

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:12 a.m. on February 21, 1996 in Room 529-S of the Capitol.

All members were present.

Committee staff present: Dr. William Wolff, Legislative Research Department
Richard Ryan, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: State Treasurer Sally Thompson
William Lewis, Member, Pooled Money Investment Board

Others attending: See attached list

Senator Steffes made a motion to approve the minutes of the meeting of February 20 as corrected. Senator Clark seconded the motion. The motion carried.

The committee was convened today to receive the subcommittee report on **SB 475 and SB 476**, relating to the Pooled Money Investment Board (PMIB), the Municipal Investment Pool (MIP), and interest earnings on public money. Chairman Bond opened the discussion by expressing his displeasure at the ongoing nature of the problems with the MIP and the allegations of political motivation on both sides of the issue. The chairman stated that the MIP concept is appropriate and that local units of government should have alternative options to invest idle funds. The revised legislation (Attachment #1) agreed upon by the subcommittee seeks to improve the situation by compromise wherein the PMIB will establish policy and the State Treasurer will carry out that policy on a day-to-day basis.

Dr. Wolff, Legislative Research, explained that most of the changes included in the balloon are technical in nature. New Section 1 creates a single portfolio in which state monies are to be invested and funds the administration and activities of MIP investments. New Section 2 authorizes funds to cover administrative costs and operation of the pool. The legislation is an attempt to separate the operation, administration, and management of the MIP. "State Treasurer" has been substituted for "board" throughout the bill when it pertains to the daily operation and management of the MIP portfolio. Where the bill refers to management decisions, the responsibility for establishing investment policy rests with the PMIB, whether by rules and regulations, public policy, or statute. The amended bill clarifies that the state treasurer is to invest and reinvest in accordance with the policies adopted by the PMIB.

The language on page 33 relating to employees by both the state treasurer's office and the board was approved by the subcommittee and it was clarified that unclassified employees may be removed by a 4/5 vote of the PMIB.

In response to Senator Hensley's question whether unclassified employees could also be transferred to the state treasurer, Mr. Ryan of the Research Department agreed that this could be accomplished by striking the word "classified" in section 22(c). There is "catch-all" language included in section B to amend all other statutes that might be affected.

State Treasurer Sally Thompson offered an amendment to limit investments to 50% of the portfolio, and not more than 5% in any single issue. (Attachment #2) Senator Steffes stated that he was not comfortable with investing 50% of a portfolio that could range as high as \$3 billion.

William Lewis, PMIB member, stated that the percentage is less important than the management of the quality of investments.

Dr. Wolff presented a proposed amendment to allow the board to establish, by rules and regulations, an overall percentage limitation on the investment of monies. (Attachment #3) Senator Emert made a motion to adopt this amendment. Senator Steffes seconded the motion. Discussion followed concerning whether or not the PMIB should have the authority to set investment policy by rules and regulations.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 21, 1996.

Senator Hensley offered a substitute motion to amend the bill to require a 4/5 vote to set limits on investments by rules and regulations. Senator Emert seconded the motion. The motion carried.

Senator Lee made a motion to adopt all amendments contained in the balloon prepared by the Research Department, as well as striking "classified" from Section 22(c). Senator Emert seconded the motion. The motion carried.

A motion was made by Senator Emert to pass **SB 476** favorably as amended. Senator Steffes seconded the motion. The motion carried. Senator Clark requested that he be recorded as voting "no" on this motion.

Three technical amendments have been added to **SB 475**, the trailer bill to **SB 476**, and the effective date changed to date of publication in the Kansas Register. Senator Emert made a motion, seconded by Senator Steffes, to amend and pass **SB 475** favorably. The motion carried.

The committee adjourned at 9:57 a.m. The next meeting is scheduled for February 22, 1996.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 2/21/96

NAME	REPRESENTING
David Schmitter	KDHR
Norm Wilks	KASB
Rogers Brazier	St. Treasurer
DAVID B. SCHLOSSER	PETE MCGILL & ASSOC.
Arthur O. Melby	D, S & M
Kathy Dwyer	KBA
William J. Lent	PMT, B
Chris Stanfield	KDHE
James Spencer	Am Vestors
Anna DeMunney	KI Insurance Dept.
James Carvills	Political Consultant
Rich Sherman	Kansas Dev. Finance Authority
Bill Ceton	PMIB
Kelly Kuitala	KTLA
Art Cripp	Dept. of Adm.
Shirley Moses	DoFA - A & R
Robert Franke	FFC
Bob Hayes	HCSF

SENATE BILL No. 476

By Committee on Financial Institutions and Insurance

1-17

Senate FH
2/21/96
Attachment #1

9 AN ACT relating to public funds; amending K.S.A. 40-3406, 44-712, 75-
 10 622, 75-4204, 75-4210a, 75-4254 and 76-818 and K.S.A. 1995 Supp.
 11 12-1677a, ~~12-1677c~~ 40-3403, 75-4201, 75-4202, 75-4209, 75-4212a,
 12 75-4218, 75-4220, 75-4221a, 75-4222, 75-4228, 75-4232 and 79-4804
 13 and repealing the existing sections; also repealing K.S.A. 1995 Supp.
 14 12-1677c and 75-4213

68-2321, 68-2324,
 12-3724,
 75-4253,
 75-4262, 75-4263

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

17 New Section 1 (a) Except as provided in subsection (d), all moneys
 18 in the state treasury shall be invested as a single portfolio which is hereby
 19 designated as the pooled money investment portfolio. The portfolio shall
 20 be invested in accordance with article 42 of chapter 75 of the Kansas
 21 Statutes Annotated, and amendments thereto. The ~~pooled money invest-~~
 22 ~~ment board~~ shall compute daily the earnings of the portfolio, including
 23 realized gains and losses. The ~~board~~ by written policy may provide for
 24 allocation of unrealized gains or losses. The ~~board~~ shall deduct from earn-
 25 ings an administrative fee which shall be set by the board and applied as
 26 a fixed annual percentage of the book value of the assets in the portfolio,
 27 calculated on a daily basis. The annual administrative fee shall not exceed
 28 25%. The ~~board~~ shall deposit the administrative fee in accordance with
 29 section 2. The gross earnings, after deduction of the administrative fee,
 30 shall be designated as the net earnings of the pooled money investment
 31 portfolio

state treasurer

pooled money investment

state treasurer

32 (b) A comparative investment performance review of the pooled
 33 money investment portfolio shall be contracted for periodically by the
 34 pooled money investment board. The costs of such review shall be paid
 35 from moneys appropriated to the state treasurer.

36 (c) The pooled money investment board shall contract for the services
 37 of an external investment advisor to provide advisory services concerning
 38 the investment policies and practices of the pooled money investment
 39 portfolio. Such investment advisor shall not be the person or firm con-
 40 tracted with under subsection (b).

41 (d) ~~The following moneys shall not be invested in the pooled money~~
 42 ~~investment portfolio~~

43 ~~(1)~~ Moneys in the employment security fund established by K.S.A.

4147
2/21/96
1-2

1 44-712, and amendments thereto, except as may be authorized by the
2 secretary of human resources pursuant to subsection (e) of K.S.A. 44-712,
3 and amendments thereto.

4 ~~(2) moneys in the state highway fund, except that such moneys may~~
5 ~~be invested in the municipal investment pool if authorized by the secre-~~
6 ~~tary of transportation;~~

7 (3) moneys in the Kansas public employees retirement fund created
8 by K.S.A. 74-4921, and amendments thereto, except that such moneys
9 may be invested in the municipal investment pool if authorized by the
10 board of trustees; and

11 (4) moneys relating to bonds and bond funds of state agencies and
12 authorities, except that such moneys may be invested in the municipal
13 investment pool if authorized by the bond documents or bond covenants.

14 New Sec 2 (a) The administrative fee authorized by section 1 shall
15 be credited to the municipal investment pool fund

16 (b) When amounts credited to the municipal investment pool fund
17 pursuant to subsection (a) total an amount equal to the net losses in the
18 municipal investment pool as of July 1, 1996, the entire administrative
19 fee assessed thereafter shall be credited to the state general fund.

20 Sec 3 K.S.A. 1995 Supp. 12-1677a is hereby amended to read as
21 follows 12-1677a (a) Moneys deposited by any municipality with the

22 state treasurer for investment authorized in paragraph (6) of subsection
23 (b) of K.S.A. 12-1675, and amendments thereto, shall be deposited in the
24 municipal investment pool fund which is hereby created in the state treas-
25 ury Any municipality depositing moneys under the provisions of this sec-

26 tion shall provide notice to the pooled money investment board of such
27 deposits in accordance with policies adopted by the pooled money in-
28 vestment board. Such notice shall include the amount of the deposit, the
29 date of the deposit and such other information as the pooled money in-
30 vestment board may require.

31 (b) The pooled money investment board may invest and reinvest
32 moneys in the municipal investment pool fund in the following invest-
33 ments:

34 (1) Direct obligations of, or obligations that are insured as to principal
35 and interest by, the United States of America or any agency thereof and
36 obligations and securities of United States sponsored enterprises which
37 under federal law may be accepted as security for public funds, except
38 that: (A) Not more than 10% of the moneys available for investment under
39 this subsection may be invested in mortgage-backed securities of such
40 enterprises and of the government national mortgage association; and (B)
41 investments in other than direct obligations under this paragraph shall be
42 rated at the time of investment, in the highest rating category by Moody's
43 investors service or Standard and Poor's corporation.

shall not be invested in the pooled money investment portfolio

See Insert A attached

See Insert B attached

4.

The state treasurer shall provide the board a monthly record of the deposits and withdrawals of municipalities. Such record may

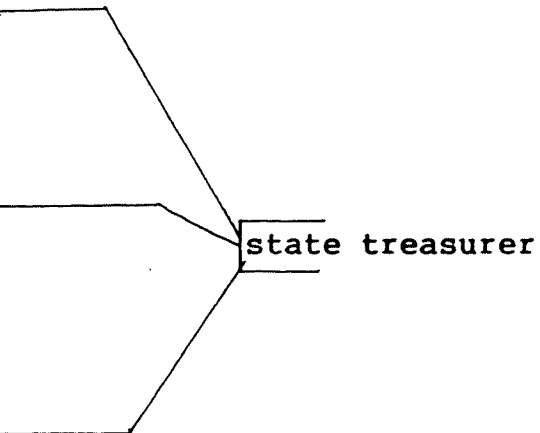
7/14/96
2/21/96
1-3

1 (2) interest-bearing time deposits in any of the following, which is
2 doing business within the state of Kansas; any state or national bank; state
3 or federally chartered savings and loan association; or federally chartered
4 savings bank; or

5 (3) repurchase agreements with a Kansas bank; Kansas savings and
6 loan association; a federally chartered savings bank having an office or
7 offices in the state of Kansas or with a primary government securities
8 dealer which reports to the market reports division of the federal reserve
9 bank of New York for direct obligations of; or obligations that are insured
10 as to principal and interest by; the United States government or any
11 agency thereof and obligations and securities of United States govern-
12 ment sponsored enterprises which under federal law may be accepted as
13 security for public funds accordance with section 1 of this act and K S A
14 75-4209, and amendments thereto.

15 (c) All interest earnings received from investments of money in the
16 municipal investment pool fund shall be credited to the municipal in-
17 vestment pool fund. Interest earnings experienced by the fund on in-
18 vestments attributable to each participating municipality shall be prorated
19 and applied to the individual accounts of the municipalities, maintained
20 by the state treasurer. Deferred earnings transferred from the municipal
21 investment pool reserve fund to the municipal investment pool fund shall
22 be prorated and applied to the individual accounts of the municipalities,
23 maintained by the state treasurer. ~~The board~~ shall apportion earnings
24 among the accounts of the depositors in the various investment options of
25 the municipal investment pool in accordance with policies approved and
26 published by the board. A statement for each municipality participating
27 unit account showing deposits, withdrawals, earnings and losses distri-
28 butions shall be provided monthly to the municipality. The state treasurer
29 ~~pooled money investment board~~ shall make comprehensive reports
30 monthly to those municipalities participating in the municipal investment
31 pool fund and to other interested parties requesting such reports. Such
32 reports shall include a summary of transactions for the month, the current
33 market value of the pool pooled money investment portfolio investments,
34 the weighted average maturity ratio of the fund portfolio, the original
35 costs of the investments in the fund portfolio, including any fees associ-
36 ated with such investments and such other relevant information the state
37 treasurer ~~pooled money investment board~~ may wish to include in such
38 report

39 (d) The state treasurer may assess reasonable charges not to exceed
40 1% of the interest earned against the fund for reimbursement of expenses
41 incurred in administering the fund. The state treasurer shall certify, pe-
42 riodically, the amount of the assessment and the director of accounts and
43 reports shall transfer the amount certified from the municipal investment



state treasurer

4141
2/21/96
1-4

1 pool fund to the municipal investment pool fund fee fund; which is hereby
 2 created. All expenditures from the municipal investment pool fund fee
 3 fund shall be made in accordance with appropriation acts upon warrants
 4 of the director of accounts and reports issued pursuant to vouchers ap-
 5 proved by the state treasurer or a person or persons designated by the
 6 state treasurer. Amounts of gains realized on disposition of investments
 7 of the municipal investment pool fund shall be periodically certified by
 8 the state treasurer, and the director of accounts and reports shall transfer
 9 the amount certified from the municipal investment pool fund to the
 10 municipal investment pool reserve fund which is hereby created in the
 11 state treasury. The state treasurer shall make a determination of the
 12 amount needed for a reserve for possible losses to the municipal invest-
 13 ment pool fund and shall certify periodically such amount, and the direc-
 14 tor of accounts and reports shall transfer the amount so certified from
 15 the municipal investment pool fund fee fund to the municipal investment
 16 pool reserve fund. If the state treasurer makes a determination that sig-
 17 nificant losses or gains have occurred to the municipal investment pool
 18 fund, the state treasurer shall certify the amount thereof to the director
 19 of accounts and reports, and the director of accounts and reports shall
 20 transfer the amount so certified from the municipal investment pool re-
 21 serve fund to the municipal investment pool fund. *The municipal invest-*
 22 *ment pool reserve fund is abolished effective July 1, 1996, and any unen-*
 23 *cumbered balance remaining therein shall be applied to net losses in the*
 24 *municipal investment pool fund. The municipal investment pool fund fee*
 25 *fund is abolished on July 1, 1997, and any unencumbered balance re-*
 26 *maining therein shall be applied to net losses in the municipal investment*
 27 *pool fund.*

28 (c) The state treasurer ~~pooling money investment board~~ may adopt
 29 rules and regulations necessary for the administration and operation of
 30 the municipal investment pool fund and may enter into agreements with
 31 any municipality as to methods of deposits, withdrawals and investments.

