

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 10, 1999 in Room 514-S of the Capitol.

All members were present except: Rep. Jeff Peterson

Committee staff present: Legislative Research - Conroy, Waller, Little
Revisor of Statutes - Wilson, Corrigan
Secretary - Ann McMorris

Conferees appearing before the committee: None

Others attending: See attached list

Chair reported receipt of a letter from the Office of the Attorney General regarding tobacco settlement disbursements and copies were distributed to the committee (Attachment 1)

Chair called for Budget Committee reports on:

KPERS

Representative Pottorff reported the General Government and Human Resources Budget Committee concurred with the Governor's recommendations for KPERS for FY1999 with exceptions and for FY2000 with adjustments. (Attachment 2)

Moved by Representative Pottorff, seconded by Representative Stone, adoption of the General Government and Human Resources Budget Committee recommendations for KPERS for FY1999 with exceptions and for FY2000 with adjustments. Motion carried.

KPERS Issues and Bills

Representative Pottorff reported the General Government and Human Resources Budget Committee recommendations on legislative procedures to follow on various bills and issues. (Attachment 3)

Moved by Representative Pottorff, seconded by Representative Stone, adoption of the General Government and Human Resources Budget Committee recommendations for KPERS issues and bills Motion carried.

Introduction of Bills

Moved by Representative Phill Kline, seconded by Representatives McKechnie, Spangler, Reardon, Ballard, et al, introduction of a bill on disposition of tobacco litigation settlement proceeds. 94s1155. Motion carried. (Attachment 4)

Discussion ensued on how to cover the Governor's \$14 million in proposed expenditures for certain budget items which had been contingent on the tobacco settlement. The consensus was that a letter be sent to Governor Graves, signed by the Chair, Vice Chair and Ranking Minority member, asking for his direction on this budget matter.

Next meeting will be held on March 11, 1999

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary

Attachments - 4



State of Kansas
Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

March 9, 1999

MAIN PHONE: (785) 296-2215
FAX: 296-6296
TTY: 291-3767

The Honorable Dave Kerr
Chairman of the Senate Ways and Means Committee
Room 120-S, Capitol
Topeka, Kansas 66612

The Honorable Phill Kline
Chairman of the House Appropriations Committee
Room 514-S, Capitol
Topeka, Kansas 66612

RE: Tobacco Settlement Disbursements

Dear Gentlemen:

As we discussed, there is currently \$2.4 billion being held in escrow at Citibank in New York City. This is the amount of initial payment to the states under the tobacco Master Settlement Agreement (MSA). The money is earning interest, \$300,000 per day, and that interest will follow the principle into the state-specific escrow accounts.

As to the distribution of money to the state treasuries under the MSA, distribution of the initial payments and subsequent annual payments will begin shortly after June 30, 2000 or when 80 percent of the states with 80 percent of the allocable shares reach State-Specific Finality (SSF), which ever happens first. SSF is reached after the state's trial court has approved the settlement and appeal has been denied by the highest court which could review the case or the time to file the appeal has run. In Kansas, SSF was reached in January.

To date, only Alabama has yet to receive trial court approval of the MSA. However, in the States of New York, New Jersey, California, Pennsylvania and Tennessee, appeals have been filed. These states have sufficient allocable shares to prevent the achievement of the 80/80 goal prior to June 30, 2000.

Attachment 1-1
House Appropriations Committee
March 10, 1999

The Honorable Dave Kerr
March 9, 1999
Page 2

At this time, it appears that less than 80 percent of the states with 80 percent of the allocable shares will reach SSF prior to June 30, 2000. Thus, the 1999 MSA distribution to Kansas, currently estimated at 20,008,109.85 plus interest, most likely will not occur until after June 30, 1999. The same is true of the year 2000 distribution, which is currently estimated at \$53,452,915.44.

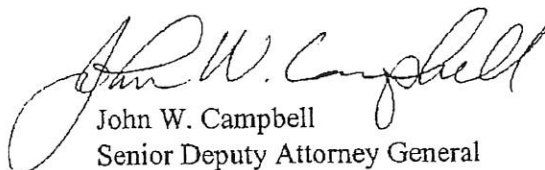
One thing I did not mention, there is good news in the effort to keep the federal government from taking a portion of the recovery. Senators Hutchinson of Texas and Graham of Florida have introduced legislation which would bar the federal government from seeking to recoup any of the tobacco settlement moneys. There is a similar bill in the House of Representatives (H.R. 351) which Congressman Ryan is supporting.

As to the Senate Bill, this is now part of S.346, the FY99 supplemental appropriations bill. It was placed in the bill by the Senate Appropriations Committee. Considering the above, along with the numerous co-sponsors that both bills have received, there is a very real possibility that Congress will protect the states' money. If Congress does not act, and the federal bureaucracy comes after our money, several states such as New York, have announced that they will file suit.

If you have any questions regarding this matter, please call.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL


John W. Campbell
Senior Deputy Attorney General

JWC:dsw

cc: Duane Goossen, Director of Budget

1-2

Senate Subcommittee Report

Agency: KPERS

Bill No. –

Bill Sec. –

Analyst: Efird

Analysis Pg. No. 1363

Budget Page No. 303

Expenditure Summary	Agency Estimate FY 99	Gov. Rec. FY 99	Senate Subcommittee Adjustments
Agency Operations	\$ 4,919,483	\$ 4,919,483	\$ 75,000
Technology Project	2,400,000	2,400,000	(75,000)
Prepaid Benefits	20,000,000	20,000,000	0
Investment Management	23,682,523	23,682,523	0
Benefit Payments	468,754,163	468,754,163	0
Total	<u>\$ 519,756,169</u>	<u>\$ 519,756,169</u>	<u>\$ 0</u>
FTE Positions	76.0	76.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	<u>76.0</u>	<u>76.0</u>	<u>0.0</u>

Agency Estimate/Governor's Recommendation

The revised agency estimate in FY 1999 includes a net increase of almost \$8.7 million. For agency operations, an increase of \$70,148 is included to reflect the authorized Kansas Savings Incentive Program (KSIP) funding that is in addition to the current limitation of \$4,849,335. A reduction of \$402,200 is attribute to lower investment-related fees, with a reduction in the approved expenditure limited from \$24,084,723 to \$23,682,523 indicated. An increase of \$8,989,369 is requested for additional benefit payments in FY 1999.

