

## HOUSE BILL No. 2753

By Committee on Appropriations

2-6

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9 AN ACT concerning management and investment by the board of trust-  
10 tees of the Kansas public employees retirement system of certain in-  
11 terest moneys on unclaimed property; relating to financing of certain  
12 programs of the department of corrections; amending K.S.A. 2003  
13 Supp. 75-2263 and repealing the existing section.

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

16 New Section 1. K.S.A. 2003 Supp. 75-2263, and amendments  
17 thereto, shall be known and may be cited as the criminal justice financing  
18 act.

19 Sec. 2. K.S.A. 2003 Supp. 75-2263 is hereby amended to read as  
20 follows: 75-2263. (a) On and after the effective date of this act, the board  
21 of trustees is responsible for the management and investment of that  
22 portion of state moneys available for investment by the pooled money  
23 investment board that is certified by the state treasurer to the board of  
24 trustees as being equivalent to the aggregate net amount received for  
25 unclaimed property and shall discharge the board's duties with respect to  
26 such moneys solely in the interests of the state general fund and shall  
27 invest and reinvest such moneys and acquire, retain, manage, including  
28 the exercise of any voting rights and disposal of investments of such mon-  
29 eys within the limitations and according to the powers, duties and pur-  
30 poses as prescribed by this section.

31 (b) Moneys specified in subsection (a) shall be invested and rein-  
32 vested to achieve the investment objective which is preservation of such  
33 moneys and accordingly providing that the moneys are as productive as  
34 possible, subject to the standards set forth in this act. No such moneys  
35 shall be invested or reinvested if the sole or primary investment objective  
36 is for economic development or social purposes or objectives.

37 (c) In investing and reinvesting moneys specified in subsection (a)  
38 and in acquiring, retaining, managing and disposing of investments of the  
39 moneys, the board of trustees shall exercise the judgment, care, skill,  
40 prudence and diligence under the circumstances then prevailing, which  
41 persons of prudence, discretion and intelligence acting in a like capacity  
42 and familiar with such matters would use in the conduct of an enterprise  
43 of like character and with like aims by diversifying the investments of the

1 moneys so as to minimize the risk of large losses, unless under the cir-  
2 cumstances it is clearly prudent not to do so, and not in regard to spec-  
3 ulation but in regard to the permanent disposition of similar moneys,  
4 considering the probable income as well as the probable safety of their  
5 capital.

6 (d) In the discharge of such management and investment responsi-  
7 bilities the board of trustees may contract for the services of one or more  
8 professional investment advisors or other consultants in the management  
9 and investment of such moneys and otherwise in the performance of the  
10 duties of the board of trustees under this act.

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

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

32 (A) Specific asset allocation standards and objectives;

33 (B) establishment of criteria for evaluating the risk versus the poten-  
34 tial return on a particular investment; and

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

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

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

11 (h) All interest or other income of the investments of the moneys  
12 invested under this section, after payment of any management fees, shall  
13 be deposited in the state treasury to the credit of the state general fund,  
14 *except that for fiscal year 2004, and fiscal year 2005, such interest or*  
15 *other income shall be deposited in the state treasury as follows: (1) 90%*  
16 *to the state general fund; and*

17 (2) *10% to the correctional industries building fund, which shall be*  
18 *expended on prison expansion or offender capacity enhancement, or both.*

19 (i) On or after the effective date of this act and periodically thereafter,  
20 the state treasurer shall certify to the board of trustees a portion of state  
21 moneys available for investment by the pooled money investment board  
22 that is equivalent to the aggregate net amount received for unclaimed  
23 property. The state treasurer shall transfer the amount certified to the  
24 board of trustees.

25 (j) As used in this section:

26 (1) "Board of trustees" means the board of trustees of the Kansas  
27 public employees retirement system established by K.S.A. 74-4905 and  
28 amendments thereto.

29 (2) "Fiduciary" means a person who, with respect to the moneys in-  
30 vested under this section, is a person who:

31 (A) Exercises any discretionary authority with respect to administra-  
32 tion of the moneys;

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

35 (C) provides investment advice for a fee or other direct or indirect  
36 compensation with respect to such moneys or has any authority or re-  
37 sponsibility to do so;

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

42 (E) is a member of the board of trustees or of the staff of the board  
43 of trustees.

- 1     Sec. 3. K.S.A. 2003 Supp. 75-2263 is hereby repealed.
- 2     Sec. 4. This act shall take effect and be in force from and after its
- 3     publication in the Kansas register.