

68-2321. Issuance of bonds; term; highway bond proceeds fund, created; investment of proceeds; execution of trust indenture. (a) Bonds issued shall be authorized by resolution of the secretary. The secretary shall determine the form and manner of the execution of the bonds and the bonds may be made exchangeable for bonds of another denomination or in another form. The bonds shall be dated. Bonds issued under subsections (a) and (b) of K.S.A. 68-2320, and amendments thereto, shall mature not more than 20 years from their date. Bonds issued under subsection (c) of K.S.A. 68-2320, and amendments thereto, shall mature not more than 20 years from their date, except that bonds issued under subsection (c) of K.S.A. 68-2320, and amendments thereto, the interest on which is eligible for subsidy by the federal government, shall mature not more than 25 years from their date. Bonds issued for the purpose of refunding bonds under K.S.A. 68-2328, and amendments thereto, shall mature not more than 20 years from their date. The bonds may be in such form and denominations, may bear interest payable at such times and at such rate or rates, may be payable at such places within or without the state, may be subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the secretary shall determine. The bonds shall have all the qualities of and shall be deemed to be negotiable instruments under the laws of the state of Kansas. The authorizing resolution may contain any other terms, covenants and conditions that the secretary deems reasonable and desirable.

(b) The proceeds from the sale of the bonds authorized to be issued under this section are deemed to be trust funds which shall be deposited in the custody of the state treasurer in the highway bond proceeds fund which is hereby created. The secretary shall have responsibility for the management and control of the highway bond proceeds fund and shall provide, by resolution, for both amounts and the duration of investments of moneys in such fund. Such resolution may recommend investment and reporting policies, including acceptable levels of return, risk and security. After consultation with the secretary and subject to the terms, covenants and conditions provided in the resolutions providing for the issuance of such bonds, the director of investments shall have the authority to invest and reinvest moneys in such fund and to acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of such fund. In investing or reinvesting moneys in such fund, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, except that moneys of the fund may not be invested in common stocks. Notwithstanding anything to the contrary, all interest or other income of the investments, after payment of any management fees, of the highway bond proceeds fund shall be credited to the highway bond debt service fund, until payments on bonds authorized by this act and interest thereon has been fully funded. Thereafter, earnings and other income shall be credited to the state highway fund.

(c) The authorizing resolution may provide for the execution of a trust indenture. The trust indenture may contain any terms, covenants and conditions that are deemed desirable by the secretary, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of any security for payment of the bonds, the custody and application of the proceeds of the bonds, the collection and disposition of bond proceeds and earnings thereon, the investing for authorized purposes, and the rights, duties and obligations of the secretary and the holders and registered owners of the bonds.

(d) Any authorizing resolution and trust indenture relating to the issuance and security of the bonds may set forth covenants, agreements and obligations therein, which may be enforced by mandamus or other appropriate proceeding at law or in equity.

(e) The bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act.

History: L. 1989, ch. 209, § 8; L. 1996, ch. 254, § 12; L. 1999, ch. 137, § 17; L. 2010, ch. 156, § 26; June 3.