

3
4 **HOUSE BILL No. 2412**

5
6 By Committee on Appropriations

7
8 2-24

9
10 AN ACT concerning the Kansas development finance authority act; au-
11 thORIZING the sale of certain state tobacco settlement receipts by the
12 state; creating the great plains tobacco settlement financing corpora-
13 tion as an affiliate of the Kansas development finance authority; au-
14 thORIZING the issuance of bonds payable from tobacco asset payments;
15 amending K.S.A. 38-2101, 74-8904, 74-8905 and 74-8909 and repeal-
16 ing the existing sections.

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 New Section 1. (a) The following words or terms used in this section
20 shall have the following meanings unless a different meaning clearly ap-
21 pears from the context:

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

25 (2) "Financing corporation" means the great plains tobacco settle-
26 ment financing corporation created pursuant to subsection (v) of K.S.A.
27 74-8904 and amendments thereto.

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

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

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

42 (6) "Master settlement agreement" means the master settlement
43 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. The asset sale agreement shall provide that the
11 purchase price payable to the state for the tobacco assets sold shall consist
12 of the net proceeds (after capitalized interest, costs, fees, reserves and
13 credit and liquidity enhancements as the financing corporation deter-
14 mines to be desirable in issuing, securing and marketing the bonds) of
15 bonds issued pursuant to subsection (h) of K.S.A. 74-8905 and amend-
16 ments thereto, to the extent such bonds are not refunding bonds, together
17 with any interest in the residual assets or any subordinate interest pro-
18 vided in the asset sale agreement. The purchase price payable to the state
19 from the sale from time to time of all or a portion of the state tobacco
20 settlement receipts including the net proceeds (after capitalized interest,
21 costs, fees, reserves and credit and liquidity enhancements as the financ-
22 ing corporation determines to be desirable in issuing, securing and mar-
23 keting the bonds) from any bonds issued pursuant to subsection (h) of
24 K.S.A. 74-8905, and amendments thereto, shall be deposited in the Kan-
25 sas endowment for youth fund ~~or, at the direction of the state finance~~
26 ~~council, deposited in the state general fund for use as determined by the~~
27 ~~state finance council, acting pursuant to subsection (g).~~

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

42 (d) On and after the effective date of a sale of tobacco assets pursuant
43 to an asset sale agreement, the state shall have no right, title or interest

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

13 (e) Neither the financing corporation nor its assets or liabilities may
14 be consolidated with those of the Kansas development finance authority
15 or the state. The financing corporation may not dissolve, merge or con-
16 solidate with any other entity while any bonds issued pursuant to subsec-
17 tion (h) of K.S.A. 74-8905 and amendments thereto or obligations to
18 holders of such bonds are outstanding. Prior to the date which is 366 days
19 after which the financing corporation no longer has any bonds outstand-
20 ing, the financing corporation is prohibited from being a debtor under
21 chapter 9 of the federal bankruptcy code or such corresponding chapter
22 or provision as may from time to time be in effect, and no public official
23 or entity or other person shall authorize the financing corporation to be
24 a debtor pursuant to such provisions of the federal bankruptcy code.

25 (f) The state pledges and agrees for the benefit of the holders of any
26 bonds issued pursuant to subsection (h) of K.S.A. 74-8905, and amend-
27 ments thereto, in which the financing corporation has included such
28 pledge and agreement, and the holders or beneficiaries of any other ob-
29 ligations in which the financing corporation has included such pledge and
30 agreement, that the state will (1) irrevocably direct the escrow agent un-
31 der the master settlement agreement to transfer all tobacco asset pay-
32 ments directly to the financing corporation or its transferee or assignee,
33 (2) enforce the rights of the financing corporation or its transferee or
34 assignee to receive the tobacco asset payments to the full extent of the
35 state's right to receive state tobacco settlement receipts pursuant to the
36 terms of the master settlement agreement, (3) not amend the master
37 settlement agreement in any manner that would materially impair the
38 rights of the financing corporation or the holders of such bonds or obli-
39 gations to receive tobacco asset payments necessary to make payment on
40 such bonds or obligations, (4) not limit or alter the rights of the financing
41 corporation to fulfill the terms of its agreements with such holders of
42 such bonds or obligations, (5) not authorize the financing corporation to
43 be a debtor under chapter 9 of the federal bankruptcy code or such

1 corresponding chapter or provision of such code as may be, from time to
2 time, in effect and (6) not in any way impair the rights and remedies of
3 such holders of such bonds or obligations or the security for such bonds
4 or obligations until such bonds, together with the interest thereon and all
5 costs and expenses in connection with any action or proceeding by or on
6 behalf of such holders of the bonds, or obligations are fully paid and
7 discharged.

