

SENATE BILL No. 260

By Legislative Post Audit Committee

12-21

1 AN ACT concerning audits of state agencies; financial-compliance audits;
2 Kansas lottery security audit; selection of auditor, contracts with;
3 creating the Kansas lottery audit contract committee and the department
4 of administration audit contract committee; creating the department of
5 administration audit services fund; amending K.S.A. 46-1108, 46-1112,
6 46-1115, 46-1116, 46-1122, 46-1123, 46-1125, 46-1126, 46-1127 and
7 74-2424 and K.S.A. 2017 Supp. 39-709b, 46-1106, 46-1114, 46-1118,
8 46-1128, 46-1135, 74-4921, 75-5133 and 79-3234 and repealing the
9 existing sections; also repealing K.S.A. 2017 Supp. 46-1121 and 46-
10 1134.

11

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

13 New Section 1. (a) (1) Beginning in calendar year 2019, and at least
14 once every three years thereafter, there shall be conducted a security audit
15 of the Kansas lottery. Any security audit conducted pursuant to this section
16 shall include a comprehensive study and evaluation of all aspects of
17 security in the operation of such state agency. The firm to conduct a
18 security audit shall be selected and shall perform such audit work as
19 provided in sections 3 through 6, and amendments thereto. The firm
20 selected to perform a security audit shall be experienced in security
21 procedures, including, but not limited to, computer systems and security.
22 A contract to conduct such a security audit required by this subsection
23 shall not be awarded until a background investigation is conducted by the
24 executive director of the Kansas lottery on the person or firm selected to
25 perform the audit. Such background investigation shall include: (A) The
26 vendor to whom the contract is to be awarded; (B) all persons who own a
27 controlling interest in such vendor; and (C) all applicable staff having
28 involvement with the audit.

29 (2) For the purpose of conducting a security audit under this
30 subsection, a person or a firm selected to perform the security audit shall
31 not be limited to a legal entity permitted by law to engage in practice as a
32 certified public accountant.

33 (b) Beginning in calendar year 2019, a financial-compliance audit
34 shall be conducted annually on the accounts and transactions of the Kansas
35 lottery and the Kansas lottery commission. The first financial-compliance
36 audit shall examine the accounts and transactions for fiscal year 2019. The

1 firm to conduct this audit work shall be selected as provided in sections 3
2 and 4, and amendments thereto. The audits required pursuant to this
3 subsection shall be conducted in accordance with generally accepted
4 governmental auditing standards, and shall be conducted as soon after the
5 close of the fiscal year as practicable, but shall be completed no later than
6 the deadlines as set forth in section 6, and amendments thereto.

7 New Sec. 2. (a) There is hereby created the Kansas lottery audit
8 contract committee, which shall consist of the following members: (1) The
9 executive director of the Kansas lottery or a Kansas lottery employee
10 designated by the executive director; (2) the chairperson of the Kansas
11 lottery commission or a commission member designated by the
12 chairperson of the Kansas lottery commission; and (3) the post auditor or a
13 person designated by the post auditor. The executive director of the Kansas
14 lottery or the person designated by the executive director to serve as a
15 member of the Kansas lottery audit contract committee shall be the
16 chairperson of the committee.

17 (b) The Kansas lottery audit contract committee shall meet on the call
18 of the chairperson of such committee. A vote of two members of the
19 committee shall be required for any action of the committee.

20 New Sec. 3. (a) In the procurement of a firm or firms to perform an
21 audit required by section 1, and amendments thereto, the executive
22 director of the Kansas lottery shall encourage firms engaged in the lawful
23 practice of their professions to place their names on a list maintained by
24 the executive director of bidders to receive invitations for bid on audit
25 contracts.

26 (b) The executive director of the Kansas lottery shall establish
27 specifications for the conduct by a firm or firms of an audit required by
28 section 1, and amendments thereto. The specifications shall be used in
29 preparing invitations for bid and evaluating the bids received.

30 (c) For all audits required by section 1, and amendments thereto, the
31 executive director of the Kansas lottery shall issue an invitation for bid to
32 all firms who have requested to be on the bidders list and others who
33 request a copy after notice in the Kansas register. The invitation shall
34 request information on the firm's qualifications, the qualifications of staff
35 to be assigned to the job, the firm's technical approach to the audit and the
36 fee. The executive director shall evaluate the bids received in response to
37 the invitations and for each audit shall prepare a list of at least three and
38 not more than five firms that are, in the opinion of the executive director,
39 qualified to perform such audit or audits. Such list shall be submitted to
40 the Kansas lottery audit contract committee.

41 New Sec. 4. (a) The Kansas lottery audit contract committee may
42 conduct discussions with each of the firms submitted by the executive
43 director and then shall select a firm or firms from such listing to provide

1 an audit as required by section 1, and amendments thereto.

2 (b) The Kansas lottery audit contract committee shall consider, in
3 making their selection, qualifications of the firm and staff, the technical
4 proposal and fee.

5 (c) If the Kansas lottery audit contract committee is unable to contract
6 with any of the selected firms, the committee shall request the executive
7 director to provide another list of firms to be reviewed by the committee.
8 Upon receipt of such list, the committee shall proceed in accordance with
9 the provisions of this section.

10 New Sec. 5. (a) Each contract for an audit required by section 1, and
11 amendments thereto, entered into under section 3 and section 4, and
12 amendments thereto, shall be entered into between the executive director
13 of the Kansas lottery and the firm or firms selected to perform the audit.
14 Each such contract shall require the firm or firms selected to submit
15 evidence that is satisfactory to the Kansas lottery audit contract committee
16 that the firm has general professional liability insurance or specific
17 liability insurance that is adequate for such audit.

18 (b) In addition to the requirements in subsection (a), each such
19 contract for audit services shall specify the responsibilities undertaken by
20 the firm selected to perform such audit and such firm shall be responsible
21 for all material errors and omissions in the performance of such contract.

22 (c) Such contracts shall not be subject to the provisions of K.S.A. 75-
23 3739, and amendments thereto.

24 New Sec. 6. (a) The Kansas lottery audit contract committee shall
25 monitor the performance of the firm or firms conducting audits pursuant to
26 a contract entered into under section 5, and amendments thereto, to ensure
27 that such audit is performed in accordance with the specifications
28 developed for the conduct of such audit.

29 (b) (1) The firm selected to perform an audit required by section 1(a),
30 and amendments thereto, shall submit a final written audit report by
31 December 1 of each year to the executive director of the Kansas lottery and
32 the legislative post audit committee.

33 (2) The firm selected to perform an audit required by section 1(b),
34 and amendments thereto, shall submit a preliminary written audit report by
35 September 15 of each year to the executive director of the Kansas lottery
36 and the secretary of administration. A final audit report shall be submitted
37 by October 1 of each year to the executive director of the Kansas lottery,
38 the secretary of administration and the legislative post audit committee.

39 (c) In the performance of such audit, the officers and employees of
40 the firm or firms performing the audit shall be subject to the same duty of
41 confidentiality applicable to the post auditor and officers and employees of
42 the division of post audit under the legislative post audit act, and shall
43 have access to all books, accounts, records, files, documents and

1 correspondence, confidential or otherwise, of any person or state agency
2 subject to the audit.

3 New Sec. 7. Sections 1 through 7, and amendments thereto, shall be
4 part of and supplemental to the Kansas lottery act.

5 New Sec. 8. (a) Beginning in calendar year 2019, a financial-
6 compliance audit shall be conducted annually on the accounts and
7 transactions of the Kansas public employees retirement system. The first
8 financial-compliance audit shall examine the accounts and transactions for
9 fiscal year 2019. The auditor to conduct this audit work shall be selected as
10 provided in subsection (c). The audit required pursuant to this subsection
11 shall be conducted in accordance with generally accepted governmental
12 auditing standards, and shall be conducted as soon after the close of the
13 fiscal year as practicable, but shall be completed no later than the
14 deadlines as set forth in section 9, and amendments thereto.

15 (b) The financial-compliance audit of the Kansas public employees
16 retirement system shall include, but not be limited to, a review of
17 alternative investments of the system with any estimates of permanent
18 impairments to the value of such alternative investments reported by the
19 system pursuant to K.S.A. 74-4907, and amendments thereto, and a review
20 of any internal assessment or examination of alternative investments of the
21 system performed and reported pursuant to K.S.A. 74-4921(12)(a), and
22 amendments thereto.

23 (c) The Kansas public employees retirement system board of trustees
24 shall be responsible for the procurement of an auditing firm under the
25 provisions of K.S.A. 75-37,132, and amendments thereto.

26 New Sec. 9. (a) The executive director of the Kansas public
27 employees retirement system shall monitor the performance of the firm
28 conducting an audit to ensure that such audit is performed in accordance
29 with the specifications developed for the conduct of such audit.

30 (b) The executive director of the Kansas public employees retirement
31 system shall submit a preliminary draft of the management's discussion
32 and analysis and the financial statements by October 1 of each year to the
33 secretary of administration and the firm selected to perform an audit
34 required by section 8, and amendments thereto. The executive director of
35 the Kansas public employees retirement system shall submit the final draft
36 of the management's discussion and analysis and the financial statements
37 by October 15 of each year to the secretary of administration and the firm
38 selected to perform an audit required by section 8, and amendments
39 thereto. The final audit opinion letter shall be submitted by November 1 of
40 each year by the firm selected to perform an audit by section 8, and
41 amendments thereto, to the executive director of the Kansas public
42 employees retirement system, the secretary of administration and the
43 legislative post audit committee.

1 (c) In the performance of such audit, the officers and employees of
2 the firm performing the audit shall be subject to the same duty of
3 confidentiality applicable to the post auditor and officers and employees of
4 the division of post audit under the legislative post audit act, and shall
5 have access to all books, accounts, records, files, documents and
6 correspondence, confidential or otherwise, of any person, any affiliated
7 employer or state agency subject to the audit.

8 New Sec. 10. (a) At least once every three years, the legislative post
9 audit committee shall direct the division of post audit to conduct a
10 performance audit of the Kansas public employees retirement system. In
11 considering performance audit subjects, the legislative post audit
12 committee shall consider recommendations and requests for performance
13 audits relating to the system or the management thereof by the joint
14 committee on pensions, investments and benefits or by any other
15 committee or individual member of the legislature.