The Governor concurs with the agency's net adjustments of \$8,657,317 in FY 1999.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendations in FY 1999, with the following exceptions:

1. Recommend introduction of a bill to accelerate COLA payments approved by future legislatures. The 1998 Legislature granted a 3.0 percent COLA to KPERS retirees. An appropriation of \$20 million from the SGF prepaid a portion of the costs in FY1999, but the remaining actuarial liability of \$88 million will not be reflected until FY 2001 as an assessment of 0.18 percent in the actuarial contribution rate for employers. This assessment will be in place for 15 years to pay the cost of a COLA. Under this proposed bill, any future COLA would be recognized immediately in the fiscal year

after passage, so that employer assessments would be effective July 1 in the case of the state and January 1 in the case of local units on a calendar year budget.

2. Add funding for a bonus awards program at \$75,000 per year for certain unclassified staff determined by the Executive Secretary. This funding would be provided in addition to the agency operations expenditure limitation as an amount not to be exceeded.
3. Lapse \$75,000 from the technology project to recognize savings in purchasing hardware and software products at prices less than budgeted.
4. Note that KPERs has implemented a bonus program for classified employees and has paid \$65,209 from the Kansas Savings Incentive Program for awards to 61 classified staff in FY 1999.
5. Review investment management costs at Omnibus.

Senate Committee Recommendation

The Committee concurs.

House Budget Committee Report

Agency: KPERs

Bill No. 2521

Bill Sec. –

Analyst: Efird

Analysis Pg. No. 1363

Budget Page No. 303

Expenditure Summary	Agency Estimate FY 99	Gov. Rec. FY 99	Budget Committee Adjustments
Agency Operations	\$ 4,919,483	\$ 4,919,483	\$ 75,000
Technology Project	2,400,000	2,400,000	(150,000)
Prepaid Benefits	20,000,000	20,000,000	0
Investment Management	23,682,523	23,682,523	0
Benefit Payments	468,754,163	468,754,163	0
Total	<u>\$ 519,756,169</u>	<u>\$ 519,756,169</u>	<u>\$ (75,000)</u>
FTE Positions	76.0	76.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	<u>76.0</u>	<u>76.0</u>	<u>0.0</u>

House Budget Committee Recommendation

The Committee concurs with the Governor's recommendations in FY 1999, with the following exceptions:

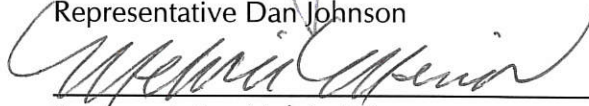
1. Add funding of \$75,000 in FY 1999 for a bonus awards program to pay certain unclassified staff determined by the Executive Secretary. This funding would be provided in addition to the agency operations expenditure limitation as an amount not to be exceeded.
2. Lapse \$150,000 from the technology project to recognize savings in purchasing hardware and software products at prices less than budgeted. Funding of \$75,000 would be available in FY 1999 and FY 2000 for the bonus awards program.
3. Note that KPERs has implemented a bonus program for classified employees and has paid \$65,209 from the Kansas Savings Incentive Program (KSIP) for awards to 61 classified staff in FY 1999. Half of any savings in agency operations during this fiscal year would be available in FY 2000 to continue this KSIP activity.
4. Review investment management costs at Omnibus.



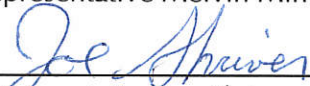
Representative Jo Ann Pottorff, Chair



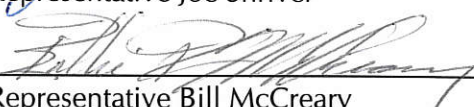
Representative Dan Johnson



Representative Melvin Minor



Representative Joe Shriver



Representative Bill McCreary



Representative Bill Reardon



Representative Lloyd Stone

Senate Subcommittee Report

Agency: KPERS

Bill No. –

Bill Sec. –

Analyst: Efird

Analysis Pg. No. 1363

Budget Page No. 303

Expenditure Summary	Agency Request FY 00	Gov. Rec. FY 00	Senate Subcommittee Adjustments*
Agency Operations	\$ 4,955,136	\$ 4,986,334	\$ (50,329)
Technology Project	600,000	600,000	0
Investment Management	24,803,544	24,803,544	0
Benefit Payments	498,345,551	498,345,551	0
Total	<u>\$ 528,704,231</u>	<u>\$ 528,735,429</u>	<u>\$ (50,329)</u>
FTE Positions	76.0	76.0	0.0
Unclassified Temp. Positions	0.0	0.0	0.0
TOTAL	<u>76.0</u>	<u>76.0</u>	<u>0.0</u>

* Includes a reduction of \$125,329 All Other Funds for the Governor's employee salary plan adjustments. Note: Absent the Subcommittee's adjustment to the Governor's salary plan, the total adjustment is an addition of \$75,000 All Other Funds.

Agency Request/Governor's Recommendation

The agency's FY 2000 request reflects a net increase of almost \$8.9 million. Benefit payments would increase \$29,591,388, investment-relate expenses \$1,121,021, and agency operations \$81,513 (exclusive of the KSIP funding). Decreases are estimated for prepaid benefits in which \$20 million was appropriation from the State General Fund in FY 1999, but not requested in FY 2000; and for the technology project which decreases \$1.8 million to estimated expenses of \$600,000 in FY 2000. No change in staffing is requested.

The Governor concurs with FY 2000 expenditures and adds funding for salary plan adjustments to allow an increase of \$112,711 for agency operations.

Senate Subcommittee Recommendation

1. Reduce the Governor's salary enhancements of \$125,329.
2. Add funding for a bonus awards program at \$75,000 per year for certain unclassified staff determined by the Executive Secretary. This funding would be provided in addition to the agency operations expenditure limitation as an amount not to be exceeded. The agency will be able to use KSIP funding for its awards program for classified personnel in FY 2000.

3. Review investment management costs at Omnibus.

Senate Committee Recommendation

The Committee concurs.

House Budget Committee Report

Agency: KPERS

Bill No. 2519

Bill Sec. 37

Analyst: Efird

Analysis Pg. No. 1363

Budget Page No. 303

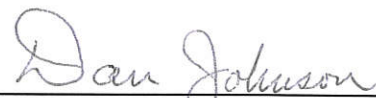
Expenditure Summary	Agency Request FY 00	Gov. Rec. FY 00	Budget Committee Adjustments
Agency Operations	\$ 4,955,136	\$ 4,986,334	\$ 75,000
Technology Project	600,000	600,000	0
Investment Management	24,803,544	24,803,544	0
Benefit Payments	498,345,551	498,345,551	0
Total	<u>\$ 528,704,231</u>	<u>\$ 528,735,429</u>	<u>\$ 75,000</u>
FTE Positions	76.0	76.0	0.0
Unclassified Temp. Positions	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	<u>76.0</u>	<u>76.0</u>	<u>0.0</u>

House Budget Committee Recommendation

The Committee concurs with the Governor and makes the following adjustments:

1. Add funding of \$75,000 for a bonus awards program in FY 2000 to provide funding for payments to certain unclassified staff determined by the Executive Secretary. This funding would be provided in addition to the agency operations expenditure limitation as an amount not to be exceeded. The agency will be able to use any available KSIP funding for its awards program which KPERS has used for classified personnel.
2. Review investment management costs at Omnibus.



