

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chair Dietrich and the Senate Committee on Financial Institutions and Insurance
From: Office of Revisor of Statutes
Date: March 13, 2025
Subject: Substitute for HB 2152

House Bill No. 2152 establishes the public moneys pooled method of securing public moneys and makes amendments to the deposit and investment of public moneys by financial institutions.

- Requires financial institutions (banks, savings and loan associations or savings banks) to secure governmental deposits above the amount insured or guaranteed by the federal deposit insurance corporation (FDIC) by utilizing the public moneys pooled method of securities.
- Prohibits investment advisers who execute bids for the investment of public moneys from managing moneys directly from such bids.
- Allow municipal bond proceeds and governmental unit deposits to be invested at a rate agreed upon by the governmental unit and the financial institution.
- Establishes certain public moneys investment rates.
- Requires certification from a governmental unit that deposits in the municipal investment pool fund were first offered to a financial institution in the preceding year and allows financial institutions to file complaints upon the failure to comply with such certification.

Sections 1 through 3 would enact new law, establishing the public moneys pooled method of securities. Sections 1 through 3 become effective on and after January 1, 2026. Additionally, the state treasurer would be authorized to adopt rules and regulations to administer and implement the provisions of sections 1 through 3.

Section 1 would require that financial institutions designated as public depositories secure the deposits of one or more governmental units by depositing, pledging or granting a security interest in a pool of securities to secure the repayment of all public moneys deposited in a bank, savings and loan association or savings bank by such governmental units and not otherwise secured pursuant to law, if at all times the aggregate market value on such pool of securities so deposited, pledged or in which a security interest is granted is equal to at least 102% of the amount on deposit that is in excess of the amount so insured or guaranteed. The bill would require each financial institution to account for all public moneys to be secured by the pool of securities as determined at the opening of each business day and the aggregate market value of the pool of securities. The state treasurer may serve as the administrator of the public moneys pooled method or may designate a bank, savings and loan association, savings bank, trust company or other qualified firm, corporation or association that is authorized to transact business in Kansas to serve as administrator, who would be responsible for assessing and managing the sufficiency of the pool of securities.

Section 2 establishes the procedure for when the administrator determines that a financial institution participating in the public moneys pooled method has experienced a default. First, for each governmental unit, the administrator shall determine the amount of public moneys not insured or guaranteed by the FDIC and the amount of public moneys secured by a pool of securities and provide that information to each governmental unit. The governmental unit shall verify the information within 10 business days. The administrator shall also repay each governmental unit for the public moneys not insured by the FDIC from the pool of securities. If the amount of the proceeds of the securities is insufficient to cover all public moneys not insured by the FDIC for all governmental units, the administrator shall pay each governmental unit a pro rata amount. The duties of the administrator under this section may be delegated to and performed by a federal deposit insurance agency in the event that the agency is appointed as a liquidator or receiver of any financial institution.

Section 3 provides that upon the request of a governmental unit, a financial institution shall report as of the date of such request the amount of public moneys deposited in such financial institution that is not insured or guaranteed by the FDIC by: (1) the governmental unit making the request; and (2) all other governmental units and the aggregate market value of the pool of securities deposited. Upon request of a governmental unit, a report shall be provided of the aggregate market value of the pool of securities and an itemized list of the securities in such pool.

Section 4 is a new section of law that would prohibit an investment adviser that executes bids for the investment of public moneys on behalf of a governmental unit from engaging in a principal transaction with the governmental unit that is the same or directly related to the issue of securities or financial product for which the investment adviser is providing or has provided advice. Governmental units may still engage with federally registered investment advisers.

Section 5 is a new section of law that would establish a procedure by which an eligible financial institution may file a complaint with the state treasurer. A filed complaint shall be confidential, unless the state treasurer determines that, after a preliminary investigation, there is probable cause exists to believe the allegations of the complaint. In such an event, the state treasurer shall notify the attorney general and the Pooled Money Investment Board of any apparent violation of law that has been discovered during the investigation. If a governmental entity knowingly violates the provisions of K.S.A. 12-1675, 12-1677a or 12-1677b, then an escalating scale of disciplinary actions shall apply, up to and including a civil penalty. If the state treasurer finds that no probable cause exists, then the complaint shall be dismissed.

Section 6 amends K.S.A. 9-1402, the statute governing the securing of public funds, to replace the term "municipal corporation or quasi-municipal corporation" with "governmental unit." "Governmental unit" is defined as the state or any county, municipality or other political subdivision of the state. This section is also amended to allow financial institutions to use the pooled method of securities pursuant to section 1 to secure the deposit of public moneys of governmental units.

Section 7 amends K.S.A. 12-1675 to provide that in selecting a financial institution for the investment of public moneys of a governmental unit, the governmental unit may accept any rate agreed upon by the governmental unit and the financial institution. If a financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in K.S.A. 12-1675a(g), the governmental unit shall select one or more of such financial institutions for investment. The statute is also amended to require financial institutions to use the public method moneys pooled method to secure the deposit of public moneys of governmental units, pursuant to section 1.

Section 8 amends K.S.A. 12-1677a concerning the municipal investment pool fund to provide that deposits in the fund must be accompanied with a certification to prove compliance with the requirements established in K.S.A. 12-1675(c), and a listing of the financial institutions from which the governmental unit requested bids.

Section 9 amends K.S.A. 12-1677b to require the investment policy of any governmental unit to include a listing of the financial institutions from which the governmental unit requested bids in the preceding year; an annual portfolio holdings report in a form prescribed by the PMIB; and any fee or cost the governmental unit is paying for investment adviser services. The bill would also require the PMIB to report annually to the legislature a list of the governmental units that have been approved under the bill.

Section 10 amends K.S.A. 75-4237 to cap the dollar amount of state moneys invested in any one bank at 2.5% of the bank certificate of deposit program. The bill would also amend current law, authorizing the director of investments to award the investment account to the requesting bank at the investment rate rather than the market rate, as stated in current law. The section also provides that the investment rate shall be determined each business day by the director of investments, in accordance with any procedures established by the pooled money investment board, at an interest rate that is up to 2% less than the market rate. Under current law, subject to any policies of the board, the market rate shall reflect the highest rate at which state moneys can be invested on the open market in investments authorized by K.S.A. 75-4209(a), and amendments thereto, for equivalent maturities.

Sections 4 through 10 of Substitute for HB 2152 would be effective on July 1, 2025.