

HOUSE BILL No. 2588

By Committee on Appropriations

2-6

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

1 additions to the transportation system, or that improve access, relieve
2 congestion and enhance economic development opportunities. The Kansas
3 department of transportation shall develop and utilize criteria for the
4 selection of expansion and economic opportunity projects. The selection
5 criteria shall include, but shall not be limited to, engineering and traffic
6 data, local consultation, geographic distribution and an economic impact
7 analysis evaluation; and

8 (D) modernization projects that include improvements to the
9 transportation system by widening lanes or shoulders, making geometric
10 improvements, upgrading interchanges or building rail grade separations to
11 improve the safety, condition or service of the highway system. The
12 Kansas department of transportation shall develop and utilize criteria for
13 the selection of modernization projects. The selection criteria shall include,
14 but shall not be limited to, engineering data, local consultation and
15 geographic distribution.

16 (2) The department of transportation shall develop criteria for the
17 incorporation of practical improvements into designs of the projects
18 specified in this subsection.

19 (c) Except as further provided, the FORWARD transportation
20 program shall provide for the completion of modernization and expansion
21 projects selected for construction under the transportation works for
22 Kansas program pursuant to K.S.A. 68-2314b, and amendments thereto.
23 Such projects shall be let prior to July 1, 2023. A transportation works for
24 Kansas program selected project in Harvey County generally described as
25 an approximate one-mile reconstruction of the I-135 and 36th street
26 interchange may not be constructed. If such project is not constructed, the
27 estimated construction costs for such project shall be used on other
28 construction projects in the Kansas department of transportation's south-
29 central district.

30 (d) The FORWARD transportation program shall provide for
31 assistance, including credit and credit enhancements, to cities and counties
32 in meeting their responsibilities for the construction, improvement,
33 reconstruction and maintenance of transportation improvements. Such
34 programs may use criteria developed by the Kansas department of
35 transportation for the incorporation of practical improvements into designs
36 of projects. Expenditures under this subsection may include, but may not
37 be limited to, the following:

38 (1) Apportionment of the special city and county highway fund to
39 assist cities and counties with their responsibilities for roads and bridges
40 not on the state highway system;

41 (2) programs to share federal aid with cities and counties to assist
42 with their responsibilities for roads and bridges not on the state highway
43 system;

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.

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

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

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

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

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

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

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

37 (d) On July 1, 2020, and each July 1 thereafter through July 1, 2022,
38 the director of accounts and reports shall transfer \$5,000,000 from the state
39 highway fund to the broadband infrastructure construction grant fund. On
40 July 1, 2023, and each July thereafter through July 1, 2030, the director of
41 accounts and reports shall transfer \$10,000,000 from the state highway
42 fund to the broadband infrastructure construction grant fund. At the end of
43 each fiscal year, the secretary of transportation is hereby authorized to

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

1 proposers based on qualifications identified in the request for
2 qualifications and the second phase consists of the submission of price or
3 technical proposals, or both, in response to a request for proposal;

4 (2) advertisement of requests for qualifications in the Kansas register
5 for at least three consecutive weeks;

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

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

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

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

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

40 Sec. 5. K.S.A. 68-416 is hereby amended to read as follows: 68-416.
41 The state highway fund shall be apportioned as follows:

42 (a) The secretary of transportation annually shall apportion and
43 distribute quarterly, on the first day of January, April, July and October, to

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 10th 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

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*

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 in each*
4 *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.~~

1 ~~(h)~~(g) *As used in this section, "qualified entity" means any interstate*
2 *commerce commission certificated railroad, a port authority established in*
3 *accordance with Kansas laws, or any entity meeting the rules and*
4 *regulations established by K.S.A. 75-5050, and amendments thereto.*

5 Sec. 10. K.S.A. 75-5061 is hereby amended to read as follows: 75-
6 5061. (a) The secretary of transportation is hereby authorized and
7 empowered to: (1) Solicit and receive moneys from any public or private
8 sources; and (2) establish and administer a grant program for public use
9 general aviation airports for the purpose of planning, constructing,
10 reconstructing or rehabilitating the facilities of such public use general
11 aviation airports.

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

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

29 (d) (1) On July 1, 1999, and each July 1 thereafter through July 1,
30 2012, the director of accounts and reports shall transfer \$3,000,000 from
31 the state highway fund to the public use general aviation airport
32 development fund.