Representative Jo Ann Pottorff, Chair


Representative Dan Johnson


Representative Melvin Minor


Representative Joe Shriver


Representative Bill McCreary


Representative Bill Reardon


Representative Lloyd Stone

**House Budget Committee on KPERS
Report on KPERS Issues and Bills**

March 9, 1999

Agency: Kansas Public Employees Retirement System (KPERS)

Bill No. 2350, 2369, 2426, 2514, 2516, 2546

Budget Committee Recommendation

The Committee reviewed six 1999 bills assigned to the House Appropriations Committee, held a public hearing on KPERS issues, and discussed other issues not presently in bill form. The Committee would note that one KPERS-related bill (1999 S.B. 40) has passed the Senate and House, and has been signed by the Governor.

41

The Committee recommends that no action be taken on any of the pending House bills during this session. All bills would carry over to the 2000 Legislature. At least two other committees, the House Select Committee on Kansas 2000 and the Joint Committee on Pensions, Investments and Benefits, are engaged in studies of pension-related topics. The Senate Ways and Means Subcommittee on KPERS Issues will meet the week of March 15. This recommendation does not preclude this House Budget Committee from reconvening to consider other KPERS-related issues this session if the need arises. Background information on the bills is included as an attachment to this report.

The Committee recommends that a House Concurrent Resolution be introduced. The resolution would present a proposed constitutional amendment to the Kansas Constitution that would permit the Kansas Public Employees Retirement System and other local public retirement or pension plans to own stock in banks, subject to any statutory provisions authorizing or restricting such ownership. The amendment would modify Article 13 which pertains to banks and specifically section 2 which contains a prohibition against the state owning stock in banks. If adopted by the Legislature, the proposed amendment would be submitted to the electors of the state at election.

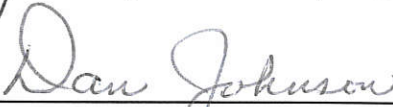
The concurrent resolution originally was requested by the KPERS Board of Trustees in 1997. A Senate Concurrent Resolution was recommended in 1997 by the Joint Committee on Pensions, Investments, and Benefits at the request of the KPERS Board of Trustees. That proposal died on House General Orders at the end of the 1998 Legislature.

Since KPERS is considered an instrumentality of the state, it is prohibited by the State Constitution from investing funds in banking institutions. K.S.A. 74-4921(5)(d) further clarifies the constitutional prohibition that KPERS may not invest in the securities of any banking institution, savings and loan, or credit union which positions the System as a shareholder or owner of such institution. KPERS estimates that the prohibition has diminished the annual rate of return on investments by an average of 0.27 percent, or an average of \$8.1 million per year over the past six years. The agency also estimates a savings of \$4,000 per year from fees paid to its financial managers since under current law the System pays higher management fees by virtue of the inability to invest in co-mingled equity funds.

Attachment 3-1
House Appropriations Committee
March 10, 1999



Representative Jo Ann Pottorff, Chair



Representative Dan Johnson



Representative Melvin Minor



Representative Joe Shriver



Representative Bill McCreary



Representative Bill Reardon



Representative Lloyd Stone

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

LEGISLATIVE DATA SHEET

House Bill 2350
Sponsored by House Appropriations Committee

EFFECTS OF BILL:

This bill would provide that in any year in which the System's time-weighted rate of return is equal to or greater than ten percent, an amount will be transferred into a newly created Shared Earnings Reserve. The amount transferred would be equal to one-half of one percent of the market value of the fund.

Fifty percent of the balance of the reserve would then be used to pay an additional benefit to the eligible retirants. The additional benefit could not exceed 8.33 percent of each retirant's annual benefit. The balance in the reserve would carry forward to pay additional payments in subsequent years.

FISCAL IMPACT:

Any amounts transferred to this reserve would not be reflected as assets in subsequent actuarial valuations and would impact the paying down of the System's unfunded actuarial liability. There would be no administrative cost ramifications.

Date: February 15, 1999 Source: Milliman & Robertson, Inc.
Jack L. Hawn, Deputy Executive Secretary

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

LEGISLATIVE DATA SHEET

House Bill 2369
Sponsored by Representative Tomlinson

EFFECTS OF BILL:

This bill would provide that any employer who had previously affiliated under KP&F for future service only, could affiliate at a later date for prior service.

FISCAL IMPACT:

Any employer so electing would be required to pay for an actuarial study to determine the liabilities. Upon affiliating, the employer would pay this liability off over the remainder of the amortization period through increased employer contributions.

Date: February 15, 1999 Source: Jack L. Hawn, Deputy Executive Secretary

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

LEGISLATIVE DATA SHEET

House Bill No. 2426

Sponsored by House Committee on Appropriations

EFFECTS OF BILL:

Under current law, employees of the Fire Marshal's office are KPERS members. Members of KPERS contribute four percent of their compensation and the employer will contribute 4.19 percent in FY 2000. HB 2426 provides the State Fire Marshal may affiliate with KP&F as early as July 1, 1999. Upon affiliation, current Fire Investigators would be given an irrevocable election to come under KP&F or remain under KPERS. New Fire Investigators would become members of KP&F.

FISCAL IMPACT:

Under KP&F employees contribute seven percent of their compensation and in FY 2000 the employer will contribute 7.4 percent. We do not know the number of employees who might be affected by the passage of this bill, nor the total covered payroll of the group. Therefore, we cannot provide a first year employer cost. The cost however, would be the difference between the KP&F employer rate and the KPERS employer rate (3.21 percent) times the covered payroll of the group.

There would be no administrative cost ramifications to the enactment of 1999 HB 2426.

Date: February 12, 1999

Source: Milliman & Robertson, Inc.

Jack L. Hawn, Deputy Executive Secretary

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

LEGISLATIVE DATA SHEET

House Bill 2514

Sponsored by House Committee on Appropriations

EFFECTS OF BILL:

House Bill No. 2514 would provide (1) for the payment of accumulated sick leave for separations other than retirement, (2) the elimination of KPERS contributions from sick leave payments, and (3) the crediting of participating service under KPERS at the rate of 1/26th of a year for each eighty hours of uncompensated sick leave.