16 (b) This section shall be part of and supplemental to the legislative
17 post audit act.

18 New Sec. 11. (a) Beginning in calendar year 2019, a financial-
19 compliance audit shall be conducted each year of the general purpose
20 financial statements prepared by the division of accounts and reports of the
21 department of administration for its annual financial report. The first
22 financial-compliance audit shall examine the general purpose financial
23 statements for fiscal year 2019. This audit shall be conducted in
24 accordance with generally accepted governmental auditing standards. The
25 resulting written audit report shall be issued as soon after the end of the
26 fiscal year as is practicable, but shall be completed no later than the
27 deadlines as set forth in section 17, and amendments thereto.

28 (b) (1) Beginning in fiscal year 2020, and once every two years
29 thereafter, separate written audit reports on the financial management
30 practices of the office of the state treasurer and the pooled money
31 investment board shall be prepared addressing the adequacy of financial
32 management practices and compliance with applicable state laws. The
33 separate audit of the pooled money investment board also shall include a
34 comparative investment performance review and an analysis of the
35 investment program, including an evaluation of investment policies and
36 practices and of specific investments in the pooled money investment
37 portfolio. The analysis of the specific investments in the pooled money
38 investment portfolio shall review whether such investments meet the
39 investment priorities of safety, liquidity and performance. The
40 performance of such investments shall be measured by comparison to an
41 appropriate market index. The resulting written audit report shall be
42 completed no later than the deadlines as set forth in section 17, and
43 amendments thereto.

1 (2) In addition, whenever an individual is first elected or appointed
2 and qualified to the office of the state treasurer, there shall be conducted a
3 transition audit within two weeks after the date such individual enters upon
4 the duties of the office of the state treasurer. The purpose of the transition
5 audit shall be to review the assets in the custody of the office of the state
6 treasurer for significant discrepancies at the time of the transition. A
7 separate written report shall be prepared for each transition audit.

8 (3) Any additional costs associated with preparing the separate
9 additional reports on the office of the state treasurer and the pooled money
10 investment board shall be borne by the office of the state treasurer and the
11 pooled money investment board in accordance with section 18, and
12 amendments thereto.

13 (c) (1) Books and accounts of the state treasurer and the director of
14 accounts and reports, including the bond register of the state treasurer, may
15 be examined monthly if the department of administration audit contract
16 committee so determines, and such examination may include detailed
17 checking of every transaction or test checking.

18 (2) Any person receiving tax information under the provisions of
19 subsection (a) or (b) shall be subject to the same duty of confidentiality
20 imposed by law upon the personnel of the department of revenue and shall
21 be subject to any civil or criminal penalties imposed by law for violations
22 of such duty of confidentiality.

23 New Sec. 12. (a) Beginning in fiscal year 2019, the department of
24 administration shall be responsible for procuring and managing audit
25 services for any audit of the financial affairs and transactions of a state
26 agency that is required to comply with federal government audit
27 requirements for receiving federal awards or grants.

28 (b) As used in this section, "state agency" means any state office,
29 officer, department, board, commission, institution, bureau, agency or
30 authority or any division or unit thereof.

31 New Sec. 13. (a) There is hereby created the department of
32 administration contract audit committee, which shall consist of the
33 following members: (1) The secretary of administration or a person
34 designated by the secretary of administration; (2) the director of accounts
35 and reports or a person designated by the director of accounts and reports;
36 (3) the post auditor or a person designated by the post auditor; (4) the state
37 treasurer or a person designated by the state treasurer; and (5) the director
38 of the budget or a person designated by the director of the budget. The
39 secretary of administration or the person designated by the secretary to
40 serve as a member of the department of administration contract audit
41 committee shall be the chairperson of the committee.

42 (b) The department of administration contract audit committee shall
43 meet on the call of the chairperson of such committee. A vote of two

1 members of the committee shall be required for any such action of the
2 committee.

3 New Sec. 14. (a) In the procurement of a firm or firms to perform an
4 audit required by section 11 and section 12, and amendments thereto, the
5 secretary of administration shall encourage firms engaged in the lawful
6 practice of their professions to place their names on a list maintained by
7 the secretary of bidders to receive invitations for bid on audit contracts.

8 (b) The secretary of administration shall establish specifications for
9 the conduct by a firm or firms of an audit required by section 11 and
10 section 12, and amendments thereto. The specifications shall be used in
11 preparing invitations for bid and evaluating the bids received.

12 (c) For all audits required by section 11 and section 12, and
13 amendments thereto, the secretary of administration shall issue an
14 invitation for bid to all firms who have requested to be on the bidders list
15 and others who request a copy after notice in the Kansas register. The
16 invitation shall request information on the firm's qualifications, the
17 qualifications of staff to be assigned to the job, the firm's technical
18 approach to the audit and the fee. The secretary shall evaluate the bids
19 received in response to the invitations and for each audit shall prepare a
20 list of at least three and not more than five firms that are, in the opinion of
21 the secretary, qualified to perform such audit. Such list shall be submitted
22 to the department of administration audit contract committee.

23 New Sec. 15. (a) The department of administration audit contract
24 committee may conduct discussions with each of the firms submitted by
25 the secretary of administration and then shall select a firm or firms from
26 such listing to provide an audit as required by section 11 and section 12,
27 and amendments thereto.

28 (b) The department of administration audit contract committee shall
29 consider, in making their selection, qualifications of the firm and staff, the
30 technical proposal and fee.

31 (c) If the department of administration audit contract committee is
32 unable to contract with any of the selected firms, the committee shall
33 request the secretary of administration to provide another list of firms to be
34 reviewed by the committee. Upon receipt of such list, the committee shall
35 proceed in accordance with the provisions of this section.

36 New Sec. 16. (a) Each contract for an audit required by section 11
37 and section 12, and amendments thereto, entered into under section 14 and
38 section 15, and amendments thereto, shall be entered into between the
39 secretary of administration and the firm selected to perform the audit.
40 Each such contract shall require the firm selected to submit evidence that
41 is satisfactory to the department of administration audit contract committee
42 that the firm has general professional liability insurance or specific
43 liability insurance that is adequate for such audit.

1 (b) In addition to the requirements in subsection (a), each such
2 contract for audit services shall specify the responsibilities undertaken by
3 the firm selected to perform such audit and that such firm shall be
4 responsible for all material errors and omissions in the performance of
5 such contract.

6 (c) Such contracts shall not be subject to the provisions of K.S.A. 75-
7 3739, and amendments thereto.

8 New Sec. 17. (a) The department of administration audit contract
9 committee shall monitor the performance of the firm conducting an audit
10 pursuant to a contract entered into under section 16, and amendments
11 thereto, to ensure that such audit is performed in accordance with the
12 specifications developed for the conduct of such audit.

13 (b) Written reports from audits required by section 11 and section 12,
14 and amendments thereto, shall be issued according to the following
15 deadlines:

16 (1) For an audit of the state financial statements required by section
17 11(a), and amendments thereto, a final written report shall be issued to the
18 secretary of administration and to the legislative post audit committee by
19 December 1 following the audited fiscal year;

20 (2) for a biennial audit of the state treasurer's office and the pooled
21 money investment board required by section 11(b), and amendments
22 thereto, a final written report shall be issued to the state treasurer or the
23 pooled money investment board, as appropriate, and to the secretary of
24 administration and the legislative post audit committee by December 1
25 following the audited fiscal year; and

26 (3) for a federal compliance audit required by section 12, and
27 amendments thereto, a final written report shall be issued to the secretary
28 of administration and the legislative post audit committee not less than 15
29 calendar days before the federal deadline for such report.

30 (c) In the performance of an audit pursuant to section 11 and section
31 12, and amendments thereto, the officers and employees of the firm
32 performing the audit shall be subject to the same duty of confidentiality
33 applicable to the post auditor and officers and employees of the division of
34 post audit under the legislative post audit act, and shall have access to all
35 books, accounts, records, files, documents and correspondence,
36 confidential or otherwise, of any person or state agency subject to the
37 audit.

38 New Sec. 18. (a) Whenever the secretary of administration contracts
39 with a firm to perform any audit work for any state agency to satisfy
40 financial-compliance audit requirements prescribed by section 11 and
41 section 12, and amendments thereto, and incurs costs in addition to those
42 attributable to the operations of the department of administration in
43 performance of other duties and responsibilities, the secretary shall make

1 charges for such additional costs.

2 (b) All moneys received for reimbursement to the department of
3 administration under this section shall be remitted to the state treasurer in
4 accordance with the provisions of K.S.A. 75-4215, and amendments
5 thereto. Upon receipt of each such remittance, the state treasurer shall
6 deposit the entire amount in the state treasury to the credit of the
7 department of administration audit services fund, which fund is hereby
8 created in the state treasury. All expenditures from the department of
9 administration audit services fund shall be made in accordance with
10 appropriation acts upon warrants of the director of accounts and reports
11 issued pursuant to vouchers approved by the secretary of administration or
12 a person or persons designated by the secretary.

13 New Sec. 19. (a) Each state agency awarded a federal grant or other
14 federal financial assistance that is subject to an audit pursuant to section
15 12, and amendments thereto, as a condition of such grant or assistance
16 shall notify the secretary of administration immediately of the award of
17 such grant or assistance. Based on the amount and nature of federal
18 moneys received by the state agency, the secretary shall compute annually
19 the amount of federal moneys reasonably anticipated to be required to
20 provide audit coverage in accordance with federal requirements. The
21 amounts determined for such audits shall be reviewed and approved by the
22 department of administration audit contract committee. Upon such
23 approval, the state agency, in accordance with section 18, and amendments
24 thereto, shall reimburse the secretary of administration for the amount
25 approved by the contract audit committee.

26 (b) The secretary of administration shall compute the amount of
27 money reasonably anticipated to be required to provide a financial-
28 compliance audit as required pursuant to section 12, and amendments
29 thereto. The amounts determined for such audits shall be reviewed and
30 approved by the department of administration contract audit committee.

31 (c) The secretary of administration shall remit all money received
32 under this section to the state treasurer in accordance with the provisions
33 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
34 remittance, the state treasurer shall deposit the entire amount in the state
35 treasury to the credit of the audit services fund.

