 (C) to aid in determining the petitioner's qualifications for employ-
43 ment with the Kansas lottery or for work in sensitive areas within the

- 1 Kansas lottery as deemed appropriate by the executive director of the
2 Kansas lottery;
- 3 ~~(D)~~ *(D)* to aid in determining the petitioner's qualifications for executive
4 director of the Kansas destination casino commission, for employment
5 with the commission;
- 6 ~~(E)~~ *(E)* to aid in determining the petitioner's qualifications for ex-
7 ecutive director of the Kansas racing commission, for employment with
8 the commission or for work in sensitive areas in parimutuel racing as
9 deemed appropriate by the executive director of the commission, or to
10 aid in determining qualifications for licensure or renewal of licensure by
11 the commission;
- 12 ~~(F)~~ *(F)* upon application for a commercial driver's license under
13 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- 14 ~~(G)~~ *(G)* to aid in determining the petitioner's qualifications to be an
15 employee of the state gaming agency;
- 16 ~~(H)~~ *(H)* to aid in determining the petitioner's qualifications to be an
17 employee of a tribal gaming commission or to hold a license issued pur-
18 suant to a tribal-state gaming compact;
- 19 ~~(I)~~ *(I)* in any application for registration as a broker-dealer, agent,
20 investment adviser or investment adviser representative all as defined in
21 K.S.A. 2006 Supp. 17-12a102, and amendments thereto;
- 22 (3) the court, in the order of expungement, may specify other cir-
23 cumstances under which the arrest, conviction or diversion is to be dis-
24 closed; and
- 25 (4) the conviction may be disclosed in a subsequent prosecution for
26 an offense which requires as an element of such offense a prior conviction
27 of the type expunged; or
- 28 ~~(5)~~ *(5)* in any application for employment as a law enforcement officer
29 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto.
- 30 (g) Whenever a person is convicted of an ordinance violation, pleads
31 guilty and pays a fine for such a violation, is placed on parole or probation
32 or is granted a suspended sentence for such a violation, the person shall
33 be informed of the ability to expunge the arrest records or conviction.
34 Whenever a person enters into a diversion agreement, the person shall
35 be informed of the ability to expunge the diversion.
- 36 (h) Subject to the disclosures required pursuant to subsection (f), in
37 any application for employment, license or other civil right or privilege,
38 or any appearance as a witness, a person whose arrest records, conviction
39 or diversion of an offense has been expunged under this statute may state
40 that such person has never been arrested, convicted or diverted of such
41 offense.
- 42 (i) Whenever the record of any arrest, conviction or diversion has
43 been expunged under the provisions of this section or under the provi-

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

1 an employee of a tribal gaming commission or to hold a license issued
2 pursuant to a tribal-state gaming compact;

3 *(11) the Kansas destination casino commission, and the request is*
4 *accompanied by a statement that the request is being made to aid in*
5 *determining qualifications to be an employee of the commission;*

6 ~~(11)~~ (12) the Kansas securities commissioner, or a designee of the
7 commissioner, and the request is accompanied by a statement that the
8 request is being made in conjunction with an application for registration
9 as a broker-dealer, agent, investment adviser or investment adviser rep-
10 resentative by such agency and the application was submitted by the per-
11 son whose record has been expunged;

12 ~~(12)~~ (13) the attorney general, and the request is accompanied by a
13 statement that the request is being made to aid in determining qualifi-
14 cations for a license to carry a concealed weapon pursuant to the personal
15 and family protection act;

16 ~~(13)~~ (14) the Kansas sentencing commission;

17 ~~(14)~~ (15) the Kansas law enforcement training commission and the
18 request is accompanied by a statement that the request is being made to
19 aid in determining certification eligibility as a law enforcement officer
20 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

21 ~~(15)~~ (16) a law enforcement agency and the request is accompanied
22 by a statement that the request is being made to aid in determining eli-
23 gibility for employment as a law enforcement officer as defined by K.S.A.
24 22-2202, and amendments thereto.

