

SENATE BILL No. 404

By Committee on Federal and State Affairs

1-27

1 AN ACT concerning gaming; authorizing a vote to permit electronic
2 gaming machines at a racetrack gaming facility in Sedgwick county;
3 authorizing parimutuel licensees to operate historical horse race
4 machines; establishing the Kansas horse council fund, privilege fee
5 repayment fund, racetrack gaming facility management repayment fund
6 and facility manager licensee repayment fund; amending K.S.A. 74-
7 8702, 74-8734, 74-8741, 74-8743, 74-8746, 74-8747, 74-8802, 74-
8 8804, 74-8814, 74-8823 and 74-8836 and repealing the existing
9 sections.

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

12 New Section 1. (a) Prior to the execution of any racetrack gaming
13 facility management contract for the management of a racetrack gaming
14 facility, the executive director shall provide written notice to any lottery
15 gaming facility manager managing a lottery gaming facility located in the
16 same gaming zone as such proposed racetrack gaming facility. Such notice
17 shall state the executive director's intent to enter into such contract and the
18 parties to the proposed contract.

19 (b) No action against the state of Kansas or any other person or party
20 for specific performance, anticipatory breach or breach of contract, the
21 basis of which is that a proposed racetrack gaming facility management
22 contract or the election authorized under K.S.A. 74-8743, and amendments
23 thereto, violates the provisions of K.S.A. 74-8734(h)(19) or 74-8741(c)(4),
24 and amendments thereto, or that such racetrack gaming facility
25 management contract or the election authorized under K.S.A. 74-8743, and
26 amendments thereto, creates a material breach of a lottery gaming facility
27 manager's management contract with the Kansas lottery, including any
28 claim for reimbursement of privilege fees and interest thereon, shall be
29 deemed to have accrued until the lottery gaming facility manager receives
30 written notice from the executive director pursuant to subsection (a). Any
31 such action shall be commenced within 60 days after receipt of such
32 written notice and shall be filed as an original action in the supreme court.
33 The supreme court shall have original jurisdiction for determination of any
34 claims made and damages related thereto.

35 (c) (1) No claim for equitable relief, including injunctive relief, may
36 be brought in any action filed pursuant to this section.

1 (2) No claim may be brought in any action filed pursuant to this
2 section except by the lottery gaming facility manager for the lottery
3 gaming facility located in the same gaming zone as the proposed racetrack
4 gaming facility.

5 (3) No claim arising from the election authorized under K.S.A. 74-
6 8743, and amendments thereto, may be brought in any action filed
7 pursuant to this section except by the lottery gaming facility manager for
8 the lottery gaming facility located in the south central Kansas gaming
9 zone.

10 (d) Any monetary damages awarded in any action brought pursuant
11 to this section shall not exceed an amount equal to the privilege fee paid
12 by the lottery gaming facility manager filing such action, plus any interest
13 from the date such action accrued as specified in subsection (b).

14 (e) (1) If no action is filed pursuant to subsection (b), the executive
15 director may execute the proposed racetrack gaming facility management
16 contract.

17 (2) If an action is properly filed, the executive director shall not
18 execute any such management contract until the supreme court issues a
19 final order in such action and such order does not prohibit the executive
20 director from executing such management contract.

21 (3) If the final judgment of the court orders the repayment of the
22 privilege fees, or any portion thereof, paid by the lottery gaming facility
23 manager, including any interest from the date such action accrued as
24 specified in subsection (b), the executive director shall determine the total
25 amount due for such repayment in accordance with such order and certify
26 such repayment amount to the racetrack gaming facility manager who is to
27 be a party to the proposed contract. The executive director shall not
28 execute any such management contract until the executive director has
29 received such certified amount. The executive director shall remit all such
30 moneys received to the state treasurer in accordance with K.S.A. 75-4215,
31 and amendments thereto. Upon receipt of such remittance, the state
32 treasurer shall deposit the entire amount in the state treasury to the credit
33 of the privilege fee repayment fund.

34 (f) If a payment is made in accordance with subsection (e)(3), the
35 Kansas lottery shall pay an equal amount to the racetrack gaming facility
36 manager that executed the proposed racetrack gaming facility management
37 contract under subsection (e). Such payment shall be paid in installments
38 on a monthly basis from moneys held in the racetrack gaming facility
39 manager repayment fund. The amount of each monthly payment shall be a
40 percentage of the moneys in the expanded lottery act receipts fund that
41 were received by the Kansas lottery pursuant to K.S.A. 74-8747(a)(1), and
42 amendments thereto, agreed to by the executive director and the racetrack
43 gaming facility manager, except that such percentage shall not be less than

1 50% of the moneys in the expanded lottery act receipts fund that were
2 received by the Kansas lottery pursuant to K.S.A. 74-8747(a)(1), and
3 amendments thereto. The executive director shall certify the amount to be
4 paid each month under this subsection to the director of accounts and
5 reports. Upon receipt of such certification, the director of accounts and
6 reports shall transfer such certified amount from the expanded lottery act
7 receipts fund to the racetrack gaming facility manager repayment fund.
8 Transfers from the expanded lottery act receipts fund under this subsection
9 shall only be made from those moneys held in the expanded lottery act
10 receipts fund that were received by the Kansas lottery pursuant to K.S.A.
11 74-8747(a)(1), and amendments thereto, as net electronic gaming machine
12 income from the racetrack gaming facility to which the racetrack gaming
13 facility management contract applies.

14 (g) (1) The privilege fee repayment fund is hereby created in the state
15 treasury and shall be administered by the Kansas lottery. The privilege fee
16 repayment fund shall consist of those moneys credited to the privilege fee
17 repayment fund from any payments received pursuant to subsection (e).
18 All expenditures from the privilege fee repayment fund shall be for the
19 repayment of privilege fees, including accrued interest thereon, and shall
20 be made in accordance with appropriation acts upon warrants of the
21 director of accounts and reports issued pursuant to vouchers approved by
22 the executive director or the executive director's designee.

23 (2) The racetrack gaming facility manager repayment fund is hereby
24 created in the state treasury and shall be administered by the Kansas
25 lottery. The racetrack gaming facility manager repayment fund shall
26 consist of those moneys credited to the racetrack gaming facility manager
27 repayment fund pursuant to subsection (f). All expenditures from the
28 racetrack gaming facility manager repayment fund shall be for payment to
29 the racetrack gaming facility manager pursuant to subsection (f) and shall
30 be made in accordance with appropriation acts upon warrants of the
31 director of accounts and reports issued pursuant to vouchers approved by
32 the executive director or the executive director's designee.

33 (h) The provisions of this section shall be a part of and supplemental
34 to the Kansas expanded lottery act.

35 New Sec. 2. (a) On or before December 1, 2022, and each December
36 1 thereafter, the official breed registering agency for horse breeds, as
37 designated by the Kansas racing and gaming commission in K.S.A. 74-
38 8830, and amendments thereto, shall make recommendations to the Kansas
39 racing and gaming commission for implementation of programs that will
40 maximize the benefit to economic development in rural Kansas.

41 (b) The provisions of this section shall be a part of and supplemental
42 to the Kansas parimutuel racing act.

43 New Sec. 3. (a) The Kansas horse council fund is hereby established

1 in the state treasury and shall be administered by the Kansas racing and
2 gaming commission. All expenditures from such fund shall be made in
3 accordance with appropriation acts upon warrants of the director of
4 accounts and reports issued pursuant to vouchers approved by the
5 executive director of the Kansas racing and gaming commission or the
6 executive director's designee. The moneys credited to this fund shall be
7 used for the development, promotion and representation of the equine
8 industry in Kansas and shall be distributed to the Kansas horse council by
9 contract with the Kansas racing and gaming commission for these
10 purposes.

11 (b) The provisions of this section shall be a part of and supplemental
12 to the Kansas parimutuel racing act.

13 New Sec. 4. (a) Wagering on one or more historical horse races is
14 hereby authorized and may be conducted in accordance with the
15 provisions of the Kansas parimutuel racing act.

16 (b) Parimutuel wagering on historical horse races shall only be
17 conducted by organization licensees and only through historical horse race
18 machines approved by the commission. Such wagering shall only be
19 permitted in a designated area on the licensed premises of an organization
20 licensee. A licensee shall obtain approval from the commission for any
21 types of wagers on historical horse races prior to conducting such
22 wagering.

23 (c) An organization licensee may conduct parimutuel wagering on
24 historical horse races of any horse breed regardless of the type of breed
25 that primarily races in live meets conducted or simulcast races displayed
26 by the licensee. A licensee may conduct parimutuel wagering on historical
27 horse races on any days and hours approved by the commission and shall
28 not be limited to times during which the licensee is conducting a live horse
29 race meeting or displaying simulcast races.

30 (d) All wagering on historical horse races shall be conducted as
31 follows:

32 (1) A patron may only wager on historical horse races through an
33 historical horse race machine approved by the commission;

34 (2) once a patron deposits the wagered amount in the historical horse
35 race machine, one or more historical horse races shall be chosen at
36 random;

37 (3) prior to the patron making a wager selection, the machine shall
38 not display or otherwise make any information available that would allow
39 the patron to identify a historical horse race on which such patron is
40 wagering, including the location of the race, the date on which the race
41 was run, the names of the horses in the race or the names of the jockeys
42 that rode the horses in the race;

43 (4) the machine shall make available for viewing by the patron the

1 true and accurate past performance information on a historical horse race
2 prior to such patron making a wager selection. The information shall be
3 current as of the day the historical horse race was run. The information
4 provided to the patron shall be made available on the machine in data or
5 graphical form; and

6 (5) after a patron finalizes such patron's wager selections and plays
7 such selections, the machine shall make a video replay of a portion of the
8 race or the finish of the race available for the patron to view and the
9 official results of the race. The identity of the race shall only be revealed to
10 the patron after the patron has placed and played such patron's wager.

11 (e) On or before January 1, 2023, the commission shall adopt rules
12 and regulations necessary to implement and enforce the provisions of this
13 section.

14 (f) This section shall be a part of and supplemental to the Kansas
15 parimutuel racing act.

16 New Sec. 5. (a) Prior to the operation of any historical horse race
17 machines pursuant to section 4, and amendments thereto, the executive
18 director shall provide written notice to any lottery gaming facility manager
19 managing a lottery gaming facility located in the same gaming zone as a
20 racetrack facility where such historical horse race machines are to be
21 operated. Such notice shall state the commission's intent to authorize the
22 operation of historical horse race machines at such racetrack facility.

23 (b) No action against the state of Kansas or any other person or party
24 for specific performance, anticipatory breach or breach of contract, the
25 basis of which is that the authorization of historical horse race machines
26 under section 4, and amendments thereto, violates the provisions of K.S.A.
27 74-8734(h)(19) or 74-8741(c)(4), and amendments thereto, or that the
28 authorization of historical horse race machines under section 4, and
29 amendments thereto, creates a material breach of a lottery gaming facility
30 manager's management contract with the Kansas lottery, including any
31 claim for reimbursement of privilege fees and interest thereon, shall be
32 deemed to have accrued until the lottery gaming facility manager receives
33 written notice from the executive director pursuant to subsection (a). Any
34 such action shall be commenced within 60 days after receipt of such
35 written notice and shall be filed as an original action in the supreme court.
36 The supreme court shall have original jurisdiction for determination of any
37 claims made and damages related thereto.