36 (d) In addition to expenditures that may be made from the department
37 of administration audit services fund under section 18, and amendments
38 thereto, expenditures shall be made from such fund, and from other
39 available appropriations, to pay for the cost of financial-compliance audits
40 performed to comply with federal government audit requirements.

41 Sec. 20. On and after July 1, 2019, K.S.A. 2017 Supp. 39-709b is
42 hereby amended to read as follows: 39-709b. (a) Information concerning
43 applicants for and recipients of assistance from the secretary shall be

1 confidential and privileged and shall only be available to the secretary and
2 the officers and employees of the secretary except as set forth in this
3 section. Unless otherwise prohibited by law, such information shall be
4 disclosed to an applicant, recipient or outside source under the following
5 conditions:

6 (1) Information shall be disclosed to the post auditor in accordance
7 with and subject to the provisions of K.S.A. 46-1106~~(g)~~(e), and
8 amendments thereto;

9 (2) information shall be disclosed to an applicant or recipient in
10 accordance with and subject to rules and regulations adopted by the
11 secretary; and

12 (3) information may be disclosed to an outside source if such
13 disclosure:

14 (A) Has been consented to in writing by the applicant or recipient and
15 the applicant or recipient has been granted access by the secretary to the
16 information to be disclosed, except that in an emergency information may
17 be disclosed without a written consent if such disclosure is deemed by the
18 secretary to be in the best interests of the applicant or recipient;

19 (B) is directly connected to the administration of the secretary's
20 program;

21 (C) is directly connected to an investigation, prosecution, or criminal
22 or civil proceeding conducted in connection with the administration of the
23 secretary's program;

24 (D) is authorized by a state plan developed by the secretary pursuant
25 to the federal social security act or any other federal program providing
26 federal financial assistance and services in the field of social welfare; or

27 (E) concerns the intent of an applicant or recipient to commit a crime
28 and in this case such information and the information necessary to prevent
29 the crime shall be disclosed to the appropriate authorities.

30 (b) Nothing in this section shall be construed to prohibit the
31 publication of aggregate non-identifying statistics—~~which~~ *that* are so
32 classified as to prevent the identification of specific applicants or
33 recipients.

34 Sec. 21. On and after July 1, 2019, K.S.A. 2017 Supp. 46-1106 is
35 hereby amended to read as follows: 46-1106. (a)—~~(1) A financial-~~
36 ~~compliance audit shall be conducted each year of the general purpose~~
37 ~~financial statements prepared by the division of accounts and reports for its~~
38 ~~annual financial report. This audit shall be conducted in accordance with~~
39 ~~generally accepted governmental auditing standards. The resulting written~~
40 ~~audit report shall be issued as soon after the end of the fiscal year as is~~
41 ~~practicable.~~

42 ~~(2) In addition, once every two years, separate written audit reports~~
43 ~~on the financial management practices of the office of the state treasurer~~

1 and the pooled money investment board shall be prepared addressing the
2 adequacy of financial management practices and compliance with
3 applicable state laws. The separate audit of the pooled money investment
4 board also shall include a comparative investment performance review and
5 an analysis of the investment program, including an evaluation of
6 investment policies and practices and of specific investments in the pooled
7 money investment portfolio. The analysis of the specific investments in the
8 pooled money investment portfolio shall review whether such investments
9 meet the investment priorities of safety, liquidity and performance. The
10 performance of such investments shall be measured by comparison to an
11 appropriate market index.

12 (3) In addition, whenever an individual is first elected or appointed
13 and qualified to the office of the state treasurer, the legislative division of
14 post audit shall conduct a transition audit within two weeks after the date
15 such individual enters upon the duties of the office of the state treasurer.
16 The purpose of the transition audit shall be to review the assets in the
17 custody of the office of the state treasurer for significant discrepancies at
18 the time of the transition. A separate written report shall be prepared for
19 each transition audit.

20 (4) Copies of the reports of audits conducted pursuant to this
21 subsection (a) shall be furnished to the governor, director of accounts and
22 reports, director of the budget, each state agency, the legislative post audit
23 committee and other persons or agencies as may be required by law or by
24 the specifications of the audit.

25 (5) Any additional costs associated with preparing the separate
26 additional reports on the office of the state treasurer and the pooled money
27 investment board shall be borne by the office of the state treasurer and the
28 pooled money investment board in accordance with K.S.A. 46-1121, and
29 amendments thereto.

30 (b) Including financial compliance audit work conducted as part of
31 the audit conducted pursuant to subsection (a), financial compliance Audit
32 work shall be conducted at each state agency at least once every three
33 years as directed by the legislative post audit committee. Written reports
34 on the results of such auditing shall be furnished to the governor, director
35 of accounts and reports, director of the budget, the state agency which that
36 is audited, the legislative post audit committee and such other persons or
37 agencies as may be required by law or by the specifications of the audit.

38 (e) (1) Books and accounts of the state treasurer and the director of
39 accounts and reports, including the bond register of the state treasurer, may
40 be examined monthly if the legislative post audit committee so determines,
41 and such examination may include detailed checking of every transaction
42 or test checking.

43 (2) Any person receiving tax information under the provisions of

1 subsection (a) or (b) shall be subject to the same duty of confidentiality
2 imposed by law upon the personnel of the department of revenue and shall
3 be subject to any civil or criminal penalties imposed by law for violations
4 of such duty of confidentiality.

5 ~~(d)~~(b) The post auditor shall report immediately in writing to the
6 legislative post audit committee, governor and attorney general whenever
7 it appears in the opinion of the post auditor that there may have occurred
8 any violation of penal statutes or any instances of misfeasance,
9 malfeasance or nonfeasance by a public officer or employee disclosed by
10 any audit or audit work conducted under the legislative post audit act *or*
11 *any audit conducted pursuant to section 1, section 8, section 11 or section*
12 *12, and amendments thereto.* The post auditor shall furnish the attorney
13 general all information in the possession of the post auditor relative to any
14 report referred to the attorney general. The attorney general shall institute
15 and prosecute civil proceedings against any such delinquent officer or
16 employee, or upon such officer or employee's official bond, or both, as
17 may be needed to recover for the state any funds or other assets
18 misappropriated. The attorney general shall also prosecute such ouster and
19 criminal proceedings as the evidence in the case warrants. Any person
20 receiving tax information under the provisions of this subsection shall be
21 subject to the same duty of confidentiality imposed by law upon the
22 personnel of the department of revenue and shall be subject to any civil or
23 criminal penalties imposed by law for violations of such duty of
24 confidentiality.

25 ~~(e)~~(c) The post auditor shall immediately report to the committee on
26 surety bonds and insurance when any audit or audit work conducted under
27 the legislative post audit act *or any audit conducted pursuant to section 1,*
28 *section 8, section 11 or section 12, and amendments thereto,* discloses a
29 shortage in the accounts of any state agency, officer or employee.

30 ~~(f)~~(d) In the discharge of the duties imposed under the legislative
31 post audit act, the post auditor may require state agencies to preserve and
32 make available their accounts, records, documents, vouchers, requisitions,
33 payrolls, canceled checks or vouchers and coupons, and other evidence of
34 financial transactions.

35 ~~(g)~~(e) In the discharge of the duties imposed under the legislative
36 post audit act, the post auditor or firm conducting a financial compliance
37 ~~audit or conducting any other~~ audit or audit work *under the legislative post*
38 *audit act* shall have access to all books, accounts, records, files, documents
39 and correspondence, confidential or otherwise, of any person or state
40 agency subject to the legislative post audit act or in the custody of any
41 such person or state agency. Except as otherwise provided in this
42 subsection, the post auditor or firm conducting a financial compliance
43 ~~audit or other~~ *any* audit or audit work under the legislative post audit act

1 and all employees and former employees of the division of post audit or
2 firm performing a financial compliance audit or other any audit or audit
3 work shall be subject to the same duty of confidentiality imposed by law
4 on any such person or state agency with regard to any such books,
5 accounts, records, files, documents and correspondence, and any
6 information contained therein, and shall be subject to any civil or criminal
7 penalties imposed by law for violations of such duty of confidentiality. The
8 duty of confidentiality imposed on the post auditor and on firms
9 conducting financial compliance audits or any other audits audit or audit
10 work under the legislative post audit act and all employees of the division
11 of post audit and all employees of such firms shall be subject to the
12 provisions of subsection ~~(d)~~ (b), and the post auditor may furnish all such
13 books, accounts, records, files, documents and correspondence, and any
14 information contained therein to the attorney general pursuant to
15 subsection ~~(d)~~ (b). Upon receipt thereof, the attorney general and all
16 assistant attorneys general and all other employees and former employees
17 of the office of attorney general shall be subject to the same duty of
18 confidentiality with the exceptions that any such information contained
19 therein may be disclosed in civil proceedings, ouster proceedings and
20 criminal proceedings which may be instituted and prosecuted by the
21 attorney general in accordance with subsection ~~(d)~~ (b), and any such
22 books, accounts, records, files, documents and correspondence furnished
23 to the attorney general in accordance with subsection ~~(d)~~ (b) may be
24 entered into evidence in any such proceedings. Nothing in this subsection
25 shall be construed to supersede any requirement of federal law.

26 ~~(h)~~ (f) Any firm or firms which develop information in the course of
27 conducting a financial compliance audit or other any audit or audit work
28 under the legislative post audit act which the post auditor is required to
29 report under subsection ~~(d)~~ or ~~(e)~~ (b) or (c) shall immediately report such
30 information to the post auditor. The post auditor shall then make the report
31 required in subsection ~~(d)~~ or ~~(e)~~ (b) or (c).

32 ~~(i)~~ (1) A financial compliance audit shall be conducted annually on
33 the accounts and transactions of the Kansas lottery and the Kansas lottery
34 commission, of the Kansas public employees retirement system and of any
35 other state agency as may be required by law. The auditor to conduct this
36 audit work shall be specified in accordance with K.S.A. 46-1122, and
37 amendments thereto. If the legislative post audit committee specifies under
38 such statute that a firm is to perform all or part of such audit work, such
39 firm shall be selected and shall perform such audit work as provided in
40 K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-
41 1127, and amendments thereto. The audits required pursuant to this
42 subsection shall be conducted in accordance with generally accepted
43 governmental auditing standards, and shall be conducted as soon after the

1 close of the fiscal year as practicable, but shall be completed no later than
2 six months after the close of the fiscal year.

