

## 2023 Kansas Statutes

**68-2314c. Eisenhower legacy transportation program; projects; programs; project selection process and criteria; development of long-range transportation plan by secretary.** (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) (1) 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 36th 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.

(2) Notwithstanding the provisions of paragraph (1), the secretary may let to construction at any time any modernization or expansion projects under the Eisenhower legacy transportation program that utilize federal stimulus funds regardless of whether transportation works for Kansas program projects, or any phase thereof, have been let. No moneys received from federal stimulus funds shall be expended pursuant to this paragraph unless the expenditure either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto.

(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 K.S.A. 2023 Supp. 75-5093, 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 K.S.A. 2023 Supp. 68-2332, and amendments thereto.

(k) The Eisenhower legacy transportation program shall provide for a broadband infrastructure construction program, in accordance with K.S.A. 2023 Supp. 75-5094, 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 paragraph (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.

**History:** L. 2020, ch. 8, § 1; L. 2021, ch. 66, § 1; July 1.