

## HOUSE BILL No. 2043

By Committee on Utilities

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9 AN ACT concerning the Kansas development finance authority; author-  
10 izing the issuance of bonds for certain purposes; amending K.S.A. 2004  
11 Supp. 74-8905 and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2004 Supp. 74-8905 is hereby amended to read as  
15 follows: 74-8905. (a) The authority may issue bonds, either for a specific  
16 activity or on a pooled basis for a series of related or unrelated activities  
17 or projects duly authorized by a political subdivision or group of political  
18 subdivisions of the state in amounts determined by the authority for the  
19 purpose of financing projects of statewide as well as local importance,  
20 capital improvement facilities, educational facilities, health care facilities  
21 and housing developments. Nothing in this act shall be construed to au-  
22 thorize the authority to issue bonds or use the proceeds thereof to:

23 (1) Purchase, condemn or otherwise acquire a utility plant or distri-  
24 bution system owned or operated by a regulated public utility;

25 (2) finance any capital improvement facilities or educational facilities  
26 which are being financed by the issuance of general obligation or utility  
27 revenue bonds of a political subdivision, except that the acquisition by  
28 the authority of general obligation or utility revenue bonds issued by  
29 political subdivisions with the proceeds of pooled bonds shall not violate  
30 the provisions of the foregoing; or

31 (3) purchase, acquire, construct, reconstruct, improve, equip, fur-  
32 nish, repair, enlarge or remodel property for any swine production facility  
33 on agricultural land which is owned, acquired, obtained or leased by a  
34 corporation, limited liability company, limited partnership, corporate  
35 partnership or trust.

36 Nothing in this subsection (a) shall prohibit the issuance of bonds by  
37 the authority when any statute specifically authorizes the issuance of  
38 bonds by the authority or approves any activity or project of a state agency  
39 for purposes of authorizing any such issuance of bonds in accordance with  
40 this section and provides an exemption from the provisions of this sub-  
41 section (a).

42 (b) The authority may issue bonds for activities and projects of state  
43 agencies as requested by the secretary of administration. Research facil-

1 ities of state educational institutions shall be subject to the provisions of  
2 this subsection (b). No bonds may be issued pursuant to this act for any  
3 activity or project of a state agency unless the activity or project either  
4 has been approved by an appropriation or other act of the legislature or  
5 has been approved by the state finance council acting on this matter which  
6 is hereby characterized as a matter of legislative delegation and subject  
7 to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and  
8 amendments thereto. When requested to do so by the secretary of ad-  
9 ministration, the authority may issue bonds for the purpose of refunding,  
10 whether at maturity or in advance of maturity, any outstanding bonded  
11 indebtedness of any state agency. The revenues of any state agency which  
12 are pledged as security for any bonds of such state agency which are  
13 refunded by refunding bonds of the authority may be pledged to the  
14 authority as security for the refunding bonds.

15 (c) The authority may issue bonds for the purpose of financing in-  
16 dustrial enterprises, transportation facilities, agricultural business enter-  
17 prises, educational facilities, health care facilities, housing developments,  
18 or any combination of such facilities and research facilities, or any interest  
19 in facilities, including without limitation leasehold interests in and mort-  
20 gages on such facilities, whether located within or outside of Kansas. No  
21 less than 30 days prior to the issuance of any bonds authorized under this  
22 act with respect to any project or activity within Kansas which is to be  
23 undertaken for the direct benefit of any person or entity which is not a  
24 state agency or a political subdivision, written notice of the intention of  
25 the authority to provide financing and issue bonds therefor shall be given  
26 by the president of the authority to the governing body of the city in  
27 which the project or activity is to be located. If the project or activity is  
28 not proposed to be located within a city, such notice shall be given to the  
29 governing body of the county. No bonds for the financing of the project  
30 or activity shall be issued by the authority for a one-year period if, within  
31 15 days after the giving of such notice, the governing body of the political  
32 subdivision in which the project or activity within Kansas is proposed to  
33 be located shall have adopted an ordinance or resolution stating express  
34 disapproval of the project or activity and shall have notified the president  
35 of the authority of such disapproval. The authority shall not issue bonds  
36 for the purpose of financing a project or activity outside Kansas unless  
37 the authority has determined that the issuance of such bonds provides a  
38 benefit to Kansas or its people and that the owner or operator thereof or  
39 an affiliate has a presence or impact in Kansas.

