

HOUSE BILL No. 2922

By Representative Howell

2-13

AN ACT concerning the Kansas development finance authority; authorizing the sale of certain state tobacco settlement receipts by the state; creating the great plains tobacco settlement financing corporation as an affiliate of the Kansas development finance authority; authorizing the issuance of bonds payable from tobacco asset payments; providing for distribution of certain moneys; amending K.S.A. 38-2101 and 74-8909 and K.S.A. 2001 Supp. 74-8904 and 74-8905 and repealing the existing sections.

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

New Section 1. (a) The following words or terms used in this section shall have the following meanings unless a different meaning clearly appears from the context:

(1) "Asset sale agreement" means the agreement or agreements between the state as seller of the tobacco assets and the corporation as purchaser of the tobacco assets.

(2) "Financing corporation" means the great plains tobacco settlement financing corporation created pursuant to subsection (v) of K.S.A. 74-8904 and amendments thereto.

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

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

(5) "Tobacco assets" means all right, title and interest in and to the portion of the state tobacco settlement receipts that may be sold to the financing corporation from time to time.

(6) "Master settlement agreement" means the master settlement agreement and related documents between the state and leading United

1 States tobacco product manufacturers dated November 23, 1998, and
2 including the consent decree and final judgment entered in the *State of*
3 *Kansas v. R.J. Reynolds Tobacco Company et al.*, district court of Shawnee
4 county, Kansas, division 2, No. 96-CV-919.

5 (7) "Tobacco asset payments" means the amounts paid or payable to
6 the financing corporation pursuant to an asset sale agreement.

7 (b) The secretary of administration is authorized to sell to the fi-
8 nancing corporation, from time to time, all or a portion of the state to-
9 bacco settlement receipts and, in particular, to execute and deliver an
10 asset sale agreement. Such agreement shall provide that the purchase
11 price payable to the state for the tobacco assets sold shall consist of the
12 net proceeds (after capitalized interest, costs, fees, reserves and credit
13 and liquidity enhancements as the financing corporation determines to
14 be desirable in issuing, securing and marketing the bonds) of bonds issued
15 pursuant to subsection (h) of K.S.A. 74-8905 and amendments thereto,
16 to the extent such bonds are not refunding bonds, together with any
17 interest in the residual assets or any subordinate interest provided in the
18 asset sale agreement. The purchase price payable to the state from the
19 sale from time to time of all or a portion of the state tobacco settlement
20 receipts including the net proceeds (after capitalized interest, costs, fees,
21 reserves and credit and liquidity enhancements as the financing corpo-
22 ration determines to be desirable in issuing, securing and marketing the
23 bonds) from any bonds issued pursuant to subsection (h) of K.S.A. 74-
24 8905, and amendments thereto, shall be deposited in the Kansas endow-
25 ment for youth fund. Expenditures from the Kansas endowment for youth
26 fund shall be made as provided in subsection (d) of K.S.A. 38-2102 on
27 the effective date of this act. It is the intent of the legislature that such
28 proceeds shall be held in trust for future generations of Kansas.

29 (c) Any sale of tobacco assets by the state shall be treated as a true
30 sale and absolute transfer of the property so transferred and not as a
31 pledge or other security interest for any borrowing by the state. The
32 characterization of such a sale as an absolute transfer by the participants
33 shall not be negated or adversely affected if only a portion of the state
34 tobacco settlement receipts is sold, nor by the state's acquisition or re-
35 tention of an ownership interest in the residual assets or a subordinate
36 interest in the tobacco assets, nor by a characterization of the bonds or
37 the financing corporation for purposes of accounting, taxation or securi-
38 ties regulation, nor by any other factor whatsoever.

