

HOUSE BILL No. 2565

By Committee on Federal and State Affairs

3-6

9 AN ACT concerning the Kansas racing and gaming commission and the
10 Kansas lottery; amending K.S.A. 74-8703, 74-8704, 74-8706, 74-8709,
11 74-8802, 74-8805, 74-8839, 74-9803, 74-9804 and 79-4715 and K.S.A.
12 2006 Supp. 12-4516, 12-4516a, 21-4302, 21-4619 and 79-3234 and
13 repealing the existing sections; also repealing K.S.A. 74-8803 and 74-
14 8803a and K.S.A. 2006 Supp. 21-4619c.
15

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

17 New Section 1. (a) On January 1, 2008, the Kansas racing and gaming
18 commission is abolished and all powers, duties and functions of such
19 commission are transferred to and shall become the responsibilities of
20 the Kansas lottery.

21 On and after January 1, 2008, the Kansas lottery shall administer the
22 provision of the Kansas parimutuel racing act, K.S.A. 74-8801 through
23 74-8839, and amendments thereto.

24 (b) On and after January 1, 2008, the Kansas lottery shall consist of
25 two divisions: The division of the lottery and the division of parimutuel
26 racing. The two divisions shall operate independent of each other, there
27 shall be no commingling of funds and no financial obligations of one
28 division shall be considered the financial obligation of the other.

29 New Sec. 2. (a) Every act performed in the exercise of such powers,
30 duties and functions by or under the authority of the executive director
31 of the Kansas lottery shall be deemed to have the same force and effect
32 as if performed by the Kansas racing and gaming commission and the
33 executive director of such commission.

34 (b) Whenever the "Kansas racing commission", "Kansas racing and
35 gaming commission" or words of like effect, are referred to or designated
36 by a statute, contract or other document, and such reference or desig-
37 nation is in regard to one of the powers and duties transferred to the
38 Kansas lottery pursuant to section 1, and amendments thereto, such refer-
39 ence or designation shall be deemed to apply to the Kansas lottery.
40 Whenever "executive director" or "executive director of the commission"
41 or words of like effect, are referred to or designated by statute, contract
42 or other document, and such reference is in regard to one of the powers
43 and duties transferred to the Kansas lottery, such reference shall be

1 deemed to apply to the executive director of the Kansas lottery.

2 (c) All rules and regulations, orders and directives of the Kansas rac-
3 ing and gaming commission pertaining to the powers and duties trans-
4 ferred pursuant to section 1, and amendments thereto, shall continue to
5 be effective and shall be deemed to be the rules and regulations, orders
6 and directives of the Kansas lottery until revised, amended, repealed or
7 nullified pursuant to law.

8 New Sec. 3. On the effective date of this act, officers and employees
9 who, immediately prior to such date, were engaged in the performance
10 of any powers and duties of the Kansas racing and gaming commission
11 which are transferred to the Kansas lottery, and who, in the opinion of
12 the executive director of the Kansas lottery, are necessary to perform the
13 powers and duties of the Kansas lottery, shall be transferred to, and shall
14 become officers and employees of such lottery.

15 New Sec. 4. On the effective date of this act, all property, property
16 rights and records which were used for or pertain to the performance of
17 the powers and duties transferred by the Kansas racing and gaming com-
18 mission shall become the property, property rights and records of the
19 Kansas lottery.

20 New Sec. 5. No suit, action or other proceeding, judicial or admin-
21 istrative, lawfully commenced, or which could have been commenced, by
22 or against the Kansas racing and gaming commission mentioned in this
23 act, or by or against any officer of such agency in such officer's official
24 capacity or in relation to the discharge of such officer's official duties,
25 shall abate by reason of the governmental reorganization effected under
26 the provisions of this act. The court may allow any such suit, action or
27 other proceeding to be maintained by or against the Kansas lottery.

28 New Sec. 6. (a) On the effective date of this act, the balances of all
29 funds appropriated or reappropriated to the Kansas racing and gaming
30 commission for any of the powers and duties transferred to the Kansas
31 lottery pursuant to section 1, and amendments thereto, are hereby trans-
32 ferred to the Kansas lottery and shall be used only for the purpose for
33 which the appropriation was originally made.

34 (b) On the effective date of this act, the liability for all accrued com-
35 pensation, wages or salaries of officers and employees who, immediately
36 prior to such date, were engaged in the performance of powers, duties
37 or functions of the Kansas racing and gaming commission which are trans-
38 ferred to the Kansas lottery pursuant to section 1, and amendments
39 thereto, shall be assumed and paid by the Kansas lottery.

40 Sec. 7. K.S.A. 74-8703 is hereby amended to read as follows: 74-
41 8703. (a) There is hereby established an independent state agency to be
42 called the Kansas lottery, the head of which shall be the executive director
43 of the Kansas lottery. Under the supervision of the executive director, the

1 Kansas lottery shall administer the state lottery as provided in this act.
2 The overall management of the state lottery and control over the opera-
3 tion of its games shall rest solely with the Kansas lottery.

4 ~~(b)~~ *The Kansas lottery also shall administer the provisions of the Kan-*
5 *sas parimutuel racing act, K.S.A. 74-8801 through 74-8839, and amend-*
6 *ments thereto.*

7 ~~(b)~~ (c) The executive director shall be appointed by the governor,
8 subject to confirmation by the senate as provided by K.S.A. 75-4315b and
9 amendments thereto. The executive director shall be in the unclassified
10 service and shall receive an annual salary fixed by the governor, subject
11 to the limitations of appropriations therefor.

12 ~~(c)~~ (d) The executive director shall appoint persons to the following
13 positions to serve as full-time employees of the state in the unclassified
14 service with compensation fixed by the executive director and approved
15 by the governor, subject to the limitations of appropriations therefor:

16 (1) A deputy executive director *for administration of the Kansas*
17 *lottery;*

18 (2) *a deputy executive director for administration of the Kansas par-*
19 *imutuel racing act;*

20 ~~(2)~~ (3) a director of security;

21 ~~(3)~~ (4) a director of administration;

22 ~~(4)~~ (5) a director of sales and such professional sales related positions
23 as may be necessary within the sales division;

24 ~~(5)~~ (6) a director of marketing and such professional marketing re-
25 lated positions as may be necessary within the marketing division; and

26 ~~(6)~~ (7) one personal secretary and one special assistant to the exec-
27 utive director.

28 ~~(d)~~ (e) Until such time as the Kansas lottery begins the operation of
29 its games, temporary staffing, budgeting, purchasing and related man-
30 agement functions shall be provided by the Kansas department of revenue
31 and other state agencies as directed by the governor to achieve maximum
32 coordination in the planning and implementation of the Kansas lottery.

33 ~~(e)~~ (f) For a period of 18 months after the effective date of this act,
34 the state director of purchases, upon request of the executive director,
35 shall make emergency purchases, other than purchases of major procure-
36 ments, on behalf of the Kansas lottery pursuant to subsection (a)(5) of
37 K.S.A. 75-3739 and amendments thereto when the timely implementa-
38 tion of the Kansas lottery requires the immediate delivery of supplies,
39 materials or equipment or the immediate performance of services. The
40 award of any contract for any such purchase shall be subject to the ap-
41 proval of the executive director.

