

House Substitute for SENATE BILL No. 173

By Committee on Appropriations

3-16

1 AN ACT concerning transportation; providing for the Eisenhower legacy
2 transportation program; amending K.S.A. 68-416, 68-2315, 68-2316,
3 75-5035, 75-5048, 75-5061, 79-3603 and 79-3703 and repealing the
4 existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

35 (B) preservation plus projects to efficiently maintain a state highway
36 system and include additional safety or technology elements, or both, in

1 the preservation project. Such additional elements may include, but may
2 not be limited to, adding paved shoulders, adding passing lanes, adding
3 traffic signals, adding intelligent transportation system elements or laying
4 broadband fiber or the conduit for broadband fiber. It is the intent of the
5 legislature that the secretary has the authority to enhance preservation plus
6 projects with the addition of safety or technology improvements, or both;

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

15 (D) modernization projects that include improvements to the
16 transportation system by widening lanes or shoulders, making geometric
17 improvements, upgrading interchanges or building rail grade separations to
18 improve the safety, condition or service of the highway system. The
19 Kansas department of transportation shall develop and utilize criteria for
20 the selection of modernization projects. The selection criteria shall include,
21 but shall not be limited to, engineering data, local consultation and
22 geographic distribution.

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

26 (c) Except as further provided, the Eisenhower legacy transportation
27 program shall provide for the completion of modernization and expansion
28 projects selected for construction under the transportation works for
29 Kansas program pursuant to K.S.A. 68-2314b, and amendments thereto.
30 Such projects shall be let prior to July 1, 2022. The secretary shall let to
31 construction contract the remaining transportation works for Kansas
32 program projects before any new modernization or expansion project, or
33 both, under the Eisenhower legacy transportation program are let to
34 construction. A transportation works for Kansas program selected project
35 in Harvey County generally described as an approximate one-mile
36 reconstruction of the I-135 and 36th street interchange may not be
37 constructed. If such project is not constructed, the estimated construction
38 costs for such project shall be used on other construction projects in the
39 Kansas department of transportation's south-central district.

40 (d) The Eisenhower legacy transportation program shall provide for
41 assistance, including credit and credit enhancements, to cities and counties
42 in meeting their responsibilities for the construction, improvement,
43 reconstruction and maintenance of transportation improvements. Such

1 programs may use criteria developed by the Kansas department of
2 transportation for the incorporation of practical improvements into designs
3 of projects. Expenditures under this subsection may include, but may not
4 be limited to, the following:

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

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

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

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

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

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

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

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

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

34 (h) The Eisenhower legacy transportation program shall provide for a
35 transportation technology program to provide for multimodal
36 transportation-related projects that support innovative technology, in
37 accordance with section 2, and amendments thereto.

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

42 (j) The Eisenhower legacy transportation program shall allow the
43 secretary to award certain state highway system projects using alternative

1 delivery procurement methods, other than an award of a design-bid-build,
2 as provided for in section 4, and amendments thereto.

3 (k) The Eisenhower legacy transportation program shall provide for a
4 broadband infrastructure construction program, in accordance with section
5 3, and amendments thereto.

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

10 (A) To pay bond covenant obligations;

11 (B) to pay for agency operations;

12 (C) to make city connecting link payments authorized under K.S.A.
13 68-416, and amendments thereto; and

14 (D) to pay for needed preservation projects as set forth in subsection
15 (b)(1).

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

19 (3) All new bonds issued for the purposes of the Eisenhower legacy
20 transportation program shall be paid using **{all state highway fund**
21 **revenue, including}** revenue collected or received pursuant to K.S.A. 79-
22 3620(c) and 79-3710(c), and amendments thereto.

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

28 (A) Remove transportation infrastructure from the state highway
29 system;

30 (B) identify priority corridors;

31 (C) include local monetary participation; or

32 (D) reduce project size.

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

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

42 (i) Adding together the minimum moneys set for each of the Kansas
43 department of transportation's six districts pursuant to paragraph (2)(A),

1 the total shall be at least 50% of the estimated cost of constructing all
2 modernization and expansion projects let to contract in the Eisenhower
3 legacy transportation program.

