

HOUSE BILL No. 2430

By Committee on Appropriations

5-30

1 AN ACT concerning the Kansas development finance authority;
2 authorizing the sale of certain state tobacco settlement receipts; creating
3 the great plains tobacco settlement financing corporation; authorizing
4 the issuance of bonds payable from tobacco asset payments; amending
5 K.S.A. 74-8909 and 74-8910 and K.S.A. 2016 Supp. 74-8904 and 74-
6 8905 and repealing the existing sections.
7

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

9 New Section 1. (a) As used in sections 1 through 3, and amendments
10 thereto, the following terms shall have the following meanings unless a
11 different meaning clearly appears from the context:

12 (1) "Asset sale agreement" means one or more agreements, contracts
13 or other instruments between the state as seller of the tobacco assets and
14 the financing corporation as purchaser of the tobacco assets.

15 (2) "Financing corporation" means the great plains tobacco settlement
16 financing corporation created pursuant to section 2, and amendments
17 thereto.

18 (3) "Master settlement agreement" means the master settlement
19 agreement and related documents between the state and leading United
20 States tobacco product manufacturers dated November 23, 1998, and
21 including the consent decree and final judgment entered in the State of
22 Kansas v. R.J. Reynolds Tobacco Company et al., district court of
23 Shawnee county, Kansas, division 2, No. 96-CV-919.

24 (4) "Residual assets" means the interest of the financing corporation
25 in the bond proceeds and the tobacco assets and revenues, moneys, funds,
26 property, other income or receipts with respect to the tobacco assets paid
27 or payable to the financing corporation or a trustee for the account of the
28 financing corporation or for the holders of bonds that are in excess of the
29 expenses of the financing corporation, the amounts required for debt
30 service on bonds and any contractual obligations of the financing
31 corporation.

32 (5) "State tobacco settlement receipts" means moneys payable to the
33 state pursuant to the master settlement agreement, without giving effect to
34 the sale of any portion thereof.

35 (6) "Tobacco assets" means all rights, title and interest in and to the
36 portion of the state tobacco settlement receipts in an amount equal to

1 \$19,000,000 annually that may be sold to the financing corporation from
2 time to time.

3 (7) "Tobacco asset payments" means the amounts paid or payable to
4 the financing corporation pursuant to an asset sale agreement in an amount
5 equal to \$19,000,000 annually of the state tobacco settlement receipts.

6 (b) The secretary of administration is authorized to sell to the
7 financing corporation, from time to time, all or a portion of the tobacco
8 assets and, in particular, to execute and deliver an asset sale agreement.
9 The asset sale agreement shall provide that the purchase price payable to
10 the state for the tobacco assets sold shall consist of the net proceeds (after
11 capitalized interest, costs, fees, reserves and credit and liquidity
12 enhancements in such amounts as the financing corporation determines to
13 be necessary or desirable in issuing, securing and marketing the bonds) of
14 bonds issued pursuant to section 3, and amendments thereto, to the extent
15 such bonds are not refunding bonds, together with any interest in the
16 residual assets or any subordinate interest provided in the asset sale
17 agreement. The purchase price payable to the state from the sale from time
18 to time of all or a portion of the tobacco assets including the net proceeds
19 (after capitalized interest, costs, fees, reserves and credit and liquidity
20 enhancements in such amounts as the financing corporation determines to
21 be necessary or desirable in issuing, securing and marketing the bonds)
22 from any bonds issued pursuant to section 3, and amendments thereto,
23 shall be deposited in the state treasury and credited to the state general
24 fund and shall not be subject to the requirements of K.S.A. 38-2101, and
25 amendments thereto.

26 (c) Any sale of tobacco assets by the state shall be treated as a true
27 sale and absolute transfer of the property so transferred and not as a pledge
28 or other security interest for any borrowing by the state. The
29 characterization of such a sale as an absolute transfer by the participants
30 shall not be negated or adversely affected if only a portion of the tobacco
31 assets is sold, nor by the state's acquisition or retention of an ownership
32 interest in the residual assets or a subordinate interest in the tobacco assets,
33 nor by any recourse that the purchaser or assignees may have against the
34 state, nor by whether the state is responsible for collecting or enforcing
35 payment of the tobacco asset payments or retains legal title to tobacco
36 asset payments for purposes of collecting or enforcing payments, nor by
37 any characterization of the bonds or the financing corporation for purposes
38 of accounting, taxation or securities regulation, nor by any other factor
39 whatsoever.