42 Sec. 8. K.S.A. 74-8704 is hereby amended to read as follows: 74-
43 8704. (a) The executive director shall have the power to:

- 1 (1) Supervise and administer the operation of the state lottery in ac-
2 cordance with the provisions of this act and such rules and regulations as
3 adopted hereunder.
- 4 (2) Appoint, subject to the Kansas civil service act and within the
5 limitations of appropriations therefor, all other employees of the Kansas
6 lottery, which employees shall be in the classified service unless otherwise
7 specifically provided by this act.
- 8 (3) Enter into contracts for advertising and promotional services, sub-
9 ject to the provisions of subsection (b); annuities or other methods
10 deemed appropriate for the payment of prizes; data processing and other
11 technical products, equipment and services; and facilities as needed to
12 operate the Kansas lottery, including but not limited to gaming equip-
13 ment, tickets and other services involved in major procurement contracts,
14 in accordance with K.S.A. 74-8705 and amendments thereto.
- 15 (4) Enter into contracts with persons for the sale of lottery tickets or
16 shares to the public, as provided by this act and rules and regulations
17 adopted pursuant to this act, which contracts shall not be subject to the
18 provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.
- 19 (5) Require lottery retailers to furnish proof of financial stability or
20 furnish surety in an amount based upon the expected volume of sales of
21 lottery tickets or shares.
- 22 (6) Examine, or cause to be examined by any agent or representative
23 designated by the executive director, any books, papers, records or mem-
24 oranda of any lottery retailer for the purpose of ascertaining compliance
25 with the provisions of this act or rules and regulations adopted hereunder.
- 26 (7) Issue subpoenas to compel access to or for the production of any
27 books, papers, records or memoranda in the custody or control of any
28 lottery retailer, or to compel the appearance of any lottery retailer or
29 employee of any lottery retailer, for the purpose of ascertaining compli-
30 ance with the provisions of this act or rules and regulations adopted here-
31 under. Subpoenas issued under the provisions of this subsection may be
32 served upon natural persons and corporations in the manner provided in
33 K.S.A. 60-304 and amendments thereto for the service of process by any
34 officer authorized to serve subpoenas in civil actions or by the executive
35 director or an agent or representative designated by the executive direc-
36 tor. In the case of the refusal of any person to comply with any such
37 subpoena, the executive director may make application to the district
38 court of any county where such books, papers, records, memoranda or
39 person is located for an order to comply.
- 40 (8) Administer oaths and take depositions to the same extent and
41 subject to the same limitations as would apply if the deposition were in
42 aid of a civil action in the district court.
- 43 (9) Require fingerprinting of employees and such other persons who

1 work in sensitive areas within the lottery as deemed appropriate by the
2 director. The director may submit such fingerprints to the Kansas bureau
3 of investigation and to the federal bureau of investigation for the purposes
4 of verifying the identity of such employees and persons and obtaining
5 records of their criminal arrests and convictions.

6 (10) *Supervise and administer the operations of parimutuel racing as*
7 *provided under the Kansas parimutuel racing act, K.S.A. 74-8801 through*
8 *74-8839, and amendments thereto.*

9 (b) The Kansas lottery shall not engage in on-site display advertising
10 or promotion of the lottery at any amateur athletic or sporting event
11 including, but not limited to, amateur athletic sporting events at institu-
12 tions under the jurisdiction and control of the state board of regents.

13 Sec. 9. K.S.A. 74-8706 is hereby amended to read as follows: 74-
14 8706. The executive director shall have the duty to:

15 (a) Make and keep books and records which accurately and fairly
16 reflect each day's transactions, including but not limited to: The distri-
17 bution of tickets and shares to lottery retailers; receipt of funds, prize
18 claims, prize disbursements made by the Kansas lottery or otherwise or
19 prizes liable to be paid by the Kansas lottery; expenses and other financial
20 transactions of the Kansas lottery necessary so as to permit daily
21 accountability.

22 (b) Make quarterly and annual financial reports to the commission,
23 the governor, the state treasurer and the legislature. Such reports shall
24 be based upon generally accepted accounting principles and include a full
25 and complete statement of lottery revenues, prize disbursements, ex-
26 penses, net revenues and other financial transactions for the reporting
27 period.

28 (c) Make available for inspection by the commission, upon request,
29 all books, records, files and other information and documents of the Kan-
30 sas lottery.

31 (d) Engage, in accordance with K.S.A. 74-8705, and amendments
32 thereto, an independent firm experienced in marketing research and anal-
33 ysis to conduct periodically an evaluation to determine the effectiveness
34 of marketing, promotion and public information programs used by the
35 Kansas lottery and make recommendations which will enhance such
36 programs.

37 (e) Prepare and submit budgets and proposals for the operation of
38 the Kansas lottery.

39 (f) Operate the Kansas lottery in such a manner that, after the initial
40 state appropriation, it is self-sustaining and self-funded.

41 (g) Make available at the point of sale of any lottery tickets or shares
42 a list of the odds of winning such game, based upon the number of tickets
43 or shares projected to be sold.

1 (h) Make provision for the timely and efficient transfer of funds due
2 from lottery retailers to the lottery operating fund, including the use of
3 electronic funds transfers whenever possible.

4 (i) *Supervise and administer the operations of parimutuel racing as*
5 *provided under the Kansas parimutuel racing act, K.S.A. 74-8801 through*
6 *74-8839, and amendments thereto.*

7 Sec. 10. K.S.A. 74-8709 is hereby amended to read as follows: 74-
8 8709. (a) There is hereby created the Kansas lottery commission, which
9 shall be composed of five members who shall be appointed by the gov-
10 ernor, subject to confirmation by the senate as provided by K.S.A. 75-
11 4315b and amendments thereto. Except as provided by K.S.A. 46-2601,
12 and amendments thereto, no person appointed to the commission shall
13 exercise any power, duty or function as a member of the commission until
14 confirmed by the senate. All members of the commission shall be citizens
15 of the United States and residents of this state. Not more than three of
16 the five members shall be members of the same political party. A chair-
17 person of the commission shall be designated by the governor from the
18 membership of the commission.

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

28 (c) The terms of members who are serving on the commission on the
29 effective date of this act shall expire on March 15, of the year in which
30 such member's term would have expired under the provisions of this
31 section prior to amendment by this act. Thereafter, members shall be
32 appointed for terms of four years and until their successors are appointed
33 and confirmed.

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

41 (e) The commission shall consult with and advise the executive di-
42 rector relating to the operation of the state lottery, shall assist the director
43 in the establishment of policies and shall review and approve the proposed

1 annual budget for the Kansas lottery prepared by the executive director,
2 subject to all state laws governing budget procedures for state agencies.

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

10 (g) Major procurements recommended by the executive director
11 shall be subject to the approval of the commission.

12 (h) The commission may enter into written agreements with one or
13 more other states or corporations made up of representatives of one or
14 more other states' lotteries and participate in the operation, marketing
15 and promotion of a joint lottery or joint lottery games, conforming to the
16 provisions of this act, which agreements shall not be subject to the pro-
17 visions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

18 (i) *The commission shall consult with and advise the executive direc-*
19 *tor relating to the operation of parimutuel racing and shall assume all*
20 *duties, powers and responsibilities of the Kansas racing and gaming com-*
21 *mission as provided under the Kansas parimutuel racing act, 74-8801*
22 *through 74-8839, and amendments thereto.*

23 (j) Subject to the limitations of appropriations therefor, members
24 of the commission shall receive such compensation as determined by the
25 governor. Members of the commission attending meetings of the com-
26 mission or subcommittee meetings thereof approved by the commission
27 shall be paid subsistence allowances, mileage and other expenses as pro-
28 vided in K.S.A. 75-3223, and amendments thereto. In addition, the chair-
29 person of the commission, or the member of the commission designated
30 by the chairperson to serve on a procurement negotiating committee,
31 shall be paid amounts equal to amounts provided by K.S.A. 75-3223, and
32 amendments thereto, for subsistence allowances, mileage and other ex-
33 penses for attendance at meetings of a procurement negotiating com-
34 mittee pursuant to K.S.A. 74-8705, and amendments thereto.

