

HOUSE BILL No. 2710

By Committee on Federal and State Affairs

2-25

9 AN ACT concerning lotteries; amending K.S.A. 21-4302, 74-8704, 74-
10 8706, 74-8709 and 74-8802 and K.S.A. 2009 Supp. 12-4516, 12-4516a,
11 21-4619, 74-8703, 74-8734, 74-8735, 74-8736, 74-8741, 74-8742, 74-
12 8745, 74-8746, 74-8750, 74-8751, 74-8752, 74-8758, 74-8759, 74-8760,
13 74-8762, 74-8764, 74-8767, 74-8769, 74-8772, 74-8805, 74-8814, 74-
14 8832, 75-37,121, 79-4701, 79-4704, 79-4708 and 79-4717 and repeal-
15 ing the existing sections; also repealing K.S.A. 74-8803.
16

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

18 New Section 1. (a) On January 1, 2011, the Kansas racing and gaming
19 commission is abolished and all powers, duties and functions of such
20 commission are transferred to and shall become the responsibilities of
21 the Kansas lottery.

22 On and after January 1, 2011, the Kansas lottery shall administer the
23 provision of the Kansas parimutuel racing act, K.S.A. 74-8801 through
24 74-8839, and amendments thereto.

25 New Sec. 2. On and after January 1, 2011, the administration of the
26 bingo act shall be transferred from the Kansas department of revenue to
27 the Kansas lottery.

28 On and after January 1, 2011, the Kansas lottery shall consist of three
29 divisions: The division of the lottery, the division of parimutuel racing and
30 the division of bingo. The three divisions shall operate independent of
31 each other, there shall be no commingling of funds and no financial ob-
32 ligations of one division shall be considered the financial obligation of the
33 other.

34 New Sec. 3. (a) Every act performed in the exercise of such powers,
35 duties and functions by or under the authority of the executive director
36 of the Kansas lottery shall be deemed to have the same force and effect
37 as if performed by the Kansas racing and gaming commission and the
38 executive director of such commission.

39 (b) Whenever the "Kansas racing commission", "Kansas racing and
40 gaming commission" or words of like effect, are referred to or designated
41 by a statute, contract or other document, and such reference or design-
42 ation is in regard to one of the powers and duties transferred to the
43 Kansas lottery pursuant to section 1, and amendments thereto, such ref-

1 erence or designation shall be deemed to apply to the Kansas lottery.
2 Whenever “executive director” or “executive director of the commission”
3 or words of like effect, are referred to or designated by statute, contract
4 or other document, and such reference is in regard to one of the powers
5 and duties transferred to the Kansas lottery, such reference shall be
6 deemed to apply to the executive director of the Kansas lottery.

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

13 New Sec. 4. On the effective date of this act, officers and employees
14 who, immediately prior to such date, were engaged in the performance
15 of any powers and duties of the Kansas racing and gaming commission
16 which are transferred to the Kansas lottery, and who, in the opinion of
17 the executive director of the Kansas lottery, are necessary to perform the
18 powers and duties of the Kansas lottery, shall be transferred to, and shall
19 become officers and employees of such lottery.

20 New Sec. 5. On the effective date of this act, all property, property
21 rights and records which were used for or pertain to the performance of
22 the powers and duties transferred by the Kansas racing and gaming com-
23 mission shall become the property, property rights and records of the
24 Kansas lottery.

25 New Sec. 6. No suit, action or other proceeding, judicial or admin-
26 istrative, lawfully commenced, or which could have been commenced, by
27 or against the Kansas racing and gaming commission mentioned in this
28 act, or by or against any officer of such agency in such officer’s official
29 capacity or in relation to the discharge of such officer’s official duties,
30 shall abate by reason of the governmental reorganization effected under
31 the provisions of this act. The court may allow any such suit, action or
32 other proceeding to be maintained by or against the Kansas lottery.

33 New Sec. 7. (a) On the effective date of this act, the balances of all
34 funds appropriated or reappropriated to the Kansas racing and gaming
35 commission for any of the powers and duties transferred to the Kansas
36 lottery pursuant to section 1, and amendments thereto, are hereby trans-
37 ferred to the Kansas lottery and shall be used only for the purpose for
38 which the appropriation was originally made.

39 (b) On the effective date of this act, the liability for all accrued com-
40 pensation, wages or salaries of officers and employees who, immediately
41 prior to such date, were engaged in the performance of powers, duties
42 or functions of the Kansas racing and gaming commission which are trans-
43 ferred to the Kansas lottery pursuant to section 1, and amendments

1 thereto, shall be assumed and paid by the Kansas lottery.

2 New Sec. 8. (a) Every act performed in the exercise of such powers,
3 duties and functions by or under the authority of the executive director
4 of the Kansas lottery shall be deemed to have the same force and effect
5 as if performed by the secretary of revenue in regard to the bingo act.

6 (b) All rules and regulations, orders and directives of the secretary of
7 revenue pertaining to the powers and duties transferred pursuant to sec-
8 tion 2, and amendments thereto, shall continue to be effective and shall
9 be deemed to be the rules and regulations, orders and directives of the
10 Kansas lottery until revised, amended, repealed or nullified pursuant to
11 law.

12 New Sec. 9. On the effective date of this act, officers and employees
13 who, immediately prior to such date, were engaged in the performance
14 of any powers and duties under the bingo act which are transferred to
15 the Kansas lottery, and who, in the opinion of the executive director of
16 the Kansas lottery, are necessary to perform the powers and duties of the
17 Kansas lottery, shall be transferred to, and shall become officers and em-
18 ployees of such lottery.

19 New Sec. 10. On the effective date of this act, all property, property
20 rights and records which were used for or pertain to the performance of
21 the powers and duties transferred by the bingo act and the secretary of
22 revenue shall become the property, property rights and records of the
23 Kansas lottery.

24 New Sec. 11. No suit, action or other proceeding, judicial or admin-
25 istrative, lawfully commenced, or which could have been commenced, by
26 or against the administrator of charitable gaming or the secretary of rev-
27 enue in regard to the administration of the bingo act mentioned in this
28 act, or by or against any officer of such agency in such officer's official
29 capacity or in relation to the discharge of such officer's official duties,
30 shall abate by reason of the governmental reorganization effected under
31 the provisions of this act. The court may allow any such suit, action or
32 other proceeding to be maintained by or against the Kansas lottery.

33 New Sec. 12. (a) On the effective date of this act, the balances of all
34 funds appropriated or reappropriated to the secretary of revenue for any
35 of the powers and duties transferred to the Kansas lottery pursuant to
36 section 2, and amendments thereto, are hereby transferred to the Kansas
37 lottery and shall be used only for the purpose for which the appropriation
38 was originally made.

39 (b) On the effective date of this act, the liability for all accrued com-
40 pensation, wages or salaries of officers and employees who, immediately
41 prior to such date, were engaged in the performance of powers, duties
42 or functions and administration of the bingo act which are transferred to
43 the Kansas lottery pursuant to section 2, and amendments thereto, shall

1 be assumed and paid by the Kansas lottery.

2 Sec. 13. K.S.A. 2009 Supp. 12-4516 is hereby amended to read as
3 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
4 person who has been convicted of a violation of a city ordinance of this
5 state may petition the convicting court for the expungement of such con-
6 viction and related arrest records if three or more years have elapsed
7 since the person:

8 (A) Satisfied the sentence imposed; or

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

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

15 (b) No person may petition for expungement until five or more years
16 have elapsed since the person satisfied the sentence imposed or the terms
17 of a diversion agreement or was discharged from probation, parole, con-
18 ditional release or a suspended sentence, if such person was convicted of
19 the violation of a city ordinance which would also constitute:

20 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-
21 ments thereto;

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

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

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

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

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

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

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

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

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

43 (2) the full name of the defendant at the time of arrest, conviction or

- 1 diversion, if different than the defendant's current name;
- 2 (3) the defendant's sex, race and date of birth;
- 3 (4) the crime for which the defendant was arrested, convicted or
4 diverted;
- 5 (5) the date of the defendant's arrest, conviction or diversion; and
- 6 (6) the identity of the convicting court, arresting law enforcement
7 agency or diverting authority. A municipal court may prescribe a fee to
8 be charged as costs for a person petitioning for an order of expungement
9 pursuant to this section. Any person who may have relevant information
10 about the petitioner may testify at the hearing. The court may inquire
11 into the background of the petitioner and shall have access to any reports
12 or records relating to the petitioner that are on file with the secretary of
13 corrections or the Kansas parole board.
- 14 (e) At the hearing on the petition, the court shall order the peti-
15 tioner's arrest record, conviction or diversion expunged if the court finds
16 that:
- 17 (1) The petitioner has not been convicted of a felony in the past two
18 years and no proceeding involving any such crime is presently pending
19 or being instituted against the petitioner;
- 20 (2) the circumstances and behavior of the petitioner warrant the
21 expungement; and
- 22 (3) the expungement is consistent with the public welfare.
- 23 (f) When the court has ordered an arrest record, conviction or diver-
24 sion expunged, the order of expungement shall state the information re-
25 quired to be contained in the petition. The clerk of the court shall send
26 a certified copy of the order of expungement to the Kansas bureau of
27 investigation which shall notify the federal bureau of investigation, the
28 secretary of corrections and any other criminal justice agency which may
29 have a record of the arrest, conviction or diversion. After the order of
30 expungement is entered, the petitioner shall be treated as not having been
31 arrested, convicted or diverted of the crime, except that:
- 32 (1) Upon conviction for any subsequent crime, the conviction that
33 was expunged may be considered as a prior conviction in determining the
34 sentence to be imposed;
- 35 (2) the petitioner shall disclose that the arrest, conviction or diversion
36 occurred if asked about previous arrests, convictions or diversions:
- 37 (A) In any application for employment as a detective with a private
38 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
39 as security personnel with a private patrol operator, as defined by K.S.A.
40 75-7b01, and amendments thereto; or with an institution, as defined in
41 K.S.A. 76-12a01, and amendments thereto, of the department of social
42 and rehabilitation services;
- 43 (B) in any application for admission, or for an order of reinstatement,

1 to the practice of law in this state;

2 (C) to aid in determining the petitioner's qualifications for employ-
3 ment with the Kansas lottery or for work in sensitive areas within the
4 Kansas lottery *including parimutuel racing and bingo* as deemed appro-
5 priate by the executive director of the Kansas lottery *or to aid in deter-*
6 *mining qualifications for licensure or renewal of licensure by the*
7 *commission;*

8 ~~(D) to aid in determining the petitioner's qualifications for executive~~
9 ~~director of the Kansas racing and gaming commission, for employment~~
10 ~~with the commission or for work in sensitive areas in parimutuel racing~~
11 ~~as deemed appropriate by the executive director of the commission, or~~
12 ~~to aid in determining qualifications for licensure or renewal of licensure~~
13 ~~by the commission;~~

14 ~~(E) (D)~~ to aid in determining the petitioner's qualifications for the
15 following under the Kansas expanded lottery act: (i) Lottery gaming fa-
16 cility manager or prospective manager, racetrack gaming facility manager
17 or prospective manager, licensee or certificate holder; or (ii) an officer,
18 director, employee, owner, agent or contractor thereof;

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

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

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

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

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

31 ~~(K) (J)~~ for applications received on and after July 1, 2006, to aid in
32 determining the petitioner's qualifications for a license to carry a con-
33 cealed weapon pursuant to the personal and family protection act, K.S.A.
34 2009 Supp. 75-7c01 et seq., and amendments thereto;

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

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

41 (g) Whenever a person is convicted of an ordinance violation, pleads
42 guilty and pays a fine for such a violation, is placed on parole or probation
43 or is granted a suspended sentence for such a violation, the person shall

1 be informed of the ability to expunge the arrest records or conviction.
2 Whenever a person enters into a diversion agreement, the person shall
3 be informed of the ability to expunge the diversion.

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

10 (i) Whenever the record of any arrest, conviction or diversion has
11 been expunged under the provisions of this section or under the provi-
12 sions of any other existing or former statute, the custodian of the records
13 of arrest, conviction, diversion and incarceration relating to that crime
14 shall not disclose the existence of such records, except when requested
15 by:

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

1 appropriate by the executive director of the Kansas lottery *or for licensure,*
2 *renewal of licensure or continued licensure by the Kansas lottery;*
3 ~~(9) the governor or the Kansas racing and gaming commission, or a~~
4 ~~designee of the commission, and the request is accompanied by a state-~~
5 ~~ment that the request is being made to aid in determining qualifications~~
6 ~~for executive director of the commission, for employment with the com-~~
7 ~~mission, for work in sensitive areas in parimutuel racing as deemed ap-~~
8 ~~propriate by the executive director of the commission or for licensure,~~
9 ~~renewal of licensure or continued licensure by the commission;~~
10 ~~—(10) (9) the Kansas racing and gaming commission, or a designee of~~
11 ~~the commission lottery, and the request is accompanied by a statement~~
12 ~~that the request is being made to aid in determining qualifications of the~~
13 ~~following under the Kansas expanded lottery act: (A) Lottery gaming fa-~~
14 ~~cility managers and prospective managers, racetrack gaming facility man-~~
15 ~~agers and prospective managers, licensees and certificate holders; and (B)~~
16 ~~their officers, directors, employees, owners, agents and contractors;~~
17 ~~(11) (10) the state gaming agency, and the request is accompanied~~
18 ~~by a statement that the request is being made to aid in determining qual-~~
19 ~~ifications: (A) To be an employee of the state gaming agency; or (B) to~~
20 ~~be an employee of a tribal gaming commission or to hold a license issued~~
21 ~~pursuant to a tribal-state gaming compact;~~
22 ~~(12) (11) the Kansas securities commissioner, or a designee of the~~
23 ~~commissioner, and the request is accompanied by a statement that the~~
24 ~~request is being made in conjunction with an application for registration~~
25 ~~as a broker-dealer, agent, investment adviser or investment adviser rep-~~
26 ~~resentative by such agency and the application was submitted by the per-~~
27 ~~son whose record has been expunged;~~
28 ~~(13) (12) the attorney general, and the request is accompanied by a~~
29 ~~statement that the request is being made to aid in determining qualifi-~~
30 ~~cations for a license to carry a concealed weapon pursuant to the personal~~
31 ~~and family protection act;~~
32 ~~(14) (13) the Kansas sentencing commission;~~
33 ~~(15) (14) the Kansas commission on peace officers' standards and~~
34 ~~training and the request is accompanied by a statement that the request~~
35 ~~is being made to aid in determining certification eligibility as a law en-~~
36 ~~forcement officer pursuant to K.S.A. 74-5601 et seq., and amendments~~
37 ~~thereto; or~~
38 ~~(16) (15) a law enforcement agency and the request is accompanied~~
39 ~~by a statement that the request is being made to aid in determining eli-~~
40 ~~gibility for employment as a law enforcement officer as defined by K.S.A.~~
41 ~~22-2202, and amendments thereto.~~
42 Sec. 14. K.S.A. 2009 Supp. 12-4516a is hereby amended to read as
43 follows: 12-4516a. (a) Any person who has been arrested on a violation

1 of a city ordinance of this state may petition the court for the expunge-
2 ment of such arrest record.

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

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

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

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

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

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

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

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

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

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

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

34 (d) When the court has ordered expungement of an arrest record and
35 subsequent court proceedings, if any, the order shall state the information
36 required to be stated in the petition and shall state the grounds for
37 expungement under subsection (c). The clerk of the court shall send a
38 certified copy of the order to the Kansas bureau of investigation which
39 shall notify the federal bureau of investigation, the secretary of corrections
40 and any other criminal justice agency which may have a record of the
41 arrest. If an order of expungement is entered, the petitioner shall be
42 treated as not having been arrested.