40 (d) On and after the effective date of a sale of tobacco assets pursuant
41 to an asset sale agreement, the state shall have no right, title or interest in
42 or to such tobacco assets sold, other than a residual or subordinate interest
43 in the tobacco asset or an interest in the enforcement or collection of

1 tobacco asset payments. The tobacco asset payments shall be property of
2 the financing corporation or its transferee or assignee and not of the state,
3 and shall be owned, received, held and disbursed by the financing
4 corporation or its transferee or assignee and not the state. On or before the
5 effective date of any sale of tobacco assets pursuant to an asset sale
6 agreement, the state shall notify the escrow agent under the master
7 settlement agreement of any tobacco assets which have been sold to the
8 financing corporation and irrevocably instruct such escrow agent that,
9 subsequent to an effective date, the tobacco asset payments are to be paid
10 directly to the financing corporation or its transferee or assignee.

11 (e) Neither the financing corporation nor its assets or liabilities may
12 be consolidated with those of the Kansas development finance authority or
13 the state. The financing corporation may not dissolve, merge or
14 consolidate with any other entity while any bonds issued pursuant to
15 section 3, and amendments thereto, or obligations to holders of such bonds
16 are outstanding. Prior to the date that is 366 days after which the financing
17 corporation no longer has any bonds outstanding, the financing
18 corporation is prohibited from being a debtor under chapter 9 of the
19 federal bankruptcy code or such corresponding chapter or provision as
20 may from time to time be in effect, and no public official or entity or other
21 person shall authorize the financing corporation to be a debtor pursuant to
22 such provisions of the federal bankruptcy code.

23 (f) The state pledges and agrees for the benefit of the holders of any
24 bonds issued pursuant to section 3, and amendments thereto, and the
25 holders or beneficiaries of any other obligations in which the financing
26 corporation has included such pledge and agreement, that the state will: (1)
27 Irrevocably direct the escrow agent under the master settlement agreement
28 to transfer the tobacco asset payments directly to the financing corporation
29 or its transferee or assignee; (2) enforce the rights of the financing
30 corporation or its transferee or assignee to receive the tobacco asset
31 payments to the full extent of the state's right to receive state tobacco
32 settlement receipts pursuant to the terms of the master settlement
33 agreement; (3) not amend the master settlement agreement in any manner
34 that would materially impair the rights of the financing corporation or the
35 holders of such bonds or obligations to receive tobacco asset payments
36 necessary to make payment on such bonds or obligations; (4) not limit or
37 alter the rights of the financing corporation to fulfill the terms of its
38 agreements with such holders of such bonds or obligations; (5) not
39 authorize the financing corporation to be a debtor under chapter 9 of the
40 federal bankruptcy code or such corresponding chapter or provision as
41 may from time to time be in effect; and (6) not in any way impair the
42 rights and remedies of such holders of such bonds or obligations or the
43 security for such bonds or obligations until such bonds, together with the

1 interest thereon and all costs and expenses in connection with any action
2 or proceeding by or on behalf of such holders of the bonds, or obligations
3 are fully paid and discharged. The financing corporation is authorized to
4 include such pledges and agreements in any agreement for the benefit of
5 the holders or beneficiaries of bonds issued pursuant to section 3, and
6 amendments thereto, or any other obligations of the financing corporation.

7 (g) The secretary of administration shall obtain the approval of the
8 state finance council prior to executing an asset sale agreement. The
9 approval of the asset sale agreement by the state finance council is hereby
10 characterized as a matter of legislative delegation and subject to the
11 guidelines prescribed in K.S.A. 75-3711(c), and amendments thereto.
12 Approval of the asset sale agreement by the state finance council may be
13 given when the legislature is in session.