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

8 (iii) For each of the Kansas department of transportation's six
9 districts, at least 40% of the minimum amounts determined in paragraph
10 (2)(A), or adjusted amounts according to paragraph (2)(B)(ii), shall be let
11 to construction contract by year five of the Eisenhower legacy
12 transportation program, and 100% of the minimum amounts determined in
13 paragraph (2)(A), or adjusted amounts according to paragraph (2)(B)(ii),
14 shall be let to construction contract by year 10 of the Eisenhower legacy
15 transportation program.

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

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

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

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

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

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

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

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

20 New Sec. 3. (a) The secretary of transportation is hereby authorized
21 and empowered to make grants for construction projects, the purpose of
22 which is to expand and improve broadband service in the state of Kansas.
23 The secretary of transportation is authorized to make such grants when
24 working jointly with the office of broadband development within the
25 department of commerce.

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

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

40 (d) On July 1, 2020, and each July 1 thereafter through July 1, 2022,
41 the director of accounts and reports shall transfer \$5,000,000 from the state
42 highway fund to the broadband infrastructure construction grant fund. On
43 July 1, 2023, and each July thereafter through July 1, 2030, the director of

1 accounts and reports shall transfer \$10,000,000 from the state highway
2 fund to the broadband infrastructure construction grant fund. At the end of
3 each fiscal year, the secretary of transportation is hereby authorized to
4 notify the director of accounts and reports to transfer all remaining and
5 unencumbered funds from the broadband infrastructure construction grant
6 fund to the state highway fund.

7 New Sec. 4. (a) The Eisenhower legacy transportation program shall
8 allow the secretary of transportation to award certain state highway system
9 projects using alternative delivery procurement methods other than award
10 of a design-bid-build contract to the lowest bidder as provided in K.S.A.
11 68-410, and amendments thereto. Alternative delivery procurement
12 methods shall only be used when such methods are a condition of projects
13 obtained through federal grants.

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

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

22 (2) the Kansas department of transportation shall develop and utilize
23 criteria for selecting whether alternative delivery or design-bid-build
24 procurement process is in the best interest of the state. No project will be
25 selected for alternative delivery without having been evaluated under the
26 selection criteria established by the department. The selection criteria shall
27 include, but not be limited to, the need for accelerated schedule, safety
28 needs, project complexity, opportunity for innovation and economic
29 development;

30 (3) the Kansas department of transportation shall develop and utilize
31 procedures for advertising proposals, receiving proposals, evaluating
32 proposals, awarding contracts and administering contracts in its alternative
33 delivery procurement program, and the procurement procedures in K.S.A.
34 68-408 through 68-410, 75-430a and 75-5804 through 75-5807, and
35 amendments thereto, shall not apply to transportation alternative delivery
36 projects.

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

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

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

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

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

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

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

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

37 New Sec. 5. (a) There is hereby established in the state treasury the
38 short line rail improvement fund. The short line rail improvement fund
39 shall be administered by the secretary of transportation. Expenditures from
40 the short line rail improvement fund may be made for any qualified
41 railroad track maintenance expenditure constructed by an eligible entity.
42 Qualified railroad track maintenance expenditures shall be matched on a
43 70% state moneys to 30% eligible entity moneys basis. All expenditures

1 from the short line rail improvement fund shall be made in accordance
2 with appropriation acts upon warrants of the director of accounts and
3 reports issued pursuant to vouchers approved by the secretary of
4 transportation or the secretary's designee.

