

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2161

By Committee on Appropriations

1-25

1 AN ACT concerning state finances; relating to the investments and  
2 reinvestments of state moneys; transfers to and from the state general  
3 fund; amending K.S.A. 2016 Supp. 75-2263, 75-4209 and 75-4234 and  
4 repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2016 Supp. 75-2263 is hereby amended to read as  
8 follows: 75-2263. (a) ~~On and after the effective date of this act~~ *Subject to*  
9 *the provisions of subsection (j), the board of trustees is responsible for the*  
10 *management and investment of that portion of state moneys available for*  
11 *investment by the pooled money investment board that is certified by the*  
12 *state treasurer to the board of trustees as being equivalent to the aggregate*  
13 ~~*net amount received for unclaimed property and idle funds available for*~~  
14 ~~*long term investment and not necessary to maintain the cash flow needs of*~~  
15 ~~*the state treasury. Prior to such certification, the state treasurer shall*~~  
16 ~~*consult with the director of investments of the pooled money investment*~~  
17 ~~*board. The board of trustees shall discharge the board's duties with respect*~~  
18 ~~*to such moneys solely in the interests of the state general fund and shall*~~  
19 ~~*invest and reinvest such moneys and acquire, retain, manage, including the*~~  
20 ~~*exercise of any voting rights and disposal of investments of such moneys*~~  
21 ~~*within the limitations and according to the powers, duties and purposes as*~~  
22 ~~*prescribed by this section. At the same time as the state treasurer certifies*~~  
23 ~~*the amount of idle funds available for long term investment and not*~~  
24 ~~*necessary to maintain the cash flow needs of the state treasury, the state*~~  
25 ~~*treasurer shall transmit a copy of each such certification to the director of*~~  
26 ~~*legislative research and the director of the budget.*~~

27 (b) Moneys specified in subsection (a) shall be invested and  
28 reinvested to achieve the investment objective which is preservation of  
29 such moneys and accordingly providing that the moneys are as productive  
30 as possible, subject to the standards set forth in this ~~act~~ *section*. No such  
31 moneys shall be invested or reinvested if the sole or primary investment  
32 objective is for economic development or social purposes or objectives.

33 (c) In investing and reinvesting moneys specified in subsection (a)  
34 and in acquiring, retaining, managing and disposing of investments of the  
35 moneys, the board of trustees shall exercise the judgment, care, skill,  
36 prudence and diligence under the circumstances then prevailing, which

1 persons of prudence, discretion and intelligence acting in a like capacity  
2 and familiar with such matters would use in the conduct of an enterprise of  
3 like character and with like aims by diversifying the investments of the  
4 moneys so as to minimize the risk of large losses, unless under the  
5 circumstances it is clearly prudent not to do so, and not in regard to  
6 speculation but in regard to the permanent disposition of similar moneys,  
7 considering the probable income as well as the probable safety of their  
8 capital.

9 (d) In the discharge of such management and investment  
10 responsibilities the board of trustees may contract for the services of one  
11 or more professional investment advisors or other consultants in the  
12 management and investment of such moneys and otherwise in the  
13 performance of the duties of the board of trustees under this ~~aet~~ *section*.

14 (e) The board of trustees shall require that each person contracted  
15 with under subsection (d) to provide services shall obtain commercial  
16 insurance which provides for errors and omissions coverage for such  
17 person in an amount to be specified by the board of trustees. The amount  
18 of such coverage specified by the board of trustees shall be at least the  
19 greater of \$500,000 or 1% of the funds entrusted to such person up to a  
20 maximum of \$10,000,000. The board of trustees shall require a person  
21 contracted with under subsection (d) to provide services to give a fidelity  
22 bond in a penal sum as may be fixed by law or, if not so fixed, as may be  
23 fixed by the board of trustees, with corporate surety authorized to do  
24 business in this state. Such persons contracted with the board of trustees  
25 pursuant to subsection (d) and any persons contracted with such persons to  
26 perform the functions specified in subsection (b) shall be deemed to be  
27 fiduciary agents of the board of trustees in the performance of contractual  
28 obligations.