25 Sec. 15. K.S.A. 2006 Supp. 12-4516a is hereby amended to read as
26 follows: 12-4516a. (a) Any person who has been arrested on a violation
27 of a city ordinance of this state may petition the court for the expunge-
28 ment of such arrest record.

29 (b) When a petition for expungement is filed, the court shall set a
30 date for hearing on such petition and shall cause notice of such hearing
31 to be given to the prosecuting attorney and the arresting law enforcement
32 agency. When a petition for expungement is filed, the official court file
33 shall be separated from the other records of the court, and shall be dis-
34 closed only to a judge of the court and members of the staff of the court
35 designated by a judge of the district court, the prosecuting attorney, the
36 arresting law enforcement agency, or any other person when authorized
37 by a court order, subject to any conditions imposed by the order. The
38 petition shall state: (1) The petitioner's full name;

39 (2) the full name of the petitioner at the time of arrest, if different
40 than the petitioner's current name;

41 (3) the petitioner's sex, race and date of birth;

42 (4) the crime for which the petitioner was arrested;

43 (5) the date of the petitioner's arrest, and

- 1 (6) the identity of the arresting law enforcement agency.
- 2 A municipal court may prescribe a fee to be charged as costs for a
3 person petitioning for an order of expungement pursuant to this section,
4 except that no fee shall be charged to a person who was arrested as a
5 result of being a victim of identity theft under K.S.A. 2006 Supp. 21-4018,
6 and amendments thereto. Any person who may have relevant information
7 about the petitioner may testify at the hearing. The court may inquire
8 into the background of the petitioner.
- 9 (c) At the hearing on a petition for expungement, the court shall order
10 the arrest record and subsequent court proceedings, if any, expunged
11 upon finding: (1) The arrest occurred because of mistaken identity;
12 (2) a court has found that there was no probable cause for the arrest;
13 (3) the petitioner was found not guilty in court proceedings; or
14 (4) the expungement would be in the best interests of justice and (A)
15 charges have been dismissed; or (B) no charges have been or are likely
16 to be filed.
- 17 (d) When the court has ordered expungement of an arrest record and
18 subsequent court proceedings, if any, the order shall state the information
19 required to be stated in the petition and shall state the grounds for
20 expungement under subsection (c). The clerk of the court shall send a
21 certified copy of the order to the Kansas bureau of investigation which
22 shall notify the federal bureau of investigation, the secretary of corrections
23 and any other criminal justice agency which may have a record of the
24 arrest. If an order of expungement is entered, the petitioner shall be
25 treated as not having been arrested.
- 26 (e) If the ground for expungement is as provided in subsection (c)(4),
27 the court shall determine whether, in the interest of public welfare, the
28 records should be available for any of the following purposes: (1) In any
29 application for employment as a detective with a private detective agency,
30 as defined by K.S.A. 75-7b01 and amendments thereto; as security per-
31 sonnel with a private patrol operator, as defined by K.S.A. 75-7b01 and
32 amendments thereto; or with an institution, as defined in K.S.A. 76-12a01
33 and amendments thereto, of the department of social and rehabilitation
34 services;
- 35 (2) in any application for admission, or for an order of reinstatement,
36 to the practice of law in this state;
- 37 (3) to aid in determining the petitioner's qualifications for employ-
38 ment with the Kansas lottery or for work in sensitive areas within the
39 Kansas lottery as deemed appropriate by the executive director of the
40 Kansas lottery;
- 41 (4) to aid in determining the petitioner's qualifications for executive
42 director of the Kansas racing commission, for employment with the com-
43 mission or for work in sensitive areas in parimutuel racing as deemed

1 appropriate by the executive director of the commission, or to aid in
2 determining qualifications for licensure or renewal of licensure by the
3 commission;

4 (5) in any application for a commercial driver's license under K.S.A.
5 8-2,125 through 8-2,142 and amendments thereto;

6 (6) *to aid in determining the petitioner's qualifications for executive*
7 *director of the Kansas destination casino commission, for employment*
8 *with the commission;*

9 ~~(6)~~ (7) to aid in determining the petitioner's qualifications to be an
10 employee of the state gaming agency;

11 ~~(7)~~ (8) to aid in determining the petitioner's qualifications to be an
12 employee of a tribal gaming commission or to hold a license issued pur-
13 suant to a tribal-state gaming compact; or

14 ~~(8)~~ (9) in any other circumstances which the court deems appropriate.