35 Sec. 11. K.S.A. 74-8802 is hereby amended to read as follows: 74-
36 8802. As used in the Kansas parimutuel racing act unless the context
37 otherwise requires:

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

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

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

- 1 (b) “Commission” means the ~~Kansas racing and gaming commission~~
2 ~~created by this act~~ *lottery commission established under provisions of*
3 *K.S.A. 74-8709, and amendments thereto.*
- 4 (c) “Concessionaire licensee” means a person, partnership, corpora-
5 tion or association licensed by the commission to utilize a space or priv-
6 ilege within a racetrack facility to sell goods or services.
- 7 (d) “Contract” means an agreement, written or oral, between two or
8 more persons, partnerships, corporations or associations, or any combi-
9 nation thereof, which creates an obligation between the parties.
- 10 (e) “Crossover employment” means a situation in which an occupa-
11 tional licensee is concurrently employed at the same racing facility by an
12 organization licensee and a facility owner licensee or facility manager
13 licensee.
- 14 (f) “Dual racetrack facility” means a racetrack facility for the racing
15 of both horses and greyhounds or two immediately adjacent racetrack
16 facilities, owned by the same licensee, one for racing horses and one for
17 racing greyhounds.
- 18 (g) “Executive director” means the executive director of the *Kansas*
19 *lottery* commission.
- 20 (h) “Facility manager licensee” means a person, partnership, corpo-
21 ration or association licensed by the commission and having a contract
22 with an organization licensee to manage a racetrack facility.
- 23 (i) “Facility owner licensee” means a person, partnership, corporation
24 or association, or the state of Kansas or any political subdivision thereof,
25 licensed by the commission to construct or own a racetrack facility but
26 does not mean an organization licensee which owns the racetrack facility
27 in which it conducts horse or greyhound racing.
- 28 (j) “Fair association” means an association organized pursuant to
29 K.S.A. 2-125 et seq. and amendments thereto or a nonprofit association
30 determined by the commission to be otherwise organized to conduct fair
31 activities pursuant to findings of fact entered by the commission in a
32 license order.
- 33 (k) “Financial interest” means an interest that could result directly
34 or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss
35 as a result of ownership or interest in a business entity or activity or as a
36 result of a salary, gratuity or other compensation or remuneration from
37 any person.
- 38 (l) “Greyhound” means any greyhound breed of dog properly regis-
39 tered with the national greyhound association of Abilene, Kansas.
- 40 (m) “Horsemen’s association” means any association or corporation:
41 (1) All officers, directors, members and shareholders of which are
42 licensed owners of horses or licensed trainers of horses, or both;
43 (2) which is applying for or has been issued a facility owner license

- 1 authorizing ownership of Eureka Downs, Anthony Downs or a racetrack
2 facility on or adjacent to premises used by a fair association to conduct
3 fair activities; and
- 4 (3) none of the officers, directors, members or shareholders of which
5 holds another facility owner license or is an officer, director, member or
6 shareholder of another facility owner licensee.
- 7 (n) "Horsemen's nonprofit organization" means any nonprofit
8 organization:
- 9 (1) All officers, directors, members or shareholders of which are li-
10 censed owners of horses or licensed trainers of horses, or both; and
- 11 (2) which is applying for or has been issued an organization license
12 authorizing the conduct of horse races at Eureka Downs, Anthony Downs
13 or a racetrack facility on or adjacent to premises used by a fair association
14 to conduct fair activities.
- 15 (o) "Host facility" means the racetrack at which the race is run or, if
16 the race is run in a jurisdiction which is not participating in the interstate
17 combined wagering pool, the racetrack or other facility which is desig-
18 nated as the host facility.
- 19 (p) "Host jurisdiction" means the jurisdiction where the host facility
20 is located.
- 21 (q) "Interstate combined wagering pool" means a parimutuel pool
22 established in one jurisdiction which is combined with comparable pari-
23 mutuel pools from one or more racing jurisdictions for the purpose of
24 establishing the amount of money returned on a successful wager in the
25 participating jurisdictions.
- 26 (r) "Intertrack wagering" means wagering on a simulcast race at a
27 licensed racetrack facility or at a facility which is licensed in its racing
28 jurisdiction to conduct live races.
- 29 (s) "Intrastate combined wagering pool" means a parimutuel pool
30 which is combined with comparable parimutuel pools from one or more
31 racetrack facilities for the purpose of establishing the amount of money
32 returned on a successful wager at the participating racetrack facilities.
- 33 (t) "Kansas-whelped greyhound" means a greyhound whelped and
34 raised in Kansas for the first six months of its life.
- 35 (u) "Minus pool" means a parimutuel pool in which, after deducting
36 the takeout, not enough money remains in the pool to pay the legally
37 prescribed minimum return to those placing winning wagers, and in
38 which the organization licensee would be required to pay the remaining
39 amount due.
- 40 (v) "Nonprofit organization" means:
- 41 (1) A corporation which is incorporated in Kansas as a not-for-profit
42 corporation pursuant to the Kansas general corporation code and the net
43 earnings of which do not inure to the benefit of any shareholder, individ-

- 1 ual member or person; or
2 (2) a fair association.
3 (w) "Occupation licensee" means a person licensed by the commis-
4 sion to perform an occupation or provide services which the commission
5 has identified as requiring a license pursuant to this act.
6 (x) "Off-track wagering" means wagering on a simulcast race at a
7 facility which is not licensed in its jurisdiction to conduct live races.
8 (y) "Organization licensee" means a nonprofit organization licensed
9 by the commission to conduct races pursuant to this act and, if the license
10 so provides, to construct or own a racetrack facility.
11 (z) "Parimutuel pool" means the total money wagered by individuals
12 on one or more horses or greyhounds in a particular horse or greyhound
13 race to win, place or show, or combinations thereof, as established by the
14 commission, and, except in the case of an interstate or intrastate com-
15 bined wagering pool, held by the organization licensee pursuant to the
16 parimutuel system of wagering. There is a separate parimutuel pool for
17 win, for place, for show and for each of the other forms of betting pro-
18 vided for by the rules and regulations of the commission.
19 (aa) "Parimutuel wagering" means a form of wagering on the out-
20 come of horse and greyhound races in which those who wager purchase
21 tickets of various denominations on one or more horses or greyhounds
22 and all wagers for each race are pooled and the winning ticket holders
23 are paid prizes from such pool in amounts proportional to the total re-
24 ceipts in the pool.
25 (bb) "Race meeting" means one or more periods of racing days dur-
26 ing a calendar year designated by the commission for which an organi-
27 zation licensee has been approved by the commission to hold live or
28 simulcast horse or greyhound races at which parimutuel wagering is con-
29 ducted, including such additional time as designated by the commission
30 for the conduct of official business before and after the races.
31 (cc) "Racetrack facility" means a racetrack within Kansas used for the
32 racing of horses or greyhounds, or both, including the track surface,
33 grandstands, clubhouse, all animal housing and handling areas, other ar-
34 eas in which a person may enter only upon payment of an admission fee
35 or upon presentation of authorized credentials and such additional areas
36 as designated by the commission.
37 (dd) "Racing jurisdiction" or "jurisdiction" means a governmental au-
38 thority which is responsible for the regulation of live or simulcast racing
39 in its jurisdiction.
40 (ee) "Racing or wagering equipment or services licensee" means any
41 person, partnership, corporation or association licensed by the commis-
42 sion to provide integral racing or wagering equipment or services, as des-
43 ignated by the commission, to an organization licensee.

1 (ff) “Recognized greyhound owners’ group” means the duly recog-
2 nized group elected in accordance with rules and regulations of the com-
3 mission by a majority of the Kansas licensed greyhound owners at the
4 racetrack facility voting in the election. The commission may designate
5 an organization such as the national greyhound association of Abilene,
6 Kansas, to conduct the election.

7 (gg) “Recognized horsemen’s group” means the duly recognized
8 group, representing the breeds of horses running at a racetrack facility,
9 elected in accordance with rules and regulations of the commission by a
10 majority of the licensed owners and trainers at the racetrack facility voting
11 in the election. If the licensee does not have a recognized horsemen’s
12 group, the commission shall designate as the recognized horsemen’s
13 group one that serves another organization licensee, but not one that
14 serves a fair association organization licensee.

