

HOUSE BILL No. 2583

By Committee on Federal and State Affairs

3-15

9 AN ACT concerning lotteries; enacting the Kansas expanded lottery act;
10 authorizing operation of certain casino enterprises, electronic gam-
11 bling machines, nonelectronic gambling devices and other lottery
12 games at certain locations; prohibiting certain acts and providing pen-
13 alties for violations; amending K.S.A. 74-8702, 74-8710 and 74-8716
14 and K.S.A. 2006 Supp. 12-4516, 19-101a, 21-4619, 74-8711 and 79-
15 4805 and repealing the existing sections; also repealing K.S.A. 2006
16 Supp. 19-101l, 21-4619c and 74-8723.
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) “Ancillary operations” means additional privately-owned non-lot-
23 tery facilities, products and services which are part of the casino enter-
24 prise. Such operations may include, but are not limited to, restaurants,
25 hotels, motels, museums or entertainment facilities.

26 (b) “Arbiter” means an arbiter appointed pursuant to section 9, and
27 amendments thereto.

28 (c) “Board” means the contractor selection board.

29 (d) “Casino” means a lottery business, owned and operated by the
30 state of Kansas, for the purpose of offering various forms of gambling to
31 the public, enhancing tourism and providing revenue to the state. The
32 state has the ultimate and complete control of the casino operation, in-
33 cluding selection and management of games, betting limits and odds.
34 Gambling equipment, including hardware and software, is part of the
35 casino and is owned by the state. The state may license private entities to
36 install and maintain gambling equipment. The real estate upon which the
37 casino is operated and the building in which the casino is operated are
38 not part of the casino.

39 (e) “Casino enterprise” means a privately-owned entertainment fa-
40 cility complex consisting of a casino facility and ancillary operations and
41 located in a casino zone. A state-owned casino, authorized by the con-
42 tractor selection board pursuant to the Kansas expanded lottery act, is
43 operated by the state in the casino facility of the casino enterprise.

- 1 (f) “Casino enterprise contract” means an agreement, negotiated and
2 signed by the chairperson of the contractor selection board on behalf of
3 the state, between the state and a person for the construction and man-
4 agement, or management alone, of a casino enterprise and management
5 of a casino in the casino enterprise.
- 6 (g) “Casino enterprise contractor” means a corporation, limited lia-
7 bility company or other business entity authorized to construct and man-
8 age, or manage alone, a privately-owned casino enterprise and to manage
9 a state-owned and operated casino in the casino enterprise, pursuant to
10 a casino enterprise contract.
- 11 (h) “Casino facility” means that portion of a casino enterprise that is
12 provided to the state by the casino enterprise contractor for the operation
13 of a casino.
- 14 (i) “Casino game” means a lottery game played on an electronic gam-
15 bling machine or a nonelectronic gambling device in a casino.
- 16 (j) “Casino revenue” means the total revenue of a casino from gam-
17 bling equipment after prizes are paid.
- 18 (k) “Casino zone” means one of the following zones where a casino
19 may be operated pursuant to the Kansas expanded lottery act: (1) The
20 Wyandotte county casino zone consisting of the area of Wyandotte county
21 within five straight-line miles of the state line; (2) the Cherokee county
22 casino zone consisting of the area of Cherokee county within five straight-
23 line miles of the state line; and (3) the Sumner county casino zone con-
24 sisting of the area of Sumner county within five straight-line miles of the
25 state line.
- 26 ~~(a)~~ (l) “Commission” means the Kansas lottery commission.
- 27 (m) “Electronic gambling machine” means any electronic, electro-
28 mechanical, video or computerized device, contrivance or machine, in-
29 cluding associated software, which: (1) Is authorized by the commission;
30 (2) upon insertion of cash or tokens, is available to play a game authorized
31 by the commission pursuant to the Kansas expanded lottery act, including,
32 but not limited to, bingo, poker, blackjack and keno; and (3) may deliver
33 or entitle the player operating the machine to receive cash, tokens, mer-
34 chandise or credits that may be redeemed for cash.
- 35 (n) “Electronic gambling machine revenue” means the total revenue
36 of a casino from electronic gambling machines after prizes are paid.
- 37 ~~(b)~~ (o) “Executive director” means the executive director of the Kan-
38 sas lottery.
- 39 ~~(e)~~ “Gaming equipment” means any electric, electronic or mechani-
40 cal device or other equipment unique to the Kansas lottery used directly
41 in the operation of any lottery and in the determination of winners pur-
42 suant to this act.
- 43 (p) “Facility manager licensee” has the meaning provided by K.S.A.

1 74-8802, and amendments thereto.

2 (q) "Facility owner licensee" has the meaning provided by K.S.A. 74-
3 8802, and amendments thereto.

4 (r) "Gambling equipment" means all electronic gambling machines
5 and all nonelectronic gambling devices in a casino.

6 (s) "Home county" means the county in which a casino enterprise
7 may be or is located.

8 ~~(t)~~ (t) "Kansas lottery" means the state agency created by ~~this~~ the
9 Kansas lottery act to operate a lottery or lotteries pursuant to ~~this~~ the
10 Kansas lottery act.

11 (u) "Key employee" means any natural person who is employed by
12 or under contract with a casino contractor manager, or employed by or
13 under contract with a person providing goods or services to a casino
14 enterprise contractor, in the operation of a casino facility and who:

15 (1) Holds a position in a supervisory capacity or a capacity in which
16 the person is empowered to make discretionary decisions regulating op-
17 erations of a casino facility, including, but not limited to, pit bosses, shift
18 bosses, credit executives, casino cashier supervisors, casino facility man-
19 agers or assistant managers and managers or supervisors of casino secu-
20 rity employees; or

21 (2) the commission, in its discretion, deems to be a person for whom
22 certification is required to protect the public interest, based on the au-
23 thority held or exercised by the person by reason of: (A) Remuneration;
24 (B) a position in a management, supervisory or policy-making capacity;
25 or (C) such other criteria as established by rules and regulations of the
26 commission.

27 (v) "Lottery," "state lottery" or "gambling" means the lottery or lot-
28 teries operated pursuant to the Kansas lottery act.

29 (w) (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 gambling equipment operated in accordance with the pro-*
9 *visions of the Kansas expanded lottery act.*

10 ~~(e)~~ (x) *“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)~~ (y) (1) *“Major procurement” means any gaming gambling prod-*
16 *uct or service, including but not limited to facilities, advertising and pro-*
17 *motional services, annuity contracts, prize payment agreements, consult-*
18 *ing services, equipment, tickets and other products and services unique*
19 *to the Kansas lottery, but not including materials, supplies, equipment*
20 *and services 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 *casino enterprise contract executed pursuant to the Kansas expanded lot-*
24 *tery act.*

25 (z) *“Nonelectronic gambling device” means any mechanical device,*
26 *contrivance or machine, such as dice, a gambling table, playing cards or*
27 *a wheel, which: (1) Is authorized by the commission; (2) is available to*
28 *play a lottery game authorized by the commission pursuant to the Kansas*
29 *expanded lottery act; and (3) may entitle the player to receive cash, tokens,*
30 *merchandise or credits that may be redeemed for cash.*

31 ~~(h)~~ (aa) *“Person” means any natural person, association, limited lia-*
32 *bility company, corporation or partnership.*

33 ~~(i)~~ (bb) *“Prize” means any prize paid directly by the Kansas lottery*
34 *pursuant to its the Kansas lottery act or the Kansas expanded lottery act,*
35 *or any rules and regulations adopted pursuant to either act.*

36 (cc) *“Regional casino” means a casino operated in the casino facility*
37 *of a regional casino enterprise.*

38 (dd) *“Regional casino enterprise” means a casino enterprise designed*
39 *primarily to attract patrons residing within the surrounding region and*
40 *out-of-state tourists.*

41 (ee) *“Returned ticket” means any ticket which was transferred to a*
42 *lottery retailer, which was not sold by the lottery retailer and which was*
43 *returned to the Kansas lottery for refund by issuance of a credit or*

1 otherwise.

2 (ff) "Sensitive position" means a position critical to the operation and
3 integrity of a casino and held by a person employed by the Kansas lottery.
4 Sensitive positions shall include the general manager and all managers
5 reporting directly to the general manager, including, but not limited to,
6 the human resources manager, finance manager, operations manager and
7 security manager; supervisors responsible for installation, maintenance
8 and removal of gambling equipment; supervisors responsible for cashier
9 cages and counting; and any other position specified by the commission.

10 (j) (gg) "Share" means any intangible manifestation authorized by the
11 Kansas lottery to prove participation in a lottery game, *except as provided*
12 *by the Kansas expanded lottery act.*

13 (h) (hh) "Ticket" means any tangible evidence issued by the Kansas
14 lottery to prove participation in a lottery game *other than a game au-*
15 *thorized by the commission pursuant to the Kansas expanded lottery act.*

16 (ii) "Token" means a representative of value, of metal or other ma-
17 terial, which is not legal tender, redeemable for cash only by the issuing
18 casino enterprise contractor and which is issued and sold by a casino
19 enterprise contractor for the sole purpose of gambling on gambling equip-
20 ment managed by the casino enterprise contractor.

21 (i) (jj) "Vendor" means any person who has entered into a major
22 procurement contract with the Kansas lottery.

