

SENATE BILL No. 375

By Committee on Ways and Means

Proposed Amendments  
2020 Senate Bill No. 375  
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FORWARD program with 3/9/20 amendments

1 AN ACT concerning transportation; providing for the FORWARD  
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 a FORWARD transportation  
11 program.

12 (b) (1) The FORWARD transportation program shall provide for the  
13 construction, improvement, reconstruction and maintenance of the state  
14 highway system. The program shall provide for the selection of projects  
15 that will allow for the flexibility to meet emerging and economic needs.  
16 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 determine the average annual preservation investment~~  
21 ~~needed to maintain the state highway system in a state of good repair by~~  
22 ~~determining the annual preservation investment needed using Kansas~~  
23 ~~department of transportation performance measures.~~ It is the intent of the  
24 legislature that the secretary, prior to completion of the FORWARD  
25 transportation program, shall spend or encumber from the state highway  
26 fund preservation projects in an amount equal to or exceeding 10 times the  
27 determined average annual preservation investment;

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

36 (C) expansion and economic opportunity projects, that include

**ADOPTED 3/9/20**  
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 system condition meeting targets.

**ADOPTED 3/9/20**  
The secretary shall manage cash-flow and project lettings such that there is reasonable assurance that preservation will be fully funded each year.

Pursuant to this paragraph, preservation projects refers to existing infrastructure.

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

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

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

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

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

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

20 (g) The FORWARD transportation program shall provide for public  
21 transit programs to aid elderly persons, persons with disabilities and the  
22 general public, in accordance with K.S.A. 75-5032 through 75-5038 and  
23 75-5051 through 75-5058, and amendments thereto.

24 (h) The FORWARD transportation program shall provide for a  
25 transportation technology program to provide for multimodal  
26 transportation-related projects that support innovative technology, in  
27 accordance with section 2, and amendments thereto.

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

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

36 (k) The FORWARD transportation program shall provide for a  
37 broadband infrastructure construction program, in accordance with section  
38 3, and amendments thereto.

39 (l) ~~(1) Motor fuel taxes and vehicle registration revenues shall be~~  
40 ~~used in the following order of priority:~~

- 41 (A) To pay bond covenant obligations;
- 42 (B) to pay for agency operations;
- 43 (C) to make city connecting link payments authorized under K.S.A.

<p><b>ADOPTED 3/9/20</b></p> <p>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:</p>
--

1 68-416, and amendments thereto; and  
2 (D) to pay for needed preservation projects as set forth in subsection  
3 (b)(1).

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

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

12 (A) Remove transportation infrastructure from the state highway  
13 system;

14 (B) identify priority corridors;

15 (C) include local monetary participation; or

16 (D) reduce project size.

17 (2) The secretary shall select projects for development every two  
18 years. The secretary shall select projects for construction every two years.  
19 The secretary is not required to construct every project selected for  
20 development. The selection of projects for development and construction  
21 shall take place every two years, after consultation with local jurisdictions.  
22 ~~Prior to June 30, 2030, not less than three expansion or modernization~~  
23 ~~projects shall be selected for development from each of the Kansas~~  
24 ~~department of transportation's six districts.~~

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

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

41 (b) There is hereby established in the state treasury the transportation  
42 technology development fund. All moneys credited to such fund shall be  
43 used to provide assistance with the planning, assessment and fielding of

The legislative intent would be that the secretary will develop a metric driven process that distributes state highway fund revenue available for the construction of modernization and expansion projects across the Kansas department of transportation districts such that the state highway funds spent on constructed modernization and expansion projects in each district over the 10 years will fall within the range determined.  
  
(3)

No more than 60% of the modernization and expansion projects let to contract by the end of year 5 of the FORWARD transportation program shall occur in rural or urban areas. For purposes of this paragraph, "urban area" shall mean Johnson, Sedgwick, Wyandotte, Douglas and Shawnee counties and "rural area" shall mean all other counties.

