

HOUSE BILL No. 2703

By Committee on Federal and State Affairs

1-29

9 AN ACT concerning lotteries; relating to a state owned and operated
10 lottery gaming facility; amending K.S.A. 2007 Supp. 74-8702, 74-8734,
11 74-8737 and 74-8766 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2007 Supp. 74-8702 is hereby amended to read as
15 follows: 74-8702. As used in the Kansas lottery act, unless the context
16 otherwise requires:

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

23 (b) “Commission” means the Kansas lottery commission.

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

39 (d) “Executive director” means the executive director of the Kansas
40 lottery.

41 (e) “Gaming equipment” means any electric, electronic, computer-
42 ized or electromechanical machine, mechanism, supply or device or any
43 other equipment, which is: (1) Unique to the Kansas lottery and used

- 1 pursuant to the Kansas lottery act; and (2) integral to the operation of an
2 electronic gaming machine or lottery facility game; and (3) affects the
3 results of an electronic gaming machine or lottery facility game by deter-
4 mining win or loss.
- 5 (f) “Gaming zone” means: (1) The northeast Kansas gaming zone,
6 which consists of Wyandotte county; (2) the southeast Kansas gaming
7 zone, which consists of Crawford and Cherokee counties; (3) the south
8 central Kansas gaming zone, which consists of Sedgwick and Sumner
9 counties; and (4) the southwest Kansas gaming zone, which consists of
10 Ford county.
- 11 (g) “Gray machine” means any mechanical, electro-mechanical or
12 electronic device, capable of being used for gambling, that is: (1) Not
13 authorized by the Kansas lottery, (2) not linked to a lottery central com-
14 puter system, (3) available to the public for play or (4) capable of simu-
15 lating a game played on an electronic gaming machine or any similar
16 gambling game authorized pursuant to the Kansas expanded lottery act.
- 17 (h) “Kansas lottery” means the state agency created by this act to
18 operate a lottery or lotteries pursuant to this act.
- 19 (i) “Lottery” or “state lottery” means the lottery or lotteries operated
20 pursuant to this act.
- 21 (j) “Lottery facility games” means any electronic gaming machines
22 and any other games which, as of January 1, 2007, are authorized to be
23 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
24 9802, and amendments thereto, located within the boundaries of this
25 state.
- 26 (k) “Lottery gaming enterprise” means an entertainment enterprise
27 which includes a lottery gaming facility authorized pursuant to the Kansas
28 expanded lottery act and ancillary lottery gaming facility operations that
29 have a coordinated business or marketing strategy. A lottery gaming en-
30 terprise shall be designed to attract to its lottery gaming facility consumers
31 who reside outside the immediate area of such enterprise.
- 32 (l) “Lottery gaming facility” means that portion of a building used for
33 the purposes of operating, managing and maintaining lottery facility
34 games.
- 35 (m) “Lottery gaming facility expenses” means normal business ex-
36 penses, as defined in the lottery gaming facility management contract,
37 associated with the ownership and operation of a lottery gaming facility.
- 38 (n) “Lottery gaming facility management contract” means a contract,
39 subcontract or collateral agreement between the state and a lottery gam-
40 ing facility manager for the management of a lottery gaming facility, the
41 business of which is owned and operated by the Kansas lottery, negotiated
42 and signed by the executive director on behalf of the state.
- 43 (o) “Lottery gaming facility manager” means a corporation, limited

1 liability company, resident Kansas American Indian tribe or other busi-
2 ness entity authorized to construct and manage, or manage alone, pur-
3 suant to a lottery gaming facility management contract with the Kansas
4 lottery, and on behalf of the state, a lottery gaming enterprise and lottery
5 gaming facility.

6 (p) “Lottery gaming facility revenues” means the total revenues from
7 lottery facility games at a lottery gaming facility after all related prizes are
8 paid.