32 (f) Investments under subsection (b) shall be for a period of not to
 33 exceed four years, except for mortgage-backed securities.

34 (g) A comparative investment performance review shall be contracted
 35 for periodically by the pooled money investment board. The cost of such
 36 review shall be paid by the municipal investment pool fund from moneys
 37 in the municipal investment pool fund fee fund.

38 (h) (f) Deposits in the municipal investment pool fund (1) May only
 39 be made for the same maturity as the maturity which is offered under
 40 paragraphs (2) and (3) of subsection (b) of K.S.A. 12-1675 and amend-
 41 ments thereto, and (2) upon the maturity of such deposits, such moneys
 42 shall be offered for investment under paragraphs (2) or (3) of subsection

transferred to the pooled money investment portfolio fee fund and such amounts shall be

, as of July 1, 1996,

state treasurer

7/17
2/21/96
1-5

1 in such fund only if the conditions contained in subsection (c) of K.S.A.
2 12-1675, and amendments thereto, have been satisfied.

3 (i)(g) Moneys and investments in the municipal investment pool fund
4 ~~and any separate portfolio within such fund shall be managed by the~~
5 ~~pooled money investment board in accordance with investment policies~~
6 ~~developed, approved, published and updated on an annual basis by such~~
7 ~~board. Such investment policies shall include at a minimum guidelines~~
8 ~~which identify credit standards, eligible instruments, allowable maturity~~
9 ~~ranges, methods for valuing the portfolio, calculating earnings and yields~~
10 ~~and limits on portfolio concentration for each type of investment. Any~~
11 ~~changes in such investment policies shall be approved by the pooled~~
12 ~~money investment board provided for in K.S.A. 75-4209, and amend-~~
13 ~~ments thereto. A copy of such published policies shall be distributed to~~
14 ~~all municipalities participating in the municipal investment pool fund and~~
15 ~~to other interested persons requesting a copy of such policies. The pooled~~
16 ~~money investment board shall not contract for management of invest-~~
17 ~~ments by a money manager. The pooled money investment board shall~~
18 ~~contract for the services of an external investment advisor to provide~~
19 ~~advisory services concerning the investment policies and practices for the~~
20 ~~municipal investment pool fund. Such investment advisor shall be differ-~~
21 ~~ent from the person or firm contracted with under subsection (g).~~

22 (j) Investments in securities under paragraph (1) of subsection (b)
23 shall be limited to securities which do not have any more interest rate
24 risk than do direct United States government obligations of similar ma-
25 turities, except for the 10% limitation on mortgage-backed securities. For
26 purposes of this subsection, "interest rate risk" means market value
27 changes due to changes in current interest rates.

28 (k) On and after July 1, 1996:

29 (1) Except as provided in paragraph (2), the weighted average ma-
30 turity of all investments in the municipal investment pool fund shall not
31 exceed the weighted average maturity of all deposits in the municipal
32 investment pool fund by more than 100%, except that the weighted av-
33 erage maturity of investments in such fund shall not exceed the weighted
34 average maturity of deposits in such fund by more than 90 days.

35 (2) The pooled money investment board, for the purposes of insuring
36 and maintaining the soundness of and the liquidity of the municipal in-
37 vestment pool fund, may increase the ninety-day limitation contained in
38 paragraph (1), except that such increase shall not exceed 180 days. The
39 increased limitations established by the board under this paragraph shall
40 be effective for periods not exceeding 120 days. Upon the expiration of
41 the limitations established pursuant to this paragraph (2), the limitations
42 contained in paragraph (1) shall be applicable, unless the board estab-
43 lishes new limitations under the provisions of this paragraph (2).

4147
2/21/96
1-6

1 (3) For the purpose of determining the weighted average maturity
2 under this subsection, all deposits in the municipal investment pool fund
3 without a stated maturity shall be assumed to have a maturity of one day.

4 (4) The pooled money investment board shall not be required to sell
5 any investments at a loss held by the municipal investment pool fund on
6 the effective date of this act in order to meet the requirements of para-
7 graphs (1) or (2) of this subsection.

8 (4) The pooled money investment board shall not: (A) Invest moneys
9 in the municipal investment pool fund in derivatives, except in direct
10 obligations of the United States of America; (B) enter into reverse re-
11 purchase agreements, except for the purposes authorized under subsec-
12 tion (b) of K.S.A. 1995 Supp. 12-1677e, and amendments thereto.

13 (4) On and after January 1, 1996, investments made under paragraph
14 (2) of subsection (a) of K.S.A. 75-4200, and amendments thereto, shall
15 not be exchanged with investments of the municipal investment pool fund
16 without prior approval of the pooled money investment board and the
17 prior approval of the state finance council acting on this matter which is
18 hereby characterized as a matter of legislative delegation and subject to
19 the guidelines prescribed in subsection (e) of K.S.A. 75-3711e, and
20 amendments thereto. All such exchanges shall be made in accordance
21 with generally accepted accounting principles.

22 (4) The pooled money investment board may adopt such rules and
23 regulations for the management of such moneys and investments in the
24 municipal investment pool fund as the board deems necessary.

25 (4) (b) For the purpose of this section: (1) "municipality" means
26 those entities specified in subsection (a) of K.S.A. 12-1675, and amend-
27 ments thereto, and K.S.A. 1995 Supp. 75-4263, and amendments thereto.

28 (2) "derivatives" means a financial contract whose value depends on
29 the value of an underlying asset or index of asset values; and

30 (3) "weighted average maturity" means: (A) For investments, the sum
31 of the total number of days to maturity for each individual security mul-
32 tiplied by the par value of each individual security divided by the sum of
33 the par values of all securities; and (B) for deposits, the sum of the total
34 number of days for each individual deposit multiplied by the dollar value
35 of each individual deposit divided by the sum of the dollar values of all
36 deposits.

See Sec. 5 attached

37 ~~Sec. 4 K.S.A. 1995 Supp. 12-1677e is hereby amended to read as~~
38 ~~follows: 12-1677e. (a) There is hereby established the municipal in-~~
39 ~~vestment pool advisory committee which shall have nine voting members.~~
40 ~~Initially, the league of Kansas municipalities shall nominate six persons~~
41 ~~of whom the governor shall appoint three to be members of the advisory~~
42 ~~committee. Initially, the association of counties shall nominate six persons~~
43 ~~of whom the governor shall appoint three to be members of the advisory~~

4141
2/21/96
1-7

1 committee. Initially, the Kansas association of school boards shall nomi-
 2 nate six persons of whom the governor shall appoint three to be members
 3 of the advisory committee. Of the persons initially appointed to the ad-
 4 visory committee, one from each of the three members nominated by
 5 each nominating body and appointed by the governor to be members
 6 shall have a term of four years. Of the persons initially appointed to the
 7 advisory committee, one from each of the three members nominated by
 8 each nominating body and appointed by the governor to be members of
 9 the advisory committee shall have terms of two years. Of the persons
 10 initially appointed to the advisory committee, one from each of the three
 11 members nominated by each nominating body and appointed by the gov-
 12 ernor to be members of the advisory committee shall have terms of one
 13 year. Of the persons so appointed the governor shall designate the term
 14 of each in accordance with the above. The governor shall also appoint
 15 two nonvoting ex officio members of the advisory committee to serve for
 16 terms of three years. One of such ex officio members shall be selected
 17 by the governor from three persons nominated by the Kansas bankers
 18 association.

19 (b) Upon the expiration of the terms of each member initially ap-
 20 pointed to the advisory committee, the nominating body specified in sub-
 21 section (a) which nominated the member whose term has expired shall
 22 nominate three persons to fill such vacancy, and the governor shall ap-
 23 point one of such persons to fill such vacancy for a term of four years. In
 24 like manner persons shall be nominated and appointed to fill all vacancies
 25 which occur upon the expiration of a member's term and each person so
 26 appointed shall serve for a term of four years. When a vacancy occurs
 27 before the term of the member expires, the vacancy shall be filled for the
 28 balance of the unexpired term in the same manner as for vacancies oc-
 29 ccurring when terms expire.

30 (c) The municipal investment pool advisory committee shall organize
 31 annually by electing from its members a chairperson and vice-chairper-
 32 son. The advisory committee shall meet on call of the chairperson or any
 33 four voting members, or upon call of the ~~state treasurer~~ *pooled money*
 34 *investment board*. Members of the advisory committee shall receive such
 35 compensation and expense reimbursement as is provided by the govern-
 36 ing body of the city, county or board of education which nominated such
 37 member.

38 (d) Persons nominated under subsection (a), and members appointed
 39 to the advisory committee, except ex officio members, shall be from a
 40 city, county or school district that is an active participant in the municipal
 41 investment pool fund. Nominees and members appointed to the advisory
 42 committee shall be from geographically diverse areas and communities
 43 of the state. Persons nominated and members appointed to the advisory

9/11/11
2/21/96
1-8

1 committee shall be nominated and appointed without regard to political
 2 party affiliation. Nominees and members appointed to the advisory com-
 3 mittee shall be educated in, and have substantial work experience in,
 4 matters of money management and investments. Such education and
 5 work experience may be as an investment manager, municipal investment
 6 officer or trust officer for a financial institution, association or corporation
 7 or be a currently certified public accountant, certified financial analyst or
 8 certified cash manager. In lieu of such education and work experience,
 9 nominees and members appointed to the advisory board may have sub-
 10 stantial experience as a local government money manager.

11 (e) The municipal government investment pool advisory committee
 12 shall advise the state treasurer ~~pooled money investment board~~ on matters
 13 of investment strategies, policies and operational procedures for the mu-
 14 ~~municipal investment pool fund~~.

15 Sec. ~~5~~ K.S.A. 1995 Supp. 40-3403 is hereby amended to read as
 16 follows 40-3403 (a) For the purpose of paying damages for personal
 17 injury or death arising out of the rendering of or the failure to render
 18 professional services by a health care provider, self-insurer or inactive
 19 health care provider subsequent to the time that such health care provider
 20 or self-insurer has qualified for coverage under the provisions of this act,
 21 there is hereby established the health care stabilization fund. The fund
 22 shall be held in trust in a ~~segregated fund~~ in the state treasury and ac-
 23 counted for separately from other state funds. The board of governors
 24 shall administer the fund or contract for the administration of the fund
 25 with an insurance company authorized to do business in this state.

6.

26 (b) (1) On the effective date of this act, the board of governors in
 27 existence on the day preceding such effective date is hereby abolished.
 28 On the effective date of this act, there is hereby created a board of gov-
 29 ernors which shall be composed of such members and shall have such
 30 powers, duties and functions as are prescribed by this act. The board of
 31 governors shall

32 (A) Administer the fund and exercise and perform other powers, du-
 33 ties and functions required of the board under the health care provider
 34 insurance availability act;

35 (B) provide advice, information and testimony to the appropriate li-
 36 censing or disciplinary authority regarding the qualifications of a health
 37 care provider.

38 (C) prepare and publish, on or before October 1 of each year, a sum-
 39 mary of the fund's activity during the preceding fiscal year, including but
 40 not limited to the amount collected from surcharges, the highest and
 41 lowest surcharges assessed, the amount paid from the fund, the number
 42 of judgments paid from the fund, the number of settlements paid from
 43 the fund and the amount in the fund at the end of the fiscal year; and

7/17/96
2/21/96
1-9

1 (D) have the authority to grant exemptions from the provisions of
2 subsection (m) of this section when a health care provider temporarily
3 leaves the state for the purpose of obtaining additional education or train-
4 ing or to participate in religious, humanitarian or government service
5 programs. Whenever a health care provider has previously left the state
6 for one of the reasons specified in this paragraph and returns to the state
7 and recommences practice, the board of governors may refund any
8 amount paid by the health care provider pursuant to subsection (m) of
9 this section if no claims have been filed against such health care provider
10 during the provider's temporary absence from the state.

11 (2) The board shall consist of 10 persons appointed by the commis-
12 sioner of insurance, as provided by this subsection (b) and as follows:

13 (A) Three members who are licensed to practice medicine and sur-
14 gery in Kansas who are doctors of medicine and who are on a list of
15 nominees submitted to the commissioner by the Kansas medical society;

16 (B) three members who are representatives of Kansas hospitals and
17 who are on a list of nominees submitted to the commissioner by the
18 Kansas hospital association;

19 (C) two members who are licensed to practice medicine and surgery
20 in Kansas who are doctors of osteopathic medicine and who are on a list
21 of nominees submitted to the commissioner by the Kansas association of
22 osteopathic medicine;

23 (D) one member who is licensed to practice chiropractic in Kansas
24 and who is on a list of nominees submitted to the commissioner by the
25 Kansas chiropractic association;

26 (E) one member who is a licensed professional nurse authorized to
27 practice as a registered nurse anesthetist who is on a list of nominees
28 submitted to the commissioner by the Kansas association of nurse anes-
29 thetists.

30 (3) On and after the effective date of this act, whenever a vacancy
31 occurs in the membership of the board of governors created by this act,
32 the commissioner shall appoint a successor of like qualifications from a
33 list of three nominees submitted to the commissioner by the professional
34 society or association prescribed by this section for the category of health
35 care provider required for the vacant position on the board of governors.
36 Except as otherwise provided by this section, all appointments made shall
37 be for a term of office of four years, but no member shall be appointed
38 for more than two successive four-year terms. Each member shall serve
39 until a successor is appointed and qualified. Whenever a vacancy occurs
40 in the membership of the board of governors created by this act for any
41 reason other than the expiration of a member's term of office, the com-
42 missioner shall appoint a successor of like qualifications to fill the unex-

414-1
2/2/96
1-10

1 board of governors, the commissioner shall notify the professional society
2 or association which represents the category of health care provider re-
3 quired for the vacant position and request a list of three nominations of
4 health care providers from which to make the appointment.

