

Senate Substitute for HOUSE BILL No. 2055

By Committee on Federal and State Affairs

3-26

1 AN ACT concerning racetrack gaming facilities; amending K.S.A. 2012
2 Supp. 12-4516, 21-6109, 21-6110, 21-6614, 60-2102, 72-6624, 74-
3 8702, 74-8710, 74-8716, 74-8733, 74-8734, 74-8736, 74-8750, 74-
4 8751, 74-8752, 74-8753, 74-8754, 74-8755, 74-8756, 74-8757, 74-
5 8758, 74-8760, 74-8762, 74-8764, 74-8765, 74-8766, 74-8771 and 74-
6 8772 and repealing the existing sections; also repealing K.S.A. 2012
7 Supp. 74-8740, 74-8741, 74-8742, 74-8743, 74-8744, 74-8745, 74-
8 8746, 74-8747, 74-8749 and 74-8767.

9

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

11 Section 1. K.S.A. 2012 Supp. 12-4516 is hereby amended to read as
12 follows: 12-4516. (a) (1) Except as provided in subsection (b), (c) and (d),
13 any person who has been convicted of a violation of a city ordinance of
14 this state may petition the convicting court for the expungement of such
15 conviction and related arrest records if three or more years have elapsed
16 since the person:

17 (A) Satisfied the sentence imposed; or

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

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

24 (b) No person may petition for expungement until five or more years
25 have elapsed since the person satisfied the sentence imposed or the terms
26 of a diversion agreement or was discharged from probation, parole,
27 conditional release or a suspended sentence, if such person was convicted
28 of the violation of a city ordinance which would also constitute:

29 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
30 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto;

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

34 (3) perjury resulting from a violation of K.S.A. 8-261a, and
35 amendments thereto;

36 (4) a violation of the provisions of the fifth clause of K.S.A. 8-142,

1 and amendments thereto, relating to fraudulent applications;

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

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

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

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

10 (c) No person may petition for expungement until 10 or more years
11 have elapsed since the person satisfied the sentence imposed or the terms
12 of a diversion agreement or was discharged from probation, parole,
13 conditional release or a suspended sentence, if such person was convicted
14 of the violation of a city ordinance which would also constitute a violation
15 of K.S.A. 8-1567, and amendments thereto.

16 (d) There shall be no expungement of convictions or diversions for a
17 violation of a city ordinance which would also constitute a violation of
18 K.S.A. 8-2,144, and amendments thereto.

19 (e) When a petition for expungement is filed, the court shall set a date
20 for a hearing of such petition and shall cause notice of such hearing to be
21 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 agency or diverting authority. A municipal court may prescribe a fee to be
31 charged as costs for a person petitioning for an order of expungement
32 pursuant to this section. Any person who may have relevant information
33 about the petitioner may testify at the hearing. The court may inquire into
34 the background of the petitioner and shall have access to any reports or
35 records relating to the petitioner that are on file with the secretary of
36 corrections or the prisoner review board.

37 (f) At the hearing on the petition, the court shall order the petitioner's
38 arrest record, conviction or diversion expunged if the court finds that:

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

42 (2) the circumstances and behavior of the petitioner warrant the
43 expungement; and

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

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

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

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

16 (A) In any application for employment as a detective with a private
17 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
18 as security personnel with a private patrol operator, as defined by K.S.A.
19 75-7b01, and amendments thereto; or with an institution, as defined in
20 K.S.A. 76-12a01, and amendments thereto, of the department of social and
21 rehabilitation services;

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

24 (C) to aid in determining the petitioner's qualifications for
25 employment with the Kansas lottery or for work in sensitive areas within
26 the Kansas lottery as deemed appropriate by the executive director of the
27 Kansas lottery;

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

34 (E) to aid in determining the petitioner's qualifications for the
35 following under the Kansas expanded lottery act: (i) Lottery gaming
36 facility manager or prospective manager, ~~racetrack gaming facility~~
37 ~~manager or prospective manager~~, licensee or certificate holder; or (ii) an
38 officer, director, employee, owner, agent or contractor thereof;

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

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

43 (H) to aid in determining the petitioner's qualifications to be an

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

3 (I) in any application for registration as a broker-dealer, agent,
4 investment adviser or investment adviser representative all as defined in
5 K.S.A. 17-12a102, and amendments thereto;

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

8 (K) for applications received on and after July 1, 2006, to aid in
9 determining the petitioner's qualifications for a license to carry a concealed
10 weapon pursuant to the personal and family protection act, K.S.A. 2012
11 Supp. 75-7c01 et seq., and amendments thereto;

12 (3) the court, in the order of expungement, may specify other
13 circumstances under which the arrest, conviction or diversion is to be
14 disclosed; and

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

18 (h) Whenever a person is convicted of an ordinance violation, pleads
19 guilty and pays a fine for such a violation, is placed on parole or probation
20 or is granted a suspended sentence for such a violation, the person shall be
21 informed of the ability to expunge the arrest records or conviction.
22 Whenever a person enters into a diversion agreement, the person shall be
23 informed of the ability to expunge the diversion.

24 (i) Subject to the disclosures required pursuant to subsection (g), in
25 any application for employment, license or other civil right or privilege, or
26 any appearance as a witness, a person whose arrest records, conviction or
27 diversion of an offense has been expunged under this statute may state that
28 such person has never been arrested, convicted or diverted of such offense.

29 (j) Whenever the record of any arrest, conviction or diversion has
30 been expunged under the provisions of this section or under the provisions
31 of any other existing or former statute, the custodian of the records of
32 arrest, conviction, diversion and incarceration relating to that crime shall
33 not disclose the existence of such records, except when requested by:

34 (1) The person whose record was expunged;

35 (2) a private detective agency or a private patrol operator, and the
36 request is accompanied by a statement that the request is being made in
37 conjunction with an application for employment with such agency or
38 operator by the person whose record has been expunged;

39 (3) a court, upon a showing of a subsequent conviction of the person
40 whose record has been expunged;

41 (4) the secretary of ~~social and rehabilitation~~ *for aging and disability*
42 services, or a designee of the secretary, for the purpose of obtaining
43 information relating to employment in an institution, as defined in K.S.A.

1 76-12a01, and amendments thereto, of the department ~~of social and~~
2 ~~rehabilitation~~ *for aging and disability* services of any person whose record
3 has been expunged;

4 (5) a person entitled to such information pursuant to the terms of the
5 expungement order;

6 (6) a prosecuting attorney, and such request is accompanied by a
7 statement that the request is being made in conjunction with a prosecution
8 of an offense that requires a prior conviction as one of the elements of such
9 offense;

10 (7) the supreme court, the clerk or disciplinary administrator thereof,
11 the state board for admission of attorneys or the state board for discipline
12 of attorneys, and the request is accompanied by a statement that the
13 request is being made in conjunction with an application for admission, or
14 for an order of reinstatement, to the practice of law in this state by the
15 person whose record has been expunged;

16 (8) the Kansas lottery, and the request is accompanied by a statement
17 that the request is being made to aid in determining qualifications for
18 employment with the Kansas lottery or for work in sensitive areas within
19 the Kansas lottery as deemed appropriate by the executive director of the
20 Kansas lottery;

21 (9) the governor or the Kansas racing and gaming commission, or a
22 designee of the commission, and the request is accompanied by a
23 statement that the request is being made to aid in determining
24 qualifications for executive director of the commission, for employment
25 with the commission, for work in sensitive areas in parimutuel racing as
26 deemed appropriate by the executive director of the commission or for
27 licensure, renewal of licensure or continued licensure by the commission;

28 (10) the Kansas racing and gaming commission, or a designee of the
29 commission, and the request is accompanied by a statement that the
30 request is being made to aid in determining qualifications of the following
31 under the Kansas expanded lottery act: (A) Lottery gaming facility
32 managers and prospective managers, ~~racetrack gaming facility managers~~
33 ~~and prospective managers~~, licensees and certificate holders; and (B) their
34 officers, directors, employees, owners, agents and contractors;

35 (11) the state gaming agency, and the request is accompanied by a
36 statement that the request is being made to aid in determining
37 qualifications: (A) To be an employee of the state gaming agency; or (B)
38 to be an employee of a tribal gaming commission or to hold a license
39 issued pursuant to a tribal-state gaming compact;

40 (12) the Kansas securities commissioner, or a designee of the
41 commissioner, and the request is accompanied by a statement that the
42 request is being made in conjunction with an application for registration as
43 a broker-dealer, agent, investment adviser or investment adviser

1 representative by such agency and the application was submitted by the
2 person whose record has been expunged;

3 (13) the attorney general, and the request is accompanied by a
4 statement that the request is being made to aid in determining
5 qualifications for a license to carry a concealed weapon pursuant to the
6 personal and family protection act;

7 (14) the Kansas sentencing commission;

8 (15) the Kansas commission on peace officers' standards and training
9 and the request is accompanied by a statement that the request is being
10 made to aid in determining certification eligibility as a law enforcement
11 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

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

16 Sec. 2. K.S.A. 2012 Supp. 21-6109 is hereby amended to read as
17 follows: 21-6109. As used in K.S.A. 2012 Supp. 21-6109 through 21-6116,
18 and amendments thereto:

19 (a) "Access point" means the area within a ten foot radius outside of
20 any doorway, open window or air intake leading into a building or facility
21 that is not exempted pursuant to subsection (d) of K.S.A. 2012 Supp. 21-
22 6110, and amendments thereto.

23 (b) "Bar" means any indoor area that is operated and licensed for the
24 sale and service of alcoholic beverages, including alcoholic liquor as
25 defined in K.S.A. 41-102, and amendments thereto, or cereal malt
26 beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-
27 premises consumption.

28 (c) "Employee" means any person who is employed by an employer
29 in consideration for direct or indirect monetary wages or profit, and any
30 person who volunteers their services for a nonprofit entity.

31 (d) "Employer" means any person, partnership, corporation,
32 association or organization, including municipal or nonprofit entities,
33 which employs one or more individual persons.

34 (e) "Enclosed area" means all space between a floor and ceiling
35 which is enclosed on all sides by solid walls, windows or doorways which
36 extend from the floor to the ceiling, including all space therein screened by
37 partitions which do not extend to the ceiling or are not solid or similar
38 structures. For purposes of this section, the following shall not be
39 considered an "enclosed area": (1) Rooms or areas, enclosed by walls,
40 windows or doorways, having neither a ceiling nor a roof and which are
41 completely open to the elements and weather at all times; and (2) rooms or
42 areas, enclosed by walls, fences, windows or doorways and a roof or
43 ceiling, having openings that are permanently open to the elements and

1 weather and which comprise an area that is at least 30% of the total
2 perimeter wall area of such room or area.

3 (f) "Food service establishment" means any place in which food is
4 served or is prepared for sale or service on the premises. Such term shall
5 include, but not be limited to, fixed or mobile restaurants, coffee shops,
6 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
7 shops, soda fountains, taverns, private clubs, roadside kitchens,
8 commissaries and any other private, public or nonprofit organization or
9 institution routinely serving food and any other eating or drinking
10 establishment or operation where food is served or provided for the public
11 with or without charge.

12 (g) "Gaming floor" means the area of a lottery gaming facility ~~or~~
13 ~~racetrack gaming facility~~, as ~~those terms are~~ defined in K.S.A. 74-8702,
14 and amendments thereto, where patrons engage in Class III gaming. The
15 gaming floor shall not include any areas used for accounting, maintenance,
16 surveillance, security, administrative offices, storage, cash or cash
17 counting, records, food service, lodging or entertainment, except that the
18 gaming floor may include a bar where alcoholic beverages are served so
19 long as the bar is located entirely within the area where Class III gaming is
20 conducted.

21 (h) "Medical care facility" means a physician's office, general
22 hospital, special hospital, ambulatory surgery center or recuperation center,
23 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
24 hospital licensed under K.S.A. 75-3307b, and amendments thereto.

25 (i) "Outdoor recreational facility" means a hunting, fishing, shooting
26 or golf club, business or enterprise operated primarily for the benefit of its
27 owners, members and their guests and not normally open to the general
28 public.

