

## House Substitute for SENATE BILL No. 173

By Committee on Appropriations

3-16

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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 36<sup>th</sup> 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 revenue collected or received  
21 pursuant to K.S.A. 79-3620(c) and 79-3710(c), and amendments thereto.

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

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

29 (B) identify priority corridors;

30 (C) include local monetary participation; or

31 (D) reduce project size.

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

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

41 (i) Adding together the minimum moneys set for each of the Kansas  
42 department of transportation's six districts pursuant to paragraph (2)(A),  
43 the total shall be at least 50% of the estimated cost of constructing all

1 modernization and expansion projects let to contract in the Eisenhower  
2 legacy transportation program.

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

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

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

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

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

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

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

43 (b) There is hereby established in the state treasury the transportation

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

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

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

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

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

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

39 (d) On July 1, 2020, and each July 1 thereafter through July 1, 2022,  
40 the director of accounts and reports shall transfer \$5,000,000 from the state  
41 highway fund to the broadband infrastructure construction grant fund. On  
42 July 1, 2023, and each July thereafter through July 1, 2030, the director of  
43 accounts and reports shall transfer \$10,000,000 from the state highway

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

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

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

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

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

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

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

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

43 (2) advertisement of requests for qualifications in the Kansas register

1 for at least three consecutive weeks;

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

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

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

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

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

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



1 with appropriation acts upon warrants of the director of accounts and  
2 reports issued pursuant to vouchers approved by the secretary of  
3 transportation or the secretary's designee.

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

7 (c) For purposes of this section:

8 (1) "Eligible entity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3       ~~(19)~~(20) *an explanation of any material changes from the previous*  
4 *annual report.*

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

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

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

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

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

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

1 *fiscal year fall below \$11,000,000.*

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

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

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

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

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

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

41 ~~(h)(g)~~ *As used in this section, "qualified entity" means any interstate*  
42 *commerce commission certificated railroad, a port authority established in*  
43 *accordance with Kansas laws, or any entity meeting the rules and*

1 regulations established by K.S.A. 75-5050, and amendments thereto.

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

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

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

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

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

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

43 (f) The secretary ~~of transportation~~ may adopt rules and regulations for

1 the purpose of implementing the provisions of this section.

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

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

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

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

1 the gross receipts from: (1) The sale of a rural water district benefit unit;  
2 (2) a water system impact fee, system enhancement fee or similar fee  
3 collected by a water supplier as a condition for establishing service; or (3)  
4 connection or reconnection fees collected by a water supplier;

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

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

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

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

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

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

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

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

41 (l) (1) except as otherwise provided by paragraph (2), the gross  
42 receipts received from the sales of tangible personal property to all  
43 contractors, subcontractors or repairmen for use by them in erecting



1 structures, or building on, or otherwise improving, altering, or repairing  
2 real or personal property.

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

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

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

34 (o) the gross receipts received from the isolated or occasional sale of  
35 motor vehicles or trailers but not including: (1) The transfer of motor  
36 vehicles or trailers by a person to a corporation or limited liability  
37 company solely in exchange for stock securities or membership interest in  
38 such corporation or limited liability company; (2) the transfer of motor  
39 vehicles or trailers by one corporation or limited liability company to  
40 another when all of the assets of such corporation or limited liability  
41 company are transferred to such other corporation or limited liability  
42 company; or (3) the sale of motor vehicles or trailers which are subject to  
43 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and

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

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

36 For the purposes of this subsection:

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

1 terrorism or earthquake, but such term, except with regard to a residence,  
2 shall not include replacement, remodeling, restoration, renovation or  
3 reconstruction under any other circumstances;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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