

House Substitute for SENATE BILL No. 173

AN ACT concerning transportation; providing for the Eisenhower legacy transportation program; amending K.S.A. 68-416, 68-2315, 68-2316, 75-5035, 75-5048, 75-5061, 79-3603 and 79-3703 and repealing the existing sections.

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

New Section 1. (a) In order to plan, develop and operate or coordinate the development and operation of the various modes and systems of transportation within the state, the secretary of transportation is hereby authorized and directed to initiate the Eisenhower legacy transportation program.

(b) (1) The Eisenhower legacy transportation program shall provide for the construction, improvement, reconstruction and maintenance of the state highway system. The program shall provide for the selection of projects that will allow for the flexibility to meet emerging and economic needs. Program expenditures may include, but may not be limited to, the following:

(A) Preservation projects to efficiently maintain a state highway system in its original or improved condition and in a state of good repair. The secretary shall establish targets for the state highway system condition that reflect the reasonable, realistic expectations that have historically existed in providing a safe and efficient state highway system. The secretary shall utilize reasonable, sound and accepted methods to determine the annual preservation investment needed to achieve the state targets and provide optimum cost effectiveness in keeping the long-term state highway system condition meeting such targets. It is the intent of the legislature that the secretary, prior to completion of the transportation program, shall spend or encumber from the state highway fund preservation projects in an amount equal to or exceeding 10 times the determined average annual preservation investment. The secretary shall manage cash-flow and project lettings such that there is reasonable assurance that preservation projects shall be fully funded each year. Pursuant to this subparagraph, preservation projects refer to maintenance, repairs or replacement of existing infrastructure. Federal funding from federal grants or federal stimulus may be used for preservation projects;

(B) preservation plus projects to efficiently maintain a state highway system and include additional safety or technology elements, or both, in the preservation project. Such additional elements may include, but may not be limited to, adding paved shoulders, adding passing lanes, adding traffic signals, adding intelligent transportation system elements or laying broadband fiber or the conduit for broadband fiber. It is the intent of the legislature that the secretary has the authority to enhance preservation plus projects with the addition of safety or technology improvements, or both. Federal funding from federal grants or federal stimulus may be used for preservation plus projects;

(C) expansion and economic opportunity projects, that include additions to the transportation system, or that improve access, relieve congestion and enhance economic development opportunities. The Kansas department of transportation shall develop and utilize criteria for the selection of expansion and economic opportunity projects. The selection criteria shall include, but shall not be limited to, engineering and traffic data, local consultation, geographic distribution and an economic impact analysis evaluation; and

(D) modernization projects that include improvements to the transportation system by widening lanes or shoulders, making geometric improvements, upgrading interchanges or building rail grade separations to improve the safety, condition or service of the highway system. The Kansas department of transportation shall develop and utilize criteria for the selection of modernization projects. The selection

criteria shall include, but shall not be limited to, engineering data, local consultation and geographic distribution.

(2) The department of transportation shall develop criteria for the incorporation of practical improvements into designs of the projects specified in this subsection.

(c) Except as further provided, the Eisenhower legacy transportation program shall provide for the completion of modernization and expansion projects selected for construction under the transportation works for Kansas program pursuant to K.S.A. 68-2314b, and amendments thereto. Such projects shall be let prior to July 1, 2023. The secretary shall let to construction contract at least one phase of each remaining transportation works for Kansas program project before any new modernization or expansion project, or both, under the Eisenhower legacy transportation program are let to construction. A transportation works for Kansas program selected project in Harvey county generally described as an approximate one-mile reconstruction of the I-135 and 36<sup>th</sup> street interchange may not be constructed. If such project is not constructed, the estimated construction costs for such project shall be used on other construction projects in the Kansas department of transportation's south-central district.