3 ~~(2) The financial compliance audit of the Kansas public employees~~
4 ~~retirement system shall include, but not be limited to, a review of~~
5 ~~alternative investments of the system with any estimates of permanent~~
6 ~~impairments to the value of such alternative investments reported by the~~
7 ~~system pursuant to K.S.A. 74-4907, and amendments thereto. The~~
8 ~~financial compliance audit may include one or more performance audit~~
9 ~~subjects as directed by the legislative post audit committee. In considering~~
10 ~~performance audit subjects to be included in any such financial-~~
11 ~~compliance audit, the legislative post audit committee shall consider~~
12 ~~recommendations and requests for performance audits, relating to the~~
13 ~~system or the management thereof, by the joint committee on pensions,~~
14 ~~investments and benefits or by any other committee or individual member~~
15 ~~of the legislature. The legislative post audit committee shall specify if one~~
16 ~~or more performance audit subjects shall be included in such financial-~~
17 ~~compliance audit, in addition to such other subjects as may be directed to~~
18 ~~be included in such financial compliance audit by the legislative post audit~~
19 ~~committee. Except as otherwise determined by the legislative post audit~~
20 ~~committee, one or more performance audit subjects specified by the~~
21 ~~legislative post audit committee shall be included at least once every two~~
22 ~~fiscal years in such financial compliance audit. The legislative post audit~~
23 ~~committee may direct that one or more performance audit subjects are to~~
24 ~~be included in such financial compliance audit not more than once during~~
25 ~~a specific period of three fiscal years, in lieu of once every two fiscal~~
26 ~~years.~~

27 Sec. 22. On and after July 1, 2019, K.S.A. 46-1108 is hereby
28 amended to read as follows: 46-1108. Audits, ~~in addition to financial-~~
29 ~~compliance audits or other financial compliance audit work conducted~~
30 ~~pursuant to K.S.A. 46-1106 and amendments thereto,~~ shall be performed
31 by the post auditor only on the direction of the legislative post audit
32 committee. The legislative post audit committee may direct the post
33 auditor to perform additional audits or audit work described in K.S.A. 46-
34 1106, and amendments thereto, of any state agencies, or may direct that
35 any additional audit of a state agency shall be performed to accomplish
36 other objectives than those specified pursuant to K.S.A. 46-1106, and
37 amendments thereto. The legislative post audit committee may direct that
38 any such additional audits shall be conducted to determine:

39 (a) Whether any state agency is carrying out only those activities or
40 programs authorized by the legislature; or

41 (b) whether the programs and activities of a state agency, or a
42 particular program or activity, is being efficiently and effectively operated;
43 or

1 (c) whether any new activity or program is being efficiently and
2 effectively implemented in accordance with the intent of the legislature; or

3 (d) whether there is a need for change in any authorized activity or
4 program of a state agency; or

5 (e) whether any reorganization of a state agency, or group of state
6 agencies, is needed or justified to accomplish the results of programs or
7 activities authorized by the legislature; or

8 (f) any combination of the purposes specified in this or any other
9 section of the legislative post audit act.

10 Sec. 23. On and after July 1, 2019, K.S.A. 46-1112 is hereby
11 amended to read as follows: 46-1112. As used in the legislative post audit
12 act, unless the context otherwise requires:

13 (a) "Person" means an individual, proprietorship, partnership, limited
14 partnership, association, trust, estate, business trust, group, or corporation,
15 whether or not operated for profit, or a governmental agency, unit, or
16 subdivision.

17 (b) "State agency" means any state office, officer, department, board,
18 commission, institution, bureau, agency, or authority or any division or
19 unit thereof.

20 ~~(c) "Financial-compliance audit" means an audit of the financial~~
21 ~~affairs and transactions of a state agency required to comply with federal~~
22 ~~government audit requirements for receiving federal grants or an audit of~~
23 ~~the financial affairs and transactions of a state agency otherwise required~~
24 ~~by law to be performed.~~

25 ~~(d) "Firm" means any individual, firm, partnership, corporation,~~
26 ~~association or other legal entity permitted by law to engage in practice as a~~
27 ~~certified public accountant.~~

28 ~~(e) "Federal grant" means moneys received by a state agency under~~
29 ~~any act or appropriation of the federal government or moneys received by~~
30 ~~a state agency under the state and local fiscal assistance act of 1972 and~~
31 ~~amendments thereto.~~

32 Sec. 24. On and after July 1, 2019, K.S.A. 2017 Supp. 46-1114 is
33 hereby amended to read as follows: 46-1114. (a) The legislative post audit
34 committee is hereby authorized to direct the post auditor and the division
35 of post audit to make an audit of any type described in K.S.A. 46-1106 or
36 46-1108, and amendments to these sections *thereto*, of any records or
37 matters of any person specified in this section, and may direct the object in
38 detail of any such audit.

39 (b) Upon receiving any such direction, the post auditor with the
40 division of post audit, shall make such audit and shall have access to all
41 books, accounts, records, files, documents and correspondence,
42 confidential or otherwise, to the same extent permitted under ~~subsection~~
43 ~~(g) of K.S.A. 46-1106(e)~~, and amendments thereto, except that such access

1 shall be subject to the limitations established under subsection (d) ~~of this~~
2 ~~section.~~

3 (c) Audits authorized by this section are the following:

4 (1) Audit of any local subdivision of government or agency or
5 instrumentality thereof which receives any distribution of moneys from or
6 through the state.

7 (2) Audit of any person who receives any grant or gift from or
8 through the state.

9 (3) Audit of the contract relationships and the fiscal records related
10 thereto of any person who contracts with the state.

11 (4) Audit of any person who is regulated or licensed by any state
12 agency or who operates or functions for the benefit of any state institution
13 except that any audit of any person regulated by the state corporation
14 commission shall address only compliance with laws or regulations,
15 collection or remittance of taxes or fees, or other matters related directly to
16 state government programs or functions. Any such audit authorized under
17 this subsection shall not address corporate governance or financial issues
18 except as they may relate directly to state government programs or
19 functions. This subsection shall not apply to public utilities as described in
20 ~~subsection (4) of K.S.A. 66-1,187(l), and amendments thereto.~~

21 (d) (1) Access to all books, accounts, records, files, documents and
22 correspondence, confidential or otherwise, as authorized under subsection
23 (b) ~~of this section~~ of any nongovernmental person audited under authority
24 of subsection (c)(2) ~~of this section~~ shall be limited to those books,
25 accounts, records, files, documents and correspondence, confidential or
26 otherwise, of such person to which the state governmental agency ~~which~~
27 *that* administers the grant or gift and provides for the disbursement thereof
28 is authorized under law to have access.

29 (2) Access to all books, accounts, records, files, documents and
30 correspondence, confidential or otherwise, as authorized under subsection
31 (b) ~~of this section~~ of any nongovernmental person audited under authority
32 of subsection (c)(3) ~~of this section~~ shall be limited to those books,
33 accounts, records, files, documents and correspondence, confidential or
34 otherwise, of such person to which the state governmental agency ~~which~~
35 *that* contracts with such person is authorized under law to have access.

36 (3) Access to all books, accounts, records, files, documents and
37 correspondence, confidential or otherwise, as authorized under subsection
38 (b) ~~of this section~~ of any nongovernmental person audited under authority
39 of subsection (c)(4) ~~of this section~~ shall be limited to those books,
40 accounts, records, files, documents and correspondence, confidential or
41 otherwise, of such person to which the state governmental agency ~~which~~
42 *that* regulates or licenses such person or the state institution on whose
43 behalf such person operates or functions is authorized under law to have

1 access.

2 Sec. 25. On and after July 1, 2019, K.S.A. 46-1115 is hereby
3 amended to read as follows: 46-1115. Whenever any person fails to make
4 any books, accounts, contracts or records, files, documents and
5 correspondence, confidential or otherwise, related to any of the foregoing
6 available to the post auditor or to a firm performing ~~a financial compliance~~
7 ~~audit~~ *any audit or audit work under the legislative post audit act* or to any
8 officer or employee of the division of post audit or of such firm within 30
9 days after a request therefor by the post auditor or ~~by a firm performing a~~
10 ~~financial compliance audit~~ or any such officer or employee of the post
11 auditor or of such firm, and such person is entitled under any other statute
12 to receive any state funds, such funds shall be withheld until such person
13 has fully complied with such request. Whenever state funds are to be
14 withheld under this section, the post auditor shall give written notice
15 thereof to the director of accounts and reports, and such director shall issue
16 no warrant for payment of state funds to such person until the post auditor
17 has given such director written notice that such person has acceded to the
18 request of the post auditor. The provisions of this section shall not affect
19 any contract entered into prior to the effective date of this act to the extent
20 that any impairment of such contract occurs.

21 Sec. 26. On and after July 1, 2019, K.S.A. 46-1116 is hereby
22 amended to read as follows: 46-1116. Failure to make records available for
23 post audit is the intentional failure to make any books, accounts, contracts
24 or records, files, documents and correspondence, confidential or otherwise,
25 related to any of the foregoing available to the post auditor or to a firm
26 performing ~~a financial compliance audit~~ *any audit or audit work under the*
27 *legislative post audit act* or any officer or employee of the division of post
28 audit or of such firm upon request of the post auditor or ~~such~~ firm or any
29 such officer or employee for the purpose of post audit as directed by the
30 legislative post audit committee under authority of this act *or as otherwise*
31 *directed pursuant to law.*

32 Failure to make records available for post audit is a class A
33 misdemeanor.

34 Sec. 27. On and after July 1, 2019, K.S.A. 2017 Supp. 46-1118 is
35 hereby amended to read as follows: 46-1118. (a) (1) Except as otherwise
36 provided by statute, whenever the post auditor performs any additional
37 audit work for any state agency to satisfy federal government
38 requirements, and incurs costs in addition to those attributable to the
39 operations of the division of post audit in performance of other duties and
40 responsibilities, the post auditor shall make charges for such additional
41 costs.