29 (j) "Place of employment" means any enclosed area under the control
30 of a public or private employer, including, but not limited to, work areas,
31 auditoriums, elevators, private offices, employee lounges and restrooms,
32 conference and meeting rooms, classrooms, employee cafeterias, stairwells
33 and hallways, that is used by employees during the course of employment.
34 For purposes of this section, a private residence shall not be considered a
35 "place of employment" unless such residence is used as a day care home,
36 as defined in K.S.A. 65-530, and amendments thereto.

37 (k) "Private club" means an outdoor recreational facility operated
38 primarily for the use of its owners, members and their guests that in its
39 ordinary course of business is not open to the general public for which use
40 of its facilities has substantial dues or membership fee requirements for its
41 members.

42 (l) "Public building" means any building owned or operated by: (1)
43 The state, including any branch, department, agency, bureau, commission,

1 authority or other instrumentality thereof; (2) any county, city, township,
2 other political subdivision, including any commission, authority, agency or
3 instrumentality thereof; or (3) any other separate corporate instrumentality
4 or unit of the state or any municipality.

5 (m) "Public meeting" means any meeting open to the public pursuant
6 to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of
7 this state.

8 (n) "Public place" means any enclosed areas open to the public or
9 used by the general public including, but not limited to: Banks, bars, food
10 service establishments, retail service establishments, retail stores, public
11 means of mass transportation, passenger elevators, health care institutions
12 or any other place where health care services are provided to the public,
13 medical care facilities, educational facilities, libraries, courtrooms, public
14 buildings, restrooms, grocery stores, school buses, museums, theaters,
15 auditoriums, arenas and recreational facilities. For purposes of this section,
16 a private residence shall not be considered a "public place" unless such
17 residence is used as a day care home, as defined in K.S.A. 65-530, and
18 amendments thereto.

19 (o) "Smoking" means possession of a lighted cigarette, cigar, pipe or
20 burning tobacco in any other form or device designed for the use of
21 tobacco.

22 (p) "Tobacco shop" means any indoor area operated primarily for the
23 retail sale of tobacco, tobacco products or smoking devices or accessories,
24 and which derives not less than 65% of its gross receipts from the sale of
25 tobacco.

26 (q) "Substantial dues or membership fee requirements" means
27 initiation costs, dues or fees proportional to the cost of membership in
28 similarly-situated outdoor recreational facilities that are not considered
29 nominal and implemented to otherwise avoid or evade restrictions of a
30 statewide ban on smoking.

31 Sec. 3. K.S.A. 2012 Supp. 21-6110 is hereby amended to read as
32 follows: 21-6110. (a) It shall be unlawful, with no requirement of a
33 culpable mental state, to smoke in an enclosed area or at a public meeting
34 including, but not limited to:

- 35 (1) Public places;
- 36 (2) taxicabs and limousines;
- 37 (3) restrooms, lobbies, hallways and other common areas in public
38 and private buildings, condominiums and other multiple-residential
39 facilities;
- 40 (4) restrooms, lobbies and other common areas in hotels and motels
41 and in at least 80% of the sleeping quarters within a hotel or motel that
42 may be rented to guests;
- 43 (5) access points of all buildings and facilities not exempted pursuant

1 to subsection (d); and

2 (6) any place of employment.

3 (b) Each employer having a place of employment that is an enclosed
4 area shall provide a smoke-free workplace for all employees. Such
5 employer shall also adopt and maintain a written smoking policy which
6 shall prohibit smoking without exception in all areas of the place of
7 employment. Such policy shall be communicated to all current employees
8 within one week of its adoption and shall be communicated to all new
9 employees upon hiring. Each employer shall provide a written copy of the
10 smoking policy upon request to any current or prospective employee.

11 (c) Notwithstanding any other provision of this section, K.S.A. 2012
12 Supp. 21-6111 or 21-6112, and amendments thereto, the proprietor or other
13 person in charge of an adult care home, as defined in K.S.A. 39-923, and
14 amendments thereto, or a medical care facility, may designate a portion of
15 such adult care home, or the licensed long-term care unit of such medical
16 care facility, as a smoking area, and smoking may be permitted within such
17 designated smoking area.

18 (d) The provisions of this section shall not apply to:

19 (1) The outdoor areas of any building or facility beyond the access
20 points of such building or facility;

21 (2) private homes or residences, except when such home or residence
22 is used as a day care home, as defined in K.S.A. 65-530, and amendments
23 thereto;

24 (3) a hotel or motel room rented to one or more guests if the total
25 percentage of such hotel or motel rooms in such hotel or motel does not
26 exceed 20%;

27 (4) the gaming floor of a lottery gaming facility ~~or racetrack gaming~~
28 ~~facility~~, as ~~those terms are~~ defined in K.S.A. 74-8702, and amendments
29 thereto;

30 (5) that portion of an adult care home, as defined in K.S.A. 39-923,
31 and amendments thereto, that is expressly designated as a smoking area by
32 the proprietor or other person in charge of such adult care home pursuant
33 to subsection (c) and that is fully enclosed and ventilated;

34 (6) that portion of a licensed long-term care unit of a medical care
35 facility that is expressly designated as a smoking area by the proprietor or
36 other person in charge of such medical care facility pursuant to subsection
37 (c) and that is fully enclosed and ventilated and to which access is
38 restricted to the residents and their guests;

39 (7) tobacco shops;

40 (8) a class A or class B club defined in K.S.A. 41-2601, and
41 amendments thereto, which: (A) Held a license pursuant to K.S.A. 41-
42 2606 et seq., and amendments thereto, as of January 1, 2009; and (B)
43 notifies the secretary of health and environment in writing, not later than

1 90 days after the effective date of this act, that it wishes to continue to
2 allow smoking on its premises;

3 (9) a private club in designated areas where minors are prohibited;
4 and

5 (10) any benefit cigar dinner or other cigar dinner of a substantially
6 similar nature that:

7 (A) Is conducted specifically and exclusively for charitable purposes
8 by a nonprofit organization which is exempt from federal income taxation
9 pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

10 (B) is conducted no more than once per calendar year by such
11 organization; and

12 (C) has been held during each of the previous three years prior to
13 January 1, 2011.

14 Sec. 4. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as
15 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d) and
16 (e), any person convicted in this state of a traffic infraction, cigarette or
17 tobacco infraction, misdemeanor or a class D or E felony, or for crimes
18 committed on or after July 1, 1993, nondrug crimes ranked in severity
19 levels 6 through 10, or for crimes committed on or after July 1, 1993, but
20 prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid,
21 or for crimes committed on or after July 1, 2012, any felony ranked in
22 severity level 5 of the drug grid may petition the convicting court for the
23 expungement of such conviction or related arrest records if three or more
24 years have elapsed since the person: (A) Satisfied the sentence imposed; or
25 (B) was discharged from probation, a community correctional services
26 program, parole, postrelease supervision, conditional release or a
27 suspended sentence.

28 (2) Except as provided in subsections (b), (c), (d) and (e), any person
29 who has fulfilled the terms of a diversion agreement may petition the
30 district court for the expungement of such diversion agreement and related
31 arrest records if three or more years have elapsed since the terms of the
32 diversion agreement were fulfilled.

33 (b) Except as provided in subsections (c), (d) and (e), no person may
34 petition for expungement until five or more years have elapsed since the
35 person satisfied the sentence imposed, the terms of a diversion agreement
36 or was discharged from probation, a community correctional services
37 program, parole, postrelease supervision, conditional release or a
38 suspended sentence, if such person was convicted of a class A, B or C
39 felony, or for crimes committed on or after July 1, 1993, if convicted of an
40 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
41 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
42 any felony ranked in severity levels 1 through 3 of the drug grid, or for
43 crimes committed on or after July 1, 2012, any felony ranked in severity

1 levels 1 through 4 of the drug grid, or:

2 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
3 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as
4 prohibited by any law of another state which is in substantial conformity
5 with that statute;

6 (2) driving while the privilege to operate a motor vehicle on the
7 public highways of this state has been canceled, suspended or revoked, as
8 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
9 any law of another state which is in substantial conformity with that
10 statute;

11 (3) perjury resulting from a violation of K.S.A. 8-261a, and
12 amendments thereto, or resulting from the violation of a law of another
13 state which is in substantial conformity with that statute;

14 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and
15 amendments thereto, relating to fraudulent applications or violating the
16 provisions of a law of another state which is in substantial conformity with
17 that statute;

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

20 (6) failing to stop at the scene of an accident and perform the duties
21 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
22 amendments thereto, or required by a law of another state which is in
23 substantial conformity with those statutes;

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

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

27 (c) No person may petition for expungement until 10 or more years
28 have elapsed since the person satisfied the sentence imposed, the terms of
29 a diversion agreement or was discharged from probation, a community
30 correctional services program, parole, postrelease supervision, conditional
31 release or a suspended sentence, if such person was convicted of a
32 violation of K.S.A. 8-1567, and amendments thereto, including any
33 diversion for such violation.

34 (d) There shall be no expungement of convictions for the following
35 offenses or of convictions for an attempt to commit any of the following
36 offenses:

37 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
38 2012 Supp. 21-5503, and amendments thereto;

39 (2) indecent liberties with a child or aggravated indecent liberties
40 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
41 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

42 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
43 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.

1 2012 Supp. 21-5504, and amendments thereto;

2 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
3 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

4 (5) indecent solicitation of a child or aggravated indecent solicitation
5 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
6 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

7 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
8 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

9 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
10 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

11 (8) endangering a child or aggravated endangering a child, as defined
12 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
13 21-5601, and amendments thereto;

14 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
15 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;

16 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
17 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

18 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
19 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

20 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior
21 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

22 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
23 its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

24 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
25 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

26 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
27 or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim
28 was less than 18 years of age at the time the crime was committed;

29 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
30 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

31 (17) a violation of K.S.A. 8-2,144, and amendments thereto,
32 including any diversion for such violation; or

33 (18) any conviction for any offense in effect at any time prior to July
34 1, 2011, that is comparable to any offense as provided in this subsection.

35 (e) Notwithstanding any other law to the contrary, for any offender
36 who is required to register as provided in the Kansas offender registration
37 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
38 expungement of any conviction or any part of the offender's criminal
39 record while the offender is required to register as provided in the Kansas
40 offender registration act.

41 (f) (1) When a petition for expungement is filed, the court shall set a
42 date for a hearing of such petition and shall cause notice of such hearing to
43 be given to the prosecutor and the arresting law enforcement agency. The

1 petition shall state the:

2 (A) Defendant's full name;

3 (B) full name of the defendant at the time of arrest, conviction or
4 diversion, if different than the defendant's current name;

5 (C) defendant's sex, race and date of birth;

6 (D) crime for which the defendant was arrested, convicted or
7 diverted;

8 (E) date of the defendant's arrest, conviction or diversion; and

9 (F) identity of the convicting court, arresting law enforcement
10 authority or diverting authority.

11 (2) Except as otherwise provided by law, a petition for expungement
12 shall be accompanied by a docket fee in the amount of \$100. On and after
13 April 12, 2012, through June 30, 2013, the supreme court may impose a
14 charge, not to exceed \$19 per case, to fund the costs of non-judicial
15 personnel. The charge established in this section shall be the only fee
16 collected or moneys in the nature of a fee collected for the case. Such
17 charge shall only be established by an act of the legislature and no other
18 authority is established by law or otherwise to collect a fee.

19 (3) All petitions for expungement shall be docketed in the original
20 criminal action. Any person who may have relevant information about the
21 petitioner may testify at the hearing. The court may inquire into the
22 background of the petitioner and shall have access to any reports or
23 records relating to the petitioner that are on file with the secretary of
24 corrections or the prisoner review board.