14 (h) The sale of tobacco assets pursuant to subsection (b) shall be by
15 negotiation approved by the secretary of administration and shall be
16 exempt from competitive bid requirements applicable to the purchase and
17 sale of property by the state.

18 (i) All payments received and to be received by the state under the
19 master settlement agreement are the property of the state, to be used as
20 provided by law, including a sale, assignment, or transfer of the right to
21 receive the payments under this section. No political subdivision of the
22 state, and no officer or agent of any political subdivision of the state, shall
23 have or seek to maintain any claim related to the master settlement
24 agreement or any claim against any party that was released from liability
25 by the state under the tobacco settlement agreement.

26 (j) The district court of Shawnee county shall have exclusive
27 jurisdiction of any suit brought by or against the financing corporation,
28 and process in such suit shall be served on the chairperson of the board of
29 directors of the financing corporation.

30 (k) Any pledge of tobacco asset payments by the financing
31 corporation shall, pursuant to K.S.A. 74-8909, and amendments thereto,
32 constitute a continuously perfected security interest in all tobacco asset
33 payments existing on the date of the pledge or arising after the date of the
34 pledge and shall have priority over any other subsequent lien on the
35 tobacco asset payments. The priority of such pledge and security interest
36 shall not be affected by any commingling of tobacco settlement payments
37 with other amounts.

38 New Sec. 2. (a) The great plains tobacco settlement financing
39 corporation is hereby created in accordance with this section as an affiliate
40 of the Kansas development finance authority, a public body politic and
41 corporate and an independent instrumentality of the state exercising
42 essential public functions, effective upon the approval of articles of
43 incorporation by the authority. The great plains tobacco settlement

1 financing corporation is created for the following purposes, and shall be
2 authorized and empowered to: (1) Receive from the state all or a portion of
3 the tobacco assets; (2) transfer, sell, pledge, assign or otherwise convey a
4 portion of such tobacco assets; (3) enter into contracts and establish trusts
5 with any person or entity, including the state, with respect to or regarding
6 all or any portion of the tobacco assets; (4) issue bonds authorized under
7 section 3, and amendments thereto, provide for the security and repayment
8 of such bonds and enter into agreements, contracts or instruments for
9 credit or liquidity enhancement, forward purchase or interest rate swaps or
10 exchanges in connection with such bonds; and (5) issue other obligations
11 secured by a portion of such tobacco assets. Filing of articles of
12 incorporation of the great plains tobacco settlement financing corporation
13 with the secretary of state shall not be required.

14 (b) Each provision of the Kansas development finance authority act
15 regarding the issuance of bonds or the exercise of any other power or
16 privilege by the authority shall apply to the financing corporation in the
17 exercise of any power, obligation or duty delegated by the authority to
18 such affiliate corporation. The financing corporation shall have the power
19 to contract with the authority to do all things necessary and convenient to
20 carry out the purposes of this act.

21 New Sec. 3. The great plains tobacco settlement financing
22 corporation, established by section 2, and amendments thereto, is hereby
23 authorized and empowered to issue bonds for the purpose of acquiring
24 tobacco assets and for paying expenses of authorizing and issuing the
25 bonds, paying capitalized interest on the bonds until revenues thereof are
26 available in sufficient amounts to make such payments, purchasing bond
27 insurance or other credit or liquidity enhancements on the bonds, and
28 funding such reserves as the great plains tobacco settlement financing
29 corporation deems necessary or desirable.

30 Sec. 4. K.S.A. 2016 Supp. 74-8904 is hereby amended to read as
31 follows: 74-8904. Except as otherwise limited by this act, the authority
32 shall have the following powers to:

- 33 (a) Sue and be sued;
- 34 (b) have a seal and alter such seal;
- 35 (c) make and alter bylaws for its organization and internal
36 management;
- 37 (d) adopt such rules and regulations as may be necessary to carry out
38 the purposes of this act;
- 39 (e) acquire, hold and dispose of real and personal property *of any*
40 *nature, tangible or intangible*, for its corporate purposes;
- 41 (f) appoint officers, agents and employees, prescribe their duties and
42 qualifications and fix their compensation;
- 43 (g) borrow money and to issue notes, bonds and other obligations

