

HOUSE BILL No. 2201

By Committee on Transportation

2-2

Proposed Amendments to HB 2201
For House Committee on Transportation
February 18, 2021
Prepared by: Office of Revisor of Statutes

1 AN ACT concerning transportation; relating to the Eisenhower legacy
2 transportation program; decreasing the threshold amount required for
3 alternate delivery projects; providing for the usage of federal stimulus
4 funds for certain projects; ~~calculating KDOT bonding and debt cap-~~
5 ~~authority;~~ amending K.S.A. ~~68-2320 and~~ 68-2328 and K.S.A. 2020
6 Supp. 68-2314c, 68-2332 and 75-5094 and repealing the existing
7 sections.
8

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

10 Section 1. K.S.A. 2020 Supp. 68-2314c is hereby amended to read as
11 follows: 68-2314c. (a) In order to plan, develop and operate or coordinate
12 the development and operation of the various modes and systems of
13 transportation within the state, the secretary of transportation is hereby
14 authorized and directed to initiate the Eisenhower legacy transportation
15 program.

16 (b) (1) The Eisenhower legacy transportation program shall provide
17 for the construction, improvement, reconstruction and maintenance of the
18 state highway system. The program shall provide for the selection of
19 projects that will allow for the flexibility to meet emerging and economic
20 needs. Program expenditures may include, but may not be limited to, the
21 following:

22 (A) Preservation projects to efficiently maintain a state highway
23 system in its original or improved condition and in a state of good repair.
24 The secretary shall establish targets for the state highway system condition
25 that reflect the reasonable, realistic expectations that have historically
26 existed in providing a safe and efficient state highway system. The
27 secretary shall utilize reasonable, sound and accepted methods to
28 determine the annual preservation investment needed to achieve the state
29 targets and provide optimum cost effectiveness in keeping the long-term
30 state highway system condition meeting such targets. It is the intent of the
31 legislature that the secretary, prior to completion of the transportation
32 program, shall spend or encumber from the state highway fund
33 preservation projects in an amount equal to or exceeding 10 times the
34 determined average annual preservation investment. The secretary shall
35 manage cash-flow and project lettings such that there is reasonable
36 assurance that preservation projects shall be fully funded each year.

1 Eisenhower legacy transportation program, transportation funding sources
2 and Eisenhower legacy transportation program project categories. The
3 long-range transportation plan shall make recommendations for a new
4 transportation program for the state of Kansas. The long-range
5 transportation plan shall be developed after consultation with the governor
6 of the state of Kansas and state and local elected officials.

7 ~~Sec. 2. K.S.A. 68-2320 is hereby amended to read as follows: 68-~~
8 ~~2320. (a) On and after July 1, 1991, the secretary of transportation is~~
9 ~~hereby authorized and empowered to issue bonds of the state of Kansas,~~
10 ~~payable solely from revenues accruing to the state highway fund and~~
11 ~~transferred to the highway bond debt service fund and pledged to their~~
12 ~~payment, for the purpose of providing funds to pay costs relating to~~
13 ~~construction, reconstruction, maintenance or improvement of highways in~~
14 ~~this state and to pay all expenses incidental thereto and to the bonds. The~~
15 ~~secretary is hereby authorized to issue bonds the total principal amount of~~
16 ~~which shall not exceed \$890,000,000.~~

17 ~~(b) In addition to the provisions of subsection (a), on and after July 1,~~
18 ~~1999, the secretary of transportation is hereby authorized and empowered~~
19 ~~to issue bonds of the state of Kansas, payable solely from revenues~~
20 ~~accruing to the state highway fund and transferred to the highway bond~~
21 ~~debt service fund and pledged to their payment, for the purpose of~~
22 ~~providing funds to pay costs relating to construction, reconstruction,~~
23 ~~maintenance or improvement of highways in this state and to pay all~~
24 ~~expenses incidental thereto and to the bonds. The secretary is hereby~~
25 ~~authorized to issue bonds the total principal amount of which shall not~~
26 ~~exceed \$1,272,000,000.~~

