

Substitute for HOUSE BILL No. 2152

By Committee on Financial Institutions and Pensions

3-4

Proposed Amendment to HB 2152, AAHC
For Senate Committee on Financial Institutions and Insurance
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Office of Revisor of Statutes
March 17, 2025

1 AN ACT concerning public moneys; relating to the deposit and investment
2 thereof, mandating ~~financial institutions designated as public~~
3 ~~depositories~~ to secure governmental unit deposits in excess of the
4 amount insured or guaranteed by the federal deposit insurance
5 corporation by utilizing ~~a public moneys pooled method of securities~~;
6 directing the state treasurer to establish procedures therefor; requiring
7 financial institutions to make certain reports upon the request of a
8 governmental unit; prohibiting investment advisers that execute bids
9 for the investment of public moneys from engaging in a principal
10 transaction with a governmental unit directly related to such public
11 moneys; allowing governmental unit deposits to be invested in a
12 financial institution at a rate agreed upon by the governmental unit and
13 the financial institution; requiring certification from governmental units
14 that deposits in the municipal investment pool fund were first offered to
15 a bank, savings and loan association or savings bank in the preceding
16 year; allowing eligible financial institutions to file a complaint with the
17 state treasurer upon the failure of a governmental unit to comply with
18 certain requirements; establishing the investment rate for the pooled
19 money investment board bank certificate of deposit program; amending
20 K.S.A. 9-1402, 12-1675, 12-1677a and 12-1677b and K.S.A. 2024
21 Supp. 75-4237 and repealing the existing sections.
22

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

24 New Section 1. (a) For purposes of sections 1 through 3, and
25 amendments thereto:

26 (1) "Administrator" means the treasurer or the treasurer's designee.

27 (2) "Governmental unit" means the state or any county, municipality
28 or other political subdivision thereof.

29 (3) "Public moneys" means the same as defined in K.S.A. 9-701, and
30 amendments thereto.

31 (4) "Public moneys pooled method" or "pool of securities" means
32 shares of investment companies registered under the federal investment
33 company act of 1940 when the investment companies' assets are limited to
34 obligations that are eligible for investment by the bank, savings and loan
35 association or savings bank and limited by their prospectuses to owning
36 securities enumerated in K.S.A. 9-1402(c), and amendments thereto.

banks, savings and loan associations and saving banks
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1 regulations to assess and manage the sufficiency of the public moneys
2 pooled method.

3 (e) A bank, savings and loan association or savings bank in which
4 public moneys or public funds are deposited may at any time substitute,
5 exchange or release securities deposited if such substitution, exchange or
6 release does not reduce the aggregate market value of the pool of securities
7 to an amount that is less than 102% of the total amount of public moneys
8 or public funds less the portion of such public moneys or funds insured or
9 guaranteed by the federal deposit insurance corporation and pursuant to
10 K.S.A. 9-1402 and 12-1675, and amendments thereto. Such
11 loan association or savings bank shall notify the administrator if additional
12 collateral is required to be pledged due to an increase in deposits placed by
13 the governmental unit. Such
14 bank shall notify the administrator if such bank, savings and loan association
15 or savings bank desires to release collateral due to a reduction in
16 governmental unit deposits.

17 (f) Each bank, savings and loan association or savings bank that
18 satisfies its requirement to secure the deposit of public moneys or public
19 funds in excess of the amount insured or guaranteed by the federal deposit
20 insurance corporation by depositing, pledging or granting a security
21 interest in a single pool of securities, or any combination thereof, shall, on
22 or before the 10th day of each month, render to the administrator a
23 statement showing as of the last business day of the previous month the:

24 (1) Amount of public moneys or public funds deposited in such bank,
25 savings and loan association or savings bank that is not insured or
26 guaranteed by the federal deposit insurance corporation by:

27 (A) Each governmental unit separately; and

28 (B) all governmental units in the aggregate;

29 (2) aggregate market value of the pool of securities; and

30 (3) name, phone number and email address of a representative of each
31 governmental unit represented in the pool.