42 ~~(2) Except as otherwise provided by statute, whenever the post~~
43 ~~auditor performs any audit work for any state agency to satisfy financial-~~

1 compliance audit requirements prescribed by or pursuant to subsection (a)
2 (1) of K.S.A. 46-1106, and amendments thereto, and incurs costs in
3 addition to those attributable to the operations of the division of post audit
4 in performance of other duties and responsibilities, the post auditor shall
5 make charges for such additional costs.

6 (3)—The legislative post audit committee may authorize the post
7 auditor to perform additional financial-related audit work at the request of
8 a state agency. Upon the authorization and in accordance with the direction
9 of the legislative post audit committee, the post auditor may make charges
10 for costs incurred for the performance of such financial-related audit work.

11 (4) The post auditor shall compute the reasonably anticipated cost of
12 providing audits pursuant to K.S.A. 2017 Supp. 46-1134, and amendments
13 thereto, subject to review and approval by the contract audit committee.
14 Upon such approval, the state agency that is receiving the audit services
15 shall reimburse the division of post audit for the amount approved by the
16 contract audit committee.

17 (5)(3) The furnishing of any such audit services by the division of
18 post audit shall be a transaction between the post auditor and the state
19 agency receiving such services and such transaction shall be settled in
20 accordance with the provisions of K.S.A. 75-5516, and amendments
21 thereto.

22 (b) All moneys received for reimbursement of to the division of post
23 audit under this section shall be remitted to the state treasurer in
24 accordance with the provisions of K.S.A. 75-4215, and amendments
25 thereto. Upon receipt of each such remittance, the state treasurer shall
26 deposit the entire amount in the state treasury to the credit of the audit
27 services fund, which fund is hereby created in the state treasury. All
28 expenditures from the audit services fund shall be made in accordance
29 with appropriation acts upon warrants of the director of accounts and
30 reports issued pursuant to vouchers approved by the post auditor or a
31 person or persons designated by the post auditor.

32 Sec. 28. On and after July 1, 2019, K.S.A. 46-1122 is hereby
33 amended to read as follows: 46-1122. The legislative post audit committee
34 shall specify whether a financial-compliance audit of or financial-
35 compliance audit work at a state agency is to be conducted: (a) By a firm
36 or firms qualified to perform such audit or audit work; or (b) by the post
37 auditor. If the legislative post audit committee specifies that a firm or firms
38 is to perform such an audit or audit work, such firm or firms shall be
39 selected and shall perform such audit or audit work as provided in K.S.A.
40 46-1123, and amendments thereto, and K.S.A. 46-1125 to through 46-
41 1127, inclusive, and amendments thereto. If the legislative post audit
42 committee specifies that the post auditor is to perform such audit or audit
43 work, the post auditor shall perform such audit or audit work as directed

1 by the legislative post audit committee pursuant to K.S.A. 46-1106, and
2 amendments thereto, and, if the audit or audit work is performed to
3 comply with federal government audit requirements, in accordance with
4 specifications for the conduct of such audit or audit work established by
5 the contract audit committee.

6 Sec. 29. On and after July 1, 2019, K.S.A. 46-1123 is hereby
7 amended to read as follows: 46-1123. (a) In the procurement of a firm or
8 firms to perform a ~~financial-compliance~~ *an audit or audit work*, the post
9 auditor shall encourage firms engaged in the lawful practice of their
10 profession to place their names on the list maintained by the post auditor
11 of bidders to receive invitations for bid on post audit contracts.

12 (b) The post auditor shall establish specifications, with the advice of
13 the head of each state agency to be audited, for the conduct by a firm or
14 firms of the ~~financial-compliance~~ audit. The specifications shall be used in
15 preparing invitations for bid and evaluating the bids received.

16 (c) For ~~all financial-compliance~~ audits ~~of state agencies~~ to be
17 performed by a firm or firms, the post auditor shall issue an invitation for
18 bid to all firms who have requested to be on the bidders' list and others
19 who request a copy after notice in the Kansas register. The invitation shall
20 request information on the firm's qualifications, the qualifications of staff
21 to be assigned to the job, the firm's technical approach to the audit and the
22 fee. The post auditor shall evaluate the bids received in response to the
23 invitations and for each audit shall prepare a list of at least three and not
24 more than five firms which are, in the opinion of the post auditor, qualified
25 to perform such audit. Such list shall be submitted to the contract audit
26 committee.

27 (d) Two or more separate ~~financial-compliance~~ audits may be
28 combined by the contract audit committee for the purpose of procuring
29 audit services for all such audits from a single firm, and in each such case
30 such combined audits shall be construed to be a single audit for all
31 purposes under K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-
32 1125 ~~to through 46-1127, inclusive,~~ and amendments thereto.

33 Sec. 30. On and after July 1, 2019, K.S.A. 46-1125 is hereby
34 amended to read as follows: 46-1125. (a) The contract audit committee
35 may conduct discussions with each of the firms submitted by the post
36 auditor and then shall select a firm or firms from such listing to provide
37 the ~~financial-compliance~~ audit in accordance with the legislative post audit
38 act.

39 (b) The contract audit committee shall consider, in making their
40 selection, qualifications of the firm and staff, the technical proposal and
41 fee.

42 (c) If the contract audit committee is unable to contract with any of
43 the selected firms, the contract audit committee shall request the post

1 auditor to provide another list of firms to be reviewed by the contract audit
2 committee and, upon receipt of such list, the contract audit committee shall
3 proceed in accordance with the provisions of this section.

4 Sec. 31. On and after July 1, 2019, K.S.A. 46-1126 is hereby
5 amended to read as follows: 46-1126. (a) Each contract for ~~a financial-~~
6 ~~compliance audit of a~~ *an audit* state agency entered into under K.S.A. 46-
7 1123 and 46-1125, and amendments ~~to these sections thereto~~, shall be
8 entered into between the post auditor and the firm selected to perform the
9 ~~financial-compliance~~ audit. Each such contract shall require the firm
10 selected to perform the ~~financial-compliance~~ audit to submit evidence
11 which is satisfactory to the contract audit committee that the firm has
12 general professional liability insurance or specific professional liability
13 insurance which is adequate for such audit.

14 (b) In addition to the requirements in subsection (a), each such
15 contract for ~~financial-compliance~~ audit services shall specify the
16 responsibilities undertaken by the firm selected to perform such audit and
17 that such firm shall be responsible for all material errors and omissions in
18 the performance of such contract.

19 (c) Such contracts shall not be subject to the provisions of K.S.A. 75-
20 3739, and amendments thereto.

21 Sec. 32. On and after July 1, 2019, K.S.A. 46-1127 is hereby
22 amended to read as follows: 46-1127. (a) The contract audit committee
23 shall monitor the performance of the firm or firms conducting ~~a financial-~~
24 ~~compliance~~ *an* audit pursuant to a contract entered into under K.S.A. 46-
25 1126, and amendments thereto, to insure that such audit is performed in
26 accordance with the specifications developed for the conduct of such audit.
27 The firm or firms selected to perform such audit shall submit a written
28 audit report at the conclusion of the audit to the post auditor who shall
29 distribute the complete audit report to members of the legislative post audit
30 committee, the governor, the director of accounts and reports, the director
31 of the budget, the secretary of administration, ~~the any~~ state agency which
32 is audited and other persons or agencies as may be required by the
33 specifications.

34 (b) In the performance of such audit, the officers and employees of
35 the firm or firms performing the audit shall be subject to the same duty of
36 confidentiality applicable to the post auditor and officers and employees of
37 the division of post audit under the legislative post audit act and shall have
38 access to all books, accounts, records, files, documents and
39 correspondence, confidential or otherwise, of any person or state agency
40 subject to the ~~financial-compliance~~ audit.

41 Sec. 33. On and after July 1, 2019, K.S.A. 2017 Supp. 46-1128 is
42 hereby amended to read as follows: 46-1128. (a) Except as provided by
43 subsections (b), (c) and (d) of this section and by K.S.A. 46-1106~~(d)~~, ~~(e)~~

1 ~~and (g)(b), (c) and (e)~~, and amendments thereto, each audit report prepared
2 by the division of post audit or by a firm under the legislative post audit
3 act, and each finding, conclusion, opinion or recommendation contained in
4 the audit report, shall be confidential and shall not be disclosed pursuant to
5 the provisions of the open records act or under any other law until: (1) The
6 time of the next scheduled meeting of the legislative post audit committee
7 held after distribution of the report to members of such committee; or (2)
8 the time of the next scheduled meeting of another legislative committee
9 held after distribution of the report to the members of such committee as
10 authorized by the legislative post audit committee.

11 (b) The legislative post audit committee may authorize a specific
12 confidential distribution of any audit report, prior to any such presentation
13 of the audit report, by motion adopted by the legislative post audit
14 committee or by rule adopted by the committee, in accordance with such
15 motion or rule. Each person who receives an audit report pursuant to any
16 such motion or rule authorizing a specific confidential distribution of the
17 audit report shall keep the audit report and each finding, conclusion,
18 opinion or recommendation contained in the audit report confidential until
19 the audit report is presented to the legislative post audit committee or
20 another legislative committee at an open meeting of the committee.

21 (c) The post auditor, or the post auditor's designee may make a
22 limited distribution of preliminary audit findings, conclusions or
23 recommendations to any person affected by the audit as part of the process
24 of conducting the audit. Such preliminary audit findings, conclusions,
25 opinions or recommendations shall be confidential and shall not be subject
26 to disclosure pursuant to the provisions of the open records act or any
27 other law, except as provided in K.S.A. 46-1106(d), ~~(e) and (g)(b), (c) and~~
28 ~~(e)~~, and amendments thereto.

29 (d) The legislative post auditor may report in writing outside of a
30 regularly scheduled meeting to the legislative post audit committee, the
31 joint committee on information technology, and the chief information
32 technology officers of the executive, legislative and judicial branches,
33 when, in the opinion of the post auditor, it appears that an information
34 technology project being audited under K.S.A. 2017 Supp. 46-1135, and
35 amendments thereto, is at risk due to a failure to meet key milestones, or
36 failure to receive sufficient deliverables after a contract payment,
37 significant cost overruns, or when the post auditor finds the project is not
38 being efficiently and effectively implemented in accordance with its
39 original stated purpose and goals.