43 (e) If the ground for expungement is as provided in subsection (c)(4),

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

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

11 (3) to aid in determining the petitioner's qualifications for employ-
12 ment with the Kansas lottery or for work in sensitive areas within the
13 Kansas lottery *including parimutuel racing and bingo* as deemed appro-
14 priate by the executive director of the Kansas lottery *or to aid in deter-*
15 *mining qualifications for licensure, renewal of licensure or continued li-*
16 *cence by the Kansas lottery;*

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

23 ~~(5) (4) in any application for a commercial driver's license under~~
24 ~~K.S.A. 8-2,125 through 8-2,142 and amendments thereto;~~

25 ~~(6) (5) to aid in determining the petitioner's qualifications to be an~~
26 ~~employee of the state gaming agency;~~

27 ~~(7) (6) to aid in determining the petitioner's qualifications to be an~~
28 ~~employee of a tribal gaming commission or to hold a license issued pur-~~
29 ~~suant to a tribal-state gaming compact; or~~

30 ~~(8) (7) in any other circumstances which the court deems appropriate.~~

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

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

42 Sec. 15. K.S.A. 21-4302 is hereby amended to read as follows: 21-
43 4302. (a) "Bet" means a bargain in which the parties agree that, depend-

1 ent upon chance, one stands to win or lose something of value specified
2 in the agreement. A bet does not include:

3 (1) Bona fide business transactions which are valid under the law of
4 contracts including, but not limited to, contracts for the purchase or sale
5 at a future date of securities or other commodities, and agreements to
6 compensation for loss caused by the happening of the chance including,
7 but not limited to, contracts of indemnity or guaranty and life or health
8 and accident insurance;

9 (2) offers of purses, prizes or premiums to the actual contestants in
10 any bona fide contest for the determination of skill, speed, strength, or
11 endurance or to the bona fide owners of animals or vehicles entered in
12 such a contest;

13 (3) a lottery as defined in this section;

14 (4) any bingo game by or for participants managed, operated or con-
15 ducted in accordance with the laws of the state of Kansas by an organi-
16 zation licensed by the state of Kansas to manage, operate or conduct
17 games of bingo;

18 (5) a lottery operated by the state pursuant to the Kansas lottery act;

19 (6) any system of parimutuel wagering managed, operated and con-
20 ducted in accordance with the Kansas parimutuel racing act; or

21 (7) tribal gaming.

22 (b) "Lottery" means an enterprise wherein for a consideration the
23 participants are given an opportunity to win a prize, the award of which
24 is determined by chance. A lottery does not include:

25 (1) A lottery operated by the state pursuant to the Kansas lottery act;
26 or

27 (2) tribal gaming.

28 (c) "Consideration" means anything which is a commercial or finan-
29 cial advantage to the promoter or a disadvantage to any participant.

30 Mere registration without purchase of goods or services; personal at-
31 tendance at places or events, without payment of an admission price or
32 fee; listening to or watching radio and television programs; answering the
33 telephone or making a telephone call and acts of like nature are not
34 consideration.

35 As used in this subsection, consideration does not include:

36 (1) Sums of money paid by or for participants in any bingo game
37 managed, operated or conducted in accordance with the laws of the state
38 of Kansas by any bona fide nonprofit religious, charitable, fraternal, ed-
39 ucational or veteran organization licensed to manage, operate or conduct
40 bingo games under the laws of the state of Kansas and it shall be conclu-
41 sively presumed that such sums paid by or for such participants were
42 intended by such participants to be for the benefit of the sponsoring
43 organizations for the use of such sponsoring organizations in furthering

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

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

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

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

12 (d) (1) "Gambling device" means:

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

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

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

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

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

38 (2) Gambling device does not include:

39 (A) Any machine, mechanical device, electronic device or other con-
40 trivance used or for use by a licensee of the Kansas ~~racing commission~~
41 ~~lottery~~ as authorized by law and rules and regulations adopted by the
42 ~~commission~~ pursuant to provisions of the Kansas parimutuel racing act,
43 K.S.A. 74-8801 et seq., and amendments thereto, or by the Kansas lottery

1 ~~or~~, Kansas lottery retailers, *lottery gaming facilities or racetrack gaming*
2 *facilities* as authorized by law and rules and regulations adopted by the
3 Kansas lottery commission *under provisions of the Kansas lottery act,*
4 *K.S.A. 74-8701 et seq., and amendments thereto, and the Kansas expanded*
5 *lottery act under provisions of K.S.A. 74-8733 et seq., and amendments*
6 *thereto;*

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

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

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

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

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

30 (g) “Tribal gaming commission” has the meaning provided by K.S.A.
31 74-9802 and amendments thereto.

32 Sec. 16. K.S.A. 2009 Supp. 21-4619 is hereby amended to read as
33 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),
34 any person convicted in this state of a traffic infraction, cigarette or to-
35 bacco infraction, misdemeanor or a class D or E felony, or for crimes
36 committed on or after July 1, 1993, nondrug crimes ranked in severity
37 levels 6 through 10 or any felony ranked in severity level 4 of the drug
38 grid, may petition the convicting court for the expungement of such con-
39 viction or related arrest records if three or more years have elapsed since
40 the person: (A) Satisfied the sentence imposed; or (B) was discharged
41 from probation, a community correctional services program, parole, post-
42 release supervision, conditional release or a suspended sentence.

43 (2) Except as provided in subsections (b) and (c), any person who has

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

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

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

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

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

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

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

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

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

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

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

1 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-
2 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-
3 3506, and amendments thereto; (6) indecent solicitation of a child as
4 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-
5 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-
6 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-
7 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.
8 21-3603, and amendments thereto; (10) endangering a child as defined
9 in K.S.A. 21-3608, and amendments thereto; (11) aggravated endangering
10 a child as defined in K.S.A. 21-3608a, and amendments thereto; (12)
11 abuse of a child as defined in K.S.A. 21-3609, and amendments thereto;
12 (13) capital murder as defined in K.S.A. 21-3439, and amendments
13 thereto; (14) murder in the first degree as defined in K.S.A. 21-3401, and
14 amendments thereto; (15) murder in the second degree as defined in
15 K.S.A. 21-3402, and amendments thereto; (16) voluntary manslaughter
16 as defined in K.S.A. 21-3403, and amendments thereto; (17) involuntary
17 manslaughter as defined in K.S.A. 21-3404, and amendments thereto;
18 (18) involuntary manslaughter while driving under the influence of al-
19 cohol or drugs as defined in K.S.A. 21-3442, and amendments thereto;
20 (19) sexual battery as defined in K.S.A. 21-3517, and amendments
21 thereto, when the victim was less than 18 years of age at the time the
22 crime was committed; (20) aggravated sexual battery as defined in K.S.A.
23 21-3518, and amendments thereto; (21) a violation of K.S.A. 8-1567, and
24 amendments thereto, including any diversion for such violation; (22) a
25 violation of K.S.A. 8-2,144, and amendments thereto, including any di-
26 version for such violation; or (23) any conviction for any offense in effect
27 at any time prior to the effective date of this act, that is comparable to
28 any offense as provided in this subsection.

29 (d) When a petition for expungement is filed, the court shall set a
30 date for a hearing of such petition and shall cause notice of such hearing
31 to be given to the prosecuting attorney and the arresting law enforcement
32 agency. 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. Except as provided further, there shall
41 be no docket fee for filing a petition pursuant to this section. On and
42 after July 1, 2009 through June 30, 2010, the supreme court may impose
43 a charge, not to exceed \$10 per case, to fund the costs of non-judicial

1 personnel. The charge established in this section shall be the only fee
2 collected or moneys in the nature of a fee collected for the case. Such
3 charge shall only be established by an act of the legislature and no other
4 authority is established by law or otherwise to collect a fee. All petitions
5 for expungement shall be docketed in the original criminal action. Any
6 person who may have relevant information about the petitioner may tes-
7 tify at the hearing. The court may inquire into the background of the
8 petitioner and shall have access to any reports or records relating to the
9 petitioner that are on file with the secretary of corrections or the Kansas
10 parole board.

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

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

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

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

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

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

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

34 (A) In any application for licensure as a private detective, private
35 detective agency, certification as a firearms trainer pursuant to K.S.A.
36 2009 Supp. 75-7b21, and amendments thereto, or employment as a de-
37 tective with a private detective agency, as defined by K.S.A. 75-7b01, and
38 amendments thereto; as security personnel with a private patrol operator,
39 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-
40 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the
41 department of social and rehabilitation services;

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

- 1 (C) to aid in determining the petitioner's qualifications for employ-
2 ment with the Kansas lottery or for work in sensitive areas *including*
3 *parimutuel racing and bingo* within the Kansas lottery as deemed appro-
4 priate by the executive director of the Kansas lottery *or to aid in deter-*
5 *mining qualifications for licensure, renewal of licensure or continued li-*
6 *cence by the Kansas lottery;*
- 7 ~~(D) to aid in determining the petitioner's qualifications for executive~~
8 ~~director of the Kansas racing and gaming commission, for employment~~
9 ~~with the commission or for work in sensitive areas in parimutuel racing~~
10 ~~as deemed appropriate by the executive director of the commission, or~~
11 ~~to aid in determining qualifications for licensure or renewal of licensure~~
12 ~~by the commission;~~
- 13 ~~(E) (D)~~ to aid in determining the petitioner's qualifications for the
14 following under the Kansas expanded lottery act: (i) Lottery gaming fa-
15 cility manager or prospective manager, racetrack gaming facility manager
16 or prospective manager, licensee or certificate holder; or (ii) an officer,
17 director, employee, owner, agent or contractor thereof;
- 18 ~~(F) (E)~~ upon application for a commercial driver's license under
19 K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- 20 ~~(G) (F)~~ to aid in determining the petitioner's qualifications to be an
21 employee of the state gaming agency;
- 22 ~~(H) (G)~~ to aid in determining the petitioner's qualifications to be an
23 employee of a tribal gaming commission or to hold a license issued pur-
24 suant to a tribal-state gaming compact;
- 25 ~~(I) (H)~~ in any application for registration as a broker-dealer, agent,
26 investment adviser or investment adviser representative all as defined in
27 K.S.A. 17-12a102, and amendments thereto;
- 28 ~~(J) (I)~~ in any application for employment as a law enforcement officer
29 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 30 ~~(K) (J)~~ for applications received on and after July 1, 2006, to aid in
31 determining the petitioner's qualifications for a license to carry a con-
32 cealed weapon pursuant to the personal and family protection act, K.S.A.
33 2009 Supp. 75-7c01 et seq., and amendments thereto;
- 34 (3) the court, in the order of expungement, may specify other cir-
35 cumstances under which the conviction is to be disclosed;
- 36 (4) the conviction may be disclosed in a subsequent prosecution for
37 an offense which requires as an element of such offense a prior conviction
38 of the type expunged; and
- 39 (5) upon commitment to the custody of the secretary of corrections,
40 any previously expunged record in the possession of the secretary of cor-
41 rections may be reinstated and the expungement disregarded, and the
42 record continued for the purpose of the new commitment.
- 43 (g) Whenever a person is convicted of a crime, pleads guilty and pays

1 a fine for a crime, is placed on parole, postrelease supervision or proba-
2 tion, is assigned to a community correctional services program, is granted
3 a suspended sentence or is released on conditional release, the person
4 shall be informed of the ability to expunge the arrest records or convic-
5 tion. Whenever a person enters into a diversion agreement, the person
6 shall be informed of the ability to expunge the diversion.

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

15 (i) Whenever the record of any arrest, conviction or diversion has
16 been expunged under the provisions of this section or under the provi-
17 sions of any other existing or former statute, the custodian of the records
18 of arrest, conviction, diversion and incarceration relating to that crime
19 shall not disclose the existence of such records, except when requested
20 by:

- 21 (1) The person whose record was expunged;
- 22 (2) a private detective agency or a private patrol operator, and the
23 request is accompanied by a statement that the request is being made in
24 conjunction with an application for employment with such agency or op-
25 erator by the person whose record has been expunged;
- 26 (3) a court, upon a showing of a subsequent conviction of the person
27 whose record has been expunged;
- 28 (4) the secretary of social and rehabilitation services, or a designee of
29 the secretary, for the purpose of obtaining information relating to em-
30 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-
31 ments thereto, of the department of social and rehabilitation services of
32 any person whose record has been expunged;
- 33 (5) a person entitled to such information pursuant to the terms of the
34 expungement order;
- 35 (6) a prosecuting attorney, and such request is accompanied by a
36 statement that the request is being made in conjunction with a prosecu-
37 tion of an offense that requires a prior conviction as one of the elements
38 of such offense;
- 39 (7) the supreme court, the clerk or disciplinary administrator thereof,
40 the state board for admission of attorneys or the state board for discipline
41 of attorneys, and the request is accompanied by a statement that the
42 request is being made in conjunction with an application for admission,
43 or for an order of reinstatement, to the practice of law in this state by the

1 person whose record has been expunged;

2 (8) the Kansas lottery, and the request is accompanied by a statement
3 that the request is being made to aid in determining qualifications for
4 employment with the Kansas lottery or for work in sensitive areas within
5 the Kansas lottery *including parimutuel racing and bingo* as deemed ap-
6 propriate by the executive director of the Kansas lottery *or for the licen-*
7 *sure, renewal of licensure or continued licensure by the Kansas lottery;*

8 ~~(9) the governor or the Kansas racing and gaming commission, or a~~
9 ~~designee of the commission, and the request is accompanied by a state-~~
10 ~~ment that the request is being made to aid in determining qualifications~~
11 ~~for executive director of the commission, for employment with the com-~~
12 ~~mission, for work in sensitive areas in parimutuel racing as deemed ap-~~
13 ~~propriate by the executive director of the commission or for licensure,~~
14 ~~renewal of licensure or continued licensure by the commission;~~

15 ~~—(10) (9) the Kansas racing and gaming commission, or a designee of~~
16 ~~the commission lottery, and the request is accompanied by a statement~~
17 that the request is being made to aid in determining qualifications of the
18 following under the Kansas expanded lottery act: (A) Lottery gaming fa-
19 cility managers and prospective managers, racetrack gaming facility man-
20 agers and prospective managers, licensees and certificate holders; and (B)
21 their officers, directors, employees, owners, agents and contractors;

22 ~~(11) (10) the Kansas sentencing commission;~~

23 ~~(12) (11) the state gaming agency, and the request is accompanied~~
24 by a statement that the request is being made to aid in determining qual-
25 ifications: (A) To be an employee of the state gaming agency; or (B) to
26 be an employee of a tribal gaming commission or to hold a license issued
27 pursuant to a tribal-gaming compact;

28 ~~(13) (12) the Kansas securities commissioner or a designee of the~~
29 commissioner, and the request is accompanied by a statement that the
30 request is being made in conjunction with an application for registration
31 as a broker-dealer, agent, investment adviser or investment adviser rep-
32 resentative by such agency and the application was submitted by the per-
33 son whose record has been expunged;

34 ~~(14) (13) the Kansas commission on peace officers' standards and~~
35 training and the request is accompanied by a statement that the request
36 is being made to aid in determining certification eligibility as a law en-
37 forcement officer pursuant to K.S.A. 74-5601 et seq., and amendments
38 thereto;

39 ~~(15) (14) a law enforcement agency and the request is accompanied~~
40 by a statement that the request is being made to aid in determining eli-
41 gibility for employment as a law enforcement officer as defined by K.S.A.
42 22-2202, and amendments thereto; or

43 ~~(16) (15) the attorney general and the request is accompanied by a~~

1 statement that the request is being made to aid in determining qualifi-
2 cations for a license to carry a concealed weapon pursuant to the personal
3 and family protection act.