5 (4) (A) The persons serving as members of the board of governors
6 on the day preceding the effective date of this act, except the commis-
7 sioner of insurance and the persons appointed from the public at large
8 or to represent the unspecified category of health care providers under
9 the provisions of this section as it existed on the day preceding the effec-
10 tive date of this act, shall be the initial members of the board of governors
11 created by this act and shall hold such office in accordance with and
12 subject to the provisions of this section. The commissioner shall designate
13 the terms of office of such initial members of the board of governors
14 created by this act as follows:

15 (i) One member who is licensed to practice medicine and surgery in
16 Kansas who is a doctor of medicine shall be designated for a term expiring
17 on July 1, 1995;

18 (ii) one member who is licensed to practice medicine and surgery in
19 Kansas who is a doctor of medicine shall be designated for a term expiring
20 on July 1, 1996;

21 (iii) one member who is licensed to practice medicine and surgery in
22 Kansas who is a doctor of medicine shall be designated for a term expiring
23 on July 1, 1997;

24 (iv) one member who is a representative of a Kansas hospital shall be
25 designated for a term expiring on July 1, 1995;

26 (v) one member who is a representative of a Kansas hospital shall be
27 designated for a term expiring on July 1, 1996;

28 (vi) one member who is a representative of a Kansas hospital shall be
29 designated for a term expiring on July 1, 1997;

30 (vii) one member who is licensed to practice medicine and surgery
31 in Kansas who is a doctor of osteopathic medicine shall be designated for
32 a term expiring on July 1, 1995;

33 (viii) one member who is licensed to practice medicine and surgery
34 in Kansas who is a doctor of osteopathic medicine shall be designated for
35 a term expiring on July 1, 1996;

36 (ix) the member who is licensed to practice chiropractic in Kansas
37 shall be designated for a term expiring on July 1, 1995; and

38 (x) the member who is a licensed professional nurse authorized to
39 practice as a registered nurse anesthetist in Kansas shall be designated
40 for a term expiring on July 1, 1996.

41 (B) If there was a vacancy in the membership of the board of gov-
42 ernors abolished by this act on the day preceding the effective date of

4/21/96
2/21/96
1-11

1 accordance with this subsection (b) and shall designate the term of such
2 member in accordance with this subsection (b) as though such member
3 had been a member on the day preceding the effective date of this act.
4 In any such case, the commissioner shall notify the professional society
5 or association representing the category of health care provider required
6 for the vacant position and request a list of nominations of health care
7 providers from which to make the appointment.

8 (5) The board of governors shall organize at its first meeting in Jan-
9 uary of 1995, and at its first meeting subsequent to July 1, 1995, and July
10 1 of each year thereafter and shall elect a chairperson and vice-chairper-
11 son from among its membership. Meetings shall be called by the chair-
12 person or by a written notice signed by three members of the board.

13 (6) The board of governors, in addition to other duties imposed by
14 this act, shall study and evaluate the operation of the fund and make such
15 recommendations to the legislature as may be appropriate to ensure the
16 viability of the fund.

17 (7) On and after January 1, 1995, and prior to July 1, 1995, the board
18 of governors shall be attached to the insurance department in accordance
19 with this section and all staff, other than the executive director, budgeting,
20 personnel, purchasing and related management functions of the board
21 shall be provided by the commissioner of insurance. The commissioner
22 shall include the budget estimates of the board of governors, as approved
23 by the board, with the budget estimates for the insurance department
24 which are submitted to the division of the budget under K.S.A. 75-3717
25 and amendments thereto. All vouchers for expenditures of the board shall
26 be approved by the chairperson of the board or a person designated by
27 the chairperson and, upon such approval, shall be paid from the fund.
28 On and after January 1, 1995, the board shall appoint an executive director
29 who shall be in the unclassified service of the Kansas civil service act. On
30 and after July 1, 1995, the board may appoint such additional employees,
31 and provide all office space, services, equipment, materials and supplies,
32 and all budgeting, personnel, purchasing and related management func-
33 tions required by the board in the exercise of the powers, duties and
34 functions imposed or authorized by the health care provider insurance
35 availability act or may enter into a contract with the commissioner of
36 insurance for the provision, by the commissioner, of all or any part
37 thereof.

38 (8) The commissioner shall:

39 (A) Provide technical and administrative assistance to the board of
40 governors with respect to administration of the fund upon request of the
41 board;

42 (B) provide such expertise as the board may reasonably request with
43 respect to evaluation of claims or potential claims; and

7/14/96
2/21/96
1-12

1 (C) On and after January 1, 1995, and prior to July 1, 1995, provide
2 such staff, other than the executive director, office space, services, equip-
3 ment, materials and supplies and all budgeting, personnel, purchasing
4 and related management functions as may be required by the board in
5 the exercise of its powers, duties and functions imposed or authorized by
6 the health care provider insurance availability act; and on and after July
7 1, 1995, provide all or any part thereof required by any contract entered
8 into between the board and the commissioner therefor.

9 (9) On the effective date of this act, all of the powers, duties, func-
10 tions, records and property of the board of governors that is abolished by
11 this section, which are prescribed for the board of governors by this act
12 are hereby transferred to and conferred and imposed upon the board of
13 governors that is created by this section, except as is otherwise specifically
14 provided by this act. On the dates prescribed for the transfer of the pow-
15 ers, duties and functions by this act, all of the powers, duties, functions,
16 records and property of the commissioner of insurance or the insurance
17 department, which relate to or are required for the performance of pow-
18 ers, duties or functions which are prescribed for the board of governors
19 by this act, including the power to expend funds now or hereafter made
20 available in accordance with appropriation acts, are hereby transferred to
21 and conferred and imposed upon the board of governors that is created
22 by this section, except as is otherwise specifically provided by this act.

23 (10) The board of governors created by this act shall be the successor
24 in every way to the powers, duties and functions of the board of governors
25 and the commissioner of insurance in which such powers, duties and
26 functions were vested prior to the dates prescribed for the transfer of
27 such powers, duties and functions to the board in accordance with this
28 act, except as otherwise specifically provided by this act. Every act per-
29 formed under the authority of the board of governors created by this act
30 shall be deemed to have the same force and effect as if performed by the
31 board of governors and the commissioner of insurance in which such
32 powers, duties and functions were vested prior to the transfer of such
33 powers, duties and functions.

34 (11) Subject to the provisions of this act, whenever the board of gov-
35 ernors that is abolished by this act or the commissioner of insurance, or
36 words of like effect, is referred to or designated by a statute, contract, or
37 other document, and such reference or designation relates to a power,
38 duty or function which is transferred to and conferred and imposed upon
39 the board of governors that is created by this act, such reference or des-
40 ignation shall be deemed to apply to the board of governors created by
41 this act.

42 (12) All rules and regulations and all orders or directives of the board
43 of governors that is abolished by this act and all rules and regulations of

7/27
2/21/96
1-13

1 the commissioner of insurance, which are in existence on the date pre-
2 scribed for the transfer of powers, duties and functions to such board
3 under this act and which relate to powers, duties and functions that were
4 vested in such board of governors or the commissioner of insurance prior
5 to such date, shall continue to be effective and shall be deemed to be the
6 rules and regulations and orders or directives of the board of governors
7 created by this act, until revised, amended or revoked or nullified pur-
8 suant to law. The board of governors created by this act shall be deemed
9 to be a continuation of the board of governors abolished by this act.

10 (13) On July 1, 1995, all employees who were engaged prior to such
11 date in the performance of duties and functions under the health care
12 provider insurance availability act, and who, in the opinion of the board,
13 are necessary to perform the duties and functions required under such
14 act by the board shall become employees of the board, and shall retain
15 all retirement benefits and rights of civil service which such employee
16 had prior to July 1, 1995, and their services shall be deemed to have been
17 continuous.

18 (c) Subject to subsections (d), (e), (f), (i), (k), (m), (n), (o) and (p),
19 the fund shall be liable to pay: (1) Any amount due from a judgment or
20 settlement which is in excess of the basic coverage liability of all liable
21 resident health care providers or resident self-insurers for any personal
22 injury or death arising out of the rendering of or the failure to render
23 professional services within or without this state;

24 (2) subject to the provisions of subsection (m), any amount due from
25 a judgment or settlement which is in excess of the basic coverage liability
26 of all liable nonresident health care providers or nonresident self-insurers
27 for any such injury or death arising out of the rendering or the failure to
28 render professional services within this state but in no event shall the
29 fund be obligated for claims against nonresident health care providers or
30 nonresident self-insurers who have not complied with this act or for
31 claims against nonresident health care providers or nonresident self-in-
32 surers that arose outside of this state;

33 (3) subject to the provisions of subsection (m), any amount due from
34 a judgment or settlement against a resident inactive health care provider,
35 an optometrist or pharmacist who purchased coverage pursuant to sub-
36 section (n) or a physical therapist who purchased coverage pursuant to
37 subsection (o), for any such injury or death arising out of the rendering
38 of or failure to render professional services;

39 (4) subject to the provisions of subsection (m), any amount due from
40 a judgment or settlement against a nonresident inactive health care pro-
41 vider, an optometrist or pharmacist who purchased coverage pursuant to
42 subsection (n) or a physical therapist who purchased coverage pursuant
43 to subsection (o), for any injury or death arising out of the rendering or

41 27
2/21/96
1-14

1 failure to render professional services within this state, but in no event
2 shall the fund be obligated for claims against: (A) Nonresident inactive
3 health care providers who have not complied with this act; or (B) non-
4 resident inactive health care providers for claims that arose outside of this
5 state, unless such health care provider was a resident health care provider
6 or resident self-insurer at the time such act occurred;

7 (5) subject to subsection (b) of K.S.A. 40-3411, and amendments
8 thereto, reasonable and necessary expenses for attorney fees incurred in
9 defending the fund against claims;

10 (6) any amounts expended for reinsurance obtained to protect the
11 best interests of the fund purchased by the board of governors, which
12 purchase shall be subject to the provisions of K.S.A. 75-3738 through 75-
13 3744, and amendments thereto, but shall not be subject to the provisions
14 of K.S.A. 75-4101 and amendments thereto;

15 (7) reasonable and necessary actuarial expenses incurred in admin-
16 istering the act, including expenses for any actuarial studies contracted
17 for by the legislative coordinating council, which expenditures shall not
18 be subject to the provisions of K.S.A. 75-3738 through 75-3744, and
19 amendments thereto.

20 (8) periodically to the plan or plans, any amount due pursuant to
21 subsection (a)(3) of K.S.A. 40-3413 and amendments thereto;

22 (9) reasonable and necessary expenses incurred by the board of gov-
23 ernors in the administration of the fund or in the performance of other
24 powers, duties or functions of the board under the health care provider
25 insurance availability act.

26 (10) return of any unearned surcharge;

27 (11) subject to subsection (b) of K.S.A. 40-3411, and amendments
28 thereto, reasonable and necessary expenses for attorney fees and other
29 costs incurred in defending a person engaged or who was engaged in
30 residency training or the private practice corporations or foundations and
31 their full-time physician faculty employed by the university of Kansas
32 medical center from claims for personal injury or death arising out of the
33 rendering of or the failure to render professional services by such health
34 care provider;

35 (12) notwithstanding the provisions of subsection (m), any amount
36 due from a judgment or settlement for an injury or death arising out of
37 the rendering of or failure to render professional services by a person
38 engaged or who was engaged in residency training or the private practice
39 corporations or foundations and their full-time physician faculty em-
40 ployed by the university of Kansas medical center;

41 (13) reasonable and necessary expenses for the development and pro-
42 motion of risk management education programs;

43 (14) notwithstanding the provisions of subsection (m), any amount,

4/24/96
2/22/96
1-15

1 but not less than the required basic coverage limits, owed pursuant to a
2 judgment or settlement for any injury or death arising out of the rendering
3 of or failure to render professional services by a person, other than a
4 person described in clause (12) of this subsection (c), who was engaged
5 in a postgraduate program of residency training approved by the state
6 board of healing arts but who, at the time the claim was made, was no
7 longer engaged in such residency program;

8 (15) subject to subsection (b) of K.S.A. 40-3411, and amendments
9 thereto, reasonable and necessary expenses for attorney fees and other
10 costs incurred in defending a person described in clause (14) of this sub-
11 section (c);

12 (16) expenses incurred by the commissioner in the performance of
13 duties and functions imposed upon the commissioner by the health care
14 provider insurance availability act, and expenses incurred by the com-
15 missioner in the performance of duties and functions under contracts
16 entered into between the board and the commissioner as authorized by
17 this section; and

18 (17) periodically to the state general fund reimbursements of
19 amounts paid to members of the health care stabilization fund oversight
20 committee for compensation, travel expenses and subsistence expenses
21 pursuant to subsection (c) of K.S.A. 40-3403b, and amendments thereto.

22 (d) All amounts for which the fund is liable pursuant to subsection
23 (c) shall be paid promptly and in full except that, if the amount for which
24 the fund is liable is \$300,000 or more, it shall be paid, by installment
25 payments of \$300,000 or 10% of the amount of the judgment including
26 interest thereon, whichever is greater, per fiscal year, the first installment
27 to be paid within 60 days after the fund becomes liable and each subse-
28 quent installment to be paid annually on the same date of the year the
29 first installment was paid, until the claim has been paid in full. Any at-
30 torney fees payable from such installment shall be similarly prorated.

31 (e) In no event shall the fund be liable to pay in excess of \$3,000,000
32 pursuant to any one judgment or settlement against any one health care
33 provider relating to any injury or death arising out of the rendering of or
34 the failure to render professional services on and after July 1, 1984, and
35 before July 1, 1989, subject to an aggregate limitation for all judgments
36 or settlements arising from all claims made in any one fiscal year in the
37 amount of \$6,000,000 for each health care provider.

38 (f) The fund shall not be liable to pay in excess of the amounts spec-
39 ified in the option selected by the health care provider pursuant to sub-
40 section (l) for judgments or settlements relating to injury or death arising
41 out of the rendering of or failure to render professional services by such
42 health care provider on or after July 1, 1989.

43 (g) A health care provider shall be deemed to have qualified for cov-

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1 erage under the fund:

2 (1) On and after July 1, 1976, if basic coverage is then in effect;

3 (2) subsequent to July 1, 1976, at such time as basic coverage be-
4 comes effective; or

5 (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414 and
6 amendments thereto.

7 (h) A health care provider who is qualified for coverage under the
8 fund shall have no vicarious liability or responsibility for any injury or
9 death arising out of the rendering of or the failure to render professional
10 services inside or outside this state by any other health care provider who
11 is also qualified for coverage under the fund. The provisions of this sub-
12 section shall apply to all claims filed on or after July 1, 1986.

13 (i) Notwithstanding the provisions of K.S.A. 40-3402 and amend-
14 ments thereto, if the board of governors determines due to the number
15 of claims filed against a health care provider or the outcome of those
16 claims that an individual health care provider presents a material risk of
17 significant future liability to the fund, the board of governors is authorized
18 by a vote of a majority of the members thereof, after notice and an op-
19 portunity for hearing in accordance with the provisions of the Kansas
20 administrative procedure act, to terminate the liability of the fund for all
21 claims against the health care provider for damages for death or personal
22 injury arising out of the rendering of or the failure to render professional
23 services after the date of termination. The date of termination shall be
24 30 days after the date of the determination by the board of governors.
25 The board of governors, upon termination of the liability of the fund
26 under this subsection, shall notify the licensing or other disciplinary board
27 having jurisdiction over the health care provider involved of the name of
28 the health care provider and the reasons for the termination

29 (j) (1) Upon the payment of moneys from the health care stabiliza-
30 tion fund pursuant to subsection (c)(11), the board of governors shall
31 certify to the director of accounts and reports the amount of such pay-
32 ment, and the director of accounts and reports shall transfer an amount
33 equal to the amount certified, reduced by any amount transferred pur-
34 suant to paragraph (3) of this subsection (j), from the state general fund
35 to the health care stabilization fund.