(d) The Eisenhower legacy transportation program shall provide for assistance, including credit and credit enhancements, to cities and counties in meeting their responsibilities for the construction, improvement, reconstruction and maintenance of transportation improvements. Such programs may use criteria developed by the Kansas department of transportation for the incorporation of practical improvements into designs of projects. Expenditures under this subsection may include, but may not be limited to, the following:

(1) Apportionment of the special city and county highway fund to assist cities and counties with their responsibilities for roads and bridges not on the state highway system;

(2) programs to share federal aid with cities and counties to assist with their responsibilities for roads and bridges not on the state highway system;

(3) programs to assist cities with the maintenance of city connecting links as specified in K.S.A. 68-416, and amendments thereto, and local partnership programs to resurface or geometrically improve city connecting links or to promote economic development;

(4) programs similar to the Kansas department of transportation's local bridge improvement program to aid local public authorities in replacing or repairing bridges not on the state highway system;

(5) programs to assist cities and counties with railroad crossings of roads not on the state highway system; or

(6) programs that allow local governments to exchange federal aid funds for state funds.

(e) The Eisenhower legacy transportation program shall provide for a railroad program to provide assistance in accordance with K.S.A. 75-5040 through 75-5050, and amendments thereto, for the preservation and revitalization of rail service in the state.

(f) The Eisenhower legacy transportation program shall provide for an aviation program to provide assistance for the planning, constructing, reconstructing or rehabilitating the facilities of public use general aviation airports, in accordance with K.S.A. 75-5061, and amendments thereto.

(g) The Eisenhower legacy transportation program shall provide for public transit programs to aid elderly persons, persons with disabilities and the general public, in accordance with K.S.A. 75-5032 through 75-5038 and 75-5051 through 75-5058, and amendments thereto.

(h) The Eisenhower legacy transportation program shall provide for a transportation technology program to provide for multimodal

transportation-related projects that support innovative technology, in accordance with section 2, and amendments thereto.

(i) The Eisenhower legacy transportation program shall provide for a multimodal program to provide transportation improvement assistance for bike facilities, pedestrian facilities or other transportation-sensitive economic opportunities on a local or a regional basis.

(j) The Eisenhower legacy transportation program shall allow the secretary to award certain state highway system projects using alternative delivery procurement methods, other than an award of a design-bid-build, as provided for in section 4, and amendments thereto.

(k) The Eisenhower legacy transportation program shall provide for a broadband infrastructure construction program, in accordance with section 3, and amendments thereto.

(l) (1) State highway fund revenues that include, but are not limited to, motor fuel taxes, vehicle registrations, sales and compensating use taxes and eligible federal aid shall be used in the following order of priority:

- (A) To pay bond covenant obligations;
- (B) to pay for agency operations;
- (C) to make city connecting link payments authorized under K.S.A. 68-416, and amendments thereto; and
- (D) to pay for needed preservation projects as set forth in subsection (b)(1).

(2) Any such revenues not spent pursuant to subsection (l)(1)(A) through (D) may be used for other purposes and authority given to the secretary.

(3) All new bonds issued for the purposes of the Eisenhower legacy transportation program shall be paid using all state highway fund revenue, including revenue collected or received pursuant to K.S.A. 79-3620(c) and 79-3710(c), and amendments thereto.

(m) (1) The secretary shall, using the Kansas department of transportation selection methods and criteria, determine the projects to be selected for inclusion under the Eisenhower legacy transportation program. Consideration may be given to additional criteria that may include projects that:

- (A) Remove transportation infrastructure from the state highway system;
- (B) identify priority corridors;
- (C) include local monetary participation; or
- (D) reduce project size.

(2) (A) It is the intent of the legislature that the secretary shall develop a metric-driven process that determines a reasonable and fair minimum amount of state highway fund moneys to be spent on new modernization and expansion projects in each of the Kansas department of transportation's districts over the duration of the Eisenhower legacy transportation program.

(B) The process for determining the minimum amount of modernization and expansion project moneys shall be subject to the following:

(i) Adding together the minimum moneys set for each of the Kansas department of transportation's districts pursuant to paragraph (2)(A), the total shall be at least 50% of the estimated cost of constructing all modernization and expansion projects let to contract in the Eisenhower legacy transportation program.