4 Sec. 17. K.S.A. 2009 Supp. 74-8703 is hereby amended to read as
5 follows: 74-8703. (a) There is hereby established an independent state
6 agency to be called the Kansas lottery, the head of which shall be the
7 executive director of the Kansas lottery. Under the supervision of the
8 executive director, the Kansas lottery shall administer the state lottery as
9 provided in this act. The overall management of the state lottery and
10 control over the operation of its games shall rest solely with the Kansas
11 lottery.

12 (b) *The Kansas lottery shall administer the provisions of the Kansas*
13 *parimutuel racing act, K.S.A. 74-8801 et seq., and amendments thereto.*

14 (c) *The Kansas lottery shall administer the provisions of the bingo act,*
15 *K.S.A. 79-4701 et seq., and amendments thereto.*

16 ~~(b)~~ (d) The executive director shall be appointed by the governor,
17 subject to confirmation by the senate as provided by K.S.A. 75-4315b,
18 and amendments thereto. Except as provided by K.S.A. 46-2601, and
19 amendments thereto, no person appointed as executive director shall ex-
20 ercise any power, duty or function as executive director until confirmed
21 by the senate. The executive director shall be in the unclassified service
22 and shall receive an annual salary fixed by the governor, subject to the
23 limitations of appropriations therefor.

24 ~~(c)~~ (e) The executive director shall appoint persons to the following
25 positions to serve as full-time employees of the state in the unclassified
26 service with compensation fixed by the executive director and approved
27 by the governor, subject to the limitations of appropriations therefor:

28 (1) A deputy executive director; *for the administration of the Kansas*
29 *lottery act and the division of the lottery;*

30 (2) *a director for the administration of the Kansas parimutuel racing*
31 *act and the division of parimutuel;*

32 (3) *an administrator of charitable gaming for administration of the*
33 *bingo act and the division of bingo;*

34 ~~(2)~~ (4) a director of *lottery* security;

35 ~~(3)~~ (5) a director of *lottery* administration;

36 ~~(4)~~ (6) a director of *lottery* sales and such professional sales related
37 positions as may be necessary within the sales division;

38 ~~(5)~~ (7) a director of *lottery* marketing and such professional marketing
39 related positions as may be necessary within the marketing division; and

40 ~~(6)~~ (8) one personal secretary and one special assistant to the exec-
41 utive director.

42 ~~(4)~~ (f) Until such time as the Kansas lottery begins the operation of
43 its games, temporary staffing, budgeting, purchasing and related man-

1 agement functions shall be provided by the Kansas department of revenue
2 and other state agencies as directed by the governor to achieve maximum
3 coordination in the planning and implementation of the Kansas lottery.

4 ~~(e)~~ (g) For a period of 18 months after the effective date of this act,
5 the state director of purchases, upon request of the executive director,
6 shall make emergency purchases, other than purchases of major procure-
7 ments, on behalf of the Kansas lottery pursuant to subsection (a)(5) of
8 K.S.A. 75-3739, and amendments thereto, when the timely implemen-
9 tation of the Kansas lottery requires the immediate delivery of supplies,
10 materials or equipment or the immediate performance of services. The
11 award of any contract for any such purchase shall be subject to the ap-
12 proval of the executive director.

13 Sec. 18. K.S.A. 74-8704 is hereby amended to read as follows: 74-
14 8704. (a) The executive director shall have the power to:

15 (1) Supervise and administer the operation of the state lottery in ac-
16 cordance with the provisions of this act and such rules and regulations as
17 adopted hereunder.

18 (2) Appoint, subject to the Kansas civil service act and within the
19 limitations of appropriations therefor, all other employees of the Kansas
20 lottery, which employees shall be in the classified service unless otherwise
21 specifically provided by this act.

22 (3) Enter into contracts for advertising and promotional services, sub-
23 ject to the provisions of subsection (b); annuities or other methods
24 deemed appropriate for the payment of prizes; data processing and other
25 technical products, equipment and services; and facilities as needed to
26 operate the Kansas lottery, including but not limited to gaming equip-
27 ment, tickets and other services involved in major procurement contracts,
28 in accordance with K.S.A. 74-8705 and amendments thereto.

29 (4) Enter into contracts with persons for the sale of lottery tickets or
30 shares to the public, as provided by this act and rules and regulations
31 adopted pursuant to this act, which contracts shall not be subject to the
32 provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

33 (5) Require lottery retailers to furnish proof of financial stability or
34 furnish surety in an amount based upon the expected volume of sales of
35 lottery tickets or shares.

36 (6) Examine, or cause to be examined by any agent or representative
37 designated by the executive director, any books, papers, records or mem-
38 oranda of any lottery retailer for the purpose of ascertaining compliance
39 with the provisions of this act or rules and regulations adopted hereunder.

40 (7) Issue subpoenas to compel access to or for the production of any
41 books, papers, records or memoranda in the custody or control of any
42 lottery retailer, or to compel the appearance of any lottery retailer or
43 employee of any lottery retailer, for the purpose of ascertaining compli-

1 ance with the provisions of this act or rules and regulations adopted here-
2 under. Subpoenas issued under the provisions of this subsection may be
3 served upon natural persons and corporations in the manner provided in
4 K.S.A. 60-304 and amendments thereto for the service of process by any
5 officer authorized to serve subpoenas in civil actions or by the executive
6 director or an agent or representative designated by the executive direc-
7 tor. In the case of the refusal of any person to comply with any such
8 subpoena, the executive director may make application to the district
9 court of any county where such books, papers, records, memoranda or
10 person is located for an order to comply.

11 (8) Administer oaths and take depositions to the same extent and
12 subject to the same limitations as would apply if the deposition were in
13 aid of a civil action in the district court.

14 (9) Require fingerprinting of employees and such other persons who
15 work in sensitive areas within the lottery as deemed appropriate by the
16 director. The director may submit such fingerprints to the Kansas bureau
17 of investigation and to the federal bureau of investigation for the purposes
18 of verifying the identity of such employees and persons and obtaining
19 records of their criminal arrests and convictions.

20 (10) *Supervise and administer the operations of parimutuel racing*
21 *under the Kansas parimutuel racing act, K.S.A. 74-8801 et seq., and*
22 *amendments thereto.*

23 (11) *Supervise and administer the operations of bingo under the*
24 *bingo act, K.S.A. 79-4701 et seq., and amendments thereto.*

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

29 Sec. 19. K.S.A. 74-8706 is hereby amended to read as follows: 74-
30 8706. The executive director shall have the duty to:

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

38 (b) Make quarterly and annual financial reports to the commission,
39 the governor, the state treasurer and the legislature. Such reports shall
40 be based upon generally accepted accounting principles and include a full
41 and complete statement of lottery revenues, prize disbursements, ex-
42 penses, net revenues and other financial transactions for the reporting
43 period.

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

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

10 (e) Prepare and submit budgets and proposals for the operation of
11 the Kansas lottery.

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

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

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

20 (i) *Supervise and administer the operations of parimutuel racing un-*
21 *der the Kansas parimutuel racing act, K.S.A. 74-8801 et seq., and amend-*
22 *ments thereto.*

23 (j) *Supervise and administer the operations of bingo under the bingo*
24 *act, K.S.A. 79-4701 et seq., and amendments thereto.*

25 Sec. 20. K.S.A. 74-8709 is hereby amended to read as follows: 74-
26 8709. (a) There is hereby created the Kansas lottery commission, which
27 shall be composed of five members who shall be appointed by the gov-
28 ernor, subject to confirmation by the senate as provided by K.S.A. 75-
29 4315b and amendments thereto. Except as provided by K.S.A. 46-2601,
30 and amendments thereto, no person appointed to the commission shall
31 exercise any power, duty or function as a member of the commission until
32 confirmed by the senate. All members of the commission shall be citizens
33 of the United States and residents of this state. Not more than three of
34 the five members shall be members of the same political party. A chair-
35 person of the commission shall be designated by the governor from the
36 membership of the commission.

37 (b) Except as provided by subsection (c), the members of the com-
38 mission shall serve for terms of four years and until their successors are
39 appointed and confirmed, except that the members first appointed shall
40 serve for terms designated by the governor as follows: One member shall
41 serve for a term of one year, one shall serve for a term of two years, one
42 shall serve for a term of three years and two shall serve for terms of four
43 years. Any vacancy occurring in the membership of the commission shall

1 be filled in the same manner as the original appointment for the remain-
2 der of the unexpired term.

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

9 (d) The commission shall hold at least four regular meetings each
10 year and such additional meetings as the chairperson deems desirable.
11 Special meetings shall be called by the chairperson upon written request
12 of the executive director or any three members of the commission. All
13 meetings shall be held at a place and time fixed by the chairperson. A
14 majority of the members of the commission shall constitute a quorum to
15 transact its business.

16 (e) The commission shall consult with and advise the executive di-
17 rector relating to the operation of the state lottery, shall assist the director
18 in the establishment of policies and shall review and approve the proposed
19 annual budget for the Kansas lottery prepared by the executive director,
20 subject to all state laws governing budget procedures for state agencies.

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

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

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

36 (i) *The commission shall consult with and advise the executive direc-*
37 *tor relating to the operation of parimutuel racing and shall assume all*
38 *duties, powers and responsibilities of the Kansas racing commission as*
39 *provided under the Kansas parimutuel racing act, K.S.A.74-8801 et seq.,*
40 *and amendments thereto.*

41 (j) *The commission shall consult with the executive director relating*
42 *to the operation of bingo as provided under the bingo act, K.S.A. 79-4701*
43 *et seq., and amendments thereto.*

1 ~~(j)~~ (k) Subject to the limitations of appropriations therefor, members
2 of the commission shall receive such compensation as determined by the
3 governor. Members of the commission attending meetings of the com-
4 mission or subcommittee meetings thereof approved by the commission
5 shall be paid subsistence allowances, mileage and other expenses as pro-
6 vided in K.S.A. 75-3223, and amendments thereto. In addition, the chair-
7 person of the commission, or the member of the commission designated
8 by the chairperson to serve on a procurement negotiating committee,
9 shall be paid amounts equal to amounts provided by K.S.A. 75-3223, and
10 amendments thereto, for subsistence allowances, mileage and other ex-
11 penses for attendance at meetings of a procurement negotiating com-
12 mittee pursuant to K.S.A. 74-8705, and amendments thereto.

13 Sec. 21. K.S.A. 2009 Supp. 74-8734 is hereby amended to read as
14 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
15 facility in each gaming zone.

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

24 (c) The lottery commission shall adopt standards to promote the in-
25 tegrity of the gaming and finances of lottery gaming facilities, which shall
26 apply to all management contracts, shall meet or exceed industry stan-
27 dards for monitoring and controlling the gaming and finances of gaming
28 facilities and shall give the executive director sufficient authority to mon-
29 itor and control the gaming operation and to ensure its integrity and
30 security.

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

42 (e) In determining whether to approve a management contract with
43 a prospective lottery gaming facility manager to manage a lottery gaming

1 facility or lottery gaming enterprise pursuant to this section, the com-
2 mission shall take into consideration the following factors: The size of the
3 proposed facility; the geographic area in which such facility is to be lo-
4 cated; the proposed facility's location as a tourist and entertainment des-
5 tination; the estimated number of tourists that would be attracted by the
6 proposed facility; the number and type of lottery facility games to be
7 operated at the proposed facility; and agreements related to ancillary lot-
8 tery gaming facility operations.

9 (f) Subject to the requirements of this section, the commission shall
10 approve at least one proposed lottery gaming facility management con-
11 tract for a lottery gaming facility in each gaming zone.

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

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

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

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

39 (h) Any management contract approved by the commission under
40 this section shall:

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

- 1 facility manager;
- 2 (2) specify the total amount to be paid to the lottery gaming facility
- 3 manager pursuant to the contract;
- 4 (3) establish a mechanism to facilitate payment of lottery gaming fa-
- 5 cility expenses, payment of the lottery gaming facility manager's share of
- 6 the lottery gaming facility revenues and distribution of the state's share
- 7 of the lottery gaming facility revenues;
- 8 (4) include a provision for the lottery gaming facility manager to pay
- 9 the costs of oversight and regulation of the lottery gaming facility manager
- 10 and the operations of the lottery gaming facility by the Kansas racing and
- 11 gaming commission;
- 12 (5) establish the types of lottery facility games to be installed in such
- 13 facility;
- 14 (6) provide for the prospective lottery gaming facility manager, upon
- 15 approval of the proposed lottery gaming facility management contract, to
- 16 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege
- 17 of being selected as a lottery gaming facility manager of a lottery gaming
- 18 facility in the northeast, southeast or south central Kansas gaming zone
- 19 and \$5,500,000 for the privilege of being selected as a lottery gaming
- 20 facility manager of a lottery gaming facility in the southwest Kansas gam-
- 21 ing zone. Such fee shall be deposited in the state treasury and credited
- 22 to the lottery gaming facility manager fund, which is hereby created in
- 23 the state treasury;
- 24 (7) incorporate terms and conditions for the ancillary lottery gaming
- 25 facility operations;
- 26 (8) designate as key employees, subject to approval of the executive
- 27 director, any employees or contractors providing services or functions
- 28 which are related to lottery facility games authorized by a management
- 29 contract;
- 30 (9) include financing commitments for construction;
- 31 (10) include a resolution of endorsement from the city governing
- 32 body, if the proposed facility is within the corporate limits of a city, or
- 33 from the county commission, if the proposed facility is located in the
- 34 unincorporated area of the county;
- 35 (11) include a requirement that any parimutuel licensee developing
- 36 a lottery gaming facility pursuant to this act comply with all orders and
- 37 rules and regulations of the ~~Kansas racing and gaming commission~~ lottery
- 38 with regard to the conduct of live racing, including the same minimum
- 39 days of racing as specified in K.S.A. 2009 Supp. 74-8746, and amend-
- 40 ments thereto, for operation of electronic gaming machines at racetrack
- 41 gaming facilities;
- 42 (12) include a provision for the state to receive not less than 22% of
- 43 lottery gaming facility revenues, which shall be paid to the expanded

1 lottery act revenues fund established by K.S.A. 2009 Supp. 74-8768, and
2 amendments thereto;

3 (13) include a provision for 2% of lottery gaming facility revenues to
4 be paid to the problem gambling and addictions grant fund established
5 by K.S.A. 2009 Supp. 79-4805, and amendments thereto;

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

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

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

40 (17) allow the lottery gaming facility manager to manage the lottery
41 gaming facility in a manner consistent with this act and applicable law,
42 but shall place full, complete and ultimate ownership and operational
43 control of the gaming operation of the lottery gaming facility with the

1 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
2 retain the power to overrule any action of the lottery gaming facility man-
3 ager affecting the gaming operation without prior notice. The Kansas
4 lottery shall retain full control over all decisions concerning lottery gaming
5 facility games;

6 (18) include provisions for the Kansas racing and gaming commission
7 to oversee all lottery gaming facility operations, including, but not limited
8 to: Oversight of internal controls; oversight of security of facilities; per-
9 formance of background investigations, determination of qualifications
10 and credentialing of employees, contractors and agents of the lottery gam-
11 ing facility manager and of ancillary lottery gaming facility operations, as
12 determined by the Kansas racing and gaming commission; auditing of
13 lottery gaming facility revenues; enforcement of all state laws and main-
14 tenance of the integrity of gaming operations; and

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

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

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

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

37 (l) Management contracts authorized by this section may include pro-
38 visions relating to:

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

41 (2) minimum requirements for a lottery gaming facility manager to
42 provide qualified oversight, security and supervision of the lottery facility
43 games including the use of qualified personnel with experience in appli-

1 cable technology;

2 (3) eligibility requirements for employees, contractors or agents of a
3 lottery gaming facility manager who will have responsibility for or involve-
4 ment with actual gaming activities or for the handling of cash or tokens;

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

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

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

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

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

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

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

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

38 (p) Prior to expiration of the term of a lottery gaming facility man-
39 agement contract, the lottery commission may negotiate a new lottery
40 gaming facility management contract with the lottery gaming facility man-
41 ager if the new contract is substantially the same as the existing contract.
42 Otherwise, the lottery gaming facility review board shall be reconstituted
43 and a new lottery gaming facility management contract shall be negotiated

1 and approved in the manner provided by this act.