23 ~~(m) "Returned ticket" means any ticket which was transferred to a~~
24 ~~lottery retailer, which was not sold by the lottery retailer and which was~~
25 ~~returned to the Kansas lottery for refund by issuance of a credit or~~
26 ~~otherwise.~~

27 ~~(n) (kk) "Video lottery machine" means any electronic video game~~
28 ~~machine that machine which, upon insertion of cash or other considera-~~
29 ~~tion, is available to play or simulate the play of a video game authorized~~
30 ~~by the commission lottery game shown on a video display, including, but~~
31 ~~not limited to, bingo, poker, black jack and keno, and which uses a video~~
32 ~~display and microprocessors and in which, by chance, the player may~~
33 ~~receive cash, free games or credits that can be redeemed for cash, or any~~
34 ~~other prize.~~

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

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

43 ~~(B) any machine or device in which the prize or evidence of a prize~~

1 ~~is determined only by chance, including, but not limited to, any slot ma-~~
2 ~~chine or bingo machine, or~~
3 ~~—(C) any lottery ticket vending machine, such as a keno ticket vending~~
4 ~~machine, pull-tab vending machine or an instant-bingo vending machine.~~
5 ~~—(2) “Lottery machine” shall not mean:~~
6 ~~—(A) Any food vending machine defined by K.S.A. 36-501, and amend-~~
7 ~~ments thereto;~~
8 ~~—(B) any nonprescription drug machine authorized under K.S.A. 65-~~
9 ~~650, and amendments thereto;~~
10 ~~—(C) any machine which dispenses only bottled or canned soft drinks,~~
11 ~~chewing gum, nuts or candies, or~~
12 ~~—(D) any machine excluded from the definition of gambling devices~~
13 ~~under subsection (d) of K.S.A. 21-4302, and amendments thereto.~~
14 *(ll) “Voting region” means a home county and the surrounding con-*
15 *tiguous counties in Kansas.*

16 New Sec. 2. (a) Sections 2 through 28, and amendments thereto,
17 shall be known and may be cited as the Kansas expanded lottery act. The
18 Kansas expanded lottery act shall be part of and supplemental to the
19 Kansas lottery act.

20 (b) If any provision of this act or the application thereof to any person
21 or circumstance is held invalid, the invalidity shall invalidate the entire
22 act.

23 New Sec. 3. (a) There is hereby established the contractor selection
24 board. The board shall solicit, receive and evaluate proposals and award
25 a single contract for each regional casino enterprise and associated casino
26 enterprise contractor.

27 (1) The board shall consist of nine voting members who shall be ap-
28 pointed as follows: One member shall be appointed by the governor, one
29 by the president of the senate, one by the majority leader of the senate,
30 one by the vice president of the senate, one by the minority leader of the
31 senate, one by the speaker of the house of representatives, one by the
32 majority leader of the house of representatives, one by the speaker pro
33 tem of the house of representatives and one by the minority leader of the
34 house of representatives. Appointments of members shall be subject to
35 confirmation by the senate as provided by K.S.A. 75-4315b, and amend-
36 ments thereto. Notwithstanding the provisions of K.S.A. 46-2601 and 75-
37 4315b, and amendments thereto, a member of the board appointed while
38 the legislature is not in session may exercise any power, duty or function
39 as a member of the board if the confirmation oversight authorizes, by a
40 majority vote thereof, the person appointed as a member until such ap-
41 pointment is confirmed by the senate as provided by K.S.A. 75-4315b,
42 and amendments thereto. If the governor or any legislative officer has
43 not nominated a person for the board within 60 days following the effec-

1 tive date of this act, the confirmation oversight committee shall appoint
2 a person to fill that position.

3 (2) The following shall be nonvoting members of the board: The gov-
4 ernor's chief counsel, the executive director of the lottery and a repre-
5 sentative of the attorney general's office.

6 (3) Members of the board shall have extensive professional experi-
7 ence or business experience, or both, directly applicable to the duties and
8 responsibilities of the board. Members and their immediate families shall
9 have no direct or indirect business affiliation or financial interest in any
10 gambling related business or with any person associated with a proposal
11 submitted to the state under this act.

12 (4) Each member of the board shall be confirmed by the senate prior
13 to becoming a member of the board. If a member is not confirmed, the
14 officer making the appointment shall appoint another member.

15 (5) The person appointed by the governor shall serve as chairperson
16 of the board and the person appointed by the president of the senate
17 shall serve as vice-chairperson of the board. The chairperson, or vice-
18 chairperson in the absence of the chairperson, shall convene and preside
19 at board meetings.

20 (6) A quorum of the board shall consist of seven members. A quorum
21 shall be required for the board to conduct business and approve actions,
22 including release of a request for proposal and selection of a casino en-
23 terprise contractor. Attendance at board meetings shall be strictly con-
24 trolled. Board meetings shall not be open to the public nor news media.
25 Attendance at each board meeting shall be limited to board members and
26 other persons specifically approved by the board.

27 (7) The board shall prepare and document procedures for board of-
28 ficer responsibilities, meetings and actions.

29 (8) Members of the board attending meetings of the board, or at-
30 tending a subcommittee meeting thereof authorized by the board, shall
31 be paid compensation, subsistence allowances, mileage and other ex-
32 penses as provided in K.S.A. 75-3223, and amendments thereto.

33 (9) The board shall hire a full-time executive director, full-time sec-
34 retary, full-time security officer and other staff and professional services
35 as necessary to support the board in performing the duties specified in
36 this act. All staff of the board shall be in the unclassified service under
37 the Kansas civil service act. The executive director shall serve as the chief
38 of staff and shall report to the chairperson of the board. The secretary
39 and other staff of the board shall report to the executive director. The
40 secretary shall prepare and maintain accurate minutes of each board
41 meeting. Board minutes shall not be released to the public except upon
42 court order.

43 (10) The board shall adopt rules and regulations to carry out the

1 duties and functions of the board pursuant to this act.

2 (11) The Kansas lottery shall provide secure office space for the
3 board and its staff. All board documents, working papers and industry
4 proposals shall be stored in locked files when not in use. Access to the
5 board and staff office area shall be strictly controlled and shall be limited
6 to personnel approved by the board.

7 (12) Access to proprietary information, submitted as part of a pro-
8 posal, shall be strictly controlled with signed receipts and logs and shall
9 not be copied. Upon completion of the board's duties, all such proprietary
10 information shall be returned to the originator.

11 (13) The executive director of the board and the executive director
12 of the Kansas lottery shall develop a plan for the orderly transition of
13 oversight of each casino enterprise from the board to the Kansas lottery.
14 The plan shall be submitted to the state legislature prior to award of the
15 first casino enterprise contract.

16 (14) For each casino enterprise, the Kansas lottery executive director
17 shall develop a detailed plan for development and initial operation. Each
18 plan shall be submitted to the state legislature within 30 days after award
19 of the casino enterprise contract.

20 (15) Upon completion of board duties specified in this act, the board
21 chairperson shall transfer minutes, contracts and other board documents
22 to the Kansas lottery and disband the board. The Kansas lottery shall
23 store board documents in locked files for not less than 30 years. Such
24 files shall not be opened except upon court order.

25 (b) The board shall adopt rules and regulations which establish a pro-
26 cedure to solicit, receive and evaluate competitive proposals for a regional
27 casino enterprise and the associated casino enterprise contractor for each
28 casino zone and to select one regional casino enterprise and the associated
29 casino enterprise contractor from among such proposals for each casino
30 zone. Such rules and regulations shall provide for scoring each proposal,
31 using the following factors and weights:

32 (1) Thirty-five percent for the (A) quality of the proposed regional
33 casino enterprise, (B) amount of investment and (C) bidder's experience
34 in financing, developing and managing similar casino enterprises;

35 (2) thirty-five percent for the percentage of revenue to the regional
36 casino enterprise contractor below the maximum percentage required
37 pursuant to section 7, and amendments thereto; and

38 (3) thirty percent for the amount of the proposed contractor fee
39 above the minimum amount required for bidding pursuant to section 5,
40 and amendments thereto.

41 The board may break down each factor and weight into subfactors and
42 subweights to improve the evaluation process. The factors, weights, su-
43 b-factors and subweights shall be contained in the rules and regulations

1 of the board and in the request for proposals.

2 (c) The board shall establish a procedure to insure that the solici-
3 tation, receipt and evaluation of competitive proposals for a regional casino
4 enterprise are conducted in a fair and impartial manner, including rules
5 and regulations applicable to the time period from preparation of a re-
6 quest for proposal through announcement of the winning bidder, that:
7 (A) Prohibit any board member, any member of a board member's im-
8 mediate family or any state officer or employee associated with the board
9 from meeting or communicating privately with any person associated with
10 a proposal for a regional casino enterprise; (B) prohibit any board member
11 or member of the board's staff from discussing, meeting or communicat-
12 ing in any manner on any subject associated with the contractor selection
13 process with any person not on the board or the board's staff, including
14 government employees and relatives, except as specifically authorized in
15 writing by the chairperson of the board in a board meeting; and (C)
16 require all written communications from the board or a member of the
17 board to a bidder regarding a solicitation to be distributed to all known
18 bidders unless such communication is a request for clarification of the
19 bidder's proposal.

20 Violation of rules and regulations described in this subsection is a class
21 A nonperson misdemeanor.

22 (d) The board shall establish minimum standards of financial respon-
23 sibility, integrity, reputation and experience for regional casino enterprise
24 contractors, including, but not limited to, requirements that such
25 contractors:

26 (1) Have sufficient access to financial resources to support the activ-
27 ities required of a regional casino enterprise contractor under the Kansas
28 expanded lottery act; and

29 (2) be current in filing all applicable tax returns and in payment of
30 all taxes, interest and penalties owed to the state of Kansas and any taxing
31 subdivision where the proposed contractor is located in the state of Kan-
32 sas, excluding items under formal appeal pursuant to applicable statutes.