15 (hh) “Simulcast” means a live audio-visual broadcast of an actual
16 horse or greyhound race at the time it is run.

17 (ii) “Takeout” means the total amount of money withheld from each
18 parimutuel pool for the payment of purses, taxes and the share to be kept
19 by the organization licensee. Takeout does not include the breakage. The
20 balance of each pool less the breakage is distributed to the holders of
21 winning parimutuel tickets.

22 Sec. 12. K.S.A. 74-8805 is hereby amended to read as follows: 74-
23 8805. (a) ~~(1) The governor shall appoint, subject to confirmation by the~~
24 ~~senate as provided by K.S.A. 75-4315b and amendments thereto, an ex-~~
25 ~~ecutive director of the commission, to serve at the pleasure of the gov-~~
26 ~~ernor and under the direction and supervision of the commission. Before~~
27 ~~appointing any person as executive director, the governor shall cause the~~
28 ~~Kansas bureau of investigation to conduct a criminal history record check~~
29 ~~and background investigation of the person.~~

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

40 ~~—(3) The executive director shall: (A) Recommend to the commission~~
41 ~~the number and qualifications of employees necessary to implement and~~
42 ~~enforce the provisions of this act; (B) employ persons for those positions~~
43 ~~approved by the commission, subject to the limitations of appropriations~~

1 therefor; and (C) perform such other duties as directed by the
2 commission.

3 (b) (1) The executive director shall appoint an inspector of parimutuels to serve at the pleasure of the executive director. Before appointing
4 any person as inspector of parimutuels, the executive director shall cause
5 the Kansas bureau of investigation to conduct a criminal history record
6 check and background investigation of the person.
7

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

17 (3) The inspector of parimutuels shall: (A) Inspect and audit the con-
18 duct of parimutuel wagering by organization licensees, including the
19 equipment and facilities used and procedures followed; (B) train and su-
20 pervise such personnel as employed by the executive director to assist
21 with such duties; and (C) perform such other duties as directed by the
22 executive director.

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

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

41 (3) The director of security shall: (A) Conduct investigations relating
42 to compliance with the provisions of this act and rules and regulations of
43 the commission; (B) recommend proper security measures to organiza-

1 tion licensees; (C) train and supervise such personnel as employed by the
2 executive director to assist with such duties; and (D) perform such other
3 duties as directed by the executive director.

4 (d) (1) The executive director may appoint a director of racing op-
5 erations to serve at the pleasure of the executive director. Before appoint-
6 ing any person as director of racing operations, the executive director
7 shall cause the Kansas bureau of investigation to conduct a criminal his-
8 tory record check and background investigation of the person.

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

18 (3) The director of racing operations shall: (A) Supervise racing op-
19 erations, including stewards and racing judges; (B) be responsible for
20 training and education of stewards and racing judges; (C) advise the com-
21 mission on necessary or desirable changes in rules and regulations relating
22 to conduct of races; (D) train and supervise such personnel as employed
23 by the executive director to assist with such duties; and (E) perform such
24 other duties as directed by the executive director.

25 (e) The commission may appoint an advisory committee of persons
26 knowledgeable in the horse and greyhound breeding and racing industries
27 to provide information and recommendations to the commission regard-
28 ing the administration of this act. Members of such advisory committee
29 shall serve without compensation or reimbursement of expenses.

30 (f) Except as otherwise provided by this act, all employees of the
31 commission shall be in the classified service under the Kansas civil service
32 act.

33 (g) No employee of the commission shall have been convicted of a
34 felony under the laws of any state or of the United States prior to or
35 during employment by the commission. Before employing any person,
36 the commission shall cause a criminal history record check of the person
37 to be conducted.

38 (h) The commission shall cause the Kansas bureau of investigation to
39 conduct a criminal history record check and background investigation of
40 a person before employing the person in any of the following positions:

41 (1) Deputy director;

42 (2) accountant;

43 (3) computer systems analyst;

- 1 (4) legal assistant;
- 2 (5) auditor;
- 3 (6) racing judge;
- 4 (7) steward;
- 5 (8) enforcement agent;
- 6 (9) office supervisor;
- 7 (10) human resource manager;
- 8 (11) office specialist; or
- 9 (12) any other sensitive position, as determined by the commission.
- 10 ~~(i) On July 1, 1995, the commission shall cause the Kansas bureau of~~
- 11 ~~investigation to conduct a criminal history record check and background~~
- 12 ~~investigation of persons in the employment of the commission in the~~
- 13 ~~following positions on that date:~~
- 14 ~~—(1) Animal health officer;~~
- 15 ~~—(2) inspector of parimutuels;~~
- 16 ~~—(3) office supervisor;~~
- 17 ~~—(4) human resource manager; and~~
- 18 ~~—(5) office specialist.~~
- 19 Sec. 13. K.S.A. 74-8839 is hereby amended to read as follows: 74-
- 20 8839. No licensee of the Kansas ~~racing~~ *lottery* commission shall recruit
- 21 for employment or as a volunteer any person under 18 years of age for
- 22 the purpose of appearing, being heard or being quoted in any advertising
- 23 or promotion of parimutuel wagering or racing with parimutuel wagering
- 24 in any electronic or print media.
- 25 Sec. 14. K.S.A. 2006 Supp. 12-4516 is hereby amended to read as
- 26 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
- 27 person who has been convicted of a violation of a city ordinance of this
- 28 state may petition the convicting court for the expungement of such con-
- 29 viction and related arrest records if three or more years have elapsed
- 30 since the person:
- 31 (A) Satisfied the sentence imposed; or
- 32 (B) was discharged from probation, parole or a suspended sentence.
- 33 (2) Except as provided in subsection (b) or (c), any person who has
- 34 fulfilled the terms of a diversion agreement based on a violation of a city
- 35 ordinance of this state may petition the court for the expungement of
- 36 such diversion agreement and related arrest records if three or more years
- 37 have elapsed since the terms of the diversion agreement were fulfilled.
- 38 (b) No person may petition for expungement until five or more years
- 39 have elapsed since the person satisfied the sentence imposed or the terms
- 40 of a diversion agreement or was discharged from probation, parole, con-
- 41 ditional release or a suspended sentence, if such person was convicted of
- 42 the violation of a city ordinance which would also constitute:
- 43 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-

1 ments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 expungement; and

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

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

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

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

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

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

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

29 (D) to aid in determining the petitioner's qualifications for executive
30 director of the Kansas ~~racine~~ *lottery* commission, for employment with
31 the commission or for work in sensitive areas in *the division of* parimutuel
32 racing as deemed appropriate by the executive director of the commis-
33 sion, or to aid in determining qualifications for licensure or renewal of
34 licensure by the commission;

35 (E) upon application for a commercial driver's license under K.S.A.
36 8-2,125 through 8-2,142, and amendments thereto;

37 (F) to aid in determining the petitioner's qualifications to be an em-
38 ployee of the state gaming agency;

39 (G) to aid in determining the petitioner's qualifications to be an em-
40 ployee of a tribal gaming commission or to hold a license issued pursuant
41 to a tribal-state gaming compact;

42 (H) in any application for registration as a broker-dealer, agent, in-
43 vestment adviser or investment adviser representative all as defined in

1 K.S.A. 2006 Supp. 17-12a102, and amendments thereto;

2 (3) the court, in the order of expungement, may specify other cir-
3 cumstances under which the arrest, conviction or diversion is to be dis-
4 closed; and

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

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

10 (g) Whenever a person is convicted of an ordinance violation, pleads
11 guilty and pays a fine for such a violation, is placed on parole or probation
12 or is granted a suspended sentence for such a violation, the person shall
13 be informed of the ability to expunge the arrest records or conviction.
14 Whenever a person enters into a diversion agreement, the person shall
15 be informed of the ability to expunge the diversion.