FISCAL IMPACT:

Our actuary has indicated enactment of HB 2514 would increase the unfunded actuarial liability for the KPERS State group by \$2 million and for KP&F by \$0.1 million. Additional state contributions in the first year would be \$132,000 and \$6,600 respectively. There would be no administrative cost ramifications to the enactment of HB 2514.

Date: March 4, 1999

Source: Milliman & Robertson, Inc.

Jack L. Hawn, Deputy Executive Secretary

February 26, 1999

The Honorable Phill Kline, Chairperson
House Committee on Appropriations
Statehouse, Room 514-S
Topeka, Kansas 66612

Dear Representative Kline:

SUBJECT: Fiscal Note for HB 2516 by House Committee
on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2516 is respectfully submitted to your committee.

HB 2516 would require the Director of Accounts and Reports in the Department of Administration to expand the number of providers under the Public Employees Deferred Compensation Program from one under current law to two or more. In addition, under current law, there is an Administrative Oversight Committee on Deferred Compensation, all of whose members are appointed by the Secretary of Administration. This bill would add to the membership the Chief Investment Officer of KPERS.

There would be some administrative effort to put out a Request for Proposal as part of a competitive bidding process, but no additional financial resources would be needed. However, the SHARP personnel and payroll system would have to be modified to accommodate payroll deductions for more than one provider. The estimated cost of adding one to three providers would range from \$6,320 to \$7,600. The fiscal effect of this bill is not included in the Governor's budget recommendations.

Sincerely,

Duane A. Goossen
Director of the Budget
cc: Pat Higgins, Department of Administration

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Session of 1999

HOUSE BILL No. 2516

By Committee on Appropriations

2-17

9 AN ACT concerning the department of administration; relating to ad-
10 ministration of the deferred compensation plan for public officers and
11 employees; agreements for plan benefits; oversight committee com-
12 position; amending K.S.A. 75-5523 and K.S.A. 1998 Supp. 75-5529c
13 and repealing the existing sections.
14

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

16 Section 1. K.S.A. 75-5523 is hereby amended to read as follows: 75-
17 5523. (a) The director is authorized to establish a deferred compensation
18 plan in accordance with the federal revenue act of 1978, Public Law No.
19 95-600, subject to the approval of the secretary of administration. Such
20 plan shall be the Kansas public employees deferred compensation plan.
21 All powers and duties heretofore conferred by such plan upon the advi-
22 sory committee on deferred compensation are hereby transferred to the
23 director of personnel services or the director's designees.

24 (b) The director ~~may~~ *shall* enter into an agreement or agreements
25 with *two or more* ~~approved~~ insurers or other contracting parties whereby
26 benefits under the Kansas public employees deferred compensation plan
27 ~~would be~~ *are* made available to those participants who contract with the
28 director for deferred compensation under K.S.A. 75-5524, and amend-
29 ments thereto. In addition, the director may enter into an agreement with
30 one or more qualified private firms for consolidated billing services, par-
31 ticipant enrollment services, participant accounts and other services re-
32 lated to the administration of the Kansas public employees deferred com-
33 pensation plan.

34 (c) No significant costs shall be incurred by the state as a result of
35 the administration of this act unless such costs are recovered by charging
36 and collecting a service charge from all participants and in addition
37 thereto or in lieu thereof, where the director has entered into agreements
38 with ~~one~~ *two* or more qualified private firms under subsection (b), are
39 recovered from such firms. The amount of any such significant costs in-
40 curred and to be recovered by the state shall be determined by the
41 director.

42 (d) Subject to the approval of the secretary of administration, the
43 director is authorized to negotiate and enter into contracts with qualified

HB 2516

2

1 insurers and other contracting parties for the purposes of establishing a
2 deferred compensation plan, including acquisition of actuarial and other
3 services necessary therefor. The director shall advertise for deferred com-
4 pensation proposals, shall negotiate with not less than three firms or other
5 contracting parties submitting such proposals, and shall select from
6 among those submitting such proposals the firm or firms or other con-
7 tracting party or parties to contract with for purposes of establishing a

3-9

8 deferred compensation plan. Contracts entered into under this act shall
9 not be subject to K.S.A. 75-3739, and amendments thereto.

10 (e) *As soon as practicable after the effective date of this act, the di-*
11 *rector shall enter into a contract with one or more additional approved*
12 *insurers or other contracting parties whereby benefits under the deferred*
13 *compensation plan are made available to those participants who contract*
14 *with the director for deferred compensation under K.S.A. 75-5524, and*
15 *amendments thereto.*

16 Sec. 2. K.S.A. 1998 Supp. 75-5529c is hereby amended to read as
17 follows: 75-5529c. (a) The secretary of administration shall establish an
18 administrative oversight committee on deferred compensation. *In addi-*
19 *tion to such persons as are appointed by the secretary of administration,*
20 *the chief investment officer of the board of trustees of the Kansas public*
21 *employees retirement system shall be a member of the administrative over-*
22 *sight committee on deferred compensation.* The members of the admin-
23 istrative oversight committee on deferred compensation shall meet at
24 least once each calendar quarter. The members of the administrative
25 oversight committee on deferred compensation shall receive no compen-
26 sation or expenses for service on the committee.

27 (b) The administrative oversight committee on deferred compensa-
28 tion shall:

29 (1) Advise and consult on the implementation and administration of
30 the provisions of the Kansas public employees deferred compensation act
31 and the deferred compensation plan;

32 (2) evaluate the program operations with respect to customer service
33 and operations;

34 (3) evaluate investment performance as it relates to comparable
35 options;

36 (4) evaluate program operations with respect to federal and state stat-
37 utes and contractual requirements and as compared to other deferred
38 compensation programs;

39 (5) review the overall administration of each agreement entered into
40 under K.S.A. 75-5523 and amendments thereto for the deferred com-
41 pensation plan and the overall performance by the qualified insurer or
42 other qualified contracting party entering into such agreement;

43 (6) review the investment management fees under the deferred com-

HB 2516

1 pension plan for reasonableness compared with other deferred com-
2 pensation programs;

3 (7) review audits conducted on the deferred compensation plan and
4 other reports reviewing program operations thereunder to assure oper-
5 ations are following all applicable statutes and rules and regulations and
6 to assure coverage of appropriate deferred compensation plan accounts
7 of participants under the Kansas life and health insurance guaranty as-
8 sociations act;

9 (8) review overall performance of the contracting party under the
10 agreement entered into under K.S.A. 75-5523 and amendments thereto
11 for the deferred compensation plan that is in effect on the effective date
12 of this act and determine whether or not competition should be initiated
13 with other qualified insurers and other qualified contracting parties to
14 enter into such agreements;

15 (9) review current procedures for handling complaints about the de-
16 ferred compensation plan to ensure customer satisfaction and sharing of
17 complaint information;

3-10

18 (10) evaluate on a continuing basis the need to provide participants
19 with information regarding the provisions, requirements and procedures
20 under the deferred compensation plan; and

21 (11) periodically prepare and present reports of the findings and re-
22 sults of the activities of the committee to the secretary of administration,
23 the governor and the legislature, as appropriate.

