

Approved: 5/29/98 \_\_\_\_\_  
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on March 27, 1998 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department  
Russell Mills, Legislative Research Department  
April Holman, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Michael Corrigan, Revisor of Statutes  
Judy Bromich, Administrative Assistant  
Ann Deitcher, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Senator Salmans moved and Senator Salisbury seconded that the minutes for March 12, 17 and 18 be approved. The motion carried on a voice vote.

Senator Kerr spoke to the Committee about **SB 648**, saying he felt that they had not worked it as thoroughly as they should have. It carried with it more new authority than they had appreciated. After meeting with staff members of the Department of Transportation, he stated that he had asked for the bill to be sent back to Committee.

Robert Haley, Department of Transportation Director of Division of Administration, spoke to the Committee in regard to **SB 648**. (Attachment 1).

In regard to the approval of projects within the new fund, Senator Kerr suggested that since it could become political if done project by project, they could examine, after the fact, in the Annual Report, what had been done. There could be a special Annual Report for three years. After that if things were satisfactory, it would be back in the regular Annual Report.

Senator Kerr told the Committee that the Revisor sees some problem in the bill, with the constitutional restriction on works of internal improvement. The simplest way to get around that would be, on certain projects that would run afoul of the prohibition on funding of works of internal improvement, there would be a case by case Legislative approval with a two-thirds vote.

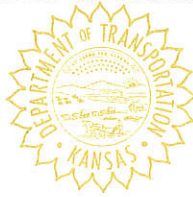
Mr. Haley gave examples of what kind of work they might be doing in this fund that would be works of internal improvement. In article 11, section 9 in internal improvements, there are five exceptions: 1. for a system of state roads - not state highway system - but all roads and bridges in the state of Kansas; 2. for water works; 3. for economic development; 4. a catch all; 5. federal aid. The Constitution allows these kinds of internal improvements, but not others.

A motion was made by Senator Morris and seconded by Senator Salisbury to approve the amendment, including the conceptional amendment on Transportation, i.e. the amendments described in Mr. Haley's testimony. The motion to amend passed on a voice vote.

Senator Salisbury moved, seconded by Senator Morris that **SB 648** be recommended as amended for passage. The motion carried on a roll call vote.

The meeting adjourned at 11:55 a.m. The next meeting is scheduled for March 30, 1998.





KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson  
*Secretary of Transportation*

*Docking State Office Building  
Topeka 66612-1568  
(913) 296-3566  
TTY (913) 296-3585  
FAX (913) 296-1095*

Bill Graves  
*Governor of Kansas*

**TESTIMONY BEFORE THE  
SENATE WAYS AND MEANS COMMITTEE**

**Regarding Senate Bill 648,  
An Act Creating the Transportation Capital Enhancement Fund,  
Rereferred To Senate Ways and Means**

March 27, 1998

Mr. Chairman and Committee Members:

I am Robert Haley, Director of Administration for the Kansas Department of Transportation. I am pleased to testify in support of Senate Bill 648 that creates the Transportation Capital Enhancement Fund.

As the Committee may recall from the Secretary's February 19<sup>th</sup> testimony, the Transportation Capital Enhancement Fund is enabling legislation that would allow Kansas to take advantage of certain provisions being considered in the Federal highway program. It is a tool that would allow the State to lower the cost of transportation projects at little or no cost or risk to the State and would allow the State to address certain transportation projects.

It is permissive; no local unit would be required to participate. It supplements current law. It is not a substitute for a new transportation program.

It is not a new concept either nationally or in Kansas. Almost all states have either enacted similar transportation legislation or legislation is under consideration. Kansas has used the concept with the Mid-States Port Authority Bonds, the Kansas Water Pollution Control Revolving Fund, and the Kansas Public Water Supply Project Loan Program.

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Attachment 1-1*

KDOT understands that certain questions have been raised concerning Senate Bill 648 as introduced. This presentation will attempt to highlight the questions and answers and to discuss possible compromises.

## NEED FOR LEGISLATION

Senate Bill 648 allows KDOT to accomplish four things that either cannot be done under current law or require an aggressive legal interpretation of current authority.

**Federal Aid Implications.** The Transportation Capital Enhancement Funds may allow Kansas to earn interest on at least part of the federal highway aid. This part of the bill would be beneficial whether or not the loan and credit enhancement portions were approved. It would also be beneficial for the loan and credit portions to be approved, whether or not specific federal funding was available.

**Off-System Projects.** Senate Bill 648 clearly establishes the authority and ability to use state and federal funds to address transportation needs that traditionally would not be eligible. This may be helpful in addressing the problems in Wichita with the railroad crossings since the crossings are not on the State Highway System and it would be difficult to use state money under current laws.