2 Sec. 22. K.S.A. 2009 Supp. 74-8735 is hereby amended to read as
3 follows: 74-8735. (a) There is hereby created the lottery gaming facility
4 review board. The board shall consist of:

5 (1) Three members appointed by the governor;
6 (2) two members appointed by the president of the senate; and
7 (3) two members appointed by the speaker of the house of
8 representatives.

9 (b) To be eligible for appointment to the board, a person shall submit
10 to the appointing authority evidence of significant business experience,
11 particularly in business development and location of new businesses to
12 maximize revenue.

13 (c) A person shall not be eligible for appointment to the board if the
14 person:

15 (1) Is a resident of or owns property in a gaming zone;
16 (2) has an interest in any business domiciled in or conducting a sig-
17 nificant portion of its business in a gaming zone; or
18 (3) has, or has had during the preceding two years, either directly or
19 indirectly, a financial interest in or is, or has been during the preceding
20 two years, employed by or a consultant to a prospective lottery gaming
21 facility manager or any ancillary lottery gaming facility operations pro-
22 posed by a prospective lottery gaming facility manager.

23 (d) Not more than four members of the board shall be members of
24 the same political party.

25 (e) The governor shall designate one member of the board to serve
26 as chairperson of the board.

27 (f) The vote of at least four members of the board shall be required
28 to take action.

29 (g) Subject to the limitations of appropriations therefor, members of
30 the board shall receive such compensation as determined by the governor.
31 Members of the board attending meetings of the board or subcommittee
32 meetings thereof approved by the board shall be paid subsistence allow-
33 ances, mileage and other expenses as provided in K.S.A. 75-3223, and
34 amendments thereto.

35 (h) The board is hereby attached to the Kansas ~~racing and gaming~~
36 ~~commission~~ lottery as a part thereof. All budgeting, purchasing and re-
37 lated management functions of the board shall be administered by the
38 executive director of the Kansas ~~racing and gaming commission~~ lottery
39 and the executive director shall provide office and meeting space and
40 such clerical and other staff assistance as may be necessary to assist the
41 board in carrying out its powers, duties and functions under this act. The
42 board may employ any experts, consultants or other professionals at the
43 expense of a prospective lottery gaming facility manager to provide assis-

1 tance in evaluating a lottery gaming facility management contract sub-
2 mitted to the board.

3 Sec. 23. K.S.A. 2009 Supp. 74-8736 is hereby amended to read as
4 follows: 74-8736. (a) Upon approval of a lottery gaming facility manage-
5 ment contract by the commission, but not later than 90 days after the
6 deadline for receipt of proposals established pursuant to subsection (b)
7 of K.S.A. 2009 Supp. 74-8734, and amendments thereto, the executive
8 director and the prospective lottery gaming facility manager shall execute
9 the contract, which shall be binding upon the parties only upon a deter-
10 mination by the lottery gaming facility review board pursuant to this sec-
11 tion that the contract is the best possible such contract, approval of the
12 contract by the ~~Kansas racing and gaming~~ *lottery* commission pursuant
13 to this section and endorsement by resolution of the city governing body
14 or county commission as required in K.S.A. 2009 Supp. 74-8734, and
15 amendments thereto.

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

24 (c) Within 30 days after execution of a lottery gaming facility man-
25 agement contract with a parimutuel licensee for development of a lottery
26 gaming facility at a parimutuel licensee location, the parimutuel licensee
27 must submit to the ~~Kansas racing and gaming~~ *lottery* commission, for
28 approval by the commission, a plan for compliance with the requirements
29 for live racing and purse supplements established pursuant to K.S.A. 2009
30 Supp. 74-8745 and 74-8767, and amendments thereto. Upon application
31 of a parimutuel licensee, the ~~Kansas racing and gaming~~ *lottery* commis-
32 sion shall open a proceeding to consider such licensee's proposal for de-
33 velopment of a lottery gaming facility at the parimutuel licensee location.
34 Such proposal shall include provisions for: (1) Compliance with the
35 requirements of K.S.A. 2009 Supp. 74-8745, and amendments thereto;
36 (2) payment of purse supplements from the appropriate funds established
37 by K.S.A. 2009 Supp. 74-8767, and amendments thereto; and (3) a plan
38 for protecting and promoting live racing in Kansas. The ~~Kansas racing~~
39 ~~and gaming~~ *lottery* commission shall hear evidence and testimony from
40 all interested parties. Upon a finding by the ~~Kansas racing and gaming~~
41 *lottery* commission that the proposal is in the best interest of live racing
42 in Kansas and more beneficial to live racing than placement of electronic
43 gaming machines at such parimutuel licensee location, the ~~Kansas racing~~

1 ~~and gaming~~ lottery commission may approve such proposal. The Kansas
2 ~~racing and gaming~~ lottery commission shall notify the lottery gaming fa-
3 cility review board of the commission's approval or disapproval of the
4 proposal. If the Kansas ~~racing and gaming~~ lottery commission does not
5 approve the proposal, the lottery gaming facility review board shall not
6 give further consideration to the lottery gaming facility management con-
7 tract with the parimutuel licensee and the executive director shall direct
8 the state treasurer to refund, without interest, the privilege fee paid pur-
9 suant to such contract.

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

20 (2) If the board cannot reach agreement that a lottery gaming facility
21 management contract is the best possible such contract, the board shall
22 request the executive director to renegotiate the contract or contracts
23 until the board determines that the best possible such contract or con-
24 tracts have been executed.

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

1 the lottery gaming facility review board, the Kansas ~~racing and gaming~~
2 *lottery* commission shall notify the executive director of the lottery and
3 the process for selection of a lottery gaming facility manager shall begin
4 again in the manner provided in K.S.A. 2009 Supp. 74-8734 and 74-8735,
5 and amendments thereto.

6 (f) The deadline for receipt of proposals established pursuant to sub-
7 section (b) of K.S.A. 2009 Supp. 74-8734, and amendments thereto, the
8 time limit imposed by subsection (a) for action by the lottery commission,
9 the time limit imposed by subsection (d) for action by the lottery gaming
10 facility review board or the time limit imposed by subsection (e) for action
11 by the Kansas ~~racing and gaming~~ *lottery* commission, upon application
12 by the respective commission or board, may be extended by the governor
13 for a period not to exceed 60 days if the governor, in the governor's
14 discretion, determines that the respective commission or board has acted
15 on good faith to comply with the time limit. Failure to comply with any
16 such time limit, unless extended as provided by this subsection, or to
17 comply with an extended time limit authorized by this subsection, shall
18 render the respective commission or board subject to relief in the form
19 of mandamus, injunction or other legal remedy.

20 Sec. 24. K.S.A. 2009 Supp. 74-8741 is hereby amended to read as
21 follows: 74-8741. (a) The executive director of the Kansas lottery shall
22 negotiate a racetrack gaming facility management contract to place elec-
23 tronic gaming machines at one parimutuel licensee location in each gam-
24 ing zone except the southwest Kansas gaming zone.

25 (b) To be eligible to enter into a racetrack gaming facility manage-
26 ment contract the prospective racetrack gaming facility manager shall, at
27 a minimum:

28 (1) Have sufficient access to financial resources to support the activ-
29 ities required of a racetrack gaming facility manager under the Kansas
30 expanded lottery act; and

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

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

37 (1) The term of the contract;

38 (2) provisions for the Kansas racing and gaming commission to over-
39 see all racetrack gaming facility operations, including, but not limited to:
40 Oversight of internal controls; oversight of security of facilities; perform-
41 ance of background investigations, determination of qualifications and any
42 required certification or licensing of officers, directors, board members,
43 employees, contractors and agents of the racetrack gaming facility man-

- 1 ager; auditing of net electronic gaming machine income and maintenance
2 of the integrity of electronic gaming machine operations;
- 3 (3) provisions for the racetrack gaming facility manager to pay the
4 costs of oversight and regulation of the racetrack gaming facility manager
5 under this act and such manager's racetrack gaming facility operations by
6 the Kansas racing and gaming commission; and
- 7 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
8 2032, from (i) entering into management contracts for more than ~~three~~
9 *four* lottery gaming facilities or similar gaming facilities, one to be located
10 in the northeast Kansas gaming zone, one to be located in the south
11 central Kansas gaming zone *one to be located in the Southwest Kansas*
12 *gaming zone* and one to be located in the southeast Kansas gaming zone,
13 (ii) designating additional areas of the state where operation of lottery
14 gaming facilities or similar gaming facilities would be authorized or (iii)
15 operating an aggregate of more than 2,800 electronic gaming machines
16 at all parimutuel licensee locations; and (B) requiring the state to repay
17 to the racetrack gaming facility manager an amount equal to the privilege
18 fee paid by such racetrack gaming facility manager, plus interest on such
19 amount, compounded annually at the rate of 10%, if the state violates the
20 prohibition provision described in (A).
- 21 (d) Racetrack gaming facility management contracts authorized by
22 this section may include provisions relating to:
- 23 (1) Accounting procedures to determine net electronic gaming ma-
24 chine income, unclaimed prizes and credits;
- 25 (2) minimum requirements for a racetrack gaming facility manager
26 to provide qualified oversight, security and supervision of electronic gam-
27 ing machines including the use of qualified personnel with experience in
28 applicable technology;
- 29 (3) eligibility requirements for employees, contractors or agents of a
30 racetrack gaming facility manager who will have responsibility for or in-
31 volvement with electronic gaming machines or for the handling of cash
32 or tokens;
- 33 (4) background investigations to be performed by the Kansas ~~racing~~
34 ~~and gaming~~ *lottery* commission;
- 35 (5) credentialing or certification requirements of any employee, con-
36 tractor or agent as provided by the Kansas expanded lottery act or rules
37 and regulations adopted pursuant thereto;
- 38 (6) provision for termination of the management contract by either
39 party for cause; and
- 40 (7) any other provision deemed necessary by the parties, including
41 such other terms and restrictions as necessary to conduct racetrack gam-
42 ing facility operations in a legal and fair manner.
- 43 (e) A person who is the manager of a lottery gaming facility in a

1 gaming zone shall not be eligible to be the manager of the racetrack
2 gaming facility in the same zone.

3 (f) A racetrack gaming facility management contract shall not consti-
4 tute property, nor shall it be subject to attachment, garnishment or exe-
5 cution, nor shall it be alienable or transferable, except upon approval by
6 the executive director, nor shall it be subject to being encumbered or
7 hypothecated.

8 Sec. 25. K.S.A. 2009 Supp. 74-8742 is hereby amended to read as
9 follows: 74-8742. The executive director shall submit the proposed race-
10 track gaming facility management contract to the commission for the
11 commission's approval. Upon approval of the Kansas lottery commission,
12 the executive director shall submit such contract to the Kansas ~~racing and~~
13 ~~gaming lottery~~ commission for approval. The Kansas ~~racing and gaming~~
14 ~~lottery~~ commission shall conduct such background investigations of the
15 proposed racetrack gaming facility manager, and its officers, directors,
16 employees, owners, agents and contractors, as determined in accordance
17 with rules and regulations adopted by the Kansas ~~racing and gaming lot-~~
18 ~~tery~~ commission. Upon completion of such investigations and approval of
19 the background of the proposed racetrack gaming facility manager, and
20 its officers, directors, employees, owners, agents and contractors, the
21 Kansas ~~racing and gaming lottery~~ commission shall vote to approve or
22 reject the contract in whole. If the Kansas ~~racing and gaming lottery~~
23 commission rejects the contract, the Kansas ~~racing and gaming lottery~~
24 commission shall notify the executive director of the lottery and make
25 recommendations regarding negotiation of the contract. The executive
26 director may then resume negotiations with the proposed racetrack gam-
27 ing facility manager.

28 Sec. 26. K.S.A. 2009 Supp. 74-8745 is hereby amended to read as
29 follows: 74-8745. (a) All information and data required to be furnished to
30 the Kansas lottery ~~or the Kansas racing and gaming commission~~ pursuant
31 to K.S.A. 2009 Supp. 74-8741 through 74-8747, and amendments thereto,
32 or which may otherwise be obtained, relative to the finances, earnings or
33 revenue, except the net electronic gaming machine income, of any vendor
34 shall be considered confidential and shall not be revealed in whole or in
35 part without permission of the vendor, except (1) in the course of the
36 necessary administration of the Kansas expanded lottery act, (2) upon the
37 lawful order of a court of competent jurisdiction or (3) to a duly author-
38 ized law enforcement agency.

39 (b) All information and data pertaining to a vendor's criminal record,
40 family and background furnished to or obtained by the Kansas lottery ~~or~~
41 ~~Kansas racing and gaming commission~~ pursuant to K.S.A. 2009 Supp. 74-
42 8741 through 74-8747, and amendments thereto, from any source shall
43 be considered confidential and shall not be revealed, in whole or part.

1 Such information shall be released upon the lawful order of a court of
2 competent jurisdiction or to a duly authorized law enforcement agency.

3 (c) Notice of the contents of any information released, except to a
4 duly authorized law enforcement agency pursuant to this section, shall be
5 given to any applicant, certificate holder or vendor in a manner prescribed
6 by the rules and regulations adopted by the commission.

7 Sec. 27. K.S.A. 2009 Supp. 74-8746 is hereby amended to read as
8 follows: 74-8746. (a) Except as provided in subsection (b):

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

16 (2) No electronic gaming machines shall be operated at a parimutuel
17 licensee location in Wyandotte county unless, during the first full calendar
18 year and each year thereafter in which electronic gaming machines are
19 operated at such location, the parimutuel licensee conducts live horse
20 racing programs for at least 60 days, with at least 10 live races conducted
21 each program, and must offer and make a reasonable effort to conduct a
22 minimum number of three live races restricted for quarter horses each
23 day and seven live thoroughbred races each day, of which not less than
24 two races each day shall be limited to registered Kansas-bred horses ap-
25 portioned in the same ratio that live races are offered, except that the
26 licensee shall not be required to conduct the second live race restricted
27 to Kansas-bred horses unless there are at least seven qualified entries for
28 such race, and with at least 100 live greyhound races each calendar week
29 for at least the same number of weeks raced during calendar year 2003,
30 with at least 13 live races conducted each day for not less than five days
31 per week.

32 (3) No electronic gaming machines shall be operated at a parimutuel
33 licensee location in Crawford county unless, during the first full calendar
34 year and each year thereafter in which electronic gaming machines are
35 operated at such location, the parimutuel licensee conducts at such lo-
36 cation at least 85 live greyhound races each calendar week for the number
37 of weeks raced during calendar year 2003 in Sedgwick county, with at
38 least 12 live races conducted each day for not less than five days per week.