24 Sec. 3. K.S.A. 75-5523 and K.S.A. 1998 Supp. 75-5529c are hereby
25 repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.



3-11

Session of 1999

HOUSE BILL No. 2546

By Committee on Federal and State Affairs

3-4

9 AN ACT concerning retirement; relating to the Kansas police and fire-
10 men's retirement system; affiliation; membership; employee and em-
11 ployer contributions.
12

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

14 Section 1. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971
15 and amendments thereto, on or after the effective date of this act, the
16 Kansas highway patrol may affiliate with the Kansas police and firemen's
17 retirement system established under the provisions of K.S.A. 74-4951 *et*
18 *seq.* and amendments thereto pursuant to the provisions of this act for
19 membership in the system of members of the capitol area security patrol.
20 For purposes of such affiliation for membership in the system of members
21 of the capitol area security patrol, the Kansas highway patrol shall be
22 considered a new participating employer. The Kansas highway patrol shall
23 make application for affiliation with such system in the manner provided
24 by K.S.A. 74-4954 and amendments thereto, to be effective on July 1 next
25 following application. The Kansas highway patrol shall affiliate for mem-
26 bership in the system of members of the capitol area security patrol for
27 prior and participating service credit.

28 (2) The Kansas highway patrol shall appropriate and pay a sum suf-
29 ficient to satisfy any obligations as certified by the board of trustees of
30 the retirement system and the employer contributions of the Kansas high-
31 way patrol shall be as provided in K.S.A. 74-4967 and amendments
32 thereto.

33 (b) (1) Each member of the capitol area security patrol employed by
34 the Kansas highway patrol on the date of affiliation, may become a mem-
35 ber of the Kansas police and firemen's retirement system on the first day
36 of the payroll period of such member, coinciding with or following the
37 entry date of the Kansas highway patrol as provided in this section, only
38 by filing with the board of trustees of the system, on or before the entry
39 date of the Kansas highway patrol as provided in this section, a written
40 election to become a member of the system. Failure to file such written
41 election shall be presumed to be an election not to become a member of
42 the system. Such election, whether to become or not to become a mem-
43 ber, shall be irrevocable.

HB 2546

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1 (2) Each member of the capitol area security patrol who is on an
2 authorized leave of absence or is in the military service on the entry date
3 of the Kansas highway patrol as provided in this section may become a
4 member of the Kansas police and firemen's retirement system on the first
5 day of the first payroll period of such member, coinciding with such mem-
6 ber's return to active employment and payroll of the Kansas highway
7 patrol, only by filing with the board of trustees of the system within 10

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8 days after such return to active employment a written election to become
9 a member of the system. Failure to file such written election shall be
10 presumed to be an election not to become a member of the system. Such
11 election, whether to become a member or not to become a member, shall
12 be irrevocable.

13 (c) Every person who is employed as a member of the capitol area
14 security patrol on or after the entry date of the Kansas Highway patrol
15 into the Kansas police and firemen's retirement system as provided in
16 this section shall become a member of the Kansas police and firemen's
17 retirement system on the first day of such employment.

18 (d) If the Kansas highway patrol affiliates as provided in this act and
19 each member of the capitol area security patrol who elects to become a
20 member as provided in this act, the Kansas highway patrol and each such
21 member shall be subject to the provisions of K.S.A. 74-4951 *et seq.* and
22 amendments thereto as applicable.

23 (e) The division of the budget and the governor shall include in the
24 budget and in the budget request for appropriations for personnel serv-
25 ices the amount required to satisfy the employer's obligation under this
26 act as certified by the board of trustees of the system, and shall present
27 the same to the legislature for allowance and appropriations.

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



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State of Kansas

Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

February 3, 1999

MAIN PHONE: (785) 296-2215
FAX: 296-6296
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ATTORNEY GENERAL OPINION NO. 99- 2

Dan Stanley, Secretary
Department of Administration
State Capitol, Room 263-E
Topeka, Kansas 66612-1572

Re: Public Utilities--Motor Carriers--Transfer of Certain Employees to Highway Patrol, Rights Preserved; Application of Civil Service Laws

State Boards, Commissions and Authorities--Public Employees Retirement Systems; Kansas Police and Firemen's Retirement System--Entry of Kansas Highway Patrol into System; Definition of "Patrolman" and "Patrolmen"

State Departments; Public Officers and Employees--Capitol Area Security and Mail Services--Capitol Area Security Patrol; Creation; Police Powers of Members; Certain Officers and Employees Serving on July 1, 1976, Continue to Serve and Civil Service and Retirement Benefits Preserved

Synopsis: Capitol Area Security Patrol police officers and motor carrier inspectors were properly continued in the Kansas Public Employees Retirement System upon their transfer to the Kansas Highway Patrol. Cited herein: K.S.A. 66-1320; 74-4972; 74-4973, repealed by L. 1998, Ch. 64, § 95; 75-4503a.

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Dear Secretary Stanley:

You request our opinion on whether Capitol Area Security Patrol (CASP) police officers and motor carrier inspectors are eligible or required to participate in the Kansas Police and Firemen's Retirement System (KP&F). You explain that the Kansas Association of Public Employees has contended that CASP police officers should have been placed into KP&F when they were transferred in 1976 from the Department of Administration to the Highway Patrol. The motor carrier inspectors were transferred to the Highway Patrol from the

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Patrol. The motor carrier inspectors were transferred to the Highway Patrol from the Department of Revenue in 1988. You ask three specific questions. First, were these employees properly continued in the Kansas Public Employees Retirement System (KPERS) upon transfer to the Kansas Highway Patrol or should they have been placed into KP&F upon their transfer? Second, if they should have been placed into KP&F at the time of their transfer, should that have been for future service only or should the employees' prior service also have been transferred into KP&F? Third, if these employees should have been placed in KP&F upon transfer, is legislative action needed to correct what did not occur at the time of transfer, or may the Kansas Highway Patrol administratively designate the employees as KP&F eligible?