40 (e) As used in this section, "audit report" means the written report of
41 any ~~financial compliance audit~~, performance audit; or any other audit or
42 audit work conducted under the legislative post audit act by the division of
43 post audit or by a firm under the legislative post audit act; and any other

1 words and phrases used in this section shall have the meanings
2 respectively ascribed thereto by K.S.A. 46-1112, and amendments thereto.

3 (f) This section shall be part of and supplemental to the legislative
4 post audit act.

5 Sec. 34. On and after July 1, 2019, K.S.A. 2017 Supp. 46-1135 is
6 hereby amended to read as follows: 46-1135. (a) The legislative division of
7 post audit shall conduct information technology audits as directed by the
8 legislative post audit committee. Audit work performed under this section
9 may include:

10 (1) Assessment of security practices of information technology
11 systems maintained or administered by any state agency or any entity
12 subject to audit under the provisions of K.S.A. 46-1114(c), and
13 amendments thereto; and

14 (2) continuous audits of ongoing information technology projects by
15 any state agency or any entity subject to audit under the provisions of
16 K.S.A. 46-1114(c), and amendments thereto, including systems
17 development and implementation.

18 (b) Written reports on the results of such auditing shall be furnished
19 to:

20 (1) The entity which is being audited;

21 (2) the chief information technology officer of the branch of
22 government that the entity being audited is part of;

23 (3) (A) the governor, if the entity being audited is an executive branch
24 entity;

25 (B) the legislative coordinating council, if the entity being audited is a
26 legislative entity; or

27 (C) the chief justice of the Kansas supreme court, if the entity being
28 audited is a judicial entity;

29 (4) the legislative post audit committee;

30 (5) the joint committee on information technology; and

31 (6) such other persons or agencies as may be required by law or by
32 the specifications of the audit or as otherwise directed by the legislative
33 post audit committee.

34 (c) The provisions of K.S.A. 46-1106~~(g)~~(e), and amendments thereto,
35 shall apply to any audit or audit work conducted pursuant to this section.

36 (d) This section shall be part of and supplemental to the legislative
37 post audit act.

38 Sec. 35. On and after July 1, 2019, K.S.A. 74-2424 is hereby
39 amended to read as follows: 74-2424. (a) The secretary of revenue may
40 make available or furnish to the taxing officials of any other state or the
41 commissioner of internal revenue of the United States or other taxing
42 officials of the federal government, or their authorized representatives, or
43 the director of property valuation, information contained in tax reports,

1 renditions or returns or any audit thereof or the report of any investigation
2 made with respect thereto, filed pursuant to the tax laws. Such information
3 shall not be used for any other purpose than that of the administration of
4 the tax laws of this or another state or of the United States, except that the
5 post auditor shall have access to all such information in accordance with
6 and subject to the provisions of ~~subsection (g)~~ of K.S.A. 46-1106(e), and
7 amendments thereto.

8 (b) Notwithstanding the provisions of this section, the secretary of
9 revenue may:

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

16 (2) communicate to the executive director of the Kansas racing
17 commission information as to whether a person, partnership or corporation
18 has failed to meet any tax obligation to the state of Kansas for the purpose
19 of determining whether such person, partnership or corporation is eligible
20 for a facility owner license or facility manager license pursuant to the
21 Kansas parimutuel racing act.

22 Sec. 36. On and after July 1, 2019, K.S.A. 2017 Supp. 74-4921 is
23 hereby amended to read as follows: 74-4921. (1) There is hereby created in
24 the state treasury the Kansas public employees retirement fund. All
25 employee and employer contributions shall be deposited in the state
26 treasury to be credited to the Kansas public employees retirement fund.
27 The fund is a trust fund and shall be used solely for the exclusive purpose
28 of providing benefits to members and member beneficiaries and defraying
29 reasonable expenses of administering the fund. Investment income of the
30 fund shall be added or credited to the fund as provided by law. All benefits
31 payable under the system, refund of contributions and overpayments,
32 purchases or investments under the law and expenses in connection with
33 the system unless otherwise provided by law shall be paid from the fund.
34 The director of accounts and reports is authorized to draw warrants on the
35 state treasurer and against such fund upon the filing in the director's office
36 of proper vouchers executed by the chairperson or the executive director of
37 the board. As an alternative, payments from the fund may be made by
38 credits to the accounts of recipients of payments in banks, savings and loan
39 associations and credit unions. A payment shall be so made only upon the
40 written authorization and direction of the recipient of payment and upon
41 receipt of such authorization such payments shall be made in accordance
42 therewith. Orders for payment of such claims may be contained on (a) a
43 letter, memorandum, telegram, computer printout or similar writing, or (b)

1 any form of communication, other than voice, which is registered upon
2 magnetic tape, disc or any other medium designed to capture and contain
3 in durable form conventional signals used for the electronic
4 communication of messages.

5 (2) The board shall have the responsibility for the management of the
6 fund and shall discharge the board's duties with respect to the fund solely
7 in the interests of the members and beneficiaries of the system for the
8 exclusive purpose of providing benefits to members and such member's
9 beneficiaries and defraying reasonable expenses of administering the fund
10 and shall invest and reinvest moneys in the fund and acquire, retain,
11 manage, including the exercise of any voting rights and disposal of
12 investments of the fund within the limitations and according to the powers,
13 duties and purposes as prescribed by this section.

14 (3) Moneys in the fund shall be invested and reinvested to achieve the
15 investment objective which is preservation of the fund to provide benefits
16 to members and member beneficiaries, as provided by law and accordingly
17 providing that the moneys are as productive as possible, subject to the
18 standards set forth in this act. No moneys in the fund shall be invested or
19 reinvested if the sole or primary investment objective is for economic
20 development or social purposes or objectives.

21 (4) In investing and reinvesting moneys in the fund and in acquiring,
22 retaining, managing and disposing of investments of the fund, the board
23 shall exercise the judgment, care, skill, prudence and diligence under the
24 circumstances then prevailing, which persons of prudence, discretion and
25 intelligence acting in a like capacity and familiar with such matters would
26 use in the conduct of an enterprise of like character and with like aims by
27 diversifying the investments of the fund so as to minimize the risk of large
28 losses, unless under the circumstances it is clearly prudent not to do so,
29 and not in regard to speculation but in regard to the permanent disposition
30 of similar funds, considering the probable income as well as the probable
31 safety of their capital.

32 (5) Notwithstanding subsection (4): (a) Total investments in common
33 stock may be made in the amount of up to 60% of the total book value of
34 the fund;

35 (b) the board may invest or reinvest moneys of the fund in alternative
36 investments if the following conditions are satisfied:

37 (i) The total of the annual net commitment to alternative investments
38 does not exceed 5% of the total market value of investment assets of the
39 fund as measured from the end of the preceding calendar year;

40 (ii) if in addition to the system, there are at least two other qualified
41 institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities
42 act of 1933;

43 (iii) the system's share in any individual alternative investment is

1 limited to an investment representing not more than 20% of any such
2 individual alternative investment;

3 (iv) the system has received a favorable and appropriate
4 recommendation from a qualified, independent expert in investment
5 management or analysis in that particular type of alternative investment;

6 (v) the alternative investment is consistent with the system's
7 investment policies and objectives as provided in subsection (6);

8 (vi) the individual alternative investment does not exceed more than
9 2.5% of the total alternative investments made under this subsection. If the
10 alternative investment is made pursuant to participation by the system in a
11 multi-investor pool, the 2.5% limitation contained in this subsection is
12 applied to the underlying individual assets of such pool and not to
13 investment in the pool itself. The total of such alternative investments
14 made pursuant to participation by the system in any one individual multi-
15 investor pool shall not exceed more than 20% of the total of alternative
16 investments made by the system pursuant to this subsection. Nothing in
17 this subsection requires the board to liquidate or sell the system's holdings
18 in any alternative investments made pursuant to participation by the
19 system in any one individual multi-investor pool held by the system on the
20 effective date of this act, unless such liquidation or sale would be in the
21 best interest of the members and beneficiaries of the system and be
22 prudent under the standards contained in this section. The 20% limitation
23 contained in this subsection shall not have been violated if the total of such
24 investment in any one individual multi-investor pool exceeds 20% of the
25 total alternative investments of the fund as a result of market forces acting
26 to increase the value of such a multi-investor pool relative to the rest of the
27 system's alternative investments; however, the board shall not invest or
28 reinvest any moneys of the fund in any such individual multi-investor pool
29 until the value of such individual multi-investor pool is less than 20% of
30 the total alternative investments of the fund;

31 (vii) the board has received and considered the investment manager's
32 due diligence findings submitted to the board as required by subsection (6)
33 (c);

34 (viii) prior to the time the alternative investment is made, the system
35 has in place procedures and systems to ensure that the investment is
36 properly monitored and investment performance is accurately measured;
37 and

38 (ix) the total of alternative investments does not exceed 15% of the
39 total investment assets of the fund. The 15% limitation contained in this
40 subsection shall not have been violated if the total of such alternative
41 investments exceeds 15% of the total investment assets of the fund, based
42 on the fund total market value, as a result of market forces acting to
43 increase the value of such alternative investments relative to the rest of the

1 system's investments. However, the board shall not invest or reinvest any
2 moneys of the fund in alternative investments until the total value of such
3 alternative investments is less than 15% of the total investment assets of
4 the fund based on the market value. If the total value of the alternative
5 investments exceeds 15% of the total investment assets of the fund, the
6 board shall not be required to liquidate or sell the system's holdings in any
7 alternative investment held by the system, unless such liquidation or sale
8 would be in the best interest of the members and beneficiaries of the
9 system and is prudent under the standards contained in this section.

10 For purposes of this act, "alternative investment" includes a broad
11 group of investments that are not one of the traditional asset types of
12 public equities, fixed income, cash or real estate. Alternative investments
13 are generally made through limited partnership or similar structures, are
14 not regularly traded on nationally recognized exchanges and thus are
15 relatively illiquid, and exhibit lower correlations with more liquid asset
16 types such as stocks and bonds. Alternative investments generally include,
17 but are not limited to, private equity, private credit, hedge funds,
18 infrastructure, commodities and other investments which have the
19 characteristics described in this paragraph; and

20 (c) except as otherwise provided, the board may invest or reinvest
21 moneys of the fund in real estate investments if the following conditions
22 are satisfied:

23 (i) The system has received a favorable and appropriate
24 recommendation from a qualified, independent expert in investment
25 management or analysis in that particular type of real estate investment;

26 (ii) the real estate investment is consistent with the system's
27 investment policies and objectives as provided in subsection (6); and

28 (iii) the system has received and considered the investment manager's
29 due diligence findings.