9 (q) (1) “Lottery machine” means any machine or device that allows
10 a player to insert cash or other form of consideration and may deliver as
11 the result of an element of chance, regardless of the skill required by the
12 player, a prize or evidence of a prize, including, but not limited to:

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

17 (B) any machine or device in which the prize or evidence of a prize
18 is determined only by chance, including, but not limited to, any slot ma-
19 chine or bingo machine; or

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

22 (2) “Lottery machine” shall not mean:

23 (A) Any food vending machine defined by K.S.A. 36-501, and amend-
24 ments thereto;

25 (B) any nonprescription drug machine authorized under K.S.A. 65-
26 650, and amendments thereto;

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

29 (D) any machine excluded from the definition of gambling devices
30 under subsection (d) of K.S.A. 21-4302, and amendments thereto; or

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

33 (r) “Lottery retailer” means any person with whom the Kansas lottery
34 has contracted to sell lottery tickets or shares, or both, to the public.

35 (s) (1) “Major procurement” means any gaming product or service,
36 including but not limited to facilities, advertising and promotional serv-
37 ices, annuity contracts, prize payment agreements, consulting services,
38 equipment, tickets and other products and services unique to the Kansas
39 lottery, but not including materials, supplies, equipment and services
40 common to the ordinary operations of state agencies.

41 (2) “Major procurement” shall not mean any product, service or other
42 matter covered by or addressed in the Kansas expanded lottery act or a
43 lottery gaming facility management contract or racetrack gaming facility

- 1 management contract executed pursuant to the Kansas expanded lottery
2 act.
- 3 (t) “Net electronic gaming machine income” means all cash or other
4 consideration utilized to play an electronic gaming machine operated at
5 a racetrack gaming facility, less all cash or other consideration paid out
6 to winning players as prizes.
- 7 (u) “Organization licensee” has the meaning provided by K.S.A. 74-
8 8802, and amendments thereto.
- 9 (v) “Parimutuel licensee” means a facility owner licensee or facility
10 manager licensee under the Kansas parimutuel racing act.
- 11 (w) “Parimutuel licensee location” means a racetrack facility, as de-
12 fined in K.S.A. 74-8802, and amendments thereto, owned or managed by
13 the parimutuel licensee. A parimutuel licensee location may include any
14 existing structure at such racetrack facility or any structure that may be
15 constructed on real estate where such racetrack facility is located.
- 16 (x) “Person” means any natural person, association, limited liability
17 company, corporation or partnership.
- 18 (y) “Prize” means any prize paid directly by the Kansas lottery pur-
19 suant to the Kansas lottery act or the Kansas expanded lottery act or any
20 rules and regulations adopted pursuant to either act.
- 21 (z) “Progressive electronic game” means a game played on an elec-
22 tronic gaming machine for which the payoff increases uniformly as the
23 game is played and for which the jackpot, determined by application of
24 a formula to the income of independent, local or interlinked electronic
25 gaming machines, may be won.
- 26 (aa) “Racetrack gaming facility” means that portion of a parimutuel
27 licensee location where electronic gaming machines are operated, man-
28 aged and maintained.
- 29 (bb) “Racetrack gaming facility management contract” means an
30 agreement between the Kansas lottery and a racetrack gaming facility
31 manager, negotiated and signed by the executive director on behalf of
32 the state, for placement of electronic gaming machines owned and op-
33 erated by the state at a racetrack gaming facility.
- 34 (cc) “Racetrack gaming facility manager” means a parimutuel li-
35 censee specifically certified by the Kansas lottery to become a certified
36 racetrack gaming facility manager and offer electronic gaming machines
37 for play at the racetrack gaming facility.
- 38 (dd) “Returned ticket” means any ticket which was transferred to a
39 lottery retailer, which was not sold by the lottery retailer and which was
40 returned to the Kansas lottery for refund by issuance of a credit or
41 otherwise.
- 42 (ee) “Share” means any intangible manifestation authorized by the
43 Kansas lottery to prove participation in a lottery game, except as provided

1 by the Kansas expanded lottery act.