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

8 (c) For purposes of this section:

9 (1) "Eligible entity" means:

10 (A) A class II or class III railroad as defined in 49 C.F.R. § 1201.1-
11 1(a), as in effect on January 1, 2020; or

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

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

20 Sec. 6. K.S.A. 68-416 is hereby amended to read as follows: 68-416.
21 The state highway fund shall be apportioned as follows:

22 (a) The secretary of transportation annually shall apportion and
23 distribute quarterly, on the first day of January, April, July and October, to
24 cities on the state highway system from the state highway fund moneys at
25 the rate of ~~\$3,000~~ \$5,000 per year per lane per mile for the maintenance of
26 streets and highways in cities designated by the secretary as city
27 connecting links. Unless a consolidated street and highway fund is
28 established pursuant to K.S.A. 12-1,119, and amendments thereto, all
29 moneys distributed by the secretary shall be credited to the street and alley
30 funds of such cities. All moneys so distributed shall be used solely for the
31 maintenance of city connecting links. Maintenance of such city connecting
32 links shall be as prescribed in K.S.A. 68-416a, and amendments thereto.
33 As used in this subsection, "lane" means the portion of the roadway for use
34 of moving traffic of a standard width prescribed by the secretary. In lieu of
35 such apportionment, the secretary, by and with the consent of the
36 governing body of any city within the state of Kansas, may maintain such
37 streets within the city and pay for such maintenance from the highway
38 fund.

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

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

43 (2) improvements in transportation programs to aid elderly persons,

1 persons with disabilities and the general public;

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

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

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

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

8 ~~(6)(7)~~ the payment of losses to department of transportation
9 employees authorized by K.S.A. 75-5062, and amendments thereto.

10 Sec. 7. K.S.A. 68-2315 is hereby amended to read as follows: 68-
11 2315. (a) Annually, prior to the 10th day of each regular session of the
12 legislature, the secretary of transportation shall submit a written report to
13 the governor and each member of the legislature providing:

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

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

26 (3) a detailed explanation of the methods or criteria employed in the
27 selection of transportation projects under ~~subsection (b) of K.S.A. 68-~~
28 ~~2314b~~ *section 1(b) and (d)(1) through (d)(6), and amendments thereto, and*
29 *in the awarding of assistance to cities, counties or other transportation*
30 *providers, including an explanation of the amounts expended and projects*
31 *selected for construction, projects selected for development and when and*
32 *where the next local consults are to take place;*

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

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

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

42 (5) *proposed construction projects to be let to contract in the current*
43 *fiscal year and anticipated breakdown of anticipated annual payouts for*

1 *the next three fiscal years for those projects;*

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

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

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

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

13 ~~(e)~~(10) *information concerning the operation and financial condition*
14 *of the transportation revolving fund;*

15 ~~(f)~~(11) *the annual allocation and expenditure of moneys from the*
16 *coordinated public transportation assistance fund under K.S.A. 75-5035,*
17 *and amendments thereto;*

18 ~~(g)~~(12) *the annual allocation and expenditure of moneys from the rail*
19 *service improvement fund under K.S.A. 75-5048, and amendments*
20 *thereto, including specific information relating to any grants or loans made*
21 *under such program;*

22 ~~(h)~~(13) *the annual allocation and expenditure of moneys from the*
23 *public use general aviation airport development fund under K.S.A. 75-*
24 *5061, and amendments thereto, including specific information relating to*
25 *grants made under such program;*

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

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

34 *(16) information concerning funding shifts between the state highway*
35 *fund and the funds specified in subsections (a)(7) through (a)(10);*

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

41 ~~(i)~~(18) *specific recommendations for any statutory changes necessary*
42 *for the successful completion of the transportation program specified in*
43 ~~K.S.A. 68-2314b~~ *section 1, and amendments thereto, or efficient and*

1 effective operation of the Kansas department of transportation;~~and~~

2 *(19) information concerning the condition and performance of the*
3 *state highway system; and*

4 ~~(19)~~(20) an explanation of any material changes from the previous
5 annual report.