16 (h) Subject to the disclosures required pursuant to subsection (f), in
17 any application for employment, license or other civil right or privilege,
18 or any appearance as a witness, a person whose arrest records, conviction
19 or diversion of an offense has been expunged under this statute may state
20 that such person has never been arrested, convicted or diverted of such
21 offense.

22 (i) Whenever the record of any arrest, conviction or diversion has
23 been expunged under the provisions of this section or under the provi-
24 sions of any other existing or former statute, the custodian of the records
25 of arrest, conviction, diversion and incarceration relating to that crime
26 shall not disclose the existence of such records, except when requested
27 by:

28 (1) The person whose record was expunged;

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

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

35 (4) the secretary of social and rehabilitation services, or a designee of
36 the secretary, for the purpose of obtaining information relating to em-
37 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
38 ments thereto, of the department of social and rehabilitation services of
39 any person whose record has been expunged;

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

42 (6) a prosecuting attorney, and such request is accompanied by a
43 statement that the request is being made in conjunction with a prosecu-

1 tion of an offense that requires a prior conviction as one of the elements
2 of such offense;

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

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

14 (9) the governor or the Kansas ~~racing~~ *lottery* commission, or a des-
15 ignee of the commission, and the request is accompanied by a statement
16 that the request is being made to aid in determining qualifications for
17 executive director of the commission, for employment with the commis-
18 sion, for work in sensitive areas in *the division of* parimutuel racing as
19 deemed appropriate by the executive director of the commission or for
20 licensure, renewal of licensure or continued licensure by the commission;

21 (10) the state gaming agency, and the request is accompanied by a
22 statement that the request is being made to aid in determining qualifi-
23 cations: (A) To be an employee of the state gaming agency; or (B) to be
24 an employee of a tribal gaming commission or to hold a license issued
25 pursuant to a tribal-state gaming compact;

26 (11) the Kansas securities commissioner, or a designee of the com-
27 missioner, and the request is accompanied by a statement that the request
28 is being made in conjunction with an application for registration as a
29 broker-dealer, agent, investment adviser or investment adviser represen-
30 tative by such agency and the application was submitted by the person
31 whose record has been expunged;

32 (12) the attorney general, and the request is accompanied by a state-
33 ment that the request is being made to aid in determining qualifications
34 for a license to carry a concealed weapon pursuant to the personal and
35 family protection act;

36 (13) the Kansas sentencing commission;

37 (14) the Kansas law enforcement training commission [^e] and the
38 request is accompanied by a statement that the request is being made to
39 aid in determining certification eligibility as a law enforcement officer
40 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

41 (15) a law enforcement agency and the request is accompanied by a
42 statement that the request is being made to aid in determining eligibility
43 for employment as a law enforcement officer as defined by K.S.A. 22-

1 2202, and amendments thereto.

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

6 (b) When a petition for expungement is filed, the court shall set a
7 date for hearing on such petition and shall cause notice of such hearing
8 to be given to the prosecuting attorney and the arresting law enforcement
9 agency. When a petition for expungement is filed, the official court file
10 shall be separated from the other records of the court, and shall be dis-
11 closed only to a judge of the court and members of the staff of the court
12 designated by a judge of the district court, the prosecuting attorney, the
13 arresting law enforcement agency, or any other person when authorized
14 by a court order, subject to any conditions imposed by the order. The
15 petition shall state: (1) The petitioner's full name;

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

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

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

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

21 (6) the identity of the arresting law enforcement agency.

22 A municipal court may prescribe a fee to be charged as costs for a
23 person petitioning for an order of expungement pursuant to this section,
24 except that no fee shall be charged to a person who was arrested as a
25 result of being a victim of identity theft under K.S.A. 2006 Supp. 21-4018,
26 and amendments thereto. Any person who may have relevant information
27 about the petitioner may testify at the hearing. The court may inquire
28 into the background of the petitioner.

29 (c) At the hearing on a petition for expungement, the court shall order
30 the arrest record and subsequent court proceedings, if any, expunged
31 upon finding: (1) The arrest occurred because of mistaken identity;

32 (2) a court has found that there was no probable cause for the arrest;

33 (3) the petitioner was found not guilty in court proceedings; or

34 (4) the expungement would be in the best interests of justice and (A)
35 charges have been dismissed; or (B) no charges have been or are likely
36 to be filed.

37 (d) When the court has ordered expungement of an arrest record and
38 subsequent court proceedings, if any, the order shall state the information
39 required to be stated in the petition and shall state the grounds for
40 expungement under subsection (c). The clerk of the court shall send a
41 certified copy of the order to the Kansas bureau of investigation which
42 shall notify the federal bureau of investigation, the secretary of corrections
43 and any other criminal justice agency which may have a record of the

1 arrest. If an order of expungement is entered, the petitioner shall be
2 treated as not having been arrested.

3 (e) If the ground for expungement is as provided in subsection (c)(4),
4 the court shall determine whether, in the interest of public welfare, the
5 records should be available for any of the following purposes: (1) In any
6 application for employment as a detective with a private detective agency,
7 as defined by K.S.A. 75-7b01 and amendments thereto; as security per-
8 sonnel with a private patrol operator, as defined by K.S.A. 75-7b01 and
9 amendments thereto; or with an institution, as defined in K.S.A. 76-12a01
10 and amendments thereto, of the department of social and rehabilitation
11 services;

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

14 (3) to aid in determining the petitioner's qualifications for employ-
15 ment with the Kansas lottery or for work in sensitive areas within the
16 ~~Kansas~~ *division of the* lottery as deemed appropriate by the executive
17 director of the Kansas lottery;

18 (4) to aid in determining the petitioner's qualifications for executive
19 director of the Kansas ~~racine~~ *lottery* commission, for employment with
20 the commission or for work in sensitive areas in *the division of* parimutuel
21 racing as deemed appropriate by the executive director of the commis-
22 sion, or to aid in determining qualifications for licensure or renewal of
23 licensure by the commission;

24 (5) in any application for a commercial driver's license under K.S.A.
25 8-2,125 through 8-2,142 and amendments thereto;

26 (6) to aid in determining the petitioner's qualifications to be an em-
27 ployee of the state gaming agency;

28 (7) to aid in determining the petitioner's qualifications to be an em-
29 ployee of a tribal gaming commission or to hold a license issued pursuant
30 to a tribal-state gaming compact; or

31 (8) in any other circumstances which the court deems appropriate.

