AN ACT concerning the authority of state agencies to enter into indebtedness on behalf of the state; relating to the issuance of bonds by the Kansas development finance authority; monthly reports by the authority; amending K.S.A. 74-8913 and K.S.A. 2015 Supp. 74-8905 and repealing the existing sections.

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

New Section 1. (a) On and after the effective date of this act, no state agency, any affiliated corporate entity of a state agency or other corporate entity created by a state agency shall enter into the following actions unless such action has first been specifically authorized for such purposes by an appropriation or other act of the legislature or has been approved by the state finance council subject to the provisions of subsection (b), acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto, except that such approval also may be given while the legislature is in session:

(1) Borrow money upon the credit of the state;
(2) contract any indebtedness on the credit of the state. Such indebtedness shall not include accounts payable and purchases using a credit card if such indebtedness is paid within 90 days of the date such indebtedness was entered into;
(3) issue bonds;
(4) acquire real estate by purchase, gift, devise or bequest, if such acquisition is involved in a public-private partnership between a state agency and any affiliated corporate entity of a state agency or other corporate entity created by a state agency;
(5) contract with a third party to maintain, construct or improve any institution or facility on state-owned property in any way if such contract is in an amount that is equal to or exceeds $2,000,000;
(6) make expenditures for maintenance, construction or improvements for any institutions or facilities of such state agency in any way if such expenditure is in an amount that is equal to or exceeds $2,000,000;
(7) pledge as collateral of any type any state-owned institution, facility or property;
(8) enter into an agreement or assignment in which the rent payments are pledged as collateral;

(9) enter into or assume any lease obligation in which the annual liability is in an amount that is equal to or exceeds $1,000,000 or the term of such lease is greater than five years; or

(10) enter into any lease agreement which leases state-owned or managed property to any private entity at a price that is less than fair market value.

(b) (1) The state finance council may approve any action described in subsection (a) if the total cost of such action is:

(A) Equal to or less than $5,000,000; or

(B) more than $5,000,000 but less than $25,000,000 and the state agency sends a certification describing the action to the state building advisory commission and the joint committee on state building construction more than 30 days prior to the request for the approval of the state finance council, and neither the state building advisory commission nor the joint committee on state building construction has scheduled a meeting to consider such action. If such commission or committee has scheduled a meeting to consider such action, the state agency shall not request approval of such action by the state finance council until after such meeting.

(2) The state finance council shall not have the authority to approve any action described in subsection (a) that is equal to or exceeds $25,000,000. Any such action that is equal to or exceeds $25,000,000 shall be approved by an appropriation or other act of the legislature.

(3) The state finance council shall schedule a meeting to consider any approval required by this section within 30 days of request.

(4) The state finance council shall approve any gift, devise or bequest of real estate if such acquisition is in the best interest of the state.

(c) The dollar amounts established in this section shall be interpreted as applying to the entirety of the costs of any single maintenance, construction or improvement project, including concurrent phases of such maintenance, construction or improvement project. No agency shall subvert the provisions of this section by dividing such projects into smaller projects in order to avoid the approvals required by this section.

(d) As used in this section, "state agency" means any state office or officer, department, board, commission, institution, bureau or any other state authority which may lawfully request a state appropriation.

(e) The provisions of this section shall not apply to:

(1) The department of transportation's authority pursuant to K.S.A. 68-2320 or 68-2328, and amendments thereto, or to any other existing statutory grant of authority to the department of transportation.

(2) The authority granted to the university of Kansas hospital
authority pursuant to K.S.A. 76-3308 or 76-3312, and amendments thereto.
(3) State agency information technology projects.
(4) Routine maintenance performed by a state agency, any affiliated corporate entity of a state agency or other corporate entity created by a state agency on any state-owned institution, facility or property.
(5) A state agency refinancing debt, if such refinancing results in a decrease of the total debt liability of the state, including all interest expenses of such refinancing.
(6) The department of labor's authority pursuant to K.S.A. 44-712, and amendments thereto.
(7) Any financial services contract entered into pursuant to K.S.A. 75-3799, and amendments thereto, including services relating to installment purchase, lease, or lease-purchase of equipment, if such contract is in an amount that is less than $1,000,000.
(8) A state agency which is leasing real estate for a special event if such lease is for less than one year in duration.
(9) A state university's investing agent designated under K.S.A. 76-156a, and amendments thereto, or to any transaction between such investing agent and its respective university, or to the officially designated alumni association or athletic corporation of a state university and transactions between such alumni association or athletic corporation and its respective state university.
(10) The issuance of bonds by the Kansas development finance authority for any entity other than a state agency, any affiliated corporate entity of a state agency or other corporate entity created by a state agency.

New Sec. 2. (a) There is hereby created the commission on public-private partnership building projects. The commission shall review the following and make recommendations that the commission deems appropriate to the legislature:
(1) If and when public-private partnership building projects are appropriate;
(2) the selection process used for advertising and awarding a public-private partnership building project;
(3) the limitations or minimum financial participation of any parties involved with public-private partnership building projects;
(4) the provisions of section 1, and amendments thereto;
(5) any other areas of study regarding public-private partnership building projects that the commission deems appropriate; and
(6) if and when a project scope would be competing with the private sector.
(b) The commission shall have 11 members. Each of the following
shall be a member: An appointee of the board of regents, an appointee of
the associated general contractors of Kansas, the chairperson of the senate
committee on ways and means, the chairperson of the house appropriations
committee, a member of the house of representatives appointed by the
speaker of the house of representatives, a member of the house of
representatives appointed by the minority leader of the house of
representatives, a member of the senate appointed by the president of the
senate, a member of the senate appointed by the minority leader of the
senate, an appointee of the governor, an appointee of the American
institute of architects and an appointee of the department of administration.