27 ~~(c) (1) In addition to the provisions of subsections (a) and (b), on and~~
28 ~~after July 1, 2010, the secretary of transportation is hereby authorized and~~
29 ~~empowered to issue additional bonds of the state of Kansas, payable solely~~
30 ~~from revenues accruing to the state highway fund and transferred to the~~
31 ~~highway bond debt service fund and pledged to their payment, for the~~
32 ~~purpose of providing funds to pay costs relating to construction,~~
33 ~~reconstruction, maintenance or improvement of highways in this state and~~
34 ~~to pay all expenses incidental thereto and to the bonds. On and after the~~
35 ~~effective date of this act, except as provided further, no bonds shall be~~
36 ~~issued by the secretary pursuant to this subsection unless the secretary~~
37 ~~certifies that, as of the date of issuance of any such series of additional~~
38 ~~bonds, the maximum annual debt service on all outstanding bonds issued~~
39 ~~pursuant to this section and K.S.A. 68-2328, and amendments thereto,~~
40 ~~including the bonds to be issued on such date, will not exceed 18% of~~
41 ~~projected state highway fund revenues for the current or any future fiscal~~
42 ~~year. During the fiscal year ending June 30, 2018, and the fiscal year~~
43 ~~ending June 30, 2019, the limitation on the amount of the maximum total~~

Remove Section 2 from bill

1 ~~amount of principal on all outstanding bonds issued pursuant to this~~
2 ~~subsection and K.S.A. 68-2328, and amendments thereto, for the purpose~~
3 ~~of issuing any such series of additional bonds authorized by the secretary~~
4 ~~shall be \$1,700,000,000 of the total principal for the transportation works~~
5 ~~for Kansas program authorized under K.S.A. 68-2314b et seq., and~~
6 ~~amendments thereto. The provisions of this section relating to limitations~~
7 ~~of bonded indebtedness shall not in any way impair the rights and~~
8 ~~remedies of the holders of any bonds issued prior to the effective date of~~
9 ~~this act.~~

10 ~~(2) As used in this subsection:~~

11 ~~(A) "Maximum annual debt service" means the maximum amount of~~
12 ~~debt service requirements on all outstanding bonds for the current or any~~
13 ~~future fiscal year;~~

14 ~~(B) "debt service requirements" means, for each fiscal year, the~~
15 ~~aggregate principal and interest payments required to be made during such~~
16 ~~fiscal year on all outstanding bonds, including the additional bonds to be~~
17 ~~issued, less any interest subsidy payments expected to be received from~~
18 ~~the federal government, less any principal and interest payments~~
19 ~~irrevocably provided for from a dedicated escrow of United States~~
20 ~~government securities;~~

21 ~~(C) "projected state highway fund revenues" means all revenues~~
22 ~~projected by the secretary of transportation to accrue to the state highway~~
23 ~~fund for the current or any future fiscal year; and~~

24 ~~(D) "fiscal year" means the fiscal year of the state.~~

25 ~~(3) Debt service requirements for variable rate bonds outstanding or~~
26 ~~proposed to be issued for the current or any future fiscal year for which the~~
27 ~~actual interest rate cannot be determined on the date of calculation shall be~~
28 ~~deemed to bear interest at an assumed rate equal to the average of the~~
29 ~~SIFMA swap index, or any successor variable rate index, for the~~
30 ~~immediately preceding five calendar years plus 1% and an amount~~
31 ~~determined by the secretary that represents the then current reasonable~~
32 ~~annual ancillary costs associated with variable rate debt, including credit~~
33 ~~enhancement, liquidity and remarketing costs; except that, debt service~~
34 ~~requirements for variable rate bonds that are hedged pursuant to an interest~~
35 ~~rate exchange or similar agreement that results in synthetic fixed rate debt~~
36 ~~shall be deemed to bear interest at the synthetic fixed rate plus .5% and an~~
37 ~~amount determined by the secretary that represents the then current~~
38 ~~reasonable annual ancillary costs associated with variable rate debt,~~
39 ~~including credit enhancement, liquidity and remarketing costs.~~

40 ~~(4) Projected state highway fund revenues for the current or any~~
41 ~~future fiscal year for which the actual revenues cannot be determined on~~
42 ~~the date of calculation shall be deemed to be the actual revenues for the~~
43 ~~most recently completed fiscal year, adjusted in each subsequent fiscal~~

1 ~~year by a percentage equal to the historical average annual increase or~~
2 ~~decrease in revenues for the five fiscal year period prior to the current~~
3 ~~fiscal year, and further adjusted to take into account any increases or~~
4 ~~decreases in the statutory rates of any taxes or other charges or transfers~~
5 ~~that comprise a portion of the revenues.~~