39 (d) On and after the effective date of a sale of tobacco assets pursuant
40 to an asset sale agreement, the state shall have no right, title or interest
41 in or to such tobacco assets sold. The tobacco asset payments shall be
42 property of the financing corporation or its transferee or assignee and not
43 of the state, and shall be owned, received, held and disbursed by the

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

8 (e) The state pledges and agrees for the benefit of the holders of any
9 bonds in which the financing corporation has included such pledge and
10 agreement, that the state will (1) irrevocably direct the escrow agent un-
11 der the master settlement agreement to transfer all tobacco asset pay-
12 ments directly to the financing corporation or its transferee or assignee,
13 (2) enforce the rights of the financing corporation or its transferee or
14 assignee to receive the tobacco asset payments to the full extent of the
15 state's right to receive state tobacco settlement receipts pursuant to the
16 terms of the master settlement agreement, (3) not amend the master
17 settlement agreement in any manner that would materially impair the
18 rights of the financing corporation or the holders of bonds, (4) not limit
19 or alter the rights of the financing corporation to fulfill the terms of its
20 agreements with such holders of the bonds, (5) not authorize the financ-
21 ing corporation to be a debtor under chapter 9 of the federal bankruptcy
22 code and (6) not in any way impair the rights and remedies of such holders
23 of the bonds or the security for such bonds until such bonds, together
24 with the interest thereon and all costs and expenses in connection with
25 any action or proceeding by or on behalf of such holders of the bonds,
26 are fully paid and discharged.

27 (f) The secretary of administration shall obtain the approval of the
28 state finance council prior to executing an asset sale agreement. The ap-
29 proval of the asset sale agreement by the state finance council is hereby
30 characterized as a matter of legislative delegation and subject to the
31 guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amend-
32 ments thereto. Approval by the state finance council may be given when
33 the legislature is in session.

34 (g) The sale of tobacco assets pursuant to subsection (b) shall be by
35 negotiation approved by the secretary of administration and shall be ex-
36 empt from competitive bid requirements applicable to the purchase and
37 sale of property by the state.

38 (h) The district court of Shawnee county shall have exclusive juris-
39 diction of any suit brought by or against the financing corporation, and
40 process in such suit shall be served on the chairperson of the board of
41 directors of the financing corporation.

42 (i) State tobacco settlement receipts, tobacco assets and tobacco asset
43 payments shall be general intangibles within the meaning of the Kansas

1 uniform commercial code.

2 Sec. 2. K.S.A. 38-2101 is hereby amended to read as follows: 38-
3 2101. (a) There is hereby established in the state treasury the Kansas
4 endowment for youth fund which shall constitute a trust fund and shall
5 be invested, managed and administered in accordance with the provisions
6 of this act by the board of trustees of the Kansas public employees re-
7 tirement system established by K.S.A. 74-4905 and amendments thereto.

8 (b) All of the moneys received by the state pursuant to the tobacco
9 litigation settlement agreements entered into by the attorney general on
10 behalf of the state of Kansas, or pursuant to any judgment rendered,
11 regarding the litigation against tobacco industry companies and related
12 entities, *or pursuant to a sale of the right to receive such moneys by the*
13 *secretary of administration on behalf of the state of Kansas as authorized*
14 *by section 1, and amendments thereto*, shall be deposited in the state
15 treasury and credited to the Kansas endowment for youth fund. All such
16 moneys shall constitute an endowment which shall remain credited to the
17 Kansas endowment for youth fund except (1) as provided in this section
18 or in K.S.A. 38-2102 and amendments thereto for transfers to the chil-
19 dren's initiatives fund *and (2) as provided in section 3 and amendments*
20 *thereto*. Expenditures may be made from the Kansas endowment for
21 youth fund for the payment of the operating expenses of the Kansas chil-
22 dren's cabinet and the board of trustees, including the expenses of in-
23 vesting and managing the moneys, which are attributable to the Kansas
24 endowment for youth fund. All moneys credited to the Kansas endow-
25 ment for youth fund shall be invested to provide an ongoing source of
26 investment earnings available for periodic transfer to the children's ini-
27 tiatives fund in accordance with this act. All expenditures from the Kansas
28 endowment for youth fund shall be made in accordance with appropri-
29 ation acts upon warrants of the director of accounts and reports issued
30 pursuant to vouchers approved by the chairperson of the board of trustees
31 of the Kansas public employees retirement system or by the chairperson's
32 designee.