40 (d) The authority may issue bonds for the purpose of establishing and  
41 funding one or more series of venture capital funds in such principal  
42 amounts, at such interest rates, in such maturities, with such security, and  
43 upon such other terms and in such manner as is approved by resolution

1 of the authority. The proceeds of such bonds not placed in a venture  
2 capital fund or used to pay or reimburse organizational, offering and ad-  
3 ministrative expenses and fees necessary to the issuance and sale of such  
4 bonds shall be invested and reinvested in such securities and other in-  
5 struments as shall be provided in the resolution under which such bonds  
6 are issued. Moneys in a venture capital fund shall be used to make venture  
7 capital investments in new, expanding or developing businesses, includ-  
8 ing, but not limited to, equity and debt securities, warrants, options and  
9 other rights to acquire such securities, subject to the provisions of the  
10 resolution of the authority. The authority shall establish an investment  
11 policy with respect to the investment of the funds in a venture capital  
12 fund not inconsistent with the purposes of this act. The authority shall  
13 enter into an agreement with a management company experienced in  
14 venture capital investments to manage and administer each venture cap-  
15 ital fund upon terms not inconsistent with the purposes of this act and  
16 such investment policy. The authority may establish an advisory board to  
17 provide advice and consulting assistance to the authority and the man-  
18 agement company with respect to the management and administration of  
19 each venture capital fund and the establishment of its investment policy.  
20 All fees and expenses incurred in the management and administration of  
21 a venture capital fund not paid or reimbursed out of the proceeds of the  
22 bonds issued by the authority shall be paid or reimbursed out of such  
23 venture capital fund.

24 (e) The authority may issue bonds in one or more series for the pur-  
25 pose of financing a redevelopment plan project that is approved by the  
26 authority in accordance with K.S.A. 74-8921 and 74-8922, and amend-  
27 ments thereto, or by Johnson or Labette county in accordance with the  
28 provisions of this act.

29 (f) After receiving and approving the feasibility study required pur-  
30 suant to K.S.A. 74-8936, and amendments thereto, the authority may  
31 issue bonds in one or more series for the purpose of financing a multi-  
32 sport athletic project in accordance with K.S.A. 74-8936 through 74-8938,  
33 and amendments thereto. If the project is to be constructed in phases, a  
34 similar feasibility study shall be performed prior to issuing bonds for the  
35 purpose of financing each subsequent phase.

36 (g) The authority may issue bonds for the purpose of financing resort  
37 facilities, as defined in subsection (a) of K.S.A. 32-867, and amendments  
38 thereto, in an amount or amounts not to exceed \$30,000,000 for any one  
39 resort. The bonds and the interest thereon shall be payable solely from  
40 revenues of the resort and shall not be deemed to be an obligation or  
41 indebtedness of the state within the meaning of section 6 of article 11 of  
42 the constitution of the state of Kansas. The authority may contract with  
43 a subsidiary corporation formed pursuant to subsection (v) of K.S.A. 74-

1 8904, and amendments thereto, or others to lease or operate such resort.  
2 The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-873 and 32-  
3 874a through 32-874d, and amendments thereto, shall apply to resorts  
4 and bonds issued pursuant to this subsection.

5 (h) The authority may use the proceeds of any bond issues herein  
6 authorized, together with any other available funds, for venture capital  
7 investments or for purchasing, leasing, constructing, restoring, renovat-  
8 ing, altering or repairing facilities as herein authorized, for making loans,  
9 purchasing mortgages or security interests in loan participations and pay-  
10 ing all incidental expenses therewith, paying expenses of authorizing and  
11 issuing the bonds, paying interest on the bonds until revenues thereof are  
12 available in sufficient amounts, purchasing bond insurance or other credit  
13 enhancements on the bonds, and funding such reserves as the authority  
14 deems necessary and desirable. All moneys received by the authority,  
15 other than moneys received by virtue of an appropriation, are hereby  
16 specifically declared to be cash funds, restricted in their use and to be  
17 used solely as provided herein. No moneys of the authority other than  
18 moneys received by appropriation shall be deposited with the state  
19 treasurer.

20 (i) *The authority is hereby authorized and empowered to issue bonds*  
21 *for the purpose of financing regional broadband technology facilities, in*  
22 *cooperation with one or more political subdivisions or with one or more*  
23 *political subdivisions in partnership with the private sector, in areas of*  
24 *the state where no broadband service is currently available. Bonds issued*  
25 *pursuant to this subsection shall be exempt from the provisions of sub-*  
26 *section (a)(2).*

27 (j) Any time the authority is required to publish a notification pur-  
28 suant to the tax equity and fiscal responsibility act of 1982, the authority  
29 shall further publish such notification in the Kansas register and on the  
30 Kansas development finance authority website.

31 ~~(j)~~ (k) Any time the authority issues private activity bonds, as defined  
32 in K.S.A. 74-5059, and amendments thereto, pursuant to this section, the  
33 authority shall publish notification of such issuance at least 14 days prior  
34 to any bond hearing in the official county newspaper of the county in  
35 which the project or activity financed by such bonds are located and in  
36 the Kansas register.

37 Sec. 2. K.S.A. 2004 Supp. 74-8905 is hereby repealed.

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