(ii) If the estimated cost of constructing all modernization and expansion projects in the Eisenhower legacy transportation program increases or decreases by more than 10%, then the minimum amount will be adjusted accordingly while still satisfying subparagraph (2)(B)(i).

(iii) For each of the Kansas department of transportation's districts, at

least 40% of the minimum amounts determined in paragraph (2)(A), or adjusted amounts according to paragraph (2)(B)(ii), shall be let to construction contract by the end of year five of the Eisenhower legacy transportation program, and 100% of the minimum amounts determined in paragraph (2)(A), or adjusted amounts according to paragraph (2)(B)(ii), shall be let to construction contract by year 10 of the Eisenhower legacy transportation program.

(iv) Any modernization or expansion projects remaining from the transportation works for Kansas program pursuant to K.S.A. 68-2314b, and amendments thereto, shall not be considered when determining the minimum amounts in paragraph (2)(A) or (2)(B)(i).

(3) The secretary shall select projects for development every two years. The secretary shall select projects for construction every two years. The secretary is not required to construct every project selected for development. The selection of projects for development and construction shall take place every two years, after consultation with local jurisdictions.

(n) It is the intent of the legislature that the secretary take the actions necessary to have transportation improvement projects ready to let to construction as cash-flow management allows.

(o) The secretary, prior to June 30, 2030, shall develop a long-range transportation plan that examines, but is not limited to, transportation policy, project selection criteria and selection methods used in the Eisenhower legacy transportation program, transportation funding sources and Eisenhower legacy transportation program project categories. The long-range transportation plan shall make recommendations for a new transportation program for the state of Kansas. The long-range transportation plan shall be developed after consultation with the governor of the state of Kansas and state and local elected officials.

New Sec. 2. (a) The secretary of transportation is hereby authorized and empowered to participate in projects or make grants for projects, the purpose of which is the planning, assessment and fielding of new capabilities and innovative technology for all modes of transportation, including, but not limited to, aviation and highway transportation. Such new capabilities should represent increased efficiency for state operations, public cost savings, increased safety or economic development.

(b) There is hereby established in the state treasury the transportation technology development fund. All moneys credited to such fund shall be used to provide assistance with the planning, assessment and fielding of new capabilities for all modes of transportation, including, but not limited to, aviation and highway transportation. All expenditures from such fund shall be made in accordance with the provisions of appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee.

(c) Grants made by the secretary from the transportation technology development fund shall be made upon such terms and conditions as the secretary may deem appropriate, and such grants shall be made from funds credited to the transportation technology development fund.

(d) On July 1, 2020, and each July 1 thereafter through July 1, 2030, the director of accounts and reports shall transfer \$2,000,000 from the state highway fund to the transportation technology development fund. The secretary is hereby authorized to transfer additional moneys to the transportation technology development fund from the state highway fund, and moneys from the transportation technology development fund to the state highway fund.

New Sec. 3. (a) The secretary of transportation is hereby authorized and empowered to make grants for construction projects, the purpose of which is to expand and improve broadband service in the state of Kansas. The secretary of transportation is authorized to make such grants when

working jointly with the office of broadband development within the department of commerce.

(b) There is hereby established in the state treasury the broadband infrastructure construction grant fund. All moneys credited to such fund shall be used to provide grants for the expansion of broadband service in the state of Kansas. All expenditures from such fund shall be made in accordance with the provisions of appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or the secretary's designee.

(c) Grants made by the secretary of transportation from the broadband infrastructure construction grant fund shall reimburse grant recipients for up to 50% of actual construction costs in expanding and improving broadband service in the state of Kansas. Such grant reimbursements shall be upon such terms and conditions as the secretary of transportation may deem appropriate, in coordination with the secretary of commerce.

(d) On July 1, 2020, and each July 1 thereafter through July 1, 2022, the director of accounts and reports shall transfer \$5,000,000 from the state highway fund to the broadband infrastructure construction grant fund. On July 1, 2023, and each July thereafter through July 1, 2030, the director of accounts and reports shall transfer \$10,000,000 from the state highway fund to the broadband infrastructure construction grant fund. At the end of each fiscal year, the secretary of transportation is hereby authorized to notify the director of accounts and reports to transfer all remaining and unencumbered funds from the broadband infrastructure construction grant fund to the state highway fund.