29 (f) (1) Subject to the objective set forth in subsection (b) and the  
30 standards set forth in subsection (c), the board of trustees shall formulate  
31 and adopt policies and objectives for the investment and reinvestment of  
32 such moneys and the acquisition, retention, management and disposition of  
33 investments of the moneys. Such policies and objectives shall be in writing  
34 and shall include:

35 (A) Specific asset allocation standards and objectives;

36 (B) establishment of criteria for evaluating the risk versus the  
37 potential return on a particular investment; and

38 (C) a requirement that all investment advisors, and any managers or  
39 others with similar duties and responsibilities as investment advisors, shall  
40 immediately report all instances of default on investments to the board of  
41 trustees and provide such board of trustees with recommendations and  
42 options, including, but not limited to, curing the default or withdrawal  
43 from the investment.

1 (2) The board of trustees shall review such policies and objectives,  
2 make changes considered necessary or desirable and readopt such policies  
3 and objectives on an annual basis.

4 (g) Except as provided in subsection (d) and this subsection, the  
5 custody of such moneys shall remain in the custody of the state treasurer,  
6 except that the board of trustees may arrange for the custody of such  
7 moneys as it considers advisable with one or more member banks or trust  
8 companies of the federal reserve system or with one or more banks in the  
9 state of Kansas, or both, to be held in safekeeping by the banks or trust  
10 companies for the collection of the principal and interest or other income  
11 or of the proceeds of sale. All such moneys shall be considered moneys in  
12 the state treasury for purposes of K.S.A. 75-6704, and amendments  
13 thereto.

14 (h) All interest or other income of the investments of the moneys  
15 invested under this section, after payment of any management fees, shall  
16 be deposited in the state treasury to the credit of the state general fund.

17 (i) ~~On or after the effective date of this act and periodically thereafter~~  
18 *Subject to the provisions of subsection (j), the state treasurer shall certify to*  
19 *the board of trustees a portion of state moneys available for investment by*  
20 *the pooled money investment board that is equivalent to the aggregate net*  
21 ~~amount received for unclaimed property identified as being idle funds~~  
22 *available for long term investment and not necessary to maintain the cash*  
23 *flow needs of the state treasury. The state treasurer shall transfer the*  
24 *amount certified to the board of trustees.*

25 (j) (1) *During fiscal year 2017, the board of trustees shall liquidate*  
26 *all investments and reinvestments of state moneys certified by the state*  
27 *treasurer to the board of trustees pursuant to subsection (a) as such*  
28 *subsection existed prior to the amendments made to this section by this*  
29 *act.*

30 (2) *On and after July 1, 2017, upon consultation with the director of*  
31 *investments of the pooled money investment board, the state treasurer may*  
32 *instruct the board of trustees to liquidate investments and reinvestments of*  
33 *state moneys in the portfolio if such moneys are necessary to maintain the*  
34 *cash flow needs of the state treasury.*

35 (3) *Upon receiving any such amounts from any such liquidation, the*  
36 *state treasurer shall remit the entire amount in accordance with the*  
37 *provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of*  
38 *each such remittance, the state treasurer shall deposit the entire amount in*  
39 *the state treasury and credit any earnings from the liquidation to the state*  
40 *general fund and credit the principal that had been invested and*  
41 *reinvested to the pooled money investment portfolio.*

42 (†) (k) As used in this section:

43 (1) "Board of trustees" means the board of trustees of the Kansas

1 public employees retirement system established by K.S.A. 74-4905, and  
2 amendments thereto.

3 (2) "Fiduciary" means a person who, with respect to the moneys  
4 invested under this section, is a person who:

5 (A) Exercises any discretionary authority with respect to  
6 administration of the moneys;

7 (B) exercises any authority to invest or manage such moneys or has  
8 any authority or responsibility to do so;

9 (C) provides investment advice for a fee or other direct or indirect  
10 compensation with respect to such moneys or has any authority or  
11 responsibility to do so;

12 (D) provides actuarial, accounting, auditing, consulting, legal or other  
13 professional services for a fee or other direct or indirect compensation with  
14 respect to such moneys or has any authority or responsibility to do so; or

15 (E) is a member of the board of trustees or of the staff of the board of  
16 trustees.