**Multi-Modal Transportation Projects.** Senate Bill 648 would provide the ability, subject to Constitutional restrictions and the availability of funding, to address nonhighway transportation needs.

**Leveraging of Resources.** The Transportation Capital Enhancement Fund could be used to reduce the interest cost to local governments by providing a credit enhancement at little or no cost or risk to the state. The Transportation Capital Enhancement Fund would also allow the state to help reduce interest and issuance problems by combining issues from several local units into a pooled bond issue that could have economies of scale for issuance and could be widely marketed with a credit enhancement by the Transportation Capital Enhancement Fund.

## OPERATION OF THE FUND

The first attached diagram may help explain how the Transportation Capital Enhancement Fund would operate as originally introduced. The second diagram reflects the compromises suggested in this presentation.

**Federal Aid Implications.** It appears likely that the new federal law will allow Kansas to earn interest on certain federal aid.

**Assistance.** The Transportation Capital Enhancement Fund would be used to provide loans, credit enhancements, or grants to local governments or other transportation

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3/27/98  
Attachment 1-2

providers. It is also possible that grants or deeply subsidized loans could be made when the Secretary determines that it is necessary.

KDOT would adopt procedures for the administration of the Fund and the allocation of assistance. It is the intent of KDOT to work with the Kansas Development Finance Authority (K DFA) for the actual administration of the program.

**Capitalization.** The amount of resources required for capitalization is dependent on the amount of demand for assistance, and the amount of assistance that can be provided is dependent on the amount of resources available. To the extent that money can be made available from the State Highway Fund, it could be transferred to the Transportation Capital Enhancement Fund rather than increasing the projects on the State Highway System. If adequate initial funding is not available from the State Highway Fund, up to \$50 million in bonds is authorized in Senate Bill 648 with the principal and interest to be paid by the State Highway Fund.

Repayment of loans with interest, fees, and interest earned on investments is intended to cover the outflow of funds for loans and subsidies. Significant grants, deep subsidies, or an increase in the amount of assistance provided may require additional capitalization in future years.

## NEED FOR BOND AUTHORITY

Senate Bill 648 actually provides three different bond authorizations. One relates to capitalization, one to bond pools, and one to local authority.

**Capitalization.** If the authorization was not provided, it is possible that the Transportation Capital Enhancement Fund would not be adequately capitalized to meet local needs. The \$50 million cap was intended to provide a balance between capitalizing a meaningful program and excessive debt. If bonding for capitalization is of concern to the Legislature, the Secretary has indicated that the following compromise could be supported by KDOT.

*Delete Authority for Capitalization Bonds. If the Legislature were to delete authority to issue bonds to capitalize the Fund, the program could still be initiated. A limited program could be started and if additional capitalization is needed a future Legislature could address the problem.*

**Bond Pools.** KDOT understands that this type of assistance has been successful with the water loan programs in Kansas. Small issuers are able to go together and achieve economies of scales both in issuance costs and interest rates with no real cost or risk to the state. If this were not authorized, small units of government would not have the opportunity to lower transportation capital improvement costs.

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Attachment 1-3

**Local Authority.** Senates Bill 648 clearly establishes that local units of government have authority to enter into loan agreements with the Transportation Capital Enhancement Fund.

## NEED FOR TRANSFERS

**Capitalization Transfers.** In order to keep transportation money as productive as possible, it is necessary to have a mechanism so that adequate money can be committed to meaningfully meet local assistance needs and to return funding to the State Highway Fund if it is not needed to adequately capitalize the Fund. If additional Legislative control is desired, a compromise is possible.

*Appropriation Bill Limitation.* Senate Bill 648 could be amended to require that all transfers from the State Highway Fund to the Transportation Capital Enhancement Fund for capitalization be subject to a limitation established in an appropriation bill and that approval of the Finance Council be required to release the funds. The appropriation bill could establish a maximum amount that could be transferred at the Secretary's direction from the State Highway Fund to the Transportation Capital Enhancement Fund for capitalization. KDOT would recommend \$50 million. If adequate resources were not available in the State Highway Fund or local requests for assistance did not justify the total transfer, the Secretary could direct that only a portion of the transfer be made.

**Project Grants or Transfers.** In order to take advantage of federal aid provisions, it may be desirable to finance State Highway Fund projects from the Transportation Capital Enhancement Fund. This would be part of the agency operations and it would not be efficient to impose additional restrictions on these project grants or transfers. If additional Legislative control is desired, a compromise is possible.