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

42 (e) As used in this section, "public use general aviation airport"
43 means any airport available for use by the general public for the landing

1 and taking off of aircraft, but shall not include any airport classified as a
2 primary airport by the federal aviation administration.

3 (f) The secretary of transportation may adopt rules and regulations for
4 the purpose of implementing the provisions of this section.

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

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

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

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

1 gas, coal, wood and other fuel sources for the production of heat or
2 lighting for noncommercial use of an occupant of residential premises, the
3 state rate shall be 0%, but such tax shall not be levied and collected upon
4 the gross receipts from: (1) The sale of a rural water district benefit unit;
5 (2) a water system impact fee, system enhancement fee or similar fee
6 collected by a water supplier as a condition for establishing service; or (3)
7 connection or reconnection fees collected by a water supplier;

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

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

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

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

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

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

40 (j) the gross receipts from the rendering of the services of washing
41 and washing and waxing of vehicles;

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

1 (1) (1) except as otherwise provided by paragraph (2), the gross
2 receipts received from the sales of tangible personal property to all
3 contractors, subcontractors or repairmen for use by them in erecting
4 structures, or building on, or otherwise improving, altering, or repairing
5 real or personal property.

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

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

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

37 (o) the gross receipts received from the isolated or occasional sale of
38 motor vehicles or trailers but not including: (1) The transfer of motor
39 vehicles or trailers by a person to a corporation or limited liability
40 company solely in exchange for stock securities or membership interest in
41 such corporation or limited liability company; (2) the transfer of motor
42 vehicles or trailers by one corporation or limited liability company to
43 another when all of the assets of such corporation or limited liability

1 company are transferred to such other corporation or limited liability
2 company; or (3) the sale of motor vehicles or trailers which are subject to
3 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
4 amendments thereto, by an immediate family member to another
5 immediate family member. For the purposes of paragraph (3), immediate
6 family member means lineal ascendants or descendants, and their spouses.
7 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
8 on the isolated or occasional sale of motor vehicles or trailers on and after
9 July 1, 2004, which the base for computing the tax was the value pursuant
10 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
11 such amount was higher than the amount of sales tax which would have
12 been paid under the law as it existed on June 30, 2004, shall be refunded to
13 the taxpayer pursuant to the procedure prescribed by this section. Such
14 refund shall be in an amount equal to the difference between the amount of
15 sales tax paid by the taxpayer and the amount of sales tax which would
16 have been paid by the taxpayer under the law as it existed on June 30,
17 2004. Each claim for a sales tax refund shall be verified and submitted not
18 later than six months from the effective date of this act to the director of
19 taxation upon forms furnished by the director and shall be accompanied by
20 any additional documentation required by the director. The director shall
21 review each claim and shall refund that amount of tax paid as provided by
22 this act. All such refunds shall be paid from the sales tax refund fund, upon
23 warrants of the director of accounts and reports pursuant to vouchers
24 approved by the director of taxation or the director's designee. No refund
25 for an amount less than \$10 shall be paid pursuant to this act. In
26 determining the base for computing the tax on such isolated or occasional
27 sale, the fair market value of any motor vehicle or trailer traded in by the
28 purchaser to the seller may be deducted from the selling price;

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

39 For the purposes of this subsection:

40 (1) "Original construction" shall mean the first or initial construction
41 of a new building or facility. The term "original construction" shall include
42 the addition of an entire room or floor to any existing building or facility,
43 the completion of any unfinished portion of any existing building or

1 facility and the restoration, reconstruction or replacement of a building,
2 facility or utility structure damaged or destroyed by fire, flood, tornado,
3 lightning, explosion, windstorm, ice loading and attendant winds,
4 terrorism or earthquake, but such term, except with regard to a residence,
5 shall not include replacement, remodeling, restoration, renovation or
6 reconstruction under any other circumstances;

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

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

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

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

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

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

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

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

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

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

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

7 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
8 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
9 pursuant to this section.

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

31 Sec. 13. K.S.A. 68-416, 68-2315, 68-2316, 75-5035, 75-5048, 75-
32 5061, 79-3603 and 79-3703 are hereby repealed.

33 Sec. 14. This act shall take effect and be in force from and after its
34 publication in the statute book.