Officers and employees of the Capitol Area Security Patrol were transferred from the Department of Administration to the Kansas Highway Patrol in 1976 pursuant to K.S.A. 75-4503a which states in pertinent part:

"Effective July 1, 1976, officers and employees who were engaged immediately prior to said date in the performance of powers, duties and functions of the capitol area security patrol, and who, in the opinion of the superintendent of the highway patrol are necessary to perform the powers, duties and functions of the capitol area security patrol shall become officers and employees thereof under the provisions of K.S.A. 75-4503, and shall retain all retirement benefits and all rights of civil service which such officer or employee had before July 1, 1976, and their services shall be deemed to have been continuous." (Emphasis added.)

The statute that transferred motor carrier inspectors from the Department of Revenue to the Kansas Highway Patrol in 1988 contained almost identical language regarding employee retirement benefits:

"From and after the effective date of this act, all officers and employees of the department of revenue who are performing functions relating to the actual operation of motor carrier inspection stations within this state . . . and who, in the opinion of the superintendent of the Kansas highway patrol are necessary to perform the powers, functions and duties of the highway patrol are hereby transferred from the department of revenue to the highway patrol. All such officers and employees shall retain all retirement benefits and all rights of civil service which such officer or employee had before July 1, 1988, and their service shall be deemed to have been continuous" (Emphasis added.)¹

Both KPERS and KP&F are retirement plans administered by the Kansas Public

¹K.S.A. 66-1320.

Employees Retirement System. KP&F was designed to meet the special needs of employees in public safety positions. Members of KP&F may retire at age 55 rather than at age 65 as generally required by KPERS. In order to receive KP&F benefits, an employee must be employed by a participating employer and must be an eligible employee. In 1968, the Kansas Legislature designated the Kansas Highway Patrol as a participating employer under KP&F² and designated patrolmen employed by the Kansas Highway Patrol as eligible employees.³ "Patrolmen" is defined as "all troopers, examiners and officers of the Kansas highway patrol, but shall not include the superintendent or administrative employees of the Kansas highway patrol. . . ."⁴

Additionally, at the time both of these employee groups were transferred to the Highway Patrol, K.S.A. 74-4973(d), repealed by L. 1998, Ch. 64, § 95, stated:

"Every person who shall be employed as a patrolman on or after the entry date of the Kansas highway patrol in the Kansas police and firemen's retirement system shall become a member of the Kansas police and firemen's retirement system on the first day of such employment."

The fundamental rule of statutory construction is that the intent of the Legislature governs.⁵ In construing statutes and determining legislative intent, a court may consider the purpose to be accomplished by the statute and the effect the statute may have under the various constructions suggested.⁶ Further, the Kansas Supreme Court has recognized that "when a statute is ambiguous, the interpretation placed on it by an administrative agency whose duties are to carry the legislative policy into effect should be given great weight."⁷

Clearly, since their transfer to the Highway Patrol, CASP police officers and motor carrier inspectors have been employed by a KP&F participating employer; but not all employees of the Kansas Highway Patrol are eligible for KP&F benefits. Only employees employed as troopers, examiners and officers are within the definition of patrolmen. We do not opine whether CASP police officers and motor carrier inspectors fall within the definition of patrolmen; even if they do, we must still decide whether the Legislature by its language in K.S.A. 75-4503a and K.S.A. 66-1320 intended that CASP police officers and motor carrier inspectors remain in KPERS.

²L. 1968, Ch. 36, § 1 (codified at K.S.A. 74-4971).

³L. 1968, Ch. 36, § 3 (codified at K.S.A. 74-4973, repealed by L. 1998, Ch. 64, § 95).

⁴K.S.A. 74-4972.

⁵*State v. Boyle*, 21 Kan.App.2d 944, 945 (1996).

⁶*State v. Gonzales*, 255 Kan. 243, 249 (1994).

⁷*State, ex rel. Stephan v. Kansas Racing Commission*, 246 Kan. 708, 720 (1990).

The statutes that transferred these employees to the Highway Patrol state that the employees shall retain all retirement benefits that they had before their date of transfer. All of these employees were in KPERS prior to their transfer and have remained in KPERS. KPERS' administrators, who carry this legislative policy into effect, have interpreted the transfer statutes to mean that these employees remain under KPERS. Additionally, the Legislature has at least twice considered and rejected requests by CASP police officers and motor carrier inspectors for transfer from KPERS to KP&F. The Report on Kansas Legislative Interim Studies to the 1991 Legislature indicates that proposal number 40 directed the Special Committee on Ways and Means/Appropriations to review and recommend needed changes to the Kansas Public Employees Retirement System including consideration of requests of employee groups for transfer from KPERS to KP&F. CASP police officers and motor carrier inspectors were among the numerous agencies and organizations who appeared before the Committee requesting transfer of membership from KPERS to KP&F. The Committee's report concluded as follows:

"The Committee spent considerable time reviewing requests of employee groups to transfer from KPERS to KP&F. The Committee notes that the combined estimated annual cost for transferring the 2,538 FTE positions from KPERS to KP&F (future service only) is \$2,234,177. The Committee did examine the issues of stress, hazardous duty, physical requirements, and employee recruitment and retention as reasons for transferring from KPERS to KP&F. However, after careful consideration the Committee does not recommend at this time the transfer of any employee group from KPERS to KP&F."⁸

The Report of the Joint Committee on Pensions, Investments, and Benefits to the 1995 Kansas Legislature indicates that representatives of the CASP police officers and the motor carrier inspectors along with other groups appeared before the Committee requesting that they be included in the KP&F system. The Joint Committee declined to recommend that either CASP police officers or motor carrier inspectors be added to the KP&F system.⁹

While the above committee reports do not necessarily reflect the intent of the Legislature at the time of passage of the statutes that transferred CASP police officers and motor carrier inspectors to the Highway Patrol, they do indicate more recent legislative intent that these employees not be added to KP&F. Additionally, if it was a mistake to keep these employees in KPERS at the time of their transfer to the Highway Patrol, the Legislature has turned down at least two opportunities to correct the mistake. Both legislative

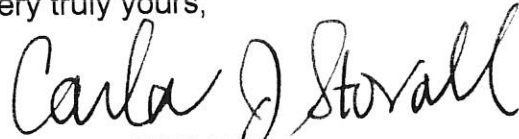
⁸Report of Special Committee on Ways and Means/Appropriations re: Proposal No. 40 - KPERS - Retirement Issues, December 1990.

⁹Report of the Joint Committee on Pensions, Investments, and Benefits to the 1995 Kansas Legislature, December 1994.