**ADOPTED 3/9/20**  
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)

1 notify the director of accounts and reports to transfer all remaining and  
2 unencumbered funds from the broadband infrastructure construction grant  
3 fund to the state highway fund.

4 New Sec. 4. (a) The FORWARD transportation program shall allow  
5 the secretary of transportation to award certain state highway system  
6 projects using alternative delivery procurement methods other than award  
7 of a design-bid-build contract to the lowest bidder as provided in K.S.A.  
8 68-410, and amendments thereto, subject to the following:

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

11 (2) alternative delivery may be used on ~~all~~ projects utilizing toll  
12 revenues for construction and maintenance of the project; and

13 (3) not more than 5% of dollars spent in the FORWARD  
14 transportation program shall be used on alternative delivery. The dollar  
15 value of ~~projects utilizing toll revenues and~~ projects obtained through  
16 federal grants shall not be considered in determining this 5% limit.

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

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

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

33 (3) the Kansas department of transportation shall develop and utilize  
34 procedures for advertising proposals, receiving proposals, evaluating  
35 proposals, awarding contracts and administering contracts in its alternative  
36 delivery procurement program, and the procurement procedures in K.S.A.  
37 68-408 through 68-410, 75-430a and 75-5804 through 75-5807, and  
38 amendments thereto, shall not apply to transportation alternative delivery  
39 projects.

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

42 (1) A two-phase best value competitive selection or contracting  
43 process in which the first phase consists of short listing no more than four

three

. One project utilizing toll revenues may  
be let to construction once every three  
years

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

1 cities on the state highway system from the state highway fund moneys at  
2 the rate of ~~\$3,000~~ \$5,000 per year per lane per mile for the maintenance of  
3 streets and highways in cities designated by the secretary as city  
4 connecting links. Unless a consolidated street and highway fund is  
5 established pursuant to K.S.A. 12-1,119, and amendments thereto, all  
6 moneys distributed by the secretary shall be credited to the street and alley  
7 funds of such cities. All moneys so distributed shall be used solely for the  
8 maintenance of city connecting links. Maintenance of such city connecting  
9 links shall be as prescribed in K.S.A. 68-416a, and amendments thereto.  
10 As used in this subsection, "lane" means the portion of the roadway for use  
11 of moving traffic of a standard width prescribed by the secretary. In lieu of  
12 such apportionment, the secretary, by and with the consent of the  
13 governing body of any city within the state of Kansas, may maintain such  
14 streets within the city and pay for such maintenance from the highway  
15 fund.

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

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

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

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

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

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

26 ~~(5)~~(6) the expenses of administering the motor vehicle registration  
27 and drivers' license laws; and

28 ~~(6)~~(7) the payment of losses to department of transportation  
29 employees authorized by K.S.A. 75-5062, and amendments thereto.

30 Sec. 6. K.S.A. 68-2315 is hereby amended to read as follows: 68-  
31 2315. (a) Annually, prior to the 10<sup>th</sup> day of each regular session of the  
32 legislature, the secretary of transportation shall submit a written report to  
33 the governor and each member of the legislature providing:

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

42 ~~(b)~~(2) *for the report due in 2021, a detailed explanation of the*  
43 *methods or criteria employed in the selection of transportation projects*

1 under K.S.A. 68-2314b(b), and amendments thereto, and in the awarding  
2 of assistance to cities, counties or other transportation providers;

3 (3) a detailed explanation of the methods or criteria employed in the  
4 selection of transportation projects under ~~subsection (b) of K.S.A. 68-~~  
5 ~~2314b~~ *section 1(b) and (d)(1) through (d)(6)*, and amendments thereto, and  
6 in the awarding of assistance to cities, counties or other transportation  
7 providers, *including an explanation of the amounts expended and projects*  
8 *selected for construction, projects selected for development and when and*  
9 *where the next local consults are to take place;*

10 ~~(e)(4) the proposed allocation and expenditure of moneys and~~  
11 ~~proposed work plan for the current fiscal year and at least the next five~~  
12 ~~years;~~