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

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

43 Sec. 16. K.S.A. 2006 Supp. 21-4302 is hereby amended to read as

- 1 follows: 21-4302. (a) “Bet” means a bargain in which the parties agree
2 that, dependent upon chance, one stands to win or lose something of
3 value specified in the agreement. A bet does not include:
- 4 (1) Bona fide business transactions which are valid under the law of
5 contracts including, but not limited to, contracts for the purchase or sale
6 at a future date of securities or other commodities, and agreements to
7 compensation for loss caused by the happening of the chance including,
8 but not limited to, contracts of indemnity or guaranty and life or health
9 and accident insurance;
 - 10 (2) offers of purses, prizes or premiums to the actual contestants in
11 any bona fide contest for the determination of skill, speed, strength, or
12 endurance or to the bona fide owners of animals or vehicles entered in
13 such a contest;
 - 14 (3) a lottery as defined in this section;
 - 15 (4) any bingo game by or for participants managed, operated or con-
16 ducted in accordance with the laws of the state of Kansas by an organi-
17 zation licensed by the state of Kansas to manage, operate or conduct
18 games of bingo;
 - 19 (5) a lottery operated by the state pursuant to the Kansas lottery act;
 - 20 (6) any system of parimutuel wagering managed, operated and con-
21 ducted in accordance with the Kansas parimutuel racing act; or
 - 22 (7) tribal gaming.
- 23 (b) “Lottery” means an enterprise wherein for a consideration the
24 participants are given an opportunity to win a prize, the award of which
25 is determined by chance. A lottery does not include:
- 26 (1) A lottery operated by the state pursuant to the Kansas lottery act;
 - 27 or
 - 28 (2) tribal gaming.
 - 29 (c) “Consideration” means anything which is a commercial or finan-
30 cial advantage to the promoter or a disadvantage to any participant.
- 31 Mere registration without purchase of goods or services; personal at-
32 tendance at places or events, without payment of an admission price or
33 fee; listening to or watching radio and television programs; answering the
34 telephone or making a telephone call and acts of like nature are not
35 consideration.
- 36 As used in this subsection, consideration does not include:
- 37 (1) Sums of money paid by or for participants in any bingo game
38 managed, operated or conducted in accordance with the laws of the state
39 of Kansas by any bona fide nonprofit religious, charitable, fraternal, ed-
40 ucational or veteran organization licensed to manage, operate or conduct
41 bingo games under the laws of the state of Kansas and it shall be conclu-
42 sively presumed that such sums paid by or for such participants were
43 intended by such participants to be for the benefit of the sponsoring

1 organizations for the use of such sponsoring organizations in furthering
2 the purposes of such sponsoring organizations, as set forth in the approp-
3 riate paragraphs of subsection (c) or (d) of section 501 of the internal
4 revenue code of 1986 and as set forth in K.S.A. 79-4701 and amendments
5 thereto;

6 (2) sums of money paid by or for participants in any lottery operated
7 by the state pursuant to the Kansas lottery act;

8 (3) sums of money paid by or for participants in any system of pari-
9 mutuel wagering managed, operated and conducted in accordance with
10 the Kansas parimutuel racing act; or

11 (4) sums of money paid by or for a person to participate in tribal
12 gaming.

13 (d) (1) “Gambling device” means:

14 (A) Any so-called “slot machine” or any other machine, mechanical
15 device, electronic device or other contrivance an essential part of which
16 is a drum or reel with insignia thereon, and (i) which when operated may
17 deliver, as the result of chance, any money or property, or (ii) by the
18 operation of which a person may become entitled to receive, as the result
19 of chance, any money or property;

20 (B) any other machine, mechanical device, electronic device or other
21 contrivance (including, but not limited to, roulette wheels and similar
22 devices) which is equipped with or designed to accommodate the addition
23 of a mechanism that enables accumulated credits to be removed, is
24 equipped with or designed to accommodate a mechanism to record the
25 number of credits removed or is otherwise designed, manufactured or
26 altered primarily for use in connection with gambling, and (i) which when
27 operated may deliver, as the result of chance, any money or property, or
28 (ii) by the operation of which a person may become entitled to receive,
29 as the result of chance, any money or property;

30 (C) any subassembly or essential part intended to be used in connec-
31 tion with any such machine, mechanical device, electronic device or other
32 contrivance, but which is not attached to any such machine, mechanical
33 device, electronic device or other contrivance as a constituent part; or

34 (D) any token, chip, paper, receipt or other document which evi-
35 dences, purports to evidence or is designed to evidence participation in
36 a lottery or the making of a bet.

37 The fact that the prize is not automatically paid by the device does not
38 affect its character as a gambling device.

39 (2) Gambling device does not include:

40 (A) Any machine, mechanical device, electronic device or other con-
41 trivance used or for use by a licensee of the Kansas ~~racing~~ lottery com-
42 mission as authorized by law and rules and regulations adopted by the
43 commission *under the provisions of the Kansas parimutuel racing act,*

1 *K.S.A. 74-8801 through 74-8839, and amendments thereto*, or by the Kan-
2 sas lottery or Kansas lottery retailers as authorized by law and rules and
3 regulations adopted by the Kansas lottery commission *under provisions*
4 *of the Kansas lottery act, K.S.A. 74-8701 through 74-8724, and amend-*
5 *ments thereto*;

6 (B) any machine, mechanical device, electronic device or other con-
7 trivance, such as a coin-operated bowling alley, shuffleboard, marble ma-
8 chine (a so-called pinball machine), or mechanical gun, which is not de-
9 signed and manufactured primarily for use in connection with gambling,
10 and (i) which when operated does not deliver, as a result of chance, any
11 money, or (ii) by the operation of which a person may not become entitled
12 to receive, as the result of the application of an element of chance, any
13 money;

14 (C) any so-called claw, crane, or digger machine and similar devices
15 which are designed and manufactured primarily for use at carnivals or
16 county or state fairs; or

17 (D) any machine, mechanical device, electronic device or other con-
18 trivance used in tribal gaming.

19 (e) A “gambling place” is any place, room, building, vehicle, tent or
20 location which is used for any of the following: Making and settling bets;
21 receiving, holding, recording or forwarding bets or offers to bet; con-
22 ducting lotteries; or playing gambling devices. Evidence that the place
23 has a general reputation as a gambling place or that, at or about the time
24 in question, it was frequently visited by persons known to be commercial
25 gamblers or known as frequenters of gambling places is admissible on the
26 issue of whether it is a gambling place.

27 (f) “Tribal gaming” has the meaning provided by K.S.A. 74-9802 and
28 amendments thereto.

29 (g) “Tribal gaming commission” has the meaning provided by K.S.A.
30 74-9802 and amendments thereto.

31 Sec. 17. K.S.A. 2006 Supp. 21-4619 is hereby amended to read as
32 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
33 any person convicted in this state of a traffic infraction, cigarette or to-
34 bacco infraction, misdemeanor or a class D or E felony, or for crimes
35 committed on or after July 1, 1993, nondrug crimes ranked in severity
36 levels 6 through 10 or any felony ranked in severity level 4 of the drug
37 grid, may petition the convicting court for the expungement of such con-
38 viction or related arrest records if three or more years have elapsed since
39 the person: (A) Satisfied the sentence imposed; or (B) was discharged
40 from probation, a community correctional services program, parole, post-
41 release supervision, conditional release or a suspended sentence.

42 (2) Except as provided in subsections (b) and (c), any person who has
43 fulfilled the terms of a diversion agreement may petition the district court

1 for the expungement of such diversion agreement and related arrest re-
2 cords if three or more years have elapsed since the terms of the diversion
3 agreement were fulfilled.

4 (b) Except as provided in subsection (c), no person may petition for
5 expungement until five or more years have elapsed since the person sat-
6 isfied the sentence imposed, the terms of a diversion agreement or was
7 discharged from probation, a community correctional services program,
8 parole, postrelease supervision, conditional release or a suspended sen-
9 tence, if such person was convicted of a class A, B or C felony, or for
10 crimes committed on or after July 1, 1993, if convicted of an off-grid
11 felony or any nondrug crime ranked in severity levels 1 through 5 or any
12 felony ranked in severity levels 1 through 3 of the drug grid, or:

13 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
14 ments thereto, or as prohibited by any law of another state which is in
15 substantial conformity with that statute;

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

21 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-
22 ments thereto, or resulting from the violation of a law of another state
23 which is in substantial conformity with that statute;

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

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

30 (6) failing to stop at the scene of an accident and perform the duties
31 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,
32 or required by a law of another state which is in substantial conformity
33 with those statutes;

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

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

37 (c) There shall be no expungement of convictions for the following
38 offenses or of convictions for an attempt to commit any of the following
39 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;
40 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and
41 amendments thereto; (3) aggravated indecent liberties with a child as
42 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy
43 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-

1 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-
2 3506, and amendments thereto; (6) indecent solicitation of a child as
3 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-
4 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-
5 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-
6 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.
7 21-3603, and amendments thereto; (10) endangering a child as defined
8 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as
9 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder
10 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in
11 the first degree as defined in K.S.A. 21-3401, and amendments thereto;
12 (14) murder in the second degree as defined in K.S.A. 21-3402, and
13 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.
14 21-3403, and amendments thereto; (16) involuntary manslaughter as de-
15 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-
16 slaughter while driving under the influence of alcohol or drugs as defined
17 in K.S.A. 2006 Supp. 21-3442, and amendments thereto; (18) sexual bat-
18 tery as defined in K.S.A. 21-3517, and amendments thereto, when the
19 victim was less than 18 years of age at the time the crime was committed;
20 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-
21 ments thereto; (20) a violation of K.S.A. 8-1567, and amendments thereto,
22 including any diversion for such violation; (21) a violation of K.S.A. 8-
23 2,144, and amendments thereto, including any diversion for such viola-
24 tion; or (22) any conviction for any offense in effect at any time prior to
25 the effective date of this act, that is comparable to any offense as provided
26 in this subsection.