32 (g) Not later than 20 days after the deadline for receiving the
33 statement required under subsection (f), the administrator shall provide a
34 report to each governmental unit listed in such statement reflecting:

35 (1) The amount of public moneys or public funds deposited in such
36 bank, savings and loan association or savings bank by each governmental
37 unit as of the last business day of the previous month that is not insured or
38 guaranteed by the federal deposit insurance corporation and that is secured
39 pursuant to K.S.A. 9-1402 and 12-1675, and amendments thereto; and
40 (2) the aggregate market value of the pool of securities deposited as
41 of the last business day of the previous month.

42 Such report shall clearly notify the governmental unit if the value of the
43 securities did not meet the statutory requirement.

1 (h) If the administrator at any time determines that the value of the
2 securities does not meet the statutory requirement, the administrator shall
3 send notice to the bank, savings and loan association or savings bank
4 allowing such bank, savings and loan association or savings bank up to
5 five business days to adjust the securities to meet the statutory
6 requirement. If ~~a~~ bank, savings and loan association or savings bank does
7 not meet the statutory requirement within the required timeframe, such
8 bank, savings and loan association or savings bank shall be subject to a
9 fine and potential sanctions issued by the administrator pursuant to rules
10 and regulations adopted by the treasurer.

11 (i) The public moneys pooled method shall not be utilized by any
12 bank, savings and loan association or savings bank unless the treasurer
13 establishes a public moneys pooled method in accordance with this section
14 or designates an administrator pursuant to subsection (c).

15 (j) This section shall take effect on and after January 1, 2026.

16 New Sec. 2. (a) When the administrator determines that a bank,
17 savings and loan association or savings bank has experienced a default, the
18 administrator shall:

19 (1) Ascertain the aggregate amounts of public moneys secured
20 pursuant to K.S.A. 9-1402 and 12-1675, and amendments thereto, and
21 deposited in ~~such~~ bank, savings and loan association or savings bank ~~that~~
22 ~~has defaulted~~, as disclosed by the records of such bank, savings and loan
23 association or savings bank. The administrator shall determine for each
24 governmental unit for which public moneys are deposited in the defaulting
25 bank, savings and loan association or savings bank the accounts and
26 amount of federal deposit insurance or guarantee that is available for each
27 account. The administrator shall then determine for each such
28 governmental unit the amount of public moneys not insured or guaranteed
29 by the federal deposit insurance corporation and the amount of public
30 moneys secured by a pool of securities pledged. Upon completion of such
31 determination, the administrator shall provide each such governmental unit
32 with a statement that reports the amount of public moneys deposited by
33 such governmental unit in the defaulting bank, savings and loan
34 association or savings bank, the amount of public moneys that may be
35 insured or guaranteed by the federal deposit insurance corporation and the
36 amount of public moneys secured by a pool of securities, or any
37 combination thereof, pursuant to K.S.A. 9-1402 and 12-1675, and
38 amendments thereto. Each such governmental unit shall verify the
39 information in such report with such governmental unit's records within 10
40 business days after receiving the report and information from the
41 administrator; and

42 (2) shall repay each governmental unit for the public moneys not
43 insured or guaranteed by the federal deposit insurance corporation

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1 deposited in the bank, savings and loan association or savings bank by the
2 governmental unit upon receipt of a verified report from such
3 governmental unit. The administrator may liquidate the securities pledged
4 for immediate distribution if the defaulting bank, savings and loan
5 association or savings bank is to be liquidated or if, for any other reason,
6 the administrator determines that public moneys are not likely to be
7 promptly paid upon demand. In the event that the amount of the deposit
8 guaranty bond or the proceeds of the securities held by the administrator
9 after liquidation is insufficient to cover all public moneys not insured or
10 guaranteed by the federal deposit insurance corporation for all
11 governmental units served by the administrator, the administrator shall pay
12 out to each governmental unit available amounts pro rata in accordance
13 with the respective public moneys not insured or guaranteed by the federal
14 deposit insurance corporation for each such governmental unit.