36 (2) Upon the payment of moneys from the health care stabilization
37 fund pursuant to subsection (c)(12), the board of governors shall certify
38 to the director of accounts and reports the amount of such payment which
39 is equal to the basic coverage liability of self-insurers, and the director of
40 accounts and reports shall transfer an amount equal to the amount cer-
41 tified, reduced by any amount transferred pursuant to paragraph (3) of
42 this subsection (j), from the state general fund to the health care stabili-
43 zation fund.

4/14
2/21/96
1-17

1 (3) The university of Kansas medical center private practice foun-
2 dation reserve fund is hereby established in the state treasury. If the
3 balance in such reserve fund is less than \$500,000 on July 1 of any year,
4 the private practice corporations or foundations referred to in subsection
5 (c) of K.S.A. 40-3402, and amendments thereto, shall remit the amount
6 necessary to increase such balance to \$500,000 to the state treasurer for
7 credit to such reserve fund as soon after such July 1 date as is practicable.
8 Upon receipt of each such remittance, the state treasurer shall credit the
9 same to such reserve fund. When compliance with the foregoing provi-
10 sions of this paragraph have been achieved on or after July 1 of any year
11 in which the same are applicable, the state treasurer shall certify to the
12 board of governors that such reserve fund has been funded for the year
13 in the manner required by law. Moneys in such reserve fund may be
14 invested or reinvested in accordance with the provisions of K.S.A. 40-
15 3406, and amendments thereto, and any income or interest earned by
16 such investments shall be credited to such reserve fund. Upon payment
17 of moneys from the health care stabilization fund pursuant to subsection
18 (c)(11) or (c)(12) with respect to any private practice corporation or foun-
19 dation or any of its full-time physician faculty employed by the university
20 of Kansas, the director of accounts and reports shall transfer an amount
21 equal to the amount paid from the university of Kansas medical center
22 private practice foundation reserve fund to the health care stabilization
23 fund or, if the balance in such reserve fund is less than the amount so
24 paid, an amount equal to the balance in such reserve fund.

25 (4) Upon payment of moneys from the health care stabilization fund
26 pursuant to subsection (c)(14) or (c)(15), the board of governors shall
27 certify to the director of accounts and reports the amount of such pay-
28 ment, and the director of accounts and reports shall transfer an amount
29 equal to the amount certified from the state general fund to the health
30 care stabilization fund.

31 (k) Notwithstanding any other provision of the health care provider
32 insurance availability act, no psychiatric hospital licensed under K.S.A.
33 75-3307b and amendments thereto shall be assessed a premium sur-
34 charge or be entitled to coverage under the fund if such hospital has not
35 paid any premium surcharge pursuant to K.S.A. 40-3404 and amend-
36 ments thereto prior to January 1, 1988.

37 (l) On or after July 1, 1989, every health care provider shall make an
38 election to be covered by one of the following options provided in this
39 subsection (l) which shall limit the liability of the fund with respect to
40 judgments or settlements relating to injury or death arising out of the
41 rendering of or failure to render professional services on or after July 1,
42 1989. Such election shall be made at the time the health care provider
43 renews the basic coverage in effect on July 1, 1989, or, if basic coverage

4/14/96
2/21/96
1-18

1 is not in effect, such election shall be made at the time such coverage is
2 acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice
3 of the election shall be provided by the insurer providing the basic cov-
4 erage in the manner and form prescribed by the board of governors and
5 shall continue to be effective from year to year unless modified by a
6 subsequent election made prior to the anniversary date of the policy. The
7 health care provider may at any subsequent election reduce the dollar
8 amount of the coverage for the next and subsequent fiscal years, but may
9 not increase the same, unless specifically authorized by the board of gov-
10 ernors. Such election shall be made for persons engaged in residency
11 training and persons engaged in other postgraduate training programs
12 approved by the state board of healing arts at medical care facilities or
13 mental health centers in this state by the agency or institution paying the
14 surcharge levied under K.S.A. 40-3404, and amendments thereto, for
15 such persons. Such options shall be as follows:

16 (1) *OPTION 1.* The fund shall not be liable to pay in excess of
17 \$100,000 pursuant to any one judgment or settlement for any party
18 against such health care provider, subject to an aggregate limitation for
19 all judgments or settlements arising from all claims made in the fiscal year
20 in an amount of \$300,000 for such provider.

21 (2) *OPTION 2.* The fund shall not be liable to pay in excess of
22 \$300,000 pursuant to any one judgment or settlement for any party
23 against such health care provider, subject to an aggregate limitation for
24 all judgments or settlements arising from all claims made in the fiscal year
25 in an amount of \$900,000 for such provider.

26 (3) *OPTION 3.* The fund shall not be liable to pay in excess of
27 \$800,000 pursuant to any one judgment or settlement for any party
28 against such health care provider, subject to an aggregate limitation for
29 all judgments or settlements arising from all claims made in the fiscal year
30 in an amount of \$2,400,000 for such health care provider.

31 (m) The fund shall not be liable for any amounts due from a judgment
32 or settlement against resident or nonresident inactive health care provid-
33 ers who first qualify as an inactive health care provider on or after July 1,
34 1989, unless such health care provider has been in compliance with K.S.A.
35 40-3402, and amendments thereto, for a period of not less than five years.
36 If a health care provider has not been in compliance for five years, such
37 health care provider may make application and payment for the coverage
38 for the period while they are nonresident health care providers, nonres-
39 ident self-insurers or resident or nonresident inactive health care provid-
40 ers to the fund. Such payment shall be made within 30 days after the
41 health care provider ceases being an active health care provider and shall
42 be made in an amount determined by the board of governors to be suf-
43 ficient to fund anticipated claims based upon reasonably prudent actuarial

7/27
2/2/96
61-1

1 principles. The provisions of this subsection shall not be applicable to any
2 health care provider which becomes inactive through death or retirement,
3 or through disability or circumstances beyond such health care provider's
4 control, if such health care provider notifies the board of governors and
5 receives approval for an exemption from the provisions of this subsection.
6 Any period spent in a postgraduate program of residency training ap-
7 proved by the state board of healing arts shall not be included in com-
8 putation of time spent in compliance with the provisions of K.S.A. 40-
9 3402, and amendments thereto.

10 (n) Notwithstanding the provisions of subsection (m) or any other
11 provision in article 34 of chapter 40 of the Kansas Statutes Annotated to
12 the contrary, the fund shall not be liable for any claim made on or after
13 July 1, 1991, against a licensed optometrist or pharmacist relating to any
14 injury or death arising out of the rendering of or failure to render pro-
15 fessional services by such optometrist or pharmacist prior to July 1, 1991,
16 unless such optometrist or pharmacist qualified as an inactive health care
17 provider prior to July 1, 1991, and obtained coverage pursuant to sub-
18 section (m). Optometrists and pharmacists not qualified as inactive health
19 care providers prior to July 1, 1991, may purchase coverage from the fund
20 for periods of prior compliance by making application prior to August 1,
21 1991, and payment within 30 days from notice of the calculated amount
22 as determined by the board of governors to be sufficient to fund antici-
23 pated claims based on reasonably prudent actuarial principles.

24 (o) Notwithstanding the provisions of subsection (m) or any other
25 provision in article 34 of chapter 40 of the Kansas Statutes Annotated to
26 the contrary, the fund shall not be liable for any claim made on or after
27 July 1, 1995, against a physical therapist registered by the state board of
28 healing arts relating to any injury or death arising out of the rendering of
29 or failure to render professional services by such physical therapist prior
30 to July 1, 1995, unless such physical therapist qualified as an inactive
31 health care provider prior to July 1, 1995, and obtained coverage pursuant
32 to subsection (m). Physical therapists not qualified as inactive health care
33 providers prior to July 1, 1995, may purchase coverage from the fund for
34 periods of prior compliance by making application prior to August 1, 1995,
35 and payment within 30 days from notice of the calculated amount as
36 determined by the board of governors to be sufficient to fund anticipated
37 claims based on reasonably prudent actuarial principles.

38 (p) Notwithstanding anything in article 34 of chapter 40 of the Kansas
39 Statutes Annotated to the contrary, the fund shall in no event be liable
40 for any claims against any health care provider based upon or relating to
41 the health care provider's sexual acts or activity, but in such cases the
42 fund may pay reasonable and necessary expenses for attorney fees in-
43 curred in defending the fund against such claim. The fund may recover

41-41
2/21/96
1-20

1 all or a portion of such expenses for attorney fees if an adverse judgment
2 is returned against the health care provider for damages resulting from
3 the health care provider's sexual acts or activity.

7.

4 Sec ~~6~~ K.S.A. 40-3406 is hereby amended to read as follows 40-
5 3406. ~~The pooled money investment board~~ may invest and reinvest mon-
6 eys in the fund in obligations of the United States of America or obliga-
7 tions the principal and interest of which are guaranteed by the United
8 States of America or in interest-bearing time deposits in any commercial
9 bank located in Kansas, or, if the board determines that it is impossible
10 to deposit such moneys in such time deposits, in repurchase agreements
11 of less than 30 days' duration with a Kansas bank or with a primary gov-
12 ernment securities dealer which reports to the market reports division of
13 the federal reserve bank of New York for direct obligations of, or obliga-
14 tions that are insured as to principal and interest by, the United States
15 government or any agency thereof. Any income or interest earned by such
16 investments shall be credited to the fund ~~the pooled money investment~~
17 portfolio.

After consultation with the board of governors
the state treasurer

18 Sec ~~7~~ K.S.A. 44-712 is hereby amended to read as follows: 44-712

19 (a) *Establishment and control* There is hereby established as a special
20 fund in the state treasury, separate and apart from all public moneys or
21 funds of this state, an employment security fund, which shall be admin-
22 istered by the secretary as provided in this act. This fund shall consist of
23 (1) All contributions collected under this act, (2) interest earned upon
24 any moneys in the fund, (3) all moneys credited to this state's account in
25 the federal unemployment trust fund, pursuant to section 903 of the social
26 security act, 42 U.S.C.A. § 1103, as amended, (4) any property or secu-
27 rities acquired through the use of moneys belonging to the fund, and all
28 other moneys received for the fund from any other source, (5) all earnings
29 of such property or securities. All moneys in this fund shall be mingled
30 and undivided.

accordance with investment policies established
by the pooled money investment board under
K.S.A. 75-4232, and amendments thereto, in the
following:

- (a) Those investments under subparagraphs (A), (B), (E), (F) or (G) of paragraph (2) of subsection (a) of K.S.A. 75-4209, and amendments thereto; or
- (b) the municipal investment pool fund, under K.S.A. 12-1677a, and amendments thereto

31 (b) *Accounts and deposits* The state treasurer shall be ex officio cus-
32 todian of the fund. Payments from the fund, and for the purposes of this
33 act deposits with the secretary of the treasury of the United States shall
34 not be deemed to be payments from the fund, shall be made upon war-
35 rants drawn upon the state treasurer by the director of accounts and
36 reports upon vouchers approved by the secretary. There shall be main-
37 tained within the fund three separate accounts: (1) A clearing account,
38 (2) an unemployment trust fund account, and (3) a benefit account. All
39 money payable to the fund upon receipt thereof by the secretary, shall
40 be forwarded to the state treasurer, who shall immediately deposit them
41 in the state treasury to the credit of the clearing account of the fund.
42 Refunds payable pursuant to K.S.A. 44-717 and amendments thereto may

8.

4/4
2/21/96
1-21

1 director of accounts and reports upon the state treasurer upon vouchers
2 approved by the secretary. After clearance thereof, all other moneys in
3 the clearing account of the fund shall be immediately deposited with the
4 secretary of the treasury of the United States of America to the credit of
5 the account of this state in the federal unemployment trust fund estab-
6 lished and maintained pursuant to section 904 of the social security act,
7 42 U.S.C.A. § 1104, as amended, any provisions of law in this state relating
8 to the deposit, administration, release, or disbursement of moneys in the
9 possession or custody of this state to the contrary notwithstanding. The
10 benefit account of the fund shall consist of all moneys requisitioned from
11 this state's account in the federal unemployment trust fund. Except as
12 herein otherwise provided, moneys in the clearing and benefit accounts
13 of the fund may be deposited by the state treasurer in any bank or public
14 depository as is now provided by law for the deposit of general funds of
15 the state, but no public deposit insurance charge or premium shall be
16 paid out of the fund. Moneys in the clearing and benefit accounts of the
17 fund shall not be commingled with other state funds, ~~but~~ and shall be
18 maintained in separate accounts on the books of the depository banks
19 bank accounts.

20 (c) *Withdrawals.* Moneys shall be requisitioned from this state's ac-
21 count in the federal unemployment trust fund solely for the payment of
22 benefits and in accordance with the provisions of this act and the rules
23 and regulations adopted by the secretary, except that moneys credited to
24 this state's account pursuant to section 903 of the social security act, 42
25 U.S.C.A. § 1103, as amended, shall be used exclusively as provided in
26 subsection (d) of this section. The secretary shall from time to time re-
27 quisition from the federal unemployment trust fund such amounts, not
28 exceeding the amounts standing to its account therein, as deemed nec-
29 essary for the payment of benefits for a reasonable future period. Upon
30 receipt thereof the state treasurer shall deposit such moneys in the benefit
31 account of the fund and warrants for the payment of benefits shall be
32 charged solely against such benefit account of the fund. Expenditures of
33 such moneys in the benefit account and refunds from the clearing account
34 of the fund shall not be subject to any provisions of law requiring specific
35 appropriations. Any balance of moneys requisitioned from the federal
36 unemployment trust fund which remains unclaimed or unpaid in the ben-
37 efit account of the fund after the expiration of the period for which such
38 sums were requisitioned shall either be deducted from estimates for, and
39 may be utilized for the payment of benefits during succeeding periods,
40 or, in the discretion of the secretary shall be directed to be redeposited
41 with the secretary of the treasury of the United States of America, to the
42 credit of this state's account in the federal unemployment trust fund, as
43 provided in subsection (b) of this section. All balances accrued from un-

7/27
2/21/96
1-22

1 paid or canceled warrants issued pursuant to this section, notwithstanding
2 the provisions of K.S.A. 10-812 and amendments thereto shall remain in
3 the benefit account of the fund, and be disbursed in accordance with the
4 provisions of this act relating to such account.