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

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

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

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

36 (4) the crime for which the defendant was arrested, convicted or
37 diverted;

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

39 (6) the identity of the convicting court, arresting law enforcement
40 authority or diverting authority. ~~There shall be no docket fee for filing a~~
41 ~~petition pursuant to this section.~~ All petitions for expungement shall be
42 docketed in the original criminal action. Any person who may have rel-
43 evant information about the petitioner may testify at the hearing. The

1 court may inquire into the background of the petitioner and shall have
2 access to any reports or records relating to the petitioner that are on file
3 with the secretary of corrections or the Kansas parole board.

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

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

10 (2) the circumstances and behavior of the petitioner warrant the
11 expungement; and

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

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

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

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

27 (A) In any application for licensure as a private detective, private
28 detective agency, certification as a firearms trainer pursuant to K.S.A.
29 2006 Supp. 75-7b21, and amendments thereto, or employment as a de-
30 tective with a private detective agency, as defined by K.S.A. 75-7b01, and
31 amendments thereto; as security personnel with a private patrol operator,
32 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-
33 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the
34 department of social and rehabilitation services;

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

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

41 (D) to aid in determining the petitioner's qualifications for executive
42 director of the Kansas racing commission, for employment with the com-
43 mission or for work in sensitive areas in parimutuel racing as deemed

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

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

6 (F) to aid in determining the petitioner's qualifications to be an em-
7 ployee of the state gaming agency;

8 (G) to aid in determining the petitioner's qualifications to be an em-
9 ployee of a tribal gaming commission or to hold a license issued pursuant
10 to a tribal-state gaming compact;

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

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

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

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

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

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

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

40 (i) Whenever the record of any arrest, conviction or diversion has
41 been expunged under the provisions of this section or under the provi-
42 sions of any other existing or former statute, the custodian of the records
43 of arrest, conviction, diversion and incarceration relating to that crime

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

1 pursuant to a tribal-gaming compact;

2 (12) the Kansas securities commissioner or a designee of the com-
3 missioner, and the request is accompanied by a statement that the request
4 is being made in conjunction with an application for registration as a
5 broker-dealer, agent, investment adviser or investment adviser represen-
6 tative by such agency and the application was submitted by the person
7 whose record has been expunged;

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

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

17 (15) the attorney general and the request is accompanied by a state-
18 ment that the request is being made to aid in determining qualifications
19 for a license to carry a concealed weapon pursuant to the personal and
20 family protection act.

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

24 Sec. 18. K.S.A. 74-9803 is hereby amended to read as follows: 74-
25 9803. (a) The state gaming agency is hereby transferred from the de-
26 partment of commerce and housing, designated by Executive Order No.
27 95-177 as the state gaming agency, and is attached to and made a part of
28 the Kansas ~~racine and gaming~~ lottery commission. The budget of the state
29 gaming agency, the number and qualifications of employees of the state
30 gaming agency and expenditures by the state gaming agency for expenses
31 of dispute resolution pursuant to a tribal-state gaming compact shall be
32 subject to approval by the Kansas ~~racine and gaming~~ lottery commission.
33 All other management functions of the state gaming agency shall be ad-
34 ministered by the executive director. All vouchers for expenditures and
35 all payrolls of the state gaming agency shall be approved by the executive
36 director or a person designated by the executive director.

37 (b) Nothing in this act shall be construed as abolishing or reestablish-
38 ing the state gaming agency.

39 Sec. 19. K.S.A. 74-9804 is hereby amended to read as follows: 74-
40 9804. (a) (1) The governor shall appoint, subject to confirmation by the
41 senate as provided by K.S.A. 75-4315b, and amendments thereto, an ex-
42 ecutive director of the state gaming agency, to serve at the pleasure of
43 the governor. Before appointing any person as executive director, the

1 governor shall cause the Kansas bureau of investigation to conduct a crim-
2 inal history record check and background investigation of the person.

3 (2) The executive director shall: (A) Be in the unclassified service
4 under the Kansas civil service act; (B) devote full time to the executive
5 director's assigned duties; (C) be a citizen of the United States and an
6 actual resident of Kansas during employment as executive director; (D)
7 not have been convicted of a felony under the laws of any state or of the
8 United States prior to or during employment; and (E) have familiarity
9 with gaming industries sufficient to fulfill the duties of the office of ex-
10 ecutive director.

11 (3) The executive director shall: (A) Determine, subject to the ap-
12 proval of the Kansas ~~racing and gaming~~ *lottery* commission, the number
13 and qualifications of employees necessary to implement and enforce the
14 provisions of tribal-state gaming compacts and the provisions of the tribal
15 gaming oversight act; (B) employ persons for those positions; and (C)
16 perform such other duties as required by tribal-state gaming compacts.

17 (b) (1) The executive director may appoint a director of enforcement
18 and compliance to serve at the pleasure of the executive director. Before
19 appointing any person as director of enforcement and compliance, the
20 executive director shall cause the Kansas bureau of investigation to con-
21 duct a criminal history record check and background investigation of the
22 person.

23 (2) The director of enforcement and compliance shall: (A) Be in the
24 unclassified service under the Kansas civil service act; (B) devote full time
25 to the director's assigned duties; (C) receive such compensation as de-
26 termined by the executive director, subject to the limitations of approp-
27 riations therefor; (D) be a citizen of the United States and an actual
28 resident of Kansas during employment as director of enforcement and
29 compliance; (E) not have been convicted of a felony under the laws of
30 any state or of the United States prior to and during employment as
31 director of compliance; and (F) have been a professional law enforcement
32 officer with a minimum of five years' experience in the field of law en-
33 forcement and at least a bachelor's degree in law enforcement adminis-
34 tration, law, criminology or a related science or, in lieu thereof, a mini-
35 mum of 10 years' experience in the field of law enforcement.

36 (3) The director of enforcement and compliance shall: (A) Be vested
37 with law enforcement authority;

38 (B) conduct investigations relating to compliance with the provisions
39 of tribal-state gaming compacts and the provisions of the tribal gaming
40 oversight act;

41 (C) recommend proper compliance measures to tribal gaming
42 commissions;

43 (D) train and supervise such personnel as employed by the executive

1 director to assist with such duties; and

2 (E) perform such other duties as directed by the executive director.

3 (c) (1) The executive director may appoint enforcement agents. Be-
4 fore appointing any person as a enforcement agent, the executive director
5 shall cause the Kansas bureau of investigation to conduct a criminal his-
6 tory record check and background investigation of the person.

7 (2) Each enforcement agent shall: (A) Be vested with law enforce-
8 ment authority;

9 (B) be in the classified service under the Kansas civil service act;

10 (C) not have been convicted of a felony under the laws of any state
11 or of the United States prior to or during employment as enforcement
12 agent; and

13 (D) be a professional law enforcement officer with a minimum of two
14 years' experience in the field of law enforcement or, in lieu thereof, a
15 bachelor's degree from an accredited university or college.