8 (g) The secretary of administration shall obtain the approval of the
9 state finance council, **upon the affirmative vote of the governor and**
10 **seven or more legislative members of the council,**] prior to executing
11 an asset sale agreement. The approval of the asset sale agreement by the
12 state finance council ~~and the direction to deposit proceeds from the sale~~
13 ~~of tobacco assets in the state general fund for use as determined by the~~
14 ~~state finance council are [is] hereby characterized as matters [a matter]~~
15 of legislative delegation and subject to the guidelines prescribed in sub-
16 section (c) of K.S.A. 75-3711c and amendments thereto. ~~Approval of an~~
17 ~~asset sale agreement may be given by the state finance council and di-~~
18 ~~rection to deposit proceeds from the sale of tobacco assets in the state~~
19 ~~general fund may be given by the state finance council when the legis-~~
20 ~~lature is in session.~~

21 (h) The sale of tobacco assets pursuant to subsection (b) shall be by
22 negotiation approved by the secretary of administration and shall be ex-
23 empt from competitive bid requirements applicable to the purchase and
24 sale of property by the state.

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

33 (j) The district court of Shawnee county shall have exclusive jurisdic-
34 tion of any suit brought by or against the financing corporation, and pro-
35 cess in such suit shall be served on the chairperson of the board of di-
36 rectors of the financing corporation.

37 (k) Pursuant to K.S.A. 74-8909, and amendments thereto, any pledge
38 of tobacco asset payments by the financing corporation shall constitute a
39 continuously perfected security interest in all tobacco asset payments ex-
40 isting on the date of the pledge or arising after the date of the pledge
41 and shall have priority over any other subsequent lien on the tobacco
42 asset payments. The priority of such pledge and security interest shall not
43 be affected by any commingling of tobacco settlement payments with

1 other amounts.

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 treas-
15 ury and credited to the Kansas endowment for youth fund, ~~except as~~
16 ~~otherwise directed by the state finance council pursuant to section 1 and~~
17 ~~amendments thereto~~. All such moneys shall constitute an endowment
18 which shall remain credited to the Kansas endowment for youth fund
19 except as provided in this section or in K.S.A. 38-2102 and amendments
20 thereto for transfers to the children's initiatives fund. Expenditures may
21 be made from the Kansas endowment for youth fund for the payment of
22 the operating expenses of the Kansas children's cabinet and the board of
23 trustees, including the expenses of investing and managing the moneys,
24 which are attributable to the Kansas endowment for youth fund. All mon-
25 eys credited to the Kansas endowment for youth fund shall be invested
26 to provide an ongoing source of investment earnings available for periodic
27 transfer to the children's initiatives fund in accordance with this act. All
28 expenditures from the Kansas endowment for youth fund shall be made
29 in accordance with appropriation acts upon warrants of the director of
30 accounts and reports issued pursuant to vouchers approved by the chair-
31 person of the board of trustees of the Kansas public employees retirement
32 system or by the chairperson's 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 Sec. 3. K.S.A. 74-8904 is hereby amended to read as follows: 74-
42 8904. Except as otherwise limited by this act, the authority shall have the
43 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 the Kansas development finance authority*
42 *act regarding the issuance of bonds or the exercise of any other power or*
43 *privilege by the authority shall apply to each affiliate corporation in the*

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

23 (1) One or more such ~~subsidiary~~ *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, [one member of the house of representatives*
5 **appointed by the minority leader of the house of representatives,**
6 **one member of the senate appointed by the minority leader of the**
7 **senate,]** *three members of the house of representatives appointed by the*
8 *speaker of the house of representatives, and three members of the senate*
9 *appointed by the president of the senate, shall constitute the board of*
10 *directors of the great plains tobacco settlement financing corporation. Of*
11 *the three members appointed by the speaker of the house of representa-*
12 *tives, not more than two members shall be members of the same political*
13 *party. Of the three members appointed by the president of the senate, not*
14 *more than two members shall be members of the same party. The great*
15 *plains tobacco settlement financing corporation is created for the follow-*
16 *ing purposes and shall be authorized and empowered to (A) receive from*
17 *the state all or a portion of the tobacco assets, as defined in section 1 and*
18 *amendments thereto, (B) transfer, sell, pledge, assign or otherwise convey*
19 *all or a portion of such tobacco assets, (C) enter into contracts and estab-*
20 *lish trusts with any person or entity, including the state, with respect to*
21 *or regarding all or any portion of the tobacco assets, (D) issue bonds*
22 *authorized in subsection (h) of K.S.A. 74-8905, and amendments thereto,*
23 *provide for the security and repayment of such bonds and enter into*
24 *agreements, contracts or instruments for credit or liquidity enhancement,*
25 *forward purchase or interest rate swaps or exchanges in connection with*
26 *such bonds and (E) issue other obligations secured by all or a portion of*
27 *such tobacco assets. Filing of articles of incorporation of the great plains*
28 *tobacco settlement financing corporation with the secretary of state shall*
29 *not be required. Each of the members of the board of directors of the great*
30 *plains tobacco settlement financing corporation shall receive the amounts*
31 *provided in subsections (a), (b) and (d) of K.S.A. 46-137a, and amend-*
32 *ments thereto, for each day or portion of a day of attendance at a meeting*
33 *of the board of directors; and*