39 (4) If a parimutuel licensee has not held live races pursuant to a
40 schedule approved by the Kansas ~~racing and gaming~~ *racing and gaming lottery* commission
41 in the preceding 12 months, the Kansas ~~racing and gaming~~ *racing and gaming lottery* com-
42 mission shall hold a hearing to determine the number of days of live racing
43 required for the remaining days of the first calendar year of operation to

1 qualify for operation of electronic gaming machines. At such hearing, the
2 commission shall receive testimony and evidence from affected breed
3 groups, the licensee and others, as the Kansas ~~rac~~ing and ~~gam~~ing lottery
4 commission deems appropriate concerning the schedule of live race days.
5 The operation of electronic gaming machines shall not commence more
6 than 90 days prior to the start of live racing at such facility.

7 (b) The Kansas ~~rac~~ing and ~~gam~~ing lottery commission may not grant
8 exceptions to the requirements of subsection (a) for a parimutuel licensee
9 conducting live racing unless such exception is in the form of an agree-
10 ment which: (1) Is between the parimutuel licensee and the affected
11 recognized greyhound or recognized horsemen's group, as defined in
12 K.S.A. 74-8802, and amendments thereto; (2) has been approved by the
13 appropriate official breed registering agencies; and (3) has been submit-
14 ted to and approved by the commission. In the case of emergencies,
15 weather related issues or immediate circumstances beyond the control of
16 the licensee, the Kansas ~~rac~~ing and ~~gam~~ing lottery commission may grant
17 an exception.

18 Sec. 28. K.S.A. 2009 Supp. 74-8750 is hereby amended to read as
19 follows: 74-8750. (a) Each specific type of electronic gaming machine and
20 lottery facility game shall be approved by the Kansas ~~rac~~ing and ~~gam~~ing
21 lottery commission. The Kansas ~~rac~~ing and ~~gam~~ing lottery commission
22 shall examine prototypes of electronic gaming machines and lottery fa-
23 cility games and shall notify the lottery gaming facility manager or race-
24 track gaming facility manager which types of electronic gaming machines
25 or lottery facility games are in compliance with the requirements of this
26 act. The use of progressive electronic gaming machines is expressly
27 permitted.

28 (b) No electronic gaming machine or lottery facility game shall be
29 operated pursuant to this act unless the executive director of the ~~rac~~ing
30 ~~and gam~~ing commission *Kansas lottery* first issues a certificate for such
31 machine or game authorizing its use at a specified location. Each elec-
32 tronic gaming machine and lottery facility game shall have such certificate
33 prominently displayed thereon. Any electronic gaming machine or lottery
34 facility game which does not display the certificate required by this section
35 is contraband and a public nuisance subject to confiscation by any law
36 enforcement officer.

37 (c) The executive director of the ~~rac~~ing and ~~gam~~ing commission *Kan-*
38 *sas lottery* shall require any manufacturer, supplier, provider, lottery gam-
39 ing facility manager, racetrack gaming facility manager or other person
40 seeking the examination and certification of electronic gaming machines
41 or lottery facility games to pay the anticipated actual costs of the exami-
42 nation in advance. After the completion of the examination, the executive
43 director of the Kansas ~~rac~~ing and ~~gam~~ing commission *lottery* shall refund

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

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

19 Sec. 29. K.S.A. 2009 Supp. 74-8751 is hereby amended to read as
20 follows: 74-8751. The Kansas ~~racing and gaming~~ *lottery* commission,
21 through rules and regulations, shall establish:

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

38 (b) a certification requirement, and enforcement procedure, for
39 those persons, including electronic gaming machine manufacturers, tech-
40 nology providers and computer system providers, who propose to contract
41 with a lottery gaming facility manager, a racetrack gaming facility manager
42 or the state for the provision of goods or services related to a lottery
43 gaming facility or racetrack gaming facility, including management serv-

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

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

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

36 Sec. 30. K.S.A. 2009 Supp. 74-8752 is hereby amended to read as
37 follows: 74-8752. (a) The executive director of the Kansas lottery ~~and the~~
38 ~~executive director of the Kansas racing and gaming commission, or their~~
39 ~~designees such designee~~, may observe and inspect all electronic gaming
40 machines, lottery facility games, lottery gaming facilities, racetrack gam-
41 ing facilities and all related equipment and facilities operated by a lottery
42 gaming facility manager or racetrack gaming facility manager.

43 (b) In addition to any other powers granted pursuant to this act, the

- 1 executive director of the ~~racing and gaming commission~~ *Kansas lottery*
2 shall have the power to:
- 3 (1) Examine, or cause to be examined by any agent or representative
4 designated by such executive director, any books, papers, records or
5 memoranda of any lottery gaming facility manager or racetrack gaming
6 facility manager, or of any business involved in electronic gaming ma-
7 chines or lottery facility games authorized pursuant to the Kansas ex-
8 panded lottery act, for the purpose of ascertaining compliance with any
9 provision of the Kansas lottery act, the Kansas expanded lottery act, or
10 any rules and regulations adopted thereunder;
- 11 (2) investigate alleged violations of the Kansas expanded lottery act
12 and alleged violations of any rules and regulations, orders and final de-
13 cisions of the Kansas lottery commission, ~~the executive director of the~~
14 ~~Kansas lottery, the Kansas racing and gaming commission or the executive~~
15 ~~director of the Kansas racing and gaming commission;~~
- 16 (3) request a court to issue subpoenas to compel access to or for the
17 production of any books, papers, records or memoranda in the custody
18 or control of any lottery gaming facility manager or racetrack gaming
19 facility manager related to the management of the lottery gaming facility
20 or racetrack gaming facility, or to compel the appearance of any lottery
21 gaming facility manager or racetrack gaming facility manager for the pur-
22 pose of ascertaining compliance with the provisions of the Kansas lottery
23 act and the Kansas expanded lottery act or rules and regulations adopted
24 thereunder;
- 25 (4) inspect and approve, prior to publication or distribution, all ad-
26 vertising by a lottery gaming facility manager or racetrack gaming facility
27 manager which includes any reference to the Kansas lottery; and
- 28 (5) take any other action as may be reasonable or appropriate to en-
29 force the provisions of the Kansas expanded lottery act and any rules and
30 regulations, orders and final decisions of ~~the executive director of the~~
31 ~~Kansas lottery, the Kansas lottery commission, the executive director of~~
32 ~~the Kansas racing commission or the Kansas racing and gaming~~
33 ~~commission.~~
- 34 (c) Appropriate security measures shall be required in any and all
35 areas where electronic gaming machines and other lottery facility games
36 authorized pursuant to the Kansas expanded lottery act are located or
37 operated. The executive director of the Kansas ~~racing and gaming com-~~
38 ~~mission~~ *lottery* shall approve all such security measures.
- 39 (d) The executive director of the Kansas ~~racing and gaming commis-~~
40 ~~sion~~ *lottery* shall require an annual audit of the operations of each lottery
41 gaming facility and ancillary lottery gaming facility operations and each
42 racetrack gaming facility as determined by the commission. Such audit
43 shall be conducted by the Kansas ~~racing and gaming~~ *lottery* commission

1 or a licensed accounting firm approved by the executive director of the
 2 ~~Kansas racing and gaming commission~~ *lottery* and shall be conducted at
 3 the expense of the lottery gaming facility manager or racetrack facility
 4 manager.

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

8 Sec. 31. K.S.A. 2009 Supp. 74-8758 is hereby amended to read as
 9 follows: 74-8758. (a) Except as authorized in subsection (c), it is unlawful
 10 for any racetrack gaming facility manager, or any employee or agent
 11 thereof, to allow any person to play an electronic gaming machine game
 12 at a racetrack gaming facility, or share in winnings of such person, know-
 13 ing such person to be:

- 14 (1) Less than 21 years of age;
- 15 (2) the executive director of the Kansas lottery, a member of the
 16 Kansas lottery commission or an employee of the Kansas lottery;
- 17 ~~(3) the executive director, a member or an employee of the Kansas~~
 18 ~~racing and gaming commission;~~
- 19 ~~(4)~~ (3) an officer or employee of a vendor contracting with the Kansas
 20 lottery to supply gaming equipment or tickets to the Kansas lottery for
 21 use in the operation of any lottery conducted pursuant to the Kansas
 22 expanded lottery act;
- 23 ~~(5)~~ (4) an employee or agent of the racetrack gaming facility manager;
- 24 ~~(6)~~ (5) a spouse, child, stepchild, brother, stepbrother, sister, stepsis-
 25 ter, parent or stepparent of a person described by subsection (a)(2), (a)(3),
 26 (a)(4) or (a)(5); or
- 27 ~~(7)~~ (6) a person who resides in the same household as any person
 28 described by subsection (a)(2), (a)(3), (a)(4) or (a)(5).

29 Violation of this subsection is a class A nonperson misdemeanor upon
 30 conviction for a first offense. Violation of this subsection is a severity level
 31 9, nonperson felony upon conviction for the second or a subsequent
 32 offense.

33 (b) Except as authorized in subsection (c), it is unlawful for any lottery
 34 gaming facility manager, or its employees or agents, to allow any person
 35 to play electronic gaming machines or lottery facility games at a lottery
 36 gaming facility or share in winnings of such person knowing such person
 37 to be:

- 38 (1) Under 21 years of age;
- 39 (2) the executive director of the Kansas lottery, a member of the
 40 Kansas lottery commission or an employee of the Kansas lottery;
- 41 ~~(3) the executive director, a member or an employee of the Kansas~~
 42 ~~racing and gaming commission;~~
- 43 ~~(4)~~ (3) an employee or agent of the lottery gaming facility manager;

1 ~~(5)~~ (4) an officer or employee of a vendor contracting with the Kansas
2 lottery to supply gaming equipment to the Kansas lottery for use in the
3 operation of any electronic gaming machine or lottery facility game con-
4 ducted pursuant to the Kansas expanded lottery act;

5 ~~(6)~~ (5) a spouse, child, stepchild, brother, stepbrother, sister, stepsis-
6 ter, parent or stepparent of a person described in subsection (b)(2), (b)(3),
7 (b)(4) or (b)(5); or

8 ~~(7)~~ (6) a person who resides in the same household as any person
9 described by subsection (b)(2), (b)(3), (b)(4) or (b)(5).

10 Violation of this subsection is a class A nonperson misdemeanor upon
11 conviction for a first offense. Violation of this subsection is a severity level
12 9, nonperson felony upon conviction for a second or subsequent offense.

13 (c) The executive director of the Kansas ~~racing and gaming commis-~~
14 ~~sion lottery~~ may authorize in writing any employee of the Kansas ~~racing~~
15 ~~and gaming commission lottery~~ and any employee of a lottery vendor to
16 play an electronic gaming machine game or a lottery facility game to verify
17 the proper operation thereof with respect to security and contract com-
18 pliance. Any prize awarded as a result of such ticket purchase shall be-
19 come the property of the Kansas lottery and be added to the prize pools
20 of subsequent electronic gaming machine games or lottery facility games.
21 No money or merchandise shall be awarded to any employee playing an
22 electronic gaming machine game or a lottery facility game pursuant to
23 this subsection.

24 Sec. 32. K.S.A. 2009 Supp. 74-8759 is hereby amended to read as
25 follows: 74-8759. Except for persons acting in accordance with rules and
26 regulations of the Kansas ~~racing and gaming lottery~~ commission or by
27 written authority of the executive director of the Kansas ~~racing and gam-~~
28 ~~ing commission lottery~~ in performing installation, maintenance and repair
29 services, any person who, with the intent to manipulate the outcome, pay
30 out or operation of an electronic gaming machine game or a lottery facility
31 game, manipulates by physical, electrical or mechanical means the out-
32 come, pay out or operation of such game shall be guilty of a severity level
33 8, nonperson felony.

34 Sec. 33. K.S.A. 2009 Supp. 74-8760 is hereby amended to read as
35 follows: 74-8760. (a) Except in accordance with rules and regulations of
36 the Kansas ~~racing and gaming lottery~~ commission or by written authority
37 from the executive director of the Kansas ~~racing and gaming commission~~
38 ~~lottery~~ in performing installation, maintenance, inspection and repair
39 services, it is a class A nonperson misdemeanor for the following to place
40 a wager on or play an electronic gaming machine game or a lottery facility
41 game at a lottery gaming facility in this state: The executive director of
42 the Kansas lottery, a member of the Kansas lottery commission or any
43 employee or agent of the Kansas lottery; ~~the executive director, a member~~

1 ~~or any employee or agent of the Kansas racing and gaming commission;~~
2 or the lottery gaming facility manager or any employee of the lottery
3 gaming facility manager.

4 (b) Except in accordance with rules and regulations of the Kansas
5 ~~racing and gaming~~ lottery commission or by written authority from the
6 executive director of the Kansas ~~racing and gaming commission~~ lottery in
7 performing installation, maintenance, inspection and repair services, it is
8 a class A nonperson misdemeanor for the following to place a wager on
9 or play an electronic gaming machine at a racetrack gaming facility in this
10 state: The executive director of the Kansas lottery, a member of the Kan-
11 sas lottery commission or any employee or agent of the Kansas lottery;
12 ~~the executive director, a member or any employee or agent of the Kansas~~
13 ~~racing and gaming commission;~~ or the racetrack gaming facility manager
14 or any employee of the racetrack gaming facility manager.

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

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

24 (2) possess or use, while on premises where electronic gaming ma-
25 chines are authorized pursuant to the Kansas expanded lottery act, any
26 cheating or thieving device, including, but not limited to, tools, wires,
27 drills, coins attached to strings or wires or electronic or magnetic devices
28 to facilitate removing from any electronic gaming machine any money or
29 contents thereof, except that a duly authorized agent or employee of the
30 Kansas ~~racing and gaming~~ lottery commission, lottery gaming facility
31 manager or racetrack gaming facility manager may possess and use any
32 of the foregoing only in furtherance of the agent's or employee's em-
33 ployment at the lottery gaming facility or racetrack gaming facility; or

34 (3) possess or use while on the premises of a lottery gaming facility
35 or racetrack gaming facility, or any location where electronic gaming ma-
36 chines are authorized pursuant to this act, any key or device designed for
37 the purpose of or suitable for opening or entering any electronic gaming
38 machine or similar gaming device or drop box.

39 (d) Any duly authorized agent or employee of the Kansas ~~racing and~~
40 ~~racing and gaming~~ lottery commission, a lottery gaming facility manager or a race-
41 track gaming facility manager may possess and use any of the devices
42 described in subsections (c)(3) and (c)(4) in furtherance of inspection or
43 testing as provided in the Kansas expanded lottery act or in furtherance

1 of such person's employment at any location where any electronic gaming
2 machine or similar gaming device or drop box is authorized pursuant to
3 the Kansas expanded lottery act.

4 Sec. 34. K.S.A. 2009 Supp. 74-8762 is hereby amended to read as
5 follows: 74-8762. (a) As used in this section:

6 (1) "Affiliated person" means:

7 (A) Any member of the immediate family of a state or local official;
8 or

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

14 (2) "State or local official" means any person who, on or after January
15 9, 2006, is:

16 (A) Any state officer or employee required to file a written statement
17 of substantial interests pursuant to the state governmental ethics law and
18 any other state officer or employee with responsibility for matters affect-
19 ing activities or operations of any lottery gaming facility or racetrack gam-
20 ing facility;

21 (B) the governor or any full-time professional employee of the office
22 of the governor;

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

25 (D) any justice of the supreme court, judge of the court of appeals
26 or judge of the district court;

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

29 (F) any member of the governing body of a city or county where a
30 lottery gaming facility or racetrack gaming facility is located; any munic-
31 ipal or county judge of such city or county; any city, county or district
32 attorney of such city or county; and any member of or attorney for the
33 planning board or zoning board of such city or county and any professional
34 planner or consultant regularly employed or retained by such planning
35 board or zoning board.