16 (3) Enforcement agents shall: (A) Conduct investigations relating to
17 compliance with the provisions of tribal-state gaming compacts or the
18 provisions of the tribal gaming oversight act; and (B) perform such other
19 duties as directed by the executive director or the director of enforcement
20 and compliance.

21 Sec. 20. K.S.A. 2006 Supp. 79-3234 is hereby amended to read as
22 follows: 79-3234. (a) All reports and returns required by this act shall be
23 preserved for three years and thereafter until the director orders them
24 to be destroyed.

25 (b) Except in accordance with proper judicial order, or as provided
26 in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,
27 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall
28 be unlawful for the secretary, the director, any deputy, agent, clerk or
29 other officer, employee or former employee of the department of revenue
30 or any other state officer or employee or former state officer or employee
31 to divulge, or to make known in any way, the amount of income or any
32 particulars set forth or disclosed in any report, return, federal return or
33 federal return information required under this act; and it shall be unlawful
34 for the secretary, the director, any deputy, agent, clerk or other officer
35 or employee engaged in the administration of this act to engage in the
36 business or profession of tax accounting or to accept employment, with
37 or without consideration, from any person, firm or corporation for the
38 purpose, directly or indirectly, of preparing tax returns or reports required
39 by the laws of the state of Kansas, by any other state or by the United
40 States government, or to accept any employment for the purpose of ad-
41 vising, preparing material or data, or the auditing of books or records to
42 be used in an effort to defeat or cancel any tax or part thereof that has
43 been assessed by the state of Kansas, any other state or by the United

1 States government.

2 (c) The secretary or the secretary's designee may: (1) Publish statis-
3 tics, so classified as to prevent the identification of particular reports or
4 returns and the items thereof;

5 (2) allow the inspection of returns by the attorney general or other
6 legal representatives of the state;

7 (3) provide the post auditor access to all income tax reports or returns
8 in accordance with and subject to the provisions of subsection (g) of
9 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

10 (4) disclose taxpayer information from income tax returns to persons
11 or entities contracting with the secretary of revenue where the secretary
12 has determined disclosure of such information is essential for completion
13 of the contract and has taken appropriate steps to preserve confidentiality;

14 (5) disclose to the secretary of commerce specific taxpayer informa-
15 tion related to financial information previously submitted by the taxpayer
16 to the secretary of commerce concerning or relevant to any income tax
17 credits, for purposes of verification of such information or evaluating the
18 effectiveness of any tax credit program administered by the secretary of
19 commerce;

20 (6) disclose income tax returns to the state gaming agency to be used
21 solely for the purpose of determining qualifications of licensees of and
22 applicants for licensure in tribal gaming. Any information received by the
23 state gaming agency shall be confidential and shall not be disclosed except
24 to the executive director, employees of the state gaming agency and mem-
25 bers and employees of the tribal gaming commission;

26 (7) disclose the taxpayer's name, last known address and residency
27 status to the department of wildlife and parks to be used solely in its
28 license fraud investigations;

29 (8) disclose the name, residence address, employer or Kansas ad-
30 justed gross income of a taxpayer who may have a duty of support in a
31 title IV-D case to the secretary of the Kansas department of social and
32 rehabilitation services for use solely in administrative or judicial proceed-
33 ings to establish, modify or enforce such support obligation in a title IV-
34 D case. In addition to any other limits on use, such use shall be allowed
35 only where subject to a protective order which prohibits disclosure out-
36 side of the title IV-D proceeding. As used in this section, "title IV-D
37 case" means a case being administered pursuant to part D of title IV of
38 the federal social security act (42 U.S.C. §651 et seq.) and amendments
39 thereto. Any person receiving any information under the provisions of
40 this subsection shall be subject to the confidentiality provisions of sub-
41 section (b) and to the penalty provisions of subsection (e);

42 (9) permit the commissioner of internal revenue of the United States,
43 or the proper official of any state imposing an income tax, or the author-

1 ized representative of either, to inspect the income tax returns made
2 under this act and the secretary of revenue may make available or furnish
3 to the taxing officials of any other state or the commissioner of internal
4 revenue of the United States or other taxing officials of the federal gov-
5 ernment, or their authorized representatives, information contained in
6 income tax reports or returns or any audit thereof or the report of any
7 investigation made with respect thereto, filed pursuant to the income tax
8 laws, as the secretary may consider proper, but such information shall not
9 be used for any other purpose than that of the administration of tax laws
10 of such state, the state of Kansas or of the United States;

11 (10) communicate to the executive director of the Kansas lottery in-
12 formation as to whether a person, partnership or corporation is current
13 in the filing of all applicable tax returns and in the payment of all taxes,
14 interest and penalties to the state of Kansas, excluding items under formal
15 appeal, for the purpose of determining whether such person, partnership
16 or corporation is eligible to be selected as a lottery retailer;

17 (11) communicate to the executive director of the Kansas ~~racing lot-~~
18 *tery* commission as to whether a person, partnership or corporation has
19 failed to meet any tax obligation to the state of Kansas for the purpose of
20 determining whether such person, partnership or corporation is eligible
21 for a facility owner license or facility manager license pursuant to the
22 Kansas parimutuel racing act;

23 (12) provide such information to the executive director of the Kansas
24 public employees retirement system for the purpose of determining that
25 certain individuals' reported compensation is in compliance with the Kan-
26 sas public employees retirement act at K.S.A. 74-4901 et seq., and amend-
27 ments thereto; and

28 (13) provide taxpayer information of persons suspected of violating
29 K.S.A. 2006 Supp. 44-766, and amendments thereto, to the staff attorneys
30 of the department of labor for the purpose of determining compliance
31 by any person with the provisions of K.S.A. 2006 Supp. 44-766, and
32 amendments thereto, which information shall be limited to withholding
33 tax and payroll information, the identity of any person that has been or
34 is currently being audited or investigated in connection with the admin-
35 istration and enforcement of the withholding and declaration of estimated
36 tax act, K.S.A. 79-3294 et seq., as amended, and the results or status of
37 such audit or investigation.

38 (d) Any person receiving information under the provisions of subsec-
39 tion (c) shall be subject to the confidentiality provisions of subsection (b)
40 and to the penalty provisions of subsection (e).

41 (e) Any violation of subsection (b) or (c) is a class A nonperson mis-
42 demeanor and, if the offender is an officer or employee of the state, such
43 officer or employee shall be dismissed from office.

1 (f) Nothing in this section shall be construed to allow disclosure of
2 the amount of income or any particulars set forth or disclosed in any
3 report, return, federal return or federal return information, where such
4 disclosure is prohibited by the federal internal revenue code as in effect
5 on September 1, 1996, and amendments thereto, related federal internal
6 revenue rules or regulations, or other federal law.

7 Sec. 21. K.S.A. 79-4715 is hereby amended to read as follows: 79-
8 4715. The director of alcoholic beverage control of the department of
9 revenue shall submit to the Kansas ~~racine and gaming~~ *lottery* commission
10 semiannual activity reports concerning inspections and investigations of
11 bingo operations in this state.

12 New Sec. 22. If any provision of this act or the application thereof
13 to any person or circumstances is held invalid, the invalidity shall not
14 affect other provisions or applications of the act which can be given effect
15 without the invalid provision of application and, to this end, the provisions
16 of this act are severable.

17 Sec. 23. K.S.A. 74-8703, 74-8704, 74-8706, 74-8709, 74-8802, 74-
18 8803, 74-8803a, 74-8805, 74-8839, 74-9803, 74-9804 and 79-4715 and
19 K.S.A. 2006 Supp. 12-4516, 12-4516a, 21-4302, 21-4619, 21-4619c and
20 79-3234 are hereby repealed.

21 Sec. 24. This act shall take effect and be in force from and after
22 January 1, 2008, and its publication in the statute book.