5 (d) *Administrative use.* (1) Money credited to the account of this state
6 in the federal unemployment trust fund by the secretary of the treasury
7 of the United States of America, pursuant to section 903 of the social
8 security act, 42 U.S.C.A. § 1103, as amended, may be requisitioned and
9 used for the payment of expenses incurred in the administration of this
10 act pursuant to a specific appropriation by the legislature, if expenses are
11 incurred and the money is requisitioned after the enactment of an ap-
12 propriation law which: (A) Specifies the purposes for which such money
13 is appropriated and the amounts appropriated therefor, (B) limits the
14 period within which such money may be obligated to a period ending not
15 more than two years after the date of the enactment of the appropriation
16 law, and (C) limits the amount which may be obligated during a twelve-
17 month period beginning on July 1 and ending on the next June 30 to an
18 amount which does not exceed the amount by which (i) the aggregate of
19 the amounts credited to the account of this state pursuant to section 903
20 of the social security act, 42 U.S.C.A. § 1103, as amended, (ii) the aggre-
21 gate of the amounts obligated pursuant to this subsection and amounts
22 paid out for benefits and charged against the amounts credited to the
23 account of this state. For the purposes of this subsection, amounts obli-
24 gated during any such twelve-month period shall be charged against
25 equivalent amounts which were first credited and which are not already
26 so charged.

27 (2) Money credited to the account of this state pursuant to section
28 903 of the social security act, 42 U.S.C.A. § 1103, as amended, may not
29 be withdrawn or obligated except for the payment of benefits and for the
30 payment of expenses for the administration of this act and of public em-
31 ployment offices pursuant to this subsection (d).

32 (3) Money appropriated as provided by this subsection (d) for the
33 payment of expenses of administration shall be requisitioned as needed
34 for the payment of obligations incurred under such appropriation and,
35 upon requisition shall be deposited in the state treasury to the credit of
36 the employment security administration fund from which such payments
37 shall be made. Money so deposited and credited shall, until expended,
38 remain a part of the federal unemployment trust fund, and, if it will not
39 be expended, shall be returned promptly to the account of this state in
40 the federal unemployment trust fund.

41 (e) *Management of funds upon discontinuance of federal unemploy-*
42 *ment trust fund* The provisions of subsections (a), (b), (c) and (d) of this
43 section, to the extent that they relate to the federal unemployment trust

7/27
2/21/96
1-23

1 fund, shall be operative only so long as such unemployment trust fund
 2 continues to exist and so long as the secretary of the treasury of the United
 3 States of America continues to maintain for this state a separate book
 4 account of all funds deposited therein by this state for benefit purposes,
 5 together with this state's proportionate share of the earnings of such un-
 6 employment trust fund, from which no other state is permitted to make
 7 withdrawals. If and when such unemployment trust fund ceases to exist,
 8 or such separate book account is no longer maintained, all moneys, prop-
 9 erties or securities therein, belonging to the employment security fund
 10 of this state, shall be transferred to the state treasurer, to be administered
 11 by the secretary as a trust fund for the purpose of paying benefits under
 12 this act, and the pooled money investment board upon the direction of
 13 the secretary shall have authority to hold, invest, transfer, sell, deposit,
 14 and release such moneys, and any properties, securities, or earnings ac-
 15 quired as an incident to such administration.

16 Sec ~~8~~ K.S.A. 75-622 is hereby amended to read as follows. 75-622.

17 The treasurer shall appoint an assistant state treasurer, who ~~may~~, in the
 18 absence of the treasurer, ~~may~~ perform such acts as ~~he or she~~ may be
 19 authorized to perform by the state treasurer, except ~~such as to the duties~~
 20 ~~of the state treasurer as pertain to him or her as a member of the executive~~
 21 ~~council; and said pooled money investment board.~~ The assistant state
 22 treasurer is hereby empowered to administer oaths pertaining to all mat-
 23 ters relating to the business of the state treasurer's office, which person
 24 shall take the oath of office required of public officers, and the state
 25 treasurer ~~of the state~~ shall be responsible for the acts of such person so
 26 designated. Such person shall have such power and authority so long as
 27 it shall be the will and pleasure of the state treasurer.

9.

See Sections 10 and 11 attached

28 Sec ~~9~~ K S A 1995 Supp. 75-4201 is hereby amended to read as
 29 follows 75-4201 As used in this act, unless the context otherwise re-
 30 quires:

- 31 (a) "Treasurer" means state treasurer.
- 32 (b) "Controller" means director of accounts and reports.
- 33 (c) "Board" means the pooled money investment board.
- 34 (d) "Bank" means a state bank incorporated under the laws of Kansas
 35 or a national bank having such bank's home office within the state of
 36 Kansas.
- 37 (e) "State moneys" means all moneys in the treasury of the state or
 38 coming lawfully into the possession of the treasurer.
- 39 (f) "Custodial moneys" means state moneys deposited with the treas-
 40 urer which, in the written opinion of the attorney general, are required
 41 by contract, bequest or law to be segregated from other bank accounts.
- 42 (g) "Special moneys" means moneys which are required to be or are
 43 deposited in a custodial bank account or a fee agency account by the state

12.

7/14/17
2/12/18
1-24

1 of any agency thereof.

2 (h) (f) "State bank account" means state moneys or ~~special fee agency~~
3 ~~account~~ moneys deposited in accordance with the provisions of this act.

4 (i) (g) "Operating account" means a state bank account which is pay-
5 able or withdrawable, in whole or in part, on demand.

6 (j) (h) "Investment account" means a state bank account which is not
7 payable on demand ~~but shall not include custodial accounts.~~

8 (k) (i) "Market rate" means the average of the average equivalent
9 yields, with equivalent maturities, of: (1) United States government se-
10 curities; and (2) debt obligations of the following United States govern-
11 ment agencies, federal home loan banks, federal national mortgage as-
12 sociation and federal farm credit bank.

13 (l) (j) "Investment rate" means a rate which is the equivalent yield
14 for United States government securities having a maturity date as pub-
15 lished in the Wall Street Journal, nearest the maturity date for equivalent
16 maturities. ~~For liquidity investments.~~ The 0-90 day rate shall be computed
17 on the average effective federal funds rate as published by the federal
18 reserve system for the previous week.

19 (m) "Custodial account" means a state bank account of custodial
20 moneys

21 (n) (k) "Fee agency account" means a state bank account of any state
22 agency consisting of fees, tuition or charges authorized by law prior to
23 remittance to the state treasurer.

24 (o) (l) "Disbursement" means a payment of any kind whatsoever
25 made from the state treasury or from any operating account, except trans-
26 fer of state or ~~special~~ moneys between or among operating accounts and
27 investment accounts or either or both of them

28 (p) (m) "Securities" means, for the purposes of K.S.A. 75-421b, and
29 amendments thereto, any one or more of the following, which may be
30 accepted or rejected by the pooled money investment board:

31 (1) Direct obligations of, or obligations that are insured as to principal
32 and interest by, the United States government or any agency thereof and
33 obligations, letters of credit and securities of United States sponsored
34 enterprises which under federal law may be accepted as security for pub-
35 lic funds.

36 (2) Kansas municipal bonds which are general obligations of the mu-
37 nicipality issuing the same.

38 (3) Revenue bonds of any agency or arm of the state of Kansas.

39 (4) Revenue bonds of any municipality, as defined by K.S.A. 10-101,
40 and amendments thereto, within the state of Kansas or bonds issued by
41 a public building commission as authorized by K.S.A. 12-1761, and
42 amendments thereto, if approved by the state bank commissioner, except
43 (A) bonds issued under the provisions of K.S.A. 12-1740 et seq. and

4/1/11
2/21/96
1-25

1 amendments thereto, unless such bonds are rated at least MIG-1 or Aa
2 by Moody's Investors Service or AA by Standard & Poor's Corp. and (B)
3 bonds secured by revenues of a utility which has been in operation for
4 less than three years. Any expense incurred in connection with granting
5 approval of revenue bonds shall be paid by the applicant for approval.

6 (5) Temporary notes of any municipal corporation or quasi-municipal
7 corporation within the state of Kansas which are general obligations of
8 the municipal corporation or quasi-municipal corporation issuing the
9 same.

10 (6) Warrants of any municipal corporation or quasi-municipal cor-
11 poration within the state of Kansas the issuance of which is authorized
12 by the state board of tax appeals and which are payable from the proceeds
13 of a mandatory tax levy.

14 (7) Bonds of any municipal or quasi-municipal corporation of the
15 state of Kansas which have been refunded in advance of their maturity
16 and are fully secured as to payment of principal and interest thereon by
17 deposit in trust, under escrow agreement with a bank, of direct obligations
18 of, or obligations the principal of and the interest on which are uncon-
19 ditionally guaranteed by, the United States of America. A copy of such
20 escrow agreement shall be furnished to the treasurer.

21 (8) Securities listed in paragraph (13) of subsection (d) of K.S.A. 9-
22 1402 and amendments thereto within limitations of K.S.A. 9-1402 and
23 amendments thereto.

24 (9) A corporate surety bond guaranteeing deposits in a bank, savings
25 or savings and loan association in excess of federal deposit insurance cor-
26 poration insurance, underwritten by an insurance company authorized to
27 do business in the state of Kansas.

28 (10) All of such securities shall be current as to interest according to
29 the terms thereof.

30 (11) Whenever a bond is authorized to be pledged as a security under
31 this section, such bond shall be accepted as a security if: (i) In the case
32 of a certificated bond, it is assigned, delivered or pledged to the holder
33 of the deposit for security; (ii) in the case of an uncertificated bond,
34 registration of a pledge of the bond is authorized by the system and the
35 pledge of the uncertificated bond is registered; or (iii) in a form approved
36 by the attorney general, which assures the availability of the bond pro-
37 ceeds pledged as a security for public deposits

38 (†)(n) "Savings bank" means a federally chartered savings bank in-
39 sured by the federal deposit insurance corporation and doing business
40 within the state of Kansas.

41 (†)(o) "Savings and loan association" means a state or federally char-
42 tered savings and loan association insured by the federal deposit insurance
43 corporation and doing business within the state of Kansas.

7/27/96
2/21/96
1-26

1 (s) (p) "Custodial bank" means a bank designated to keep safely col-
2 lateral pledged as security for state bank accounts.

3 (t) (q) "Centralized securities depository" means a clearing agency
4 registered with the securities and exchange commission which provides
5 safekeeping and book-entry settlement services to its participants.

6 (u) (r) "Depository bank" means a bank, savings bank or savings and
7 loan association authorized and eligible to receive state moneys.

8 Sec. ~~10~~ K.S.A. 1995 Supp. 75-4202 is hereby amended to read as
9 follows: 75-4202 All state moneys and credits received by the treasurer
10 shall be deposited daily in one or more operating accounts; ~~except cus-~~
11 ~~todial moneys which shall be so deposited in custodial accounts.~~ All dis-
12 bursements shall be drawn from operating accounts. All banks having a
13 state bank account shall service all warrants, drafts or checks of the state
14 or its agencies. The board shall determine the compensation for services
15 rendered that banks may receive on state bank accounts. Such compen-
16 sation may be either compensating balances or fees.

13.

17 Sec. ~~11~~ K.S.A. 75-4204 is hereby amended to read as follows: 75-
18 4204. All orders of the treasurer transferring ~~state or special~~ moneys from
19 one state bank account to another shall be signed both by the treasurer
20 or ~~his or her~~ the treasurer's duly authorized deputy and director of ac-
21 counts and reports or ~~his or her~~ the director's duly authorized assistant.

14.

22 Sec. ~~12~~ K.S.A. 1995 Supp. 75-4209 is hereby amended to read as
23 follows: 75-4209 (a) After the ~~board~~ determines the liquidity needs for
24 the state, and determines the varying maturities of the investment ac-
25 counts to be offered and the amount of state moneys to be invested in
26 each of the maturities offered, in accordance with rules and regulations
27 adopted pursuant to K.S.A. 1995 Supp. 75-4232, and amendments
28 thereto, the ~~board~~ shall make available state moneys eligible for invest-
29 ment accounts in the following manner:

15.

30 (1) (A) The ~~board~~ shall offer to qualified banks, on a competitive bid
31 basis, state moneys for deposit in investment accounts at maturities of not
32 more than four years and such bids shall be at a rate of at least the market
33 rate, as defined in subsection (k) of K.S.A. 75-4201, and amendments
34 thereto.

state treasurer

35 (B) As part of the offering under subparagraph (A) the ~~board~~ shall
36 offer to qualified banks, on a twelve-month average, 50% of the amount
37 of state moneys available for investment or \$350,000,000, whichever
38 amount is greater, at maturities of not more than four years and at the
39 investment rate as defined in subsection (l) of K.S.A. 75-4201, and
40 amendments thereto. Such accounts shall be apportioned by the ~~board~~
41 among the banks which propose to receive such accounts and which qual-
42 ify therefor on the basis of the ratio of each bank's combined capital,
43 undivided profits and surplus to the total capital, undivided profits and

4/21
2/21/96
1-27

1 surplus of all such banks.

2 (C) Qualified banks shall be determined in accordance with require-
3 ments established by rules and regulations adopted pursuant to K.S.A.
4 1995 Supp. 75-4232, and amendments thereto.

5 (2) The board may invest and reinvest state moneys eligible for in-
6 vestment which are not invested in accordance with paragraph (1), in the
7 following investments:

state treasurer

8 (A) Direct obligations of, or obligations that are insured as to prin-
9 cipal and interest by, the United States of America or any agency thereof
10 and obligations and securities of the United States sponsored enterprises
11 which under federal law may be accepted as security for public funds,
12 except that not more than 10% of the moneys available for investment
13 under this subsection may be invested in mortgage-backed securities of
14 such enterprises and of the government national mortgage association;

15 (B) repurchase agreements with a Kansas bank or a primary govern-
16 ment securities dealer which reports to the market reports division of the
17 federal reserve bank of New York for direct obligations of, or obligations
18 that are insured as to principal and interest by, the United States govern-
19 ment or any agency thereof and obligations and securities of United States
20 government sponsored enterprises which under federal law may be ac-
21 cepted as security for public funds.

22 (C) investments in SKILL act projects and bonds pursuant to K.S.A.
23 1995 Supp. 74-8920, and amendments thereto, and investments in any
24 state agency bonds or bond project, or

25 (D) until July 1, 1996, in the municipal investment pool fund, created
26 under K.S.A. 1995 Supp. 12-1677a, and amendments thereto, in accor-
27 dance with the policies adopted by the board on January 30, 1995. Any
28 investment of such state moneys in such fund prior to the effective date
29 of this act are hereby authorized, confirmed and validated. On July 1,
30 1996, all state moneys invested in the municipal investment pool fund
31 under this paragraph shall be removed from such fund.