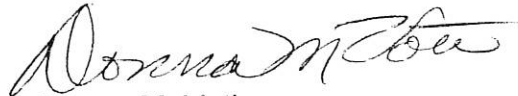
committees considered the additional cost of benefits under KP&F, and it is reasonable to assume that the Legislature considered cost when these two employee groups were transferred to the Highway Patrol.¹⁰

It is our opinion that CASP police officers and motor carrier inspectors were properly continued in KPERS upon their transfer to the Kansas Highway Patrol. Because your second and third questions apply only if we reached a different conclusion on your first question, we do not address those questions.

Very truly yours,



CARLA J. STOVALL
Attorney General of Kansas



Donna M. Voth
Assistant Attorney General

CJS:JLM:DMV:jm

¹⁰The Report on Kansas Legislative Interim Studies to the 1991 Legislature indicated that the employer contribution rate for KPERS was 3.1 percent while the average employer contribution rate for KP&F was 7.8 percent. The Report of the Joint Committee on Pensions, Investments, and Benefits to the 1995 Legislature reported an employer contribution rate for Highway Patrol employees under KP&F of 9.7 percent as opposed to an employer contribution rate of 3.2 percent for KPERS employees.

Memorandum

TO: Representatives Phill Kline and Rocky Nichols

FROM: Jim Wilson, First Assistant Revisor

DATE: March 10, 1999

SUBJECT: Proposed Bill — Disposition of Tobacco Litigation Settlement Proceeds —
9rs1155

This bill would enact the following major policies:

1. All moneys received by the state of Kansas would be deposited to the credit of the Children's Trust Fund, which is created by the bill. The Children's Health Care Programs Fund is abolished and any moneys credited to the Children's Health Care Programs Fund are transferred to the Children's Trust Fund.
2. The Children's Initiatives Fund is created for the purposes of providing additional funding for programs, projects, improvements, services and other purposes directly or indirectly beneficial to the physical and mental health, welfare, safety and overall well-being of children in Kansas.
3. Moneys are to be annually transferred from the Children's Trust Fund to the Children's Initiatives Fund, commencing with \$45,000,000 in FY 2000 and with amounts each ensuing fiscal year equal to 102.5% of the amount transferred during the preceding fiscal year.
4. A Children's Authority is established. The Children's Authority is to be composed of 11 persons who are children's advocates, members of organizations with experience in programs that benefit children or other individuals who have experience with children's programs and services [seven appointed by the Governor and one appointed by each of the Speaker, President and both Minority Leaders]. The Children's Authority is to advise and provide recommendations to the Governor and to the Legislature regarding the uses of the moneys transferred to the Children's Initiatives Fund.
5. A Children's Trust Fund Board of Trustees is established and is attached to the office of the State Treasurer. The Board of Trustees is composed of nine members who have backgrounds in finance or investments or experience working for a foundation or as a trust officer. The nine members are the State Treasurer and eight appointed members who are not legislators [four appointed by the Governor and one appointed by each of the Speaker, President and both Minority Leaders]. The appointed members serve for two-year terms and are subject to confirmation by the Senate. The State Treasurer is the chair.
6. The Children's Trust Fund Board of Trustees is responsible for the management and investment of the Children's Trust Fund. The Children's Trust Fund Board of Trustees will contract for the services of one or more professional investment managers and will utilize the services and assistance of the professional investment staff of the Board of Trustees of the Kansas Public Employees Retirement System.

Attachment 4-1
House Appropriations Committee
March 10, 1999

By

AN ACT concerning the disposition of tobacco litigation settlement proceeds; creating the children's trust fund and the children's initiatives fund; establishing the Kansas children's authority and the children's trust fund board of trustees; prescribing certain powers, duties and functions; providing for the investment and management of such funds; abolishing the children's health care programs fund; also repealing K.S.A. 1998 Supp. 38-2008.

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

Section 1. (a) There is hereby established in the state treasury the children's trust fund which shall constitute a trust fund and shall be invested, managed and administered by the board of trustees established by section 3 and amendments thereto in accordance with the provisions of this act.

(b) All of the moneys received by the state pursuant to the tobacco litigation settlement agreements entered into by the attorney general on behalf of the state of Kansas, or pursuant to any judgment rendered, regarding the litigation against tobacco industry companies and related entities, shall be deposited in the state treasury and credited to the children's trust fund. All such moneys shall constitute an endowment which shall remain credited to the children's trust fund except as provided in this section or in section 2 and amendments thereto for transfers to the children's initiatives fund. Expenditures may be made from the children's trust fund for the payment of the operating expenses of the Kansas children's authority and the children's trust fund board of trustees, including the expenses of investing and managing the moneys in the children's trust fund. All moneys credited to the children's trust fund shall be invested to provide an ongoing source of investment earnings available for periodic transfer to the children's initiatives fund in accordance with this act. All expenditures from the children's initiatives fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board of trustees or by the chairperson's designee.

(c) On the effective date of this act, the director of

accounts and reports shall transfer all moneys credited to the children's health care programs fund to the children's trust fund and the children's health care programs fund is hereby abolished.

Sec. 2. (a) There is hereby established in the state treasury the children's initiatives fund which shall be administered in accordance with this section and the provisions of appropriation acts.

(b) All moneys credited to the children's initiatives fund shall be used for the purposes of providing additional funding for programs, projects, improvements, services and other purposes directly or indirectly beneficial to the physical and mental health, welfare, safety and overall well-being of children in Kansas as provided by appropriation or other acts of the legislature. In allocating or appropriating moneys in the children's initiatives fund, the legislature shall emphasize programs and services that are data-driven and outcomes-based and that are designed to prevent or stop children from being involved in or with tobacco, drugs, alcohol, juvenile delinquency or violence. Moneys allocated or appropriated from the children's initiatives fund shall not be used to replace or substitute for moneys appropriated from the state general fund or from other special revenue funds.

(c) All expenditures from the children's initiatives fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved in the manner prescribed by law.

(d) On July 1, 1999, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$45,000,000 from the children's trust fund to the children's initiatives fund. On July 1 of each fiscal year thereafter, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer from the children's trust fund to the children's initiatives fund the amount equal to 102.5% of the amount transferred from the children's trust fund to the children's initiatives fund pursuant to this section

during the immediately preceding fiscal year. If the amounts to be received during any fiscal year under the tobacco litigation settlement agreements entered into by the attorney general on behalf of the state of Kansas, or pursuant to any judgment rendered, regarding the litigation against tobacco industry companies and related entities, are reduced or increased from the amount that was anticipated to be received for such fiscal year, as of the time the settlement agreements were entered into, then the legislature may adjust the amount otherwise provided by this subsection to be transferred from the children's trust fund to the children's initiatives fund for such fiscal year by including provisions in appropriation acts for such fiscal year that proportionally reduce or increase, as appropriate, the amount otherwise provided by this subsection to be transferred from the children's trust fund to the children's initiatives fund for such fiscal year.