33 (e) The board shall promote the integrity of the gambling and fi-
34 nances of regional casinos. Such rules and regulations shall apply to all
35 casino enterprise contracts for regional casino enterprises, shall meet or
36 exceed industry standards for monitoring and controlling the gambling
37 and finances of casinos and shall give the executive director sufficient
38 authority to monitor and control the gambling operation and to ensure
39 its integrity and security.

40 (f) The board shall establish a procedure requiring:

41 (1) Any request for proposals for a regional casino enterprise to be
42 submitted to and approved by the attorney general prior to issuance of
43 the request; and

1 (2) any proposed casino enterprise contract for a regional casino en-
2 terprise to be submitted to and approved by the attorney general prior
3 to execution of the contract.

4 New Sec. 4. (a) At the time the board is appointed, an auditor shall
5 be selected in accordance with K.S.A. 46-1122, and amendments thereto,
6 to oversee the casino enterprise contractor selection process. If the leg-
7 islative post audit committee specifies under such statute that a person,
8 as defined by K.S.A. 46-1112, and amendments thereto, other than the
9 post auditor is to perform all or part of the oversight services, such person
10 shall be selected and shall perform such services as provided in the ap-
11 plicable provisions of K.S.A. 46-1123, and amendments thereto, and
12 K.S.A. 46-1125 through 46-1127, and amendments thereto. A contract to
13 conduct the oversight services required by this section shall be considered
14 a major procurement contract as defined by K.S.A. 74-8702, and amend-
15 ments thereto, and shall not be awarded until a background investigation
16 is conducted on the person or firm selected to perform the services. Such
17 background investigation shall be subject to the requirements of subsec-
18 tion (c) of K.S.A. 74-8705, and amendments thereto.

19 (b) For the purpose of conducting oversight of the casino enterprise
20 contractor selection process under this section, a person or a firm selected
21 to perform the oversight shall not be limited to a legal entity permitted
22 by law to engage in practice as a certified public accountant.

23 (c) (1) The auditor selected pursuant to this section shall monitor the
24 casino enterprise contractor selection process to assure that the selection
25 is conducted in a fair and impartial manner, in accordance with this act,
26 and that the integrity of the process is not compromised. The auditor or
27 one or more representatives of the auditor shall attend all board meetings
28 and have access to all information available to the board. If the auditor
29 or a representative of the auditor determines that an incident has oc-
30 curred that appears to compromise the integrity of the casino enterprise
31 contractor selection process, the auditor shall immediately call such in-
32 cident to the attention of the attorney general in a public letter to the
33 attorney general, with copies to the Kansas lottery, the board, members
34 of the legislative coordinating council and the governor.

35 (2) The attorney general shall initiate an investigation of the incident
36 and shall direct the board to suspend all work until the investigation is
37 complete. If the investigation determines that the integrity of the process
38 has not been compromised, the attorney general shall direct the board to
39 resume work on the casino enterprise contractor selection. If the inves-
40 tigation determines that the integrity of the process has been compro-
41 mised, the attorney general shall terminate the casino enterprise con-
42 tractor selection process immediately and a contract for a casino
43 enterprise shall not be awarded.

1 (3) The auditor shall release a preliminary report when the winners
2 of the first competitive phase of the casino enterprise contractor selection
3 process are announced and a final report when each winning casino en-
4 terprise contractor is announced. Such reports shall be distributed to the
5 attorney general, the board, the Kansas lottery, the members of the leg-
6 islative coordinating council, the governor and the public. Each such re-
7 port shall summarize the oversight services, rendered to date by the au-
8 ditor and shall include the auditor's assurance that, to the best of the
9 auditor's observation and knowledge, based on the auditor's oversight and
10 review of the selection process, the selection process was conducted in a
11 fair and impartial manner, in accordance with the provisions of this act,
12 and the integrity of the selection process was not compromised.

13 (4) Prohibitions on communications with persons not on the board
14 and not on the board staff, as specified in subsection (c) of section 3, and
15 amendments thereto, shall apply to the auditor and representatives of the
16 auditor, except for communications on an incident that appears to have
17 compromised the integrity of the casino enterprise contractor selection
18 process. In such an event, the representative who communicates on the
19 incident shall maintain an accurate journal on any and all such
20 communications.

21 (d) The post auditor shall compute the reasonably anticipated cost of
22 providing oversight services pursuant to this section, subject to review
23 and approval by the contract audit committee established by K.S.A. 46-
24 1120, and amendments thereto. Upon such approval, the Kansas lottery
25 shall reimburse the division of post audit for the amount approved by the
26 contract audit committee. The furnishing of oversight services pursuant
27 to this section shall be a transaction between the post auditor and the
28 Kansas lottery and shall be settled in accordance with the provisions of
29 K.S.A. 75-5516, and amendments thereto.

30 New Sec. 5. (a) Pursuant to the Kansas expanded lottery act, the
31 board shall issue for each casino zone a request for proposals for a casino
32 enterprise contractor to construct and manage, on behalf of the state of
33 Kansas, one regional casino enterprise in such casino zone. Casino en-
34 terprise contracts for regional casino enterprises shall not be subject to
35 the provisions of K.S.A. 75-3738 through 75-3744, and amendments
36 thereto, or to any statutory provision regulating major procurements. Fol-
37 lowing evaluation of such proposals, negotiations with bidders as neces-
38 sary to clarify proposals and publication of a summary of such proposals,
39 including financial offer and proposal scores, the board shall request for
40 each casino zone best-and-final offers from the three bidders submitting
41 proposals with the highest scores for such casino zone. Upon completion
42 of evaluation of such offers, the board, for each casino zone, shall enter
43 into a casino enterprise contract with the prospective casino enterprise

1 contractor which submitted the proposal with the highest score for the
2 regional casino enterprise in the casino zone. If there are fewer than three
3 bidders submitting proposals for a regional casino enterprise, the board
4 shall request best-and-final offers from all bidders submitting proposals
5 for such enterprise. If two bidders submit best-and-final offers for the
6 enterprise, the board, upon evaluation of such offers, is authorized to
7 enter into a casino enterprise contract with the prospective casino enter-
8 prise contractor which submitted the proposal with the highest score. If
9 only one bidder submits a best-and-final offer for a regional casino en-
10 terprise, the board shall evaluate the offer and, in its discretion, either
11 may enter into a casino enterprise contract with the prospective casino
12 enterprise contractor which submitted the proposal or may terminate the
13 procurement process and not award a contract for such regional casino
14 enterprise.

15 (b) A request for proposals pursuant to this section shall require that,
16 at a minimum, such proposals include:

17 (1) Plans for development of a regional casino enterprise in a voting
18 region where a proposition submitted pursuant to section 6, and amend-
19 ments thereto, has been approved by the voters of the home county of
20 such voting region and the voters of the other counties in such voting
21 region, as provided by section 6, and amendments thereto;

22 (2) to defray costs of evaluating the proposal, payment of a \$10,000
23 nonrefundable bidding fee, which shall be due at the time of submission
24 of the proposal and shall disqualify the proposal if not paid in full at that
25 time;

26 (3) provision for a one-time nonrefundable contractor fee to be paid
27 to the state treasurer by the casino enterprise contractor not later than
28 14 calendar days after acceptance of the proposal by the board, which fee
29 shall be in an amount equal to the amount proposed in the best-and-final
30 offer but not less than \$100,000,000 for a casino enterprise in the Wy-
31 andotte county casino zone, \$50,000,000 for a casino enterprise in the
32 Cherokee county casino zone and \$75,000,000 for a casino enterprise in
33 the Sumner county casino zone;

34 (4) an investment in infrastructure by the casino enterprise contrac-
35 tor, including ancillary operations, of at least \$200,000,000 for a casino
36 enterprise in the Wyandotte county casino zone, \$100,000,000 for a casino
37 enterprise in the Cherokee county casino zone and \$150,000,000 for a
38 casino enterprise in the Sumner county casino zone;

39 (5) the total compensation to be paid to the regional casino enterprise
40 contractor, which shall be the percentage of casino revenue proposed in
41 the best-and-final offer but not more than the percentage specified in
42 section 7, and amendments thereto;

43 (6) such evidence as required by rules and regulations of the com-

1 mission that: (A) The proposed contractor has sufficient financial re-
2 sources to pay the contractor fee required pursuant to this subsection and
3 to support the activities required of a casino enterprise contractor under
4 the Kansas expanded lottery act; (B) the proposed contractor and the
5 proposed casino enterprise complies with all standards established by law
6 and rules and regulations of the board; (C) the proposed contractor is
7 current in filing all applicable tax returns and in payment of all taxes,
8 interest and penalties owed to the state of Kansas and any taxing subdi-
9 vision where such proposed contractor is located in the state of Kansas,
10 excluding items under formal appeal pursuant to applicable statutes; and
11 (D) the proposed casino enterprise would comply with any planning and
12 zoning regulations of the city or county where it is to be located and the
13 proposed contractor has obtained any necessary approval under planning
14 and zoning such requirements;

15 (7) the types of casino games, number of electronic gambling ma-
16 chines and number of nonelectronic gambling devices proposed for op-
17 eration in the casino facility;

18 (8) provision for the casino enterprise contractor to arrange the fi-
19 nancing for construction and operation of the casino enterprise and for
20 sums required by the casino enterprise contract to be paid to the state;

21 (9) provision for the proposed casino enterprise contract to include
22 resolutions of endorsement from the home county and the city, if the
23 proposed casino enterprise is to be located within the corporate limits of
24 a city, or a resolution of endorsement from the home county, if the pro-
25 posed casino enterprise is to be located within the unincorporated area
26 of a county;

27 (10) provision for the casino enterprise contractor to own, operate
28 and maintain the casino enterprise except the casino;

29 (11) provision for the casino enterprise contractor to assist the Kan-
30 sas lottery in managing, operating and maintaining the casino and to pro-
31 vide all casino personnel except personnel in sensitive positions;

32 (12) provision for the casino enterprise contractor to purchase or
33 lease all gambling equipment in the casino facility, including hardware
34 and software, and transfer the ownership or lease agreement to the Kan-
35 sas lottery at no cost to the Kansas lottery; and

36 (13) any other constraints or limits imposed on the casino enterprise
37 by the board.