32 (E) *bankers' acceptances eligible for discounting with the federal re-*
33 *serve system which do not exceed 270 days to maturity and which are*
34 *issued by commercial banks or trust companies which have a short-term*
35 *rating in one of the two highest rating categories by a nationally recog-*
36 *nized investment rating firm, so long as such issuing bank or trust com-*
37 *pany is either a bank or trust company organized and operating in the*
38 *United States or a foreign branch thereof or a United States branch of a*
39 *foreign bank;*

40 (F) *commercial paper that does not exceed 270 days to maturity and*
41 *which has received one of the two highest commercial paper credit ratings*
42 *by a nationally recognized investment rating firm, or*

43 (G) *negotiable certificates of deposit issued by commercial banks*

7/14/96
2/21/96
1-28

1 which have a short-term deposit rating in one of the two highest rating
2 categories by a nationally recognized investment rating firm, so long as
3 such issuing bank or trust company is either a bank or trust company
4 organized and operating in the United States or a foreign branch thereof
5 or a United States branch of a foreign bank domiciled in the United States
6 which is subject to United States government regulation.

7 (b) At any time moneys are available for deposits or investments for
8 a period of time which is insufficient to permit deposit in investment
9 accounts or to provide for the liquidity needs for the state, the board may
10 invest such moneys in repurchase agreements as authorized in subpara-
11 graph (B) of paragraph (2) of subsection (a).

12 (c) When moneys are available for deposits or investments, the board
13 may invest in preferred stock of Kansas venture capital, inc., under terms
14 and conditions prescribed by K.S.A. 74-8203, and amendments thereto,
15 but such investments shall not in the aggregate exceed a total amount of
16 \$10,000,000

17 (d) When moneys are available for deposits or investments, the board
18 may invest in loans pursuant to legislative mandates, except that not more
19 than the lesser of 10% or \$80,000,000 of the state moneys shall be in-
20 vested

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

23 (f) Investments made by the board under the provisions of this sec-
24 tion shall be made with judgment and care, under circumstances then
25 prevailing, which persons of prudence, discretion and intelligence exer-
26 cise in the management of their own affairs, not for speculation, but for
27 investment, considering the probable safety of their capital as well as the
28 probable income to be derived

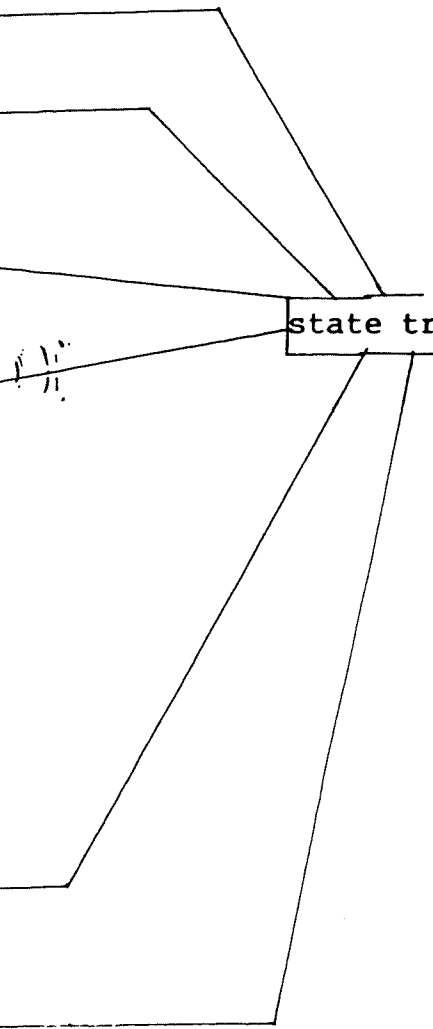
29 (g) Investments under subsection (a) shall be for a period not to ex-
30 ceed four years, except for investments in mortgage-backed securities.

31 (h) Investments in securities under subparagraph (A) of paragraph
32 (2) of subsection (a) shall be limited to securities which do not have any
33 more interest rate risk than do direct United States government obliga-
34 tions of similar maturities except for the 10% limitation on mortgage-
35 backed securities. For purposes of this subsection, "interest rate risk"
36 means market value changes due to changes in current interest rates.

37 (i) On and after July 1, 1996, the board shall not invest state moneys
38 eligible for investment under paragraph (2) of subsection (a), in the mu-
39 nicipal investment pool fund, created under K.S.A. 1995 Supp. 12-1677a,
40 and amendments thereto.

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

state treasurer



7/14/96
2/21/96
1-29

1 value of an underlying asset or index of asset values
 2 (k) Moneys and investments in the pooled money investment portfolio
 3 shall be ~~managed by the pooled money investment board~~ in accordance
 4 with investment policies developed, approved, published and updated on
 5 an annual basis by ~~such~~ board. Such investment policies shall include at
 6 a minimum guidelines which identify credit standards, eligible instru-
 7 ments, allowable maturity ranges, methods for valuing the portfolio, cal-
 8 culating earnings and yields and limits on portfolio concentration for each
 9 type of investment. Any changes in such investment policies shall be ap-
 10 proved by the pooled money investment board.

invested and reinvested by the state treasurer

the

11 Sec. ~~13~~ K.S.A. 75-4210a is hereby amended to read as follows: 75-
 12 4210a Any moneys received from interest earned on state moneys shall
 13 be credited to the state general fund, unless required by law, contract or
 14 bequest to be credited to a fund other than the state general fund. When
 15 interest earnings are required by law, contract or bequest to be credited
 16 to a fund other than the state general fund, such earnings shall be based
 17 on the average daily balance in the fund for each month and the net
 18 earnings rate of the pooled money investment portfolio for such month
 19 unless such law, contract or bequest provides a different method of com-
 20 puting interest earnings.

16.

17.

21 Sec. ~~14~~ K.S.A. 1995 Supp. 75-4212a is hereby amended to read as
 22 follows: 75-4212a Whenever the balance in operating accounts is insuf-
 23 ficient to meet the state's obligations or withdrawals from the municipal
 24 investment pool fund, and there are state moneys in authorized invest-
 25 ments, the treasurer, with approval of the board, may:

26 (a) Borrow upon the security of any one or more investment accounts
 27 an amount sufficient to meet the state's or the municipal investment pool
 28 fund's obligations. Any such loan shall be repaid in full within 60 days or
 29 prior to July 1, whichever occurs first. Interest payment by the state for
 30 any loan under this section shall be made only by way of setoff from
 31 interest obligations to the state from the bank making such loan. The
 32 amount borrowed under this section from any bank, shall never exceed
 33 an amount equal to the amount of state moneys on deposit in such bank;
 34 or

18.

35 (b) enter into reverse repurchase agreements utilizing securities pur-
 36 chased by the board pursuant to subsection (a)(2)(A) of K.S.A. 75-4209
 37 and amendments thereto. Such reverse repurchase agreements may be
 38 entered into with Kansas banks or primary government securities dealers
 39 which report to the market reports division of the federal reserve bank
 40 of New York. Expenses of reverse repurchase agreements shall be paid
 41 by deducting such expenses against other interest income to the state.

42 Sec. ~~15~~ K.S.A. 1995 Supp. 75-4218 is hereby amended to read as
 43 follows: 75-4218 (a) All state bank accounts shall be secured by pledge

7141
2/21/96
1-30

1 of securities as provided in this section

2 (b) The bank, savings bank or savings and loan association receiving
3 or having a state bank account shall deposit or cause its affiliate bank to
4 deposit securities acceptable to the board and owned by it or by its affiliate
5 bank, in one of the following ways:

6 (1) Deposit with the treasurer.

7 (2) Deposit with a custodial bank having adequate modern facilities
8 for the safekeeping of securities which shall have had the prior approval
9 of the board. Any such custodial bank receiving securities for safekeeping
10 shall be liable to the state for any loss suffered by the state in the event
11 such custodial bank relinquishes the custody of any such securities con-
12 trary to the provisions of this act or rules and regulations adopted there-
13 under. This section shall not prohibit any custodial bank receiving secu-
14 rities for safekeeping from issuing a joint custody receipt and placing
15 those securities in such bank's account with any bank chartered in Kansas
16 or any other state, any trust company chartered in Kansas or any other
17 state, any national bank, or any centralized securities depository wherever
18 located within the United States. No bonds or securities pledged to secure
19 public deposits shall be left for safekeeping in any bank, trust company,
20 or national bank which is owned directly or indirectly by any parent cor-
21 poration of the depository bank, or with any bank, trust company, or
22 national bank, having common controlling shareholders, having a com-
23 mon majority of the board of directors or having common directors with
24 the ability to control or influence directly or indirectly the acts or policies
25 of the bank, state or federally chartered savings and loan association or
26 federally chartered savings bank securing such public deposits.

27 (3) Deposit with the federal reserve bank of Kansas City, Missouri.

28 (4) Deposit with the federal home loan bank of Topeka, Kansas.

29 (5) Any combination of (1), (2), (3) and (4).

30 (c) The depository bank shall obtain a written agreement from its
31 affiliate bank that the affiliate bank grants a security interest to the state
32 of Kansas in securities owned by the affiliate bank which are pledged on
33 behalf of the depository bank to secure payment of deposits made with
34 the depository bank pursuant to this section. Such agreement shall be
35 approved by the board of directors of the affiliate bank and reflected in
36 its minutes. From the time of execution of such agreement, the agree-
37 ment shall remain continuously an official record of the affiliate bank.
38 Any such deposit of securities, except with the treasurer, shall have a joint
39 custody receipt which shall constitute a perfected security interest taken
40 therefor with one copy going to the treasurer and one copy going to the
41 bank, savings bank or savings and loan association which deposits such
42 securities. In lieu of the initial deposit of securities provided for in this
43 section, the treasurer or the treasurer's duly authorized deputy,



7147
2/21/96
13-1
17

1 for a period of not to exceed 10 calendar days, may accept the telephone
2 assurance of a bank qualified as provided in (2) or (3) of subsection (b),
3 that the depository bank has requested the issuance of a joint custody
4 receipt with the state of Kansas, specifying the securities pledged, for the
5 purpose of compliance with this section and that such joint custody re-
6 ceipt will be forthcoming.

7 (d) The depository bank, the board and the custodial bank shall enter
8 into a written agreement for the safekeeping of securities and the agree-
9 ment shall be maintained in the records of the depository bank.

10 (e) Securities deposited to comply with this section may be with-
11 drawn on application of the bank, savings bank or savings and loan asso-
12 ciation depositing the securities, if such application is approved by the
13 treasurer or the treasurer's duly authorized deputy for the reason that
14 such deposit of securities is no longer needed to comply with this section
15 or are required for collection by virtue of their maturity or for exchange.
16 Securities withdrawn for collection by virtue of their maturity or for
17 exchange shall be replaced within 15 calendar days, but until replaced
18 the state shall retain a first lien on the withdrawn security or the proceeds
19 therefrom

20 (f) Operating accounts, investment accounts; ~~and fee agency accounts~~
21 ~~and established accounts~~ shall be secured by pledge of securities, the market
22 value of which is equal to 100% of the amount of the deposits in the
23 account plus accrued interest, less the amount of deposits in the account
24 protected by the federal deposit insurance corporation. Any agency re-
25 sponsible for a fee agency account shall transfer immediately all moneys
26 not so secured to the state treasurer for deposit in the state treasury.

27 Sec. 16 K S A 1995 Supp. 75-4220 is hereby amended to read as
28 follows: 75-4220 (a) Each depository or its affiliate bank pledging secu-
29 rities for such depository pursuant to K S A. 75-4218, and amendments
30 thereto, shall be liable for payment if: (1) The depository bank fails to:
31 (A) Pay any check, draft or warrant drawn by the treasurer and director
32 of accounts and reports; or (B) account for any check, draft, warrant,
33 order, or certificate of deposit, or any money entrusted to such bank by
34 the treasurer; or (2) a conservator or receiver is appointed for the depos-
35 itory bank

36 Any loss incurred by the state by reason of failure by any depository
37 bank to safely keep and account for ~~state or special~~ moneys and interest
38 thereon shall be recovered by the state from the depository bank and a
39 sale of the securities pledged under this act. The attorney general is au-
40 thorized to prosecute in the name of the state any and all actions for
41 recovery of any loss incurred by the state under this act.

42 In case of default by any depository bank having a state bank account
43 of any type, the securities pledged under this act, if not in the possession

19.

7141
2/21/96
1-32

1 of the treasurer, shall be transferred to the treasurer by the custodial
2 bank to be sold by the treasurer and payment of the proceeds of such
3 sale shall be made to the state to the extent of the state's interest, subject
4 to the provisions of K S A. 75-4221, and amendments thereto.

5 Sec. ~~17~~ K.S.A. 1995 Supp. 75-4228 is hereby amended to read as
6 follows: 75-4228. The making of profit by the treasurer or director of
7 accounts and reports out of any moneys in the state treasury, the custody
8 of which the treasurer or director of accounts and reports is charged with,
9 by lending, depositing, or otherwise using, or disposing of the same in
10 any manner whatsoever not provided in this act, or the removal by the
11 treasurer or director of accounts and reports or by such official's consent,
12 of any securities deposited by any bank under the provisions of this act
13 out of the treasury, or failing to return or dispose of any securities as
14 provided by law, shall be deemed a felony, and on conviction thereof, the
15 treasurer or director of accounts and reports shall be punished by im-
16 prisonment in the custody of the secretary of corrections for a term of
17 not less than two nor more than five years. In addition to such criminal
18 liability the treasurer or director of accounts and reports and the surety
19 thereof shall also be liable, on official bond, for all profits realized from
20 such unlawful use of any state or special moneys. It shall be the duty of
21 the attorney general to enter and prosecute to final termination all actions
22 for violation of this act.

20.

21.

