

*[As Amended by Senate Committee of the Whole]*

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*Session of 2008*

## SENATE BILL No. 693

By Committee on Federal and State Affairs

3-19

12 AN ACT concerning transportation; relating to intermodal transportation  
13 projects, and providing for the financing thereof.

14

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

16 Section 1. The secretary of transportation is hereby authorized to  
17 establish an intermodal transportation revolving fund to provide assis-  
18 tance to governmental units for intermodal transportation projects.

19 Sec. 2. As used in sections 1 through 7, and amendments thereto:

20 (a) "Cost" means as applied to any qualified project, any or all costs,  
21 whenever incurred, approved by the department, for carrying out a qual-  
22 ified project;

23 (b) "department" means the department of transportation, estab-  
24 lished under K.S.A. 75-5001, and amendments thereto;

25 (c) "fund" means the Kansas intermodal transportation revolving  
26 fund established by section 4, and amendments thereto;

27 (d) "governmental unit" means any town, city, district, county, com-  
28 mission, agency, authority, board or other instrumentality of the state or  
29 of any of its political subdivisions, including any combination thereof,  
30 which is responsible for the construction, ownership or operation of a  
31 ~~qualified project~~ **has a qualified project located within the bounda-**  
32 **ries of such entity or within the jurisdiction of such entity;**

33 (e) "intermodal facility" means ~~an intermodal facility~~ **land, improve-**  
34 **ments, personal property and fixtures** developed primarily to handle  
35 the transfer, storage and distribution of freight through railway and truck-  
36 ing operations with a cost in excess of ~~\$175,000,000~~ **\$150,000,000;**

37 (f) "intermodal transportation area" means an area including an in-  
38 termodal facility and ~~property adjacent to~~ **such additional area certified**  
39 **by the secretary to be impacted by** such intermodal facility, ~~as ap-~~  
40 ~~proved by the secretary;~~

41 (g) "intermodal transportation project" means any bridge, culvert,  
42 highway, road, street, **underpass, railroad crossing** or combination  
43 thereof located within an intermodal transportation area;

- 1 (h) “private enterprise” means a private person or entity that has  
 2 entered into a contract with a ~~public authority~~ **governmental unit** to  
 3 design, finance, construct or operate a qualified project that is within the  
 4 jurisdiction of such public authority;
- 5 ~~(i) “project” means the acquisition, construction, improvement, re-~~  
 6 ~~pair, rehabilitation, maintenance or extension of transportation facilities;~~
- 7 ~~(j) [(i)]~~ “project costs” means all costs or expenses which are nec-  
 8 essary or incident to a qualified project and which are directly attributable  
 9 thereto, **including, but not limited to, land acquisition;**
- 10 ~~(k) [(j)]~~ “qualified borrower” means any governmental unit or private  
 11 enterprise which is authorized to construct, operate or own a qualified  
 12 project;
- 13 ~~(l) [(k)]~~ “qualified project” means any public or private intermodal  
 14 transportation project, including, without limitation, the construction, re-  
 15 construction, resurfacing, restoration, rehabilitation or replacement of  
 16 public or private **intermodal** transportation ~~facilities~~ **projects** within the  
 17 state, that is determined by the secretary to be of statewide as well as  
 18 local importance **and by the city or county in which the qualified**  
 19 **project is located to be of local importance;**
- 20 ~~(m) [(l)]~~ “revenues” means when used with respect to the depart-  
 21 ment, any receipts, fees, revenues or other payments received or to be  
 22 received by the department under sections 1 through 7, and amendments  
 23 thereto; and
- 24 ~~(n) [(m)]~~ “secretary” means the secretary of the department of  
 25 transportation.
- 26 Sec. 3. (a) The secretary shall administer the provisions of sections  
 27 1 through 7, and amendments thereto, and shall be responsible for the  
 28 administration and management of the fund, and shall have the power to  
 29 enter into agreements and contracts and to transfer money between the  
 30 state highway fund and the fund as required to effect the purposes of  
 31 sections 1 through 7, and amendments thereto.
- 32 (b) The secretary shall adopt rules and regulations, to carry out the  
 33 purposes and provisions of sections 1 through 7, and amendments  
 34 thereto.
- 35 Sec. 4. (a) There is hereby established in the state treasury a fund to  
 36 be known as the Kansas intermodal transportation revolving fund which  
 37 shall consist of the following:
- 38 (1) Amounts appropriated or otherwise made available by the legis-  
 39 lature for the purposes of the fund;
- 40 (2) the proceeds, if any, from the sale of bonds issued pursuant to  
 41 section 5, and amendments thereto, for the purposes of the fund to the  
 42 extent provided in any agreement entered into between the secretary and  
 43 the Kansas development finance authority;