38 (c) (1) Within 30 business days after proposals are evaluated and
39 prior to requesting best-and-final offers pursuant to this section, the board
40 shall submit to the legislature a report containing a review of the evalu-
41 ation process and the selection criteria used, a summary of each proposal
42 submitted and the financial proposal contained in each and the scores of
43 each proposal.

- 1 (2) Within 30 business days after the best-and-final proposal is ac-
2 cepted and announced pursuant to this section, the board shall submit to
3 the legislature a report containing a review of the best-and-final proposal
4 process, a summary of the best-and-final offer of each bidder, including
5 the bidder's financial proposal, scores of each proposal, and the basis for
6 selecting the proposal which was accepted.
- 7 (3) Acceptance of a proposal by the board shall be null and void if
8 the contractor fee offered in the proposal is not paid to the state treasurer
9 within 14 calendar days after the acceptance of the proposal.
- 10 (4) Notwithstanding any other provision of law, the decision of the
11 board accepting or rejecting any proposal shall be final and shall not be
12 subject to review, reconsideration or appeal except in an action brought
13 pursuant to the act for judicial review and civil enforcement of agency
14 actions.
- 15 (d) In addition to incorporating the terms of a proposal accepted by
16 the board, including the requirements of subsection (b) any casino en-
17 terprise contract entered into pursuant to this section shall:
- 18 (1) Have a term of 30 years from the date of opening of the casino
19 enterprise;
- 20 (2) establish a mechanism to facilitate payment of casino revenues to
21 the state and payment by the state of the casino enterprise contractor's
22 share of such revenues;
- 23 (3) specify that the casino enterprise contractor shall be responsible
24 for funding construction and operation of the casino enterprise except
25 that the state shall own and operate the casino;
- 26 (4) incorporate terms and conditions for the ancillary operations;
- 27 (5) subject to approval of the executive director, designate as key
28 employees any employees or contractors providing services or functions
29 which are related to casino games authorized by the casino enterprise
30 contract;
- 31 (6) include financing commitments for construction;
- 32 (7) allow the casino enterprise contractor to operate the casino en-
33 terprise in a manner consistent with this act but place full, complete and
34 ultimate ownership and control of the casino with the Kansas lottery,
35 retaining in the Kansas lottery the ability to overrule without prior notice
36 any significant casino decision and full control over all decisions concern-
37 ing gambling equipment and casino games;
- 38 (8) include an enforceable provision: (A) Prohibiting the state, before
39 July 1, 2038, from entering into casino enterprise contracts, or similar
40 contracts, including any gaming compact with an American Indian tribe
41 pursuant to the federal Indian gaming regulatory act for gaming on land
42 placed in trust after the effective date of this act, for more than three
43 regional casino enterprises, one to be located in the Wyandotte county

1 casino zone, one to be located in the Cherokee county casino zone and
2 one to be located in the Sumner county casino zone; (B) prohibiting the
3 state from owning and operating any casino or gambling equipment be-
4 fore July 1, 2038, except as specified in (A); and (C) requiring the state
5 to pay to each of the four casino enterprise contractors an amount equal
6 to two times the contractor fee paid by such contractor if the state violates
7 the prohibition provision described in (A) or (B);
8 (9) provide for: (A) The Kansas lottery to be the licensee or owner
9 of all software programs used for any casino game operated on electronic
10 gambling machines in the casino; (B) the casino enterprise contractor, on
11 behalf of the state, to purchase or lease for the Kansas lottery all casino
12 games and associated software at no cost to the state; (C) the casino
13 enterprise contractor to pay all expenses related to purchasing, leasing
14 and installing casino games; (D) the Kansas lottery to be the owner or
15 licensee of all casino games; and (E) all casino games and associated soft-
16 ware to be subject to the ultimate control of the Kansas lottery in ac-
17 cordance with this act; and
18 (10) provide for the casino enterprise contractor to be responsible
19 for all expenses associated with purchasing, leasing, installing and main-
20 taining gambling equipment.
21 (e) Casino enterprise contracts authorized by this section may in-
22 clude, but are not limited to, provisions relating to:
23 (1) Accounting procedures to determine the casino revenues, un-
24 claimed prizes and credits;
25 (2) minimum requirements for the casino enterprise contractor to
26 provide qualified oversight, security and supervision of the casino games
27 including the use of qualified personnel with experience in applicable
28 technology;
29 (3) eligibility requirements for employees, contractors or agents of a
30 casino enterprise contractor who will have responsibility for or involve-
31 ment with actual gambling activities or for the handling of cash or tokens;
32 (4) background investigations to be performed by the Kansas lottery;
33 (5) licensure requirements of any employee, contractor or agent of a
34 casino enterprise contractor as provided by the Kansas expanded lottery
35 act or rules and regulations adopted pursuant to such act;
36 (6) provision for termination of the casino enterprise contract by ei-
37 ther party for cause; and
38 (7) any other provision deemed necessary by the parties, including
39 such other terms and restrictions as necessary to conduct any gambling
40 game in a legal and fair manner.
41 (f) A proposal which does not meet or exceed the requirements of
42 this act shall be null and void and shall not be evaluated.
43 (g) Prior to expiration of the term of a casino enterprise contract, the

1 executive director may negotiate a new casino enterprise contract with
2 the casino enterprise contractor for a term of 30 years if the terms of the
3 new contract are substantially the same as, or more favorable to the state
4 than, the existing contract. Otherwise, the board shall be reconstituted
5 and a new casino enterprise contract shall be negotiated and approved in
6 the manner provided by this act.

7 New Sec. 6. (a) Before the board issues a request for proposals for
8 a casino enterprise contractor to construct and manage a regional casino
9 enterprise in a casino zone, the operation of the regional casino must be
10 approved as provided by this section by the qualified voters of the home
11 county of the voting region in which the regional casino enterprise is
12 proposed to be located and by the qualified voters of all other counties
13 in the voting region.

14 (b) The board of county commissioners of the home county in a ca-
15 sino zone by resolution may cause a proposition to permit the operation
16 of a regional casino within the home county to be submitted to the qual-
17 ified voters of the home county and the voters of the other counties in
18 the voting region pursuant to this section. The proposition shall be sub-
19 mitted to the voters either at a special election called for that purpose by
20 the board of county commissioners of the home county and held not less
21 than 90 days after the resolution is adopted or at the next general election,
22 as shall be specified by the board of county commissioners of the home
23 county.

24 (c) Upon the adoption of a resolution calling for an election pursuant
25 to this section, the board of county commissioners of the home county
26 shall notify the county election officer of each county in the voting region.
27 Each such election officer shall cause the following proposition to be
28 placed on the ballot at the election called for that purpose:
29 “Shall the state of Kansas be authorized to own and operate a regional
30 casino in (home) county within five straight-line miles of the
31 state line?”

32 (d) If at such election a majority of the votes cast and counted in the
33 home county and a majority of the votes cast and counted in each of the
34 other counties in the voting region are in favor of approving the operation
35 of a regional casino within the home county, the board shall issue a re-
36 quest for proposals for a casino enterprise contract for operation of a
37 regional casino enterprise within the home county pursuant to this act. If
38 at such election a majority of the votes cast and counted in the home
39 county or a majority of the votes cast and counted in one or more of the
40 other counties in the voting region is against permitting the operation of
41 a regional casino within the home county, the board shall not issue such
42 request for proposals and shall not approve any casino enterprise contract
43 for the operation of a regional casino within the home county. The county

1 election officer of each county in the voting region shall transmit a copy
2 of the certification of the results of the election to the board.

3 (e) The elections provided for by this section shall be conducted, and
4 the votes counted and canvassed, in the manner provided by law for
5 question submitted elections of the county.

6 (f) When a proposition is submitted to the voters of a county within
7 a voting region pursuant to this section, such proposition, or a similar
8 proposition for a casino enterprise in the voting region, shall not be re-
9 submitted to the voters of the counties within the following 10 years.

10 New Sec. 7. (a) There is hereby established in the state treasury the
11 regional casinos fund. A separate account shall be maintained in the re-
12 gional casinos fund for receipt of casino revenues from each regional
13 casino enterprise contractor. The executive director shall collect and re-
14 mit to the state treasurer daily all casino revenue from each regional
15 casino enterprise contractor. Upon receipt of the remittance, the state
16 treasurer shall deposit the entire amount in the state treasury and credit
17 it to the respective account maintained for each regional casino enterprise
18 contractor.

19 (b) There is hereby established in the state treasury the casino op-
20 eration and regulatory fund. Moneys in such fund shall be used to pay
21 for the expenses of the Kansas lottery attributable to the operation and
22 regulation of casinos. Moneys in such fund may be expended only pur-
23 suant to appropriation and moneys in excess of those appropriated to the
24 Kansas lottery shall be transferred to the state general fund and expended
25 as provided by appropriation.