New Sec. 4. (a) The Eisenhower legacy transportation program shall allow the secretary of transportation to award certain state highway system projects using alternative delivery procurement methods other than award of a design-bid-build contract to the lowest bidder as provided in K.S.A. 68-410, and amendments thereto, subject to the following:

(1) Projects selected for alternative delivery shall not include preservation projects as described in section 1, and amendments thereto;

(2) alternative delivery may be used on three projects utilizing toll revenues for construction and maintenance of the project. One project utilizing toll revenues may be let to construction once every three years;

(3) not more than 3% of dollars spent in the Eisenhower legacy transportation program shall be used on alternative delivery. An additional 2% of dollars spent in the Eisenhower legacy transportation program shall be available for use on alternative delivery starting in fiscal year 2023. The dollar value of the three projects utilizing toll revenues referenced in paragraph (2) and projects obtained through federal grants or federal stimulus shall not be considered in determining the limits set forth in this paragraph; and

(4) any project utilizing alternative delivery shall equal or exceed \$100,000,000 in costs.

(b) In addition to the requirements in subsection (a), alternative delivery projects in the Eisenhower legacy transportation program shall be subject to the following requirements and restrictions:

(1) Procurement methods for transportation alternative delivery projects may provide for a single contract or multiple contracts that include, but are not limited to, services for preconstruction, design, construction, construction management, maintenance, operation, financing or a combination thereof;

(2) the Kansas department of transportation shall develop and utilize criteria for selecting whether alternative delivery or design-bid-build procurement process is in the best interest of the state. No project will be selected for alternative delivery without having been evaluated under the selection criteria established by the department. The selection criteria

shall include, but not be limited to, the need for accelerated schedule, safety needs, project complexity, opportunity for innovation and economic development;

(3) the Kansas department of transportation shall develop and utilize procedures for advertising proposals, receiving proposals, evaluating proposals, awarding contracts and administering contracts in its alternative delivery procurement program, and the procurement procedures in K.S.A. 68-408 through 68-410, 75-430a and 75-5804 through 75-5807, and amendments thereto, shall not apply to transportation alternative delivery projects.

(c) Notwithstanding any requirements set forth in subsections (b) or (c), the alternative delivery procedures shall include:

(1) A two-phase best value competitive selection or contracting process in which the first phase consists of short listing no more than four proposers based on qualifications identified in the request for qualifications and the second phase consists of the submission of price or technical proposals, or both, in response to a request for proposal;

(2) advertisement of requests for qualifications in the Kansas register for at least three consecutive weeks;

(3) prequalification of contractors performing construction and of firms performing professional technical services by the secretary in accordance with existing state statutes, regulations, and department procedures governing prequalification and licensing;

(4) a bond for performance and payment or alternative security guaranteeing contract performance and payment obligations for supplies, materials and labor furnished for the alternative delivery project; and

(5) a requirement that firms and key personnel identified in the qualifications phase and scored to determine the shortlist may not be replaced during the alternative delivery project without the Kansas department of transportation's written approval.

(d) Notwithstanding any other provision of law to the contrary, a contracting entity selected for an alternative delivery project shall not be in violation of K.S.A. 74-7001 et seq., and amendments thereto, and the contract entered into by such contractor shall not be void if such contractor obtains the professional services by subcontracting with an entity or entities duly licensed or holding a certificate of authorization to perform professional services in accordance with K.S.A. 74-7001 et seq., and amendments thereto.