13 ~~(d)(5) information concerning construction work completed in the~~  
14 ~~preceding fiscal year and construction work in progress;~~

15 ~~(e)(6) information concerning the operation and financial condition of~~  
16 ~~the transportation revolving fund;~~

17 ~~(f)(7) the annual allocation and expenditure of moneys from the~~  
18 ~~coordinated public transportation assistance fund under K.S.A. 75-5035,~~  
19 ~~and amendments thereto;~~

20 ~~(g)(8) the annual allocation and expenditure of moneys from the rail~~  
21 ~~service improvement fund under K.S.A. 75-5048, and amendments~~  
22 ~~thereto, including specific information relating to any grants or loans made~~  
23 ~~under such program;~~

24 ~~(h)(9) the annual allocation and expenditure of moneys from the~~  
25 ~~public use general aviation airport development fund under K.S.A. 75-~~  
26 ~~5061, and amendments thereto, including specific information relating to~~  
27 ~~grants made under such program;~~

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

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

36 (12) *information concerning funding shifts between the state highway*  
37 *fund and the funds specified in subsections (a)(7) through (a)(10);*

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

43 ~~(i)(14) specific recommendations for any statutory changes necessary~~

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

(5) all committed expenditures identified by 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;

(6) 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 system condition targets. If targets are not achieved with current projects or identified future projects, a report on additional funding necessary to achieve system condition targets;

1 for the successful completion of the transportation program specified in  
2 ~~K.S.A. 68-2314b~~ *section 1*, and amendments thereto, or efficient and  
3 effective operation of the Kansas department of transportation; ~~and~~

4 *(15) information concerning the condition and performance of the*  
5 *state highway system; and*

6 ~~(16)~~ *(16) an explanation of any material changes from the previous*  
7 *annual report.*

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

14 Sec. 7. K.S.A. 68-2316 is hereby amended to read as follows: 68-  
15 2316. *(a) For the period beginning July 1, 2010, through June 30, 2020,*  
16 *the secretary of transportation shall expend or commit to expend, from the*  
17 *revenue provided under the provisions of the transportation works for*  
18 *Kansas program, at least \$8,000,000 for projects or programs authorized*  
19 *under K.S.A. 68-2314b, and amendments thereto, in each county of the*  
20 *state.*

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

26 Sec. 8. K.S.A. 75-5035 is hereby amended to read as follows: 75-  
27 5035. *(a) There is hereby established in the state treasury the coordinated*  
28 *public transportation assistance fund. Any expenditures from the fund shall*  
29 *be for the coordinated development, improvement or maintenance of*  
30 *transportation systems for elderly persons, persons with disabilities or the*  
31 *general public under this act and shall be made in accordance with*  
32 *appropriation acts upon warrants of the director of accounts and reports*  
33 *issued pursuant to vouchers approved by the secretary of transportation or*  
34 *by a person designated by the secretary.*

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

39 *(2) On July 1, 2013, and each July 1; thereafter, the director of*  
40 *accounts and reports shall transfer \$11,000,000 from the state highway*  
41 *fund to the coordinated public transportation assistance fund. The*  
42 *secretary is hereby authorized to transfer additional moneys to the*  
43 *coordinated public transportation assistance fund from the state highway*

**ADOPTED 3/9/20**  
for public transportation

1 *fund and moneys from the coordinated public transportation assistance*  
2 *fund to the state highway fund. In no event shall the amount remaining in*  
3 *the fund and the amount spent or dedicated for grants or projects*  
4 *in each fiscal year fall below \$11,000,000.*

5 Sec. 9. K.S.A. 75-5048 is hereby amended to read as follows: 75-  
6 5048. (a) The secretary of transportation is hereby authorized to make  
7 loans or grants to a qualified entity for the purpose of facilitating the  
8 financing, acquisition or rehabilitation of railroads and rolling stock in the  
9 state of Kansas.

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

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

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

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

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