26 (c) Not less than once each month, the state treasurer shall distribute
27 from the total receipts credited to each account in the regional casinos
28 fund an amount equal to:

29 (1) The percentage specified in the casino enterprise contract, which
30 shall not exceed 72%, to the regional casino enterprise contractor;

31 (2) one percent to the problem gambling grant fund established by
32 K.S.A. 2006 Supp. 79-4805, and amendments thereto; and

33 (3) one percent to the county treasurer of the home county, who,
34 upon receipt thereof, shall deposit the entire amount in the county treas-
35 ury and shall credit it to a special problem gambling grant fund in the
36 county treasury. Moneys in such special fund shall be under the direction
37 and control of the board of county commissioners and shall be expended
38 only for the purchase, establishment, maintenance or expansion of serv-
39 ices or programs whose principal purpose is problem gambling preven-
40 tion, education, intervention or treatment.

41 (d) After distributions pursuant to subsection (a), 50% of the remain-
42 ing amount in each account in the regional casinos fund shall be trans-
43 ferred to the casino operation and regulatory fund and 50% to the coun-

1 ties and cities in the voting region, prorated on the basis of the population
2 of the unincorporated areas of the counties in the voting region and the
3 population of the incorporated cities in the voting region, determined as
4 provided in K.S.A. 11-201, and amendments thereto, to assist in offsetting
5 the adverse economic impact and social impact of the casino enterprise
6 on the voting region.

7 New Sec. 8. (a) Each specific type of gambling equipment and casino
8 game shall be approved by the Kansas lottery. The Kansas lottery shall
9 examine prototypes of gambling equipment and casino games and shall
10 notify the casino enterprise contractor which types are in compliance with
11 the requirements of this act.

12 (b) (1) No gambling equipment shall be operated pursuant to this
13 act unless the executive director first issues a certificate for such equip-
14 ment authorizing its use at a specified location. Each item of gambling
15 equipment shall have such certificate prominently displayed thereon, or
16 nearby if the certificate cannot be displayed thereon. Any item of gam-
17 bling equipment which does not display the certificate required by this
18 section is contraband and a public nuisance subject to confiscation by any
19 law enforcement officer.

20 (2) No casino game shall be played pursuant to this act unless the
21 executive director first issues a certificate for such game authorizing its
22 use at a specified location. Each game shall have such certificate promi-
23 nently displayed in a prominent location in the casino facility. Any game
24 which does not have a certificate displayed as required by this section is
25 contraband and a public nuisance subject to confiscation by any law en-
26 forcement officer.

27 (c) The executive director shall require any manufacturer, supplier,
28 provider, casino enterprise contractor or other person seeking the ex-
29 amination and certification of gambling equipment or casino games to
30 pay the anticipated actual costs of the examination in advance. After the
31 completion of the examination, the executive director shall refund any
32 overpayment or charge and collect amounts sufficient to reimburse the
33 executive director for any underpayment of actual costs. The executive
34 director may contract for the examination of gambling equipment and
35 casino games required by this section, and may rely upon testing done by
36 or for other states regulating gambling equipment and casino games, if
37 the executive director deems such testing to be reliable and in the best
38 interest of the state of Kansas.

39 (d) The Kansas lottery may waive examination of any electronic gam-
40 ing machines which have been approved for use in another state if the
41 commission determines that such state's standards for approval are equal
42 to or more stringent than the standards required by the commission for
43 approval of electronic gaming machines pursuant to this act.

1 New Sec. 9. (a) Electronic gambling machines operated pursuant to
2 this act in a casino enterprise shall:

3 (1) Pay out an average of not less than 90% of the amount wagered
4 over the life of the machine;

5 (2) be on-line and in constant communication with a central com-
6 puter at a location determined by the executive director and specified in
7 the casino enterprise contract to provide security, monitoring, auditing
8 and other available program information to the Kansas lottery;

9 (3) be subject to deactivation at any time by order of the executive
10 director; and

11 (4) not accept banking cards such as credit cards or debit cards.

12 (b) The communications systems selected by the executive director
13 shall not limit participation to only one electronic gambling machine man-
14 ufacturer, distributor, supplier or provider. The casino enterprise con-
15 tractor shall lease or purchase for the Kansas lottery, and at the casino
16 enterprise contractor's expense, all equipment necessary to implement
17 such central communications and auditing functions.

18 (c) The commission shall appoint three arbiters who shall be in the
19 unclassified service under the Kansas civil service act. Such arbiters shall
20 determine the outcome of any dispute between the state or a casino en-
21 terprise contractor and a player regarding the outcome of a game played
22 on an electronic gambling machine. If the determination of a single ar-
23 biter is challenged by either party to such dispute, the three arbiters shall
24 determine the matter by a majority vote and such determination shall be
25 final.

26 New Sec. 10. The Kansas lottery shall adopt rules and regulations
27 establishing:

28 (a) A certification requirement, and enforcement procedure, for of-
29 ficers, directors, key employees and persons directly or indirectly owning
30 a 0.5% or more interest in a casino enterprise contractor. Such certifi-
31 cation requirement shall include compliance with such security, fitness
32 and background investigations and standards the executive director
33 deems necessary to determine whether such person's reputation, habits
34 or associations pose a threat to the public interest of the state or to the
35 reputation of or effective regulation and control of the casino enterprise.
36 Any person convicted of any felony, a crime involving gambling or a crime
37 of moral turpitude prior to applying for a certificate as such sales agent
38 or at any time thereafter shall be deemed unfit. The Kansas lottery shall
39 conduct the security, fitness and background checks required pursuant
40 to this subsection;

41 (b) a certification requirement, and enforcement procedure, for
42 those persons, including gambling equipment manufacturers, technology
43 providers and computer system providers, who propose to contract with

1 a casino enterprise contractor or the state for the provision of goods or
2 services related to a casino, including management services. Such certi-
3 fication requirements shall include compliance with such security, fitness
4 and background investigations and standards of officers, directors, key
5 employees and persons directly or indirectly owning a 0.5% or more in-
6 terest in such entity, the executive director deems necessary to determine
7 whether such person's reputation, habits and associations pose a threat
8 to the public interest of the state or to the reputation of or effective
9 regulation and control of the casino enterprise. Any person convicted of
10 any felony, a crime involving gambling or a crime of moral turpitude prior
11 to applying for a certificate hereunder or at any time thereafter shall be
12 deemed unfit. If the executive director determines the certification stan-
13 dards of another state are comprehensive, thorough and provide similar
14 adequate safeguards, the executive director may certify an applicant al-
15 ready certified in such state without the necessity of a full application and
16 background check. The Kansas lottery shall conduct the security, fitness
17 and background checks required under this subsection;

18 (c) provisions for revocation of a certification required by paragraph
19 (a) or (b) upon a finding that the certificate holder, an officer or director
20 thereof or a person directly or indirectly owning a 0.5% or more interest
21 therein: (1) Has knowingly provided false or misleading material infor-
22 mation to the Kansas lottery or its employees; or (2) has been convicted
23 of a felony, a crime involving gambling or a crime of moral turpitude;

24 (d) provisions for suspension, revocation or nonrenewal of a certifi-
25 cation required by paragraph (a) or (b) upon a finding that the certificate
26 holder, an officer or director thereof or a person directly or indirectly
27 owning a 0.5% or more interest therein: (1) Has failed to notify the Kansas
28 lottery about a material change in ownership of the certificate holder, or
29 any change in the directors or officers thereof; (2) is delinquent in re-
30 mitting money owed to the Kansas lottery; (3) has violated any provision
31 of any contract between the Kansas lottery and the certificate holder; or
32 (4) has violated any provision of the Kansas expanded lottery act or any
33 rule and regulation adopted hereunder; and

34 (e) a requirement that the commission publish monthly and annual
35 reports of financial and other information, including, but not limited to,
36 gambling revenue, average electronic gambling machine revenue per ma-
37 chine per day, number of patrons, a balance sheet, income statement and
38 statement of cash flows, statistical reports showing revenues and winnings
39 and an analysis of cash on hand and in bank and cage accountability. All
40 such reports shall be made available to the public on the internet.

41 New Sec. 11. (a) An owner, stockholder or investor of a regional
42 casino enterprise authorized pursuant to this act shall not be an owner,
43 stockholder or investor of another regional casino enterprise authorized

1 pursuant to this act.

2 (b) A casino enterprise contract shall not constitute property; be sub-
3 ject to attachment, garnishment or execution; be alienable or transferable;
4 or be subject to being encumbered or hypothecated. No interest in such
5 contract shall descend by the laws of testate or intestate devolution, but
6 any interest shall cease and expire upon the death of the casino enterprise
7 contractor or all interest holders in such contractor, except that executors,
8 administrators or representatives of the estate of any deceased casino
9 enterprise contractor and the trustee of any insolvent or bankrupt casino
10 enterprise contractor may continue to operate pursuant to such contract
11 under order of the appropriate court for no longer than one year after
12 the death, bankruptcy or insolvency of such contractor.

13 New Sec. 12. (a) The executive director, or the executive director's
14 designee, may observe and inspect all gambling equipment and casino
15 facilities, and all related equipment and facilities operated by a casino
16 enterprise contractor.