15 (f) Subject to any disclosures required under subsection (e), in any
16 application for employment, license or other civil right or privilege, or
17 any appearance as a witness, a person whose arrest records have been
18 expunged as provided in this section may state that such person has never
19 been arrested.

20 (g) Whenever a petitioner's arrest records have been expunged as
21 provided in this section, the custodian of the records of arrest, incarcer-
22 ation due to arrest or court proceedings related to the arrest, shall not
23 disclose the arrest or any information related to the arrest, except as
24 directed by the order of expungement or when requested by the person
25 whose arrest record was expunged.

26 Sec. 16. K.S.A. 2006 Supp. 21-4619 is hereby amended to read as
27 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
28 any person convicted in this state of a traffic infraction, cigarette or to-
29 bacco infraction, misdemeanor or a class D or E felony, or for crimes
30 committed on or after July 1, 1993, nondrug crimes ranked in severity
31 levels 6 through 10 or any felony ranked in severity level 4 of the drug
32 grid, may petition the convicting court for the expungement of such con-
33 viction or related arrest records if three or more years have elapsed since
34 the person: (A) Satisfied the sentence imposed; or (B) was discharged
35 from probation, a community correctional services program, parole, post-
36 release supervision, conditional release or a suspended sentence.

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

42 (b) Except as provided in subsection (c), no person may petition for
43 expungement until five or more years have elapsed since the person sat-

1 isfied the sentence imposed, the terms of a diversion agreement or was
2 discharged from probation, a community correctional services program,
3 parole, postrelease supervision, conditional release or a suspended sen-
4 tence, if such person was convicted of a class A, B or C felony, or for
5 crimes committed on or after July 1, 1993, if convicted of an off-grid
6 felony or any nondrug crime ranked in severity levels 1 through 5 or any
7 felony ranked in severity levels 1 through 3 of the drug grid, or:

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

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

1 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.
2 21-3603, and amendments thereto; (10) endangering a child as defined
3 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as
4 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder
5 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in
6 the first degree as defined in K.S.A. 21-3401, and amendments thereto;
7 (14) murder in the second degree as defined in K.S.A. 21-3402, and
8 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.
9 21-3403, and amendments thereto; (16) involuntary manslaughter as de-
10 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-
11 slaughter while driving under the influence of alcohol or drugs as defined
12 in K.S.A. 2006 Supp. 21-3442, and amendments thereto; (18) sexual bat-
13 tery as defined in K.S.A. 21-3517, and amendments thereto, when the
14 victim was less than 18 years of age at the time the crime was committed;
15 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-
16 ments thereto; (20) a violation of K.S.A. 8-1567, and amendments thereto,
17 including any diversion for such violation; (21) a violation of K.S.A. 8-
18 2,144, and amendments thereto, including any diversion for such viola-
19 tion; or (22) any conviction for any offense in effect at any time prior to
20 the effective date of this act, that is comparable to any offense as provided
21 in this subsection.

22 (d) When a petition for expungement is filed, the court shall set a
23 date for a hearing of such petition and shall cause notice of such hearing
24 to be given to the prosecuting attorney and the arresting law enforcement
25 agency. *Except as otherwise provided by law, a petition for expungement*
26 *shall be accompanied by a payment of a docket fee in the amount of \$100.*

27 The petition shall state: (1) The defendant's full name;

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

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

31 (4) the crime for which the defendant was arrested, convicted or
32 diverted;

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

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

42 (e) At the hearing on the petition, the court shall order the peti-
43 tioner's arrest record, conviction or diversion expunged if the court finds

1 that:

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

5 (2) the circumstances and behavior of the petitioner warrant the
6 expungement; and