30 (6) Subject to the objective set forth in subsection (3) and the
31 standards set forth in subsections (4) and (5) the board shall formulate
32 policies and objectives for the investment and reinvestment of moneys in
33 the fund and the acquisition, retention, management and disposition of
34 investments of the fund. Such policies and objectives shall include:

35 (a) Specific asset allocation standards and objectives;

36 (b) establishment of criteria for evaluating the risk versus the
37 potential return on a particular investment;

38 (c) a requirement that all investment managers submit such manager's
39 due diligence findings on each investment to the board or investment
40 advisory committee for approval or rejection prior to making any
41 alternative investment;

42 (d) a requirement that all investment managers shall immediately
43 report all instances of default on investments to the board and provide the

1 board with recommendations and options, including, but not limited to,
2 curing the default or withdrawal from the investment; and

3 (e) establishment of criteria that would be used as a guideline for
4 determining when no additional add-on investments or reinvestments
5 would be made and when the investment would be liquidated.

6 The board shall review such policies and objectives, make changes
7 considered necessary or desirable and readopt such policies and objectives
8 on an annual basis.

9 (7) The board may enter into contracts with one or more persons
10 whom the board determines to be qualified, whereby the persons undertake
11 to perform the functions specified in subsection (2) to the extent provided
12 in the contract. Performance of functions under contract so entered into
13 shall be paid pursuant to rates fixed by the board subject to provisions of
14 appropriation acts and shall be based on specific contractual fee
15 arrangements. The system shall not pay or reimburse any expenses of
16 persons contracted with pursuant to this subsection, except that after
17 approval of the board, the system may pay approved investment related
18 expenses subject to provisions of appropriation acts. The board shall
19 require that a person contracted with to obtain commercial insurance
20 which provides for errors and omissions coverage for such person in an
21 amount to be specified by the board, provided that such coverage shall be
22 at least the greater of \$500,000 or 1% of the funds entrusted to such person
23 up to a maximum of \$10,000,000. The board shall require a person
24 contracted with to give a fidelity bond in a penal sum as may be fixed by
25 law or, if not so fixed, as may be fixed by the board, with corporate surety
26 authorized to do business in this state. Such persons contracted with the
27 board pursuant to this subsection and any persons contracted with such
28 persons to perform the functions specified in subsection (2) shall be
29 deemed to be agents of the board and the system in the performance of
30 contractual obligations.

31 (8) (a) In the acquisition or disposition of securities, the board may
32 rely on the written legal opinion of a reputable bond attorney or attorneys,
33 the written opinion of the attorney of the investment counselor or
34 managers, or the written opinion of the attorney general certifying the
35 legality of the securities.

36 (b) The board shall employ or retain qualified investment counsel or
37 counselors or may negotiate with a trust company to assist and advise in
38 the judicious investment of funds as herein provided.

39 (9) (a) Except as provided in subsection (7) and this subsection, the
40 custody of money and securities of the fund shall remain in the custody of
41 the state treasurer, except that the board may arrange for the custody of
42 such money and securities as it considers advisable with one or more
43 member banks or trust companies of the federal reserve system or with one

1 or more banks in the state of Kansas, or both, to be held in safekeeping by
2 the banks or trust companies for the collection of the principal and interest
3 or other income or of the proceeds of sale. The services provided by the
4 banks or trust companies shall be paid pursuant to rates fixed by the board
5 subject to provisions of appropriation acts.

6 (b) The state treasurer and the board shall collect the principal and
7 interest or other income of investments or the proceeds of sale of securities
8 in the custody of the state treasurer and pay same when so collected into
9 the fund.

10 (c) The principal and interest or other income or the proceeds of sale
11 of securities as provided in clause (a) of this subsection (9) shall be
12 reported to the state treasurer and the board and credited to the fund.

13 (10) The board shall with the advice of the director of accounts and
14 reports establish the requirements and procedure for reporting any and all
15 activity relating to investment functions provided for in this act in order to
16 prepare a record monthly of the investment income and changes made
17 during the preceding month. The record will reflect a detailed summary of
18 investment, reinvestment, purchase, sale and exchange transactions and
19 such other information as the board may consider advisable to reflect a
20 true accounting of the investment activity of the fund.

21 (11) The board shall provide for an examination of the investment
22 program annually. The examination shall include an evaluation of current
23 investment policies and practices and of specific investments of the fund in
24 relation to the objective set forth in subsection (3), the standard set forth in
25 subsection (4) and other criteria as may be appropriate, and
26 recommendations relating to the fund investment policies and practices
27 and to specific investments of the fund as are considered necessary or
28 desirable. The board shall include in its annual report to the governor as
29 provided in K.S.A. 74-4907, and amendments thereto, a report or a
30 summary thereof covering the investments of the fund.

31 (12) (a) Any internal assessment or examination of alternative
32 investments of the system performed by any person or entity employed or
33 retained by the board which evaluates or monitors the performance of
34 alternative investments shall be reported to the legislative post auditor so
35 that such report may be reviewed in accordance with the annual financial-
36 compliance audits conducted pursuant to ~~K.S.A. 46-1106~~ section 8, and
37 amendments thereto.

38 (b) The board shall prepare and submit an alternative investment
39 report to the joint committee on pensions, investments and benefits prior to
40 January 1, 2016. Such report shall include a review of alternative
41 investments of the system with an emphasis on the effects of changes in
42 law pursuant to this act and includes specific investment cost and market
43 value information of each individual alternative investment.

1 Sec. 37. On and after July 1, 2019, K.S.A. 2017 Supp. 75-5133 is
2 hereby amended to read as follows: 75-5133. (a) Except as otherwise more
3 specifically provided by law, all information received by the secretary of
4 revenue, the director of taxation or the director of alcoholic beverage
5 control from returns, reports, license applications or registration
6 documents made or filed under the provisions of any law imposing any
7 sales, use or other excise tax administered by the secretary of revenue, the
8 director of taxation, or the director of alcoholic beverage control, or from
9 any investigation conducted under such provisions, shall be confidential,
10 and it shall be unlawful for any officer or employee of the department of
11 revenue to divulge any such information except in accordance with other
12 provisions of law respecting the enforcement and collection of such tax, in
13 accordance with proper judicial order or as provided in K.S.A. 74-2424,
14 and amendments thereto.

15 (b) The secretary of revenue or the secretary's designee may:

16 (1) Publish statistics, so classified as to prevent identification of
17 particular reports or returns and the items thereof;

18 (2) allow the inspection of returns by the attorney general or the
19 attorney general's designee;

20 (3) provide the post auditor access to all such excise tax reports or
21 returns in accordance with and subject to the provisions of K.S.A. 46-
22 1106~~(g)~~(e), and amendments thereto;

23 (4) disclose taxpayer information from excise tax returns to persons
24 or entities contracting with the secretary of revenue where the secretary
25 has determined disclosure of such information is essential for completion
26 of the contract and has taken appropriate steps to preserve confidentiality;

27 (5) provide information from returns and reports filed under article 42
28 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
29 to county appraisers as is necessary to ensure proper valuations of
30 property. Information from such returns and reports may also be
31 exchanged with any other state agency administering and collecting
32 conservation or other taxes and fees imposed on or measured by mineral
33 production;

34 (6) provide, upon request by a city or county clerk or treasurer or
35 finance officer of any city or county receiving distributions from a local
36 excise tax, monthly reports identifying each retailer doing business in such
37 city or county or making taxable sales sourced to such city or county,
38 setting forth the tax liability and the amount of such tax remitted by each
39 retailer during the preceding month, and identifying each business location
40 maintained by the retailer and such retailer's sales or use tax registration or
41 account number;

42 (7) provide information from returns and applications for registration
43 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-

1 3601, and amendments thereto, to a city or county treasurer or clerk or
2 finance officer to explain the basis of statistics contained in reports
3 provided by subsection (b)(6);

4 (8) disclose the following oil and gas production statistics received by
5 the department of revenue in accordance with K.S.A. 79-4216 et seq., and
6 amendments thereto: Volumes of production by well name, well number,
7 operator's name and identification number assigned by the state
8 corporation commission, lease name, leasehold property description,
9 county of production or zone of production, name of purchaser and
10 purchaser's tax identification number assigned by the department of
11 revenue, name of transporter, field code number or lease code, tax period,
12 exempt production volumes by well name or lease, or any combination of
13 this information;

14 (9) release or publish liquor brand registration information provided
15 by suppliers, farm wineries, microdistilleries and microbreweries in
16 accordance with the liquor control act. The information to be released is
17 limited to: Item number, universal numeric code, type status, product
18 description, alcohol percentage, selling units, unit size, unit of
19 measurement, supplier number, supplier name, distributor number and
20 distributor name;

21 (10) release or publish liquor license information provided by liquor
22 licensees, distributors, suppliers, farm wineries, microdistilleries and
23 microbreweries in accordance with the liquor control act. The information
24 to be released is limited to: County name, owner, business name, address,
25 license type, license number, license expiration date and the process agent
26 contact information;

27 (11) release or publish cigarette and tobacco license information
28 obtained from cigarette and tobacco licensees in accordance with the
29 Kansas cigarette and tobacco products act. The information to be released
30 is limited to: County name, owner, business name, address, license type
31 and license number;

32 (12) provide environmental surcharge or solvent fee, or both,
33 information from returns and applications for registration filed pursuant to
34 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
35 of health and environment or the secretary's designee for the sole purpose
36 of ensuring that retailers collect the environmental surcharge tax or solvent
37 fee, or both;

38 (13) provide water protection fee information from returns and
39 applications for registration filed pursuant to K.S.A. 82a-954, and
40 amendments thereto, to the secretary of the state board of agriculture or the
41 secretary's designee and the secretary of the Kansas water office or the
42 secretary's designee for the sole purpose of verifying revenues deposited to
43 the state water plan fund;