17 (b) In addition to the powers granted pursuant to K.S.A. 74-8704 and
18 sections 3 and 5, and amendments thereto, the executive director shall
19 have the power to:

20 (1) Examine, or cause to be examined by any agent or representative
21 designated by the executive director, any books, papers, records or mem-
22 oranda of any casino enterprise contractor, or of any business involved in
23 a casino authorized pursuant to the Kansas expanded lottery act, for the
24 purpose of ascertaining compliance with any provision of the Kansas lot-
25 tery act, the Kansas expanded lottery act, or any rules and regulations
26 adopted thereunder;

27 (2) investigate alleged violations of the Kansas expanded lottery act
28 and alleged violations of any rules and regulations, orders and final de-
29 cisions of the commission or the executive director;

30 (3) request a court to issue subpoenas to compel access to or for the
31 production of any books, papers, records or memoranda in the custody
32 or control of any casino enterprise contractor related to the management
33 of the casino, or to compel the appearance of any casino enterprise con-
34 tractor for the purpose of ascertaining compliance with the provisions of
35 the Kansas lottery act and the Kansas expanded lottery act or rules and
36 regulations adopted thereunder;

37 (4) establish standards for advertising, marketing and promotional
38 materials used by casino enterprise contractors and inspect and approve,
39 prior to publication or distribution, all advertising by a casino enterprise
40 contractor which includes any reference to the Kansas lottery or a casino
41 at the casino enterprise;

42 (5) establish procedures for registering gambling equipment at each
43 casino enterprise, including, but not limited to, kind, type, number and

1 location; and

2 (6) take any other action as may be reasonable or appropriate to en-
3 force the provisions of the Kansas expanded lottery act and any rules and
4 regulations, orders and final decisions of the executive director or the
5 commission.

6 (c) Appropriate security measures shall be required in any and all
7 areas where gambling equipment authorized pursuant to the Kansas ex-
8 panded lottery act are located or operated. The executive director shall
9 approve all such security measures.

10 (d) The executive director shall require an annual financial audit of
11 each casino enterprise and the associated casino. Such audits shall be
12 conducted by a licensed accounting firm approved by the executive di-
13 rector. Such audit shall be conducted at the expense of the casino enter-
14 prise contractor. The audit report shall be made available to the public
15 on the internet.

16 New Sec. 13. (a) Wagers shall be received only from a person in a
17 casino facility at the location where the gambling equipment is authorized
18 pursuant to the Kansas expanded lottery act. No person present at such
19 location shall place or attempt to place a wager on behalf of another
20 person.

21 (b) It is unlawful for any casino or casino enterprise, or any person
22 associated with a casino or casino enterprise, to loan money or otherwise
23 extend credit to any patron of a casino.

24 (c) It is unlawful for any casino or casino enterprise, or any person
25 associated with a casino or casino enterprise, to offer or give to a patron
26 of the casino or casino enterprise any gift, service, discount or other form
27 of consideration which is not offered or given to all patrons of the casino
28 or casino enterprise.

29 (d) Violation of this section is a class A nonperson misdemeanor upon
30 a conviction for a first offense. Violation of this section is a severity level
31 9, nonperson felony upon conviction for a second or subsequent offense.

32 New Sec. 14. (a) Except as authorized in subsection (c), it is unlawful
33 for any casino enterprise contractor, or its employees or agents, to allow
34 any person to play gambling equipment or share in winnings of a person
35 knowing such person to be:

36 (1) Under 21 years of age;

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

39 (3) an employee or agent of the casino enterprise contractor;

40 (4) an officer or employee of a vendor contracting with the Kansas
41 lottery or the casino enterprise contractor to supply gambling equipment
42 for use in any casino pursuant to the Kansas expanded lottery act;

43 (5) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,

1 parent or stepparent of a person described in subsection (a)(2), (a)(3) or
2 (a)(4); or

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

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

9 (c) The executive director may authorize in writing any employee of
10 the Kansas lottery and any employee of a lottery vendor to play gambling
11 equipment authorized pursuant to the Kansas expanded lottery act to
12 verify the proper operation thereof with respect to security and contract
13 compliance. Any prize awarded as a result of such play shall become the
14 property of the Kansas lottery and be added to the prize pools of subse-
15 quent lottery games. No money or merchandise shall be awarded to any
16 employee of the Kansas lottery playing on gambling equipment pursuant
17 to this subsection.

18 New Sec. 15. (a) The following shall not pay or contribute, directly
19 or indirectly, any money or thing of value to any candidate for nomination
20 or election to any state or local office in this state, to any committee of
21 any political party in this state or to any group, committee or association
22 organized in support of any such candidate or political party:

23 (1) Any casino enterprise contractor, or any holding, intermediary or
24 subsidiary company of such contractor; or

25 (2) any officer, director or key employee of any casino enterprise
26 contractor or any company described in subsection (a)(1); or

27 (3) any person or agent on behalf of any casino enterprise contractor
28 or any company, officer, director or employee described in subsection
29 (a)(1) or (2).

30 (b) Until such time as a contract for a casino enterprise is entered
31 into, the following shall not pay or contribute, directly or indirectly, any
32 money or thing of value to any candidate for nomination or election to
33 any state or local office in this state, to any committee of any political
34 party in this state or to any group, committee or association organized in
35 support of any such candidate or political party:

36 (1) Any person submitting a proposal for such casino enterprise pur-
37 suant to this act, or any holding, intermediary or subsidiary company of
38 such person;

39 (2) any officer, director or key employee of any person or company
40 described in subsection (b)(1); or

41 (3) any person or agent on behalf of any person, company, officer,
42 director or employee described in subsection (a)(1) or (2).

43 (c) Violation of this section is a level VI, nonperson felony, except

1 that the authorized fine for such violation shall be a sum not to exceed
2 \$250,000 if the violator is a person other than a natural person.

3 New Sec. 16. (a) As used in this section:

4 (1) "Affiliated person" means:

5 (A) Any member of the immediate family of a state or local official;
6 or

7 (B) any partnership, firm, corporation or limited liability company
8 with which a state or local official is associated or in which a state or local
9 official has an interest, or any partner, officer, director or employee
10 thereof while the state or local official is associated with such partnership,
11 firm, corporation or company.

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

13 (A) Any state officer or employee required to file a written statement
14 of substantial interests pursuant to the state governmental ethics law and
15 any other state officer or employee with responsibility for matters affect-
16 ing casino activity;

17 (B) the governor or any full-time professional employee of the office
18 of the governor;

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

21 (D) any justice of the supreme court, judge of the court of appeals
22 or judge of the district court;

23 (E) the head of any state agency, the assistant or deputy heads of any
24 state agency and the head of any division within a state agency; or

25 (F) any member of the governing body of a city or county where a
26 casino is located; any municipal or county judge of such city or county;
27 any city, county or district attorney of such city or county; and any mem-
28 ber of or attorney for the planning board or zoning board of such city or
29 county and any professional planner or consultant regularly employed or
30 retained by such planning board or zoning board.

31 (b) No state or local official or affiliated person shall:

32 (1) Hold, directly or indirectly, an interest in, be employed by, rep-
33 resent or appear for a casino enterprise or a casino enterprise contractor,
34 or any holding or intermediary company with respect thereto, in connec-
35 tion with any cause, application or matter; or

36 (2) represent, appear for or negotiate on behalf of any person sub-
37 mitting a proposal for a casino enterprise or a casino enterprise contractor,
38 or any holding or intermediary company with respect thereto, in connec-
39 tion with any cause, application or matter.

40 (c) No state or local official or affiliated person, within five years
41 immediately subsequent to the termination of the office or employment
42 of the official, shall hold, directly or indirectly, an interest in, be employed
43 by or represent, appear for or negotiate on behalf of any person submit-

1 ting a proposal for a casino enterprise or any casino enterprise contractor
2 in connection with any cause, application or matter, or on behalf of any
3 holding or intermediary company with respect thereto, in connection with
4 any phase of casino development, casino enterprise development or any
5 other matter whatsoever related to casino activity.

6 (d) No state or local official shall solicit or accept, directly or indi-
7 rectly, any complimentary service or discount from any person submitting
8 a proposal for a casino enterprise or any casino enterprise contractor
9 which such official knows or has reason to know is other than a service
10 or discount that is offered to members of the general public in like
11 circumstance.

12 (e) No state or local official shall influence, or attempt to influence,
13 by use of official authority, the decision of the board or the investigation
14 proposal for a casino enterprise or in any proceeding to enforce the pro-
15 visions of this act or rules and regulations of the board. Any such attempt
16 shall be reported promptly to the attorney general.

17 (f) Willful violation of this section is a class B misdemeanor.

18 New Sec. 17. (a) It is unlawful for any casino enterprise contractor,
19 or its employees or agents, to allow:

20 (1) A person under 21 years of age to be in an area of any location
21 where any gambling equipment authorized pursuant to the Kansas ex-
22 panded lottery act is being operated or conducted; or

23 (2) a person who is under 21 years of age and is an employee or agent
24 of such contractor to perform any function involved in gambling by
25 patrons.

26 (b) Violation of this section is a class A misdemeanor.

27 New Sec. 18. Except for persons acting in accordance with rules and
28 regulations of the Kansas lottery or by written authority of the executive
29 director in performing installation, maintenance, inspection and repair
30 services, any person who, with the intent to manipulate the outcome, pay
31 out or operation of gambling equipment, manipulates the outcome, pay
32 out or operation of gambling equipment by physical, electrical or me-
33 chanical means shall be guilty of a severity level 8, nonperson felony.