17 Sec. 2. K.S.A. 2016 Supp. 75-4209 is hereby amended to read as  
18 follows: 75-4209. (a) The director of investments may invest and reinvest  
19 state moneys eligible for investment which are not invested in accordance  
20 with K.S.A. 75-4237, and amendments thereto, in the following  
21 investments:

22 (1) Direct obligations of, or obligations that are insured as to principal  
23 and interest by, the United States of America or any agency thereof and  
24 obligations and securities of the United States sponsored enterprises which  
25 under federal law may be accepted as security for public funds, on and  
26 after the effective date of this act moneys available for investment under  
27 this subsection shall not be invested in mortgage-backed securities of such  
28 enterprises and of the government national mortgage association, except  
29 that any such mortgage-backed securities held prior to the effective date of  
30 this act may be held to maturity;

31 (2) repurchase agreements with a bank or a primary government  
32 securities dealer which reports to the market reports division of the federal  
33 reserve bank of New York for direct obligations of, or obligations that are  
34 insured as to principal and interest by, the United States government or any  
35 agency thereof and obligations and securities of United States government  
36 sponsored enterprises which under federal law may be accepted as security  
37 for public funds;

38 (3) commercial paper that does not exceed 270 days to maturity and  
39 which has received one of the two highest commercial paper credit ratings  
40 by a nationally recognized investment rating firm; and

41 (4) corporate bonds which have received one of the two highest  
42 ratings by a nationally recognized investment rating firm.

43 (b) When moneys are available for deposit or investments, the

1 director of investments may invest in SKILL act projects and bonds  
2 pursuant to K.S.A. 74-8920, and amendments thereto, and in state agency  
3 bonds and bond projects.

4 (c) When moneys are available for deposits or investments, the  
5 director of investments may invest in preferred stock of Kansas venture  
6 capital, inc., under terms and conditions prescribed by K.S.A. 74-8203,  
7 and amendments thereto, but such investments shall not in the aggregate  
8 exceed a total amount of \$10,000,000.

9 (d) When moneys are available for deposits or investments, the  
10 director of investments may invest in loans pursuant to legislative  
11 mandates, except that not more than the greater of 10% or \$140,000,000 of  
12 the state moneys shall be invested. *The provisions of this subsection shall*  
13 *not apply to the provisions of subsection (m).*

14 (e) Interest on investment accounts in banks is to be paid at maturity,  
15 but not less than annually.

16 (f) Investments made by the director of investments under the  
17 provisions of this section shall be made with judgment and care, under  
18 circumstances then prevailing, which persons of prudence, discretion and  
19 intelligence exercise in the management of their own affairs, not for  
20 speculation, but for investment, considering the probable safety of their  
21 capital as well as the probable income to be derived.

22 (g) Investments under subsection (a) or (b) or under K.S.A. 75-4237,  
23 and amendments thereto, shall be for a period not to exceed four years,  
24 except that linked deposits authorized under the provisions of K.S.A. 2-  
25 3703 through 2-3707, and amendments thereto, shall not exceed a period  
26 of 10 years; agricultural production loan deposits authorized under the  
27 provisions of K.S.A. 2016 Supp. 75-4268 through 75-4274, and  
28 amendments thereto, shall not exceed a period of eight years and housing  
29 loan deposits authorized under K.S.A. 2016 Supp. 75-4276 through 75-  
30 4282, and amendments thereto, shall not exceed a period of five years or  
31 20 years, as applicable pursuant to K.S.A. 2016 Supp. 75-4279, and  
32 amendments thereto.

33 (h) Investments in securities under ~~paragraph (1)~~ of subsection (a)(1)  
34 shall be limited to securities which do not have any more interest rate risk  
35 than do direct United States government obligations of similar maturities.  
36 For purposes of this subsection, "interest rate risk" means market value  
37 changes due to changes in current interest rates.

38 (i) The director of investments shall not invest state moneys eligible  
39 for investment under subsection (a), in the municipal investment pool  
40 fund, created under K.S.A. 12-1677a, and amendments thereto.

41 (j) The director of investments shall not invest moneys in the pooled  
42 money investment portfolio in derivatives. As used in this subsection,  
43 "derivatives" means a financial contract whose value depends on the value

1 of an underlying asset or index of asset values.

2 (k) Moneys and investments in the pooled money investment  
3 portfolio shall be invested and reinvested by the director of investments in  
4 accordance with investment policies developed, approved, published and  
5 updated on an annual basis by the board. Such investment policies shall  
6 include at a minimum guidelines which identify credit standards, eligible  
7 instruments, allowable maturity ranges, methods for valuing the portfolio,  
8 calculating earnings and yields and limits on portfolio concentration for  
9 each type of investment. Any changes in such investment policies shall be  
10 approved by the pooled money investment board. Such investment policies  
11 may specify the contents of reports, methods of crediting funds and  
12 accounts and other operating procedures.

13 (l) The board shall adopt rules and regulations to establish an overall  
14 percentage limitation on the investment of moneys in investments  
15 authorized under ~~paragraph (3)~~ of subsection (a)(3), and within such  
16 authorized investment, the board shall establish a percentage limitation on  
17 the investment in any single business entity.