38 (c) No claim for equitable relief, including injunctive relief, may be
39 brought in any action filed pursuant to this section. No claim may be
40 brought in any action filed pursuant to this section except by the lottery
41 gaming facility manager for the lottery gaming facility located in the same
42 gaming zone as the racetrack facility where such historical horse race
43 machines are to be operated.

1 (d) Any monetary damages awarded in any action brought pursuant
2 to this section shall not exceed an amount equal to the privilege fee paid
3 by the lottery gaming facility manager filing such action, plus any interest
4 from the date such action accrued as specified in subsection (b).

5 (e) (1) If no action is filed pursuant to subsection (b), the commission
6 may authorize the operation of historical horse race machines at the
7 racetrack facility.

8 (2) If an action is properly filed, the commission shall not authorize
9 the operation of historical horse race machines until such time as the
10 supreme court issues a final order in such action and such order does not
11 prohibit the commission from authorizing the operation of such machines.

12 (3) If the final judgment of the court orders the repayment of the
13 privilege fees, or any portion thereof, paid by the lottery gaming facility
14 manager, including any interest from the date such action accrued, as
15 specified in subsection (b), the executive director shall determine the total
16 amount due for such repayment in accordance with such order and certify
17 such repayment amount to the facility manager licensee for the racetrack
18 facility. The commission shall not authorize the operation of any historical
19 horse race machines at such racetrack facility until the executive director
20 has received such certified amount. The executive director shall remit all
21 such moneys received to the state treasurer in accordance with K.S.A. 75-
22 4215, and amendments thereto. Upon receipt of such remittance, the state
23 treasurer shall deposit the entire amount in the state treasury to the credit
24 of the privilege fee repayment fund, established under section 1, and
25 amendments thereto.

26 (f) If a payment is made in accordance with subsection (e)(3), the
27 commission shall pay an equal amount to the facility manager licensee for
28 the racetrack facility. Such payment shall be paid in installments on a
29 monthly basis from moneys held in the facility manager licensee
30 repayment fund. The amount of each monthly payment shall be a
31 percentage of the moneys in the state racing fund that were collected by
32 the commission from the tax levied pursuant to K.S.A. 74-8823(a)(5), and
33 amendments thereto, agreed to by the executive director and the facility
34 manager licensee, except that such percentage shall not be less than 50%
35 of the moneys in the state racing fund that were collected by the
36 commission from the tax levied pursuant to K.S.A. 74-8823(a)(5), and
37 amendments thereto. The executive director shall certify the amount to be
38 paid each month under this subsection to the director of accounts and
39 reports. Upon receipt of such certification, the director of accounts and
40 reports shall transfer such certified amount from the state racing fund to
41 the facility manager licensee repayment fund. Transfers from the state
42 racing fund under this subsection shall only be made from those moneys
43 held in the state racing fund that were collected by the commission from

1 the tax levied pursuant to K.S.A. 74-8823(a)(5), and amendments thereto,
2 on the total amount wagered on historical horse races conducted by
3 historical horse race machines located at the facility manager licensee's
4 racetrack facility.

5 (g) The facility manager licensee repayment fund is hereby created in
6 the state treasury and shall be administered by the Kansas racing and
7 gaming commission. The facility manager licensee repayment fund shall
8 consist of those moneys credited to the facility manager licensee
9 repayment fund pursuant to subsection (f). All expenditures from the
10 facility manager licensee repayment fund shall be for payment to the
11 facility manager licensee pursuant to subsection (f) and shall be made in
12 accordance with appropriation acts upon warrants of the director of
13 accounts and reports issued pursuant to vouchers approved by the
14 executive director or the executive director's designee.

15 (h) The provisions of this section shall be a part of and supplemental
16 to the Kansas parimutuel racing act.

17 Sec. 6. K.S.A. 74-8702 is hereby amended to read as follows: 74-
18 8702. As used in the Kansas lottery act, unless the context otherwise
19 requires:

20 (a) "Ancillary lottery gaming facility operations" means additional
21 non-lottery facility game products and services not owned and operated by
22 the state ~~which~~ that may be included in the overall development associated
23 with the lottery gaming facility. Such operations may include, but are not
24 limited to, restaurants, hotels, motels, museums or entertainment facilities.

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

26 (c) (1) "Electronic gaming machine" means any electronic,
27 electromechanical, video or computerized device, contrivance or machine
28 authorized by the Kansas lottery ~~which~~ that, upon insertion of cash,
29 tokens, electronic cards or any consideration, is available to play, operate
30 or simulate the play of a game authorized by the Kansas lottery pursuant to
31 the Kansas expanded lottery act, including, but not limited to, bingo,
32 poker, blackjack, keno and slot machines, and ~~which~~ that may deliver or
33 entitle the player operating the machine to receive cash, tokens,
34 merchandise or credits that may be redeemed for cash. Electronic gaming
35 machines may use bill validators and may be single-position reel-type,
36 single or multi-game video and single-position multi-game video
37 electronic game, including, but not limited to, poker, blackjack and slot
38 machines. Electronic gaming machines shall be directly linked to a central
39 computer at a location determined by the executive director for purposes
40 of security, monitoring and auditing.

41 (2) *"Electronic gaming machine" does not mean an historical horse*
42 *race machine, as defined in K.S.A. 74-8802, and amendments thereto.*

43 (d) "Executive director" means the executive director of the Kansas

1 lottery.

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

9 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
10 which consists of Wyandotte county; (2) the southeast Kansas gaming
11 zone, which consists of Crawford and Cherokee counties; (3) the south
12 central Kansas gaming zone, which consists of Sedgwick and Sumner
13 counties; and (4) the southwest Kansas gaming zone, which consists of
14 Ford county.

15 (g) "Gray machine" means any mechanical, electro-mechanical or
16 electronic device, capable of being used for gambling, that is: (1) Not
17 authorized by the Kansas lottery; (2) not linked to a lottery central
18 computer system; (3) available to the public for play; or (4) capable of
19 simulating a game played on an electronic gaming machine or any similar
20 gambling game authorized pursuant to the Kansas expanded lottery act.

21 (h) (1) "Instant bingo vending machine" means a machine or
22 electronic device that is purchased or leased by a licensee, as defined by
23 K.S.A. 75-5173, and amendments thereto, from a distributor who has been
24 issued a distributor registration certificate pursuant to K.S.A. 75-5184, and
25 amendments thereto, or leased from the Kansas lottery in fulfillment of the
26 Kansas lottery's obligations under an agreement between the Kansas
27 lottery and a licensee entered into pursuant to K.S.A. 75-5189, and
28 amendments thereto, and the sole purpose of which is to:

29 (A) Dispense a printed physical instant bingo ticket after a purchaser
30 inserts cash or other form of consideration into the machine; and

31 (B) allow purchasers to manually check the winning status of the
32 instant bingo ticket.

33 (2) "Instant bingo vending machine" shall not:

34 (A) Provide a visual or audio representation of a bingo card or an
35 electronic gaming machine;

36 (B) visually or functionally have the same characteristics of an
37 electronic instant bingo game or an electronic gaming machine;

38 (C) automatically determine or display the winning status of any
39 dispensed instant bingo ticket;

40 (D) extend or arrange credit for the purchase of an instant bingo
41 ticket;

42 (E) dispense any winnings;

43 (F) dispense any prize;

1 (G) dispense any evidence of a prize other than an instant bingo
2 ticket;

3 (H) provide free instant bingo tickets or any other item that can be
4 redeemed for cash; or

5 (I) dispense any other form of a prize to a purchaser.

6 All physical instant bingo tickets dispensed by an instant bingo vending
7 machine shall be purchased by a licensee, as defined by K.S.A. 75-5173,
8 and amendments thereto, from a registered distributor.

9 No more than two instant bingo vending machines may be located on
10 the premises of each licensee location.

11 (i) "Kansas lottery" means the state agency created by this act to
12 operate a lottery or lotteries pursuant to this act.

13 (j) "Lottery" or "state lottery" means the lottery or lotteries operated
14 pursuant to this act.

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

20 (2) *"Lottery facility games" does not mean an historical horse race*
21 *machine, as defined in K.S.A. 74-8802, and amendments thereto.*

22 (l) "Lottery gaming enterprise" means an entertainment enterprise
23 ~~which~~ that includes a lottery gaming facility authorized pursuant to the
24 Kansas expanded lottery act and ancillary lottery gaming facility
25 operations that have a coordinated business or marketing strategy. A lottery
26 gaming enterprise shall be designed to attract to its lottery gaming facility
27 consumers who reside outside the immediate area of such enterprise.

28 (m) "Lottery gaming facility" means that portion of a building used
29 for the purposes of operating, managing and maintaining lottery facility
30 games.

31 (n) "Lottery gaming facility expenses" means normal business
32 expenses, as defined in the lottery gaming facility management contract,
33 associated with the ownership and operation of a lottery gaming facility.

34 (o) "Lottery gaming facility management contract" means a contract,
35 subcontract or collateral agreement between the state and a lottery gaming
36 facility manager for the management of a lottery gaming facility, the
37 business of which is owned and operated by the Kansas lottery, negotiated
38 and signed by the executive director on behalf of the state.

39 (p) "Lottery gaming facility manager" means a corporation, limited
40 liability company, resident Kansas American Indian tribe or other business
41 entity authorized to construct and manage, or manage alone, pursuant to a
42 lottery gaming facility management contract with the Kansas lottery, and
43 on behalf of the state, a lottery gaming enterprise and lottery gaming

1 facility.

2 (q) "Lottery gaming facility revenues" means the total revenues from
3 lottery facility games at a lottery gaming facility after all related prizes are
4 paid.

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

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

13 (B) any machine or device in which the prize or evidence of a prize is
14 determined only by chance, including, but not limited to, any slot machine
15 or bingo machine.

16 (2) "Lottery machine" ~~shall~~ *does* not mean:

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

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

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

23 (D) any machine excluded from the definition of gambling devices
24 under K.S.A. 21-4302(d), prior to its repeal, or K.S.A. 2021 Supp. 21-
25 6403, and amendments thereto;

26 (E) any electronic gaming machine or lottery facility game operated
27 in accordance with the provisions of the Kansas expanded lottery act;

28 (F) any lottery ticket vending machine; or

29 (G) any instant bingo vending machine.

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

32 (t) (1) "Lottery ticket vending machine" means a machine or similar
33 electronic device owned or leased by the Kansas lottery, the sole purposes
34 of which are to:

35 (A) Dispense a printed physical ticket, such as a lottery ticket, a keno
36 ticket, a pull tab ticket or a coupon, the coupon of which must be
37 redeemed through something other than a lottery ticket vending machine,
38 after a purchaser inserts cash or other form of consideration into the
39 machine;

40 (B) allow purchasers to manually check the winning status of a
41 Kansas lottery ticket; and

42 (C) display advertising, promotions and other information pertaining
43 to the Kansas lottery.