34 New Sec. 19. (a) Except in accordance with rules and regulations of
35 the Kansas lottery or by written authority from the executive director in
36 performing installation, maintenance, inspection and repair services, it is
37 a class A nonperson misdemeanor for the executive director, the com-
38 mission or any employee or agent of the commission, or the casino en-
39 terprise contractor or any employee of such contractor, to knowingly,
40 while in Kansas, place a wager on or bet or play gambling equipment
41 authorized pursuant to the Kansas expanded lottery act.

42 (b) It is a severity level 8, nonperson felony for any person playing or
43 using any gambling equipment in Kansas knowingly to:

1 (1) Use other than a lawful coin or legal tender of the United States
2 of America, or to use coin not of the same denomination as the coin
3 intended to be used in gambling equipment; except that in the playing of
4 any gambling equipment, it shall be lawful for any person to use gambling
5 billets, tokens or similar objects therein which are approved by the Kansas
6 lottery;

7 (2) use gambling billets, tokens or similar objects in a casino other
8 than in the casino for which the billet, token or similar object was
9 approved;

10 (3) possess or use, while on the premises of a casino facility, or any
11 location where gambling equipment is authorized pursuant to this act,
12 any cheating or thieving device, including, but not limited to, tools, wires,
13 drills, coins attached to strings or wires or electronic or magnetic devices
14 to facilitate removing from any gambling equipment, or any money or
15 contents thereof;

16 (4) possess or use while on the premises of a casino facility, or any
17 location where gambling equipment is authorized pursuant to the Kansas
18 expanded lottery act, any key or device designed for the purpose of, or
19 suitable for, opening or entering any gambling equipment or similar gam-
20 bling device or drop box.

21 (c) Any duly authorized agent or employee of the commission may
22 possess and use any of the devices described in paragraphs (3) and (4) of
23 subsection (b) in furtherance of inspection or testing as provided in the
24 Kansas expanded lottery act or in furtherance of such person's employ-
25 ment at any location where gambling equipment is authorized pursuant
26 to the Kansas expanded lottery act.

27 New Sec. 20. Each casino enterprise contractor shall post one or
28 more signs at prominent locations where gambling equipment is operated
29 to inform patrons of the toll-free number available to provide information
30 and referral services regarding compulsive or problem gambling. The text
31 shall be determined by the secretary of the department of social and
32 rehabilitation services. Failure by a casino enterprise contractor to post
33 and maintain such signs shall be cause for the imposition of a fine not to
34 exceed \$500 per day.

35 New Sec. 21. No taxes, fees, charges, transfers or distributions, other
36 than those provided for in the Kansas expanded lottery act, shall be made
37 or levied by any city, county or other municipality from or against casino
38 revenue or any other casino income derived from gambling equipment
39 operated pursuant to this act.

40 New Sec. 22. All sales of gambling equipment authorized by the
41 Kansas expanded lottery act shall be exempt from sales taxes imposed
42 pursuant to K.S.A. 12-187 et seq. and 79-3601 et seq., and amendments
43 thereto.

1 New Sec. 23. Each casino enterprise contractor shall hold the ex-
2 ecutive director, the commission, the board and the state harmless from
3 and defend any and all claims which may be asserted against the executive
4 director, the commission, the board and the state, or the agents or em-
5 ployees thereof, arising from the operation of gambling equipment or
6 other lottery-type games pursuant to the Kansas expanded lottery act.
7 This section may be satisfied by procurement of insurance naming the
8 executive director, the commission, the board and the state as additional
9 insured parties. The provisions of this section shall not apply to any claims
10 arising from a negligent act or omission or willful or malicious misconduct
11 of the executive director, the commission, the board or the state, or the
12 agents or employees thereof.

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

31 New Sec. 25. The Kansas expanded lottery act, casino enterprise
32 contractors and casino enterprise contracts shall not be subject to the
33 provisions of and restrictions on major procurement contracts, including,
34 but not limited to, the provisions of K.S.A. 74-8705, and amendments
35 thereto.

36 New Sec. 26. (a) The sale, service and consumption of alcoholic liq-
37 uor and cereal malt beverage are hereby permitted upon and in ancillary
38 operations of a casino enterprise.

39 (b) The sale, service or consumption of alcoholic liquor or cereal malt
40 beverages upon and in the casino facility of a casino enterprise is
41 prohibited.

42 (c) The provisions of K.S.A. 41-719, and amendments thereto, relat-
43 ing to alcoholic liquor shall not be applicable to ancillary operations in a

1 casino enterprise.

2 New Sec. 27. The casino facility of a casino enterprise shall be closed
3 no less than four hours during each 24-hour time period. Lotteries in the
4 casino facility and the operation of lottery machines in the casino facility
5 are prohibited while the casino facility is closed.

6 New Sec. 28. Pursuant to section 2 of the federal act entitled “An
7 Act to Prohibit Transportation of Gambling Devices in Interstate and
8 Foreign Commerce,” 15 U.S.C. 1171 through 1177, the state of Kansas,
9 acting by and through the duly elected and qualified members of the
10 legislature, does hereby in this section, and in accordance with and in
11 compliance with the provisions of section 2 of such federal act, declare
12 and proclaims that it is exempt from the provision of section 2 of such
13 federal act to the extent that such gambling devices as described therein
14 are being transported to or from the Kansas lottery or to or from a casino
15 enterprise at a location within the state of Kansas where such gambling
16 devices are authorized pursuant to the Kansas expanded lottery act.

17 New Sec. 29. (a) It is the purpose of this act to promote and stimulate
18 the economic development and prosperity of the state of Kansas by fos-
19 tering growth of the tourist industry and related employment opportu-
20 nities within the state, to provide an additional source of revenue for the
21 state and to maximize such funding by enabling casino enterprises op-
22 erated pursuant to the Kansas expanded lottery act to be competitive with
23 tribal casino enterprises.

24 (b) The following described property, to the extent herein specified,
25 is hereby exempt from all property or ad valorem taxes levied under the
26 laws of the state of Kansas: For all taxable years commencing after De-
27 cember 31, 2006, all property which is part or used in the operation of a
28 casino enterprise pursuant to the Kansas expanded lottery act.

29 New Sec. 30. (a) No officer, employee or member of a public body
30 or agency shall expend or authorize the expenditure of public moneys for
31 the purpose of engaging in any activity promoting or opposing the adop-
32 tion of a proposition submitted to the voters pursuant to section 6, and
33 amendments thereto.

34 (b) Violation of this section is a class A nonperson misdemeanor.

35 (c) This section shall be part of and supplemental to the campaign
36 finance act.

37 New Sec. 31. (a) Any person who spends or contracts to spend more
38 than \$500 for the purpose of engaging in any activity promoting or op-
39 posing the adoption of a proposition submitted to the voters pursuant to
40 section 6, and amendments thereto, shall file a report with the office of
41 the secretary of state not less than eight days before the election, showing
42 the required information as of 10 days before the election. Such report
43 shall show: (1) The name and address of each individual contributor,

1 together with the amount contributed or contributed in kind in an aggregate
2 amount or value exceeding \$50 but not more than \$150; (2) the
3 name, address, occupation and employer of each individual contributor,
4 together with the amount contributed or contributed in kind in an aggregate
5 amount exceeding \$150; (3) each expenditure in an aggregate
6 amount or value in excess of \$50 by showing the amount paid to each
7 payee and the purpose of the expenditure; (4) total receipts and expenditures
8 during the reporting period; and (5) beginning and ending balance.
9 A supplemental report in the same format as the preliminary report shall
10 be filed with the secretary of state within 30 days after the election. If
11 total expenditures within nine days prior to the election are more than
12 \$1,000 or total contributions within nine days prior to the election are
13 more than \$1,000, supplemental reports shall be filed on or before the
14 close of the second business day following the day in which such total
15 expenditures exceed \$1,000 or such total contributions exceed \$1,000.

16 Any person who engages in any activity promoting or opposing the
17 adoption of a proposition submitted to the voters pursuant to section 6,
18 and amendments thereto, shall be considered engaged in such activity
19 upon the date the Kansas expanded lottery act is enacted by the legislature.
20 Reports required by this section shall be filed by hand delivery,
21 express delivery service, facsimile transmission or by any electronic
22 method authorized by the secretary of state.

23 (b) (1) If any person fails to file a report required by subsection (a)
24 within the prescribed period, such person shall pay to the state a civil
25 penalty of \$50 per day for each day that such report remains unfiled,
26 except that no such civil penalty shall exceed \$5,000. The commission
27 may waive, for good cause, payment of any civil penalty imposed by this
28 section.

29 (2) Civil penalties provided for by this section shall be remitted to
30 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
31 and amendments thereto. Upon receipt of each such remittance, the state
32 treasurer shall deposit the entire amount in the state treasury to the credit
33 of the governmental ethics commission fee fund.

34 (3) If a person fails to pay a civil penalty provided for by this section,
35 it shall be the duty of the governmental ethics commission to bring an
36 action to recover such civil penalty in the district court of the county in
37 which such person resides.

38 (c) The intentional failure to file any report required by subsection
39 (a) is a class A nonperson misdemeanor.

40 (d) This section shall be part of and supplemental to the campaign
41 finance act.

42 New Sec. 32. (a) The aggregate amount contributed to promote or
43 oppose the adoption of a proposition submitted to the voters pursuant to

1 section 6, and amendments thereto, by any person shall not exceed
2 \$1,000.

3 (b) Intentionally making any contribution in violation of this section
4 or intentionally accepting any contribution made in violation of this sec-
5 tion is a class A nonperson misdemeanor.

6 (c) This section shall be part of and supplemental to the campaign
7 finance act.