2 (ff) "Ticket" means any tangible evidence issued by the Kansas lottery
3 to prove participation in a lottery game other than a lottery facility game.

4 (gg) "Token" means a representative of value, of metal or other ma-
5 terial, which is not legal tender, redeemable for cash only by the issuing
6 lottery gaming facility manager or racetrack gaming facility manager and
7 which is issued and sold by a lottery gaming facility manager or racetrack
8 gaming facility manager for the sole purpose of playing an electronic
9 gaming machine or lottery facility game.

10 (hh) "Vendor" means any person who has entered into a major procure-
11 ment contract with the Kansas lottery.

12 (ii) "Video lottery machine" means any electronic video game ma-
13 chine that, upon insertion of cash, is available to play or simulate the play
14 of a video game authorized by the commission, including, but not limited
15 to, bingo, poker, black jack and keno, and which uses a video display and
16 microprocessors and in which, by chance, the player may receive free
17 games or credits that can be redeemed for cash.

18 (jj) "*State owned and operated lottery gaming facility*" means a build-
19 *ing used for the purposes of operating, managing and maintaining lottery*
20 *facility games which is built, operated and managed by the commission.*

21 (kk) "*Market study*" means *an objective, scientific study commis-*
22 *sioned by the commission to determine the feasibility and profitability of*
23 *a state owned and operated lottery gaming facility.*

24 Sec. 2. K.S.A. 2007 Supp. 74-8734 is hereby amended to read as
25 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
26 facility in each gaming zone. *In addition, the Kansas lottery shall con-*
27 *struct, operate and manage one state owned and operated lottery gaming*
28 *facility. Ancillary lottery gaming facility operations connected with the*
29 *state owned and operated lottery gaming facility may be state owned and*
30 *operated or operated as otherwise provided under the provisions of the*
31 *Kansas expanded lottery act.*

32 (b) Not more than 30 days after the effective date of this act the
33 lottery commission shall adopt and publish in the Kansas register the
34 procedure for receiving, considering and approving, proposed lottery
35 gaming facility management contracts. Such procedure shall include pro-
36 visions for review of competitive proposals within a gaming zone and the
37 date by which proposed lottery gaming facility management contracts
38 must be received by the lottery commission if they are to receive
39 consideration.

40 (c) The lottery commission shall adopt standards to promote the in-
41 tegrity of the gaming and finances of lottery gaming facilities, which shall
42 apply to all management contracts, shall meet or exceed industry stan-
43 dards for monitoring and controlling the gaming and finances of gaming

1 facilities and shall give the executive director sufficient authority to mon-
2 itor and control the gaming operation and to ensure its integrity and
3 security.

4 (d) The Kansas lottery commission may approve management con-
5 tracts with one or more prospective lottery gaming facility managers to
6 manage, or construct and manage, on behalf of the state of Kansas and
7 subject to the operational control of the Kansas lottery, a lottery gaming
8 facility or lottery gaming enterprise at specified destination locations
9 within the northeast, south central, southwest and southeast Kansas gam-
10 ing zones where the commission determines the operation of such facility
11 would promote tourism and economic development. The commission
12 shall approve or disapprove a proposed management contract within 90
13 days after the deadline for receipt of proposals established pursuant to
14 subsection (b).

15 (e) In determining whether to approve a management contract with
16 a prospective lottery gaming facility manager to manage a lottery gaming
17 facility or lottery gaming enterprise pursuant to this section, the com-
18 mission shall take into consideration the following factors: The size of the
19 proposed facility; the geographic area in which such facility is to be lo-
20 cated; the proposed facility's location as a tourist and entertainment des-
21 tination; the estimated number of tourists that would be attracted by the
22 proposed facility; the number and type of lottery facility games to be
23 operated at the proposed facility; and agreements related to ancillary lot-
24 tery gaming facility operations.