(e) Notwithstanding the provisions of K.S.A. 68-419a, and amendments thereto, a contracting entity selected for an alternative delivery project that is responsible for preparing or furnishing design plans and specifications, through its own organization or by subcontracting as provided in subsection (d), shall be liable for damages arising out of design defects in such plans and specifications resulting in injury to persons or damage to property, occurring after completion of the contract and acceptance thereof by the Kansas department of transportation, if and to the extent such injury or damage arises out of a failure to exercise the degree of learning and skill ordinarily possessed by a reputable contractor or by a technical professional practicing in Kansas in the same or similar locality and under similar circumstances. Nothing contained in this subsection shall be construed as abrogating, limiting or otherwise affecting any cause of action accruing to the state or any agency or instrumentality thereof that was a party to such contract.

New Sec. 5. (a) There is hereby established in the state treasury the short line rail improvement fund. The short line rail improvement fund shall be administered by the secretary of transportation. Expenditures from the short line rail improvement fund may be made for any qualified railroad track maintenance expenditure constructed by an eligible entity. Qualified railroad track maintenance expenditures shall be matched on a

70% state moneys to 30% eligible entity moneys basis. All expenditures from the short line rail improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or the secretary's designee.

(b) On July 1, 2020, and each July 1 thereafter through July 1, 2022, the director of accounts and reports shall transfer \$5,000,000 from the state highway fund to the short line rail improvement fund.

(c) For purposes of this section:

(1) "Eligible entity" means:

(A) A class II or class III railroad as defined in 49 C.F.R. § 1201.1-1(a), as in effect on January 1, 2020; or

(B) any owner or lessee industry track located on or adjacent to a class II or class III railroad in the state of Kansas; and

(2) "qualified railroad track maintenance expenditure" means gross expenditures for maintenance, reconstruction or replacement of railroad track, including roadbed, bridges, industrial leads and side track, and related track structures to the extent the expenditures are on track located in the state of Kansas, and the track was owned or leased by an eligible entity as of January 1, 2020.

New Sec. 6. (a) The secretary of transportation is directed to develop a driver's education scholarship grant program to assist qualified individuals to become safe drivers. Subject to the limitations of appropriations therefor, any entity that desires to provide a driver's education program may submit an application for a competitive grant of moneys in an amount to be determined by the secretary for the purpose of paying the costs of scholarships to attend a driver's education program. A scholarship for a qualified individual shall not exceed \$200 and shall be awarded upon completion of the driver's education program. The secretary shall administer the provisions of this section and may adopt rules and regulations establishing additional criteria for qualification for a grant and such other matters deemed necessary by the secretary for the administration of this section.

(b) The provisions of this section shall expire on June 30, 2023. On or before January 9, 2023, the secretary shall provide a report to the house of representatives appropriations and transportation committees and the senate ways and means and transportation committees on the driver's education scholarship grant program.

(c) As used in this section:

(1) "Federal poverty level" means the most recent poverty income guidelines published in the calendar year by the United States department of health and human services.

(2) "Qualified individual" means an individual who resides within the state of Kansas, is under 30 years of age and whose household income is positive and not more than 200% of the federal poverty level for the tax year prior to the year in which the application is submitted.

Sec. 7. K.S.A. 68-416 is hereby amended to read as follows: 68-416. The state highway fund shall be apportioned as follows:

(a) The secretary of transportation annually shall apportion and distribute quarterly, on the first day of January, April, July and October, to cities on the state highway system from the state highway fund moneys at the rate of ~~\$3,000~~ \$5,000 per year per lane per mile for the maintenance of streets and highways in cities designated by the secretary as city connecting links. Unless a consolidated street and highway fund is established pursuant to K.S.A. 12-1,119, and amendments thereto, all moneys distributed by the secretary shall be credited to the street and alley funds of such cities. All moneys so distributed shall be used solely for the maintenance of city connecting links. Maintenance of such city connecting links shall be as prescribed in K.S.A. 68-416a, and

amendments thereto. As used in this subsection, "lane" means the portion of the roadway for use of moving traffic of a standard width prescribed by the secretary. In lieu of such apportionment, the secretary, by and with the consent of the governing body of any city within the state of Kansas, may maintain such streets within the city and pay for such maintenance from the highway fund.