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

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

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

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

22 (A) In any application for licensure as a private detective, private
23 detective agency, certification as a firearms trainer pursuant to K.S.A.
24 2006 Supp. 75-7b21, and amendments thereto, or employment as a de-
25 tective with a private detective agency, as defined by K.S.A. 75-7b01, and
26 amendments thereto; as security personnel with a private patrol operator,
27 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-
28 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the
29 department of social 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 commission, for employment with the com-
38 mission or for work in sensitive areas in parimutuel racing as deemed
39 appropriate by the executive director of the commission, or to aid in
40 determining qualifications for licensure or renewal of licensure by the
41 commission;

42 (E) *to aid in determining the petitioner's qualifications for executive*
43 *director of the Kansas destination casino commission, for employment*

1 *with the commission;*

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

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

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

9 ~~(H)~~ (I) in any application for registration as a broker-dealer, agent,
10 investment adviser or investment adviser representative all as defined in
11 K.S.A. 2006 Supp. 17-12a102, and amendments thereto; or

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

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

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

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

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

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

38 (i) Whenever the record of any arrest, conviction or diversion has
39 been expunged under the provisions of this section or under the provi-
40 sions of any other existing or former statute, the custodian of the records
41 of arrest, conviction, diversion and incarceration relating to that crime
42 shall not disclose the existence of such records, except when requested
43 by:

- 1 (1) The person whose record was expunged;
- 2 (2) a private detective agency or a private patrol operator, and the
3 request is accompanied by a statement that the request is being made in
4 conjunction with an application for employment with such agency or op-
5 erator by the person whose record has been expunged;
- 6 (3) a court, upon a showing of a subsequent conviction of the person
7 whose record has been expunged;
- 8 (4) the secretary of social and rehabilitation services, or a designee of
9 the secretary, for the purpose of obtaining information relating to em-
10 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
11 ments thereto, of the department of social and rehabilitation services of
12 any person whose record has been expunged;
- 13 (5) a person entitled to such information pursuant to the terms of the
14 expungement order;
- 15 (6) a prosecuting attorney, and such request is accompanied by a
16 statement that the request is being made in conjunction with a prosecu-
17 tion of an offense that requires a prior conviction as one of the elements
18 of such offense;
- 19 (7) the supreme court, the clerk or disciplinary administrator thereof,
20 the state board for admission of attorneys or the state board for discipline
21 of attorneys, and the request is accompanied by a statement that the
22 request is being made in conjunction with an application for admission,
23 or for an order of reinstatement, to the practice of law in this state by the
24 person whose record has been expunged;
- 25 (8) the Kansas lottery, and the request is accompanied by a statement
26 that the request is being made to aid in determining qualifications for
27 employment with the Kansas lottery or for work in sensitive areas within
28 the Kansas lottery as deemed appropriate by the executive director of the
29 Kansas lottery;
- 30 (9) the governor or the Kansas racing commission, or a designee of
31 the commission, and the request is accompanied by a statement that the
32 request is being made to aid in determining qualifications for executive
33 director of the commission, for employment with the commission, for
34 work in sensitive areas in parimutuel racing as deemed appropriate by
35 the executive director of the commission or for licensure, renewal of
36 licensure or continued licensure by the commission;
- 37 (10) the Kansas sentencing commission;
- 38 (11) the state gaming agency, and the request is accompanied by a
39 statement that the request is being made to aid in determining qualifi-
40 cations: (A) To be an employee of the state gaming agency; or (B) to be
41 an employee of a tribal gaming commission or to hold a license issued
42 pursuant to a tribal-gaming compact;
- 43 (12) *the Kansas destination casino commission or a designee of the*

1 *commission, and the request is accompanied by a statement that the re-*
2 *quest is being made to aid in determining qualification for executive di-*
3 *rector of the commission and for employment with the commission;*

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 (j) *The docket fee collected at the time the petition for expungement*
24 *is filed shall be disbursed in accordance with K.S.A. 20-362, and amend-*
25 *ments thereto.*

26 Sec. 17. K.S.A. 2006 Supp. 19-101a is hereby amended to read as
27 follows: 19-101a. (a) The board of county commissioners may transact all
28 county business and perform all powers of local legislation and adminis-
29 tration it deems appropriate, subject only to the following limitations,
30 restrictions or prohibitions:

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

33 (2) Counties may not affect the courts located therein.