1 (14) provide to the secretary of commerce copies of applications for
2 project exemption certificates sought by any taxpayer under the enterprise
3 zone sales tax exemption pursuant to K.S.A. 79-3606(cc), and
4 amendments thereto;

5 (15) disclose information received pursuant to the Kansas cigarette
6 and tobacco act and subject to the confidentiality provisions of this act to
7 any criminal justice agency, as defined in K.S.A. 22-4701(c), and
8 amendments thereto, or to any law enforcement officer, as defined in
9 K.S.A. 2017 Supp. 21-5111, and amendments thereto, on behalf of a
10 criminal justice agency, when requested in writing in conjunction with a
11 pending investigation;

12 (16) provide to retailers tax exemption information for the sole
13 purpose of verifying the authenticity of tax exemption numbers issued by
14 the department;

15 (17) provide information concerning remittance by sellers, as defined
16 in K.S.A. 2017 Supp. 12-5363, and amendments thereto, of prepaid
17 wireless 911 fees from returns to the local collection point administrator,
18 as defined in K.S.A. 2017 Supp. 12-5363, and amendments thereto, for
19 purposes of verifying seller compliance with collection and remittance of
20 such fees;

21 (18) release or publish charitable gaming information obtained in
22 charitable gaming licensee and registration applications and renewals in
23 accordance with the Kansas charitable gaming act, K.S.A. 2017 Supp. 75-
24 5171 et seq., and amendments thereto. The information to be released is
25 limited to: The name, address, phone number, license registration number
26 and email address of the organization, distributor or of premises; and

27 (19) provide to the attorney general confidential information for
28 purposes of determining compliance with or enforcing K.S.A. 50-6a01 et
29 seq., and amendments thereto, the master settlement agreement referred to
30 therein and all agreements regarding disputes under the master settlement
31 agreement. The secretary and the attorney general may share the
32 information specified under this subsection with any of the following:

33 (A) Federal, state or local agencies for the purposes of enforcement
34 of corresponding laws of other states; and

35 (B) a court, arbitrator, data clearinghouse or similar entity for the
36 purpose of assessing compliance with or making calculations required by
37 the master settlement agreement or agreements regarding disputes under
38 the master settlement agreement, and with counsel for the parties or expert
39 witnesses in any such proceeding, if the information otherwise remains
40 confidential.

41 (c) Any person receiving any information under the provisions of
42 subsection (b) shall be subject to the confidentiality provisions of
43 subsection (a) and to the penalty provisions of subsection (d).

1 (d) Any violation of this section shall be a class A, nonperson
2 misdemeanor, and if the offender is an officer or employee of this state,
3 such officer or employee shall be dismissed from office. Reports of
4 violations of this paragraph shall be investigated by the attorney general.
5 The district attorney or county attorney and the attorney general shall have
6 authority to prosecute any violation of this section if the offender is a city
7 or county clerk or treasurer or finance officer of a city or county.

8 Sec. 38. On and after July 1, 2019, K.S.A. 2017 Supp. 79-3234 is
9 hereby amended to read as follows: 79-3234. (a) All reports and returns
10 required by this act shall be preserved for three years and thereafter until
11 the director orders them to be destroyed.

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

32 (c) The secretary or the secretary's designee may: (1) Publish
33 statistics, so classified as to prevent the identification of particular reports
34 or returns and the items thereof;

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

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

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

1 (5) disclose to the secretary of commerce the following: (A) Specific
2 taxpayer information related to financial information previously submitted
3 by the taxpayer to the secretary of commerce concerning or relevant to any
4 income tax credits, for purposes of verification of such information or
5 evaluating the effectiveness of any tax credit or economic incentive
6 program administered by the secretary of commerce; (B) the amount of
7 payroll withholding taxes an employer is retaining pursuant to K.S.A.
8 2017 Supp. 74-50,212, and amendments thereto; (C) information received
9 from businesses completing the form required by K.S.A. 2017 Supp. 74-
10 50,217, and amendments thereto; and (D) findings related to a compliance
11 audit conducted by the department of revenue upon the request of the
12 secretary of commerce pursuant to K.S.A. 2017 Supp. 74-50,215, and
13 amendments thereto;

14 (6) disclose income tax returns to the state gaming agency to be used
15 solely for the purpose of determining qualifications of licensees of and
16 applicants for licensure in tribal gaming. Any information received by the
17 state gaming agency shall be confidential and shall not be disclosed except
18 to the executive director, employees of the state gaming agency and
19 members and employees of the tribal gaming commission;

20 (7) disclose the taxpayer's name, last known address and residency
21 status to the Kansas department of wildlife, parks and tourism to be used
22 solely in its license fraud investigations;

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

36 (9) permit the commissioner of internal revenue of the United States,
37 or the proper official of any state imposing an income tax, or the
38 authorized representative of either, to inspect the income tax returns made
39 under this act and the secretary of revenue may make available or furnish
40 to the taxing officials of any other state or the commissioner of internal
41 revenue of the United States or other taxing officials of the federal
42 government, or their authorized representatives, information contained in
43 income tax reports or returns or any audit thereof or the report of any

1 investigation made with respect thereto, filed pursuant to the income tax
2 laws, as the secretary may consider proper, but such information shall not
3 be used for any other purpose than that of the administration of tax laws of
4 such state, the state of Kansas or of the United States;

5 (10) communicate to the executive director of the Kansas lottery
6 information as to whether a person, partnership or corporation is current in
7 the filing of all applicable tax returns and in the payment of all taxes,
8 interest and penalties to the state of Kansas, excluding items under formal
9 appeal, for the purpose of determining whether such person, partnership or
10 corporation is eligible to be selected as a lottery retailer;

11 (11) communicate to the executive director of the Kansas racing
12 commission as to whether a person, partnership or corporation has failed
13 to meet any tax obligation to the state of Kansas for the purpose of
14 determining whether such person, partnership or corporation is eligible for
15 a facility owner license or facility manager license pursuant to the Kansas
16 parimutuel racing act;

17 (12) provide such information to the executive director of the Kansas
18 public employees retirement system for the purpose of determining that
19 certain individuals' reported compensation is in compliance with the
20 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and
21 amendments thereto;

22 (13) (i) provide taxpayer information of persons suspected of
23 violating K.S.A. 2017 Supp. 44-766, and amendments thereto, to the
24 secretary of labor or such secretary's designee for the purpose of
25 determining compliance by any person with the provisions of ~~subsection~~
26 ~~(i)(3)(D)~~ of K.S.A. 44-703(i)(3)(D) and K.S.A. 2017 Supp. 44-766, and
27 amendments thereto. The information to be provided shall include all
28 relevant information in the possession of the department of revenue
29 necessary for the secretary of labor to make a proper determination of
30 compliance with the provisions of ~~subsection (i)(3)(D)~~ of K.S.A. 44-703(i)
31 (3)(D) and K.S.A. 2017 Supp. 44-766, and amendments thereto, and to
32 calculate any unemployment contribution taxes due. Such information to
33 be provided by the department of revenue shall include, but not be limited to,
34 withholding tax and payroll information, the identity of any person that
35 has been or is currently being audited or investigated in connection with
36 the administration and enforcement of the withholding and declaration of
37 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the
38 results or status of such audit or investigation;

39 (ii) any person receiving tax information under the provisions of this
40 paragraph shall be subject to the same duty of confidentiality imposed by
41 law upon the personnel of the department of revenue and shall be subject
42 to any civil or criminal penalties imposed by law for violations of such
43 duty of confidentiality; and

1 (iii) each of the secretary of labor and the secretary of revenue may
2 adopt rules and regulations necessary to effect the provisions of this
3 paragraph;

4 (14) provide such information to the state treasurer for the sole
5 purpose of carrying out the provisions of K.S.A. 58-3934, and
6 amendments thereto. Such information shall be limited to current and prior
7 addresses of taxpayers or associated persons who may have knowledge as
8 to the location of an owner of unclaimed property. For the purposes of this
9 paragraph, "associated persons" includes spouses or dependents listed on
10 income tax returns; and

11 (15) after receipt of information pursuant to subsection (f), forward
12 such information and provide the following reported Kansas individual
13 income tax information for each listed defendant, if available, to the state
14 board of indigents' defense services in an electronic format and in the
15 manner determined by the secretary: (A) The defendant's name; (B) social
16 security number; (C) Kansas adjusted gross income; (D) number of
17 exemptions claimed; and (E) the relevant tax year of such records. Any
18 social security number provided to the secretary and the state board of
19 indigents' defense services pursuant to this section shall remain
20 confidential.

21 (d) Any person receiving information under the provisions of
22 subsection (c) shall be subject to the confidentiality provisions of
23 subsection (b) and to the penalty provisions of subsection (e).

24 (e) Any violation of subsection (b) or (c) is a class A nonperson
25 misdemeanor and, if the offender is an officer or employee of the state,
26 such officer or employee shall be dismissed from office.

27 (f) For the purpose of determining whether a defendant is financially
28 able to employ legal counsel under the provisions of K.S.A. 22-4504, and
29 amendments thereto, in all felony cases with appointed counsel where the
30 defendant's social security number is accessible from the records of the
31 district court, the court shall electronically provide the defendant's name,
32 social security number, district court case number and county to the
33 secretary of revenue in the manner and format agreed to by the office of
34 judicial administration and the secretary.

35 (g) Nothing in this section shall be construed to allow disclosure of
36 the amount of income or any particulars set forth or disclosed in any
37 report, return, federal return or federal return information, where such
38 disclosure is prohibited by the federal internal revenue code as in effect on
39 September 1, 1996, and amendments thereto, related federal internal
40 revenue rules or regulations, or other federal law.

41 Sec. 39. On and after July 1, 2019, K.S.A. 46-1108, 46-1112, 46-
42 1115, 46-1116, 46-1122, 46-1123, 46-1125, 46-1126, 46-1127 and 74-2424
43 and K.S.A. 2017 Supp. 39-709b, 46-1106, 46-1114, 46-1118, 46-1121, 46-

1 1128, 46-1134, 46-1135, 74-4921, 75-5133 and 79-3234 are hereby
2 repealed.

3 Sec. 40. This act shall take effect and be in force from and after its
4 publication in the statute book.