25 (g) At the hearing on the petition, the court shall order the petitioner's
26 arrest record, conviction or diversion expunged if the court finds that:

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

30 (2) the circumstances and behavior of the petitioner warrant the
31 expungement; and

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

33 (h) When the court has ordered an arrest record, conviction or
34 diversion expunged, the order of expungement shall state the information
35 required to be contained in the petition. The clerk of the court shall send a
36 certified copy of the order of expungement to the Kansas bureau of
37 investigation which shall notify the federal bureau of investigation, the
38 secretary of corrections and any other criminal justice agency which may
39 have a record of the arrest, conviction or diversion. After the order of
40 expungement is entered, the petitioner shall be treated as not having been
41 arrested, convicted or diverted of the crime, except that:

42 (1) Upon conviction for any subsequent crime, the conviction that
43 was expunged may be considered as a prior conviction in determining the

1 sentence to be imposed;

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

4 (A) In any application for licensure as a private detective, private
5 detective agency, certification as a firearms trainer pursuant to K.S.A.
6 2012 Supp. 75-7b21, and amendments thereto, or employment as a
7 detective with a private detective agency, as defined by K.S.A. 75-7b01,
8 and amendments thereto; as security personnel with a private patrol
9 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
10 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
11 the department of social and rehabilitation services;

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

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

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

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

29 (F) upon application for a commercial driver's license under K.S.A.
30 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

41 (K) for applications received on and after July 1, 2006, to aid in
42 determining the petitioner's qualifications for a license to carry a concealed
43 weapon pursuant to the personal and family protection act, K.S.A. 2012

1 Supp. 75-7c01 et seq., and amendments thereto;

2 (3) the court, in the order of expungement, may specify other
3 circumstances under which the conviction is to be disclosed;

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

7 (5) upon commitment to the custody of the secretary of corrections,
8 any previously expunged record in the possession of the secretary of
9 corrections may be reinstated and the expungement disregarded, and the
10 record continued for the purpose of the new commitment.

11 (i) Whenever a person is convicted of a crime, pleads guilty and pays
12 a fine for a crime, is placed on parole, postrelease supervision or
13 probation, is assigned to a community correctional services program, is
14 granted a suspended sentence or is released on conditional release, the
15 person shall be informed of the ability to expunge the arrest records or
16 conviction. Whenever a person enters into a diversion agreement, the
17 person shall be informed of the ability to expunge the diversion.

18 (j) Subject to the disclosures required pursuant to subsection (h), in
19 any application for employment, license or other civil right or privilege, or
20 any appearance as a witness, a person whose arrest records, conviction or
21 diversion of a crime has been expunged under this statute may state that
22 such person has never been arrested, convicted or diverted of such crime,
23 but the expungement of a felony conviction does not relieve an individual
24 of complying with any state or federal law relating to the use or possession
25 of firearms by persons convicted of a felony.

26 (k) Whenever the record of any arrest, conviction or diversion has
27 been expunged under the provisions of this section or under the provisions
28 of any other existing or former statute, the custodian of the records of
29 arrest, conviction, diversion and incarceration relating to that crime shall
30 not disclose the existence of such records, except when requested by:

31 (1) The person whose record was expunged;

32 (2) a private detective agency or a private patrol operator, and the
33 request is accompanied by a statement that the request is being made in
34 conjunction with an application for employment with such agency or
35 operator by the person whose record has been expunged;

36 (3) a court, upon a showing of a subsequent conviction of the person
37 whose record has been expunged;

38 (4) the secretary of ~~social and rehabilitation~~ *for aging and disability*
39 services, or a designee of the secretary, for the purpose of obtaining
40 information relating to employment in an institution, as defined in K.S.A.
41 76-12a01, and amendments thereto, of the department of ~~social and~~
42 ~~rehabilitation~~ *for aging and disability* services of any person whose record
43 has been expunged;

1 (5) a person entitled to such information pursuant to the terms of the
2 expungement order;

3 (6) a prosecutor, and such request is accompanied by a statement that
4 the request is being made in conjunction with a prosecution of an offense
5 that requires a prior conviction as one of the elements of such offense;

6 (7) the supreme court, the clerk or disciplinary administrator thereof,
7 the state board for admission of attorneys or the state board for discipline
8 of attorneys, and the request is accompanied by a statement that the
9 request is being made in conjunction with an application for admission, or
10 for an order of reinstatement, to the practice of law in this state by the
11 person whose record has been expunged;

12 (8) the Kansas lottery, and the request is accompanied by a statement
13 that the request is being made to aid in determining qualifications for
14 employment with the Kansas lottery or for work in sensitive areas within
15 the Kansas lottery as deemed appropriate by the executive director of the
16 Kansas lottery;

17 (9) the governor or the Kansas racing and gaming commission, or a
18 designee of the commission, and the request is accompanied by a
19 statement that the request is being made to aid in determining
20 qualifications for executive director of the commission, for employment
21 with the commission, for work in sensitive areas in parimutuel racing as
22 deemed appropriate by the executive director of the commission or for
23 licensure, renewal of licensure or continued licensure by the commission;

24 (10) the Kansas racing and gaming commission, or a designee of the
25 commission, and the request is accompanied by a statement that the
26 request is being made to aid in determining qualifications of the following
27 under the Kansas expanded lottery act: (A) Lottery gaming facility
28 managers and prospective managers, ~~racetrack gaming facility managers~~
29 ~~and prospective managers~~, licensees and certificate holders; and (B) their
30 officers, directors, employees, owners, agents and contractors;

31 (11) the Kansas sentencing commission;

32 (12) the state gaming agency, and the request is accompanied by a
33 statement that the request is being made to aid in determining
34 qualifications: (A) To be an employee of the state gaming agency; or (B)
35 to be an employee of a tribal gaming commission or to hold a license
36 issued pursuant to a tribal-gaming compact;

37 (13) the Kansas securities commissioner or a designee of the
38 commissioner, and the request is accompanied by a statement that the
39 request is being made in conjunction with an application for registration as
40 a broker-dealer, agent, investment adviser or investment adviser
41 representative by such agency and the application was submitted by the
42 person whose record has been expunged;

43 (14) the Kansas commission on peace officers' standards and training

1 and the request is accompanied by a statement that the request is being
2 made to aid in determining certification eligibility as a law enforcement
3 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

4 (15) a law enforcement agency and the request is accompanied by a
5 statement that the request is being made to aid in determining eligibility
6 for employment as a law enforcement officer as defined by K.S.A. 22-
7 2202, and amendments thereto;

8 (16) the attorney general and the request is accompanied by a
9 statement that the request is being made to aid in determining
10 qualifications for a license to carry a concealed weapon pursuant to the
11 personal and family protection act; or

12 (17) the Kansas bureau of investigation for the purposes of:

13 (A) Completing a person's criminal history record information within
14 the central repository, in accordance with K.S.A. 22-4701 et seq., and
15 amendments thereto; or

16 (B) providing information or documentation to the federal bureau of
17 investigation, in connection with the national instant criminal background
18 check system, to determine a person's qualification to possess a firearm.

19 (1) The provisions of subsection (k)(17) shall apply to records created
20 prior to, on and after July 1, 2011.

21 Sec. 5. K.S.A. 2012 Supp. 60-2102 is hereby amended to read as
22 follows: 60-2102. (a) *Appeal to court of appeals as matter of right*. Except
23 for any order or final decision of a district magistrate judge, the appellate
24 jurisdiction of the court of appeals may be invoked by appeal as a matter
25 of right from:

26 (1) An order that discharges, vacates or modifies a provisional
27 remedy.

28 (2) An order that grants, continues, modifies, refuses or dissolves an
29 injunction, or an order that grants or refuses relief in the form of
30 mandamus, quo warranto or habeas corpus.

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

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

40 (b) *Appeal to supreme court as matter of right*. The appellate
41 jurisdiction of the supreme court may be invoked by appeal as a matter of
42 right from:

43 (1) A preliminary or final decision in which a statute of this state has

1 been held unconstitutional as a violation of Article 6 of the Kansas
2 constitution pursuant to K.S.A. 2012 Supp. 72-64b03, and amendments
3 thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed
4 within 30 days of the date the preliminary or final decision is filed.

5 (2) A final decision of the district court in any action challenging the
6 constitutionality of or arising out of any provision of the Kansas expanded
7 lottery act; ~~or any lottery gaming facility management contract or any~~
8 ~~racetrack gaming facility management contract~~ entered into pursuant to the
9 Kansas expanded lottery act.

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

22 Sec. 6. K.S.A. 2012 Supp. 72-6624 is hereby amended to read as
23 follows: 72-6624. (a) As used in this section:

24 (1) "School district" means unified school district No. 404, unified
25 school district No. 493, unified school district No. 499 and unified school
26 district No. 508.

27 (2) "Property" means any property, and improvements thereon,
28 comprising a ~~racetrack gaming facility~~ or lottery gaming facility under the
29 Kansas expanded lottery act located in Cherokee county.

30 (3) "State aid" means general state aid, supplemental general state
31 aid, capital improvements state aid, capital outlay state aid and any other
32 state aid paid, distributed or allocated to school districts under the school
33 district finance and quality performance act or other law, and any other
34 state aid paid, distributed or allocated to school districts on the basis of the
35 assessed valuation of school districts.

36 (b) For the purposes of computing the assessed valuation of school
37 districts for the payment, distribution or allocation of state aid and the
38 levying of school taxes, $\frac{1}{4}$ of the assessed valuation of such property shall
39 be assigned to each of the school districts.

40 (c) The provisions of this section shall not apply if the property is not
41 or ceases to be used as a ~~racetrack gaming facility~~ or lottery gaming
42 facility under the Kansas expanded lottery act.

43 Sec. 7. K.S.A. 2012 Supp. 74-8702 is hereby amended to read as

1 follows: 74-8702. As used in the Kansas lottery act, unless the context
2 otherwise requires:

3 (a) "Ancillary lottery gaming facility operations" means additional
4 non-lottery facility game products and services not owned and operated by
5 the state which may be included in the overall development associated
6 with the lottery gaming facility. Such operations may include, but are not
7 limited to, restaurants, hotels, motels, museums or entertainment facilities.

8 (b) "Commission" means the Kansas lottery commission.

9 (c) "Electronic gaming machine" means any electronic,
10 electromechanical, video or computerized device, contrivance or machine
11 authorized by the Kansas lottery which, upon insertion of cash, tokens,
12 electronic cards or any consideration, is available to play, operate or
13 simulate the play of a game authorized by the Kansas lottery pursuant to
14 the Kansas expanded lottery act, including, but not limited to, bingo,
15 poker, blackjack, keno and slot machines, and which may deliver or entitle
16 the player operating the machine to receive cash, tokens, merchandise or
17 credits that may be redeemed for cash. Electronic gaming machines may
18 use bill validators and may be single-position reel-type, single or multi-
19 game video and single-position multi-game video electronic game,
20 including, but not limited to, poker, blackjack and slot machines.
21 Electronic gaming machines shall be directly linked to a central computer
22 at a location determined by the executive director for purposes of security,
23 monitoring and auditing.

24 (d) "Executive director" means the executive director of the Kansas
25 lottery.

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

33 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
34 which consists of Wyandotte county; (2) the southeast Kansas gaming
35 zone, which consists of Crawford and Cherokee counties; (3) the south
36 central Kansas gaming zone, which consists of Sedgwick and Sumner
37 counties; and (4) the southwest Kansas gaming zone, which consists of
38 Ford county.

39 (g) "Gray machine" means any mechanical, electro-mechanical or
40 electronic device, capable of being used for gambling, that is: (1) Not
41 authorized by the Kansas lottery; ; (2) not linked to a lottery central
42 computer system; ; (3) available to the public for play; or (4) capable of
43 simulating a game played on an electronic gaming machine or any similar

1 gambling game authorized pursuant to the Kansas expanded lottery act.

2 (h) "Kansas lottery" means the state agency created by this act to
3 operate a lottery or lotteries pursuant to this act.

4 (i) "Lottery" or "state lottery" means the lottery or lotteries operated
5 pursuant to this act.

6 (j) "Lottery facility games" means any electronic gaming machines
7 and any other games which, as of January 1, 2007, are authorized to be
8 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
9 9802, and amendments thereto, located within the boundaries of this state.