33 (c) On the effective date of this act, the director of accounts and
34 reports shall transfer all moneys credited to the children's health care
35 programs fund to the Kansas endowment for youth fund and the chil-
36 dren's health care programs fund is hereby abolished. On and after July
37 1, 1999, whenever the children's health care programs fund, or words of
38 like effect, is referred to or designated by statute, contract or other doc-
39 ument, such reference or designation shall be deemed to apply to the
40 Kansas endowment for youth fund.

41 New Sec. 3. On and after the effective date of this act, on each date
42 that moneys are transferred from the Kansas endowment for youth fund
43 to the children's initiatives fund, an amount shall be transferred from the

1 Kansas endowment for youth fund to the senior services trust fund es-
2 tablished under K.S.A. 2001 Supp. 75-4266 and amendments thereto and
3 to the teachers' compensation enhancement fund established under sec-
4 tion 4 and amendments thereto in accordance with this section. The
5 amounts to be transferred to the senior services trust fund shall be spec-
6 ified by appropriation act and, in the aggregate for the fiscal year, shall
7 be equal to at least 50% of the aggregate of all amounts transferred from
8 the Kansas endowment for youth fund to the children's initiatives fund
9 for such fiscal year, and the amounts to be transferred to the teacher
10 compensation enhancement fund shall be specified by appropriation act
11 and, in the aggregate for the fiscal year, shall be equal to at least 30% of
12 the aggregate of all amounts transferred from the Kansas endowment for
13 youth fund to the children's initiatives fund for such fiscal year.

14 New Sec. 4. (a) There is hereby established in the state treasury the
15 teachers' compensation enhancement fund. Moneys in the teachers' com-
16 pensation enhancement fund shall be expended only to pay for salary and
17 other compensation enhancements for teachers in grades kindergarten
18 through twelfth grade in accordance with this section. Payments from the
19 teachers' compensation fund in any fiscal year shall not exceed the amount
20 of interest credited to such fund under subsection (c). Payments from the
21 teachers' compensation enhancement fund shall be made in accordance
22 with appropriation acts upon warrants of the director of accounts and
23 reports issued pursuant to vouchers signed by the commissioner of edu-
24 cation or a person designated by the commissioner.

25 (b) (1) The state board of education shall adopt rules and regulations
26 for the administration of this section and the providing of payments from
27 the teachers' compensation enhancement fund. Payments shall be made
28 in accordance with such rules and regulations only for salary and other
29 compensation enhancements for teachers in grades kindergarten through
30 twelfth grade. The board of education shall determine the amount of
31 moneys to be provided to school districts under this section for the pur-
32 poses of such salary and other compensation enhancements based on
33 fairness between school districts and maximization of the impact of the
34 funds distributed.

35 (c) On or before the 10th day of each month, the director of accounts
36 and reports shall transfer from the state general fund to the teachers'
37 compensation enhancement fund interest earnings based on (1) the av-
38 erage daily balance of moneys in the disabled persons fund and (2) the
39 net earnings rate of the pooled money investment portfolio for the pre-
40 ceding month.

41 Sec. 5. K.S.A. 2001 Supp. 74-8904 is hereby amended to read as
42 follows: 74-8904. Except as otherwise limited by this act, the authority
43 shall have the following powers to:

- 1 (a) Sue and be sued;
- 2 (b) have a seal and alter such seal;
- 3 (c) make and alter bylaws for its organization and internal
4 management;
- 5 (d) adopt such rules and regulations as may be necessary to carry out
6 the purposes of this act;
- 7 (e) acquire, hold and dispose of real and personal property *of any*
8 *nature, tangible or intangible*, for its corporate purposes;
- 9 (f) appoint officers, agents and employees, prescribe their duties and
10 qualifications and fix their compensation;
- 11 (g) borrow money and to issue notes, bonds and other obligations
12 pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the
13 interest on which is subject to federal income taxation, and to provide for
14 the rights of the lenders or holders thereof;
- 15 (h) purchase notes or participations in notes evidencing loans which
16 are secured by mortgages or security interests and to enter into contracts
17 in that regard;
- 18 (i) make secured or unsecured loans for any of the purposes for which
19 bonds of the authority may be issued under this act or to low and mod-
20 erate income multifamily rental housing projects participating in pro-
21 grams established in section 42 of the federal internal revenue code, and
22 provide financing for housing projects and programs in participation with
23 programs established by the United States department of housing and
24 urban development or the Kansas department of commerce and housing;
25 except as otherwise provided in this subsection, nothing in this act shall
26 be construed to authorize the authority to make loans directly to individ-
27 uals to finance housing developments;
- 28 (j) sell mortgages and security interests at public or private sale, to
29 negotiate modifications or alterations in mortgage and security interests,
30 to foreclose on any mortgage or security interest in default or commence
31 any action to protect or enforce any right conferred upon it by any law,
32 mortgage, security agreement, contract or other agreement, and to bid
33 for and purchase property which was the subject of such mortgage or
34 security interest at any foreclosure or at any other sale, to acquire or take
35 possession of any such property, and to exercise any and all rights as
36 provided by law for the benefit or protection of the authority or mortgage
37 holders;
- 38 (k) collect fees and charges in connection with its loans, bond guar-
39 antees, commitments and servicing, including, but not limited to, reim-
40 bursement of costs of financing as the authority shall determine to be
41 reasonable and as shall be approved by the authority;
- 42 (l) make and execute contracts for the servicing of mortgages ac-
43 quired by the authority pursuant to this act, and to pay the reasonable

1 value of services rendered to the authority pursuant to those contracts;
2 (m) enter into agreements with and accept gifts, grants, loans and
3 other aid from the federal government, the state, any state agency, any
4 political subdivision of the state, or any person or corporation, foundation
5 or legal entity, and to agree to and comply with any conditions attached
6 to federal and state financial assistance not inconsistent with the provi-
7 sions of this act;
8 (n) invest moneys of the authority not required for immediate use,
9 including proceeds from the sale of any bonds, in such manner as the
10 board shall determine, subject to any agreement with bondholders stated
11 in the authorizing resolution providing for the issuance of bonds;
12 (o) procure insurance against any loss in connection with its pro-
13 grams, property and other assets;
14 (p) provide technical assistance and advice to the state or political
15 subdivisions of the state and to enter into contracts with the state or
16 political subdivisions of the state to provide such services. The state or
17 political subdivisions of the state are hereby authorized to enter into con-
18 tracts with the authority for such services and to pay for such services as
19 may be provided them;
20 (q) establish accounts in one or more depositories;
21 (r) lease, acquire, construct, sell and otherwise deal in and contract
22 concerning any facilities;
23 (s) have and exercise all of the powers granted to the public housing
24 authorities by the state, except that the authority shall not have the power
25 of eminent domain;
26 (t) do any and all things necessary or convenient to carry out purposes
27 of the authority and exercise the powers given and granted in this act;
28 (u) assist minority businesses in obtaining loans or other means of
29 financial assistance. The terms and conditions of such loans or financial
30 assistance, including the charges for interest and other services, will be
31 consistent with the provisions of this act. In order to comply with this
32 requirement, efforts must be made to solicit for review and analysis pro-
33 posed minority business ventures. Basic loan underwriting standards will
34 not be waived to inconsistently favor minority persons or businesses from
35 the intent of the authority's lending practices; ~~and~~
36 (v) form one or more ~~subsidiary~~ *affiliate* corporations under K.S.A.
37 17-6001 *et seq.*, and amendments thereto, in accordance with the pro-
38 cedures therein contained *or as otherwise provided in this subsection (v)*.
39 Each ~~subsidiary~~ *affiliate* corporation shall be subject to the same restric-
40 tions and limitations as to the powers and purposes to which the authority
41 is subject. *Each provision of this act regarding the issuance of bonds or*
42 *the exercise of any other power or privilege by the authority shall apply*
43 *to each affiliate corporation in the exercise of any power, obligation or*

