

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2369

By Committee on Taxation

2-18

1 AN ACT concerning transportation; relating to toll projects; authorizing
2 ~~the secretary of transportation to designate or construct toll projects~~
3 **certain toll projects for new projects or expanded capacity;**
4 **required approval from local units of government, the Kansas**
5 **turnpike authority and the state finance council;** changing toll
6 project financing requirements; amending K.S.A. **68-2001**, 68-2002,
7 68-2004, 68-2008, 68-20,120 and 68-2301 and repealing the existing
8 sections.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 **Section 1. K.S.A. 68-2001 is hereby amended to read as follows:**
12 **68-2001. As used in this act, the following words and terms shall have**
13 **the following meanings, unless the context shall indicate another or**
14 **different meaning or intent:**

15 (a) ~~The word "Authority" shall mean~~ *means* **the Kansas turnpike**
16 **authority, created by K.S.A. 68-2003, and amendments thereto, or, if**
17 **said the authority shall be abolished, the board, body or commission**
18 **succeeding to the principal functions thereof or to whom the powers**
19 **given by this act to the authority shall be given by law.**

20 (b) ~~The word "Project" or the words "turnpike project" shall~~
21 ~~mean~~ *means* **any express highway or superhighway constructed under**
22 **the provisions of this act by the authority, including all bridges, tunnels,**
23 **overpasses, underpasses, interchanges, entrance plazas, approaches,**
24 **toll houses, service stations, and administration, storage and other**
25 **buildings and facilities which that the authority may deem necessary**
26 **for the operation of such project, together with all property, rights,**
27 **easements, and interests which that may be acquired by the authority**
28 **for the construction or the operation of such project.**

29 (c) ~~The word "Cost," as applied to a turnpike project shall~~
30 ~~embrace,~~ *means* **the cost of construction, the cost of the acquisition of**
31 **all land, rights-of-way, property, rights, easements and interests**
32 **acquired by the authority for such construction, and the cost of**
33 **demolishing or removing any buildings or structures on land so**
34 **acquired, including the cost of acquiring any lands to which such**
35 **buildings or structures may be moved, the cost of all machinery and**
36 **equipment, financing charges, interest prior to and during**

1 **construction and, if deemed advisable by the authority, for a period of**
2 **not exceeding one year after completion of construction, cost of traffic**
3 **estimates and of engineering and legal services, plans, specifications,**
4 **surveys, estimates of cost and of revenues, other expenses necessary or**
5 ~~incident~~ **incidental to determining the feasibility or practicability of**
6 **constructing any such project, administrative expense, and such other**
7 **expenses as may be necessary or incident to the construction of the**
8 **project, the financing of such construction and the placing of the**
9 **project in operation. Any obligation or expense hereafter incurred by**
10 **the department of transportation with the approval of the authority**
11 **for traffic surveys, borings, preparation of plans and specifications,**
12 **and other engineering services in connection with the construction of a**
13 **project shall be regarded as a part of the cost of such project and shall**
14 **be reimbursed to ~~said~~ the department out of the proceeds of turnpike**
15 **revenue bonds hereinafter authorized.**

16 (d) ~~The words~~ **"Public highways"** shall include all public
17 **highways, roads and streets in the state, whether maintained by the**
18 **state or by any county, city, town or other political subdivision.**

19 (e) ~~The word~~ **"Bonds"** or ~~the words~~ **"turnpike revenue bonds"**
20 ~~shall mean~~ **means** revenue bonds of the authority authorized under the
21 **provisions of this act.**

22 (f) ~~The word~~ **"Owner"** shall ~~include~~ **includes** all individuals,
23 **copartnerships, associations or corporations having any title or**
24 **interest in any property, rights, easements and interest authorized to**
25 **be acquired by this act.**

26 ~~Section 1.~~ **Sec. 2.** K.S.A. 68-2002 is hereby amended to read as
27 follows: 68-2002. In order to provide for the construction of modern
28 express highways or superhighways embodying, where feasible and
29 necessary, safety devices, including center division, ample shoulder
30 widths, long sight distances, multiple lanes in each direction and grade
31 separation at intersections with other highways and railroads, and thereby
32 facilitate vehicular traffic, provide better connections between the highway
33 system of Kansas and the highway systems of the adjoining states, remove
34 many of the present handicaps and hazards on the congested highways in
35 the state, and promote the agricultural and industrial development of the
36 state, the Kansas turnpike authority—~~hereinafter created~~ is hereby
37 authorized and empowered to construct, maintain, repair and operate
38 turnpike projects—~~as hereinbefore defined~~, and to issue revenue bonds of
39 the authority, payable—~~solely~~ **partly** from revenues, to finance such
40 projects. No toll road project shall be undertaken unless and until such
41 project and the proposed location therefor have been thoroughly studied
42 with respect to traffic, engineering, cost and financing nor unless such
43 study shows:

1 (a) That public funds for construction of a free expressway are not
2 available;

3 (b) that the construction of a toll expressway can be financed ~~wholly~~
4 *partly* through the investment of private funds in toll road revenue bonds;
5 and

6 (c) that the project and indebtedness incurred therefor ~~will~~ *can* be
7 ~~entirely self-liquidating~~ *financed partly* through tolls and other income
8 from operation of the project.

9 Sec. ~~2~~ **3**. K.S.A. 68-2004 is hereby amended to read as follows: 68-
10 2004. (a) The authority is hereby authorized and empowered to:

11 (1) Adopt bylaws for the regulation of its affairs and the conduct of
12 its business;

13 (2) adopt an official seal and alter the same at pleasure;

14 (3) maintain an office at such place or places within the state as it
15 may designate;

16 (4) sue and be sued in its own name, plead and be impleaded;

17 (5) determine the location, subject to the approval of the secretary of
18 transportation, of each turnpike project financed under the provisions of
19 this act, determine its design and the materials of construction, and
20 construct, maintain, repair and operate the same;

21 (6) issue turnpike revenue bonds of the authority for any of its
22 corporate purposes, payable ~~solely~~ *partly* from the tolls and revenues
23 pledged for their payment, and to refund its bonds, all as provided in this
24 act;

25 (7) fix and revise from time to time and charge and collect tolls for
26 transit over each turnpike project ~~constructed by it~~;

27 (8) adopt rules and regulations for the use of any such turnpike
28 project, and adopt rules and regulations for traffic control on such project;

29 (9) acquire, hold and dispose of real and personal property in the
30 exercise of its powers and the performance of its duties under this act;

31 (10) designate the locations, and establish, limit and control such
32 points of ingress to and egress from each turnpike project as may be
33 necessary or desirable in the judgment of the authority to insure the proper
34 operation and maintenance of such project, and to prohibit entrance to
35 such project from any point or points not so designated;

36 (11) make and enter into all contracts and agreements necessary or
37 incidental to the performance of its duties and the execution of its powers
38 under this act;

39 (12) employ consulting engineers, attorneys, accountants,
40 construction and financial experts, superintendents, managers, and such
41 other employees and agents as may be necessary in its judgment, and to fix
42 their compensation;

43 (13) receive and accept from any federal agency grants for or in aid

1 of the construction of any turnpike project, and to receive and accept aid or
2 contributions from any source of either money, property, labor or other
3 things of value, to be held, used and applied only for the purposes for
4 which such grants and contributions may be made; and

5 (14) do all acts and things necessary or convenient to carry out the
6 powers expressly granted in this act.

7 (b) Violation of any of the rules and regulations adopted under this
8 section shall be unlawful and subject to the penalties contained in K.S.A.
9 8-2116, and amendments thereto.

10 Sec. ~~3~~ 4. K.S.A. 68-2008 is hereby amended to read as follows: 68-
11 2008. Revenue bonds issued under the provisions of this act shall not be
12 deemed to constitute a debt of the state or of any political subdivision
13 thereof or a pledge of the faith and credit of the state or of any such
14 political subdivision thereof, but all such bonds shall be payable ~~solely~~
15 *partly* from the funds ~~herein provided therefor~~ from revenues. All such
16 revenue bonds shall contain on the face ~~thereof~~ a statement to the effect
17 that neither the state nor the authority shall be obligated to pay the same or
18 the interest thereon except from revenues of the project or projects for
19 which they are issued and that neither the faith and credit nor the taxing
20 power of the state or any political subdivision thereof is pledge to the
21 payment of the principal of or the interest on such bonds.

22 All expenses incurred in carrying out the provisions of this act shall be
23 payable ~~solely~~ *partly* from funds provided under the authority of this act
24 and no liability or obligation shall be incurred by the authority ~~hereunder~~
25 beyond the extent to which moneys shall have been provided under the
26 provisions of this act.