10 (k) "Lottery gaming enterprise" means an entertainment enterprise
11 which includes a lottery gaming facility authorized pursuant to the Kansas
12 expanded lottery act and ancillary lottery gaming facility operations that
13 have a coordinated business or marketing strategy. A lottery gaming
14 enterprise shall be designed to attract to its lottery gaming facility
15 consumers who reside outside the immediate area of such enterprise.

16 (l) "Lottery gaming facility" means that portion of a building used for
17 the purposes of operating, managing and maintaining lottery facility
18 games.

19 (m) "Lottery gaming facility expenses" means normal business
20 expenses, as defined in the lottery gaming facility management contract,
21 associated with the ownership and operation of a lottery gaming facility.

22 (n) "Lottery gaming facility management contract" means a contract,
23 subcontract or collateral agreement between the state and a lottery gaming
24 facility manager for the management of a lottery gaming facility, the
25 business of which is owned and operated by the Kansas lottery, negotiated
26 and signed by the executive director on behalf of the state.

27 (o) "Lottery gaming facility manager" means a corporation, limited
28 liability company, resident Kansas American Indian tribe or other business
29 entity authorized to construct and manage, or manage alone, pursuant to a
30 lottery gaming facility management contract with the Kansas lottery, and
31 on behalf of the state, a lottery gaming enterprise and lottery gaming
32 facility.

33 (p) "Lottery gaming facility revenues" means the total revenues from
34 lottery facility games at a lottery gaming facility after all related prizes are
35 paid.

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

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

1 (B) any machine or device in which the prize or evidence of a prize is
2 determined only by chance, including, but not limited to, any slot machine
3 or bingo machine; or

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

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

7 (A) Any food vending machine defined by K.S.A. 36-501, and
8 amendments thereto;

9 (B) any nonprescription drug machine authorized under K.S.A. 65-
10 650, and amendments thereto;

11 (C) any machine which dispenses only bottled or canned soft drinks,
12 chewing gum, nuts or candies;

13 (D) any machine excluded from the definition of gambling devices
14 under subsection (d) of K.S.A. 21-4302, prior to its repeal, or K.S.A. 2012
15 Supp. 21-6403, and amendments thereto; or

16 (E) any electronic gaming machine or lottery facility game operated
17 in accordance with the provisions of the Kansas expanded lottery act.

18 (r) "Lottery retailer" means any person with whom the Kansas lottery
19 has contracted to sell lottery tickets or shares, or both, to the public.

20 (s) (1) "Major procurement" means any gaming product or service,
21 including, but not limited to, facilities, advertising and promotional
22 services, annuity contracts, prize payment agreements, consulting services,
23 equipment, tickets and other products and services unique to the Kansas
24 lottery, but not including materials, supplies, equipment and services
25 common to the ordinary operations of state agencies.

26 (2) "Major procurement" shall not mean any product, service or other
27 matter covered by or addressed in the Kansas expanded lottery act or a
28 lottery gaming facility management contract ~~or racetrack gaming facility
29 management contract~~ executed pursuant to the Kansas expanded lottery
30 act.

31 ~~(t) "Net electronic gaming machine income" means all cash or other
32 consideration utilized to play an electronic gaming machine operated at a
33 racetrack gaming facility, less all cash or other consideration paid out to
34 winning players as prizes.~~

35 ~~(†) (t) "Organization licensee" has the meaning provided by K.S.A.
36 74-8802, and amendments thereto.~~

37 ~~(v) "Parimutuel licensee" means a facility owner licensee or facility
38 manager licensee under the Kansas parimutuel racing act.~~

39 ~~(w) "Parimutuel licensee location" means a racetrack facility, as
40 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
41 by the parimutuel licensee. A parimutuel licensee location may include any
42 existing structure at such racetrack facility or any structure that may be
43 constructed on real estate where such racetrack facility is located.~~

1 ~~(x)~~ (u) "Person" means any natural person, association, limited
2 liability company, corporation or partnership.

3 ~~(y)~~ (v) "Prize" means any prize paid directly by the Kansas lottery
4 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
5 any rules and regulations adopted pursuant to either act.

6 ~~(z)~~ (w) "Progressive electronic game" means a game played on an
7 electronic gaming machine for which the payoff increases uniformly as the
8 game is played and for which the jackpot, determined by application of a
9 formula to the income of independent, local or interlinked electronic
10 gaming machines, may be won.

11 ~~(aa)~~ "Racetrack gaming facility" means that portion of a parimutuel
12 licensee location where electronic gaming machines are operated,
13 managed and maintained.

14 ~~(bb)~~ "Racetrack gaming facility management contract" means an
15 agreement between the Kansas lottery and a racetrack gaming facility
16 manager, negotiated and signed by the executive director on behalf of the
17 state, for placement of electronic gaming machines owned and operated by
18 the state at a racetrack gaming facility.

19 ~~(cc)~~ "Racetrack gaming facility manager" means a parimutuel
20 licensee specifically certified by the Kansas lottery to become a certified
21 racetrack gaming facility manager and offer electronic gaming machines
22 for play at the racetrack gaming facility.

23 ~~(dd)~~ (x) "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 ~~(ee)~~ (y) "Share" means any intangible manifestation authorized by the
28 Kansas lottery to prove participation in a lottery game, except as provided
29 by the Kansas expanded lottery act.

30 ~~(ff)~~ (z) "Ticket" means any tangible evidence issued by the Kansas
31 lottery to prove participation in a lottery game other than a lottery facility
32 game.

33 ~~(gg)~~ (aa) "Token" means a representative of value, of metal or other
34 material, which is not legal tender, redeemable for cash only by the issuing
35 lottery gaming facility manager or racetrack gaming facility manager and
36 which is issued and sold by a lottery gaming facility manager or racetrack
37 gaming facility manager for the sole purpose of playing an electronic
38 gaming machine or lottery facility game.

39 ~~(hh)~~ (bb) "Vendor" means any person who has entered into a major
40 procurement contract with the Kansas lottery.

41 ~~(ii)~~ (cc) "Video lottery machine" means any electronic video game
42 machine that, upon insertion of cash, is available to play or simulate the
43 play of a video game authorized by the commission, including, but not

1 limited to, bingo, poker, black jack and keno, and which uses a video
2 display and microprocessors and in which, by chance, the player may
3 receive free games or credits that can be redeemed for cash.

4 Sec. 8. K.S.A. 2012 Supp. 74-8710 is hereby amended to read as
5 follows: 74-8710. (a) The commission, upon the recommendation of the
6 executive director, shall adopt rules and regulations governing the
7 establishment and operation of a state lottery, sales of lottery tickets and
8 the operation of lottery gaming facilities ~~and racetrack gaming facilities~~ as
9 necessary to carry out the purposes of the Kansas lottery act and the
10 Kansas expanded lottery act. Temporary rules and regulations may be
11 adopted by the commission without being subject to the provisions and
12 requirements of K.S.A. 77-415 through 77-438, and amendments thereto,
13 but shall be subject to approval by the attorney general as to legality and
14 shall be filed with the secretary of state and published in the Kansas
15 register. Temporary and permanent rules and regulations may include, but
16 shall not be limited to:

17 (1) Subject to the provisions of subsection (c), the types of lottery
18 games to be conducted, including, but not limited to, instant lottery, on-
19 line, traditional games, lottery facility games and electronic gaming
20 machine games but not including games on video lottery machines or
21 lottery machines.

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

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

28 (4) The frequency of the drawings or selections of winning tickets or
29 shares.

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

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

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

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

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

38 (10) Provisions for confidentiality of information submitted by
39 vendors pursuant to K.S.A. 74-8705, and amendments thereto.

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

42 (12) The major procurement contracts or portions thereof to be
43 awarded to minority business enterprises pursuant to subsection (a) of

1 K.S.A. 74-8705, and amendments thereto, and procedures for the award
2 thereof.

3 (13) Rules and regulations to implement, administer and enforce the
4 provisions of the Kansas expanded lottery act. Such rules and regulations
5 shall include, but not be limited to, rules and regulations which govern
6 management contracts and which are designed to: (A) Ensure the integrity
7 of electronic gaming machines and other lottery facility games and the
8 finances of lottery gaming facilities ~~and racetrack gaming facilities~~; and
9 (B) alleviate problem gambling, including a requirement that each lottery
10 gaming facility ~~and each racetrack gaming facility~~ maintain a self-
11 exclusion list by which individuals may exclude themselves from access to
12 electronic gaming machines and other lottery facility games.

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

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

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

25 Sec. 9. K.S.A. 2012 Supp. 74-8716 is hereby amended to read as
26 follows: 74-8716. (a) It is unlawful for the executive director, a member of
27 the commission or any employee of the Kansas lottery, or any person
28 residing in the household thereof to:

29 (1) Have, either directly or indirectly, an interest in a business
30 knowing that such business contracts with the Kansas lottery for a major
31 procurement, whether such interest is as a natural person, partner, member
32 of an association, stockholder or director or officer of a corporation; or

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

40 (b) It is unlawful for a lottery retailer, an applicant for lottery retailer
41 or a person who contracts or seeks to contract with the state to supply
42 gaming equipment, materials, tickets or consulting services for use in the
43 lottery to offer, pay, give or make any economic opportunity, gift, loan,

1 gratuity, special discount, favor or service, or hospitality other than food
2 and beverages, having an aggregate value of \$20 or more in any calendar
3 year to a person, knowing such person is the executive director, a member
4 of the commission or an employee of the Kansas lottery, or a person
5 residing in the household thereof.

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

10 ~~(1) Any lottery gaming facility manager, subcontractor or agent of a~~
11 ~~lottery gaming facility manager, manufacturer or vendor of electronic~~
12 ~~gaming machines or central computer system provider, or any business~~
13 ~~which sells goods or services to a lottery gaming facility manager; or~~

14 ~~(2) any licensee pursuant to the Kansas parimutuel racing act, other~~
15 ~~than the Kansas lottery or a person holding a license on behalf of the~~
16 ~~Kansas lottery, or any business which sells goods or services to a~~
17 ~~parimutuel licensee.~~

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

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

26 (f) It shall be unlawful for the executive director, a member of the
27 commission or an employee of the Kansas lottery to accept any
28 compensation, gift, loan, entertainment, favor or service from any lottery
29 gaming facility manager, subcontractor or agent of a lottery gaming
30 facility manager, manufacturer or vendor of electronic gaming machines or
31 central computer system provider.

32 (g) It shall be unlawful for the executive director, a member of the
33 commission or an employee of the Kansas lottery to accept any
34 compensation, gift, loan, entertainment, favor or service from any licensee
35 pursuant to the Kansas parimutuel racing act, except such suitable facilities
36 and services within a racetrack facility operated by an organization
37 licensee as may be required to facilitate the performance of the executive
38 director's, member's or employee's official duties.

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

40 (i) If the executive director, a member of the commission or an
41 employee of the Kansas lottery, or any person residing in the household
42 thereof, is convicted of an act described by this section, such executive
43 director, member or employee shall be removed from office or

1 employment with the Kansas lottery.

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

5 Sec. 10. K.S.A. 2012 Supp. 74-8733 is hereby amended to read as
6 follows: 74-8733. (a) K.S.A. 2012 Supp. 74-8733 through 74-8773, and
7 amendments thereto, shall be known and may be cited as the Kansas
8 expanded lottery act. The Kansas expanded lottery act shall be part of and
9 supplemental to the Kansas lottery act.

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

14 (c) Any action challenging the constitutionality of or arising out of
15 any provision of this act, *or any lottery gaming facility management*
16 ~~contract or any racetrack gaming facility management contract~~ entered into
17 pursuant to this act shall be brought in the district court of Shawnee
18 county.

19 Sec. 11. K.S.A. 2012 Supp. 74-8734 is hereby amended to read as
20 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
21 facility in each gaming zone.

22 (b) Not more than 30 days after the effective date of this act the
23 lottery commission shall adopt and publish in the Kansas register the
24 procedure for receiving, considering and approving, proposed lottery
25 gaming facility management contracts. Such procedure shall include
26 provisions for review of competitive proposals within a gaming zone and
27 the date by which proposed lottery gaming facility management contracts
28 must be received by the lottery commission if they are to receive
29 consideration.