34 *(w) establish trusts in connection with any of the purposes of this act.*

35 Sec. 4. K.S.A. 74-8905 is hereby amended to read as follows: 74-
36 8905. (a) The authority may issue bonds, either for a specific activity or
37 on a pooled basis for a series of related or unrelated activities or projects
38 duly authorized by a political subdivision or group of political subdivisions
39 of the state in amounts determined by the authority for the purpose of
40 financing projects of statewide as well as local importance as defined
41 pursuant to K.S.A. 12-1744, and amendments thereto, capital improve-
42 ment facilities, educational facilities, health care facilities and housing
43 developments. Nothing in this act shall be construed to authorize the

1 authority to issue bonds or use the proceeds thereof to:

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

4 (2) finance any capital improvement facilities, educational facilities or
5 health care facilities which may be financed by the issuance of general
6 obligation or utility revenue bonds of a political subdivision, except that
7 the acquisition by the authority of general obligation or utility revenue
8 bonds issued by political subdivisions with the proceeds of pooled bonds
9 shall not violate the provisions of the foregoing; or

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

15 Nothing in this subsection (a) shall prohibit the issuance of bonds by
16 the authority when any statute specifically authorizes the issuance of
17 bonds by the authority or approves any activity or project of a state agency
18 for purposes of authorizing any such issuance of bonds in accordance with
19 this section and provides an exemption from the provisions of this sub-
20 section (a).

21 (b) The authority may issue bonds for activities and projects of state
22 agencies as requested by the secretary of administration. No bonds may
23 be issued pursuant to this act for any activity or project of a state agency
24 unless the activity or project either has been approved by an appropriation
25 or other act of the legislature or has been approved by the state finance
26 council acting on this matter which is hereby characterized as a matter
27 of legislative delegation and subject to the guidelines prescribed in sub-
28 section (c) of K.S.A. 75-3711c, and amendments thereto. When requested
29 to do so by the secretary of administration, the authority may issue bonds
30 for the purpose of refunding, whether at maturity or in advance of ma-
31 turity, any outstanding bonded indebtedness of any state agency. The
32 revenues of any state agency which are pledged as security for any bonds
33 of such state agency which are refunded by refunding bonds of the au-
34 thority may be pledged to the authority as security for the refunding
35 bonds.

36 (c) The authority may issue bonds for the purpose of financing in-
37 dustrial enterprises, ~~transportation facilities~~, agricultural business enter-
38 prises, educational facilities, health care facilities and housing develop-
39 ments, or any combination of such facilities, or any interest in facilities,
40 including without limitation leasehold interests in and mortgages on such
41 facilities, ~~whether located within or outside of the state of Kansas~~. No less
42 than 30 days prior to the issuance of any bonds authorized under this act
43 with respect to any project or activity ~~within the state of Kansas~~ which is

1 to be undertaken for the direct benefit of any person or entity which is
2 not a state agency or a political subdivision, written notice of the intention
3 of the authority to provide financing and issue bonds therefor shall be
4 given by the president of the authority to the governing body of the city
5 in which the project or activity is to be located. If the project or activity
6 is not proposed to be located within a city, such notice shall be given to
7 the governing body of the county. No bonds for the financing of the
8 project or activity shall be issued by the authority for a one-year period
9 if, within 15 days after the giving of such notice, the governing body of
10 the political subdivision in which the project or activity ~~within the state~~
11 ~~of Kansas~~ is proposed to be located shall have adopted an ordinance or
12 resolution stating express disapproval of the project or activity and shall
13 have notified the president of the authority of such disapproval.