36 (b) No state or local official or affiliated person shall hold, directly or
37 indirectly, an interest in, be employed by, represent or appear for a lottery
38 gaming facility or racetrack gaming facility, or for any lottery gaming fa-
39 cility manager or racetrack gaming facility manager, or any holding or
40 intermediary company with respect thereto, in connection with any cause,
41 application or matter.

42 No state or local official or affiliated person shall represent, appear for
43 or negotiate on behalf of any person submitting a proposal for a lottery

1 gaming facility or racetrack gaming facility, or on behalf of any lottery
2 gaming facility manager or racetrack gaming facility manager, or any hold-
3 ing or intermediary company with respect thereto, in connection with any
4 cause, application or matter.

5 (c) No state or local official or affiliated person, within five years
6 immediately subsequent to the termination of the office or employment
7 of the official, shall hold, directly or indirectly, an interest in, be employed
8 by or represent, appear for or negotiate on behalf of any person submit-
9 ting a proposal for a lottery gaming facility or racetrack gaming facility,
10 or on behalf of any lottery gaming facility manager or racetrack gaming
11 facility manager, in connection with any cause, application or matter, or
12 on behalf of any holding or intermediary company with respect thereto,
13 in connection with any phase of development of a lottery gaming facility
14 or racetrack gaming facility or any other matter whatsoever related to
15 activities or operations of a lottery gaming facility or racetrack gaming
16 facility.

17 (d) No state or local official shall solicit or accept, directly or indi-
18 rectly, any complimentary service or discount from any person submitting
19 a proposal for a lottery gaming facility or racetrack gaming facility, or
20 from any lottery gaming facility manager or racetrack gaming facility man-
21 ager, which such official knows or has reason to know is other than a
22 service or discount that is offered to members of the general public in
23 like circumstance.

24 (e) No state or local official shall influence, or attempt to influence,
25 by use of official authority, the decision of the Kansas lottery commission;
26 ~~or lottery gaming facility review board or Kansas racing and gaming com-~~
27 ~~mission~~ pursuant to this act; the investigation of a proposal for a lottery
28 gaming facility or racetrack gaming facility pursuant to this act; or any
29 proceeding to enforce the provisions of this act or rules and regulations
30 of the Kansas lottery commission ~~or Kansas racing and gaming commis-~~
31 ~~sion~~. Any such attempt shall be reported promptly to the attorney general.

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

33 Sec. 35. K.S.A. 2009 Supp. 74-8764 is hereby amended to read as
34 follows: 74-8764. Each lottery gaming facility manager and each racetrack
35 gaming facility manager shall post one or more signs at the location where
36 such manager operates electronic gaming machines or lottery facility
37 games to inform patrons of the toll-free number available to provide in-
38 formation and referral services regarding compulsive or problem gam-
39 bling. The text shall be determined by the executive director of the Kansas
40 ~~racing and gaming commission~~ lottery. Failure by a lottery gaming facility
41 manager or racetrack gaming facility manager to post and maintain such
42 signs shall be cause for the imposition of a fine not to exceed \$500 per
43 day.

1 Sec. 36. K.S.A. 2009 Supp. 74-8767 is hereby amended to read as
2 follows: 74-8767. (a) (1) There is hereby established in the state treasury
3 the live horse racing purse supplement fund.
4 (2) Twenty-five percent of all moneys credited to the live horse racing
5 purse supplement fund shall be transferred to the Kansas horse breeding
6 development fund created pursuant to K.S.A. 74-8829, and amendments
7 thereto. Two percent of the moneys credited to the live horse racing purse
8 supplement fund shall be distributed to the official registering agency
9 designated pursuant to K.S.A. 74-8830, and amendments thereto, to be
10 used for horse registration, administration, development, representation
11 and promotion of the Kansas horse racing and breeding industries. A
12 complete financial accounting for the use of the funds received pursuant
13 to this subsection shall be provided annually to the Kansas ~~racing and~~
14 ~~gaming~~ *lottery* commission. Fifty percent of the moneys credited to the
15 Kansas horse breeding development fund pursuant to this section shall
16 be used as purse supplements for registered Kansas-bred foals and dis-
17 tributed based upon recommendation from the official horse breed reg-
18 istering agency and approval of the Kansas ~~racing and gaming~~ *commission*
19 *lottery*. The balance of funds credited to the Kansas horse breeding de-
20 velopment fund pursuant to this section shall be used as breed awards
21 for registered Kansas-bred broodmares and stallions. The Kansas ~~racing~~
22 ~~and gaming~~ *lottery* commission shall distribute such moneys credited to
23 the Kansas horse breeding development fund in accordance with K.S.A.
24 74-8829, and amendments thereto.
25 (3) Based on the contribution to the Kansas horse racing and breed-
26 ing industries in Kansas, the balance in the live horse race purse supple-
27 ment fund shall be distributed in accordance with rules and regulations
28 adopted by the Kansas ~~racing and gaming~~ *lottery* commission with rec-
29 ommendations by the official registering agency designated pursuant to
30 K.S.A. 74-8830, and amendments thereto.
31 (b) There is hereby established in the state treasury the live grey-
32 hound racing purse supplement fund. Moneys available in such fund shall
33 be paid to the parimutuel licensees for distribution as purse supplements
34 in accordance with rules and regulations of the Kansas ~~racing and gaming~~
35 *lottery* commission. Such rules and regulations shall provide that 25% of
36 the total amount credited to such fund shall be transferred to the credit
37 of the Kansas greyhound breeding development fund, created pursuant
38 to K.S.A. 74-8831, and amendments thereto. Moneys transferred into the
39 Kansas greyhound breeding development fund pursuant to this section
40 shall be used to supplement special stake races and enhance the amount
41 per point paid to the owners of Kansas-whelped greyhounds which win
42 live races at Kansas greyhound tracks in accordance with Kansas ~~racing~~
43 ~~and gaming~~ *lottery* commission rules and regulations. Upon the recom-

1 mendment of the official greyhound breed registry, the Kansas ~~racing and~~
2 ~~gaming~~ *lottery* commission may transfer moneys from the Kansas grey-
3 hound breeding development fund to the live greyhound racing purse
4 supplement fund.

5 (c) All purse supplements paid pursuant to this act shall be according
6 to the point schedule in effect on January 1, 2003, at the respective par-
7 imutuel licensee locations. All purse supplements paid pursuant to this
8 section shall be in addition to purses and supplements paid under K.S.A.
9 74-8801 et seq., and amendments thereto.

10 Sec. 37. K.S.A. 2009 Supp. 74-8769 is hereby amended to read as
11 follows: 74-8769. Each person subject to a background check pursuant to
12 the Kansas expanded lottery act shall be subject to a state and national
13 criminal history records check which conforms to applicable federal stan-
14 dards for the purpose of verifying the identity of the applicant and
15 whether the person has been convicted of any crime that would disqualify
16 the person from engaging in activities pursuant to this act. The executive
17 director of the Kansas ~~racing and gaming commission~~ *lottery* is authorized
18 to use the information obtained from the national criminal history record
19 check to determine the person's eligibility to engage in such activities.

20 Sec. 38. K.S.A. 2009 Supp. 74-8772 is hereby amended to read as
21 follows: 74-8772. The Kansas ~~racing and gaming~~ *lottery* commission shall
22 adopt such rules and regulations as the commission deems necessary to
23 carry out the duties and functions of the commission pursuant to the
24 Kansas expanded lottery act. Such rules and regulations shall include, but
25 not be limited to, rules and regulations:

26 (a) Promoting the integrity of the gaming and finances of lottery gam-
27 ing facilities and racetrack gaming facilities and shall meet or exceed in-
28 dustry standards for monitoring and controlling the gaming and finances
29 of lottery gaming facility operations and racetrack gaming facility opera-
30 tions and shall give the Kansas ~~racing and gaming~~ *lottery* commission
31 sufficient authority to monitor and control the gaming operation and to
32 ensure its integrity and security;

33 (b) prescribing the on-site security arrangements for lottery gaming
34 facilities and racetrack gaming facilities;

35 (c) requiring reporting of information about any lottery gaming fa-
36 cility manager or racetrack gaming facility manager, and its employees,
37 vendors and finances, necessary or desirable to ensure the security of
38 lottery gaming facility and racetrack gaming facility operations. None of
39 the information disclosed pursuant to this subsection shall be subject to
40 disclosure under the Kansas open records act;

41 (d) requiring reporting and auditing of financial information of lottery
42 gaming facility managers and racetrack gaming facility managers, includ-
43 ing, but not limited to, the reporting of profits or losses incurred by lottery

1 gaming facility managers and racetrack gaming facility managers and the
2 reporting of such other information as the Kansas ~~racing and gaming~~
3 *lottery* commission requires to determine compliance with the Kansas
4 expanded lottery act and rules and regulations adopted hereunder. None
5 of the information disclosed pursuant to this subsection shall be subject
6 to disclosure under the Kansas open records act; and

7 (e) provisions for oversight of all lottery gaming facility operations
8 and racetrack gaming facility operations, including, but not limited to,
9 oversight of internal controls; oversight of security of facilities; perform-
10 ance of background investigations, determination of qualifications and
11 credentialing of employees, contractors and agents of lottery gaming fa-
12 cility managers, ancillary lottery gaming facility operations and racetrack
13 gaming facilities; auditing of lottery gaming facility revenues and net elec-
14 tronic gaming machine income of racetrack gaming facilities; enforce-
15 ment of all state laws; and maintenance of the integrity of lottery gaming
16 facility and racetrack gaming facility operations.

17 Sec. 39. K.S.A. 74-8802 is hereby amended to read as follows: 74-
18 8802. As used in the Kansas parimutuel racing act unless the context
19 otherwise requires:

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

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

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

26 (b) "Commission" means the Kansas ~~racing and gaming~~ *lottery* com-
27 mission created by this act.

28 (c) "Concessionaire licensee" means a person, partnership, corpora-
29 tion or association licensed by the commission to utilize a space or priv-
30 ilege within a racetrack facility to sell goods or services.

31 (d) "Contract" means an agreement, written or oral, between two or
32 more persons, partnerships, corporations or associations, or any combi-
33 nation thereof, which creates an obligation between the parties.

34 (e) "Crossover employment" means a situation in which an occupa-
35 tional licensee is concurrently employed at the same racing facility by an
36 organization licensee and a facility owner licensee or facility manager
37 licensee.

38 (f) "Dual racetrack facility" means a racetrack facility for the racing
39 of both horses and greyhounds or two immediately adjacent racetrack
40 facilities, owned by the same licensee, one for racing horses and one for
41 racing greyhounds.

42 (g) "Executive director" means the executive director of the ~~com-~~
43 ~~mission~~ *Kansas lottery*.

- 1 (h) "Facility manager licensee" means a person, partnership, corpo-
2 ration or association licensed by the commission and having a contract
3 with an organization licensee to manage a racetrack facility.
- 4 (i) "Facility owner licensee" means a person, partnership, corporation
5 or association, or the state of Kansas or any political subdivision thereof,
6 licensed by the commission to construct or own a racetrack facility but
7 does not mean an organization licensee which owns the racetrack facility
8 in which it conducts horse or greyhound racing.
- 9 (j) "Fair association" means an association organized pursuant to
10 K.S.A. 2-125 et seq. and amendments thereto or a nonprofit association
11 determined by the commission to be otherwise organized to conduct fair
12 activities pursuant to findings of fact entered by the commission in a
13 license order.
- 14 (k) "Financial interest" means an interest that could result directly
15 or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss
16 as a result of ownership or interest in a business entity or activity or as a
17 result of a salary, gratuity or other compensation or remuneration from
18 any person.
- 19 (l) "Greyhound" means any greyhound breed of dog properly regis-
20 tered with the national greyhound association of Abilene, Kansas.
- 21 (m) "Horsemen's association" means any association or corporation:
22 (1) All officers, directors, members and shareholders of which are
23 licensed owners of horses or licensed trainers of horses, or both;
24 (2) which is applying for or has been issued a facility owner license
25 authorizing ownership of Eureka Downs, Anthony Downs or a racetrack
26 facility on or adjacent to premises used by a fair association to conduct
27 fair activities; and
28 (3) none of the officers, directors, members or shareholders of which
29 holds another facility owner license or is an officer, director, member or
30 shareholder of another facility owner licensee.
- 31 (n) "Horsemen's nonprofit organization" means any nonprofit
32 organization:
33 (1) All officers, directors, members or shareholders of which are li-
34 censed owners of horses or licensed trainers of horses, or both; and
35 (2) which is applying for or has been issued an organization license
36 authorizing the conduct of horse races at Eureka Downs, Anthony Downs
37 or a racetrack facility on or adjacent to premises used by a fair association
38 to conduct fair activities.
- 39 (o) "Host facility" means the racetrack at which the race is run or, if
40 the race is run in a jurisdiction which is not participating in the interstate
41 combined wagering pool, the racetrack or other facility which is desig-
42 nated as the host facility.
- 43 (p) "Host jurisdiction" means the jurisdiction where the host facility

1 is located.

2 (q) "Interstate combined wagering pool" means a parimutuel pool
3 established in one jurisdiction which is combined with comparable pari-
4 mutuel pools from one or more racing jurisdictions for the purpose of
5 establishing the amount of money returned on a successful wager in the
6 participating jurisdictions.

7 (r) "Intertrack wagering" means wagering on a simulcast race at a
8 licensed racetrack facility or at a facility which is licensed in its racing
9 jurisdiction to conduct live races.

10 (s) "Intrastate combined wagering pool" means a parimutuel pool
11 which is combined with comparable parimutuel pools from one or more
12 racetrack facilities for the purpose of establishing the amount of money
13 returned on a successful wager at the participating racetrack facilities.

14 (t) "Kansas-whelped greyhound" means a greyhound whelped and
15 raised in Kansas for the first six months of its life.

16 (u) "Minus pool" means a parimutuel pool in which, after deducting
17 the takeout, not enough money remains in the pool to pay the legally
18 prescribed minimum return to those placing winning wagers, and in
19 which the organization licensee would be required to pay the remaining
20 amount due.

21 (v) "Nonprofit organization" means:

22 (1) A corporation which is incorporated in Kansas as a not-for-profit
23 corporation pursuant to the Kansas general corporation code and the net
24 earnings of which do not inure to the benefit of any shareholder, individ-
25 ual member or person; or

26 (2) a fair association.

27 (w) "Occupation licensee" means a person licensed by the commis-
28 sion to perform an occupation or provide services which the commission
29 has identified as requiring a license pursuant to this act.

30 (x) "Off-track wagering" means wagering on a simulcast race at a
31 facility which is not licensed in its jurisdiction to conduct live races.

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

35 (z) "Parimutuel pool" means the total money wagered by individuals
36 on one or more horses or greyhounds in a particular horse or greyhound
37 race to win, place or show, or combinations thereof, as established by the
38 commission, and, except in the case of an interstate or intrastate com-
39 bined wagering pool, held by the organization licensee pursuant to the
40 parimutuel system of wagering. There is a separate parimutuel pool for
41 win, for place, for show and for each of the other forms of betting pro-
42 vided for by the rules and regulations of the commission.