1 pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the
2 interest on which is subject to federal income taxation, and to provide for
3 the rights of the lenders or holders thereof;

4 (h) purchase notes or participations in notes evidencing loans which
5 are secured by mortgages or security interests and to enter into contracts in
6 that regard;

7 (i) make secured or unsecured loans for any of the purposes for which
8 bonds of the authority may be issued under this act or to low and moderate
9 income multifamily rental housing projects participating in programs
10 established in ~~section 42 of the federal internal revenue code~~ *26 U.S.C. §*
11 *42*, and provide financing for housing projects and programs in
12 participation with programs established by the United States department of
13 housing and urban development or the division of housing in the Kansas
14 development finance authority; except as otherwise provided in this
15 subsection, nothing in this act shall be construed to authorize the authority
16 to make loans directly to individuals to finance housing developments;

17 (j) sell mortgages and security interests at public or private sale, to
18 negotiate modifications or alterations in mortgage and security interests, to
19 foreclose on any mortgage or security interest in default or commence any
20 action to protect or enforce any right conferred upon it by any law,
21 mortgage, security agreement, contract or other agreement, and to bid for
22 and purchase property which was the subject of such mortgage or security
23 interest at any foreclosure or at any other sale, to acquire or take
24 possession of any such property, and to exercise any and all rights as
25 provided by law for the benefit or protection of the authority or mortgage
26 holders;

27 (k) collect fees and charges in connection with its loans, bond
28 guarantees, commitments and servicing, including, but not limited to,
29 reimbursement of costs of financing as the authority shall determine to be
30 reasonable and as shall be approved by the authority;

31 (l) make and execute contracts for the servicing of mortgages
32 acquired by the authority pursuant to this act, and to pay the reasonable
33 value of services rendered to the authority pursuant to those contracts;

34 (m) enter into agreements with and accept gifts, grants, loans and
35 other aid from the federal government, the state, any state agency, any
36 political subdivision of the state, or any person or corporation, foundation
37 or legal entity, and to agree to and comply with any conditions attached to
38 federal and state financial assistance not inconsistent with the provisions
39 of this act;

40 (n) invest moneys of the authority not required for immediate use,
41 including proceeds from the sale of any bonds, in such manner as the
42 board shall determine, subject to any agreement with bondholders stated in
43 the authorizing resolution providing for the issuance of bonds;

1 (o) procure insurance against any loss in connection with its
2 programs, property and other assets;

3 (p) provide technical assistance and advice to the state or political
4 subdivisions of the state and to enter into contracts with the state or
5 political subdivisions of the state to provide such services. The state or
6 political subdivisions of the state are hereby authorized to enter into
7 contracts with the authority for such services and to pay for such services
8 as may be provided them;

9 (q) establish accounts in one or more depositories;

10 (r) lease, acquire, construct, sell and otherwise deal in and contract
11 concerning any facilities;

12 (s) have and exercise all of the powers granted to the public housing
13 authorities by the state, except that the authority shall not have the power
14 of eminent domain;

15 (t) do any and all things necessary or convenient to carry out
16 purposes of the authority and exercise the powers given and granted in this
17 act;

18 (u) assist minority businesses in obtaining loans or other means of
19 financial assistance. The terms and conditions of such loans or financial
20 assistance, including the charges for interest and other services, will be
21 consistent with the provisions of this act. In order to comply with this
22 requirement, efforts must be made to solicit for review and analysis
23 proposed minority business ventures. Basic loan underwriting standards
24 will not be waived to inconsistently favor minority persons or businesses
25 from the intent of the authority's lending practices;