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

12 Sec. 8. K.S.A. 68-2316 is hereby amended to read as follows: 68-
13 2316. *(a) For the period beginning July 1, 2010, through June 30, 2020,*
14 *the secretary of transportation shall expend or commit to expend, from the*
15 *revenue provided under the provisions of the transportation works for*
16 *Kansas program, at least \$8,000,000 for projects or programs authorized*
17 *under K.S.A. 68-2314b, and amendments thereto, in each county of the*
18 *state.*

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

24 Sec. 9. K.S.A. 75-5035 is hereby amended to read as follows: 75-
25 5035. *(a) There is hereby established in the state treasury the coordinated*
26 *public transportation assistance fund. Any expenditures from the fund shall*
27 *be for the coordinated development, improvement or maintenance of*
28 *transportation systems for elderly persons, persons with disabilities or the*
29 *general public under this act and shall be made in accordance with*
30 *appropriation acts upon warrants of the director of accounts and reports*
31 *issued pursuant to vouchers approved by the secretary of transportation or*
32 *by a person designated by the secretary.*

33 *(b) (1) On July 1, 1999, and each July 1 thereafter through July 1,*
34 *2012, the director of accounts and reports shall transfer \$6,000,000 from*
35 *the state highway fund to the coordinated public transportation assistance*
36 *fund.*

37 *(2) On July 1, 2013, and each July 1; thereafter, the director of*
38 *accounts and reports shall transfer \$11,000,000 from the state highway*
39 *fund to the coordinated public transportation assistance fund. The*
40 *secretary is hereby authorized to transfer additional moneys to the*
41 *coordinated public transportation assistance fund from the state highway*
42 *fund and moneys from the coordinated public transportation assistance*
43 *fund to the state highway fund. In no event shall the amount remaining in*

1 *the fund and the amount spent or dedicated for grants or projects in each*
2 *fiscal year fall below \$11,000,000.*

3 Sec. 10. K.S.A. 75-5048 is hereby amended to read as follows: 75-
4 5048. (a) The secretary of transportation is hereby authorized to make
5 loans or grants to a qualified entity for the purpose of facilitating the
6 financing, acquisition or rehabilitation of railroads and rolling stock in the
7 state of Kansas.

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

12 (c) The rail service improvement fund is hereby established in the
13 state treasury which shall be for the purpose of facilitating the financing,
14 acquisition and rehabilitation of railroads pursuant to subsection (a) of this
15 section and for the refinancing thereof. ~~The secretary of transportation~~
16 shall administer the rail service improvement fund. All expenditures from
17 the rail service improvement fund shall be made in accordance with
18 appropriation acts upon warrants of the director of accounts and reports
19 issued pursuant to vouchers approved by the secretary ~~of transportation~~ or
20 by a person or persons designated by the secretary.

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

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

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

42 ~~(h)(g)~~ As used in this section, "qualified entity" means any interstate
43 commerce commission certificated railroad, a port authority established in

1 accordance with Kansas laws, or any entity meeting the rules and
2 regulations established by K.S.A. 75-5050, and amendments thereto.

3 Sec. 11. K.S.A. 75-5061 is hereby amended to read as follows: 75-
4 5061. (a) The secretary of transportation is hereby authorized and
5 empowered to: (1) Solicit and receive moneys from any public or private
6 sources; and (2) establish and administer a grant program for public use
7 general aviation airports for the purpose of planning, constructing,
8 reconstructing or rehabilitating the facilities of such public use general
9 aviation airports.

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

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

27 (d) (1) On July 1, 1999, and each July 1 thereafter through July 1,
28 2012, the director of accounts and reports shall transfer \$3,000,000 from
29 the state highway fund to the public use general aviation airport
30 development fund.

31 (2) On July 1, 2013, and each July 1; thereafter, the director of
32 accounts and reports shall transfer \$5,000,000 from the state highway fund
33 to the public use general aviation airport development fund. *The secretary*
34 *is hereby authorized to transfer additional moneys to the public use*
35 *general aviation airport development fund from the state highway fund,*
36 *and moneys from the public use general aviation airport development fund*
37 *to the state highway fund. In no event shall the amount remaining in the*
38 *public use general aviation airport development fund and the amount*
39 *spent or dedicated for grants in each fiscal year be less than \$5,000,000.*