30 (c) The lottery commission shall adopt standards to promote the
31 integrity of the gaming and finances of lottery gaming facilities, which
32 shall apply to all management contracts, shall meet or exceed industry
33 standards for monitoring and controlling the gaming and finances of
34 gaming facilities and shall give the executive director sufficient authority
35 to monitor and control the gaming operation and to ensure its integrity and
36 security.

37 (d) The Kansas lottery commission may approve management
38 contracts with one or more prospective lottery gaming facility managers to
39 manage, or construct and manage, on behalf of the state of Kansas and
40 subject to the operational control of the Kansas lottery, a lottery gaming
41 facility or lottery gaming enterprise at specified destination locations
42 within the northeast, south central, southwest and southeast Kansas
43 gaming zones where the commission determines the operation of such

1 facility would promote tourism and economic development. The
2 commission shall approve or disapprove a proposed management contract
3 within 90 days after the deadline for receipt of proposals established
4 pursuant to subsection (b).

5 (e) In determining whether to approve a management contract with a
6 prospective lottery gaming facility manager to manage a lottery gaming
7 facility or lottery gaming enterprise pursuant to this section, the
8 commission shall take into consideration the following factors: The size of
9 the proposed facility; the geographic area in which such facility is to be
10 located; the proposed facility's location as a tourist and entertainment
11 destination; the estimated number of tourists that would be attracted by the
12 proposed facility; the number and type of lottery facility games to be
13 operated at the proposed facility; and agreements related to ancillary
14 lottery gaming facility operations.

15 (f) Subject to the requirements of this section, the commission shall
16 approve at least one proposed lottery gaming facility management contract
17 for a lottery gaming facility in each gaming zone.

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

19 (1) (A) The prospective lottery gaming facility manager is a resident
20 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
21 to financial resources to support the activities required of a lottery gaming
22 facility manager under the Kansas expanded lottery act; and (ii) has three
23 consecutive years' experience in the management of gaming which would
24 be class III gaming, as defined in K.S.A. 46-2301, and amendments
25 thereto, operated pursuant to state or federal law; or

26 (B) the prospective lottery gaming facility manager is not a resident
27 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
28 to financial resources to support the activities required of a lottery gaming
29 facility manager under the Kansas expanded lottery act; (ii) is current in
30 filing all applicable tax returns and in payment of all taxes, interest and
31 penalties owed to the state of Kansas and any taxing subdivision where
32 such prospective manager is located in the state of Kansas, excluding
33 items under formal appeal pursuant to applicable statutes; and (iii) has
34 three consecutive years' experience in the management of gaming which
35 would be class III gaming, as defined in K.S.A. 46-2301, and amendments
36 thereto, operated pursuant to state or federal law; and

37 (2) the commission determines that the proposed development
38 consists of an investment in infrastructure, including ancillary lottery
39 gaming facility operations, of at least \$225,000,000 in the northeast-
40 ~~southeast~~ and south central Kansas gaming zones and \$50,000,000 in the
41 *southeast and* southwest Kansas gaming zone. The commission, in
42 determining whether the minimum investment required by this subsection
43 is met, shall not include any amounts derived from or financed by state or

1 local retailers' sales tax revenues.

2 (h) Any management contract approved by the commission under this
3 section shall:

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

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

10 (3) establish a mechanism to facilitate payment of lottery gaming
11 facility expenses, payment of the lottery gaming facility manager's share of
12 the lottery gaming facility revenues and distribution of the state's share of
13 the lottery gaming facility revenues;

14 (4) include a provision for the lottery gaming facility manager to pay
15 the costs of oversight and regulation of the lottery gaming facility manager
16 and the operations of the lottery gaming facility by the Kansas racing and
17 gaming commission;

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

20 (6) provide for the prospective lottery gaming facility manager, upon
21 approval of the proposed lottery gaming facility management contract, to
22 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of
23 being selected as a lottery gaming facility manager of a lottery gaming
24 facility in the northeast, ~~southeast~~ or south central Kansas gaming zone
25 and \$5,500,000 for the privilege of being selected as a lottery gaming
26 facility manager of a lottery gaming facility in the *southeast and* southwest
27 Kansas gaming zone. Such fee shall be deposited in the state treasury and
28 credited to the lottery gaming facility manager fund, which is hereby
29 created in the state treasury;

30 (7) incorporate terms and conditions for the ancillary lottery gaming
31 facility operations;

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

36 (9) include financing commitments for construction;

37 (10) include a resolution of endorsement from the city governing
38 body, if the proposed facility is within the corporate limits of a city, or
39 from the county commission, if the proposed facility is located in the
40 unincorporated area of the county;

41 ~~(11) include a requirement that any parimutuel licensee developing a~~
42 ~~lottery gaming facility pursuant to this act comply with all orders and rules~~
43 ~~and regulations of the Kansas racing and gaming commission with regard~~

1 to the conduct of live racing, including the same minimum days of racing
2 as specified in K.S.A. 2012 Supp. 74-8746, and amendments thereto, for
3 operation of electronic gaming machines at racetrack gaming facilities;

4 ~~(12)~~ (11) include a provision for the state to receive not less than 22%
5 of lottery gaming facility revenues, which shall be paid to the expanded
6 lottery act revenues fund established by K.S.A. 2012 Supp. 74-8768, and
7 amendments thereto;

8 ~~(13)~~ (12) include a provision for 2% of lottery gaming facility
9 revenues to be paid to the problem gambling and addictions grant fund
10 established by K.S.A. 2012 Supp. 79-4805, and amendments thereto;

11 ~~(14)~~ (13) if the prospective lottery gaming facility manager is an
12 American Indian tribe, include a provision that such tribe agrees to waive
13 its sovereign immunity with respect to any actions arising from or to
14 enforce either the Kansas expanded lottery act or any provision of the
15 lottery gaming facility management contract; any action brought by an
16 injured patron or by the state of Kansas; any action for purposes of
17 enforcing the workers compensation act or any other employment or labor
18 law; and any action to enforce laws, rules and regulations and codes
19 pertaining to health, safety and consumer protection; and for any other
20 purpose deemed necessary by the executive director to protect patrons or
21 employees and promote fair competition between the tribe and others
22 seeking a lottery gaming facility management contract;

23 ~~(15)~~ (14) (A) if the lottery gaming facility is located in the northeast
24 or southwest Kansas gaming zone and is not located within a city, include
25 a provision for payment of an amount equal to 3% of the lottery gaming
26 facility revenues to the county in which the lottery gaming facility is
27 located; or (B) if the lottery gaming facility is located in the northeast or
28 southwest Kansas gaming zone and is located within a city, include
29 provision for payment of an amount equal to 1.5% of the lottery gaming
30 facility revenues to the city in which the lottery gaming facility is located
31 and an amount equal to 1.5% of such revenues to the county in which such
32 facility is located;

33 ~~(16)~~ (15) (A) if the lottery gaming facility is located in the southeast
34 or south central Kansas gaming zone and is not located within a city,
35 include a provision for payment of an amount equal to 2% of the lottery
36 gaming facility revenues to the county in which the lottery gaming facility
37 is located and an amount equal to 1% of such revenues to the other county
38 in such zone; or (B) if the lottery gaming facility is located in the southeast
39 or south central Kansas gaming zone and is located within a city, provide
40 for payment of an amount equal to 1% of the lottery gaming facility
41 revenues to the city in which the lottery gaming facility is located, an
42 amount equal to 1% of such revenues to the county in which such facility
43 is located and an amount equal to 1% of such revenues to the other county

1 in such zone;

2 ~~(17)~~ (16) allow the lottery gaming facility manager to manage the
3 lottery gaming facility in a manner consistent with this act and applicable
4 law, but shall place full, complete and ultimate ownership and operational
5 control of the gaming operation of the lottery gaming facility with the
6 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
7 retain the power to overrule any action of the lottery gaming facility
8 manager affecting the gaming operation without prior notice. The Kansas
9 lottery shall retain full control over all decisions concerning lottery gaming
10 facility games;

11 ~~(18)~~ (17) include provisions for the Kansas racing and gaming
12 commission to oversee all lottery gaming facility operations, including, but
13 not limited to: Oversight of internal controls; oversight of security of
14 facilities; performance of background investigations, determination of
15 qualifications and credentialing of employees, contractors and agents of
16 the lottery gaming facility manager and of ancillary lottery gaming facility
17 operations, as determined by the Kansas racing and gaming commission;
18 auditing of lottery gaming facility revenues; enforcement of all state laws
19 and maintenance of the integrity of gaming operations; and

20 ~~(19)~~ (18) include enforceable provisions: (A) Prohibiting the state,
21 until July 1, 2032, from (i) entering into management contracts for more
22 than four lottery gaming facilities or similar gaming facilities, one to be
23 located in the northeast Kansas gaming zone, one to be located in the south
24 central Kansas gaming zone, one to be located in the southwest Kansas
25 gaming zone and one to be located in the southeast Kansas gaming zone,
26 (ii) designating additional areas of the state where operation of lottery
27 gaming facilities or similar gaming facilities would be authorized or (iii)
28 operating an aggregate of more than 2,800 electronic gaming machines at
29 all parimutuel licensee locations; and (B) requiring the state to repay to the
30 lottery gaming facility manager an amount equal to the privilege fee paid
31 by such lottery gaming facility manager, plus interest on such amount,
32 compounded annually at the rate of 10%, if the state violates the
33 prohibition provision described in (A).

34 (i) The power of eminent domain shall not be used to acquire any
35 interest in real property for use in a lottery gaming enterprise.

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

39 ~~(k)~~ A person who is the manager of the racetrack gaming facility in a
40 gaming zone shall not be eligible to be the manager of the lottery gaming
41 facility in the same zone.

42 ~~(l)~~ (k) Management contracts authorized by this section may include
43 provisions relating to:

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

3 (2) minimum requirements for a lottery gaming facility manager to
4 provide qualified oversight, security and supervision of the lottery facility
5 games including the use of qualified personnel with experience in
6 applicable technology;

7 (3) eligibility requirements for employees, contractors or agents of a
8 lottery gaming facility manager who will have responsibility for or
9 involvement with actual gaming activities or for the handling of cash or
10 tokens;

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

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

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

19 (7) any other provision deemed necessary by the parties, including
20 such other terms and restrictions as necessary to conduct any lottery
21 facility game in a legal and fair manner.

22 ~~(m)~~ (l) A management contract shall not constitute property, nor shall
23 it be subject to attachment, garnishment or execution, nor shall it be
24 alienable or transferable, except upon approval by the executive director,
25 nor shall it be subject to being encumbered or hypothecated. The trustee of
26 any insolvent or bankrupt lottery gaming facility manager may continue to
27 operate pursuant to the management contract under order of the
28 appropriate court for no longer than one year after the bankruptcy or
29 insolvency of such manager.

30 ~~(m)~~ (m) (1) The Kansas lottery shall be the licensee and owner of all
31 software programs used at a lottery gaming facility for any lottery facility
32 game.

33 (2) A lottery gaming facility manager, on behalf of the state, shall
34 purchase or lease for the Kansas lottery all lottery facility games. All
35 lottery facility games shall be subject to the ultimate control of the Kansas
36 lottery in accordance with this act.

37 ~~(n)~~ (n) A lottery gaming facility shall comply with any planning and
38 zoning regulations of the city or county in which it is to be located. The
39 executive director shall not contract with any prospective lottery gaming
40 facility manager for the operation and management of such lottery gaming
41 facility unless such manager first receives any necessary approval under
42 planning and zoning requirements of the city or county in which it is to be
43 located.

1 ~~(p)~~ (o) Prior to expiration of the term of a lottery gaming facility
2 management contract, the lottery commission may negotiate a new lottery
3 gaming facility management contract with the lottery gaming facility
4 manager if the new contract is substantially the same as the existing
5 contract. Otherwise, the lottery gaming facility review board shall be
6 reconstituted and a new lottery gaming facility management contract shall
7 be negotiated and approved in the manner provided by this act.