26 (v) form one or more ~~subsidiary~~ *affiliate* corporations under K.S.A.
27 17-6001 et seq., and amendments thereto, in accordance with the
28 procedures therein contained. Each ~~subsidiary~~ *affiliate* corporation shall be
29 subject to the same restrictions and limitations as to the powers and
30 purposes to which the authority is subject. *Each provision of this act*
31 *regarding the issuance of bonds or the exercise of any other power or*
32 *privilege by the authority shall apply to each affiliate corporation in the*
33 *exercise of any power, obligation or duty delegated by the authority to*
34 *such affiliate corporation.* The authority may delegate any of its powers,
35 obligations and duties to any ~~subsidiary~~ *affiliate* corporation by inclusion
36 of such powers, obligations and duties in the articles of incorporation of
37 the ~~subsidiary~~ *affiliate* corporation. ~~Subsidiary~~ *Affiliate* corporations so
38 formed shall constitute legal entities separate and distinct from each other,
39 the authority and the state except that for purposes of K.S.A. 58-4217 ~~to~~
40 *through* 58-4226, ~~inclusive~~, and amendments thereto, the Kansas housing
41 resources corporation shall constitute an instrumentality of the state. The
42 authority shall not be liable for the debts or obligations or for any actions
43 or inactions of its ~~subsidiary~~ *affiliate* corporations unless the authority

1 expressly agrees otherwise in writing. The authority may make loans or
2 grants to a ~~subsidiary~~ *an affiliate* corporation from time to time to enable
3 the ~~subsidiary~~ *affiliate* corporation to carry out its purposes. The members
4 of the authority shall constitute all of the directors of each ~~subsidiary~~
5 *affiliate* corporation.

6 The state, any municipality or any state commission, public authority,
7 agency, officer, department, board or division authorized and empowered
8 to enter into agreements with, to grant, convey, lease or otherwise transfer
9 any property to, or to otherwise transact business with the authority, shall
10 have the same authorization and power to engage in these activities with
11 each ~~subsidiary~~ *affiliate* corporation of the authority.

12 One or more such ~~subsidiary~~ *affiliate* ~~corporation~~ *corporations* may be
13 formed for purposes of establishing state tax credit equity funds to assist in
14 the development of low-income and middle-income housing and obtain
15 financing through participation in the program established in ~~section 42 of~~
16 ~~the federal internal revenue code~~ 26 U.S.C. § 42.

17 Actions of the authority or any ~~subsidiary~~ *affiliate* corporation relating
18 to housing pursuant to this subsection (v) shall be carried out in
19 accordance with any terms, conditions and limitations relating to policy
20 issues regarding housing, as established by the director of housing in the
21 Kansas development finance authority.

22 One or more such ~~subsidiary~~ *affiliate* corporations may be formed for
23 purposes of acquiring or conveying on behalf of the state and pursuant to
24 this act a project of statewide as well as local importance, issuing bonds on
25 behalf of the state pursuant to this act to finance a project of statewide as
26 well as local importance or otherwise financing on behalf of the state
27 pursuant to this act a project of statewide as well as local importance. The
28 Kansas statewide projects development corporation is hereby created in
29 accordance with this section. *Filing of articles of incorporation of the*
30 *Kansas statewide projects development corporation with the secretary of*
31 *state shall not be required; and*

32 (w) assist, coordinate, administer and participate with out-of-state:
33 Governmental authorities, bodies, issuers and other public and private
34 entities; in connection with the issuance of bonds, notes or other evidence
35 of indebtedness for the purpose of financing any facilities whether such
36 facility is located within or outside of Kansas. In connection with such
37 financings which include out-of-state issuers, the authority is designated as
38 the only entity in Kansas which may conduct the public hearing of the
39 applicable governmental unit required by ~~section 147 (f) of the federal~~
40 ~~internal revenue code of 1986~~ 26 U.S.C. § 147(f), as amended, and the
41 governor of Kansas is designated as the only entity in Kansas who may be
42 the applicable governmental unit pursuant to ~~section 147 (f) of the federal~~
43 ~~internal revenue code of 1986~~ 26 U.S.C. § 147(f), as amended. Following

1 such hearing the authority shall determine whether such financing should
2 proceed with respect to facilities located within Kansas by an out-of-state
3 issuer. If the authority determines that the financing should not proceed,
4 the financing shall not proceed relative to the Kansas facilities; *and*