1 (2) "Lottery ticket vending machine" shall not:

2 (A) Provide a visual or audio representation of an electronic gaming
3 machine;

4 (B) visually or functionally have the same characteristics of an
5 electronic gaming machine;

6 (C) automatically determine or display the winning status of any
7 dispensed ticket;

8 (D) extend or arrange credit for the purchase of a ticket;

9 (E) dispense any winnings;

10 (F) dispense any prize;

11 (G) dispense any evidence of a prize other than the lottery ticket,
12 keno ticket, pull tab ticket or any free Kansas lottery ticket received as a
13 result of the purchase of another Kansas lottery ticket;

14 (H) provide free games or any other item that can be redeemed for
15 cash; or

16 (I) dispense any other form of a prize to a purchaser.

17 No more than two lottery ticket vending machines may be located at
18 each Kansas lottery retailer selling location.

19 Lottery ticket vending machines may only dispense the printed physical
20 lottery ticket, keno ticket or pull tab ticket, including any free Kansas
21 lottery ticket received as a result of the purchase of another Kansas lottery
22 ticket, and change from a purchase to the purchaser. Any winnings from a
23 lottery ticket vending machine shall be redeemed only for cash or check by
24 a lottery retailer or by cash, check or other prize from the office of the
25 Kansas lottery.

26 (u) (1) "Major procurement" means any gaming product or service,
27 including, but not limited to, facilities, advertising and promotional
28 services, annuity contracts, prize payment agreements, consulting services,
29 equipment, tickets and other products and services unique to the Kansas
30 lottery, but not including materials, supplies, equipment and services
31 common to the ordinary operations of state agencies.

32 (2) "Major procurement" ~~shall~~ *does* not mean any product, service or
33 other matter covered by or addressed in the Kansas expanded lottery act or
34 a lottery gaming facility management contract or racetrack gaming facility
35 management contract executed pursuant to the Kansas expanded lottery
36 act.

37 (v) "Net electronic gaming machine income" means all cash or other
38 consideration utilized to play an electronic gaming machine operated at a
39 racetrack gaming facility, less all cash or other consideration paid out to
40 winning players as prizes.

41 (w) "Organization licensee" ~~has the meaning provided by~~ *means the*
42 *same as defined in K.S.A. 74-8802, and amendments thereto.*

43 (x) "Parimutuel licensee" means a facility owner licensee or facility

1 manager licensee under the Kansas parimutuel racing act.

2 (y) "Parimutuel licensee location" means a racetrack facility, as
3 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
4 by the parimutuel licensee. A parimutuel licensee location ~~may include~~
5 *includes* any existing structure at such racetrack facility or any structure
6 that may be constructed on real estate where such racetrack facility is
7 located.

8 (z) "Person" means any natural person, association, limited liability
9 company, corporation or partnership.

10 (aa) "Prize" means any prize paid directly by the Kansas lottery
11 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
12 any rules and regulations adopted pursuant to either act.

13 (bb) "Progressive electronic game" means a game played on an
14 electronic gaming machine for which the payoff increases uniformly as the
15 game is played and for which the jackpot, determined by application of a
16 formula to the income of independent, local or interlinked electronic
17 gaming machines, may be won.

18 (cc) "Racetrack gaming facility" means that portion of a parimutuel
19 licensee location where electronic gaming machines are operated,
20 managed and maintained.

21 (dd) "Racetrack gaming facility management contract" means an
22 agreement between the Kansas lottery and a racetrack gaming facility
23 manager, negotiated and signed by the executive director on behalf of the
24 state, for placement of electronic gaming machines owned and operated by
25 the state at a racetrack gaming facility.

26 (ee) "Racetrack gaming facility manager" means a parimutuel
27 licensee specifically certified by the Kansas lottery to become a certified
28 racetrack gaming facility manager and offer electronic gaming machines
29 for play at the racetrack gaming facility.

30 (ff) "Returned ticket" means any ticket ~~which~~ *that* was transferred to
31 a lottery retailer, ~~which~~ was not sold by the lottery retailer and ~~which~~
32 was returned to the Kansas lottery for refund by issuance of a credit or
33 otherwise.

34 (gg) "Share" means any intangible manifestation authorized by the
35 Kansas lottery to prove participation in a lottery game, except as provided
36 by the Kansas expanded lottery act.

37 (hh) "Ticket" means any tangible evidence issued by the Kansas
38 lottery to prove participation in a lottery game other than a lottery facility
39 game.

40 (ii) "Token" means a representative of value, of metal or other
41 material, ~~which~~ *that* is not legal tender, redeemable for cash only by the
42 issuing lottery gaming facility manager or racetrack gaming facility
43 manager and ~~which~~ is issued and sold by a lottery gaming facility manager

1 or racetrack gaming facility manager for the sole purpose of playing an
2 electronic gaming machine or lottery facility game.

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

5 (kk) "Video lottery machine" means any electronic video game
6 machine that, upon insertion of cash, is available to play or simulate the
7 play of a video game authorized by the commission, including, but not
8 limited to, bingo, poker, black jack and keno, and ~~which~~ *that* uses a video
9 display and microprocessors and in which, by chance, the player may
10 receive free games or credits that can be redeemed for cash.

11 Sec. 7. K.S.A. 74-8734 is hereby amended to read as follows: 74-
12 8734. (a) The Kansas lottery may operate one lottery gaming facility in
13 each gaming zone.

14 (b) Not more than 30 days after ~~the effective date of this act~~ *April 19,*
15 *2007*, the lottery commission shall adopt and publish in the Kansas register
16 the procedure for receiving, considering and approving, proposed lottery
17 gaming facility management contracts. Such procedure shall include
18 provisions for review of competitive proposals within a gaming zone and
19 the date by which proposed lottery gaming facility management contracts
20 must be received by the lottery commission if they are to receive
21 consideration.

22 (c) The lottery commission shall adopt standards to promote the
23 integrity of the gaming and finances of lottery gaming facilities, ~~which~~
24 *that* shall apply to all management contracts, shall meet or exceed industry
25 standards for monitoring and controlling the gaming and finances of
26 gaming facilities and shall give the executive director sufficient authority
27 to monitor and control the gaming operation and to ensure its integrity and
28 security.

29 (d) The Kansas lottery commission may approve management
30 contracts with one or more prospective lottery gaming facility managers to
31 manage, or construct and manage, on behalf of the state of Kansas and
32 subject to the operational control of the Kansas lottery, a lottery gaming
33 facility or lottery gaming enterprise at specified destination locations
34 within the northeast, south central, southwest and southeast Kansas
35 gaming zones where the commission determines the operation of such
36 facility would promote tourism and economic development. The
37 commission shall approve or disapprove a proposed management contract
38 within 90 days after the deadline for receipt of proposals established
39 pursuant to subsection (b).

40 (e) In determining whether to approve a management contract with a
41 prospective lottery gaming facility manager to manage a lottery gaming
42 facility or lottery gaming enterprise pursuant to this section, the
43 commission shall take into consideration the following factors: The size of

1 the proposed facility; the geographic area in which such facility is to be
2 located; the proposed facility's location as a tourist and entertainment
3 destination; the estimated number of tourists that would be attracted by the
4 proposed facility; the number and type of lottery facility games to be
5 operated at the proposed facility; and agreements related to ancillary
6 lottery gaming facility operations.

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

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

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

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

29 (2) the commission determines that the proposed development
30 consists of an investment in infrastructure, including ancillary lottery
31 gaming facility operations, of at least \$225,000,000 in the northeast and
32 south central Kansas gaming zones and of at least \$50,000,000 in the
33 southeast and southwest Kansas gaming zones. The commission, in
34 determining whether the minimum investment required by this subsection
35 is met, shall not include any amounts derived from or financed by state or
36 local retailers' sales tax revenues.

37 (h) Any management contract approved by the commission under this
38 section shall:

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

43 (2) specify the total amount to be paid to the lottery gaming facility

- 1 manager pursuant to the contract;
- 2 (3) establish a mechanism to facilitate payment of lottery gaming
3 facility expenses, payment of the lottery gaming facility manager's share of
4 the lottery gaming facility revenues and distribution of the state's share of
5 the lottery gaming facility revenues;
- 6 (4) include a provision for the lottery gaming facility manager to pay
7 the costs of oversight and regulation of the lottery gaming facility manager
8 and the operations of the lottery gaming facility by the Kansas racing and
9 gaming commission;
- 10 (5) establish the types of lottery facility games to be installed in such
11 facility;
- 12 (6) provide for the prospective lottery gaming facility manager, upon
13 approval of the proposed lottery gaming facility management contract, to
14 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of
15 being selected as a lottery gaming facility manager of a lottery gaming
16 facility in the northeast or south central Kansas gaming zone and
17 \$5,500,000 for the privilege of being selected as a lottery gaming facility
18 manager of a lottery gaming facility in the southeast or southwest Kansas
19 gaming zone. Such fee shall be deposited in the state treasury and credited
20 to the lottery gaming facility manager fund, which is hereby created in the
21 state treasury;
- 22 (7) incorporate terms and conditions for the ancillary lottery gaming
23 facility operations;
- 24 (8) designate as key employees, subject to approval of the executive
25 director, any employees or contractors providing services or functions
26 ~~which~~ *that* are related to lottery facility games authorized by a
27 management contract;
- 28 (9) include financing commitments for construction;
- 29 (10) include a resolution of endorsement from the city governing
30 body, if the proposed facility is within the corporate limits of a city, or
31 from the county commission, if the proposed facility is located in the
32 unincorporated area of the county;
- 33 (11) include a requirement that any parimutuel licensee developing a
34 lottery gaming facility pursuant to this act comply with all orders and rules
35 and regulations of the Kansas racing and gaming commission with regard
36 to the conduct of live racing, including the same minimum days of racing
37 as specified in K.S.A. 74-8746, and amendments thereto, for operation of
38 electronic gaming machines at racetrack gaming facilities;
- 39 (12) include a provision for the state to receive not less than 22% of
40 lottery gaming facility revenues, ~~which~~ *that* shall be paid to the expanded
41 lottery act revenues fund established by K.S.A. 74-8768, and amendments
42 thereto;
- 43 (13) include a provision for 2% of lottery gaming facility revenues to

1 be paid to the problem gambling and addictions grant fund established by
2 K.S.A. ~~2020 Supp.~~ 79-4805, and amendments thereto;

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

15 (15) (A) if the lottery gaming facility is located in the northeast or
16 southwest Kansas gaming zone and is not located within a city, include a
17 provision for payment of an amount equal to 3% of the lottery gaming
18 facility revenues to the county in which the lottery gaming facility is
19 located; or (B) if the lottery gaming facility is located in the northeast or
20 southwest Kansas gaming zone and is located within a city, include
21 provision for payment of an amount equal to 1.5% of the lottery gaming
22 facility revenues to the city in which the lottery gaming facility is located
23 and an amount equal to 1.5% of such revenues to the county in which such
24 facility is located;

25 (16) (A) if the lottery gaming facility is located in the southeast or
26 south central Kansas gaming zone and is not located within a city, include
27 a provision for payment of an amount equal to 2% of the lottery gaming
28 facility revenues to the county in which the lottery gaming facility is
29 located and an amount equal to 1% of such revenues to the other county in
30 such zone; or (B) if the lottery gaming facility is located in the southeast or
31 south central Kansas gaming zone and is located within a city, provide for
32 payment of an amount equal to 1% of the lottery gaming facility revenues
33 to the city in which the lottery gaming facility is located, an amount equal
34 to 1% of such revenues to the county in which such facility is located and
35 an amount equal to 1% of such revenues to the other county in such zone;