(b) All of the remainder of such highway fund shall be used by the secretary of transportation for:

(1) The construction, improvement, reconstruction and maintenance of the state highway system;

(2) improvements in transportation programs to aid elderly persons, persons with disabilities and the general public;

(3) for any purpose specified in K.S.A. 68-2314b, and amendments thereto;

(4) *for any purpose specified in section 1, and amendments thereto;*

(5) the support and maintenance of the department of transportation;

~~(5)~~(6) the expenses of administering the motor vehicle registration and drivers' license laws; and

~~(6)~~(7) the payment of losses to department of transportation employees authorized by K.S.A. 75-5062, and amendments thereto.

Sec. 8. K.S.A. 68-2315 is hereby amended to read as follows: 68-2315. (a) Annually, prior to the 10<sup>th</sup> day of each regular session of the legislature, the secretary of transportation shall submit a written report to the governor and each member of the legislature providing:

~~(a)~~(1) Summary financial information and a statement of assurance that the department of transportation has prepared a comprehensive financial report of all funds for the preceding year which includes a report by independent public accountants attesting that the financial statements present fairly the financial position of the Kansas department of transportation in conformity with generally accepted accounting principles and a notification that the complete comprehensive financial report, including the auditor's report is available upon request;

~~(b)~~(2) *for the report due in 2021, a detailed explanation of the methods or criteria employed in the selection of transportation projects under K.S.A. 68-2314b(b), and amendments thereto, and in the awarding of assistance to cities, counties or other transportation providers;*

(3) a detailed explanation of the methods or criteria employed in the selection of transportation projects under ~~subsection (b) of K.S.A. 68-2314b~~ *section 1(b) and (d)(1) through (d)(6)*, and amendments thereto, and in the awarding of assistance to cities, counties or other transportation providers, *including an explanation of the amounts expended and projects selected for construction, projects selected for development and when and where the next local consults are to take place;*

~~(c) the proposed allocation and expenditure of moneys and proposed work plan for the current fiscal year and at least the next five years;~~

~~(d) information concerning construction work completed in the preceding fiscal year and construction work in progress;~~

(4) *anticipated annual payouts of construction projects already under contract and any proposed construction projects for the next three fiscal years. Such payouts shall be listed separately for those payouts for preservation projects from payouts for modernization and expansion projects;*

(5) *proposed construction projects to be let to contract in the current fiscal year and anticipated breakdown of anticipated annual payouts for the next three fiscal years for those projects;*

(6) *a detailed breakdown of anticipated annual expenditures for the next three fiscal years on remaining agency debt service, programs and operations;*

(7) *annual expenditures from paragraphs (4) through (6);*

(8) *a comparison of annual revenue expected into the state highway fund, including state highway fund ending balance carryovers, for the next three fiscal years;*

(9) *for any construction project let in the Eisenhower legacy transportation program that is more than \$5,000,000, an explanation of all initial bids submitted for such project and the actual final cost of construction for such project;*

(10) *all revenue available for the state highway fund, including, but not limited to, the state highway fund balance from the previous year, motor fuel taxes, registration fees, sales and compensating use taxes and bond proceeds;*

(11) *all committed expenditures identified by the program, including, but not limited to, debt service payments, agency operations, aviation, transit, rail, cost-share, innovative technology, local bridge, project development costs by category, including, but not limited to, right-of-way purchases, engineering and utility relocation costs and construction payouts by program category, including, but not limited to, preservation, modernization and expansion;*

(12) *a report of remaining outstanding projects that have been let but have not been paid out and how those projects have been identified to achieve state highway system condition targets. If such targets are not achieved with current projects or identified future projects, a report on additional funding necessary to achieve state highway system condition targets;*

~~(13)~~ *information concerning the operation and financial condition of the transportation revolving fund;*

~~(14)~~ *the annual allocation and expenditure of moneys from the coordinated public transportation assistance fund under K.S.A. 75-5035, and amendments thereto;*

~~(15)~~ *the annual allocation and expenditure of moneys from the rail service improvement fund under K.S.A. 75-5048, and amendments thereto, including specific information relating to any grants or loans made under such program;*