5 *(x) establish trusts in connection with any of the purposes of this act.*

6 Sec. 5. K.S.A. 2016 Supp. 74-8905 is hereby amended to read as
7 follows: 74-8905. (a) The authority may issue bonds, either for a specific
8 activity or on a pooled basis for a series of related or unrelated activities or
9 projects duly authorized by a political subdivision or group of political
10 subdivisions of the state in amounts determined by the authority for the
11 purpose of financing projects of statewide as well as local importance,
12 capital improvement facilities, educational facilities, health care facilities
13 and housing developments. Nothing in this act shall be construed to
14 authorize the authority to issue bonds or use the proceeds thereof to:

15 (1) Purchase, condemn or otherwise acquire a utility plant or
16 distribution system owned or operated by a regulated public utility;

17 (2) finance any capital improvement facilities or educational facilities
18 which are being financed by the issuance of general obligation or utility
19 revenue bonds of a political subdivision, except that the acquisition by the
20 authority of general obligation or utility revenue bonds issued by political
21 subdivisions with the proceeds of pooled bonds shall not violate the
22 provisions of the foregoing; or

23 (3) purchase, acquire, construct, reconstruct, improve, equip, furnish,
24 repair, enlarge or remodel property for any swine production facility on
25 agricultural land which is owned, acquired, obtained or leased by a
26 corporation, limited liability company, limited partnership, corporate
27 partnership or trust.

28 Nothing in this subsection (a) shall prohibit the issuance of bonds by
29 the authority when any statute specifically authorizes the issuance of
30 bonds by the authority or approves any activity or project of a state agency
31 for purposes of authorizing any such issuance of bonds in accordance with
32 this section and provides an exemption from the provisions of this
33 subsection (a).

34 (b) The authority may issue bonds for activities and projects of state
35 agencies as requested by the secretary of administration. Research
36 facilities of state educational institutions shall be subject to the provisions
37 of this subsection (b). No bonds may be issued pursuant to this act for any
38 activity or project of a state agency unless the activity or project either has
39 been approved by an appropriation or other act of the legislature or has
40 been approved by the state finance council acting on this matter which is
41 hereby characterized as a matter of legislative delegation and subject to the
42 guidelines prescribed in ~~subsection (c) of K.S.A. 75-3711c(c)~~, and
43 amendments thereto. When requested to do so by the secretary of

1 administration, the authority may issue bonds for the purpose of refunding,
2 whether at maturity or in advance of maturity, any outstanding bonded
3 indebtedness of any state agency. The revenues of any state agency which
4 are pledged as security for any bonds of such state agency which are
5 refunded by refunding bonds of the authority may be pledged to the
6 authority as security for the refunding bonds.

7 (c) The authority may issue bonds for the purpose of financing
8 industrial enterprises, transportation facilities, agricultural business
9 enterprises, educational facilities, health care facilities, housing
10 developments, research facilities or any combination of such facilities, or
11 any interest in facilities, including without limitation leasehold interests in
12 and mortgages on such facilities, whether located within or outside of
13 Kansas. The authority may additionally issue bonds for the purpose of
14 financing a hall of fame, museum or tourist destination of national
15 significance, as determined by the secretary of commerce. Such authority
16 to issue bonds for a hall of fame, museum or tourist destination of national
17 significance shall expire on December 31, 2007. No less than 30 days prior
18 to the issuance of any bonds authorized under this act with respect to any
19 project or activity within Kansas which is to be undertaken for the direct
20 benefit of any person or entity which is not a state agency or a political
21 subdivision, written notice of the intention of the authority to provide
22 financing and issue bonds therefor shall be given by the president of the
23 authority to the governing body of the city in which the project or activity
24 is to be located. If the project or activity is not proposed to be located
25 within a city, such notice shall be given to the governing body of the
26 county. No bonds for the financing of the project or activity shall be issued
27 by the authority for a one-year period if, within 15 days after the giving of
28 such notice, the governing body of the political subdivision in which the
29 project or activity within Kansas is proposed to be located shall have
30 adopted an ordinance or resolution stating express disapproval of the
31 project or activity and shall have notified the president of the authority of
32 such disapproval. The authority shall not issue bonds for the purpose of
33 financing a project or activity outside Kansas unless the authority has
34 determined that the issuance of such bonds provides a benefit to Kansas or
35 its people and that the owner or operator thereof or an affiliate has a
36 presence or impact in Kansas.