27 Sec. ~~4~~ 5. K.S.A. 68-20,120 is hereby amended to read as follows: 68-
28 20,120. In addition to other powers and duties granted to the secretary of
29 transportation:

30 (a) (1) The secretary of transportation may study the feasibility of
31 constructing ~~a new toll project~~ **projects** or turnpike ~~project or designating~~
32 ~~existing highways or any portion of such highways, including bridges, as a~~
33 ~~toll project or turnpike project to increase capacity on such existing~~
34 ~~highway~~ **projects**.

35 (2) The study of the feasibility of such toll project or turnpike project
36 shall include, but not be limited to:

37 (A) The total cost of such project;

38 (B) a determination of the funding of such projects, including the use
39 ~~of one or a combination of public funds, private funds or toll revenues in~~
40 **combination with other funds;**

41 (C) a determination of the duration of the collection of tolls on such
42 ~~projects~~ **project** and if such ~~projects are~~ **project is** to become toll-free, a
43 projected date when such ~~projects~~ **project** would become toll-free; ~~and~~

1 (D) a determination, after consulting with local officials, that traffic
2 volume, local ~~participation~~ **contribution** or other relevant reasons make
3 such tolling project feasible ~~and would be acceptable to the affected local~~
4 ~~community; and~~

5 ~~(D)~~(E) such other data deemed necessary by the secretary for a
6 determination of the project's feasibility.

7 (b) After conducting the feasibility study under subsection (a) and if
8 such feasibility study provides a favorable result, the secretary of
9 transportation may ~~recommend the construction of~~ *construct a new* **the** toll
10 project or turnpike project ~~or the designation of~~ *designate an existing*
11 highway or any portion of such highway, *including bridges*, as a toll
12 project or turnpike project *to increase capacity on such existing highway*.

13 (c) **Toll projects or turnpike projects constructed under**
14 **subsection (b) shall only be constructed to add capacity to existing**
15 **highways or bridges, or to construct new highways or bridges where a**
16 **highway or bridge did not previously exist.**

17 (d) **Prior to constructing a toll project or turnpike project, the**
18 **secretary and local unit or units of government shall prepare a joint**
19 **proposal for the construction of the toll project or turnpike project**
20 **and present the joint proposal to the Kansas turnpike authority and**
21 **the state finance council. The secretary and the local unit or units of**
22 **government must receive:**

23 (1) A resolution passed by the Kansas turnpike authority
24 approving the construction of the toll project or turnpike project; and

25 (2) a resolution passed by the state finance council approving the
26 construction of the toll project or turnpike project.

27 (e) For purposes of subsection (d):

28 (1) "Local unit or units of government" means the city council, if
29 the toll project or turnpike project will be located partially or wholly
30 within the limits of a city, and the county commission where the toll
31 project or turnpike project is located, if the toll project or turnpike
32 project is not wholly located within the limits of a city or cities; and

33 (2) "Approving" means a vote by the Kansas turnpike authority
34 or the state finance council approving the construction of the toll
35 project or turnpike project by a majority of the members present,
36 when a quorum of the members are present for the vote.

37 (f) Tolls shall be charged only to users of the additional capacity
38 of the highway or bridge constructed as a toll project or turnpike
39 project. Tolls shall be charged to all users of toll projects or turnpike
40 projects that construct highways or bridges where none previously
41 existed.

42 (g) The secretary shall use toll revenue for payment of the cost of
43 the toll project or turnpike project for which the toll was collected.

1 **The secretary shall not use the toll revenue for payment of costs not**
2 **associated with the toll project or turnpike project for which the toll**
3 **was collected.**

4 **(h) Tolls shall be charged to all users of the toll project or**
5 **turnpike project regardless of class, size or kind of traffic.**

6 **(i) The approvals by the state finance council required by**
7 **subsection (d) are hereby characterized as matters of legislative**
8 **delegation and subject to the guidelines prescribed in K.S.A. 75-**
9 **3711c(c), and amendments thereto. Such approvals may be given by**
10 **the state finance council when the legislature is in session.**

11 ~~Sec. 6.~~ K.S.A. 68-2301 is hereby amended to read as follows: 68-
12 2301. (a) In order to provide for the construction of modern express
13 highways and freeways to link the principal population centers of the state
14 with the major express highways and freeways in this and other states,
15 facilitate vehicular traffic in the areas to be served, remove many of the
16 present handicaps and hazards on the congested highways in the state and
17 promote the agricultural and industrial development of the state, the
18 secretary of transportation is hereby authorized, empowered and directed
19 to establish and construct a state system of modern express highways and
20 freeways. The express highways and freeways within said system shall be
21 constructed pursuant to the criteria established in subsection (b) ~~of this~~
22 ~~section~~ and shall be located by the secretary of transportation within the
23 following corridors:

24 (1) Commencing in the vicinity of the intersection of U.S. highway
25 54 and the Kansas-Oklahoma border, thence proceeding in a northeasterly
26 and easterly direction, within a corridor including and generally delineated
27 by said U.S. highway 54, to the vicinity of the point in Butler county
28 where said U.S. highway 54 and state highway 96 divide; thence
29 proceeding in an easterly and southeasterly direction, generally described
30 by said highway 96, to the vicinity of the juncture of state highway 96 and
31 state highway 39; thence in a southeasterly direction, within a corridor
32 including and generally delineated by state highway 96, U.S. highway 160
33 and state highway 57, to the Kansas-Missouri border;

34 (2) commencing in the vicinity of the intersection of interstate
35 highway 70 and U.S. highway 183, near the city of Hays in Ellis county;
36 thence in a southeasterly direction to the general vicinity of the
37 intersection of the east city limits of the city of Great Bend in Barton
38 county and state highway 96; thence in an easterly and southeasterly
39 direction, within a corridor including and generally delineated by state
40 highway 96, to the vicinity of the juncture of state highway 96 and U.S.
41 highway 54 in Sedgwick county;

42 (3) commencing in the vicinity of the intersection of the north city
43 limits of the city of Hutchinson in Reno county and state highway 61;

1 thence in a northeasterly direction, within a corridor including and
2 generally delineated by state highway 61, to a point near the south city
3 limits of the city of McPherson in McPherson county;

4 (4) commencing in the vicinity of the intersection of U.S. highway 75
5 and the Kansas-Nebraska border; thence in a southerly direction, within a
6 corridor including and generally delineated by U.S. highway 75, to a point
7 near the intersection of said U.S. highway 75 and the proposed right-of-
8 way for interstate highway 35, in the vicinity of the Osage-Coffey county
9 line;

10 (5) commencing in the vicinity of the intersection of U.S. highway 36
11 and the Kansas-Missouri border; thence in a westerly direction, within a
12 corridor including and generally delineated by U.S. highway 36, to a point
13 near the intersection of U.S. highways 36 and 81; thence in a southerly
14 direction to a point in the vicinity of the intersection of said U.S. highway
15 81 and interstate highway 70;

16 (6) commencing in the vicinity of the intersection of the city limits of
17 the city of Atchison in Atchison county and state highway 7; thence in a
18 southerly direction to the vicinity of the intersection of state highway 7
19 and interstate highway 35, near the city of Olathe in Johnson county;

20 (7) commencing in the vicinity of the intersection of U.S. highway 69
21 and interstate highway 435; thence in a southerly direction, within a
22 corridor including and generally delineated by U.S. highway 69, to the
23 Kansas-Oklahoma border;

24 (8) commencing in the vicinity of the city of Lawrence in Douglas
25 county; thence in a southerly direction within a corridor which includes the
26 areas between U.S. highways 75, 59 and 169, to the Kansas-Oklahoma
27 border in the general vicinity of a point approximately between the cities
28 of Caney and Coffeyville in Montgomery county; and

29 (9) commencing in the vicinity of the intersection of the city limits of
30 the city of Lawrence in Douglas county and state highway 10; thence in an
31 easterly direction, within a corridor including and generally delineated by
32 state highway 10, to the vicinity of the intersection of interstate highway
33 35 and U.S. highways 50 and 56 in the city of Merriam in Johnson county.

34 (b) All of the moneys deposited in the state freeway fund created in
35 K.S.A. 79-3425, and amendments thereto, except moneys accruing to such
36 fund as a result of the interest or earnings from the investment of moneys
37 in the state freeway fund or in the state freeway construction fund, as
38 provided in ~~subsection (d) of~~ K.S.A. 68-2311(d), and amendments thereto,
39 shall be subject to transfer to the state highway fund, as provided by
40 K.S.A. 79-3425, and amendments thereto. After any such transfer, and
41 subject to the provisions of K.S.A. 68-2311, and amendments thereto, the
42 moneys remaining in the state freeway fund shall be expended by the
43 secretary of transportation for: The construction, reconstruction,

1 improvement and maintenance of the state system of express highways
2 and freeways established in subsection (a) of this section; for the
3 retirement of highway bonds and highway refunding bonds issued under
4 the provisions of this act; and for the purpose of making payments to the
5 Kansas turnpike authority pursuant to the provisions of K.S.A. 68-2096,
6 and amendments thereto, except that such payments shall not be made
7 from the interest or earnings from the investment of moneys in the state
8 freeway construction fund, as provided in K.S.A. 68-2311, and
9 amendments thereto. Moneys in the state freeway fund may be transferred
10 to the state highway fund and may be expended from such fund for:

11 (1) The construction of state highways within the corridors
12 designated in subsection (a) and approved by the secretary of
13 transportation prior to the effective date of this act;

14 (2) the construction of bypass routes not exceeding five miles in
15 length; and

16 (3) the reconstruction, improvement and maintenance of state
17 highways, whether or not such highways are within the corridors
18 designated in subsection (a). Such reconstruction, improvement and
19 maintenance shall be according to need as determined by priorities
20 assigned to such state highways by the secretary of transportation in
21 accordance with established standards and criteria.

22 The allocation and programming of funds within the state system in
23 each fiscal year shall be according to need, as determined by a schedule of
24 priorities assigned to segments of the existing highways which generally
25 delineate the corridors of said state system of express highways and
26 freeways. The secretary of transportation shall determine the length of
27 each such segment in establishing said priorities, and the schedule of
28 priorities shall be updated every four years on the basis of current criteria
29 at that time. Immediately after the effective date of this act, the secretary
30 of transportation shall evaluate the schedule of priorities and, where
31 necessary, reestablish such schedule in accordance with the following
32 standards and criteria: Except where it is specifically provided by law that
33 any of the highways to be constructed within the corridors designated in
34 subsection (a) shall be constructed so as to include multiple lanes in each
35 direction on roadways separated by a median, barrier or other center
36 division, all highways constructed within the state system of modern
37 express highways and freeways after the effective date of this act may be
38 constructed either with multiple lanes in each direction on roadways
39 separated by a median, barrier or other center division or may be
40 constructed with two lanes on a single roadway. Whenever the secretary of
41 transportation deems it necessary and appropriate for the safety of
42 vehicular traffic, such highways shall be designed and constructed to
43 include controlled access, passing lanes, expanded shoulder width, long-

1 sight distances, grade separations at intersections with other roads and
2 highways and railroads. Nothing herein shall be construed as abrogating,
3 limiting or otherwise affecting the construction of any highway for which
4 bids for the construction thereof have been solicited and received prior to
5 the effective date of this act, nor shall the foregoing be construed as
6 precluding the secretary of transportation, whenever the secretary deems it
7 feasible and appropriate, from acquiring right-of-way sufficient to
8 accommodate the eventual construction of multiple-lane divided highways
9 within any corridor designated in subsection (a).

10 (c) In constructing or reconstructing the state system of modern
11 express highways and freeways established in this section, the secretary
12 shall evaluate from time to time the feasibility of designating ~~a portion or~~
13 **new or added capacity** portions of any of the modern express highways
14 and freeways within the system as a toll road. If the secretary shall
15 determine that the designation of any ~~such~~ **new or added capacity** portion
16 as a toll road is feasible, based on the projected traffic, engineering, cost
17 and financing of the proposed toll road and a determination that adequate
18 public funds for construction of such toll road are not available and that
19 the construction of such toll road can be financed ~~entirely~~ *partly* through
20 proceeds of the bonds issued pursuant to this act, the secretary ~~shall submit~~
21 ~~to the legislature a recommendation that such portion be constructed~~ *may*
22 *construct any portion or portions of any of the modern express highways*
23 *and freeways within the system as a toll road* **may construct such toll**
24 **road after meeting the requirements of K.S.A. 60-20,120, and**
25 **amendments thereto.** ~~The recommendation, together with any supporting~~
26 ~~information deemed necessary by the secretary, may be submitted with or~~
27 ~~as a part of the annual report required of the secretary in K.S.A. 68-2315.~~
28 Nothing in this subsection shall be construed as abrogating, limiting or
29 otherwise affecting any obligations or duties imposed upon the secretary of
30 transportation under this section with respect to the construction,
31 reconstruction, improvement and maintenance of the state system of
32 modern express highways and freeways, including without limitation
33 location studies, engineering, right-of-way acquisition and public hearings,
34 nor shall it affect in any way the allocation, programming or priority of
35 funds therefor.

36 ~~Sec.-6.~~ **7.** K.S.A. **68-2001**, 68-2002, 68-2004, 68-2008, 68-20,120
37 and 68-2301 are hereby repealed.

38 ~~Sec.-7.~~ **8.** This act shall take effect and be in force from and after its
39 publication in the statute book.