15 (b) Any liquidation occurring under the provisions of this section
16 shall conform to the procedures established in this section. In the event
17 that a federal deposit insurance agency is appointed and acts as a liquidator
18 or receiver of any bank, savings and loan association or savings bank
19 under state or federal law, the duties under this section that are specified to
20 be performed by the administrator in the event of default may be delegated
21 to and performed by such federal deposit insurance agency.

22 (c) This section shall take effect on and after January 1, 2026.

23 New Sec. 3. (a) A bank, savings and loan association or savings bank,
24 upon the request of a governmental unit, shall report as of the date of such
25 request the amount of public moneys deposited in such bank, savings and
26 loan association or savings bank that is not insured or guaranteed by the
27 federal deposit insurance corporation by:

28 (1) The governmental unit making the request; and

29 (2) the total amount for all other governmental units secured pursuant
30 to K.S.A. 9-1402 and 12-1675, and amendments thereto, and the aggregate
31 market value of the pool of securities deposited, pledged or in which a
32 security interest has been granted to secure public moneys held by the
33 bank, savings and loan association or savings bank, including those public
34 moneys deposited by the governmental unit.

35 Such report shall be made on or before the date that the governmental
36 unit specifies.

The administrator

37 (b) ~~A qualified trustee~~, upon the request of a governmental unit, shall
38 report as of the date of such request the aggregate market value of the pool
39 of securities deposited, pledged or in which a security interest has been
40 granted by the bank, savings and loan association or savings bank and
41 provide an itemized list of the securities in such pool. The governmental
42 unit shall specify the date on which such report shall be made by such
43 qualified trustee.

1 (c) This section shall take effect on and after January 1, 2026.

2 New Sec. 4. (a) An investment adviser that executes bids for the
3 investment of public moneys on behalf of a governmental unit shall not be
4 permitted to engage in a principal transaction with the governmental unit
5 that is the same or directly related to the issue of securities or financial
6 product for which the investment adviser is providing or has provided
7 advice. Nothing in this section shall prevent governmental units from
8 engaging with a federally registered investment adviser.

9 (b) For purposes of this section:

10 (1) "Governmental unit" means the state or any county, municipality
11 or other political subdivision thereof; and

12 (2) "Investment adviser" means the same as defined in K.S.A. 17-
13 12a102, and amendments thereto.

14 New Sec. 5. (a) If ~~an eligible financial institution~~ a bank, savings and loan association or savings bank
15 reason to believe that a governmental ~~entity~~ unit has not acted in compliance
16 with K.S.A. 12-1675, 12-1677a or 12-1677b, and amendments thereto, the
17 eligible financial institution may file a complaint with the state treasurer in
18 writing and signed by an executive officer of the eligible financial
19 institution. The complaint shall be submitted in the form prescribed by the
20 state treasurer.

21 (b) Each filed complaint shall be confidential, not subject to the open
22 records act, K.S.A. 45-215 et seq., and amendments thereto, and not be
23 disclosed except as provided in this section. The provisions of this
24 subsection shall expire on July 1, 2030, unless the legislature reviews and
25 acts to continue such provisions pursuant to K.S.A. 45-229, and
26 amendments thereto, prior to July 1, 2030.

27 (c) If the state treasurer determines that such verified complaint does
28 allege facts, directly or upon information and belief, sufficient to constitute
29 a violation of the provisions of K.S.A. 12-1675, 12-1677a or 12-1677b,
30 and amendments thereto, the state treasurer shall promptly investigate the
31 alleged violation.

32 (d) If, after the investigation, the state treasurer finds that probable
33 cause does not exist to believe the allegations of the complaint, the state
34 treasurer shall dismiss the complaint. If, after such preliminary
35 investigation, the state treasurer finds that probable cause exists to believe
36 the allegations of the complaint, such complaint shall no longer be
37 confidential and may be disclosed. Upon making any such finding, the
38 state treasurer shall fix a time for a hearing on the matter, which shall be
39 not more than 30 days after such finding. In either event the state treasurer
40 shall notify the complainant and the respondent of the state treasurer's
41 determination.

42 (e) The state treasurer shall notify the attorney general and the pooled
43 money investment board of any apparent violation of law that is

