

CHAPTER 78  
HOUSE BILL No. 2131\*

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

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

Section 1. The secretary of transportation is hereby authorized to establish an intermodal transportation revolving fund to provide assistance to governmental units for intermodal transportation projects.

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

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

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

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

(d) "governmental unit" means any town, city, district, county, commission, agency, authority, board or other instrumentality of the state or of any of its political subdivisions, including any combination thereof, which has a qualified project located within the boundaries of such entity or within the jurisdiction of such entity;

(e) "intermodal facility" means land, improvements, personal property and fixtures developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations with a cost in excess of \$150,000,000;

(f) "intermodal transportation area" means an area including an intermodal facility and such additional area certified by the secretary to be impacted by such intermodal facility;

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

(h) "private enterprise" means a private person or entity that has entered into a contract with a governmental unit to design, finance, construct or operate a qualified project that is within the jurisdiction of such public authority;

(i) "project" means the acquisition, construction, improvement, repair, rehabilitation, maintenance or extension of transportation facilities;

(j) "project costs" means all costs or expenses which are necessary or incident to a qualified project and which are directly attributable thereto, including, but not limited to, land acquisition;

(k) "qualified borrower" means any governmental unit or private enterprise which is authorized to construct, operate or own a qualified project;

(l) "qualified project" means any public or private intermodal transportation project, including, without limitation, the construction, reconstruction, resurfacing, restoration, rehabilitation or replacement of public or private intermodal transportation projects within the state, that is determined by the secretary to be of statewide as well as local importance and by the city or county in which the qualified project is located to be of local importance;

(m) "revenues" means when used with respect to the department, any receipts, fees, revenues or other payments received or to be received by the department under sections 1 through 7, and amendments thereto; and

(n) "secretary" means the secretary of the department of transportation.

Sec. 3. (a) The secretary shall administer the provisions of sections 1 through 7, and amendments thereto, and shall be responsible for the administration and management of the fund, and shall have the power to enter into agreements and contracts and to transfer money between the state highway fund and the fund as required to effect the purposes of sections 1 through 7, and amendments thereto.

(b) The secretary shall adopt rules and regulations, to carry out the purposes and provisions of sections 1 through 7, and amendments thereto.

Sec. 4. (a) There is hereby established in the state treasury a fund to

be known as the Kansas intermodal transportation revolving fund which shall consist of the following:

(1) Amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(2) the proceeds, if any, from the sale of bonds issued pursuant to section 5, and amendments thereto, for the purposes of the fund to the extent provided in any agreement entered into between the secretary and the Kansas development finance authority;

(3) amounts of repayments made by qualified borrowers of loans received under sections 1 through 7, and amendments thereto, together with payments of interest thereon, in accordance with agreements entered into between such qualified borrowers and the secretary;

(4) amounts earned on moneys in the fund;

(5) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund;

(6) amounts transferred by order of the secretary from the state highway fund; and

(7) any other amounts as may be made available for purposes of the fund.

(b) Subject to the provisions of sections 1 through 7, and amendments thereto, expenditures from the fund shall be made for the following purposes:

(1) For the payment of the principal, including sinking fund payments of and premium, if any, and interest on bonds issued pursuant to sections 1 through 7, and amendments thereto;

(2) for providing financial assistance to qualified borrowers to finance qualified projects;

(3) for the maintenance of, or provision for, any reserves, additional security, insurance or other form of credit enhancement to secure such bonds required or provided for in any trust agreement entered into pursuant to sections 1 through 7, and amendments thereto;

(4) to guarantee, purchase insurance or provide other credit enhancement for bonds of qualified borrowers issued to finance the costs of qualified projects;

(5) to provide reserves for or otherwise secure bonds issued pursuant to sections 1 through 7, and amendments thereto, and to provide insurance or other credit enhancement for such bonds;

(6) to provide reserves for, or to otherwise secure, amounts payable by qualified borrowers on loans made by and leases with the department in the event of default by a particular qualified borrower or, on a parity basis, by any qualified borrower;

(7) to provide a subsidy for, or to otherwise assist, qualified borrowers in the payment of debt service costs on loans made by the department hereunder;

(8) for administrative costs of the fund or for any of the foregoing;

(9) the transfer of money by order of the secretary to the state highway fund; and

(10) the transfer of money by order of the secretary to the state general fund.

Sec. 5. (a) The activities of the department in administering and performing the powers, duties and functions prescribed by the provisions of sections 1 through 7, and amendments thereto, are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of issuance of bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto.

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

(c) Neither the state nor the department shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the department for such purpose shall

be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the Kansas constitution.

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

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

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

(c) The secretary shall provide any governmental unit, upon its request, with technical advice and assistance regarding a project or an application for assistance. The secretary may assess reasonable fees for providing such assistance.

(d) Any governmental unit may enter into agreements with the secretary and may accept assistance as provided in this section when so authorized by its governing body.

Sec. 7. (a) Upon the failure of a governmental unit to meet the repayment terms and conditions of an agreement, the secretary may order the state treasurer to pay to the fund such portion of the governmental unit's share of the special city and county highway fund as may be necessary to meet the terms of the agreement. This subsection shall not apply if the source of repayment of a loan with a governmental unit, as identified in the agreement, is not received by such governmental unit prior to the loan repayment date.

(b) Any loans received by a governmental unit under the provisions of sections 1 through 7, and amendments thereto, shall be construed to be bonds for the purposes of K.S.A. 10-1116, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the governmental unit.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 10, 2009.

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