

SENATE BILL No. 502

By Special Committee on Transportation

2-2

9 AN ACT relating to the department of transportation; concerning rail-
10 road programs; amending K.S.A. 2009 Supp. 75-5046, 75-5048 and 75-
11 5049 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2009 Supp. 75-5046 is hereby amended to read as
15 follows: 75-5046. (a) Subject to the provisions of subsection (f), the sec-
16 retary of transportation is hereby authorized upon application by a qual-
17 ified entity and its lender to enter into an agreement to guarantee the
18 repayment of loans made for the purpose of facilitating the financing,
19 acquisition or rehabilitation of railroads in the state of Kansas.

20 (b) Such agreement may contain such terms and conditions as the
21 secretary of transportation may deem appropriate to carry out the pur-
22 poses of this section, except that the aggregate unpaid principal amount
23 of obligations guaranteed thereby shall not exceed \$20,000,000 of which
24 not more than \$5,000,000 may be available each fiscal year. Any loan
25 guaranteed by the secretary of transportation pursuant to this section, at
26 a minimum, shall meet the following requirements:

27 (1) The ratio of benefits to costs for any project funded by such guar-
28 anteed loan shall be greater than one. The benefit/cost methodology to
29 be used for this determination shall be the most recent standard benefit/
30 cost methodology approved by the federal railroad administration of the
31 United States department of transportation;

32 (2) the qualified entity shall demonstrate that it is financially sound
33 and capable of fulfilling all obligations created by the proposed loan guar-
34 antee agreement; and

35 (3) the qualified entity shall demonstrate that adequate funding for
36 the proposed project is not otherwise available, on terms that would make
37 the proposed project financially feasible, in the absence of a state loan
38 guarantee.

39 (c) Prior to any loan being guaranteed under the provisions of this
40 section, the secretary of transportation shall make a determination as to
41 whether the guaranteeing of such loan would adversely affect the rating
42 of any bonds issued and outstanding or authorized to be issued. If the
43 guaranteeing of such loan would adversely affect the rating of such bonds,

1 the secretary of transportation shall not guarantee such loan. Such deter-
2 mination shall be documented in writing by the secretary of
3 transportation.

4 (d) The secretary of transportation may adopt rules and regulations
5 consistent with and for the purpose of implementing the provisions of
6 this section, including the priorities contained in subsection (a) of K.S.A.
7 75-4045, and amendments thereto.

8 (e) “Qualified entity” means any ~~interstate commerce commission~~
9 *surface transportation board* certificated railroad, a port authority estab-
10 lished in accordance with Kansas laws, *cities, counties, industrial park*
11 *authorities* or any entity meeting the rules and regulations established by
12 this section.

13 (f) The secretary of transportation shall not enter into any agreement
14 to guarantee a loan under the provisions of this section unless such action
15 has been authorized by act of the legislature or has been approved by the
16 state finance council acting on this matter which is hereby characterized
17 as a matter of legislative delegation and subject to the guidelines pre-
18 scribed by subsection (c) of K.S.A. 75-3711c, and amendments thereto,
19 except that such approval may also be given when the legislature is in
20 session.

21 Sec. 2. K.S.A. 2009 Supp. 75-5048 is hereby amended to read as
22 follows: 75-5048. (a) The secretary of transportation is hereby authorized
23 to make loans or grants to a qualified entity for the purpose of facilitating
24 the financing, acquisition or rehabilitation of railroads and rolling stock
25 in the state of Kansas.

26 (b) Such loans or grants shall be made upon such terms and condi-
27 tions as the secretary of transportation may deem appropriate, and such
28 loans or grants shall be made from funds credited to the rail service
29 improvement fund.

30 (c) The rail service improvement fund is hereby established in the
31 state treasury which shall be for the purpose of facilitating the financing,
32 acquisition and rehabilitation of railroads pursuant to subsection (a) of
33 this section and for the refinancing thereof. The secretary of transporta-
34 tion shall administer the rail service improvement fund. All expenditures
35 from the rail service improvement fund shall be made in accordance with
36 appropriation acts upon warrants of the director of accounts and reports
37 issued pursuant to vouchers approved by the secretary of transportation
38 or by a person or persons designated by the secretary.

39 (d) *The ratio of benefits to costs for any project funded by such guar-*
40 *anteed loan shall be greater than one. The benefit/cost methodology to be*
41 *used for this determination shall be the most recent standard benefit/cost*
42 *methodology approved by the federal railroad administration of the*
43 *United States department of transportation.*

1 ~~(e)~~ (e) All moneys received from the federal government under the
2 local rail freight assistance program (49 U.S.C. 1654) shall be remitted to
3 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
4 and amendments thereto. Upon receipt of each such remittance, the state
5 treasurer shall deposit the entire amount in the state treasury to the credit
6 of the rail service improvement fund.

7 ~~(f)~~ (f) The management and investment of the rail service improve-
8 ment fund shall be in accordance with K.S.A. 68-2324, and amendments
9 thereto. Notwithstanding anything to the contrary, all interest or other
10 income of the investments, after payment of any management fees, shall
11 be considered income of the rail service improvement fund.

12 ~~(g)~~ (g) (1) On July 1, 1999, and each July 1 thereafter, the director
13 of accounts and reports shall transfer \$3,000,000 from the state highway
14 fund to the rail service improvement fund.

15 (2) The provisions of this subsection shall expire on June 30, 2009.

16 ~~(g)~~ (h) “Qualified entity” means any ~~interstate commerce commission~~
17 *surface transportation board* certificated railroad, a port authority estab-
18 lished in accordance with Kansas laws, *cities, counties, industrial park*
19 *authorities* or any entity meeting the rules and regulations established by
20 K.S.A. 75-5050, and amendments thereto.

21 Sec. 3. K.S.A. 2009 Supp. 75-5049 is hereby amended to read as
22 follows: 75-5049. The secretary in making any loan *or grant* pursuant to
23 K.S.A. 75-5048, and amendments thereto, may:

24 (a) Stipulate minimum operating standards for rail lines designed to
25 achieve reasonable transportation service for shippers and to achieve best
26 use of funds invested in rail line rehabilitation;

27 (b) require a portion of the total assistance for improving a rail line
28 to be loaned to the railroad by rail users and require the railroad to re-
29 imburse rail users for any loan on the basis of use of the line and the
30 revenues produced when the line has been improved;

31 (c) determine the terms and conditions under which all or any portion
32 of funds loaned shall be repaid to the department of transportation by
33 the railroads. Reimbursement may be made as a portion of the increased
34 revenue derived from the improved rail line. Any reimbursement re-
35 ceived by the department pursuant to this subsection shall be remitted
36 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
37 and amendments thereto. Upon receipt of each such remittance, the state
38 treasurer shall deposit the entire amount in the state treasury to the credit
39 of the rail service improvement fund and shall be appropriated exclusively
40 for the rehabilitation of other rail lines in the state pursuant to K.S.A. 75-
41 5048, and amendments thereto.

42 Sec. 4. K.S.A. 2009 Supp. 75-5046, 75-5048 and 75-5049 are hereby
43 repealed.

1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.