43 (aa) "Parimutuel wagering" means a form of wagering on the out-

- 1 come of horse and greyhound races in which those who wager purchase
2 tickets of various denominations on one or more horses or greyhounds
3 and all wagers for each race are pooled and the winning ticket holders
4 are paid prizes from such pool in amounts proportional to the total re-
5 cepts in the pool.
- 6 (bb) “Race meeting” means one or more periods of racing days dur-
7 ing a calendar year designated by the commission for which an organi-
8 zation licensee has been approved by the commission to hold live or
9 simulcast horse or greyhound races at which parimutuel wagering is con-
10 ducted, including such additional time as designated by the commission
11 for the conduct of official business before and after the races.
- 12 (cc) “Racetrack facility” means a racetrack within Kansas used for the
13 racing of horses or greyhounds, or both, including the track surface,
14 grandstands, clubhouse, all animal housing and handling areas, other ar-
15 eas in which a person may enter only upon payment of an admission fee
16 or upon presentation of authorized credentials and such additional areas
17 as designated by the commission.
- 18 (dd) “Racing jurisdiction” or “jurisdiction” means a governmental au-
19 thority which is responsible for the regulation of live or simulcast racing
20 in its jurisdiction.
- 21 (ee) “Racing or wagering equipment or services licensee” means any
22 person, partnership, corporation or association licensed by the commis-
23 sion to provide integral racing or wagering equipment or services, as de-
24 signated by the commission, to an organization licensee.
- 25 (ff) “Recognized greyhound owners’ group” means the duly recog-
26 nized group elected in accordance with rules and regulations of the com-
27 mission by a majority of the Kansas licensed greyhound owners at the
28 racetrack facility voting in the election. The commission may designate
29 an organization such as the national greyhound association of Abilene,
30 Kansas, to conduct the election.
- 31 (gg) “Recognized horsemen’s group” means the duly recognized
32 group, representing the breeds of horses running at a racetrack facility,
33 elected in accordance with rules and regulations of the commission by a
34 majority of the licensed owners and trainers at the racetrack facility voting
35 in the election. If the licensee does not have a recognized horsemen’s
36 group, the commission shall designate as the recognized horsemen’s
37 group one that serves another organization licensee, but not one that
38 serves a fair association organization licensee.
- 39 (hh) “Simulcast” means a live audio-visual broadcast of an actual
40 horse or greyhound race at the time it is run.
- 41 (ii) “Takeout” means the total amount of money withheld from each
42 parimutuel pool for the payment of purses, taxes and the share to be kept
43 by the organization licensee. Takeout does not include the breakage. The

1 balance of each pool less the breakage is distributed to the holders of
2 winning parimutuel tickets.

3 Sec. 40. K.S.A. 2009 Supp. 74-8805 is hereby amended to read as
4 follows: 74-8805. (a) ~~(1) The governor shall appoint, subject to confir-~~
5 ~~mation by the senate as provided by K.S.A. 75-4315b, and amendments~~
6 ~~thereto, an executive director of the commission, to serve at the pleasure~~
7 ~~of the governor and under the direction and supervision of the commis-~~
8 ~~sion. Except as provided by K.S.A. 46-2601, and amendments thereto, no~~
9 ~~person appointed as executive director shall exercise any power, duty or~~
10 ~~function as executive director until confirmed by the senate. Before ap-~~
11 ~~pointing any person as executive director, the governor shall cause the~~
12 ~~Kansas bureau of investigation to conduct a criminal history record check~~
13 ~~and background investigation of the person.~~

14 ~~—(2) The executive director shall: (A) Be in the unclassified service~~
15 ~~under the Kansas civil service act; (B) devote full time to the executive~~
16 ~~director's assigned duties; (C) receive such compensation as determined~~
17 ~~by the governor, subject to the limitations of appropriations therefor; (D)~~
18 ~~be a citizen of the United States and an actual resident of Kansas during~~
19 ~~employment by the commission; (E) not have been convicted of a felony~~
20 ~~under the laws of any state or of the United States prior to or during~~
21 ~~employment by the commission; and (F) have familiarity with the horse~~
22 ~~and dog racing industries sufficient to fulfill the duties of the office of~~
23 ~~executive director.~~

24 ~~—(3) The executive director shall: (A) (1) Recommend to the commis-~~
25 ~~sion the number and qualifications of employees necessary to implement~~
26 ~~and enforce the provisions of this act; (B) (2) employ persons for those~~
27 ~~positions approved by the commission, subject to the limitations of ap-~~
28 ~~propriations therefor; and (C) (3) perform such other duties as directed~~
29 ~~by the commission.~~

30 (b) (1) The executive director shall appoint an inspector of parimu-
31 tuels to serve at the pleasure of the executive director. Before appointing
32 any person as inspector of parimutuels, the executive director shall cause
33 the Kansas bureau of investigation to conduct a criminal history record
34 check and background investigation of the person.

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

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

7 (c) (1) The executive director shall appoint a director of security to
8 serve at the pleasure of the executive director. Before appointing any
9 person as director of security, the executive director shall cause the Kan-
10 sas bureau of investigation to conduct a criminal history record check and
11 background investigation of the person.

12 (2) The director of security shall: (A) Be in the unclassified service
13 under the Kansas civil service act; (B) devote full time to the security
14 director's assigned duties; (C) receive such compensation as determined
15 by the executive director, subject to the limitations of appropriations
16 therefor; (D) be a citizen of the United States and an actual resident of
17 Kansas during employment as director of security; (E) not have been
18 convicted of a felony under the laws of any state or of the United States
19 prior to or during employment by the commission; and (F) be a profes-
20 sional law enforcement officer with a minimum of five years' experience
21 in the field of law enforcement and at least a bachelor's degree in law
22 enforcement administration, law, criminology or a related science or, in
23 lieu thereof, a minimum of 10 years' experience in the field of law
24 enforcement.

25 (3) The director of security shall: (A) Conduct investigations relating
26 to compliance with the provisions of this act and rules and regulations of
27 the commission; (B) recommend proper security measures to organiza-
28 tion licensees; (C) train and supervise such personnel as employed by the
29 executive director to assist with such duties; and (D) perform such other
30 duties as directed by the executive director.

31 (d) (1) The executive director may appoint a director of racing oper-
32 ations to serve at the pleasure of the executive director. Before appoint-
33 ing any person as director of racing operations, the executive director
34 shall cause the Kansas bureau of investigation to conduct a criminal his-
35 tory record check and background investigation of the person.

36 (2) The director of racing operations shall: (A) Be in the unclassified
37 service under the Kansas civil service act; (B) devote full time to the
38 director's assigned duties; (C) receive such compensation as determined
39 by the executive director, subject to the limitations of appropriations
40 therefor; (D) be a citizen of the United States and an actual resident of
41 Kansas during employment as director of racing operations; (E) not have
42 been convicted of a felony under the laws of any state or of the United
43 States prior to or during employment by the commission; and (F) have a

1 minimum of five years' experience in racing operations.

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

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

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

17 (g) No employee of the commission shall have been convicted of a
18 felony under the laws of any state or of the United States prior to or
19 during employment by the commission. Before employing any person,
20 the commission shall cause a criminal history record check of the person
21 to be conducted.

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

- 25 (1) Deputy director;
- 26 (2) accountant;
- 27 (3) computer systems analyst;
- 28 (4) legal assistant;
- 29 (5) auditor;
- 30 (6) racing judge;
- 31 (7) steward;
- 32 (8) enforcement agent;
- 33 (9) office supervisor;
- 34 (10) human resource manager;
- 35 (11) office specialist; or
- 36 (12) any other sensitive position, as determined by the commission.

37 Sec. 41. K.S.A. 2009 Supp. 74-8814 is hereby amended to read as
38 follows: 74-8814. (a) Subject to the provisions of subsection (b), the com-
39 mission shall establish by rules and regulations an application fee not
40 exceeding \$500 for any of the following which applies for an organization
41 license and the license fee for any of the following granted an organization
42 license shall be \$100 for each day of racing approved by the commission:

- 43 (1) Any fair association other than the Greenwood county and An-

1 thony fair associations, any horsemen's nonprofit organization or the na-
2 tional greyhound association of Abilene, Kansas, if: (A) Such association
3 conducts not more than two race meetings each year; (B) such race meets
4 are held within the boundaries of the county where the applicant is lo-
5 cated; and (C) such race meetings are held for a total of not more than
6 40 days per year; or

7 (2) the Greenwood county fair association or a horsemen's nonprofit
8 organization, with respect to race meetings conducted by such association
9 or organization at Eureka Downs, or the Anthony fair association or a
10 horsemen's nonprofit organization, with respect to race meetings con-
11 ducted by such association or organization at Anthony Downs, for which
12 the number of race meetings and days, and the dates thereof, shall be
13 specified by the commission.

14 (b) The commission shall adopt rules and regulations providing for
15 simplified and less costly procedures and requirements for fair associa-
16 tions and horsemen's nonprofit organizations applying for or holding a
17 license to conduct race meetings.

18 (c) The Kansas ~~racine and gaming~~ *lottery* commission shall
19 investigate:

20 (1) The president, vice-president, secretary and treasurer of a fair
21 association, and such other members as the commission considers nec-
22 essary, to determine eligibility for an organization license;

23 (2) each officer and each director of a nonprofit horsemen's organi-
24 zation, and such other members or shareholders as the commission con-
25 siders necessary to determine eligibility for an organization license.

26 (d) Except as otherwise provided by this section, all applicants for
27 organization licenses for the conduct of race meetings pursuant to the
28 provisions of this section shall be required to comply with all the provi-
29 sions of K.S.A. 74-8813 and amendments thereto.

30 Sec. 42. K.S.A. 2009 Supp. 74-8832 is hereby amended to read as
31 follows: 74-8832. (a) The commission shall, by rules and regulations, es-
32 tablish a schedule of fees for the registration of Kansas-whelped grey-
33 hounds which, together with the amount provided pursuant to K.S.A. 74-
34 8830 and amendments thereto, shall be sufficient to provide for all
35 expenses incurred in the administration of the Kansas greyhound breed-
36 ing development fund created pursuant to K.S.A. 74-8831 and amend-
37 ments thereto.

38 (b) The commission may contract with and designate an official reg-
39 istering agency to implement the registration of greyhounds. Such agency
40 shall operate under the supervision of the commission and be subject to
41 rules and regulations of the commission. The official registering agency
42 shall receive no compensation from the Kansas ~~racine and gaming~~ *lottery*
43 commission except the amount provided pursuant to K.S.A. 74-8831, and

1 amendments thereto, and fees received for registration of greyhounds
2 necessary to pay its expenses for such registration.

3 (c) The commission may contract with and designate an agency to
4 provide for the distribution of purse supplements from the Kansas grey-
5 hound breeding development fund. Such agency shall operate under the
6 supervision of the commission and be subject to rules and regulations of
7 the commission.

8 Sec. 43. K.S.A. 2009 Supp. 75-37,121 is hereby amended to read as
9 follows: 75-37,121. (a) There is created the office of administrative hear-
10 ings within the department of administration, to be headed by a director
11 appointed by the secretary of administration. The director shall be in the
12 unclassified service under the Kansas civil service act.

13 (b) The office may employ or contract with presiding officers, court
14 reporters and other support personnel as necessary to conduct proceed-
15 ings required by the Kansas administrative procedure act for adjudicative
16 proceedings of the state agencies, boards and commissions specified in
17 subsection (h). The office shall conduct adjudicative proceedings of any
18 state agency which is specified in subsection (h) when requested by such
19 agency. Only a person admitted to practice law in this state or a person
20 directly supervised by a person admitted to practice law in this state may
21 be employed as a presiding officer. The office may employ regular part-
22 time personnel. Persons employed by the office shall be under the clas-
23 sified civil service.

24 (c) If the office cannot furnish one of its presiding officers within 60
25 days in response to a requesting agency's request, the director shall des-
26 ignate in writing a full-time employee of an agency other than the re-
27 questing agency to serve as presiding officer for the proceeding, but only
28 with the consent of the employing agency. The designee must possess the
29 same qualifications required of presiding officers employed by the office.

30 (d) The director may furnish presiding officers on a contract basis to
31 any governmental entity to conduct any proceeding other than a pro-
32 ceeding as provided in subsection (h).

33 (e) The secretary of administration may adopt rules and regulations:

34 (1) To establish procedures for agencies to request and for the di-
35 rector to assign presiding officers. An agency may neither select nor reject
36 any individual presiding officer for any proceeding except in accordance
37 with the Kansas administrative procedure act;

38 (2) to establish procedures and adopt forms, consistent with the Kan-
39 sas administrative procedure act, the model rules of procedure, and other
40 provisions of law, to govern presiding officers; and

41 (3) to facilitate the performance of the responsibilities conferred
42 upon the office by the Kansas administrative procedure act.

43 (f) The director may implement the provisions of this section and

1 rules and regulations adopted under its authority.

2 (g) The secretary of administration may adopt rules and regulations
3 to establish fees to charge a state agency for the cost of using a presiding
4 officer.

5 (h) The following state agencies, boards and commissions shall utilize
6 the office of administrative hearings for conducting adjudicative hearings
7 under the Kansas administrative procedures act in which the presiding
8 officer is not the agency head or one or more members of the agency
9 head:

10 (1) On and after July 1, 2005: Department of social and rehabilitation
11 services, juvenile justice authority, department on aging, department of
12 health and environment, Kansas public employees retirement system,
13 Kansas water office, Kansas animal health department and Kansas insur-
14 ance department.

15 (2) On and after July 1, 2006: Emergency medical services board,
16 emergency medical services council, Kansas health policy authority and
17 Kansas human rights commission.

18 (3) On and after July 1, 2007: Kansas lottery, ~~Kansas racing and gam-~~
19 ~~ing commission~~, state treasurer, pooled money investment board, Kansas
20 department of wildlife and parks and state court of tax appeals.

21 (4) On and after July 1, 2008: Department of human resources, state
22 corporation commission, state conservation commission, agricultural la-
23 bor relations board, department of administration, department of reve-
24 nue, board of adult care home administrators, Kansas state grain inspec-
25 tion department, board of accountancy and Kansas wheat commission.

26 (5) On and after July 1, 2009, all other Kansas administrative proce-
27 dure act hearings not mentioned in subsections (1), (2), (3) and (4).

28 (i) (1) Effective July 1, 2005, any presiding officer in agencies spec-
29 ified in subsection (h)(1) which conduct hearings pursuant to the Kansas
30 administrative procedure act, except those exempted pursuant to K.S.A.
31 77-551, and amendments thereto, and support personnel for such presid-
32 ing officers, shall be transferred to and shall become employees of the
33 office of administrative hearings. Such personnel shall retain all rights
34 under the state personnel system and retirement benefits under the laws
35 of this state which had accrued to or vested in such personnel prior to
36 the effective date of this section. Such person's services shall be deemed
37 to have been continuous. All transfers of personnel positions in the clas-
38 sified service under the Kansas civil service act shall be in accordance
39 with civil service laws and any rules and regulations adopted thereunder.
40 This section shall not affect any matter pending before an administrative
41 hearing officer at the time of the effective date of the transfer, and such
42 matter shall proceed as though no transfer of employment had occurred.

43 (2) Effective July 1, 2006, any presiding officer in agencies specified

1 in subsection (h)(2) which conduct hearings pursuant to the Kansas ad-
2 ministrative procedure act, except those exempted pursuant to K.S.A. 77-
3 551, and amendments thereto, and support personnel for such presiding
4 officers, shall be transferred to and shall become employees of the office
5 of administrative hearings. Such personnel shall retain all rights under
6 the state personnel system and retirement benefits under the laws of this
7 state which had accrued to or vested in such personnel prior to the ef-
8 fective date of this section. Such person's services shall be deemed to
9 have been continuous. All transfers of personnel positions in the classified
10 service under the Kansas civil service act shall be in accordance with civil
11 service laws and any rules and regulations adopted thereunder. This sec-
12 tion shall not affect any matter pending before an administrative hearing
13 officer at the time of the effective date of the transfer, and such matter
14 shall proceed as though no transfer of employment had occurred.