1 *duty delegated by the authority to such affiliate corporation.* The au-
2 thority may delegate any of its powers, obligations and duties to any ~~sub-~~
3 ~~subsidiary~~ *affiliate* corporation by inclusion of such powers, obligations and
4 duties in the articles of incorporation of the ~~subsidiary~~ *affiliate* corpora-
5 tion. ~~Subsidiary~~ *Affiliate* corporations so formed shall constitute legal en-
6 tities separate and distinct from each other, the authority and the state.
7 The authority shall not be liable for the debts or obligations or for any
8 actions or inactions of its ~~subsidiary~~ *affiliate* corporations unless the au-
9 thority expressly agrees otherwise in writing. The authority may make
10 loans or grants to a ~~subsidiary~~ *affiliate* corporation from time to time to
11 enable the ~~subsidiary~~ *affiliate* corporation to carry out its purposes. *Except*
12 *as otherwise provided in this subsection (v),* the members of the authority
13 shall constitute all of the directors of each ~~subsidiary~~ *affiliate* corporation.
14 The state, any municipality or any state commission, public authority,
15 agency, officer, department, board or division authorized and empowered
16 to enter into agreements with, to grant, convey, lease or otherwise transfer
17 any property to, or to otherwise transact business with the authority, shall
18 have the same authorization and power to engage in these activities with
19 each ~~subsidiary~~ *affiliate* corporation of the authority. *Each such affiliate*
20 *corporation shall have the power to contract with the authority to do all*
21 *things necessary and convenient to carry out the purposes of such affiliate*
22 *corporation.*

23 (1) One or more such ~~subsidiary corporation~~ *affiliate corporations*
24 may be formed for purposes of establishing state tax credit equity funds
25 to assist in the development of low-income and middle-income housing
26 and obtain financing through participation in the program established in
27 section 42 of the federal internal revenue code. Actions of the authority
28 or any ~~subsidiary~~ *affiliate* corporation relating to housing pursuant to this
29 subsection (v) shall be carried out in accordance with any terms, condi-
30 tions and limitations relating to policy issues regarding housing, as estab-
31 lished by the secretary of commerce and housing.

32 (2) One or more such ~~subsidiary~~ *affiliate* corporations may be formed
33 for purposes of acquiring or conveying on behalf of the state and pursuant
34 to this act a project of statewide as well as local importance, issuing bonds
35 on behalf of the state pursuant to this act to finance a project of statewide
36 as well as local importance or otherwise financing on behalf of the state
37 pursuant to this act a project of statewide as well as local importance. The
38 Kansas statewide projects development corporation is hereby created in
39 accordance with this section. *Filing of articles of incorporation of the*
40 *Kansas statewide projects development corporation with the secretary of*
41 *state shall not be required.*

42 (3) *The great plains tobacco settlement financing corporation is*
43 *hereby created in accordance with this section as an affiliate of the au-*