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

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

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

36 (B) the prospective lottery gaming facility manager is not a resident
37 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
38 to financial resources to support the activities required of a lottery gaming
39 facility manager under the Kansas expanded lottery act; (ii) is current in
40 filing all applicable tax returns and in payment of all taxes, interest and
41 penalties owed to the state of Kansas and any taxing subdivision where
42 such prospective manager is located in the state of Kansas, excluding
43 items under formal appeal pursuant to applicable statutes; and (iii) has

- 1 three consecutive years' experience in the management of gaming which
2 would be class III gaming, as defined in K.S.A. 46-2301, and amendments
3 thereto, operated pursuant to state or federal law; and
- 4 (2) the commission determines that the proposed development con-
5 sists of an investment in infrastructure, including ancillary lottery gaming
6 facility operations, of at least \$225,000,000 in the northeast, southeast and
7 south central Kansas gaming zones and \$50,000,000 in the southwest
8 Kansas gaming zone. The commission, in determining whether the min-
9 imum investment required by this subsection is met, shall not include
10 any amounts derived from or financed by state or local retailers' sales tax
11 revenues.
- 12 (h) Any management contract approved by the commission under
13 this section shall:
- 14 (1) Have a maximum initial term of 15 years from the date of opening
15 of the lottery gaming facility. At the end of the initial term, the contract
16 may be renewed by mutual consent of the state and the lottery gaming
17 facility manager;
- 18 (2) specify the total amount to be paid to the lottery gaming facility
19 manager pursuant to the contract;
- 20 (3) establish a mechanism to facilitate payment of lottery gaming fa-
21 cility expenses, payment of the lottery gaming facility manager's share of
22 the lottery gaming facility revenues and distribution of the state's share
23 of the lottery gaming facility revenues;
- 24 (4) include a provision for the lottery gaming facility manager to pay
25 the costs of oversight and regulation of the lottery gaming facility manager
26 and the operations of the lottery gaming facility by the Kansas racing and
27 gaming commission;
- 28 (5) establish the types of lottery facility games to be installed in such
29 facility;
- 30 (6) provide for the prospective lottery gaming facility manager, upon
31 approval of the proposed lottery gaming facility management contract, to
32 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege
33 of being selected as a lottery gaming facility manager of a lottery gaming
34 facility in the northeast, southeast or south central Kansas gaming zone
35 and \$5,500,000 for the privilege of being selected as a lottery gaming
36 facility manager of a lottery gaming facility in the southwest Kansas gam-
37 ing zone. Such fee shall be deposited in the state treasury and credited
38 to the lottery gaming facility manager fund, which is hereby created in
39 the state treasury;
- 40 (7) incorporate terms and conditions for the ancillary lottery gaming
41 facility operations;
- 42 (8) designate as key employees, subject to approval of the executive
43 director, any employees or contractors providing services or functions