36 (17) allow the lottery gaming facility manager to manage the lottery
37 gaming facility in a manner consistent with this act and applicable law, but
38 shall place full, complete and ultimate ownership and operational control
39 of the gaming operation of the lottery gaming facility with the Kansas
40 lottery. The Kansas lottery shall not delegate and shall explicitly retain the
41 power to overrule any action of the lottery gaming facility manager
42 affecting the gaming operation without prior notice. The Kansas lottery
43 shall retain full control over all decisions concerning lottery gaming

1 facility games;

2 (18) include provisions for the Kansas racing and gaming
3 commission to oversee all lottery gaming facility operations, including, but
4 not limited to: Oversight of internal controls; oversight of security of
5 facilities; performance of background investigations, determination of
6 qualifications and credentialing of employees, contractors and agents of
7 the lottery gaming facility manager and of ancillary lottery gaming facility
8 operations, as determined by the Kansas racing and gaming commission;
9 auditing of lottery gaming facility revenues; enforcement of all state laws
10 and maintenance of the integrity of gaming operations; and

11 (19) include enforceable provisions: (A) Prohibiting the state, until
12 July 1, 2032, from: (i) Entering into management contracts for more than
13 four lottery gaming facilities or similar gaming facilities, *which for*
14 *purposes of this act, shall not constitute or include racetrack gaming*
15 *facilities*, one to be located in the northeast Kansas gaming zone, one to be
16 located in the south central Kansas gaming zone, one to be located in the
17 southwest Kansas gaming zone and one to be located in the southeast
18 Kansas gaming zone; (ii) designating additional areas of the state where
19 operation of lottery gaming facilities or similar gaming facilities would be
20 authorized; or (iii) operating an aggregate of more than 2,800 electronic
21 gaming machines at all parimutuel licensee locations; and (B) requiring
22 the state to repay to the lottery gaming facility manager an amount equal to
23 the privilege fee paid by such lottery gaming facility manager, plus interest
24 on such amount, compounded annually at the rate of 10%, if the state
25 violates the prohibition provision described in (A).

26 (i) The power of eminent domain shall not be used to acquire any
27 interest in real property for use in a lottery gaming enterprise *or a*
28 *racetrack gaming facility*.

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

32 (k) A person who is the manager of the racetrack gaming facility in a
33 gaming zone shall not be eligible to be the manager of the lottery gaming
34 facility in the same zone.

35 (l) Management contracts authorized by this section may include
36 provisions relating to:

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

39 (2) minimum requirements for a lottery gaming facility manager to
40 provide qualified oversight, security and supervision of the lottery facility
41 games including the use of qualified personnel with experience in
42 applicable technology;

43 (3) eligibility requirements for employees, contractors or agents of a

1 lottery gaming facility manager who will have responsibility for or
2 involvement with actual gaming activities or for the handling of cash or
3 tokens;

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

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

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

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

15 (m) A management contract shall not constitute property, nor shall it
16 be subject to attachment, garnishment or execution, nor shall it be
17 alienable or transferable, except upon approval by the executive director,
18 nor shall it be subject to being encumbered or hypothecated. The trustee of
19 any insolvent or bankrupt lottery gaming facility manager may continue to
20 operate pursuant to the management contract under order of the
21 appropriate court for no longer than one year after the bankruptcy or
22 insolvency of such manager.

23 (n) (1) The Kansas lottery shall be the licensee and owner of all
24 software programs used at a lottery gaming facility for any lottery facility
25 game.

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

30 (o) A lottery gaming facility shall comply with any planning and
31 zoning regulations of the city or county in which it is to be located. The
32 executive director shall not contract with any prospective lottery gaming
33 facility manager for the operation and management of such lottery gaming
34 facility unless such manager first receives any necessary approval under
35 planning and zoning requirements of the city or county in which it is to be
36 located.

37 (p) Prior to expiration of the term of a lottery gaming facility
38 management contract, the lottery commission may negotiate a new lottery
39 gaming facility management contract with the lottery gaming facility
40 manager if the new contract is substantially the same as the existing
41 contract. Otherwise, the lottery gaming facility review board shall be
42 reconstituted and a new lottery gaming facility management contract shall
43 be negotiated and approved in the manner provided by this act.

1 Sec. 8. K.S.A. 74-8741 is hereby amended to read as follows: 74-
2 8741. (a) *Subject to the provisions of K.S.A. 74-8743, and amendments*
3 *thereto*, the executive director of the Kansas lottery shall negotiate a
4 racetrack gaming facility management contract to place electronic gaming
5 machines at one parimutuel licensee location in each gaming zone except
6 the southwest Kansas gaming zone.

7 (b) To be eligible to enter into a racetrack gaming facility
8 management contract the prospective racetrack gaming facility manager
9 shall, at a minimum:

10 (1) Have sufficient access to financial resources to support the
11 activities required of a racetrack gaming facility manager under the Kansas
12 expanded lottery act; and

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

18 (c) A racetrack gaming facility management contract shall include:

19 (1) The term of the contract;

20 (2) provisions for the Kansas racing and gaming commission to
21 oversee all racetrack gaming facility operations, including, but not limited to:
22 Oversight of internal controls; oversight of security of facilities;
23 performance of background investigations, determination of qualifications
24 and any required certification or licensing of officers, directors, board
25 members, employees, contractors and agents of the racetrack gaming
26 facility manager; auditing of net electronic gaming machine income and
27 maintenance of the integrity of electronic gaming machine operations;

28 (3) provisions for the racetrack gaming facility manager to pay the
29 costs of oversight and regulation of the racetrack gaming facility manager
30 under this act and such manager's racetrack gaming facility operations by
31 the Kansas racing and gaming commission; and

32 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
33 2032, from ~~(i) entering into management contracts for more than three~~
34 ~~lottery racetrack gaming facilities or similar gaming facilities~~, one to be
35 located in the northeast Kansas gaming zone, one to be located in the south
36 central Kansas gaming zone and one to be located in the southeast Kansas
37 gaming zone, ~~(ii) designating additional areas of the state where operation~~
38 ~~of lottery gaming facilities or similar gaming facilities would be~~
39 ~~authorized or (iii) operating an aggregate of more than 2,800 electronic~~
40 ~~gaming machines at all parimutuel licensee locations~~; and (B) requiring
41 the state to repay to the racetrack gaming facility manager an amount
42 equal to the privilege fee paid by such racetrack gaming facility manager,
43 plus interest on such amount, compounded annually at the rate of 10%, if

1 the state violates the prohibition provision described in (A).

2 (d) Racetrack gaming facility management contracts authorized by
3 this section may include provisions relating to:

4 (1) Accounting procedures to determine net electronic gaming
5 machine income, unclaimed prizes and credits;

6 (2) minimum requirements for a racetrack gaming facility manager to
7 provide qualified oversight, security and supervision of electronic gaming
8 machines including the use of qualified personnel with experience in
9 applicable technology;

10 (3) eligibility requirements for employees, contractors or agents of a
11 racetrack gaming facility manager who will have responsibility for or
12 involvement with electronic gaming machines or for the handling of cash
13 or tokens;

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

16 (5) credentialing or certification requirements of any employee,
17 contractor or agent as provided by the Kansas expanded lottery act or rules
18 and regulations adopted pursuant thereto;

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

21 (7) any other provision deemed necessary by the parties, including
22 such other terms and restrictions as necessary to conduct racetrack gaming
23 facility operations in a legal and fair manner.

24 (e) A person who is the manager of a lottery gaming facility in a
25 gaming zone shall not be eligible to be the manager of the racetrack
26 gaming facility in the same zone.

27 (f) A racetrack gaming facility management contract shall not
28 constitute property, nor shall it be subject to attachment, garnishment or
29 execution, nor shall it be alienable or transferable, except upon approval
30 by the executive director, nor shall it be subject to being encumbered or
31 hypothecated.

32 Sec. 9. K.S.A. 74-8743 is hereby amended to read as follows: 74-
33 8743. (a) The board of county commissioners of ~~each~~ any county where
34 there is ~~a~~ an existing or former parimutuel licensee location may, by
35 resolution, submit to the qualified voters of the county a proposition to
36 permit the placement of electronic gaming machines in the county as
37 provided in this section, or, upon the presentation of a valid petition signed
38 by not fewer than 5,000 qualified voters of the county, shall submit to the
39 qualified voters of the county a proposition to permit the placement of
40 electronic gaming machines in the county as provided in this section. The
41 proposition ~~shall~~ may be submitted or resubmitted to the voters at any
42 primary or general election or at a special election called by the board of
43 county commissioners for that purpose ~~and~~. Such election shall be held not

1 more than ~~180~~ 150 days after the ~~effective date of this act~~ adoption of a
 2 resolution by the board of county commissioners or the receipt of a valid
 3 petition for submission of such a proposition.

4 (b) Upon the adoption of a resolution *or the receipt of a valid petition*
 5 calling for an election pursuant to this section *in Sedgwick county*, the
 6 county election officer shall cause the ~~following~~ proposition to be placed
 7 on the ballot ~~at the election called for that purpose~~: "Shall the Kansas
 8 Lottery be authorized to place electronic gaming machines in _____
 9 county?" *as a question in substantial compliance with the following:*
 10 *"Shall the operation of electronic gaming machines by the Kansas lottery*
 11 *be authorized at the former parimutuel licensee location in Sedgwick*
 12 *county, commonly known as Wichita greyhound park?"*

13 (c) If a majority of the votes cast and counted at *any* such election is
 14 in favor of approving the placement of electronic gaming machines in the
 15 county, the Kansas lottery ~~may~~ shall place and operate electronic gaming
 16 machines at a parimutuel licensee location in the county, subject to the
 17 provisions of this act. If a majority of the votes cast and counted ~~at an~~ *any*
 18 *such* election ~~under this section~~ is against permitting placement of
 19 electronic gaming machines in the county, the Kansas lottery shall not
 20 place or operate electronic gaming machines at a parimutuel licensee
 21 location in the county, *unless and until approved by a majority of votes*
 22 *cast in a subsequent election brought and conducted in accordance with*
 23 *this section*. The county election officer shall transmit a copy of the
 24 certification of the results of the election to the executive director.

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

28 (e) ~~(1) The lottery commission may waive the~~ *There shall be no*
 29 *requirement that for an election to be held pursuant to this section if the*
 30 *lottery commission determines that after December 31, 2004, and before*
 31 *the effective date of this act prior to July 1, 2021, the county has held an*
 32 *election of qualified voters pursuant to the county's home rule authority:*
 33 ~~(1)(A)~~ *(A) At which the ballot question was in ~~substantial~~ general compliance*
 34 *with the requirements of this section in effect at the time of such election;*
 35 ~~(2) which~~ *(B) that was administered by the county election officer in a*
 36 *manner consistent with the requirements of state election law; and* ~~(3)(C)~~
 37 *at which a majority of the votes cast and counted was in favor of the*
 38 *proposition.*

39 *(2) Wyandotte and Crawford counties are hereby deemed to have*
 40 *satisfied the requirements of this subsection and no subsequent election*
 41 *shall be required prior to the placement of electronic gaming machines in*
 42 *such counties.*

43 (f) The question of the placement of electronic gaming machines in a

1 county may be submitted at the same election as the question of operation
 2 of a lottery gaming facility in the county under K.S.A. 74-8737, and
 3 ~~amendments thereto~~ to the qualified voters of the county in accordance
 4 with the provisions of this section at any time, except if such a proposition
 5 has been approved by a majority of the qualified voters of such county,
 6 then the question shall not be submitted at any subsequent election.