8 Sec. 12. K.S.A. 2012 Supp. 74-8736 is hereby amended to read as
9 follows: 74-8736. (a) Upon approval of a lottery gaming facility
10 management contract by the commission, but not later than 90 days after
11 the deadline for receipt of proposals established pursuant to subsection (b)
12 of K.S.A. 2012 Supp. 74-8734, and amendments thereto, the executive
13 director and the prospective lottery gaming facility manager shall execute
14 the contract, which shall be binding upon the parties only upon a
15 determination by the lottery gaming facility review board pursuant to this
16 section that the contract is the best possible such contract, approval of the
17 contract by the Kansas racing and gaming commission pursuant to this
18 section and endorsement by resolution of the city governing body or
19 county commission as required in K.S.A. 2012 Supp. 74-8734, and
20 amendments thereto.

21 (b) Upon execution of a lottery gaming facility management contract
22 or contracts by the executive director, the executive director shall submit
23 such contract or contracts to the lottery gaming facility review board. The
24 board shall determine which contract best maximizes revenue, encourages
25 tourism and otherwise serves the interests of the people of Kansas. In
26 making its determination, the board shall conduct public hearings, take
27 testimony, solicit the advice of experts and investigate the merits of each
28 contract submitted by the executive director.

29 ~~(c) Within 30 days after execution of a lottery gaming facility~~
30 ~~management contract with a parimutuel licensee for development of a~~
31 ~~lottery gaming facility at a parimutuel licensee location, the parimutuel~~
32 ~~licensee must submit to the Kansas racing and gaming commission, for~~
33 ~~approval by the commission, a plan for compliance with the requirements~~
34 ~~for live racing and purse supplements established pursuant to K.S.A. 2012~~
35 ~~Supp. 74-8745 and 74-8767, and amendments thereto. Upon application of~~
36 ~~a parimutuel licensee, the Kansas racing and gaming commission shall~~
37 ~~open a proceeding to consider such licensee's proposal for development of~~
38 ~~a lottery gaming facility at the parimutuel licensee location. Such proposal~~
39 ~~shall include provisions for: (1) Compliance with the requirements of~~
40 ~~K.S.A. 2012 Supp. 74-8745, and amendments thereto; (2) payment of~~
41 ~~purse supplements from the appropriate funds established by K.S.A. 2012~~
42 ~~Supp. 74-8767, and amendments thereto; and (3) a plan for protecting and~~
43 ~~promoting live racing in Kansas. The Kansas racing and gaming~~

1 ~~commission shall hear evidence and testimony from all interested parties.~~
2 ~~Upon a finding by the Kansas racing and gaming commission that the~~
3 ~~proposal is in the best interest of live racing in Kansas and more beneficial~~
4 ~~to live racing than placement of electronic gaming machines at such~~
5 ~~parimutuel licensee location, the Kansas racing and gaming commission~~
6 ~~may approve such proposal. The Kansas racing and gaming commission~~
7 ~~shall notify the lottery gaming facility review board of the commission's~~
8 ~~approval or disapproval of the proposal. If the Kansas racing and gaming~~
9 ~~commission does not approve the proposal, the lottery gaming facility~~
10 ~~review board shall not give further consideration to the lottery gaming~~
11 ~~facility management contract with the parimutuel licensee and the~~
12 ~~executive director shall direct the state treasurer to refund, without interest,~~
13 ~~the privilege fee paid pursuant to such contract.~~

14 ~~(d)~~ (c) (1) Not more than 60 days after all lottery gaming facility
15 management contracts for a lottery gaming facility in a gaming zone have
16 been submitted to the lottery gaming facility review board, the board: (A)
17 If more than one lottery gaming facility management contract has been
18 submitted for a lottery gaming facility in a gaming zone, shall select by
19 public vote the lottery gaming facility management contract, if any, which
20 the board determines is the best possible such contract; or (B) if the
21 executive director submits only one lottery gaming facility management
22 contract for a lottery gaming facility in a gaming zone, shall determine
23 whether such contract is the best possible such contract.

24 (2) If the board cannot reach agreement that a lottery gaming facility
25 management contract is the best possible such contract, the board shall
26 request the executive director to renegotiate the contract or contracts until
27 the board determines that the best possible such contract or contracts have
28 been executed.

29 ~~(e)~~ (d) Upon a determination by the lottery gaming facility review
30 board that a lottery gaming facility management contract is the best
31 possible such contract, the board shall submit the contract to the Kansas
32 racing and gaming commission for approval. The Kansas racing and
33 gaming commission shall conduct such background investigations of
34 prospective lottery gaming facility managers, their directors and officers
35 and any other persons having an interest in such prospective managers, as
36 determined in accordance with rules and regulations adopted by the
37 Kansas racing and gaming commission. Upon completion of such
38 investigations and approval of the background of the prospective lottery
39 gaming facility manager, directors, officers and other persons having an
40 interest in such prospective manager, but not more than 10 days after
41 receiving the recommendation of the lottery gaming facility review board,
42 the Kansas racing and gaming commission shall vote to approve in whole
43 or reject in whole the recommendation of the lottery gaming facility

1 review board. If the Kansas racing and gaming commission does not
2 approve the background of such prospective lottery gaming facility
3 manager, directors, officers and other persons having an interest in such
4 prospective manager or does not approve the recommendation of the
5 lottery gaming facility review board, the Kansas racing and gaming
6 commission shall notify the executive director of the lottery and the
7 process for selection of a lottery gaming facility manager shall begin again
8 in the manner provided in K.S.A. 2012 Supp. 74-8734 and 74-8735, and
9 amendments thereto.

10 ~~(f)~~ (e) The deadline for receipt of proposals established pursuant to
11 subsection (b) of K.S.A. 2012 Supp. 74-8734, and amendments thereto,
12 the time limit imposed by subsection (a) for action by the lottery
13 commission, the time limit imposed by subsection ~~(d)~~ (c) for action by the
14 lottery gaming facility review board or the time limit imposed by
15 subsection ~~(e)~~ (d) for action by the Kansas racing and gaming commission,
16 upon application by the respective commission or board, may be extended
17 by the governor for a period not to exceed 60 days if the governor, in the
18 governor's discretion, determines that the respective commission or board
19 has acted on good faith to comply with the time limit. Failure to comply
20 with any such time limit, unless extended as provided by this subsection,
21 or to comply with an extended time limit authorized by this subsection,
22 shall render the respective commission or board subject to relief in the
23 form of mandamus, injunction or other legal remedy.

24 Sec. 13. K.S.A. 2012 Supp. 74-8750 is hereby amended to read as
25 follows: 74-8750. (a) Each specific type of electronic gaming machine and
26 lottery facility game shall be approved by the Kansas racing and gaming
27 commission. The Kansas racing and gaming commission shall examine
28 prototypes of electronic gaming machines and lottery facility games and
29 shall notify the lottery gaming facility manager or racetrack gaming
30 facility manager which types of electronic gaming machines or lottery
31 facility games are in compliance with the requirements of this act. The use
32 of progressive electronic gaming machines is expressly permitted.

33 (b) No electronic gaming machine or lottery facility game shall be
34 operated pursuant to this act unless the executive director of the racing and
35 gaming commission first issues a certificate for such machine or game
36 authorizing its use at a specified location. Each electronic gaming machine
37 and lottery facility game shall have such certificate prominently displayed
38 thereon. Any electronic gaming machine or lottery facility game which
39 does not display the certificate required by this section is contraband and a
40 public nuisance subject to confiscation by any law enforcement officer.

41 (c) The executive director of the racing and gaming commission shall
42 require any manufacturer, supplier, provider, lottery gaming facility
43 manager, ~~racetrack gaming facility manager~~ or other person seeking the

1 examination and certification of electronic gaming machines or lottery
2 facility games to pay the anticipated actual costs of the examination in
3 advance. After the completion of the examination, the executive director of
4 the Kansas racing and gaming commission shall refund any overpayment
5 or charge and collect amounts sufficient to reimburse the executive
6 director for any underpayment of actual costs. The executive director of
7 the Kansas racing and gaming commission may contract for the
8 examination of electronic gaming machines and lottery facility games
9 required by this section, and may rely upon testing done by or for other
10 states regulating electronic gaming machines or lottery facility games, if
11 the executive director deems such testing to be reliable and in the best
12 interest of the state of Kansas.

13 (d) The executive director of the Kansas lottery or the executive
14 director of the Kansas racing and gaming commission may remove from
15 play and confiscate any electronic gaming machine or gray machine that
16 does not comply with the requirements of the Kansas expanded lottery act.
17 Any electronic gaming machine that the executive director or the
18 executive director of the racing and gaming commission determines has
19 been modified or the design of which has been modified without the
20 consent of the executive director of the Kansas lottery may be removed
21 from play, confiscated by either such executive director and disposed of in
22 any manner allowed by law.

23 Sec. 14. K.S.A. 2012 Supp. 74-8751 is hereby amended to read as
24 follows: 74-8751. The Kansas racing and gaming commission, through
25 rules and regulations, shall establish:

26 (a) A certification requirement, and enforcement procedure, for
27 officers, directors, key employees and persons directly or indirectly
28 owning a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or
29 racetrack gaming facility manager. Such certification requirement shall
30 include compliance with such security, fitness and background
31 investigations and standards as the executive director of the Kansas racing
32 and gaming commission deems necessary to determine whether such
33 person's reputation, habits or associations pose a threat to the public
34 interest of the state or to the reputation of or effective regulation and
35 control of the lottery gaming facility ~~or racetrack gaming facility~~. Any
36 person convicted of any felony, a crime involving gambling or a crime of
37 moral turpitude prior to applying for a certificate hereunder or at any time
38 thereafter shall be deemed unfit. The Kansas racing and gaming
39 commission shall conduct the security, fitness and background checks
40 required pursuant to this subsection. Certification pursuant to this
41 subsection shall not be assignable or transferable;

42 (b) a certification requirement, and enforcement procedure, for those
43 persons, including electronic gaming machine manufacturers, technology

1 providers and computer system providers, who propose to contract with a
2 lottery gaming facility manager, ~~a racetrack gaming facility manager~~ or the
3 state for the provision of goods or services related to a lottery gaming
4 facility or racetrack gaming facility, including management services. Such
5 certification requirements shall include compliance with such security,
6 fitness and background investigations and standards of officers, directors,
7 key gaming employees and persons directly or indirectly owning a ~~0.5%~~
8 5% or more interest in such entity as the executive director of the Kansas
9 racing and gaming commission deems necessary to determine whether
10 such person's reputation, habits and associations pose a threat to the public
11 interest of the state or to the reputation of or effective regulation and
12 control of the lottery gaming facility ~~or racetrack gaming facility~~. Any
13 person convicted of any felony, a crime involving gambling or a crime of
14 moral turpitude prior to applying for a certificate hereunder or at any time
15 thereafter shall be deemed unfit. If the executive director of the racing and
16 gaming commission determines the certification standards of another state
17 are comprehensive, thorough and provide similar adequate safeguards, the
18 executive director may certify an applicant already certified in such state
19 without the necessity of a full application and background check. The
20 Kansas racing and gaming commission shall conduct the security, fitness
21 and background checks required pursuant to this subsection. Certification
22 pursuant to this subsection shall not be assignable or transferable;

23 (c) provisions for revocation of a certification required by subsection
24 (a) or (b) upon a finding that the certificate holder, an officer or director
25 thereof or a person directly or indirectly owning a ~~0.5%~~ 5% or more
26 interest therein: (1) Has knowingly provided false or misleading material
27 information to the Kansas lottery or its employees; or (2) has been
28 convicted of a felony, gambling related offense or any crime of moral
29 turpitude; and

30 (d) provisions for suspension, revocation or nonrenewal of a
31 certification required by subsection (a) or (b) upon a finding that the
32 certificate holder, an officer or director thereof or a person directly or
33 indirectly owning a ~~0.5%~~ 5% or more interest therein: (1) Has failed to
34 notify the Kansas lottery about a material change in ownership of the
35 certificate holder, or any change in the directors or officers thereof; (2) is
36 delinquent in remitting money owed to the Kansas lottery; (3) has violated
37 any provision of any contract between the Kansas lottery and the
38 certificate holder; or (4) has violated any provision of the Kansas
39 expanded lottery act or any rule and regulation adopted hereunder.