8 Sec. 33. K.S.A. 74-8710 is hereby amended to read as follows: 74-
9 8710. (a) The commission, upon the recommendation of the executive
10 director, shall adopt rules and regulations governing the establishment
11 and operation of a state lottery *and the operation of casinos* as necessary
12 to carry out the purposes of ~~this the Kansas lottery act and the Kansas~~
13 *expanded lottery act. Except as provided in subsection (d)*, temporary
14 rules and regulations may be adopted by the commission without being
15 subject to the provisions and requirements of K.S.A. 77-415 through 77-
16 438, and amendments thereto, but shall be subject to approval by the
17 attorney general as to legality and shall be filed with the secretary of state
18 and published in the Kansas register. Temporary and permanent rules
19 and regulations may include but shall not be limited to:

20 (1) Subject to the provisions of subsection ~~(c)~~ (b), the types of lottery
21 games to be conducted, ~~including but not~~ shall be limited to instant lot-
22 tery, on-line ~~and~~ traditional *lottery and casino* games, but not including
23 games on video lottery machines or lottery machines.

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

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

30 (4) The frequency of the drawings or selections of winning tickets or
31 shares.

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

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

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

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

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

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

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

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

5 (b) No new lottery game shall commence operation after the effective
6 date of this act unless first approved by the governor or, in the governor's
7 absence or disability, the lieutenant governor. *This subsection shall not*
8 *be construed to require approval of games played on gambling equipment*
9 *operated at a casino.*

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

14 (d) *The commission, upon recommendation of the executive director*
15 *and in accordance with the provisions of the rules and regulations filing*
16 *act, shall adopt rules and regulations to implement, administer and en-*
17 *force the provisions of the Kansas expanded lottery act. Such rules and*
18 *regulations may include, but shall not be limited to, rules and regulations*
19 *governing casino enterprise operations which are designed to: (1) Ensure*
20 *the integrity of gambling equipment, casino games and the finances of*
21 *casinos; and (2) alleviate problem gambling, including a requirement that*
22 *each casino maintain a self-exclusion list by which individuals may ex-*
23 *clude themselves from access to gambling equipment.*

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

27 (b) Except as provided by *the Kansas expanded lottery act and K.S.A.*
28 *2006 Supp. 74-8724, and amendments thereto, the executive director*
29 *shall remit all moneys collected from the sale of lottery tickets and shares*
30 *and any other moneys received by or on behalf of the Kansas lottery to*
31 *the state treasurer in accordance with the provisions of K.S.A. 75-4215,*
32 *and amendments thereto. Upon receipt of each such remittance, the state*
33 *treasurer shall deposit the entire amount in the state treasury to the credit*
34 *of the lottery operating fund. Moneys credited to the fund shall be ex-*
35 *pended or transferred only as provided by this act. Expenditures from*
36 *such fund shall be made in accordance with appropriations acts upon*
37 *warrants of the director of accounts and reports issued pursuant to vouch-*
38 *ers approved by the executive director or by a person designated by the*
39 *executive director.*

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

41 (1) The payment of expenses of the lottery, which shall include all
42 costs incurred in the operation and administration of the Kansas lottery;
43 all costs resulting from contracts entered into for the purchase or lease

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

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

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

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

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

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

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

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

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

29 Sec. 35. K.S.A. 74-8716 is hereby amended to read as follows: 74-
 30 8716. (a) It is unlawful for the executive director, a member of the com-
 31 mission, *a member of the board, an arbiter* or any employee of the Kansas
 32 lottery, or any person residing in the household thereof to:

33 (1) Have, either directly or indirectly, an interest in a business know-
 34 ing that such business contracts with the Kansas lottery for a major pro-
 35 curement, whether such interest is as a natural person, partner, member
 36 of an association, stockholder or director or officer of a corporation; or

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

- 1 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
 2 or a person who contracts or seeks to contract with the state to supply
 3 gaming equipment, materials, tickets or consulting services for use in the
 4 lottery to offer, pay, give or make any economic opportunity, gift, loan,
 5 gratuity, special discount, favor or service, or hospitality other than food
 6 and beverages, having an aggregate value of \$20 or more in any calendar
 7 year to a person, knowing such person is the executive director, a member
 8 of the commission or an employee of the Kansas lottery, or a person
 9 residing in the household thereof.
- 10 (c) *It shall be unlawful for any person to serve as executive director,*
 11 *a member of the commission, a member of the board or an arbiter or other*
 12 *employee of the Kansas lottery while or within five years after holding,*
 13 *either directly or indirectly, a financial interest in or being employed by*
 14 *or a consultant to any of the following:*
- 15 (1) *Any casino enterprise contractor, subcontractor or agent of a ca-*
 16 *sino enterprise contractor, manufacturer or vendor of gambling equip-*
 17 *ment or central computer system provider, or any business which sells*
 18 *goods or services to a casino enterprise contractor; or*
- 19 (2) *any manufacturer or vendor of gambling equipment.*
- 20 (d) *It shall be unlawful for the executive director, a member of the*
 21 *commission, a member of the board or an arbiter or other employee of*
 22 *the Kansas lottery to accept any compensation, gift, loan, entertainment,*
 23 *favor or service from any casino enterprise contractor, subcontractor or*
 24 *agent of a casino enterprise contractor, manufacturer or vendor of gam-*
 25 *bling equipment or central computer system provider.*
- 26 ~~(e)~~ (e) Violation of this section is a class A *nonperson* misdemeanor.
- 27 ~~(f)~~ (f) If the executive director, a member of the commission ~~or an~~
 28 *a member of the board or an arbiter or other* employee of the Kansas
 29 lottery, or any person residing in the household thereof, is convicted of
 30 an act described by this section, such executive director, member or em-
 31 ployee shall be removed from office or employment with the Kansas
 32 lottery.
- 33 ~~(g)~~ (g) In addition to the provisions of this section, all other provisions
 34 of law relating to conflicts of interest of state employees shall apply to the
 35 members of the commission ~~and members of the board and arbiters and~~
 36 *other* employees of the Kansas lottery.
- 37 Sec. 36. K.S.A. 2006 Supp. 12-4516 is hereby amended to read as
 38 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
 39 person who has been convicted of a violation of a city ordinance of this
 40 state may petition the convicting court for the expungement of such con-
 41 viction and related arrest records if three or more years have elapsed
 42 since the person:
- 43 (A) Satisfied the sentence imposed; or

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

1 pursuant to this section. Any person who may have relevant information
2 about the petitioner may testify at the hearing. The court may inquire
3 into the background of the petitioner and shall have access to any reports
4 or records relating to the petitioner that are on file with the secretary of
5 corrections or the Kansas parole board.

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

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

12 (2) the circumstances and behavior of the petitioner warrant the
13 expungement; and

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

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

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

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

29 (A) In any application for employment as a detective with a private
30 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
31 as security personnel with a private patrol operator, as defined by K.S.A.
32 75-7b01, and amendments thereto; or with an institution, as defined in
33 K.S.A. 76-12a01, and amendments thereto, of the department of social
34 and rehabilitation services;

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

37 (C) 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 (D) to aid in determining the petitioner's qualifications for executive
42 director of the Kansas racing *and gaming* commission, for employment
43 with the commission or for work in sensitive areas in parimutuel racing

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

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

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

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

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

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

1 request is being made in conjunction with an application for registration
2 as a broker-dealer, agent, investment adviser or investment adviser rep-
3 resentative by such agency and the application was submitted by the per-
4 son whose record has been expunged;

5 ~~(13)~~ (14) the Kansas law enforcement training commission on *peace*
6 *officers' standards and training* and the request is accompanied by a state-
7 ment that the request is being made to aid in determining certification
8 eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq.,
9 and amendments thereto;

10 ~~(14)~~ (15) a law enforcement agency and the request is accompanied
11 by a statement that the request is being made to aid in determining eli-
12 gibility for employment as a law enforcement officer as defined by K.S.A.
13 22-2202, and amendments thereto; or

14 ~~(15)~~ (16) the attorney general and the request is accompanied by a
15 statement that the request is being made to aid in determining qualifi-
16 cations for a license to carry a concealed weapon pursuant to the personal
17 and family protection act.

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

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

28 (c) (1) There is hereby established a state grant program to provide
29 assistance for the direct treatment of persons diagnosed as suffering from
30 pathological gambling and to provide funding for research regarding the
31 impact of gambling on residents of Kansas. Research grants awarded un-
32 der this section may include, but need not be limited to, grants for de-
33 termining the effectiveness of education and prevention efforts on the
34 prevalence of pathological gambling in Kansas. All grants shall be made
35 after open solicitation of proposals and evaluation of proposals against
36 criteria established in rules and regulations adopted by the secretary of
37 the department of social and rehabilitation services. Both public and pri-
38 vate entities shall be eligible to apply for and receive grants under the
39 provisions of this section.

40 (2) *Moneys in the problem grant fund may be used to treat alcohol-*
41 *ism, drug abuse and other addictive behaviors in persons diagnosed as*
42 *suffering from pathological gambling.*

43 (d) The secretary of the department of social and rehabilitation serv-

1 ices is hereby authorized to receive moneys from any grants, gifts, con-
2 tributions or bequests made for the purpose of funding grants under this
3 section and to expend such moneys for the purpose for which received.

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

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

16 Sec. 40. K.S.A. 74-8702, 74-8710, 74-8716 and 74-8723 and K.S.A.
17 2006 Supp. 12-4516, 19-101a, 19-101l, 21-4619, 21-4619c, 74-8711 and
18 79-4805 are hereby repealed.

19 Sec. 41. This act shall take effect and be in force from and after its
20 publication in the Kansas register.