15 (3) Effective July 1, 2007, any presiding officer in agencies specified
16 in subsection (h)(3) which conduct hearings pursuant to the Kansas ad-
17 ministrative procedure act, except those exempted pursuant to K.S.A. 77-
18 551, and amendments thereto, and support personnel for such presiding
19 officers, shall be transferred to and shall become employees of the office
20 of administrative hearings. Such personnel shall retain all rights under
21 the state personnel system and retirement benefits under the laws of this
22 state which had accrued to or vested in such personnel prior to the ef-
23 fective date of this section. Such person's services shall be deemed to
24 have been continuous. All transfers of personnel positions in the classified
25 service under the Kansas civil service act shall be in accordance with civil
26 service laws and any rules and regulations adopted thereunder. This sec-
27 tion shall not affect any matter pending before an administrative hearing
28 officer at the time of the effective date of the transfer, and such matter
29 shall proceed as though no transfer of employment had occurred.

30 (4) Effective July 1, 2008, any full-time presiding officer in agencies
31 specified in subsection (h)(4) which conduct hearings pursuant to the
32 Kansas administrative procedure act, except those exempted pursuant to
33 K.S.A. 77-551, and amendments thereto, and support personnel for such
34 presiding officers, shall be transferred to and shall become employees of
35 the office of administrative hearings. Such personnel shall retain all rights
36 under the state personnel system and retirement benefits under the laws
37 of this state which had accrued to or vested in such personnel prior to
38 the effective date of this section. Such person's services shall be deemed
39 to have been continuous. All transfers of personnel positions in the clas-
40 sified service under the Kansas civil service act shall be in accordance
41 with civil service laws and any rules and regulations adopted thereunder.
42 This section shall not affect any matter pending before an administrative
43 hearing officer at the time of the effective date of the transfer, and such

1 matter shall proceed as though no transfer of employment had occurred.
2 (5) Effective July 1, 2009, any full-time presiding officer in agencies
3 specified in subsection (h)(5) which conduct hearings pursuant to the
4 Kansas administrative procedure act, except those exempted pursuant to
5 K.S.A. 77-551, and amendments thereto, and support personnel for such
6 presiding officers, shall be transferred to and shall become employees of
7 the office of administrative hearings. Such personnel shall retain all rights
8 under the state personnel system and retirement benefits under the laws
9 of this state which had accrued to or vested in such personnel prior to
10 the effective date of this section. Such person's services shall be deemed
11 to have been continuous. All transfers of personnel positions in the clas-
12 sified service under the Kansas civil service act shall be in accordance
13 with civil service laws and any rules and regulations adopted thereunder.
14 This section shall not affect any matter pending before an administrative
15 hearing officer at the time of the effective date of the transfer, and such
16 matter shall proceed as though no transfer of employment occurred.
17 Sec. 44. K.S.A. 2009 Supp. 79-4701 is hereby amended to read as
18 follows: 79-4701. As used in this act:
19 (a) "Act" means the bingo act.
20 (b) "Administrator" means the administrator of charitable gaming
21 designated by the ~~secretary pursuant to K.S.A. 2009 Supp. 79-4717, and~~
22 ~~amendments thereto~~ *executive director of the Kansas lottery.*
23 (c) "Bingo" or "games of bingo" means the games of call bingo and
24 instant bingo.
25 (d) "Bingo card" or "card" means a reusable card which is marked
26 off into 25 squares arranged in five horizontal rows of five squares each
27 and five vertical rows of five squares each, with each square being des-
28 ignated by a number, letter or combination of numbers and letters. Only
29 the center square shall be designated with the word "free". No two cards
30 in the same game shall be identical.
31 (e) "Bingo face" or "face" means a piece of paper which is marked
32 off into 25 squares arranged in five horizontal rows of five squares each
33 and five vertical rows of five squares each, with each square being des-
34 ignated by a number, letter or combination of numbers and letters. Only
35 the center square shall be designated with the word "free". No two bingo
36 faces in the same game shall be identical. Faces shall be disposable and
37 shall not be reused after the game in which a player has used such face.
38 (f) "Call bingo" means a game in which: (1) Each player pays a
39 charge; (2) a prize or prizes are awarded to the winner or winners; (3)
40 each player receives one or more cards or faces; and (4) each player covers
41 the squares on each card or face as the operator of such game announces
42 a number, letter or combination of numbers and letters appearing on an
43 object selected by chance, either manually or mechanically from a recep-

1 tacle in which have been placed objects bearing numbers, letters or com-
2 binations of numbers and letters corresponding to the system used for
3 designating the squares. The winner of each game is the player or players
4 first covering properly a predetermined and announced pattern of squares
5 upon the card or face being used by such player or players.

6 “Call bingo” shall include any regular, special, mini and progressive
7 game of bingo.

8 “Call bingo” shall not include any game utilizing an electronic or com-
9 puterized card system.

10 (g) “Department” means the department of revenue.

11 (h) “Director” means the *executive* director of ~~taxation~~ *the Kansas*
12 *lottery*.

13 (i) “Distributor” means any person or entity that sells or distributes
14 instant bingo tickets, bingo cards or bingo faces.

15 (j) “Instant bingo” means a game: (1) In which each player pays a
16 charge; (2) in which a prize or prizes are awarded to the winner or win-
17 ners; (3) in which each player receives one or more disposable pull-tab
18 or break-open tickets which accord a player an opportunity to win some-
19 thing of value by opening or detaching the paper covering from the back
20 of the ticket to reveal a set of numbers, letters, symbols or configurations,
21 or any combination thereof; (4) which is conducted by a licensee under
22 this act; (5) the conduct of which must be in the presence of the players;
23 and (6) which does not utilize any dice, normal playing cards, instant ticket
24 with a removable latex covering or slot machines. Winners of instant bingo
25 shall be determined either (1) by a combination of letters, numbers or
26 symbols determined and posted prior to the sale of instant bingo tickets
27 or (2) by matching a letter, number or symbol under a tab of an instant
28 bingo ticket with the winning letter, number or symbol in a designated
29 call game of bingo during the same session.

30 “Instant bingo” shall not include any game utilizing electronically gen-
31 erated or computer-generated tickets.

32 (k) “Lessor” means the owner, coowner, lessor or sublessor of prem-
33 ises upon which a licensee is permitted to manage, operate or conduct
34 games of bingo, whether or not a written lease has been entered into and
35 submitted to the administrator as required in subsection (c) of K.S.A. 79-
36 4703, and amendments thereto, and includes all political subdivisions and
37 other public agencies.

38 (l) “Licensee” means any nonprofit organization holding a license to
39 manage, operate or conduct games of bingo pursuant to K.S.A. 79-4701
40 et seq., and amendments thereto.

41 (m) “Mini bingo” means a game of call bingo in which the prizes
42 awarded are not less than 50% of the gross receipts derived from the sale
43 of cards or faces for participation in the game, but not more than \$50.

- 1 (n) “Net proceeds” means the gross receipts received by the licensee
2 from charges imposed on players for participation in games of bingo and
3 any admission fees or charges less amounts actually paid as prizes in
4 games of bingo and any tax payable by the licensee.
- 5 (o) “Nonprofit religious organization” means any organization,
6 church, body of communicants, or group, gathered in common member-
7 ship for mutual support and edification in piety, worship, and religious
8 observances, or a society of individuals united for religious purposes at a
9 definite place and of which no part of the net earnings inures to the
10 benefit of any private shareholder or individual member of such organi-
11 zation, and which religious organization maintains an established place of
12 worship within this state and has a regular schedule of services or meet-
13 ings at least on a weekly basis and has been determined by the adminis-
14 trator to be organized and created as a bona fide religious organization
15 and which has been exempted from the payment of federal income taxes
16 as provided by section 501(c)(3) or section 501(d) of the federal internal
17 revenue code of 1986, as amended, or determined to be organized and
18 operated as a bona fide nonprofit religious organization by the
19 administrator.
- 20 (p) “Nonprofit charitable organization” means any organization
21 which is organized and operated for:
- 22 (1) The relief of poverty, distress, or other condition of public con-
23 cern within this state; or
- 24 (2) for financially supporting the activities of a charitable organization
25 as defined in paragraph (1); or
- 26 (3) for conferring direct benefits on the community at large; and of
27 which no part of the net earnings inures to the benefit of any private
28 shareholder or individual member of such organization and has been de-
29 termined by the administrator to be organized and operated as a bona
30 fide charitable organization and which has been exempted from the pay-
31 ment of federal income taxes as provided by sections 501(c)(3), 501(c)(4),
32 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of
33 1986, as amended, or determined to be organized and operated as a bona
34 fide nonprofit charitable organization by the administrator.
- 35 (q) “Nonprofit fraternal organization” means any organization within
36 this state which exists for the common benefit, brotherhood, or other
37 interests of its members and is authorized by its written constitution,
38 charter, articles of incorporation or bylaws to engage in a fraternal, civic
39 or service purpose within this state and has been determined by the ad-
40 ministrator to be organized and operated as a bona fide fraternal organ-
41 ization and which has been exempted from the payment of federal income
42 taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal
43 internal revenue code of 1986, as amended, or determined to be organ-

1 ized and operated as a bona fide nonprofit fraternal organization by the
2 administrator.

3 (r) “Nonprofit educational organization” means any public or private
4 elementary or secondary school or institution of higher education which
5 has been determined by the administrator to be organized and operated
6 as a bona fide educational organization and which has been exempted
7 from the payment of federal income taxes as provided by section 501(c)(3)
8 of the federal internal revenue code of 1986, as amended, or determined
9 to be organized and operated as a bona fide nonprofit educational organ-
10 ization by the administrator.

11 (s) “Nonprofit veterans’ organization” means any organization within
12 this state or any branch, lodge, or chapter of a national or state organi-
13 zation within this state, the membership of which consists exclusively of
14 individuals who qualify for membership because they were or are mem-
15 bers of the armed services or forces of the United States, or an auxiliary
16 unit or society of such a nonprofit veterans’ organization the membership
17 of which consists exclusively of individuals who were or are members of
18 the armed services or forces of the United States, or are cadets, or are
19 spouses, widows or widowers of individuals who were or are members of
20 the armed services or forces of the United States, and of which no part
21 of the net earnings inures to the benefit of any private shareholder or
22 individual member of such organization, and has been determined by the
23 administrator to be organized and operated as a bona fide veterans’ or-
24 ganization and which has been exempted from the payment of federal
25 income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal
26 internal revenue code of 1986, as amended, or determined to be organ-
27 ized and operated as a bona fide nonprofit veterans’ organization by the
28 administrator.

29 (t) “Person” means any natural person, corporation, partnership, trust
30 or association.

31 (u) “Premises” means any room, hall, building, enclosure or outdoor
32 area used for the management, operation or conduct of a game of bingo
33 by a licensee.

34 (v) “Progressive bingo” means a game of call bingo in which either
35 the established prize amount or number of bingo balls or objects called,
36 or both, may be increased from one session to the next scheduled session
37 if no player completes the required pattern within the specified number
38 of bingo balls or objects drawn. The player’s opportunity to win shall
39 increase as the prize amount increases.

40 (w) “Regular game of bingo” means any game of bingo which is sub-
41 ject to the 25 game limit, \$50 prize limit and the \$1 charge limit imposed
42 under subsections (g), (h) and (j) of K.S.A. 79-4706, and amendments
43 thereto.

1 ~~(x)~~ “Secretary” means the secretary of revenue or the secretary’s
2 ~~designee.~~

3 ~~(y)~~ (x) “Session” means a day on which a licensee conducts games of
4 bingo.

5 Sec. 45. K.S.A. 2009 Supp. 79-4704 is hereby amended to read as
6 follows: 79-4704. For the purpose of providing revenue which may be
7 used by the state and for the privilege of operating or conducting games
8 of bingo under the authority of this act:

9 (a) There is hereby levied and there shall be collected and paid by
10 each licensee a tax at the rate of 3% upon the gross receipts received by
11 the licensee from charges for participation in call bingo games using bingo
12 cards and any admission fees or charges. The tax imposed by this section
13 shall be in addition to the license fee imposed under K.S.A. 79-4703, and
14 amendments thereto.

15 (b) There is hereby levied and there shall be collected and paid by
16 each distributor a tax at a rate of \$0.002 upon each bingo face sold or
17 distributed by the distributor to each licensee conducting call bingo
18 games within the state of Kansas. The distributor shall include the tax
19 due under this subsection in the sales price of each bingo face paid by
20 the licensee and such tax shall be itemized separately on the invoice pro-
21 vided to the licensee.

22 (c) There is hereby levied and there shall be collected and paid by
23 each distributor a tax at a rate of 1% upon the total of the printed retail
24 sales price of all tickets in each box of instant bingo tickets sold or dis-
25 tributed by the distributor to each licensee conducting instant bingo
26 games within the state of Kansas. The distributor shall include the tax
27 due under this subsection in the sales price of each box paid by the li-
28 censee and such tax shall be itemized separately on the invoice provided
29 to the licensee.

30 (d) Whenever, in the judgment of the administrator, it is necessary,
31 in order to secure the collection of the tax due under subsection (b), the
32 administrator shall require any distributor subject to such tax to file a
33 bond with the director *of taxation* under conditions established by and in
34 such form and amount as prescribed by rules and regulations adopted by
35 the secretary *of revenue*.

36 Sec. 46. K.S.A. 2009 Supp. 79-4708 is hereby amended to read as
37 follows: 79-4708. (a) The administration and enforcement of the bingo
38 act and any rules and regulations adopted pursuant thereto shall be vested
39 in the administrator.

40 (b) Upon recommendation of the administrator, the ~~secretary~~ *exec-*
41 *utive director of the Kansas lottery* shall adopt all rules and regulations
42 necessary for the administration and enforcement of the bingo act by the
43 administrator.

1 Sec. 47. K.S.A. 2009 Supp. 79-4717 is hereby amended to read as
2 follows: 79-4717. (a) The ~~secretary of revenue~~ *executive director of the*
3 *Kansas lottery* shall designate an administrator of charitable gaming. Any
4 person designated the administrator of charitable gaming shall have at
5 least five years' experience in the area of charitable gaming regulation.
6 The administrator of charitable gaming shall be in the unclassified service
7 and shall receive an annual salary fixed by the secretary of revenue and
8 approved by the governor.

9 (b) Under the supervision of the ~~secretary~~ *executive director of the*
10 *Kansas lottery*, the administrator of charitable gaming shall administer
11 and enforce the provisions of the bingo act and any rules and regulations
12 adopted pursuant thereto. The administrator's exclusive duties shall be
13 the administration and enforcement of the bingo act and any rules and
14 regulations adopted pursuant thereto. The administrator shall be solely
15 accountable to and report to the ~~secretary of revenue~~ *executive director*
16 *of the Kansas lottery*.

17 Sec. 48. K.S.A. 21-4302, 74-8704, 74-8706, 74-8709, 74-8802 and 74-
18 8803 and K.S.A. 2009 Supp. 12-4516, 12-4516a, 21-4619, 74-8703, 74-
19 8734, 74-8735, 74-8736, 74-8741, 74-8742, 74-8745, 74-8746, 74-8750,
20 74-8751, 74-8752, 74-8758, 74-8759, 74-8760, 74-8762, 74-8764, 74-
21 8767, 74-8769, 74-8772, 74-8805, 74-8814, 74-8832, 75-37,121, 79-4701,
22 79-4704, 79-4708 and 79-4717 are hereby repealed.

23 Sec. 49. This act shall take effect and be in force from and after its
24 publication in the statute book.