(e) It is the intent of the legislature that, except as provided by this section, no amounts shall be transferred from the children's trust fund to the children's initiatives fund or to any other fund during any state fiscal year.

Sec. 3. (a) There is hereby established the Kansas children's authority for the purpose of advising and providing recommendations to the governor and the legislature regarding the uses of the moneys credited to the children's initiatives fund. The Kansas children's authority shall be composed of 11 persons who are children's advocates, members of organizations with experience in programs that benefit children or other individuals who have experience with children's programs and services and who are appointed as follows:

- (1) Seven members appointed by the governor;
- (2) one person appointed by the speaker of the house of representatives;
- (3) one person appointed by the minority leader of the house of representatives;
- (4) one person appointed by the president of the senate; and

(5) one person appointed by the minority leader of the senate.

(b) Not more than six members of the Kansas children's authority shall be members of the same political party. No member of the Kansas children's authority shall be a member of the Kansas legislature. Each person appointed as a member of the Kansas children's authority shall serve for a term of two years and until the member's successor is appointed and qualified. If a vacancy occurs in the office of a member of the Kansas children's authority, a successor shall be appointed in the same manner as the original appointment. Each year the governor shall select one of the members to serve as the chairperson of the Kansas children's authority. The Kansas children's authority shall meet at least quarterly or more often upon call of the chairperson. A quorum of the Kansas children's authority shall be six and all actions of the authority shall be by a majority of all members present when there is a quorum.

(c) The Kansas children's authority shall develop recommendations regarding expenditures for programs, projects, improvements, services and other purposes directly or indirectly beneficial to the physical and mental health, welfare, safety and overall well-being of children in Kansas. The authority shall submit such recommendations to the governor prior to October 1 each year for consideration as part of the process of developing the governor's budget recommendations and to the legislature at the beginning of each regular session for consideration during the process of reviewing and acting on the governor's budget recommendations and appropriation bills. The governor shall review and consider inclusion of such recommendations in the preparation of the governor's budget report under K.S.A. 75-3721 and amendments thereto.

(d) Members of the Kansas children's authority attending meetings of the authority, or attending a subcommittee meeting authorized by the authority, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A.

75-3223 and amendments thereto.

(e) The Kansas children's authority is hereby attached to the office of the state treasurer for purposes of budgeting, purchasing and other administrative purposes.

Sec. 4. (a) There is hereby established the children's trust fund board of trustees. The board of trustees shall be composed of the state treasurer and eight additional members who shall be appointed as follows:

- (1) Four persons appointed by the governor;
- (2) one person appointed by the speaker of the house of representatives;
- (3) one person appointed by the minority leader of the house of representatives;
- (4) one person appointed by the president of the senate; and
- (5) one person appointed by the minority leader of the senate.

(b) Each person appointed as a member of the board of trustees shall have a background in finance or investments or shall have experience working for a foundation or as a trust officer. No member of the board of trustees shall be a member of the Kansas legislature. The appointment of each person appointed as a member of the board of trustees shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Not more than five members of the board of trustees shall be members of the same political party. Each person appointed as a member of the board of trustees shall serve for a term of two years and until the member's successor is appointed and confirmed. If a vacancy occurs in the office of a member of the board of trustees, a successor shall be appointed in the same manner as the original appointment.

(c) The state treasurer shall be the chairperson of the board of trustees. A quorum of the children's trust fund board of trustees shall be five and all actions of the board of trustees shall be by a majority of all members present when there is a quorum.

(d) Members of the children's trust fund board of trustees attending meetings of the board of trustees, or attending a subcommittee meeting authorized by the board of trustees, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(e) The children's trust fund board of trustees is hereby attached to the office of the state treasurer for purposes of budgeting, purchasing and other administrative purposes.

Sec. 5. (a) The children's trust fund board of trustees is responsible for the management of the children's trust fund and shall invest and reinvest the moneys credited to the children's trust fund for the purpose of providing investment earnings for the children's initiatives fund and accordingly providing that the moneys are as productive as possible. In the discharge of such management and investment responsibilities the board of trustees shall contract for the services of one or more professional investment managers to handle the day-to-day investment of moneys credited to the children's trust fund. In addition, the board of trustee shall utilize the services and assistance of the professional investment staff of the Kansas public employees retirement system and shall advise and consult with such professional staff in the investment and management of the children's trust fund and in working with the professional investment managers.

(b) The board of trustees shall provide for amounts and duration of investments and reinvestments of moneys in the children's trust fund. The children's trust fund board of trustees may invest and reinvest moneys in the children's trust fund and may acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of the moneys in the children's trust fund. The board of trustees shall adopt investment policies that allow the amount of moneys in the children's trust fund to increase as much as possible to maximize the amount of moneys available for the children's initiatives fund.

(c) In investing or reinvesting moneys in the children's trust fund, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence acting in a like capacity and familiar with like matters would exercise in the management of an enterprise of like character and with like purposes, not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(d) All interest or other income of the investments of the moneys in the children's trust fund, after payment of any management fees, shall be considered income of the children's trust fund and shall be deposited in the state treasury to the credit the children's trust fund.

Sec. 6. The children's trust fund board of trustees shall report to the governor and to the legislature on the moneys credited to the children's trust fund and investment earnings thereon at least once each calendar quarter and on a monthly basis upon request of the governor, the president of the senate or the speaker of the house of representatives. In addition, the children's trust fund board of trustees shall submit a report on or before October 1 of each year to the director of the budget, the director of the legislative research department and the chairpersons of the senate committee on ways and means and the house of representatives committee on appropriations detailing the board's estimates as to the amounts of moneys that would be available for transfer from the children's trust fund to the children's initiatives fund during the ensuing fiscal year. The director of the budget and the governor shall use the information in such report in the preparation of the governor's budget report under K.S.A. 75-3721 and amendments thereto.

Sec. 7. The board of trustees of the Kansas public employees retirement system shall make the services and assistance of the professional investment staff of the Kansas public employees retirement system available to the children's trust fund board of

trustees for purposes of providing advice, consultation and other assistance in the investment of the moneys in the children's trust fund. In accordance with the provisions of appropriation acts, the state treasurer shall provide staff assistance and accounting, purchasing, budgeting and other administrative services as may be required to assist the children's trust fund board of trustees in the performance of the powers, duties and functions prescribed by this act.

Sec. 8. K.S.A. 1998 Supp. 38-2008 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.