34 (3) Counties shall be subject to acts of the legislature prescribing
35 limits of indebtedness.

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

41 (5) Counties may not legislate on social welfare administered under
42 state law enacted pursuant to or in conformity with public law No. 271—
43 74th congress, or amendments thereof.

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

- 1 through 12-1270 and 12-1276, and amendments thereto.
- 2 (19) Counties may not exempt from or effect changes in the provi-
3 sions of K.S.A. 19-211, and amendments thereto.
- 4 (20) Counties may not exempt from or effect changes in the provi-
5 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 6 (21) Counties may not regulate the production or drilling of any oil
7 or gas well in any manner which would result in the duplication of reg-
8 ulation by the state corporation commission and the Kansas department
9 of health and environment pursuant to chapter 55 and chapter 65 of the
10 Kansas Statutes Annotated, and amendments thereto, and any rules and
11 regulations adopted pursuant thereto. Counties may not require any li-
12 cense or permit for the drilling or production of oil and gas wells. Counties
13 may not impose any fee or charge for the drilling or production of any
14 oil or gas well.
- 15 (22) Counties may not exempt from or effect changes in K.S.A. 79-
16 41a04, and amendments thereto.
- 17 (23) Counties may not exempt from or effect changes in K.S.A. 79-
18 1611, and amendments thereto.
- 19 (24) Counties may not exempt from or effect changes in K.S.A. 79-
20 1494, and amendments thereto.
- 21 (25) Counties may not exempt from or effect changes in subsection
22 (b) of K.S.A. 19-202, and amendments thereto.
- 23 (26) Counties may not exempt from or effect changes in subsection
24 (b) of K.S.A. 19-204, and amendments thereto.
- 25 (27) Counties may not levy or impose an excise, severance or any
26 other tax in the nature of an excise tax upon the physical severance and
27 production of any mineral or other material from the earth or water.
- 28 (28) Counties may not exempt from or effect changes in K.S.A. 79-
29 2017 or 79-2101, and amendments thereto.
- 30 (29) Counties may not exempt from or effect changes in K.S.A. 2-
31 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
32 1,178 through 65-1,199, and amendments thereto.
- 33 (30) Counties may not exempt from or effect changes in K.S.A. 2006
34 Supp. 80-121, and amendments thereto.
- 35 (31) Counties may not exempt from or effect changes in K.S.A. 19-
36 228, and amendments thereto.
- 37 (32) Counties may not exempt from or effect changes in the wireless
38 enhanced 911 act, *in the VoIP enhanced 911 act* or in the provisions of
39 K.S.A. 12-5301 through 12-5308, and amendments thereto.
- 40 (33) Counties may not exempt from or effect changes in K.S.A. 2006
41 Supp. 26-601, and amendments thereto.
- 42 (34) (A) From and after November 15, 2005, counties may not ex-
43 empt from or effect changes in the Kansas liquor control act except as

1 provided by paragraph (B).

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

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

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

9 (36) *Counties may not exempt from nor effect changes to the eminent*
10 *domain procedure act.*

11 (37) *Counties may not exempt from nor effect changes to the Kansas*
12 *destination casino act.*

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

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

27 New Sec. 18. If any provision of this act or the application thereof
28 to any person or circumstances is held invalid, the invalidity shall not
29 affect other provisions or applications of the act which can be given effect
30 without the invalid provision or application and, to this end, the provisions
31 of this act are severable.

32 Sec. 19. K.S.A. 2006 Supp. 12-4516, 12-4516a, 19-101a, 19-101l, 21-
33 4619, 21-4619c, 79-2959, 79-4805, 79-4806 and K.S.A. 2005 Supp. 19-
34 101a as amended by section 4 of chapter 192 of the 2006 Session Laws
35 of Kansas are hereby repealed.

36 Sec. 20. This act shall take effect and be in force from and after its
37 publication in the statute book.