7 (g) Nothing in this section shall be construed as effecting the
 8 placement of any historical horse race machine, as defined in K.S.A. 74-
 9 8802, and amendments thereto, in any county subject to the provisions of
 10 this section.

11 Sec. 10. K.S.A. 74-8746 is hereby amended to read as follows: 74-
 12 8746. (a) Except as provided in subsection (b):

13 (1) No electronic gaming machines shall be operated at a parimutuel
 14 licensee location in Sedgwick county unless, during the first full calendar
 15 year and each year thereafter in which electronic gaming machines are
 16 operated at such location, the parimutuel licensee conducts at such location
 17 at least 100 live greyhound races each calendar week for the number of
 18 weeks raced during calendar year 2003 with at least 13 live races
 19 conducted each day for not less than five days per week.

20 (2) No electronic gaming machines shall be operated at a parimutuel
 21 licensee location in Wyandotte county unless, during the first full calendar
 22 year and each year thereafter in which electronic gaming machines are
 23 operated at such location, the parimutuel licensee ~~conducts~~ *schedules to*
 24 *conduct at such location live or simulcast* horse racing programs for at
 25 least 60 days, with at least 10 live races conducted each program, and must
 26 offer and make a reasonable effort to conduct a minimum number of three
 27 live races restricted for quarter horses each day and seven live
 28 thoroughbred races each day, of which not less than two races each day
 29 shall be limited to registered Kansas-bred horses apportioned in the same
 30 ratio that live races are offered, except that the licensee shall not be
 31 required to conduct the second live race restricted to Kansas-bred horses
 32 unless there are at least seven qualified entries for such race, and with at
 33 least 100 live greyhound races each calendar week for at least the same
 34 number of weeks raced during calendar year 2003, with at least 13 live
 35 races conducted each day for not less than five days per week. *Operation*
 36 *of electronic gaming machines at any parimutuel licensee location may*
 37 *commence upon the approval of the scheduled live or simulcast horse*
 38 *racing program by the Kansas racing and gaming commission.*

39 (3) No electronic gaming machines shall be operated at a parimutuel
 40 licensee location in Crawford county unless, during the first full calendar
 41 year and each year thereafter in which electronic gaming machines are
 42 operated at such location, the parimutuel licensee conducts at such location
 43 at least 85 live greyhound races each calendar week for the number of

1 weeks raced during calendar year 2003 in Sedgwick county, with at least
2 12 live races conducted each day for not less than five days per week.

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

14 ~~(b) The Kansas racing and gaming commission may not grant~~
15 ~~exceptions to the requirements of subsection (a) for a parimutuel licensee~~
16 ~~conducting live racing unless such exception is in the form of an~~
17 ~~agreement which:~~

18 ~~(1) Is between the parimutuel licensee and the affected recognized~~
19 ~~greyhound or recognized horsemen's group, as defined in K.S.A. 74-8802,~~
20 ~~and amendments thereto;~~

21 ~~(2) has been approved by the appropriate official breed registering~~
22 ~~agencies; and~~

23 ~~(3) has been submitted to and approved by the commission.~~

24 ~~In the case of emergencies, weather related issues or immediate~~
25 ~~circumstances beyond the control of the licensee, the Kansas racing and~~
26 ~~gaming commission may grant an exception.~~

27 Sec. 11. K.S.A. 74-8747 is hereby amended to read as follows: 74-
28 8747. (a) *A racetrack gaming facility management contract shall include*
29 *provisions for net electronic gaming machine income from a racetrack*
30 *gaming facility shall to be distributed as follows:*

31 ~~(1) To the racetrack gaming facility manager, an amount equal to~~
32 ~~25%Twenty-two percent of net electronic gaming machine income shall be~~
33 ~~credited to the expanded lottery act revenues fund;~~

34 ~~(2) 7% of net electronic gaming machine income shall be credited to~~
35 ~~the live horse racing purse supplement fund established by K.S.A. 74-~~
36 ~~8767, and amendments thereto, except that the amount of net electronic~~
37 ~~gaming machine income credited to the fund during any fiscal year from~~
38 ~~electronic gaming machines at a racetrack gaming facility shall not exceed~~
39 ~~an amount equal to the average of \$3,750 per electronic gaming machine~~
40 ~~at each location and any moneys in excess of such amount shall be~~
41 ~~distributed between the state and the racetrack gaming facility manager in~~
42 ~~accordance with the racetrack gaming facility management contract;~~

43 ~~(3) 7% of net electronic gaming machine income shall be credited to~~

1 the live greyhound racing purse supplement fund established by K.S.A.
 2 74-8767, and amendments thereto, except that the amount of net electronic
 3 gaming machine income credited to the fund during any fiscal year from
 4 electronic gaming machines at a racetrack gaming facility shall not exceed
 5 an amount equal to the average of \$3,750 per electronic gaming machine
 6 at each location and any moneys in excess of such amount shall be
 7 distributed between the state and the racetrack gaming facility manager in
 8 accordance with the racetrack gaming facility management contract;

9 (4)(A) if the racetrack gaming facility is located in the northeast
 10 Kansas gaming zone and is not located within a city, include a provision
 11 for payment of an amount equal to ~~3%~~ 2% of the racetrack gaming facility
 12 revenues *net electronic gaming machine income* to the county in which the
 13 racetrack gaming facility is located; or (B) if the racetrack gaming facility
 14 is located in the northeast Kansas gaming zone and is located within a city,
 15 include provision for payment of an amount equal to ~~1.5%~~ 1% of the
 16 racetrack gaming facility revenues *net electronic gaming machine income*
 17 to the city in which the racetrack gaming facility is located and an amount
 18 equal to ~~1.5%~~ 1% of such revenues *net electronic gaming machine income*
 19 to the county in which such facility is located;

20 (5)(3) (A) if the racetrack gaming facility is located in the ~~southeast~~
 21 ~~or~~ south central Kansas gaming zone and is not located within a city,
 22 include a provision for payment of an amount equal to 2% of the racetrack
 23 gaming facility revenues *net electronic gaming machine income* to the
 24 county in which the racetrack gaming facility is located ~~and an amount~~
 25 ~~equal to 1% of such revenues to the other county in such zone;~~ or (B) if the
 26 racetrack gaming facility is located in the ~~southeast or~~ south central
 27 Kansas gaming zone and is located within a city, provide for payment of
 28 an amount equal to 1% of the racetrack gaming facility revenues *net*
 29 *electronic gaming machine income* to the city in which the racetrack
 30 gaming facility is located; *and* an amount equal to 1% of such revenues
 31 *net electronic gaming machine income* to the county in which such facility
 32 is located ~~and an amount equal to 1% of such revenues to the other county~~
 33 ~~in such zone;~~

34 (6) ~~2%~~ (4) (A) if the racetrack gaming facility is located in the
 35 southeast Kansas gaming zone and is not located within a city, include a
 36 provision for payment of an amount equal to 2% of the net electronic
 37 gaming machine income to the county in which the racetrack gaming
 38 facility is located and an amount equal to 1% of such net electronic
 39 gaming machine income to the other county in such zone; or (B) if the
 40 racetrack gaming facility is located in the southeast Kansas gaming zone
 41 and is located within a city, an amount equal to 1% of the net electronic
 42 gaming machine income shall be paid to the city in which the racetrack
 43 gaming facility is located, an amount equal to 1% of such net electronic

1 *gaming machine income shall be paid to the county in which the racetrack*
 2 *gaming facility is located and an amount equal to 1% of such net*
 3 *electronic gaming machine income shall be paid to the other county in*
 4 *such zone;*

5 (5) 0.5% of net electronic gaming machine income shall be credited
 6 to the problem gambling and addictions grant fund established by K.S.A.
 7 2020 Supp. 79-4805, and amendments thereto;

8 ~~(7) 1% of net electronic gaming machine income shall be credited to~~
 9 ~~the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,~~
 10 ~~and amendments thereto;~~

11 ~~(8) 40% of net electronic gaming machine income shall be credited to~~
 12 ~~the expanded lottery act revenues fund~~

13 (6) 0.1% of net electronic gaming machine income derived from
 14 electronic gaming machines located at a racetrack gaming facility located
 15 in the south central Kansas gaming zone shall be credited to the Kansas
 16 horse council fund, established by section 7, and amendments thereto; and

17 ~~(9) 15% of electronic gaming machine income shall be used for~~
 18 ~~gaming expenses, subject to agreement between the Kansas lottery and the~~
 19 ~~racetrack gaming facility manager~~

20 (7) *the remaining balance of net electronic gaming machine income*
 21 *shall be paid to the racetrack gaming facility manager.*

22 (b) A racetrack gaming facility management contract may include
 23 provisions for a parimutuel licensee or any other entity to pay the
 24 parimutuel licensee's expenses related to electronic gaming machines, as
 25 the executive director deems appropriate, ~~subject to the requirements of~~
 26 ~~subsection (a)(9).~~

27 Sec. 12. K.S.A. 74-8802 is hereby amended to read as follows: 74-
 28 8802. As used in the Kansas parimutuel racing act unless the context
 29 otherwise requires:

30 (a) "Breakage" means the odd cents by which the amount payable on
 31 each dollar wagered exceeds:

32 (1) A multiple of \$.10, for parimutuel pools from races conducted in
 33 this state; and

34 (2) a multiple of such other number of cents as provided by law of the
 35 host jurisdiction, for interstate combined wagering pools.

36 (b) "Commission" means the Kansas racing and gaming commission
 37 created by this act.

38 (c) "Concessionaire licensee" means a person, partnership,
 39 corporation or association licensed by the commission to utilize a space or
 40 privilege within a racetrack facility to sell goods or services.

41 (d) "Contract" means an agreement, written or oral, between two or
 42 more persons, partnerships, corporations or associations, or any
 43 combination thereof, ~~which~~ *that* creates an obligation between the parties.

1 (e) "Crossover employment" means a situation in which an
2 occupational licensee is concurrently employed at the same racing facility
3 by an organization licensee and a facility owner licensee or facility
4 manager licensee.

5 (f) "Dual racetrack facility" means a racetrack facility for the racing
6 of both horses and greyhounds or two immediately adjacent racetrack
7 facilities, owned by the same licensee, one for racing horses and one for
8 racing greyhounds.

9 (g) "Executive director" means the executive director of the
10 commission.

11 (h) "Facility manager licensee" means a person, partnership,
12 corporation or association licensed by the commission and having a
13 contract with an organization licensee to manage a racetrack facility.

14 (i) "Facility owner licensee" means a person, partnership, corporation
15 or association, or the state of Kansas or any political subdivision thereof,
16 licensed by the commission to construct or own a racetrack facility but
17 does not mean an organization licensee—~~which~~ *that* owns the racetrack
18 facility in which it conducts horse or greyhound racing.

19 (j) "Fair association" means an association organized pursuant to
20 K.S.A. 2-125 et seq. and amendments thereto or a nonprofit association
21 determined by the commission to be otherwise organized to conduct fair
22 activities pursuant to findings of fact entered by the commission in a
23 license order.