40 Sec. 15. K.S.A. 2012 Supp. 74-8752 is hereby amended to read as
41 follows: 74-8752. (a) The executive director of the Kansas lottery and the
42 executive director of the Kansas racing and gaming commission, or their
43 designees, may observe and inspect all electronic gaming machines, lottery

1 facility games, lottery gaming facilities, ~~racetrack gaming facilities~~ and all
2 related equipment and facilities operated by a lottery gaming facility
3 manager ~~or racetrack gaming facility manager~~.

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

7 (1) Examine, or cause to be examined by any agent or representative
8 designated by such executive director, any books, papers, records or
9 memoranda of any lottery gaming facility manager ~~or racetrack gaming~~
10 ~~facility manager~~, or of any business involved in electronic gaming
11 machines or lottery facility games authorized pursuant to the Kansas
12 expanded lottery act, for the purpose of ascertaining compliance with any
13 provision of the Kansas lottery act, the Kansas expanded lottery act, or any
14 rules and regulations adopted thereunder;

15 (2) investigate alleged violations of the Kansas expanded lottery act
16 and alleged violations of any rules and regulations, orders and final
17 decisions of the Kansas lottery commission, the executive director of the
18 Kansas lottery, the Kansas racing and gaming commission or the executive
19 director of the Kansas racing and gaming commission;

20 (3) request a court to issue subpoenas to compel access to or for the
21 production of any books, papers, records or memoranda in the custody or
22 control of any lottery gaming facility manager ~~or racetrack gaming facility~~
23 ~~manager~~ related to the management of the lottery gaming facility ~~or~~
24 ~~racetrack gaming facility~~, or to compel the appearance of any lottery
25 gaming facility manager ~~or racetrack gaming facility manager~~ for the
26 purpose of ascertaining compliance with the provisions of the Kansas
27 lottery act and the Kansas expanded lottery act or rules and regulations
28 adopted thereunder;

29 (4) inspect and approve, prior to publication or distribution, all
30 advertising by a lottery gaming facility manager ~~or racetrack gaming~~
31 ~~facility manager~~ which includes any reference to the Kansas lottery; and

32 (5) take any other action as may be reasonable or appropriate to
33 enforce the provisions of the Kansas expanded lottery act and any rules
34 and regulations, orders and final decisions of the executive director of the
35 Kansas lottery, the Kansas lottery commission, the executive director of
36 the Kansas racing commission or the Kansas racing and gaming
37 commission.

38 (c) Appropriate security measures shall be required in any and all
39 areas where electronic gaming machines and other lottery facility games
40 authorized pursuant to the Kansas expanded lottery act are located or
41 operated. The executive director of the Kansas racing and gaming
42 commission shall approve all such security measures.

43 (d) The executive director of the Kansas racing and gaming

1 commission shall require an annual audit of the operations of each lottery
2 gaming facility and ancillary lottery gaming facility operations ~~and each~~
3 ~~racetrack gaming facility~~ as determined by the commission. Such audit
4 shall be conducted by the Kansas racing and gaming commission or a
5 licensed accounting firm approved by the executive director of the Kansas
6 racing and gaming commission and shall be conducted at the expense of
7 the lottery gaming facility manager ~~or racetrack facility manager~~.

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

11 Sec. 16. K.S.A. 2012 Supp. 74-8753 is hereby amended to read as
12 follows: 74-8753. (a) No revenue bonds, tax increment financing or
13 similar financing shall be used to finance any part of any lottery gaming
14 enterprise ~~or any racetrack gaming facility~~.

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

17 Sec. 17. K.S.A. 2012 Supp. 74-8754 is hereby amended to read as
18 follows: 74-8754. Each lottery gaming facility manager and each racetrack
19 gaming facility manager shall hold the executive director, the commission
20 and the state harmless from and defend any and all claims which may be
21 asserted against the executive director, the commission and the state, or the
22 agents or employees thereof, arising from the operation of electronic
23 gaming machines, lottery facility games or other lottery-type games
24 pursuant to the Kansas expanded lottery act. This section may be satisfied
25 by procurement of insurance by the lottery gaming facility manager ~~or~~
26 ~~racetrack gaming facility manager~~, naming the executive director, the
27 commission and the state as additional insured parties. Procurement of
28 such insurance by a lottery gaming facility manager shall be a lottery
29 gaming facility expense of the lottery gaming facility ~~and procurement of~~
30 ~~such insurance by a racetrack gaming facility manager shall be a racetrack~~
31 ~~gaming facility expense of the racetrack gaming facility~~. The provisions of
32 this section shall not apply to any claims arising from a negligent act or
33 omission or willful or malicious misconduct of the executive director, the
34 commission or the state, or the agents or employees thereof.

35 Sec. 18. K.S.A. 2012 Supp. 74-8755 is hereby amended to read as
36 follows: 74-8755. As a condition precedent to contracting for the privilege
37 of being a lottery gaming facility manager ~~or a racetrack gaming facility~~
38 ~~manager~~, such manager shall file with the secretary of state of this state a
39 written and irrevocable consent that any action or garnishment proceeding
40 may be commenced against such manager in the proper court of any
41 county in this state by the service of process on a resident agent, and
42 stipulating and agreeing that such service shall be valid and binding as if
43 service had been made upon such manager. Such written consent shall

1 state that the courts of this state have jurisdiction over the person of the
2 lottery gaming facility manager ~~or racetrack gaming facility manager~~ and
3 are the proper and convenient forum for such action and shall waive the
4 right to request a change of jurisdiction or venue to a court outside this
5 state and that all actions arising under this act and commenced by such
6 manager shall be brought in this state's courts as the proper and convenient
7 forum. Such consent shall be executed by the lottery gaming facility
8 manager ~~or racetrack gaming facility manager~~ and, if a corporation, by the
9 president and secretary of such corporate manager. Such consent shall be
10 accompanied by a certified copy of the order or resolution of the board of
11 directors, trustees or managers authorizing the president and secretary to
12 execute the same.

13 Sec. 19. K.S.A. 2012 Supp. 74-8756 is hereby amended to read as
14 follows: 74-8756. (a) Wagers shall be received only from a person at the
15 location where the electronic gaming machine or lottery facility game is
16 authorized pursuant to the Kansas expanded lottery act. No person present
17 at such location shall place or attempt to place a wager on behalf of
18 another person who is not present at such location.

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

22 ~~(e)~~ (b) No employee or contractor of, or other person who has any
23 legal affiliation with, a lottery gaming facility manager shall loan money to
24 or otherwise extend credit to patrons of a lottery gaming facility.

25 ~~(d)~~ (c) Violation of this section is a class A nonperson misdemeanor
26 upon a conviction for a first offense. Violation of this section is a severity
27 level 9, nonperson felony upon conviction for a second or subsequent
28 offense.

29 Sec. 20. K.S.A. 2012 Supp. 74-8757 is hereby amended to read as
30 follows: 74-8757. (a) A person less than 21 years of age shall not be
31 permitted in an area where electronic gaming machines or lottery facility
32 games are being conducted, except for a person at least 18 years of age
33 who is an employee of the lottery gaming facility manager ~~or the racetrack~~
34 ~~gaming facility manager~~. No employee under age 21 shall perform any
35 function involved in gaming by the patrons.

36 (b) No person under age 21 shall play or make a wager on an
37 electronic gaming machine game or a lottery facility game.

38 Sec. 21. K.S.A. 2012 Supp. 74-8758 is hereby amended to read as
39 follows: 74-8758. (a) ~~Except as authorized in subsection (e), it is unlawful~~
40 ~~for any racetrack gaming facility manager, or any employee or agent~~
41 ~~thereof, to allow any person to play an electronic gaming machine game at~~
42 ~~a racetrack gaming facility, or share in winnings of such person, knowing~~
43 ~~such person to be:~~

- 1 (1) ~~Less than 21 years of age;~~
 2 (2) ~~the executive director of the Kansas lottery, a member of the~~
 3 ~~Kansas lottery commission or an employee of the Kansas lottery;~~
 4 (3) ~~the executive director, a member or an employee of the Kansas~~
 5 ~~racing and gaming commission;~~
 6 (4) ~~an officer or employee of a vendor contracting with the Kansas~~
 7 ~~lottery to supply gaming equipment or tickets to the Kansas lottery for use~~
 8 ~~in the operation of any lottery conducted pursuant to the Kansas expanded~~
 9 ~~lottery act;~~
 10 (5) ~~an employee or agent of the racetrack gaming facility manager;~~
 11 (6) ~~a spouse, child, stepchild, brother, stepbrother, sister, stepsister,~~
 12 ~~parent or stepparent of a person described by subsection (a)(2), (a)(3), (a)~~
 13 ~~(4) or (a)(5); or~~
 14 (7) ~~a person who resides in the same household as any person~~
 15 ~~described by subsection (a)(2), (a)(3), (a)(4) or (a)(5).~~
 16 ~~Violation of this subsection is a class A nonperson misdemeanor upon~~
 17 ~~conviction for a first offense. Violation of this subsection is a severity level~~
 18 ~~9, nonperson felony upon conviction for the second or a subsequent~~
 19 ~~offense.~~
 20 ~~(b)~~—Except as authorized in subsection ~~(e)~~ (b), it is unlawful for any
 21 lottery gaming facility manager, or its employees or agents, to allow any
 22 person to play electronic gaming machines or lottery facility games at a
 23 lottery gaming facility or share in winnings of such person knowing such
 24 person to be:
 25 (1) Under 21 years of age;
 26 (2) the executive director of the Kansas lottery, a member of the
 27 Kansas lottery commission or an employee of the Kansas lottery;
 28 (3) the executive director, a member or an employee of the Kansas
 29 racing and gaming commission;
 30 (4) an employee or agent of the lottery gaming facility manager;
 31 (5) an officer or employee of a vendor contracting with the Kansas
 32 lottery to supply gaming equipment to the Kansas lottery for use in the
 33 operation of any electronic gaming machine or lottery facility game
 34 conducted pursuant to the Kansas expanded lottery act;
 35 (6) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
 36 parent or stepparent of a person described in subsection ~~(b)(2), (b)(3), (b)~~
 37 ~~(4) or (b)(5) (a)(2), (a)(3), (a)(4) or (a)(5); or~~
 38 (7) a person who resides in the same household as any person
 39 described by subsection ~~(b)(2), (b)(3), (b)(4) or (b)(5) (a)(2), (a)(3), (a)(4)~~
 40 ~~or (a)(5).~~
 41 Violation of this subsection is a class A nonperson misdemeanor upon
 42 conviction for a first offense. Violation of this subsection is a severity level
 43 9, nonperson felony upon conviction for a second or subsequent offense.

1 (e) (b) The executive director of the Kansas racing and gaming
2 commission may authorize in writing any employee of the Kansas racing
3 and gaming commission and any employee of a lottery vendor to play an
4 electronic gaming machine game or a lottery facility game to verify the
5 proper operation thereof with respect to security and contract compliance.
6 Any prize awarded as a result of such ticket purchase shall become the
7 property of the Kansas lottery and be added to the prize pools of
8 subsequent electronic gaming machine games or lottery facility games. No
9 money or merchandise shall be awarded to any employee playing an
10 electronic gaming machine game or a lottery facility game pursuant to this
11 subsection.

12 Sec. 22. K.S.A. 2012 Supp. 74-8760 is hereby amended to read as
13 follows: 74-8760. (a) Except in accordance with rules and regulations of
14 the Kansas racing and gaming commission or by written authority from the
15 executive director of the Kansas racing and gaming commission in
16 performing installation, maintenance, inspection and repair services, it is a
17 class A nonperson misdemeanor for the following to place a wager on or
18 play an electronic gaming machine game or a lottery facility game at a
19 lottery gaming facility in this state: The executive director of the Kansas
20 lottery, a member of the Kansas lottery commission or any employee or
21 agent of the Kansas lottery; the executive director, a member or any
22 employee or agent of the Kansas racing and gaming commission; or the
23 lottery gaming facility manager or any employee of the lottery gaming
24 facility manager.