- 1 which are related to lottery facility games authorized by a management
2 contract;
- 3 (9) include financing commitments for construction;
- 4 (10) include a resolution of endorsement from the city governing
5 body, if the proposed facility is within the corporate limits of a city, or
6 from the county commission, if the proposed facility is located in the
7 unincorporated area of the county;
- 8 (11) include a requirement that any parimutuel licensee developing
9 a lottery gaming facility pursuant to this act comply with all orders and
10 rules and regulations of the Kansas racing and gaming commission with
11 regard to the conduct of live racing, including the same minimum days
12 of racing as specified in K.S.A. 2007 Supp. 74-8746, and amendments
13 thereto, for operation of electronic gaming machines at racetrack gaming
14 facilities;
- 15 (12) include a provision for the state to receive not less than 22% of
16 lottery gaming facility revenues, which shall be paid to the expanded
17 lottery act revenues fund established by K.S.A. 2007 Supp. 74-8768, and
18 amendments thereto;
- 19 (13) include a provision for 2% of lottery gaming facility revenues to
20 be paid to the problem gambling and addictions grant fund established
21 by K.S.A. 2007 Supp. 79-4805, and amendments thereto;
- 22 (14) if the prospective lottery gaming facility manager is an American
23 Indian tribe, include a provision that such tribe agrees to waive its sov-
24 ereign immunity with respect to any actions arising from or to enforce
25 either the Kansas expanded lottery act or any provision of the lottery
26 gaming facility management contract; any action brought by an injured
27 patron or by the state of Kansas; any action for purposes of enforcing the
28 workers compensation act or any other employment or labor law; and any
29 action to enforce laws, rules and regulations and codes pertaining to
30 health, safety and consumer protection; and for any other purpose
31 deemed necessary by the executive director to protect patrons or em-
32 ployees and promote fair competition between the tribe and others seek-
33 ing a lottery gaming facility management contract;
- 34 (15) (A) if the lottery gaming facility is located in the northeast or
35 southwest Kansas gaming zone and is not located within a city, include a
36 provision for payment of an amount equal to 3% of the lottery gaming
37 facility revenues to the county in which the lottery gaming facility is lo-
38 cated; or (B) if the lottery gaming facility is located in the northeast or
39 southwest Kansas gaming zone and is located within a city, include pro-
40 vision for payment of an amount equal to 1.5% of the lottery gaming
41 facility revenues to the city in which the lottery gaming facility is located
42 and an amount equal to 1.5% of such revenues to the county in which
43 such facility is located;

1 (16) (A) if the lottery gaming facility is located in the southeast or
2 south central Kansas gaming zone and is not located within a city, include
3 a provision for payment of an amount equal to 2% of the lottery gaming
4 facility revenues to the county in which the lottery gaming facility is lo-
5 cated and an amount equal to 1% of such revenues to the other county
6 in such zone; or (B) if the lottery gaming facility is located in the southeast
7 or south central Kansas gaming zone and is located within a city, provide
8 for payment of an amount equal to 1% of the lottery gaming facility
9 revenues to the city in which the lottery gaming facility is located, an
10 amount equal to 1% of such revenues to the county in which such facility
11 is located and an amount equal to 1% of such revenues to the other county
12 in such zone;

13 (17) allow the lottery gaming facility manager to manage the lottery
14 gaming facility in a manner consistent with this act and applicable law,
15 but shall place full, complete and ultimate ownership and operational
16 control of the gaming operation of the lottery gaming facility with the
17 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
18 retain the power to overrule any action of the lottery gaming facility man-
19 ager affecting the gaming operation without prior notice. The Kansas
20 lottery shall retain full control over all decisions concerning lottery gaming
21 facility games;

22 (18) include provisions for the Kansas racing and gaming commission
23 to oversee all lottery gaming facility operations, including, but not limited
24 to: Oversight of internal controls; oversight of security of facilities; per-
25 formance of background investigations, determination of qualifications
26 and credentialing of employees, contractors and agents of the lottery gam-
27 ing facility manager and of ancillary lottery gaming facility operations, as
28 determined by the Kansas racing and gaming commission; auditing of
29 lottery gaming facility revenues; enforcement of all state laws and main-
30 tenance of the integrity of gaming operations; and

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

1 prohibition provision described in (A).

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

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

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

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

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

14 (2) minimum requirements for a lottery gaming facility manager to
15 provide qualified oversight, security and supervision of the lottery facility
16 games including the use of qualified personnel with experience in appli-
17 cable technology;

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

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

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

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

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

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

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

43 (2) A lottery gaming facility manager, on behalf of the state, shall

1 purchase or lease for the Kansas lottery all lottery facility games. All lot-
2 tery facility games shall be subject to the ultimate control of the Kansas
3 lottery in accordance with this act.