24 (k) "Financial interest" means an interest that could result directly or
25 indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as a
26 result of ownership or interest in a business entity or activity or as a result
27 of a salary, gratuity or other compensation or remuneration from any
28 person.

29 (l) "Greyhound" means any greyhound breed of dog properly
30 registered with the national greyhound association of Abilene, Kansas.

31 (m) *"Historical horse race machine" means any electronic,*
32 *electromechanical, video or computerized device, contrivance or machine*
33 *authorized by the commission that, upon insertion of cash, tokens,*
34 *electronic cards or any consideration, is available to accept wagers on*
35 *and simulate the running of historical horse races, and that may deliver or*
36 *entitle the patron operating the machine to receive cash, tokens,*
37 *merchandise or credits that may be redeemed for cash. Historical horse*
38 *race machines shall use historically accurate information of the horse*
39 *race selected to determine the place of finish of each horse. No random*
40 *number generator or other algorithm shall be used for determining the*
41 *results of an historical horse race. Historical horse race machines shall be*
42 *directly linked to a central computer at a location determined by the*
43 *commission for purposes of security, monitoring and auditing.*

1 (n) "Horsemen's association" means any association or corporation:

2 (1) All officers, directors, members and shareholders of which are
3 licensed owners of horses or licensed trainers of horses, or both;

4 (2) ~~which is~~ applying for or has been issued a facility owner license
5 authorizing ownership of Eureka Downs, Anthony Downs or a racetrack
6 facility on or adjacent to premises used by a fair association to conduct fair
7 activities; and

8 (3) none of the officers, directors, members or shareholders of which
9 holds another facility owner license or is an officer, director, member or
10 shareholder of another facility owner licensee.

11 ~~(n)~~(o) "Horsemen's nonprofit organization" means any nonprofit
12 organization:

13 (1) All officers, directors, members or shareholders of which are
14 licensed owners of horses or licensed trainers of horses, or both; and

15 (2) ~~which is~~ applying for or has been issued an organization license
16 authorizing the conduct of horse races at Eureka Downs, Anthony Downs
17 or a racetrack facility on or adjacent to premises used by a fair association
18 to conduct fair activities.

19 ~~(o)~~(p) "Host facility" means the racetrack at which the race is run or,
20 if the race is run in a jurisdiction ~~which~~ that is not participating in the
21 interstate combined wagering pool, the racetrack or other facility ~~which~~
22 that is designated as the host facility.

23 ~~(p)~~(q) "Host jurisdiction" means the jurisdiction where the host
24 facility is located.

25 ~~(q)~~(r) "Interstate combined wagering pool" means a parimutuel pool
26 established in one jurisdiction ~~which~~ that is combined with comparable
27 parimutuel pools from one or more racing jurisdictions for the purpose of
28 establishing the amount of money returned on a successful wager in the
29 participating jurisdictions.

30 ~~(r)~~(s) "Intertrack wagering" means wagering on a simulcast race at a
31 licensed racetrack facility or at a facility ~~which~~ that is licensed in its racing
32 jurisdiction to conduct live races.

33 ~~(s)~~(t) "Intrastate combined wagering pool" means a parimutuel pool
34 ~~which~~ that is combined with comparable parimutuel pools from one or
35 more racetrack facilities for the purpose of establishing the amount of
36 money returned on a successful wager at the participating racetrack
37 facilities.

38 ~~(t)~~(u) "Kansas-whelped greyhound" means a greyhound whelped and
39 raised in Kansas for the first six months of its life.

40 ~~(u)~~(v) "Minus pool" means a parimutuel pool in which, after
41 deducting the takeout, not enough money remains in the pool to pay the
42 legally prescribed minimum return to those placing winning wagers, and in
43 which the organization licensee would be required to pay the remaining

1 amount due.

2 ~~(v)~~(w) "Nonprofit organization" means:

3 (1) A corporation ~~which~~ that is incorporated in Kansas as a not-for-
4 profit corporation pursuant to the Kansas general corporation code and the
5 net earnings of which do not inure to the benefit of any shareholder,
6 individual member or person; or

7 (2) a fair association.

8 ~~(w)~~(x) "Occupation licensee" means a person licensed by the
9 commission to perform an occupation or provide services ~~which~~ that the
10 commission has identified as requiring a license pursuant to this act.

11 ~~(x)~~(y) "Off-track wagering" means wagering on a simulcast race at a
12 facility ~~which~~ that is not licensed in its jurisdiction to conduct live races.

13 ~~(y)~~(z) "Organization licensee" means a nonprofit organization
14 licensed by the commission to conduct races pursuant to this act and, if the
15 license so provides, to construct or own a racetrack facility.

16 ~~(z)~~(aa) "Parimutuel pool" means the total money wagered by
17 individuals on one or more horses or greyhounds in a particular horse or
18 greyhound race to win, place or show, or combinations thereof, as
19 established by the commission, and, except in the case of an interstate or
20 intrastate combined wagering pool, held by the organization licensee
21 pursuant to the parimutuel system of wagering. There is a separate
22 parimutuel pool for win, for place, for show and for each of the other
23 forms of betting provided for by the rules and regulations of the
24 commission.

25 ~~(aa)~~(bb) "Parimutuel wagering" means a form of wagering on the
26 outcome of horse and greyhound races, *including historical horse races*
27 *conducted by an historical horse race machine*, in which those who wager
28 purchase tickets of various denominations on one or more horses or
29 greyhounds and all wagers for each race are pooled and the winning ticket
30 holders are paid prizes from such pool in amounts proportional to the total
31 receipts in the pool.

32 ~~(bb)~~(cc) "Race meeting" means one or more periods of racing days
33 during a calendar year designated by the commission for which an
34 organization licensee has been approved by the commission to hold live or
35 simulcast horse or greyhound races at which parimutuel wagering is
36 conducted, including such additional time as designated by the
37 commission for the conduct of official business before and after the races.

38 ~~(cc)~~(dd) "Racetrack facility" means a racetrack within Kansas used
39 for the racing of horses or greyhounds, or both, including the track surface,
40 grandstands, clubhouse, all animal housing and handling areas, other areas
41 in which a person may enter only upon payment of an admission fee or
42 upon presentation of authorized credentials and such additional areas as
43 designated by the commission. *The term "racetrack facility" includes a*

1 *facility used for the display of and wagering on simulcast races and the*
 2 *operation of historical horse race machines without any live horse or*
 3 *greyhound races being conducted.*

4 ~~(dd)~~(ee) "Racing jurisdiction" or "jurisdiction" means a governmental
 5 authority ~~which~~ *that* is responsible for the regulation of live or simulcast
 6 racing in its jurisdiction.

7 ~~(ee)~~(ff) "Racing or wagering equipment or services licensee" means
 8 any person, partnership, corporation or association licensed by the
 9 commission to provide integral racing or wagering equipment or services,
 10 as designated by the commission, to an organization licensee.

11 ~~(ff)~~(gg) "Recognized greyhound owners' group" means the duly
 12 recognized group elected in accordance with rules and regulations of the
 13 commission by a majority of the Kansas licensed greyhound owners at the
 14 racetrack facility voting in the election. The commission may designate an
 15 organization such as the national greyhound association of Abilene,
 16 Kansas, to conduct the election.

17 ~~(gg)~~(hh) "Recognized horsemen's group" means the duly recognized
 18 group, representing the breeds of horses running at a racetrack facility,
 19 elected in accordance with rules and regulations of the commission by a
 20 majority of the licensed owners and trainers at the racetrack facility voting
 21 in the election. If the licensee does not have a recognized horsemen's
 22 group, the commission shall designate as the recognized horsemen's group
 23 one that serves another organization licensee, but not one that serves a fair
 24 association organization licensee.

25 ~~(hh)~~(ii) "Simulcast" means a live audio-visual broadcast of an actual
 26 horse or greyhound race at the time it is run.

27 ~~(ii)~~(jj) "Takeout" means the total amount of money withheld from
 28 each parimutuel pool for the payment of purses, taxes and the share to be
 29 kept by the organization licensee. Takeout does not include the breakage.
 30 The balance of each pool less the breakage is distributed to the holders of
 31 winning parimutuel tickets.

32 Sec. 13. K.S.A. 74-8804 is hereby amended to read as follows: 74-
 33 8804. (a) During *live race meetings or simulcast racing operations*, the
 34 commission and its designated employees may observe and inspect all
 35 racetrack facilities operated by licensees ~~and~~, all racetracks simulcasting
 36 races to racetrack facilities in Kansas *and all historical horse race*
 37 *machines*, including, but not limited to, all machines, equipment and
 38 facilities used for parimutuel wagering.

39 (b) Commission members and presiding officers may administer
 40 oaths and take depositions to the same extent and subject to the same
 41 limitations as would apply if the deposition was in aid of a civil action in
 42 the district court.

43 (c) The commission may examine, or cause to be examined by any

1 agent or representative designated by the commission, any books, papers,
2 records or memoranda of any licensee, or of any racetrack or business
3 involved in simulcasting races to racetrack facilities in Kansas *or*
4 *operating historical horse race machines*, for the purpose of ascertaining
5 compliance with any provision of this act or any rule and regulation
6 adopted hereunder.

7 (d) The commission may issue subpoenas to compel access to or for
8 the production of any books, papers, records or memoranda in the custody
9 or control of any licensee or officer, member, employee or agent of any
10 licensee, or to compel the appearance of any licensee or officer, member,
11 employee or agent of any licensee, or of any racetrack or business
12 involved in simulcasting races to racetrack facilities in this state *or*
13 *operating historical horse race machines*, for the purpose of ascertaining
14 compliance with any of the provisions of this act or any rule and regulation
15 adopted hereunder. Subpoenas issued pursuant to this subsection may be
16 served upon individuals and corporations in the same manner provided in
17 K.S.A. 60-304, and amendments thereto, for the service of process by any
18 officer authorized to serve subpoenas in civil actions or by the commission
19 or an agent or representative designated by the commission. In the case of
20 the refusal of any person to comply with any such subpoena, the executive
21 director may make application to the district court of any county where
22 such books, papers, records, memoranda or person is located for an order
23 to comply.

24 (e) The commission shall allocate equitably race meeting dates,
25 racing days and hours to all organization licensees and assign such dates
26 and hours so as to minimize conflicting dates and hours within the same
27 geographic market area.

28 (f) The commission shall have the authority, after notice and an
29 opportunity for hearing in accordance with rules and regulations adopted
30 by the commission, to exclude, or cause to be expelled, from any race
31 meeting or racetrack facility, or to prohibit a licensee from conducting
32 business with any person:

33 (1) Who has violated the provisions of this act or any rule and
34 regulation or order of the commission;

35 (2) who has been convicted of a violation of the racing or gambling
36 laws of this or any other state or of the United States or has been
37 adjudicated of committing as a juvenile an act which, if committed by an
38 adult, would constitute such a violation; or

39 (3) whose presence, in the opinion of the commission, reflects
40 adversely on the honesty and integrity of horse or greyhound racing or
41 interferes with the orderly conduct of a race meeting.

42 (g) The commission shall review and approve all proposed
43 construction and major renovations to racetrack facilities owned or leased

1 by licensees.

2 (h) The commission shall review and approve all proposed contracts
3 with racetracks or businesses involved in simulcasting races to racetrack
4 facilities in Kansas *or operating historical horse race machines*.