6 ~~(d) In accordance with procurement statutes, the secretary may~~
7 ~~contract with financial advisors, attorneys and such other professional~~
8 ~~services as the secretary deems necessary to carry out the provisions of~~
9 ~~this act, and to do all things necessary or convenient to carry out the~~
10 ~~powers expressly granted in this act.~~

11 Sec. 3. K.S.A. 68-2328 is hereby amended to read as follows: 68-
12 2328. (a) Bonds may be issued for the purpose of refunding, either at
13 maturity or in advance of maturity, any bonds issued under this act, any
14 interest on such bonds or both bonds and the interest thereof. Such
15 refunding bonds may either be sold or delivered in exchange for the bonds
16 being refunded. If sold, the proceeds may either be applied to the payment
17 of the bonds being refunded or deposited in trust and there maintained in
18 cash or investments for the retirement of the bonds being refunded, as shall
19 be specified by the secretary and the authorizing resolution or trust
20 indenture securing such refunding bonds. The authorizing resolution or
21 trust indenture securing the refunding bonds may provide that the
22 refunding bonds shall have the same security for their payment as provided
23 for the bonds being refunded. Refunding bonds shall be sold and secured
24 in accordance with the provisions of this act pertaining to the sale and
25 security of the bonds. Any bonds that have been issued pursuant to this
26 section shall not be counted toward the limit on the aggregate principal
27 amount of bonds established under ~~subsections (a) and (b)~~ of K.S.A. 68-
28 2320(a) and (b), and amendments thereto, *and such bonds shall not be*
29 *subject to the limitations on the issuance of bonds established under*
30 *K.S.A. 68-2320(c), and amendments thereto.*

31 (b) When all bonds issued under article 23 of chapter 68 of the
32 Kansas Statutes Annotated, and amendments thereto, have either been paid
33 or the lien of such bonds shall have been defeased in accordance with their
34 terms so that the bonds are deemed to have been paid, the secretary of
35 transportation shall certify such facts to the director of accounts and
36 reports and upon receipt of such certification the director of accounts and
37 reports shall transfer all moneys in the state freeway fund to the state
38 highway fund and upon such transfer all liabilities of the state freeway
39 fund are hereby transferred to and imposed upon the state highway fund
40 and the state freeway fund is hereby abolished. Upon the abolition of the
41 state freeway fund, any reference to the state freeway fund or any
42 designation thereof, in any statute, contract or other document shall mean
43 the state highway fund.

1 any cause of action accruing to the state or any agency or instrumentality
2 thereof that was a party to such contract.

3 Sec. 5. K.S.A. 2020 Supp. 75-5094 is hereby amended to read as
4 follows: 75-5094. (a) The secretary of transportation is hereby authorized
5 and empowered to make grants for construction projects, the purpose of
6 which is to expand and improve broadband service in the state of Kansas.
7 The secretary of transportation is authorized to make such grants when
8 working jointly with the office of broadband development within the
9 department of commerce.

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

17 (c) Grants made by the secretary of transportation from the
18 broadband infrastructure construction grant fund shall reimburse grant
19 recipients for up to 50% of actual construction costs in expanding and
20 improving broadband service in the state of Kansas. Such grant
21 reimbursements shall be upon such terms and conditions as the secretary
22 of transportation may deem appropriate, in coordination with the secretary
23 of commerce.

24 (d) On July 1, 2020, and each July 1 thereafter through July 1, 2022,
25 the director of accounts and reports shall transfer \$5,000,000 from the state
26 highway fund to the broadband infrastructure construction grant fund. On
27 July 1, 2023, and each July 1 thereafter through July 1, 2030, the director
28 of accounts and reports shall transfer \$10,000,000 from the state highway
29 fund to the broadband infrastructure construction grant fund. At the end of
30 each fiscal year, the secretary of transportation is hereby authorized to
31 notify the director of accounts and reports to transfer all remaining and
32 unencumbered funds from the broadband infrastructure construction grant
33 fund to the state highway fund.

34 Sec. 6. K.S.A. ~~68-2320~~ and 68-2328 and K.S.A. 2020 Supp. 68-
35 2314c, 68-2332 and 75-5094 are hereby repealed.

36 Sec. 7. This act shall take effect and be in force from and after its
37 publication in the statute book.

And renumber sections
accordingly