(c) After adjournment sine die of the 2016 regular session of the
legislature, the commission shall meet to organize. The chairperson and
vice-chairperson shall be appointed by the speaker of the house of
representatives and the president of the senate and shall be members of
different houses of the legislature.

(d) On or before December 31, 2016, the commission shall produce a
report which shall contain recommendations for any legislative or
executive act that the commission deems necessary regarding public-
private partnership building projects.

(e) Members of the commission attending meetings of such
commission, or attending a subcommittee meeting thereof authorized
by such commission, shall be paid compensation, subsistence
allowances, mileage and other expenses as provided in K.S.A. 75-3223,
and amendments thereto.

Sec. 3. K.S.A. 2015 Supp. 74-8905 is hereby amended to read as
follows: 74-8905. (a) The authority may issue bonds, either for a specific
activity or on a pooled basis for a series of related or unrelated activities or
projects duly authorized by a political subdivision or group of political
subdivisions of the state in amounts determined by the authority for the
purpose of financing projects of statewide as well as local importance,
capital improvement facilities, educational facilities, health care facilities
and housing developments. Nothing in this act shall be construed to
authorize the authority to issue bonds or use the proceeds thereof to:

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

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

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

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

(b) The authority may issue bonds for activities and projects of state
agencies as requested by the secretary of administration. Research
facilities of state educational institutions shall be subject to the provisions
of this subsection (b). No bonds may be issued pursuant to this act for any
activity or project of a state agency unless the activity or project has first
either has been specifically approved by an appropriation or other act of
the legislature or has been specifically approved by the state finance
council acting on this matter which is hereby characterized as a matter of
legislative delegation and subject to the guidelines prescribed in subsection
(e) of K.S.A. 75-3711c(c), and amendments thereto. The authority shall
not issue bonds requested by the secretary of administration pursuant to
the powers in K.S.A. 75-3651, and amendments thereto. When requested to
do so by the secretary of administration, the authority may issue bonds for
the purpose of refunding, whether at maturity or in advance of maturity,
any outstanding bonded indebtedness of any state agency. The revenues of
any state agency which are pledged as security for any bonds of such state
agency which are refunded by refunding bonds of the authority may be
pledged to the authority as security for the refunding bonds.

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

(d) The authority may issue bonds for the purpose of establishing and
funding one or more series of venture capital funds in such principal
amounts, at such interest rates, in such maturities, with such security, and
upon such other terms and in such manner as is approved by resolution of
the authority. The proceeds of such bonds not placed in a venture capital
fund or used to pay or reimburse organizational, offering and
administrative expenses and fees necessary to the issuance and sale of such
bonds shall be invested and reinvested in such securities and other
instruments as shall be provided in the resolution under which such bonds
are issued. Moneys in a venture capital fund shall be used to make venture
capital investments in new, expanding or developing businesses, including,
but not limited to, equity and debt securities, warrants, options and other
rights to acquire such securities, subject to the provisions of the resolution
of the authority. The authority shall establish an investment policy with
respect to the investment of the funds in a venture capital fund not
inconsistent with the purposes of this act. The authority shall enter into an
agreement with a management company experienced in venture capital
investments to manage and administer each venture capital fund upon
terms not inconsistent with the purposes of this act and such investment
policy. The authority may establish an advisory board to provide advice
and consulting assistance to the authority and the management company
with respect to the management and administration of each venture capital
fund and the establishment of its investment policy. All fees and expenses
incurred in the management and administration of a venture capital fund
not paid or reimbursed out of the proceeds of the bonds issued by the
authority shall be paid or reimbursed out of such venture capital fund.

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

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

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

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

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

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

Sec. 4. K.S.A. 74-8913 is hereby amended to read as follows: 74-
8913. (a) On or before the 5th day of each month, the authority shall make
a monthly report of its activities for the preceding month to the members
of the state finance council and to the members of the joint committee on
state building construction. Such report shall contain information
pertaining to each financial transaction that the authority has entered into
or is in negotiations to enter into pursuant to the powers granted in K.S.A.
74-8904 or 74-8905, and amendments thereto, during the preceding
month.

(b) On or before the last day of November in each year, the authority
shall make an annual report of its activities for the preceding fiscal year to
the governor and to the legislature. Such report shall contain an audit of
the preceding fiscal year, prepared by a firm of nationally recognized
certified public accountants. On or before the last day of November of
each year, the authority shall provide a written report to the governor and
the legislature with respect to all bonds of the authority issued during the
previous fiscal year, specifying the terms of sale and the costs, fees and
expenses of each such bond issue.

Sec. 5. K.S.A. 74-8913 and K.S.A. 2015 Supp. 74-8905 are hereby
repealed.

Sec. 6. This act shall take effect and be in force from and after its
publication in the Kansas register.