5 (i) The commission may suspend a horse or greyhound from
6 participation in races if such horse or greyhound has been involved in any
7 violation of the provisions of this act or any rule and regulation or order of
8 the commission.

9 (j) The commission, within 72 hours after any action taken by a
10 steward or racing judge and upon appeal by any interested party or upon
11 its own initiative, may overrule any decision of a steward or racing judge,
12 other than a decision regarding disqualifications for interference during the
13 running of a race, if the preponderance of evidence indicates that:

- 14 (1) The steward or racing judge mistakenly interpreted the law;
- 15 (2) new evidence of a convincing nature is produced; or
- 16 (3) the best interests of racing and the state may be better served.

17 A decision of the commission to overrule any decision of a steward or
18 racing judge shall not change the distribution of parimutuel pools to the
19 holders of winning tickets. A decision of the commission which would
20 affect the distribution of purses in any race shall not result in a change in
21 that distribution unless a written claim is submitted to the commission
22 within 48 hours after completion of the contested race by one of the
23 owners or trainers of a horse or greyhound ~~which that~~ participated in such
24 race and a preponderance of evidence clearly indicates to the commission
25 that one or more of the grounds for protest, as provided for in rules and
26 regulations of the commission, has been substantiated.

27 (k) *The commission shall review and approve all proposed historical*
28 *horse race machines and all proposed types of wagering to be conducted*
29 *on such machines.*

30 (l) The commission, after notice and a hearing in accordance with
31 rules and regulations adopted by the commission, may impose a civil fine
32 not exceeding \$5,000 for each violation of any provision of this act, or any
33 rule and regulation of the commission, for which no other penalty is
34 provided.

35 ~~(m)~~(m) The commission shall adopt rules and regulations specifying
36 and regulating:

37 (1) Those drugs and medications ~~which that~~ may be administered,
38 and possessed for administration, to a horse or greyhound within the
39 confines of a racetrack facility; and

40 (2) that equipment for administering drugs or medications to horses
41 or greyhounds ~~which that~~ may be possessed within the confines of a
42 racetrack facility.

43 ~~(n)~~(n) The commission may adopt rules and regulations providing

1 for the testing of any licensees of the commission, and any officers,
2 directors and employees thereof, to determine whether they are users of
3 any controlled substances.

4 ~~(h)~~(o) The commission shall require fingerprinting of all persons
5 necessary to verify qualification for employment by the commission or to
6 verify qualification for any license, including a simulcasting license,
7 issued pursuant to this act. The commission shall submit such fingerprints
8 to the Kansas bureau of investigation and to the federal bureau of
9 investigation for the purposes of verifying the identity of such persons and
10 obtaining records of criminal arrests and convictions.

11 ~~(h)~~(p) The commission may receive from commission security
12 personnel, the Kansas bureau of investigation or other criminal justice
13 agencies, including, but not limited to, the federal bureau of investigation
14 and the federal internal revenue service, such criminal history record
15 information (including arrest and nonconviction data), criminal
16 intelligence information and information relating to criminal and
17 background investigations as necessary for the purpose of determining
18 qualifications of licensees of the commission, employees of the
19 commission, applicants for employment by the commission, and
20 applicants for licensure by the commission, including applicants for
21 simulcasting licenses. Upon the written request of the chairperson of the
22 commission, the commission may receive from the district courts such
23 information relating to juvenile proceedings as necessary for the purpose
24 of determining qualifications of employees of and applicants for
25 employment by the commission and determining qualifications of
26 licensees of and applicants for licensure by the commission. Such
27 information, other than conviction data, shall be confidential and shall not
28 be disclosed except to members and employees of the commission as
29 necessary to determine qualifications of such licensees, employees and
30 applicants. Any other disclosure of such confidential information is a class
31 A misdemeanor and shall constitute grounds for removal from office,
32 termination of employment or denial, revocation or suspension of any
33 license issued under this act.

34 ~~(h)~~(q) The commission, in accordance with K.S.A. 75-4319, and
35 amendments thereto, may recess for a closed or executive meeting to
36 receive and discuss information received by the commission pursuant to
37 subsection (o) and to negotiate with licensees of or applicants for licensure
38 by the commission regarding any such information.

39 ~~(h)~~(r) The commission may enter into agreements with the federal
40 bureau of investigation, the federal internal revenue service, the Kansas
41 attorney general or any state, federal or local agency as necessary to carry
42 out the duties of the commission under this act.

43 ~~(h)~~(s) The commission shall adopt such rules and regulations as

1 necessary to implement and enforce the provisions of this act.

2 Sec. 14. K.S.A. 74-8814 is hereby amended to read as follows: 74-
3 8814. (a) (1) Subject to the provisions of subsection (b), the commission
4 shall establish by rules and regulations an application fee not exceeding
5 ~~\$500 for any of the following which applies~~ \$50 for an organization
6 license and ~~the a license fee of \$25 for each day of racing approved by the~~
7 ~~commission for any of the following organization~~ granted an organization
8 license shall be \$100 for each day of racing approved by the commission.

9 ~~(1)(2) Any fair association other than the Greenwood county and~~
10 ~~Anthony fair associations, any or horsemen's nonprofit organization or the~~
11 ~~national greyhound association of Abilene, Kansas, may apply for an~~
12 ~~organization license if:~~

13 (A) ~~Such association~~ organization conducts not more than two race
14 meetings each year;

15 (B) such race meets are held within the boundaries of the county
16 where the applicant is located; and

17 (C) such race meetings are held for a total of not more than 40 days
18 per year; ~~or~~

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

26 (b) The commission shall adopt rules and regulations providing for
27 simplified and less costly procedures and requirements for fair associations
28 and horsemen's nonprofit organizations applying for or holding a license to
29 conduct race meetings.

30 (c) The Kansas racing and gaming commission shall investigate:

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

34 (2) each officer and each director of a nonprofit horsemen's
35 organization, and such other members or shareholders as the commission
36 considers necessary to determine eligibility for an organization license.

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

41 Sec. 15. K.S.A. 74-8823 is hereby amended to read as follows: 74-
42 8823. (a) There is hereby imposed a tax on the gross sum wagered by the
43 parimutuel method as follows:

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

3 (2) except as provided by subsection (a)(3), for live greyhound races
4 conducted in this state at a racetrack facility for the racing of only
5 greyhounds:

6 (A) During the first four years when racing with parimutuel wagering
7 is conducted at such facility, a tax at the rate of $\frac{3}{18}$ of the total daily
8 takeout from parimutuel pools for live greyhound races; and

9 (B) thereafter, from parimutuel pools for each live greyhound
10 performance, a tax at the rate of $\frac{3}{18}$ of the first \$400,000 wagered, $\frac{4}{18}$ of
11 the next \$200,000 wagered and $\frac{5}{18}$ of any amounts wagered exceeding
12 \$600,000;

13 (3) for live greyhound races conducted in this state at a dual racetrack
14 facility or at a racetrack facility owned by a licensee whose license
15 authorizes the construction of a dual racetrack facility:

16 (A) During the first seven years when racing with parimutuel
17 wagering is conducted at such facility, a tax at the rate of $\frac{3}{18}$ of the total
18 daily takeout from parimutuel pools for live greyhound races; and

19 (B) thereafter, from parimutuel pools for each live greyhound
20 performance, a tax at the rate of $\frac{3}{18}$ of the first \$600,000 wagered, $\frac{4}{18}$ of
21 the next \$200,000 wagered and $\frac{5}{18}$ of any amounts wagered exceeding
22 \$800,000; ~~and~~

23 (4) of the total daily takeout from amounts wagered in this
24 jurisdiction on simulcast races displayed in this state, a tax at the rate of
25 $\frac{3}{18}$; *and*

26 (5) *of the total amount wagered on historical horse races, a tax at the*
27 *rate of 3%.*

28 (b) The tax imposed by this section shall be no less than 3% nor more
29 than 6% of the total money wagered each day at a racetrack facility.

30 (c) The tax imposed by this section shall be remitted to the
31 commission by each organization licensee by the next business day
32 following the day on which the wagers took place. The commission shall
33 remit any such tax moneys received to the state treasurer in accordance
34 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
35 receipt of each such remittance, the state treasurer shall deposit the entire
36 amount in the state treasury to the credit of the state racing fund created by
37 K.S.A. 74-8826, and amendments thereto, except as provided by K.S.A.
38 74-8838, and amendments thereto.

39 (d) The commission shall audit and verify that the amount of tax
40 received from each organization licensee hereunder is correct.

41 (e) Nothing in this section shall be construed to impose any tax on
42 amounts wagered on electronic gaming machine games operated pursuant
43 to the Kansas expanded lottery act.

1 Sec. 16. K.S.A. 74-8836 is hereby amended to read as follows: 74-
2 8836. (a) Any organization licensee that ~~conducts~~ *schedules to conduct* at
3 least ~~150~~ 60 days of live *or simulcast* racing during a calendar year or a
4 fair association that conducts fewer than ~~22~~ 40 days of live racing during a
5 calendar year may apply to the commission for a simulcasting license to
6 display simulcast horse ~~or greyhound~~ races and to conduct intertrack
7 parimutuel wagering thereon. If the organization licensee conducts races at
8 a racetrack facility that is owned by a facility owner licensee, both
9 licensees shall join in the application. ~~A simuleasting license granted to a~~
10 ~~fair association that conducts fewer than 22 days of live racing shall~~
11 ~~restrict the fair association's display of simuleast races to a number of~~
12 ~~days, including days on which it conducts live races, equal to not more~~
13 ~~than twice the number of days on which it conducts live races.~~

14 (b) (1) A simulcasting license granted to ~~an organization licensee~~
15 ~~other than~~ a fair association shall authorize the display of simulcast races
16 at the racetrack facility where the live races are conducted ~~so long as the~~
17 ~~licensee conducts at least eight live races per day and an average of 10 live~~
18 ~~races per day per week. If a simuleasting licensee conducts live horse races~~
19 ~~on a day when simuleast races are displayed by the licensee and the~~
20 ~~licensee conducts fewer than an average of 10 live horse races per day per~~
21 ~~week, not less than 80% of the races on which wagers are taken by the~~
22 ~~licensee during such week shall be live races conducted by the licensee~~
23 ~~unless approved by the recognized horsemen's group or upon a finding by~~
24 ~~the commission that the organization licensee was unable to do so for~~
25 ~~reasonable cause. If a simuleast licensee conducts live greyhound races on~~
26 ~~a day when simuleast races are displayed by the licensee and the licensee~~
27 ~~schedules fewer than 13 live greyhound races during a performance on~~
28 ~~such day, not less than 80% of the races on which wagers are taken by the~~
29 ~~licensee during such performance shall be live races conducted by the~~
30 ~~licensee.~~

31 (2) ~~A simuleasting license granted to a fair association shall authorize~~
32 ~~the display of simuleast races at the racetrack facility where the races are~~
33 ~~conducted only if live races are scheduled for two or more days of the~~
34 ~~same calendar week, except that the licensee may conduct simuleast races~~
35 ~~in the week immediately before and immediately after a live meeting if the~~
36 ~~total number of days on which simuleast races are displayed does not~~
37 ~~exceed the total authorized in subsection (a). In no case shall the live meet~~
38 ~~or simuleast races allowed under this subsection exceed 10 consecutive~~
39 ~~weeks. For purposes of this subsection, a calendar week shall be measured~~
40 ~~from Monday through the following Sunday.~~

41 (3) ~~Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2),~~
42 ~~a fair association may apply to the commission for not more than five~~
43 ~~additional days of simuleasting of special events. In addition, the~~

1 ~~commission may authorize a fair association to display additional~~
 2 ~~simulcast races but, if such fair association is less than 100 miles from an~~
 3 ~~organization licensee that is not a fair association, it also shall secure~~
 4 ~~written consent from that organization licensee.~~

5 (4)(2) Notwithstanding the provisions of subsection (b)(1), if an
 6 emergency causes the cancellation of all or any live races scheduled for a
 7 day or performance by a simulcasting licensee, the commission or the
 8 commission's designee may authorize the licensee to display any simulcast
 9 races previously scheduled for such day or performance.