18 (m) (1) *Upon the liquidation of all investments and reinvestments of*  
19 *state moneys pursuant to K.S.A. 2016 Supp. 75-2263(j), and amendments*  
20 *thereto, during the fiscal year ending June 30, 2017, the pooled money*  
21 *investment board shall authorize the director of accounts and reports to*  
22 *transfer \$317,100,000 from the pooled money investment portfolio to the*  
23 *state general fund. Upon receipt of such authorization, the director of*  
24 *accounts and reports shall make such transfer. The chairperson of the*  
25 *pooled money investment board shall transmit a copy of such*  
26 *authorization to the director of legislative research and the director of the*  
27 *budget.*

28 (2) *On or before ~~June 30, 2018~~, June 30, 2019, June 30, 2020, June*  
29 *30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, the director of*  
30 *accounts and reports shall transfer ~~\$45,300,000~~ \$52,850,000 from the*  
31 *state general fund to the pooled money investment portfolio.*

32 Sec. 3. K.S.A. 2016 Supp. 75-4234 is hereby amended to read as  
33 follows: 75-4234. (a) Except as provided in subsection (c) and in  
34 subsection (f), all moneys in the state treasury shall be invested as a single  
35 portfolio which is hereby designated as the pooled money investment  
36 portfolio. The portfolio shall be invested in accordance with article 42 of  
37 chapter 75 of the Kansas Statutes Annotated, and amendments thereto. The  
38 director of investments shall compute daily the earnings of the portfolio,  
39 including realized gains and losses. The pooled money investment board  
40 by written policy may provide for allocation of unrealized gains or losses.  
41 The director of investments shall calculate on a daily basis and shall  
42 deduct from earnings an administrative fee which shall be set by the board  
43 and applied as a fixed percentage of moneys in the pooled money

1 investment portfolio. The administrative fee shall not exceed 0.25%  
2 annually on moneys deposited in the municipal investment pool and 0.10%  
3 annually on other moneys in the pooled money investment portfolio. The  
4 director of investments shall deposit the administrative fee in accordance  
5 with K.S.A. 75-4235, and amendments thereto. The gross earnings, after  
6 deduction of the administrative fee, shall be designated as the net earnings  
7 of the pooled money investment portfolio.

8 (b) The pooled money investment board may contract for the services  
9 of an external investment advisor to provide advisory services concerning  
10 the investment policies and practices of the pooled money investment  
11 portfolio. Such investment advisor shall not be the person or firm  
12 contracted with under K.S.A. 2016 Supp. 75-4264, and amendments  
13 thereto.

14 (c) Moneys in the employment security fund established by K.S.A.  
15 44-712, and amendments thereto, shall not be invested in the pooled  
16 money investment portfolio except as may be authorized by the secretary  
17 of labor pursuant to ~~subsection (c)~~ of K.S.A. 44-712(e), and amendments  
18 thereto.

19 (d) For moneys in funds designated in this subsection that are in the  
20 pooled money investment portfolio and which are not invested in the  
21 municipal investment pool, interest is to be paid on such moneys based on  
22 the average daily balance in the fund for each month and the net earnings  
23 rate of the pooled money investment portfolio for such month. This  
24 subsection shall apply to the state highway fund and funds for bonds and  
25 other debt instruments of state agencies and authorities.

26 (e) Moneys in funds designated in this subsection shall not be  
27 invested in investment options of the municipal investment pool fund for  
28 which the minimum term of such investment is less than 21 days. This  
29 subsection shall apply to state moneys, other than moneys of  
30 municipalities as described in ~~subsection (a)~~ of K.S.A. 12-1675(a), and  
31 amendments thereto.

32 (f) The amount of state moneys certified by the state treasurer as  
33 equivalent to the ~~aggregate net amount received for unclaimed property~~  
34 *amount identified as being idle funds available for long term investment*  
35 *and not necessary to maintain the cash flow needs of the state treasury*  
36 under K.S.A. 2016 Supp. 75-2263, and amendments thereto, shall be  
37 managed and invested as provided in K.S.A. 2016 Supp. 75-2263, and  
38 amendments thereto.

39 Sec. 4. K.S.A. 2016 Supp. 75-2263, 75-4209 and 75-4234 are hereby  
40 repealed.

41 Sec. 5. This act shall take effect and be in force from and after its  
42 publication in the Kansas register.