*Annual Report.* Senate Bill 648 could be amended to require that all transfers from the State Highway Fund to the Transportation Capital Enhancement Fund be reported to the Legislature. For the first three years this would be a separate report to the Senate Ways and Means, House Appropriations, and the Senate and House Transportation Committees in addition to the Annual Report. After the three years, it would continue in the Annual Report.

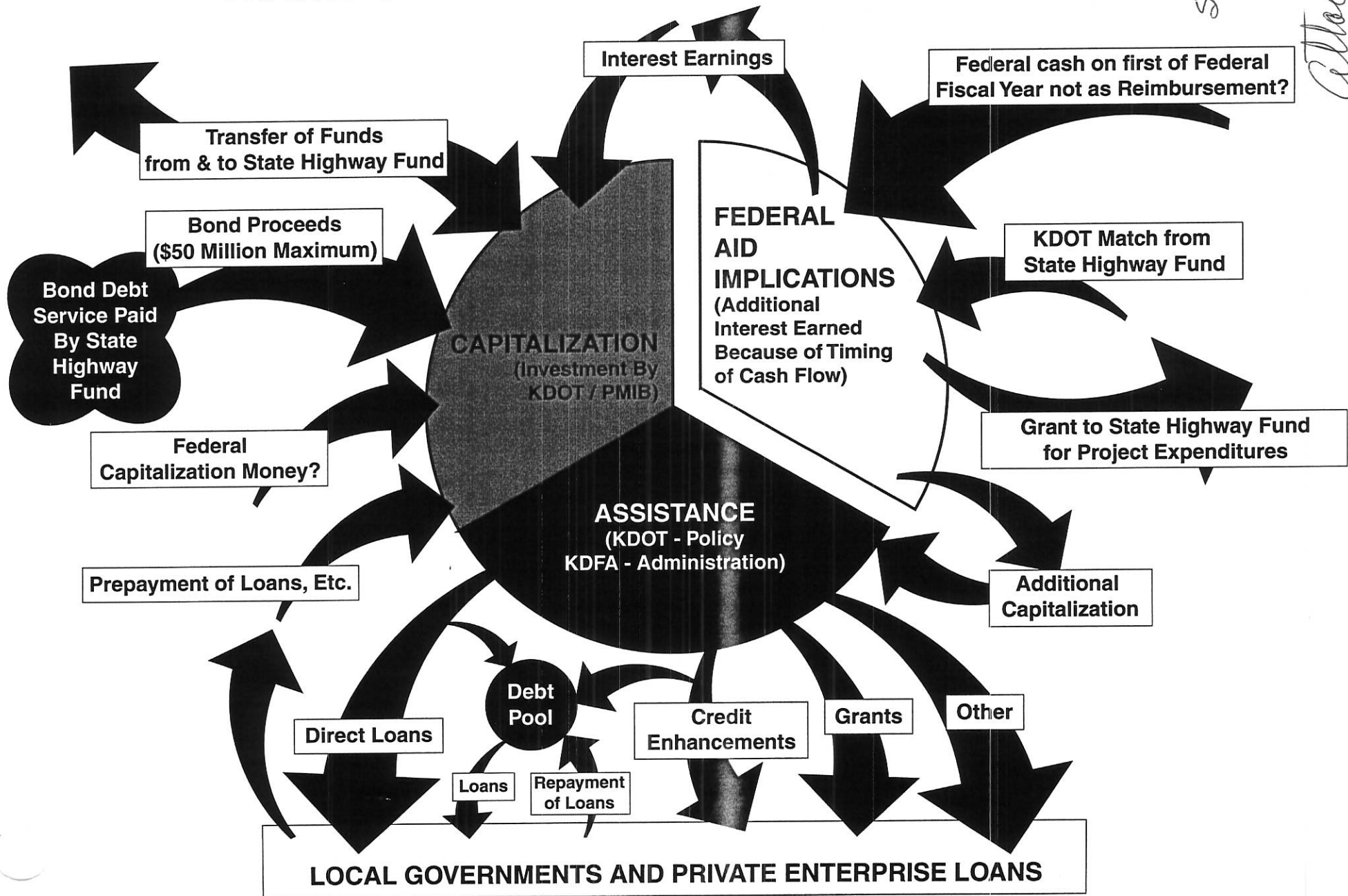
## CONCLUSION

We feel this bill would be beneficial to the State, KDOT and cities and counties. We ask for your favorable consideration.

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Attachment 1-4

# SB648 AS INTRODUCED TRANSPORTATION CAPITAL ENHANCEMENT FUND

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Attachment  
1-5*



# SB648 WITH 3/27/98 COMPROMISE AMENDMENTS TRANSPORTATION CAPITAL ENHANCEMENT FUND

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Attachment 1-6