4 (o) A lottery gaming facility *and a state owned and operated lottery*
5 *gaming facility* shall comply with any planning and zoning regulations of
6 the city or county in which it is to be located. The executive director shall
7 not contract with any prospective lottery gaming facility manager for the
8 operation and management of such lottery gaming facility unless such
9 manager first receives any necessary approval under planning and zoning
10 requirements of the city or county in which it is to be located.

11 (p) Prior to expiration of the term of a lottery gaming facility man-
12 agement contract, the lottery commission may negotiate a new lottery
13 gaming facility management contract with the lottery gaming facility man-
14 ager if the new contract is substantially the same as the existing contract.
15 Otherwise, the lottery gaming facility review board shall be reconstituted
16 and a new lottery gaming facility management contract shall be negotiated
17 and approved in the manner provided by this act.

18 (q) *The commission within 120 days of the effective date of this act,*
19 *shall have a market study conducted to determine the site for a state*
20 *owned and operated lottery gaming facility and whether the state should*
21 *own and operate any ancillary lottery gaming facility operations. The*
22 *study shall determine the primary site location which will maximize the*
23 *revenue to the state and shall include at least two alternate site locations*
24 *in other counties. The state owned and operated lottery gaming facility*
25 *may be located in any county of the state. Upon completion of the market*
26 *study, the commission shall notify the board of county commissioners of*
27 *the county determined to contain the primary site location to conduct an*
28 *election as required by K.S.A. 2007 Supp. 74-8737, and amendments*
29 *thereto. If the proposition fails in such county, then the commission shall*
30 *cause an election to be held in the county with the next best alternate site.*
31 *If the proposition fails in this county, then an election shall be called in*
32 *the county with the third alternate site.*

33 (r) *Once voters of a county approve the location of a state owned and*
34 *operated lottery gaming facility, the commission shall authorize the Kan-*
35 *sas development finance authority for the purposes of subsection (b) of*
36 *K.S.A. 2007 Supp. 74-8905, and amendments thereto, to issue bonds for*
37 *the construction of the state owned and operated lottery gaming facility*
38 *and any ancillary lottery gaming facility operations, if applicable, plus all*
39 *amounts required for costs of bond issuance, costs of interest on the bonds*
40 *issued for such projects and any required reserves for the payment of*
41 *principal and interest on the bonds. All moneys received from the issuance*
42 *of any such bonds shall be deposited and accounted for as prescribed by*
43 *applicable bond covenants. Debt service for such bonds shall be paid from*

1 *net revenues of the state owned and operated lottery gaming facility and*
2 *any ancillary lottery gaming facility operations, if applicable.*

3 Sec. 3. K.S.A. 2007 Supp. 74-8737 is hereby amended to read as
4 follows: 74-8737. (a) The board of county commissioners of each county
5 in each gaming zone *and in any county where the state owned and op-*
6 *erated lottery gaming facility is proposed to be constructed and operated*
7 shall submit by resolution to the qualified voters of the county a propo-
8 sition to permit the operation of a lottery gaming facility *or the state*
9 *owned and operated lottery gaming facility* within the county as provided
10 in this section. The proposition shall be submitted to the voters at a special
11 election called by the board of county commissioners for that purpose
12 and held not more than 180 days after the effective date of this act.

13 (b) Upon the adoption of a resolution calling for an election pursuant
14 to this section, the county election officer shall cause *the appropriate one*
15 *of the following ~~proposition~~ propositions* to be placed on the ballot at the
16 election called for that purpose: (1) “Shall the Kansas lottery be author-
17 ized to operate a lottery gaming facility in _____ county?”; *or*

18 (2) “*Shall the Kansas lottery be authorized to operate a state owned*
19 *and operated lottery gaming facility in _____ county?*”

20 (c) If a majority of the votes cast and counted at such election is in
21 favor of approving the operation of a lottery gaming facility *or a state*
22 *owned and operated lottery gaming facility* within the county, the Kansas
23 lottery may operate a lottery gaming facility in such county *or a state*
24 *owned and operated lottery gaming facility*, subject to the provisions of
25 this act. If a majority of the votes cast and counted at an election under
26 this section is against permitting the operation of a lottery gaming facility
27 *or a state owned and operated lottery gaming facility* within the county,
28 the Kansas lottery shall not operate a lottery gaming facility *or a state*
29 *owned and operated lottery gaming facility* in such county. The county
30 election officer shall transmit a copy of the certification of the results of
31 the election to the executive director.