23 Sec. ~~18~~ K.S.A. 1995 Supp. 75-4221a is hereby amended to read as
24 follows: 75-4221a. (a) There is hereby established the pooled money in-
25 vestment board which shall consist of five members, four of whom shall
26 be appointed by the governor, subject to confirmation by the senate as
27 provided in K.S.A. 75-4315b and amendments thereto. Except as pro-
28 vided by K.S.A. 1995 Supp. 46-2601, and amendments thereto, no person
29 appointed to the board, whose appointment is subject to confirmation,
30 shall exercise any power, duty or function as a member of the board until
31 confirmed by the senate. The fifth member shall be the state treasurer.
32 Not more than three members of the board shall be of the same political
33 party. All members appointed to the board shall be persons with not less
34 than 10 years of direct work experience in the management of fixed in-
35 come securities as an investment or trust officer for a financial institution,
36 association or corporation. Except as provided by subsection (b), mem-
37 bers appointed by the governor shall serve for a term of four years and
38 until successors are appointed and confirmed. *The governor shall select*
39 *one of the board members to serve as chairperson*

40 (b) (1) On July 1, 1992, the two appointive board members serving
41 on the board immediately prior to such date shall cease to be members
42 of the board and on such date, or as soon thereafter as possible, the

4147
2/21/96
1-33

1 specified by this subsection. The two appointive members serving on the
2 board immediately prior to July 1, 1992, may be reappointed to the board
3 on or after such date under this subsection. Of the members first ap-
4 pointed on or after July 1, 1992, two members shall be appointed for a
5 term commencing on July 1, 1992, and ending on June 30, 1994, and two
6 members shall be appointed for a term commencing on July 1, 1992, and
7 ending on June 30, 1996. The governor shall designate the term for each
8 member so appointed. Except as provided in paragraph 2 of this subsec-
9 tion, members appointed to the board shall serve for four-year terms and
10 until their successors are appointed and confirmed. Whenever a vacancy
11 occurs in the membership of the board prior to the expiration of a term
12 of office, the governor shall appoint a qualified successor to fill the unex-
13 pired term.

14 (2) The terms of members who are serving on the board on the ef-
15 fective date of this act shall expire on March 15, of the year in which such
16 member's term would have expired under the provisions of this section
17 prior to amendment by this act and by section 3 of chapter 194 of the
18 session laws of 1995. Thereafter members shall be appointed for terms
19 of four years and until their successors are appointed and confirmed

20 (c) Members of the pooled money investment board attending meet-
21 ings of such board, or attending a subcommittee meeting thereof au-
22 thorized by such board, shall be paid compensation, subsistence allow-
23 ances, mileage and other expenses as provided in K.S.A. 75-3223 and
24 amendments thereto

25 Sec ~~19~~ K.S.A. 1995 Supp. 75-4222 is hereby amended to read as
26 follows: 75-4222. (a) It shall be unlawful for the pooled money investment
27 board to award a state bank account to any depository bank in which any
28 member of the board is interested as a stockholder or officer, except upon
29 the unanimous vote of the other members of the board.

30 (b) ~~The state treasurer shall be chairperson of the board.~~ The board
31 may appoint such employees as may be needed ~~In addition to the above~~
32 ~~personnel, the board may~~ appoint investment officers and investment
33 analysts, who shall be in the unclassified service of the Kansas civil service
34 act. ~~The chairperson shall keep and preserve a written record of the~~
35 ~~board's proceedings.~~

36 ~~(c)~~ The employees working for the pooled money investment board
37 shall have access at all times to all papers, documents and property in the
38 custody or possession of the state treasurer that relate to duties of the
39 board, and the state treasurer shall take such steps as may be necessary
40 to make this provision of law effective for such purposes as the pooled
41 money investment board may indicate.

42 ~~(d)~~ Except as otherwise provided in this act, ~~On and after July 1,~~
43 ~~1996, the pooled money investment board may provide all office space.~~

22.

The state treasurer, subject to the approval of the board, shall

Such investment officers and analysts may be terminated by a vote of four members of the board.

(c) From and after the effective date of this act, all current classified employees of the pooled money investment board are hereby transferred to the office of the state treasurer. All such employees shall retain all retirement benefits and all rights of civil service which such employees had before the effective date of this act and their service shall be deemed to have been continuous. All such transfers shall be in accordance with civil service laws and rules and regulations.

(d)

(e)

7/1/11
2/2/12
1-34

Except as otherwise provided in this act,

~~services, equipment, materials and supplies, and~~ all budgeting, purchasing and related management functions of ~~required by~~ the pooled money investment board shall be administered under the direction and supervision of the state treasurer ~~in the exercise of the powers, duties and functions imposed or authorized upon such board.~~

of

shall be administered under the direction and supervision of the state treasurer

(e) The board shall make an annual report to the legislature of the investments by the board of all moneys under the jurisdiction and control of the board, by filing a copy of the report with the chief clerk of the house of representatives and with the secretary of the senate no later than the 10th calendar day of each regular session of the legislature.

(f) The chairperson shall keep and preserve a written record of the board's proceedings.

Sec. ~~20~~ K S A 1995 Supp 75-4232 is hereby amended to read as follows 75-4232 State moneys shall be ~~managed by the pooled money investment board~~ in accordance with investment policies provided by law and, by rules and regulations and published policies of ~~such~~ board. The pooled money investment board shall not contract for management of investments by a money manager ~~in administering the functions of the pooled money investment board.~~ the board shall adopt rules and regulations or published policies pursuant to K S A 75-4209, and amendments thereto establishing investment policies and procedures. Such policies and procedures shall address liquidity, diversification, safety of principal, yield, maturity and quality and capability of investment management, with primary emphasis on safety and liquidity. Such investment policy shall specify when or under what circumstances securities may be disposed of prior to maturity. Such investment policies and procedures shall be reviewed annually by the pooled money investment board.

(g)

23.

invested and reinvested by the state treasurer

the

Sec. ~~21~~ K S A 75-4254 is hereby amended to read as follows: 75-4254 The ~~pooled money investment board~~ may invest and reinvest the moneys of surplus proceeds and surplus reserves in

See Sec. 24 attached

(a) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America; Investments enumerated in K S A 10-131, and amendments thereto.

state treasurer

or
(b) in interest-bearing time deposits in any commercial bank located in Kansas, except that the amount so invested in any such bank shall not exceed an amount equal to the total capital and surplus of such bank and shall be secured in the manner prescribed by subsections (a) to (e), inclusive, of K S A 75-4216; and amendments thereto.

25.

(c) if the board determines that it is impossible to deposit such moneys in such time deposits; in repurchase agreements of less than 30 days' duration with a Kansas bank or with a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any



7141
2/21/96
1-35

1 agency thereof; or

2 (d) in shares or accounts in savings and loan associations insured by
3 the federal savings and loan insurance corporation; or other federal
4 agency; to the extent covered by such insurance the pooled money in-
5 vestment portfolio.

6 Sec. ~~22~~ K.S.A. 76-818 is hereby amended to read as follows: 76-818.

See Sections 26 and 27 attached

7 All funds received pursuant to the provisions of this act, whether as pro-
8 ceeds from the sale of bonds, sale of property, insurance or condemnation
9 awards, as revenues, proceeds or otherwise, shall be deemed to be trust
10 funds to be held and applied solely as provided in this act and as provided
11 in the resolution authorizing the issuance of the bonds or the trust agree-
12 ment. The resolution of the board authorizing the issuance of the bonds
13 or the trust agreement securing any bonds may provide that any of such
14 moneys, including the proceeds of the bonds, the sinking fund and any
15 reserve account or accounts, may be invested by the pooled money in-
16 vestment board pending the disbursement thereof, in obligations of the
17 United States of America or obligations the principal and interest of which
18 are guaranteed by the United States of America or in interest-bearing
19 time deposits in any commercial bank located in Kansas; or, if the board
20 determines that it is impossible to deposit such moneys in such time
21 deposits, in repurchase agreements of less than 30 days' duration with a
22 Kansas bank or with a primary government securities dealer which reports
23 to the market reports division of the federal reserve bank of New York
24 for direct obligations of, or obligations that are insured as to principal and
25 interest by, the United States government or any agency thereof (a) in-
26 vestments enumerated in K.S.A. 10-131, and amendments thereto; or (b)
27 the pooled money investment portfolio.

28.

state treasurer in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto

28 Whenever such moneys are invested in interest-bearing deposits in any
29 commercial bank, such deposits shall be secured by pledge of securities
30 as provided in K.S.A. 75-4218, and amendments thereto.

29.

31 Sec. ~~27~~ K.S.A. 1995 Supp. 79-4804 is hereby amended to read as
32 follows: 79-4804. (a) Before July 1, 1995, an amount equal to 90% of all
33 moneys credited to the state gaming revenues fund shall be transferred
34 and credited to the state economic development initiatives fund which is
35 hereby created in the state treasury. On and after July 1, 1995, An amount
36 equal to 85% of all moneys credited to the state gaming revenues fund
37 shall be transferred and credited to the state economic development in-
38 itiatives fund. Expenditures from the state economic development initia-
39 tives fund shall be made in accordance with appropriations acts for the
40 financing of such programs supporting and enhancing the existing eco-
41 nomic foundation of the state and fostering growth through the expansion
42 of current, and the establishment and attraction of new, commercial and
43 industrial enterprises as provided by this section and as may be authorized

7/17/96
2/21/96
1-36

1 by law and not less than 1/2 of such money shall be distributed equally
2 among the congressional districts of the state. Except as provided by sub-
3 section (g), all moneys credited to the state economic development ini-
4 tiatives fund shall be credited within the fund, as provided by law, to an
5 account or accounts of the fund which are created by this section

6 (b) There is hereby created the Kansas capital formation account in
7 the state economic development initiatives fund. All moneys credited to
8 the Kansas capital formation account shall be used to provide, encourage
9 and implement capital development and formation in Kansas.

10 (c) There is hereby created the Kansas economic development re-
11 search and development account in the state economic development ini-
12 tiatives fund. All moneys credited to the Kansas economic development
13 research and development account shall be used to promote, encourage
14 and implement research and development programs and activities in Kan-
15 sas and technical assistance funded through state educational institutions
16 under the supervision and control of the state board of regents or other
17 Kansas colleges and universities.

18 (d) There is hereby created the Kansas economic development en-
19 dowment account in the state economic development initiatives fund. All
20 moneys credited to the Kansas economic development endowment ac-
21 count shall be accumulated and invested as provided in this section to
22 provide an ongoing source of funds which shall be used for economic
23 development activities in Kansas, including but not limited to continuing
24 appropriations or demand transfers for programs and projects which shall
25 include, but are not limited to, specific community infrastructure projects
26 in Kansas that stimulate economic growth

27 (e) Except as provided in subsection (f), the ~~pooled money invest-~~
28 ~~ment board~~ may invest and reinvest moneys credited to the state eco-
29 nomic development initiatives fund in ~~obligations of the United States of~~
30 ~~America or obligations the principal and interest of which are guaranteed~~
31 ~~by the United States of America or in interest-bearing time deposits in~~
32 ~~any commercial bank located in Kansas, or, if the board determines that~~
33 ~~it is impossible to deposit such moneys in such time deposits, in repur-~~
34 ~~chase agreements of less than 30 days' duration with a Kansas bank or~~
35 ~~with a primary government securities dealer which reports to the market~~
36 ~~reports division of the federal reserve bank of New York for direct obli-~~
37 ~~gations of, or obligations that are insured as to principal and interest by,~~
38 ~~the United States government or any agency thereof the pooled money~~
39 ~~investment portfolio.~~ All moneys received as interest earned by the in-
40 vestment of the moneys credited to the state economic development ini-
41 tiatives fund shall be deposited in the state treasury and credited to the
42 Kansas economic development endowment account of such fund

state treasurer

accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, in



4/21/96
2/21/96
1-37

1 ment account of the state economic development initiatives fund may be
 2 invested in government guaranteed loans and debentures as provided by
 3 law in addition to the investments authorized by subsection (e) or in lieu
 4 of such investments. All moneys received as interest earned by the in-
 5 vestment under this subsection of the moneys credited to the Kansas
 6 economic development endowment account shall be deposited in the
 7 state treasury and credited to the Kansas economic development endow-
 8 ment account of the state economic development initiatives fund.

9 (g) In each fiscal year, the director of accounts and reports shall make
 10 transfers in equal amounts on July 15 and January 15 which in the aggre-
 11 gate equal \$2,000,000 from the state economic development initiatives
 12 fund to the state water plan fund created by K.S.A. 82a-951, and amend-
 13 ments thereto. No other moneys credited to the state economic devel-
 14 opment initiatives fund shall be used for: (1) Water-related projects or
 15 programs, or related technical assistance; or (2) any other projects or
 16 programs, or related technical assistance, which meet one or more of the
 17 long-range goals, objectives and considerations set forth in the state water
 18 resource planning act

19 Sec. ~~24~~ K.S.A. 40-3406, 44-712, ~~75-622~~, 75-4204, 75-4210a, 75-4254
 20 and 76-818 and K.S.A. 1995 Supp. 12-1677a, 12-1677c, ~~12-1677e~~, 40-
 21 3403, 75-4201, 75-4202, 75-4209, 75-4212a, 75-4213, 75-4218, 75-4220,
 22 75-4221a, 75-4222, 75-4228, 75-4232 and 79-4804 are hereby repealed.

23 Sec. ~~25~~ This act shall take effect and be in force from and after its
 24 publication in the ~~statute book~~

30.

12-3724,

68-2321, 68-2324,

75-4253,

31.

75-4262, 75-4263

Kansas register

INSERT A

(e) For moneys in funds designated in this subsection which are not invested in the municipal investment pool fund, the pooled money investment board shall prescribe by written policy for the crediting of interest to be paid on balances of such funds that are in the pooled money investment portfolio. At a minimum, the interest rate credited shall be equal to the lowest rate paid on investment options in the municipal investment pool fund. This subsection shall apply to the state highway fund and bond funds of state agencies and authorities.

INSERT B

New Sec. 2. (a) The administrative fee authorized by section 1 shall be credited to the pooled money investment portfolio fee fund, which is hereby created.

(b) The state treasurer may deduct from the pooled money investment portfolio fee fund amounts to pay expenses incurred in the administration of the pooled money investment portfolio. All expenditures from such fee fund for reimbursement of administrative expenses shall be made in accordance with appropriation acts pursuant to vouchers of the state treasurer. The state treasurer shall certify, periodically, the amount in the pooled money investment portfolio fee fund not necessary for reimbursement of administrative expenses and the director of accounts and reports shall transfer and credit the amount certified in accordance with the provisions of subsection (c).

(c) The total amount transferred pursuant to subsection (b) shall be credited to the municipal investment pool fund until an amount equal to the net losses in such fund as of July 1, 1996, have been credited to such fund, thereafter, the total amount transferred pursuant to subsection (b), shall be credited to the state general fund.

New Sec. 3. On and after the effective date of this act, whenever in the law it is provided that the pooled money investment board may or shall invest or invest and reinvest moneys of the state or any state agency or municipality, or words of like effect, the same shall mean that the state treasurer may or shall invest or invest and reinvest moneys of the state or such state agency or municipality in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto.