1 *thority, a public body politic and corporate and an independent instru-*
2 *mentality of the state exercising essential public functions, effective upon*
3 *the approval of articles of incorporation by the authority. The five mem-*
4 *bers of the authority, three members of the house of representatives ap-*
5 *pointed by the speaker of the house of representatives, and three members*
6 *of the senate appointed by the president of the senate, shall constitute the*
7 *board of directors of the great plains tobacco settlement financing cor-*
8 *poration. Of the three members appointed by the speaker of the house of*
9 *representatives, not more than two members shall be members of the same*
10 *political party. Of the three members appointed by the president of the*
11 *senate, not more than two members shall be members of the same party.*
12 *The great plains tobacco settlement financing corporation is created for*
13 *the purposes of (A) receiving from the state all or a portion of the tobacco*
14 *assets, as defined in section 1 and amendments thereto, (B) transferring,*
15 *selling, pledging, assigning or otherwise conveying all or a portion of such*
16 *tobacco assets, (C) entering into contracts, including trusts, with any per-*
17 *son or entity, including the state, with respect to or regarding all or any*
18 *portion of the tobacco assets, (D) issuing bonds authorized in subsection*
19 *(h) of K.S.A. 74-8905, and amendments thereto, and (E) issuing other*
20 *obligations secured by all or a portion of such tobacco assets. Filing of*
21 *articles of incorporation of the great plains tobacco settlement financing*
22 *corporation with the secretary of state shall not be required. Each of the*
23 *members of the board of directors of the great plains tobacco settlement*
24 *financing corporation shall receive the amounts provided in subsections*
25 *(a), (b) and (d) of K.S.A. 46-137a, and amendments thereto, for each day*
26 *or portion of a day of attendance at a meeting of the board of directors;*
27 *(w) establish trusts in connection with any of the purposes of this act;*
28 *(x) participate in, administer, coordinate and enter into any agree-*
29 *ments to facilitate or to provide any financings as may be related to any*
30 *tax credit programs which from time to time may be authorized by the*
31 *federal or state government;*
32 *(y) make secured or unsecured loans for any of the purposes for which*
33 *bonds of the authority may be issued under this act to provide financing*
34 *for housing projects and programs established by the United States de-*
35 *partment of housing and urban development or the Kansas department*
36 *of commerce and housing, including the power to issue notes, bonds or*
37 *other obligations of indebtedness, to assist individuals who are moving to*
38 *the state, due to employment opportunities, with the purchase of a single*
39 *family residence; and*
40 *(z) assist, coordinate, administer and participate with governmental*
41 *authorities, bodies, issuers and other public and private entities of states*
42 *other than the state of Kansas (out-of-state entities) in connection with*
43 *the issuance of bonds, notes or other evidence of indebtedness for the*

1 *purpose of financing any facilities whether such facility is located within*
2 *the state of Kansas or outside the state of Kansas. In connection with such*
3 *financings which may include out-of-state issuers, the authority is desig-*
4 *nated as the only entity in the state of Kansas which may conduct the*
5 *public hearing of the applicable governmental unit required by section*
6 *147 (f) of the federal internal revenue code of 1986, as amended, and the*
7 *governor of the state of Kansas is designated as the only entity in the state*
8 *of Kansas who may be the applicable governmental unit pursuant to sec-*
9 *tion 147 (f) of the federal internal revenue code of 1986, as amended.*
10 *Following such hearing the authority shall determine whether such fi-*
11 *nancing should proceed with respect to facilities located within the state*
12 *of Kansas by an out-of-state issuer. If the authority determines that the*
13 *financing should not proceed, the financing shall not proceed relative to*
14 *the Kansas facilities.*

15 Sec. 6. K.S.A. 2001 Supp. 74-8905 is hereby amended to read as
16 follows: 74-8905.(a) The authority may issue bonds, either for a specific
17 activity or on a pooled basis for a series of related or unrelated activities
18 or projects duly authorized by a political subdivision or group of political
19 subdivisions of the state in amounts determined by the authority for the
20 purpose of financing projects of statewide as well as local importance as
21 defined pursuant to K.S.A. 12-1744, and amendments thereto, capital
22 improvement facilities, educational facilities, health care facilities and
23 housing developments. Nothing in this act shall be construed to authorize
24 the authority to issue bonds or use the proceeds thereof to:

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

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

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

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

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

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

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
41 of the authority. The proceeds of such bonds not placed in a venture
42 capital fund or used to pay or reimburse organizational, offering and ad-
43 ministrative expenses and fees necessary to the issuance and sale of such