14 (d) The authority may issue bonds for the purpose of establishing and
15 funding one or more series of venture capital funds in such principal
16 amounts, at such interest rates, in such maturities, with such security, and
17 upon such other terms and in such manner as is approved by resolution
18 of the authority. The proceeds of such bonds not placed in a venture
19 capital fund or used to pay or reimburse organizational, offering and ad-
20 ministrative expenses and fees necessary to the issuance and sale of such
21 bonds shall be invested and reinvested in such securities and other in-
22 struments as shall be provided in the resolution under which such bonds
23 are issued. Moneys in a venture capital fund shall be used to make venture
24 capital investments in new, expanding or developing businesses, includ-
25 ing, but not limited to, equity and debt securities, warrants, options and
26 other rights to acquire such securities, subject to the provisions of the
27 resolution of the authority. The authority shall establish an investment
28 policy with respect to the investment of the funds in a venture capital
29 fund not inconsistent with the purposes of this act. The authority shall
30 enter into an agreement with a management company experienced in
31 venture capital investments to manage and administer each venture cap-
32 ital fund upon terms not inconsistent with the purposes of this act and
33 such investment policy. The authority may establish an advisory board to
34 provide advice and consulting assistance to the authority and the man-
35 agement company with respect to the management and administration of
36 each venture capital fund and the establishment of its investment policy.
37 All fees and expenses incurred in the management and administration of
38 a venture capital fund not paid or reimbursed out of the proceeds of the
39 bonds issued by the authority shall be paid or reimbursed out of such
40 venture capital fund.

41 (e) The authority may issue bonds in one or more series for the pur-
42 pose of financing a project of statewide as well as local importance in
43 connection with a redevelopment plan that is approved by the authority

1 in accordance with K.S.A. 74-8921 and 74-8922, and amendments
2 thereto.

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

10 (g) The authority may issue bonds for the purpose of financing resort
11 facilities, as defined in subsection (a) of K.S.A. 32-867, and amendments
12 thereto, in an amount or amounts not to exceed \$30,000,000 for any one
13 resort. The bonds and the interest thereon shall be payable solely from
14 revenues of the resort and shall not be deemed to be an obligation or
15 indebtedness of the state within the meaning of section 6 of article 11 of
16 the constitution of the state of Kansas. The authority may contract with
17 ~~a subsidiary~~ *an affiliate* corporation formed pursuant to subsection (v) of
18 K.S.A. 74-8904, and amendments thereto, or others to lease or operate
19 such resort. The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-
20 873 and 32-874a through 32-874d, and amendments thereto, shall apply
21 to resorts and bonds issued pursuant to this subsection.

22 (h) *The great plains tobacco settlement financing corporation is*
23 *hereby authorized and empowered to issue bonds for the purpose of ac-*
24 *quiring tobacco assets, as defined by section 1 and amendments thereto,*
25 *and for paying expenses of authorizing and issuing the bonds, paying*
26 *interest on the bonds until revenues thereof are available in sufficient*
27 *amounts, purchasing bond insurance or other credit enhancements on the*
28 *bonds, and funding such reserves as the great plains tobacco settlement*
29 *financing corporation deems necessary or desirable.*

30 (i) The authority may use the proceeds of any bond issues herein
31 authorized, together with any other available funds, for venture capital
32 investments or for purchasing, leasing, constructing, restoring, renovat-
33 ing, altering or repairing facilities as herein authorized, for making loans,
34 purchasing mortgages or security interests in loan participations and pay-
35 ing all incidental expenses therewith, paying expenses of authorizing and
36 issuing the bonds, paying interest on the bonds until revenues thereof are
37 available in sufficient amounts, purchasing bond insurance or other credit
38 enhancements on the bonds, and funding such reserves as the authority
39 deems necessary and desirable. All moneys received by the authority,
40 other than moneys received by virtue of an appropriation, are hereby
41 specifically declared to be cash funds, restricted in their use and to be
42 used solely as provided herein. No moneys of the authority other than
43 moneys received by appropriation shall be deposited with the state

1 treasurer.

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

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

10 Sec. 5. K.S.A. 74-8909 is hereby amended to read as follows: 74-
11 8909. Any pledge of revenues, moneys, funds or other property made by
12 the authority *or by an affiliate corporation organized pursuant to subsec-*
13 *tion (v) of K.S.A. 74-8904, and amendments thereto*, shall be valid and
14 binding from the time when such pledge is made and the revenues, mon-
15 eys, funds or other property so pledged and thereafter received by the
16 authority *or such affiliate corporation* shall immediately be subject to the
17 lien of such pledge without such physical delivery thereof or further act
18 on the part of the authority *or such affiliate corporation*, and the lien of
19 any such pledge shall be valid and binding as against all parties having
20 claims of any kind in tort, contract or otherwise against the authority *or*
21 *such affiliate corporation*, irrespective of whether such parties have notice
22 thereof. Neither the authorizing resolution nor any other instrument by
23 which a pledge is created need be filed or recorded except in the records
24 of the authority *or such affiliate corporation*.

25 Sec. 6. K.S.A. 38-2101, 74-8904, 74-8905 and 74-8909 are hereby
26 repealed.

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

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