37 (d) The authority may issue bonds for the purpose of establishing and
38 funding one or more series of venture capital funds in such principal
39 amounts, at such interest rates, in such maturities, with such security, and
40 upon such other terms and in such manner as is approved by resolution of
41 the authority. The proceeds of such bonds not placed in a venture capital
42 fund or used to pay or reimburse organizational, offering and
43 administrative expenses and fees necessary to the issuance and sale of such

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

20 (e) The authority may issue bonds in one or more series for the
21 purpose of financing a redevelopment plan project that is approved by the
22 authority in accordance with K.S.A. 74-8921 and 74-8922, and
23 amendments thereto, or by Johnson or Labette county in accordance with
24 the provisions of this act.

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

32 (g) The authority may issue bonds for the purpose of financing resort
33 facilities, as defined in ~~subsection (a) of~~ K.S.A. 32-867(a), and
34 amendments thereto, in an amount or amounts not to exceed \$30,000,000
35 for any one resort. The bonds and the interest thereon shall be payable
36 solely from revenues of the resort and shall not be deemed to be an
37 obligation or indebtedness of the state within the meaning of section 6 of
38 article 11 of the constitution of the state of Kansas. The authority may
39 contract with ~~a subsidiary~~ *an affiliate* corporation formed pursuant to
40 ~~subsection (v) of~~ K.S.A. 74-8904(v), and amendments thereto, or others to
41 lease or operate such resort. The provisions of K.S.A. 32-867, 32-868, 32-
42 870 through 32-873 and 32-874a through 32-874d, and amendments
43 thereto, shall apply to resorts and bonds issued pursuant to this subsection.

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

16 (i) Any time the authority is required to publish a notification
17 pursuant to the tax equity and fiscal responsibility act of 1982, the
18 authority shall further publish such notification in the Kansas register and
19 on the Kansas development finance authority website.

20 (j) Any time the authority issues private activity bonds, as defined in
21 K.S.A. 74-5059, and amendments thereto, pursuant to this section, the
22 authority shall publish notification of such issuance at least 14 days prior
23 to any bond hearing in the official county newspaper of the county in
24 which the project or activity financed by such bonds are located and in the
25 Kansas register.

26 Sec. 6. K.S.A. 74-8909 is hereby amended to read as follows: 74-
27 8909. Any pledge of revenues, moneys, funds or other property made by
28 the authority *or by an affiliate corporation organized pursuant to K.S.A.*
29 *74-8904(v), and amendments thereto*, shall be valid and binding from the
30 time when such pledge is made and the revenues, moneys, funds or other
31 property so pledged and thereafter received by the authority *or such*
32 *affiliate corporation* shall immediately be subject to the lien of such
33 pledge without such physical delivery thereof or further act on the part of
34 the authority *or such affiliate corporation*, and the lien of any such pledge
35 shall be valid and binding as against all parties having claims of any kind
36 in tort, contract or otherwise against the authority *or such affiliate*
37 *corporation*, irrespective of whether such parties have notice thereof.
38 Neither the authorizing resolution nor any other instrument by which a
39 pledge is created need be filed or recorded except in the records of the
40 authority *or such affiliate corporation*.

41 Sec. 7. K.S.A. 74-8910 is hereby amended to read as follows: 74-
42 8910. No director, employee or officer of the authority shall be liable
43 personally for any reason arising from the service of such person as a

1 director, employee or officer of the authority or any ~~subsidiary~~ *affiliate*
2 corporations created pursuant to this act unless such person acted with
3 willful, wanton or fraudulent misconduct or intentionally tortuous conduct.
4 The authority and any ~~subsidiary~~ *affiliate* corporation created pursuant to
5 K.S.A. 74-8904(v), and amendments thereto, shall be considered a
6 governmental entity for purposes of the Kansas tort claims act, K.S.A. 75-
7 6102, and amendments thereto.

8 Sec. 8. K.S.A. 74-8909 and 74-8910 and K.S.A. 2016 Supp. 74-8904
9 and 74-8905 are hereby repealed.

10 Sec. 9. This act shall take effect and be in force from and after its
11 publication in the Kansas register.