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

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

3 Sec. 12. K.S.A. 79-3603 is hereby amended to read as follows: 79-
4 3603. For the privilege of engaging in the business of selling tangible
5 personal property at retail in this state or rendering or furnishing any of the
6 services taxable under this act, there is hereby levied and there shall be
7 collected and paid a tax at the rate of ~~6.15%, and commencing July 1,~~
8 ~~2015, at the rate of 6.5%. On and after July 1, 2021, 16.154% of the 6.5%~~
9 *rate imposed shall be levied for the state highway fund, the state highway*
10 *fund purposes and those purposes specified in K.S.A. 68-416, and*
11 *amendments thereto, and all revenue collected and received from such tax*
12 *levy shall be deposited in the state highway fund.* Within a redevelopment
13 district established pursuant to K.S.A. 74-8921, and amendments thereto,
14 there is hereby levied and there shall be collected and paid an additional
15 tax at the rate of 2% until the earlier of the date the bonds issued to finance
16 or refinance the redevelopment project have been paid in full or the final
17 scheduled maturity of the first series of bonds issued to finance any part of
18 the project upon:

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

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

34 (c) the gross receipts from the sale or furnishing of gas, water,
35 electricity and heat, which sale is not otherwise exempt from taxation
36 under the provisions of this act, and whether furnished by municipally or
37 privately owned utilities, except that, on and after January 1, 2006, for
38 sales of gas, electricity and heat delivered through mains, lines or pipes to
39 residential premises for noncommercial use by the occupant of such
40 premises, and for agricultural use and also, for such use, all sales of
41 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
42 gas, coal, wood and other fuel sources for the production of heat or
43 lighting for noncommercial use of an occupant of residential premises, the

1 state rate shall be 0%, but such tax shall not be levied and collected upon
2 the gross receipts from: (1) The sale of a rural water district benefit unit;
3 (2) a water system impact fee, system enhancement fee or similar fee
4 collected by a water supplier as a condition for establishing service; or (3)
5 connection or reconnection fees collected by a water supplier;

6 (d) the gross receipts from the sale of meals or drinks furnished at any
7 private club, drinking establishment, catered event, restaurant, eating
8 house, dining car, hotel, drugstore or other place where meals or drinks are
9 regularly sold to the public;

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

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

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

25 (h) the gross receipts from the service of renting or leasing of tangible
26 personal property except such tax shall not apply to the renting or leasing
27 of machinery, equipment or other personal property owned by a city and
28 purchased from the proceeds of industrial revenue bonds issued prior to
29 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
30 12-1749, and amendments thereto, and any city or lessee renting or leasing
31 such machinery, equipment or other personal property purchased with the
32 proceeds of such bonds who shall have paid a tax under the provisions of
33 this section upon sales made prior to July 1, 1973, shall be entitled to a
34 refund from the sales tax refund fund of all taxes paid thereon;

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

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

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

42 (l) (1) except as otherwise provided by paragraph (2), the gross
43 receipts received from the sales of tangible personal property to all

1 contractors, subcontractors or repairmen for use by them in erecting
2 structures, or building on, or otherwise improving, altering, or repairing
3 real or personal property.

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

11 (m) the gross receipts received from fees and charges by public and
12 private clubs, drinking establishments, organizations and businesses for
13 participation in sports, games and other recreational activities, but such tax
14 shall not be levied and collected upon the gross receipts received from: (1)
15 Fees and charges by any political subdivision, by any organization exempt
16 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
17 thereto, or by any youth recreation organization exclusively providing
18 services to persons 18 years of age or younger which is exempt from
19 federal income taxation pursuant to section 501(c)(3) of the federal
20 internal revenue code of 1986, for participation in sports, games and other
21 recreational activities; and (2) entry fees and charges for participation in a
22 special event or tournament sanctioned by a national sporting association
23 to which spectators are charged an admission which is taxable pursuant to
24 subsection (e);

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

35 (o) the gross receipts received from the isolated or occasional sale of
36 motor vehicles or trailers but not including: (1) The transfer of motor
37 vehicles or trailers by a person to a corporation or limited liability
38 company solely in exchange for stock securities or membership interest in
39 such corporation or limited liability company; (2) the transfer of motor
40 vehicles or trailers by one corporation or limited liability company to
41 another when all of the assets of such corporation or limited liability
42 company are transferred to such other corporation or limited liability
43 company; or (3) the sale of motor vehicles or trailers which are subject to