~~(16)~~ *the annual allocation and expenditure of moneys from the public use general aviation airport development fund under K.S.A. 75-5061, and amendments thereto, including specific information relating to grants made under such program;*

*(17) the annual allocation and expenditure of moneys from the transportation technology development fund under section 2, and amendments thereto, including specific information relating to grants made pursuant to section 2, and amendments thereto;*

*(18) the annual allocation and expenditure of moneys from the broadband infrastructure construction grant fund under section 3, and amendments thereto, including specific information relating to grants made pursuant to section 3, and amendments thereto;*

*(19) information concerning funding shifts between the state highway fund and the funds specified in subsections (a)(14) through (a)(17);*

*(20) for the report due in 2021, specific recommendations for any statutory changes necessary for the successful completion of the transportation program specified in K.S.A. 68-2314b, and amendments thereto, or efficient and effective operation of the Kansas department of transportation;*

~~(21)~~ *specific recommendations for any statutory changes necessary for the successful completion of the transportation program specified in ~~K.S.A. 68-2314b~~ section 1, and amendments thereto, or efficient and effective operation of the Kansas department of transportation; and*

*(22) information concerning the condition and performance of the*

*state highway system; and*

(23) an explanation of any material changes from the previous annual report.

(b) *In addition to the governor and each member of the legislature, the secretary shall post the report on the official internet page for the Kansas department of transportation and shall provide notice of the online posting to all persons or entities requesting such notice. Persons or entities requesting notice shall provide the secretary an email address via the Kansas department of transportation's official internet page.*

Sec. 9. K.S.A. 68-2316 is hereby amended to read as follows: 68-2316. (a) For the period beginning July 1, 2010, through June 30, 2020, the secretary of transportation shall expend or commit to expend, from the revenue provided under the provisions of the transportation works for Kansas program, at least \$8,000,000 for projects or programs authorized under K.S.A. 68-2314b, and amendments thereto, in each county of the state.

(b) *For the period beginning July 1, 2020, through June 30, 2030, the secretary shall expend or commit to expend, from the revenue provided under the provisions of the Eisenhower legacy transportation program, at least \$8,000,000 for projects or programs authorized under section 1, and amendments thereto, in each county of the state.*

Sec. 10. K.S.A. 75-5035 is hereby amended to read as follows: 75-5035. (a) There is hereby established in the state treasury the coordinated public transportation assistance fund. Any expenditures from the fund shall be for the coordinated development, improvement or maintenance of transportation systems for elderly persons, persons with disabilities or the general public under this act and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person designated by the secretary.

(b) (1) On July 1, 1999, and each July 1 thereafter through July 1, 2012, the director of accounts and reports shall transfer \$6,000,000 from the state highway fund to the coordinated public transportation assistance fund.

(2) On July 1, 2013, and each July 1, thereafter, the director of accounts and reports shall transfer \$11,000,000 from the state highway fund to the coordinated public transportation assistance fund. *The secretary is hereby authorized to transfer additional moneys to the coordinated public transportation assistance fund from the state highway fund and moneys from the coordinated public transportation assistance fund to the state highway fund. In no event shall the amount remaining in the fund and the amount spent or dedicated for grants or projects for public transportation in each fiscal year fall below \$11,000,000.*

Sec. 11. K.S.A. 75-5048 is hereby amended to read as follows: 75-5048. (a) The secretary of transportation is hereby authorized to make loans or grants to a qualified entity for the purpose of facilitating the financing, acquisition or rehabilitation of railroads and rolling stock in the state of Kansas.

(b) Such loans or grants shall be made upon such terms and conditions as the secretary of transportation may deem appropriate, and such loans or grants shall be made from funds credited to the rail service improvement fund.

(c) The rail service improvement fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition and rehabilitation of railroads pursuant to subsection (a) of this section and for the refinancing thereof. The secretary of transportation shall administer the rail service improvement fund. All expenditures from the rail service improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports

issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(d) All moneys received from the federal government, pursuant to K.S.A. 75-5026, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the rail service improvement fund.