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

35 (e) The lottery commission may waive the requirement that an elec-
36 tion be held pursuant to this section if the lottery commission determines
37 that after December 31, 2004, and before the effective date of this act,
38 the county has held an election of qualified voters pursuant to the county’s
39 home rule authority: (1) At which the ballot question was in substantial
40 compliance with the requirements of this section; (2) which was admin-
41 istered by the county election officer in a manner consistent with the
42 requirements of state election law; and (3) at which a majority of the votes
43 cast and counted was in favor of the proposition.

1 (f) The question of the operation of a lottery gaming facility *or a state*
2 *owned and operated lottery gaming facility* in a county may be submitted
3 at the same election as the question of placement of electronic gaming
4 machines at a parimutuel licensee location in the county under K.S.A.
5 2007 Supp. 74-8743, and amendments thereto.

6 Sec. 4. K.S.A. 2007 Supp. 74-8766 is hereby amended to read as
7 follows: 74-8766. (a) There is hereby established in the state treasury the
8 expanded lottery receipts fund. Separate accounts shall be maintained in
9 such fund for receipt of moneys from each lottery gaming facility manager
10 and racetrack gaming facility manager. All expenditures from the fund
11 shall be made in accordance with appropriation acts upon warrants of the
12 director of accounts and reports issued pursuant to vouchers approved
13 by the executive director for the purposes set forth in this act.

14 (b) All lottery gaming facility revenues from lottery gaming facilities
15 and all net electronic gaming machine income from racetrack gaming
16 facilities shall be paid daily and electronically to the executive director.
17 The executive director shall remit all moneys received therefrom to the
18 state treasurer in accordance with K.S.A. 75-4215, and amendments
19 thereto. Upon receipt of the remittance, the state treasurer shall deposit
20 the entire amount in the state treasury and credit it to the respective
21 account maintained for the lottery gaming facility manager or racetrack
22 gaming facility manager in the expanded lottery receipts fund.

23 (c) The executive director shall certify weekly to the director of ac-
24 counts and reports the percentages or amounts to be transferred from
25 each account maintained in the expanded lottery receipts fund to the
26 expanded lottery act revenues fund, the live horse racing supplement
27 fund, the live greyhound racing purse supplement fund and the problem
28 gambling and addictions grant fund, as provided by the lottery gaming
29 facility management contract or K.S.A. 2007 Supp. 74-8747, and amend-
30 ments thereto. Upon receipt of the certification, the director of accounts
31 and reports shall transfer amounts from each such account in accordance
32 with the certification of the executive director. Once each month, the
33 executive director shall cause amounts from each such account to be paid
34 to cities, counties and lottery gaming facility managers in accordance with
35 the lottery gaming facility management contract and to racetrack gaming
36 facility managers in accordance with K.S.A. 2007 Supp. 74-8747, and
37 amendments thereto.

38 (d) Amounts remaining in an account in the expanded lottery receipts
39 fund after transfers and payments pursuant to subsection (c) shall be
40 distributed in accordance with the related lottery gaming facility man-
41 agement contract or racetrack gaming facility management contract.

42 (e) *All revenues from the state owned and operated lottery gaming*
43 *facility and any ancillary lottery gaming facility operations shall be placed*

1 *in the state general fund.*

2 Sec. 5. K.S.A. 2007 Supp. 74-8702, 74-8734, 74-8737 and 74-8766
3 are hereby repealed.

4 Sec. 6. This act shall take effect and be in force from and after its
5 publication in the statute book.