1 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
2 amendments thereto, by an immediate family member to another
3 immediate family member. For the purposes of paragraph (3), immediate
4 family member means lineal ascendants or descendants, and their spouses.
5 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
6 on the isolated or occasional sale of motor vehicles or trailers on and after
7 July 1, 2004, which the base for computing the tax was the value pursuant
8 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
9 such amount was higher than the amount of sales tax which would have
10 been paid under the law as it existed on June 30, 2004, shall be refunded to
11 the taxpayer pursuant to the procedure prescribed by this section. Such
12 refund shall be in an amount equal to the difference between the amount of
13 sales tax paid by the taxpayer and the amount of sales tax which would
14 have been paid by the taxpayer under the law as it existed on June 30,
15 2004. Each claim for a sales tax refund shall be verified and submitted not
16 later than six months from the effective date of this act to the director of
17 taxation upon forms furnished by the director and shall be accompanied by
18 any additional documentation required by the director. The director shall
19 review each claim and shall refund that amount of tax paid as provided by
20 this act. All such refunds shall be paid from the sales tax refund fund, upon
21 warrants of the director of accounts and reports pursuant to vouchers
22 approved by the director of taxation or the director's designee. No refund
23 for an amount less than \$10 shall be paid pursuant to this act. In
24 determining the base for computing the tax on such isolated or occasional
25 sale, the fair market value of any motor vehicle or trailer traded in by the
26 purchaser to the seller may be deducted from the selling price;

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

37 For the purposes of this subsection:

38 (1) "Original construction" shall mean the first or initial construction
39 of a new building or facility. The term "original construction" shall include
40 the addition of an entire room or floor to any existing building or facility,
41 the completion of any unfinished portion of any existing building or
42 facility and the restoration, reconstruction or replacement of a building,
43 facility or utility structure damaged or destroyed by fire, flood, tornado,

1 lightning, explosion, windstorm, ice loading and attendant winds,
2 terrorism or earthquake, but such term, except with regard to a residence,
3 shall not include replacement, remodeling, restoration, renovation or
4 reconstruction under any other circumstances;

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

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

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

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

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

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

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

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

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

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

1 amendments thereto;

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

5 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
6 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
7 pursuant to this section.

8 Sec. 13. K.S.A. 79-3703 is hereby amended to read as follows: 79-
9 3703. There is hereby levied and there shall be collected from every
10 person in this state a tax or excise for the privilege of using, storing, or
11 consuming within this state any article of tangible personal property. Such
12 tax shall be levied and collected in an amount equal to the consideration
13 paid by the taxpayer multiplied by the rate of 6.5%. *On and after July 1,*
14 *2021, 16.154% at the 6.5% rate imposed shall be levied for the state*
15 *highway fund, the state highway fund purposes and those purposes*
16 *specified in K.S.A. 68-416, and amendments thereto, and all revenue*
17 *collected and received from such tax levy shall be deposited in the state*
18 *highway fund.* Within a redevelopment district established pursuant to
19 K.S.A. 74-8921, and amendments thereto, there is hereby levied and there
20 shall be collected and paid an additional tax of 2% until the earlier of: (1)
21 The date the bonds issued to finance or refinance the redevelopment
22 project undertaken in the district have been paid in full; or (2) the final
23 scheduled maturity of the first series of bonds issued to finance the
24 redevelopment project. All property purchased or leased within or without
25 this state and subsequently used, stored or consumed in this state shall be
26 subject to the compensating tax if the same property or transaction would
27 have been subject to the Kansas retailers' sales tax had the transaction been
28 wholly within this state.

29 Sec. 14. K.S.A. 68-416, 68-2315, 68-2316, 75-5035, 75-5048, 75-
30 5061, 79-3603 and 79-3703 are hereby repealed.

31 Sec. 15. This act shall take effect and be in force from and after its
32 publication in the statute book.