(e) The management and investment of the rail service improvement fund shall be in accordance with K.S.A. 68-2324, and amendments thereto. Notwithstanding anything to the contrary, all interest or other income of the investments, after payment of any management fees, shall be considered income of the rail service improvement fund.

(f) On July 1, 2013, and each July 1 thereafter, the director of accounts and reports shall transfer \$5,000,000 from the state highway fund to the rail service improvement fund. ~~(g) The secretary of transportation is hereby authorized to transfer moneys from the state highway fund to the rail service improvement fund or from the rail service improvement fund to the state highway fund. In transferring moneys from the rail service improvement fund, the secretary of transportation shall not diminish the moneys transferred under subsection (f) In no event shall the amount remaining in the rail service fund and the amount spent or dedicated for loans or grants in each fiscal year be less than \$5,000,000.~~

~~(h)~~(g) As used in this section, "qualified entity" means any interstate commerce commission certificated railroad, a port authority established in accordance with Kansas laws, or any entity meeting the rules and regulations established by K.S.A. 75-5050, and amendments thereto.

Sec. 12. K.S.A. 75-5061 is hereby amended to read as follows: 75-5061. (a) The secretary of transportation is hereby authorized and empowered to: (1) Solicit and receive moneys from any public or private sources; and (2) establish and administer a grant program for public use general aviation airports for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of such public use general aviation airports.

(b) Such grants shall be made upon such terms and conditions as the secretary of transportation deems appropriate, and such grants shall be made from funds credited to the public use general aviation airport development fund.

(c) The public use general aviation airport development fund is hereby established in the state treasury which shall be for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of public use general aviation airports pursuant to subsection (a) of this section. All moneys received pursuant to subsection (a) shall be remitted to the state treasurer at least monthly and deposited in the state treasury to the credit of the public use general aviation airport development fund. The secretary of transportation shall administer the public use general aviation airport development fund. All expenditures from the public use general aviation airport development fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(d) (1) On July 1, 1999, and each July 1 thereafter through July 1, 2012, the director of accounts and reports shall transfer \$3,000,000 from the state highway fund to the public use general aviation airport development fund.

(2) On July 1, 2013, and each July 1; thereafter, the director of accounts and reports shall transfer \$5,000,000 from the state highway fund to the public use general aviation airport development fund. *The secretary is hereby authorized to transfer additional moneys to the public*

*use general aviation airport development fund from the state highway fund, and moneys from the public use general aviation airport development fund to the state highway fund. In no event shall the amount remaining in the public use general aviation airport development fund and the amount spent or dedicated for grants in each fiscal year be less than \$5,000,000.*

(e) As used in this section, "public use general aviation airport" means any airport available for use by the general public for the landing and taking off of aircraft, but shall not include any airport classified as a primary airport by the federal aviation administration.

(f) ~~The secretary of transportation~~ may adopt rules and regulations for the purpose of implementing the provisions of this section.

Sec. 13. K.S.A. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of ~~6.15%, and commencing July 1, 2015, at the rate of 6.5%. On and after July 1, 2021, 16.154% of the 6.5% rate imposed shall be levied for the state highway fund, the state highway fund purposes and those purposes specified in K.S.A. 68-416, and amendments thereto, and all revenue collected and received from such tax levy shall be deposited in the state highway fund.~~ Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at

any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501, and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto, but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and

charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of paragraph (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 79-3673, and amendments thereto;

(v) all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section; and

(w) all sales of charitable raffle tickets in accordance with K.S.A. 75-5171 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 14. K.S.A. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every

person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 6.5%. *On and after July 1, 2021, 16.154% at the 6.5% rate imposed shall be levied for the state highway fund, the state highway fund purposes and those purposes specified in K.S.A. 68-416, and amendments thereto, and all revenue collected and received from such tax levy shall be deposited in the state highway fund.* Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 15. K.S.A. 68-416, 68-2315, 68-2316, 75-5035, 75-5048, 75-5061, 79-3603 and 79-3703 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the  
SENATE, and passed that body

\_\_\_\_\_

SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*