714
2/21/96
1-39

Sec. 5. K.S.A. 12-3724 is hereby amended to read as follows:
12-3724. (a) The pooled-money-investment--board state treasurer
may invest and reinvest moneys in the self-insurance reserve fund
in accordance with investment policies established by the pooled
money investment board under K.S.A. 75-4232, and amendments
thereto, in obligations of the United States of America or
obligations the principal and interest of which are guaranteed by
the United States of America or in interest-bearing time deposits
in any commercial bank located in Kansas, or, if the board
determines that it is impossible to deposit such moneys in such
time deposits, in repurchase agreements of less than 30 days'
duration with a Kansas bank or with a primary government
securities dealer which reports to the market reports division of
the federal reserve bank of New York for direct obligations of,
or obligations that are insured as to principal and interest by,
the United States government or any agency thereof.

(b) For the purposes of this act the board may accept funds,
public or private, from any person, firm, corporation or from any
state agency or other public instrumentality, or from the federal
government or any department or agency thereof.

(c) All moneys in the self-insurance reserve fund, or
payable to such fund, are hereby specifically exempt from any and
all taxes authorized by law to be levied or collected, whether
sales, income, ad valorem, premium or by whatever name described.

71 +1
2/21/96
1-40

Sec. 10. K.S.A. 68-2321 is hereby amended to read as follows: 68-2321. (a) Bonds issued shall be authorized by resolution of the secretary. The secretary shall determine the form and manner of the execution of the bonds and the bonds may be made exchangeable for bonds of another denomination or in another form. The bonds shall be dated and shall mature not more than 20 years from their date. The bonds may be in such form and denominations, may bear interest payable at such times and at such rate or rates, may be payable at such places within or without the state, may be subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the secretary shall determine. The bonds shall have all the qualities of and shall be deemed to be negotiable instruments under the laws of the state of Kansas. The authorizing resolution may contain any other terms, covenants and conditions that the secretary deems reasonable and desirable.

(b) The proceeds from the sale of the bonds authorized to be issued under this section are deemed to be trust funds which shall be deposited in the custody of the state treasurer in the highway bond proceeds fund which is hereby created. The secretary shall have responsibility for the management and control of the highway bond proceeds fund and shall provide, by resolution, for both amounts and the duration of investments of moneys in such fund. Such resolution may recommend investment and reporting policies, including acceptable levels of return, risk and security. After consultation with the secretary and subject to the terms, covenants and conditions provided in the resolutions providing for the issuance of such bonds, the pooled-money investment-board state treasurer shall have the authority to invest and reinvest moneys in such fund in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, and to acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of such fund. In investing or reinvesting moneys in such fund, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, except that moneys of the fund may not be invested in common stocks. Notwithstanding anything to the contrary, all interest or other income of the investments, after payment of any management fees, of the highway bond proceeds fund shall be credited to the highway bond debt service fund, until payments on bonds authorized by this act and interest thereon has been fully funded. Thereafter, earnings and other income shall be credited to the state highway fund.

(c) The authorizing resolution may provide for the execution of a trust indenture. The trust indenture may contain any terms, covenants and conditions that are deemed desirable by the secretary, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of any security for payment of the bonds, the custody and application of the proceeds of the bonds, the collection and disposition of bond proceeds and earnings thereon, the investing for authorized purposes, and the rights, duties and obligations

7141
2/21/96
1-41

of the secretary and the holders and registered owners of the bonds.

(d) Any authorizing resolution and trust indenture relating to the issuance and security of the bonds may set forth covenants, agreements and obligations therein, which may be enforced by mandamus or other appropriate proceeding at law or in equity.

(e) The bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Sec. 11. K.S.A. 68-2324 is hereby amended to read as follows: 68-2324. Subject to appropriations acts, the secretary shall have responsibility for the management of the state highway fund and shall provide, by resolution, for amounts and duration of investments and reinvestments of moneys in such fund. The resolution may recommend investment and reporting policies, including acceptable levels of return, risk and security. After consultation with the secretary, the pooled-money-investment board state treasurer shall have the authority to invest and reinvest moneys in accordance with policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, in such fund and to acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of such fund. In investing or reinvesting moneys in such fund, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, except that moneys in such fund may not be invested in common stock.

Notwithstanding anything to the contrary, all interest or other income of the investments, after payment of any management fees, shall be considered income of the state highway fund.

714
2/21/96
1-42

Sec. 24. K.S.A. 75-4253 is hereby amended to read as follows: 75-4253. Whenever any state agency or authority has issued any bonds in connection with which there exists surplus proceeds or surplus reserves, the ~~pooled-money-investment-board~~ state treasurer shall have management responsibility to invest the same as required by this act, unless the applicable bond statute, trust agreement, indenture or resolution requires a different management responsibility, in which case the person or agency so specified to have such management responsibility shall invest such surplus proceeds or surplus reserves as provided in this act.

7141
2/21/96
1-43

Sec. 26. K.S.A. 1995 Supp. 75-4262 is hereby amended to read as follows: 75-4262. (a) State agencies having statutorily authorized loans from the pooled money investment board are hereby authorized to undertake projects to convert such loans to bond financing in accordance with this section.

(b) No bonds shall be issued for any such project unless: (1) The secretary of administration has determined that it is in the financial best interests of the state; (2) the bonds are sold at public sale; (3) bond counsel provides an opinion that the interest on the bonds is excluded from gross income for federal income tax purposes; and (4) such project has been approved by the secretary of administration. Upon approval by the secretary of administration, any such project is hereby approved for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto.

(c) The ~~pooled--money--investment--board~~ state treasurer is hereby authorized to invest the proceeds of loans repaid pursuant to this section, and interest earnings thereon, in: (1) United States government obligations with maturities no longer than the date the loan from the board was to be repaid; or (2) investments with banks operating in Kansas, at interest rates at or above the average yield that investments in United States securities would earn for similar maturities.

Sec. 27. K.S.A. 1995 Supp. 75-4263 is hereby amended to read as follows: 75-4263. (a) Except as provided in subsection (b), moneys of a state agency or public instrumentality of this state which may be invested by the ~~pooled-money-investment-board~~ state treasurer in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, expressly for such agency or instrumentality, or invested directly by the agency or instrumentality, may be invested in the municipal investment pool fund established in K.S.A. 1995 Supp. 12-1677a and amendments thereto. Such agency or instrumentality shall be treated as a municipality for purposes of participation in such fund.

(b) On and after July 1, 1996, state moneys eligible for investment under paragraph (2) of subsection (a) of K.S.A. 75-4209, and amendments thereto, shall not be invested in the municipal investment pool fund.

714
2/21/96
1-44



STATE OF KANSAS

Sally Thompson
TREASURER

900 JACKSON, SUITE 201
TOPEKA, KANSAS 66612-1235

TELEPHONE
(913) 296-3171

February 20, 1996

To: Senator Dick Bond, Chairman
Senate Financial Institutions and Insurance Committee

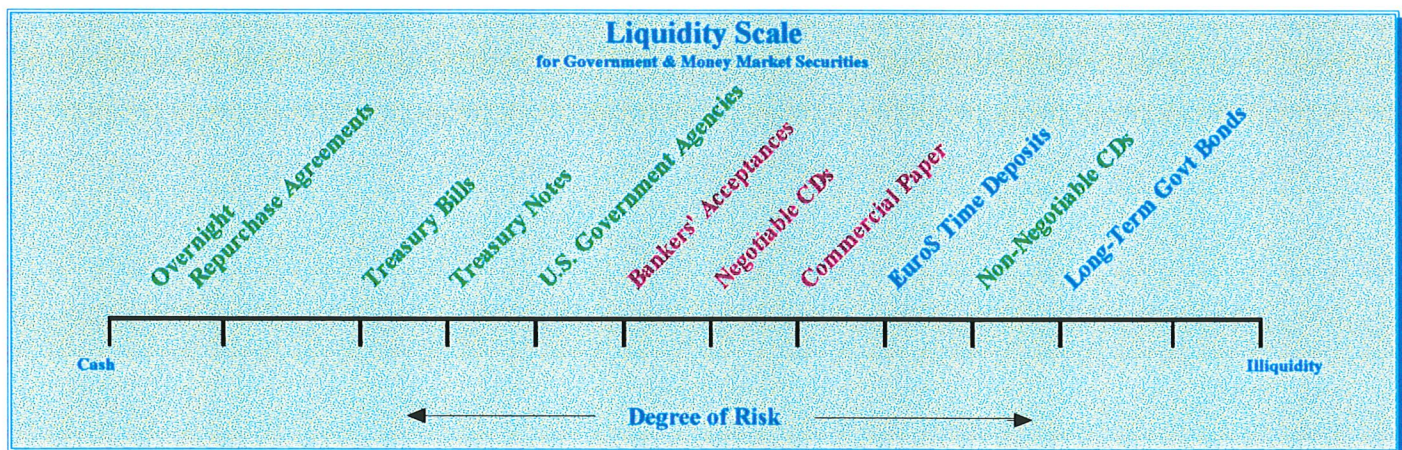
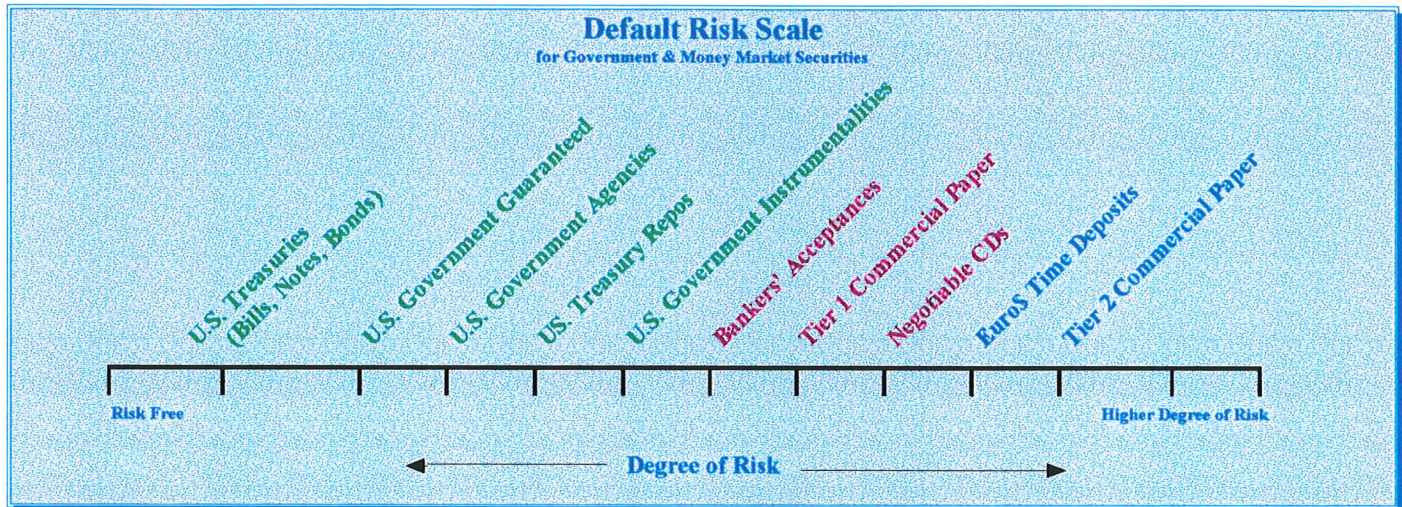
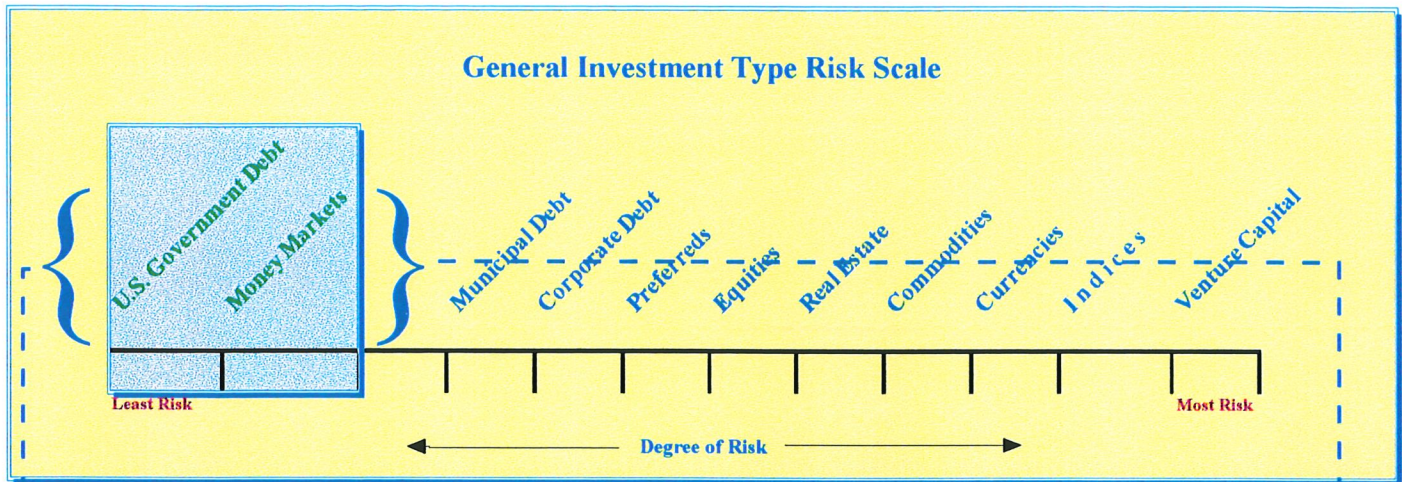
From: Sally Thompson

Based on the recommendation of our investment advisor, Marty Margolis, with Public Financial Management in correspondence dated 1/22/96, we propose the following amendment to the language in 75-4209 regarding the new investment instruments:

(H) No more than fifty percent of the pooled money investment portfolio may be invested, collectively, in instruments authorized in subparagraphs (E), (F) and (G) of paragraph (2) of subsection (a), and no more than five percent of the pooled money investment portfolio shall be invested in the securities of a single issuer of such instruments.

Mr. Margolis estimates that, with a combined portfolio of \$1.5 billion, an additional \$630,000 to \$1,220,000 could be earned annually.

Senate 7141
2/21/96
Attachment #2



Source: A Public Investor's Guide to Money Market Instruments, Second Edition,
 Edited by M. Corinne Larson, published by Government Finance Officers Association, 1994

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In addition to other rules and regulations the board may adopt, the board shall, by rules and regulations, establish an overall percentage limitation on the investment of moneys in bankers acceptances, commercial paper, and negotiable certificates of deposits and, within each type of investment, the board shall establish a percentage limitation on the investment in any single financial institution or business entity.

Senate
2/21/96 7141
Attachment #3