- 1 (3) amounts of repayments made by qualified borrowers of loans re-  
2 ceived under sections 1 through 7, and amendments thereto, together  
3 with payments of interest thereon, in accordance with agreements en-  
4 tered into between such qualified borrowers and the secretary;
- 5 (4) amounts earned on moneys in the fund;
- 6 (5) amounts contributed or otherwise made available by any public  
7 or private entity for use in effectuating the purposes of the fund;
- 8 (6) amounts transferred by order of the secretary from the state high-  
9 way fund; and
- 10 (7) any other amounts as may be made available for purposes of the  
11 fund.
- 12 (b) Subject to the provisions of sections 1 through 7, and amendments  
13 thereto, expenditures from the fund shall be made for the following  
14 purposes:
- 15 (1) For the payment of the principal, including sinking fund payments  
16 of and premium, if any, and interest on bonds issued pursuant to sections  
17 1 through 7, and amendments thereto;
- 18 (2) for providing financial assistance to qualified borrowers to finance  
19 qualified projects;
- 20 (3) for the maintenance of, or provision for, any reserves, additional  
21 security, insurance or other form of credit enhancement to secure such  
22 bonds required or provided for in any trust agreement entered into pur-  
23 suant to sections 1 through 7, and amendments thereto;
- 24 (4) to guarantee, purchase insurance or provide other credit enhance-  
25 ment for bonds of qualified borrowers issued to finance the costs of qual-  
26 ified projects;
- 27 (5) to provide reserves for or otherwise secure bonds issued pursuant  
28 to sections 1 through 7, and amendments thereto, and to provide insur-  
29 ance or other credit enhancement for such bonds;
- 30 (6) to provide reserves for, or to otherwise secure, amounts payable  
31 by qualified borrowers on loans made by and leases with the department  
32 in the event of default by a particular qualified borrower or, on a parity  
33 basis, by any qualified borrower;
- 34 (7) to provide a subsidy for, or to otherwise assist, qualified borrowers  
35 in the payment of debt service costs on loans made by the department  
36 hereunder;
- 37 (8) for administrative costs of the fund or for any of the foregoing;
- 38 (9) the transfer of money by order of the secretary to the state high-  
39 way fund; and
- 40 (10) the transfer of money by order of the secretary to the state gen-  
41 eral fund.
- 42 Sec. 5. (a) The activities of the department in administering and per-  
43 forming the powers, duties and functions prescribed by the provisions of

1 sections 1 through 7, and amendments thereto, are hereby approved for  
2 the purposes of subsection (b) of K.S.A. 74-8905, and amendments  
3 thereto, and the authorization of issuance of bonds by the Kansas devel-  
4 opment finance authority in accordance with that statute. The provisions  
5 of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not  
6 prohibit the issuance of bonds for such purposes when so authorized and  
7 any such issuance of bonds is exempt from the provisions of subsection  
8 (a) of K.S.A. 74-8905, and amendments thereto.

9 (b) The debt service for any bonds issued pursuant to this section  
10 shall be paid from revenues, including loan repayments received from  
11 qualified borrowers under agreements entered into pursuant to sections  
12 1 through 7, and amendments thereto, or from any other amounts avail-  
13 able in the Kansas intermodal transportation revolving fund pursuant to  
14 section 4, and amendments thereto, including appropriations of moneys  
15 from the state general fund.

16 (c) Neither the state nor the department shall have the power to  
17 pledge the full faith and credit or taxing power of the state of Kansas for  
18 such purposes and any payment by the department for such purpose shall  
19 be subject to and dependent on appropriations by the legislature. Any  
20 obligation of the state or the department for payment of debt service on  
21 bonds issued pursuant to this section shall not be considered a debt or  
22 obligation of the state for the purpose of section 6 of article 11 of the  
23 Kansas constitution.

24 **(d) No governmental unit is authorized to pledge its full faith**  
25 **and credit or its taxing power for the purpose of repayment of any**  
26 **loan under this act.**

27 Sec. 6. (a) Qualified borrowers which desire assistance in the form  
28 of a loan, credit enhancement or grant under sections 1 through 7, and  
29 amendments thereto, shall submit an application therefor to the secretary.  
30 Applications shall be in such form and shall include such information as  
31 the secretary shall require and shall be submitted in a manner and at a  
32 time to be determined by the secretary.

33 (b) The secretary may enter into agreements with any qualified bor-  
34 rower for payment of all or a part of project costs. All moneys received  
35 by the secretary pursuant to such agreements shall be deposited in the  
36 Kansas intermodal transportation revolving fund.

37 (c) The secretary shall provide any governmental unit, upon its re-  
38 quest, with technical advice and assistance regarding a *[qualified]* project  
39 or an application for assistance. The secretary may assess reasonable fees  
40 for providing such assistance.

41 (d) Any governmental unit may enter into agreements *with the sec-*  
42 *retary* and may accept assistance as provided in this section when so  
43 authorized by its governing body.

- 1     Sec. 7. (a) Upon the failure of a governmental unit to meet the re-  
2     payment terms and conditions of an agreement, the secretary may order  
3     the state treasurer to pay to the fund such portion of the governmental  
4     unit's share of the special city and county highway fund as may be nec-  
5     essary to meet the terms of the agreement. ***This subsection shall not***  
6     ***apply if the source of repayment of a loan with a governmental unit,***  
7     ***as identified in the agreement, is not received by such governmental***  
8     ***unit prior to the loan repayment date.***
- 9     (b) Any loans received by a governmental unit under the provisions  
10    of sections 1 through 7, and amendments thereto, shall be construed to  
11    be bonds for the purposes of K.S.A. 10-1116 ~~and 79-5028~~, and amend-  
12    ments thereto, and the amount of such loans shall not be included within  
13    any limitation on the bonded indebtedness of the governmental unit.
- 14    Sec. 8. This act shall take effect and be in force from and after its  
15    publication in the Kansas register.