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

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

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

1 (2) possess or use, while on premises where electronic gaming
2 machines are authorized pursuant to the Kansas expanded lottery act, any
3 cheating or thieving device, including, but not limited to, tools, wires,
4 drills, coins attached to strings or wires or electronic or magnetic devices
5 to facilitate removing from any electronic gaming machine any money or
6 contents thereof, except that a duly authorized agent or employee of the
7 Kansas racing and gaming commission; *or* lottery gaming facility manager
8 ~~or racetrack gaming facility manager~~ may possess and use any of the
9 foregoing only in furtherance of the agent's or employee's employment at
10 the lottery gaming facility or racetrack gaming facility; or

11 (3) possess or use while on the premises of a lottery gaming facility
12 or racetrack gaming facility, or any location where electronic gaming
13 machines are authorized pursuant to this act, any key or device designed
14 for the purpose of or suitable for opening or entering any electronic
15 gaming machine or similar gaming device or drop box.

16 (d) Any duly authorized agent or employee of the Kansas racing and
17 gaming commission; *or* a lottery gaming facility manager ~~or a racetrack~~
18 ~~gaming facility manager~~ may possess and use any of the devices described
19 in subsections (c)(3) and (c)(4) in furtherance of inspection or testing as
20 provided in the Kansas expanded lottery act or in furtherance of such
21 person's employment at any location where any electronic gaming machine
22 or similar gaming device or drop box is authorized pursuant to the Kansas
23 expanded lottery act.

24 Sec. 23. K.S.A. 2012 Supp. 74-8762 is hereby amended to read as
25 follows: 74-8762. (a) As used in this section:

26 (1) "Affiliated person" means:

27 (A) Any member of the immediate family of a state or local official;
28 or

29 (B) any partnership, firm, corporation or limited liability company
30 with which a state or local official is associated or in which a state or local
31 official has an interest, or any partner, officer, director or employee thereof
32 while the state or local official is associated with such partnership, firm,
33 corporation or company.

34 (2) "State or local official" means any person who, on or after January
35 9, 2006, is:

36 (A) Any state officer or employee required to file a written statement
37 of substantial interests pursuant to the state governmental ethics law and
38 any other state officer or employee with responsibility for matters affecting
39 activities or operations of any lottery gaming facility or racetrack gaming
40 facility;

41 (B) the governor or any full-time professional employee of the office
42 of the governor;

43 (C) any member of the legislature and any full-time professional

1 employee of the legislature;

2 (D) any justice of the supreme court, judge of the court of appeals or
3 judge of the district court;

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

6 (F) any member of the governing body of a city or county where a
7 lottery gaming facility or racetrack gaming facility is located; any
8 municipal or county judge of such city or county; any city, county or
9 district attorney of such city or county; and any member of or attorney for
10 the planning board or zoning board of such city or county and any
11 professional planner or consultant regularly employed or retained by such
12 planning board or zoning board.

13 (b) No state or local official or affiliated person shall hold, directly or
14 indirectly, an interest in, be employed by, represent or appear for a lottery
15 gaming facility ~~or racetrack gaming facility~~, or for any lottery gaming
16 facility manager ~~or racetrack gaming facility manager~~, or any holding or
17 intermediary company with respect thereto, in connection with any cause,
18 application or matter.

19 No state or local official or affiliated person shall represent, appear for
20 or negotiate on behalf of any person submitting a proposal for a lottery
21 gaming facility or racetrack gaming facility, or on behalf of any lottery
22 gaming facility manager ~~or racetrack gaming facility manager~~, or any
23 holding or intermediary company with respect thereto, in connection with
24 any cause, application or matter.

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

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

1 (e) No state or local official shall influence, or attempt to influence,
2 by use of official authority, the decision of the Kansas lottery commission,
3 lottery gaming facility review board or Kansas racing and gaming
4 commission pursuant to this act; the investigation of a proposal for a
5 lottery gaming facility ~~or racetrack gaming facility~~ pursuant to this act; or
6 any proceeding to enforce the provisions of this act or rules and
7 regulations of the Kansas lottery commission or Kansas racing and gaming
8 commission. Any such attempt shall be reported promptly to the attorney
9 general.

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

11 Sec. 24. K.S.A. 2012 Supp. 74-8764 is hereby amended to read as
12 follows: 74-8764. Each lottery gaming facility manager ~~and each racetrack~~
13 ~~gaming facility manager~~ shall post one or more signs at the location where
14 such manager operates electronic gaming machines or lottery facility
15 games to inform patrons of the toll-free number available to provide
16 information and referral services regarding compulsive or problem
17 gambling. The text shall be determined by the executive director of the
18 Kansas racing and gaming commission. Failure by a lottery gaming
19 facility manager ~~or racetrack gaming facility manager~~ to post and maintain
20 such signs shall be cause for the imposition of a fine not to exceed \$500
21 per day.

22 Sec. 25. K.S.A. 2012 Supp. 74-8765 is hereby amended to read as
23 follows: 74-8765. The Kansas lottery, lottery gaming facility managers,
24 ~~racetrack gaming facility managers,~~ and lottery gaming facility
25 management contracts ~~and racetrack gaming facility management~~
26 ~~contracts~~ under the Kansas expanded lottery act shall not be subject to the
27 provisions of and restrictions on major procurement contracts, including,
28 but not limited to, the provisions of K.S.A. 74-8705, and amendments
29 thereto.

30 Sec. 26. K.S.A. 2012 Supp. 74-8766 is hereby amended to read as
31 follows: 74-8766. (a) There is hereby established in the state treasury the
32 expanded lottery receipts fund. Separate accounts shall be maintained in
33 such fund for receipt of moneys from each lottery gaming facility manager
34 ~~and racetrack gaming facility manager~~. All expenditures from the fund
35 shall be made in accordance with appropriation acts upon warrants of the
36 director of accounts and reports issued pursuant to vouchers approved by
37 the executive director for the purposes set forth in this act.

38 (b) All lottery gaming facility revenues from lottery gaming facilities
39 ~~and all net electronic gaming machine income from racetrack gaming~~
40 ~~facilities~~ shall be paid daily and electronically to the executive director.
41 The executive director shall remit all moneys received therefrom to the
42 state treasurer in accordance with K.S.A. 75-4215, and amendments
43 thereto. Upon receipt of the remittance, the state treasurer shall deposit the

1 entire amount in the state treasury and credit it to the respective account
2 maintained for the lottery gaming facility manager ~~or racetrack gaming~~
3 ~~facility manager~~ in the expanded lottery receipts fund.

4 (c) The executive director shall certify weekly to the director of
5 accounts and reports the percentages or amounts to be transferred from
6 each account maintained in the expanded lottery receipts fund to the
7 expanded lottery act revenues fund, the live horse racing supplement fund,
8 the live greyhound racing purse supplement fund and the problem
9 gambling and addictions grant fund, as provided by the lottery gaming
10 facility management contract or K.S.A. 2012 Supp. 74-8747, and
11 amendments thereto. Upon receipt of the certification, the director of
12 accounts and reports shall transfer amounts from each such account in
13 accordance with the certification of the executive director. Once each
14 month, the executive director shall cause amounts from each such account
15 to be paid to cities, counties and lottery gaming facility managers in
16 accordance with the lottery gaming facility management contract ~~and to~~
17 ~~racetrack gaming facility managers in accordance with K.S.A. 2012 Supp.~~
18 ~~74-8747, and amendments thereto.~~

19 (d) Amounts remaining in an account in the expanded lottery receipts
20 fund after transfers and payments pursuant to subsection (c) shall be
21 distributed in accordance with the related lottery gaming facility
22 management contract ~~or racetrack gaming facility management contract.~~

23 Sec. 27. K.S.A. 2012 Supp. 74-8771 is hereby amended to read as
24 follows: 74-8771. Pursuant to section 2 of the federal act entitled "An Act
25 to Prohibit Transportation of Gambling Devices in Interstate and Foreign
26 Commerce," 15 U.S.C. §§ 1171 through 1777, the state of Kansas, acting
27 by and through the duly elected and qualified members of the legislature,
28 does hereby in this section, and in accordance with and in compliance with
29 the provisions of section 2 of such federal act, declare and proclaims that it
30 is exempt from the provision of section 2 of such federal act to the extent
31 that such gambling devices as described therein are being transported to or
32 from the Kansas lottery or to or from a lottery gaming facility ~~or racetrack~~
33 ~~gaming facility~~ or a location within the state of Kansas where such
34 gambling devices are authorized pursuant to the Kansas expanded lottery
35 act.

36 Sec. 28. K.S.A. 2012 Supp. 74-8772 is hereby amended to read as
37 follows: 74-8772. The Kansas racing and gaming commission shall adopt
38 such rules and regulations as the commission deems necessary to carry out
39 the duties and functions of the commission pursuant to the Kansas
40 expanded lottery act. Such rules and regulations shall include, but not be
41 limited to, rules and regulations:

42 (a) Promoting the integrity of the gaming and finances of lottery
43 gaming facilities and racetrack gaming facilities and shall meet or exceed

1 industry standards for monitoring and controlling the gaming and finances
2 of lottery gaming facility operations ~~and racetrack gaming facility~~
3 ~~operations~~ and shall give the Kansas racing and gaming commission
4 sufficient authority to monitor and control the gaming operation and to
5 ensure its integrity and security;

6 (b) prescribing the on-site security arrangements for lottery gaming
7 facilities ~~and racetrack gaming facilities~~;

8 (c) requiring reporting of information about any lottery gaming
9 facility manager ~~or racetrack gaming facility manager~~, and its employees,
10 vendors and finances, necessary or desirable to ensure the security of
11 lottery gaming facility ~~and racetrack gaming facility~~ operations. None of
12 the information disclosed pursuant to this subsection shall be subject to
13 disclosure under the Kansas open records act;

14 (d) requiring reporting and auditing of financial information of lottery
15 gaming facility managers ~~and racetrack gaming facility managers~~,
16 including, but not limited to, the reporting of profits or losses incurred by
17 lottery gaming facility managers ~~and racetrack gaming facility managers~~
18 and the reporting of such other information as the Kansas racing and
19 gaming commission requires to determine compliance with the Kansas
20 expanded lottery act and rules and regulations adopted hereunder. None of
21 the information disclosed pursuant to this subsection shall be subject to
22 disclosure under the Kansas open records act; and

23 (e) provisions for oversight of all lottery gaming facility operations
24 and racetrack gaming facility operations, including, but not limited to,
25 oversight of internal controls; oversight of security of facilities;
26 performance of background investigations, determination of qualifications
27 and credentialing of employees, contractors and agents of lottery gaming
28 facility managers; *and* ancillary lottery gaming facility operations ~~and~~
29 ~~racetrack gaming facilities~~; auditing of lottery gaming facility revenues
30 ~~and net electronic gaming machine income of racetrack gaming facilities~~;
31 enforcement of all state laws; and maintenance of the integrity of lottery
32 gaming facility ~~and racetrack gaming facility~~ operations.

33 *New Sec. 29. The Kansas lottery commission shall negotiate an*
34 *addendum to existing lottery gaming facility management contracts that*
35 *prohibit the state from operating electronic gaming machines at*
36 *parimutuel licensee locations until after July 1, 2032.*

37 Sec. 30. K.S.A. 2012 Supp. 12-4516, 21-6109, 21-6110, 21-6614, 60-
38 2102, 72-6624, 74-8702, 74-8710, 74-8716, 74-8733, 74-8734, 74-8736,
39 74-8740, 74-8741, 74-8742, 74-8743, 74-8744, 74-8745, 74-8746, 74-
40 8747, 74-8749, 74-8750, 74-8751, 74-8752, 74-8753, 74-8754, 74-8755,
41 74-8756, 74-8757, 74-8758, 74-8760, 74-8762, 74-8764, 74-8765, 74-
42 8766, 74-8767, 74-8771 and 74-8772 are hereby repealed.

43 Sec. 31. This act shall take effect and be in force from and after its

- 1 publication in the statute book.