1 bonds shall be invested and reinvested in such securities and other in-
2 struments 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, includ-
5 ing, but not limited to, equity and debt securities, warrants, options and
6 other rights to acquire such securities, subject to the provisions of the
7 resolution of the authority. The authority shall establish an investment
8 policy with respect to the investment of the funds in a venture capital
9 fund not inconsistent with the purposes of this act. The authority shall
10 enter into an agreement with a management company experienced in
11 venture capital investments to manage and administer each venture cap-
12 ital fund upon terms not inconsistent with the purposes of this act and
13 such investment policy. The authority may establish an advisory board to
14 provide advice and consulting assistance to the authority and the man-
15 agement company with respect to the management and administration of
16 each venture capital fund and the establishment of its investment policy.
17 All fees and expenses incurred in the management and administration of
18 a venture capital fund not paid or reimbursed out of the proceeds of the
19 bonds issued by the authority shall be paid or reimbursed out of such
20 venture capital fund.

21 (e) The authority may issue bonds in one or more series for the pur-
22 pose of financing a project of statewide as well as local importance in
23 connection with a redevelopment plan that is approved by the authority
24 in accordance with K.S.A. 2001 Supp. 74-8921 and 74-8922, and amend-
25 ments thereto.

26 (f) After receiving and approving the feasibility study required pur-
27 suant to K.S.A. 2001 Supp. 74-8936, and amendments thereto, the au-
28 thority may issue bonds in one or more series for the purpose of financing
29 a multi-sport athletic project in accordance with K.S.A. 2001 Supp. 74-
30 8936 through 74-8938, and amendments thereto. If the project is to be
31 constructed in phases, a similar feasibility study shall be performed prior
32 to issuing bonds for the purpose of financing each subsequent phase.

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

1 to resorts and bonds issued pursuant to this subsection.

2 (h) *The great plains tobacco settlement financing corporation is*
3 *hereby authorized and empowered to issue bonds for the purpose of ac-*
4 *quiring tobacco assets, as defined by section 1 and amendments thereto,*
5 *and for paying expenses of authorizing and issuing the bonds, paying*
6 *interest on the bonds until revenues thereof are available in sufficient*
7 *amounts, purchasing bond insurance or other credit enhancements on the*
8 *bonds, and funding such reserves as the great plains tobacco settlement*
9 *financing corporation deems necessary or desirable.*

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

25 ~~(j)~~ (j) Any time the authority is required to publish a notification pur-
26 suant to the tax equity and fiscal responsibility act of 1982, the authority
27 shall further publish such notification in the Kansas register.

28 ~~(k)~~ (k) Any time the authority issues bonds, *other than bonds issued*
29 *pursuant to subsection (b) of this section*, the authority shall publish no-
30 tification of such issuance at least 14 days prior to any bond hearing in
31 the official county newspaper of the county in which the project or activity
32 financed by such bonds are located and in the Kansas register.

33 Sec. 7. K.S.A. 74-8909 is hereby amended to read as follows: 74-
34 8909. Any pledge of revenues, moneys, funds or other property made by
35 the authority *or by an affiliate corporation organized pursuant to subsec-*
36 *tion (v) of K.S.A. 74-8904, and amendments thereto*, shall be valid and
37 binding from the time when such pledge is made and the revenues, mon-
38 eys, funds or other property so pledged and thereafter received by the
39 authority *or such affiliate corporation* shall immediately be subject to the
40 lien of such pledge without such physical delivery thereof or further act
41 on the part of the authority *or such affiliate corporation*, and the lien of
42 any such pledge shall be valid and binding as against all parties having
43 claims of any kind in tort, contract or otherwise against the authority *or*

1 *such affiliate corporation*, irrespective of whether such parties have notice
2 thereof. Neither the authorizing resolution nor any other instrument by
3 which a pledge is created need be filed or recorded except in the records
4 of the authority *or such affiliate corporation*.

5 Sec. 8. K.S.A. 38-2101 and 74-8909 and K.S.A. 2001 Supp. 74-8904
6 and 74-8905 are hereby repealed.

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

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