10 (5)(3) Notwithstanding the provisions of subsection (b)(1), the
 11 commission may authorize the licensee to display simulcast special racing
 12 events as designated by the commission.

13 (c) The application for a simulcasting license shall be filed with the
 14 commission at a time and place prescribed by rules and regulations of the
 15 commission. The application shall be in a form and include such
 16 information as the commission prescribes.

17 (d) To qualify for a simulcasting license the applicant shall:

18 (1) Comply with the interstate horse racing act of 1978~~4~~, 15 U.S.C. §
 19 3001 et seq.), as in effect December 31, 1991;

20 (2) submit with the application a written approval of the proposed
 21 simulcasting schedule signed by: ~~(A) the recognized horsemen's group for~~
 22 ~~the track, if the applicant is licensed to conduct only horse races; (B) the~~
 23 ~~recognized greyhound owners' group, if the applicant is licensed to~~
 24 ~~conduct only greyhound races and only greyhound races are to be~~
 25 ~~simulcast; (C) both the recognized greyhound owners' group and a~~
 26 ~~recognized horsemen's group, if the applicant is licensed to conduct only~~
 27 ~~greyhound races and horse races are to be simulcast; (D) the recognized~~
 28 ~~greyhound owners' group, if the applicant is licensed to conduct both~~
 29 ~~greyhound and horse races, only greyhound races are to be simulcast and~~
 30 ~~races are to be simulcast only while the applicant is conducting live~~
 31 ~~greyhound races; (E) the recognized horsemen's group for the track, if the~~
 32 ~~applicant is licensed to conduct both greyhound and horse races, only~~
 33 ~~horse races are to be simulcast and races are to be simulcast only while the~~
 34 ~~applicant is conducting live horse races; or (F) both the recognized~~
 35 ~~greyhound owners' group and the recognized horsemen's group for the~~
 36 ~~track, if the applicant is licensed to conduct both greyhound races and~~
 37 ~~horse races and horse races are to be simulcast while the applicant is~~
 38 ~~conducting live greyhound races or greyhound races are to be simulcast~~
 39 ~~while the applicant is conducting live horse races; and~~

40 (3) submit, in accordance with rules and regulations of the
 41 commission and before the simulcasting of a race, a written copy of each
 42 contract or agreement ~~which~~ *that* the applicant proposes to enter into with
 43 regard to such race, and any proposed modification of any such contract or

1 agreement.

2 (e) The term of a simulcasting license shall be one year.

3 (f) A simulcasting licensee may apply to the commission or its
4 designee for changes in the licensee's approved simulcasting schedule if
5 such changes are approved by the ~~respective recognized greyhound~~
6 ~~owners' group or~~ recognized horsemen's group needed throughout the term
7 of the license. Application shall be made upon forms furnished by the
8 commission and shall contain such information as the commission
9 prescribes.

10 (g) Except as provided by subsection (j), the takeout for simulcast
11 horse ~~and greyhound~~ races shall be the same as it is for the live horse ~~and~~
12 ~~greyhound~~ races conducted during the current or next live race meeting at
13 the racetrack facility where the simulcast races are displayed, *or, if the*
14 *simulcasting licensee does not conduct live races, then such takeout shall*
15 *be the same as if the race has been a live race.* For simulcast races the tax
16 imposed on amounts wagered shall be as provided by K.S.A. 74-8823, and
17 amendments thereto. Of the balance of the takeout remaining after
18 deduction of taxes, an amount equal to a percentage, to be determined by
19 the commission, of the gross sum wagered on simulcast races shall be used
20 for purses, as follows:

21 (1) ~~For greyhound races conducted by the licensee, if the simulcast~~
22 ~~race is a greyhound race and the licensee conducts only live greyhound~~
23 ~~races;~~

24 (2) ~~For horse races conducted by the licensee, if the simulcast race is~~
25 ~~a horse race and the licensee conducts only live horse races;~~

26 (3) ~~for horse races and greyhound races, as determined by both the~~
27 ~~recognized horsemen's group and the recognized greyhound owners'~~
28 ~~group, if the simulcast race is a greyhound race and the licensee does not~~
29 ~~conduct or is not currently conducting live greyhound races; or~~

30 (4)(2) ~~for horse races and greyhound races, as determined by both the~~
31 ~~recognized horsemen's group and the recognized greyhound owners'~~
32 ~~group, if the simulcast is a horse race and the licensee does not conduct or~~
33 ~~is not currently conducting live horse races. That portion of simulcast~~
34 ~~purse money determined to be used for horse purses shall be apportioned~~
35 ~~by the commission to the various horse race meetings held in any calendar~~
36 ~~year based upon the number of live horse race dates comprising such horse~~
37 ~~race meetings in the preceding calendar year.~~

38 (h) Except as provided by subsection (j):

39 (1) ~~, if a simulcasting licensee has a license to conduct live horse~~
40 ~~races and the licensee displays a simulcast horse race: (A), all breakage~~
41 ~~proceeds shall be remitted by the licensee to the commission not later than~~
42 ~~the 15th day of the month following the race from which the breakage is~~
43 ~~derived and the commission shall remit any such proceeds received to the~~

1 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the Kansas horse breeding development fund created by K.S.A. 74-
5 8829, and amendments thereto; ~~and (B).~~ All unclaimed ticket proceeds
6 shall be remitted by the licensee to the commission on the 61st day after the
7 end of the calendar year and the commission shall remit any such proceeds
8 received to the state treasurer in accordance with the provisions of K.S.A.
9 75-4215, and amendments thereto. Upon receipt of each such remittance,
10 the state treasurer shall deposit the entire amount in the state treasury to
11 the credit of the Kansas horse breeding development fund created by
12 K.S.A. 74-8829, and amendments thereto.

13 ~~(2) If a simulcasting licensee has a license to conduct live greyhound~~
14 ~~races and the licensee displays a simulcast greyhound race, breakage and~~
15 ~~unclaimed winning ticket proceeds shall be distributed in the manner~~
16 ~~provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for~~
17 ~~breakage and unclaimed winning ticket proceeds from live greyhound~~
18 ~~races.~~

19 ~~(3) If a simulcasting licensee has a license to conduct live racing of~~
20 ~~only horses and the licensee displays a simulcast greyhound race,~~
21 ~~unclaimed winning ticket proceeds shall be distributed in the manner~~
22 ~~provided by K.S.A. 74-8822, and amendments thereto, for unclaimed~~
23 ~~winning ticket proceeds from live greyhound races. Breakage for such~~
24 ~~races shall be distributed for use to benefit greyhound racing as determined~~
25 ~~by the commission.~~

26 ~~(4) If a simulcasting licensee has a license to conduct live racing of~~
27 ~~only greyhounds and the licensee displays a simulcast horse race: (A) All~~
28 ~~breakage proceeds shall be remitted by the licensee to the commission not~~
29 ~~later than the 15th day of the month following the race from which the~~
30 ~~breakage is derived and the commission shall remit any such proceeds~~
31 ~~received to the state treasurer in accordance with the provisions of K.S.A.~~
32 ~~75-4215, and amendments thereto. Upon receipt of each such remittance,~~
33 ~~the state treasurer shall deposit the entire amount in the state treasury to~~
34 ~~the credit of the Kansas horse breeding development fund created by~~
35 ~~K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket~~
36 ~~proceeds shall be remitted by the licensee to the commission on the 61st~~
37 ~~day after the end of the calendar year and the commission shall remit any~~
38 ~~such proceeds received to the state treasurer in accordance with the~~
39 ~~provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of~~
40 ~~each such remittance, the state treasurer shall deposit the entire amount in~~
41 ~~the state treasury to the credit of the Kansas horse breeding development~~
42 ~~fund created by K.S.A. 74-8829, and amendments thereto.~~

43 (i) The commission may approve a request by two or more

1 simulcasting licensees to combine wagering pools within the state of
2 Kansas pursuant to rules and regulations adopted by the commission.

3 (j) (1) The commission may authorize any simulcasting licensee to
4 participate in an interstate combined wagering pool with one or more other
5 racing jurisdictions.

6 (2) If a licensee participates in an interstate pool, the licensee may
7 adopt the takeout of the host jurisdiction or facility. The amount and
8 manner of paying purses from the takeout in an interstate pool shall be as
9 provided by subsection (g).

10 (3) The tax imposed on amounts wagered in an interstate pool shall
11 be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel
12 taxes may not be imposed on any amounts wagered in an interstate
13 combined wagering pool other than amounts wagered within this
14 jurisdiction.

15 (4) Breakage for interstate combined wagering pools shall be
16 calculated in accordance with the statutes and rules and regulations of the
17 host jurisdiction and shall be allocated among the participating
18 jurisdictions in a manner agreed to among the jurisdictions. Breakage
19 allocated to this jurisdiction shall be distributed as provided by subsection
20 (h).

21 (5) Upon approval of the ~~respective recognized greyhound owners'~~
22 ~~group or~~ recognized horsemen's group, the commission may permit an
23 organization licensee to simulcast to other racetrack facilities or off-track
24 wagering or intertrack wagering facilities in other jurisdictions one or
25 more races conducted by such licensee, use one or more races conducted
26 by such licensee for an intrastate combined wagering pool or use one or
27 more races conducted by such licensee for an interstate combined
28 wagering pool at off-track wagering or intertrack wagering locations
29 outside the commission's jurisdiction and may allow parimutuel pools in
30 other jurisdictions to be combined with parimutuel pools in the
31 commission's jurisdiction for the purpose of establishing an interstate
32 combined wagering pool.

33 (6) The participation by a simulcasting licensee in a combined
34 interstate wagering pool does not cause that licensee to be considered to be
35 doing business in any jurisdiction other than the jurisdiction in which the
36 licensee is physically located.

37 (k) If the organization licensee, facility owner licensee, if any, and the
38 recognized horsemen's group ~~or recognized greyhound owners' group~~ are
39 unable to agree concerning a simulcasting application, the matter may be
40 submitted to the commission for determination at the written request of
41 any party in accordance with rules and regulations of the commission.

42 (l) This section shall be a part of and supplemental to the Kansas
43 parimutuel racing act.

1 Sec. 17. K.S.A. 74-8702, 74-8734, 74-8741, 74-8743, 74-8746, 74-
2 8747, 74-8802, 74-8804, 74-8814, 74-8823 and 74-8836 are hereby
3 repealed.

4 Sec. 18. This act shall take effect and be in force from and after its
5 publication in the statute book.