

SESSION OF 2025

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2152**

As Recommended by House Committee on
Financial Institutions and Pensions

Brief*

Sub. for HB 2152 would establish the public moneys pooled method of securities and make changes related to the deposit of public moneys in financial institutions and the investment of public moneys by financial institutions.

The bill would:

- Require banks, savings and loan associations, or savings banks (financial institutions) to secure governmental deposits above the amount insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) by using a public moneys pooled method of securities;
- Establish procedures for reporting and for financial institutions experiencing default;
- Prohibit investment advisers executing bids for the investment of public moneys from directly managing money from such bids;
- Establish a complaint process for financial institutions to report when governmental entities are believed to be in non-compliance;
- Amend continuing law regarding the investment of local and state public moneys, the Municipal

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

Investment Pool Fund, and governmental units' investment policies; and

- Make technical and conforming changes.

Pooled Method of Securities (New Section 1)

The bill would establish the public moneys pooled method of securities, which is a method to secure the deposit of public moneys in excess of the amount insured or guaranteed by the FDIC. The bill would define “public moneys pooled method” or “pool of securities” to mean shares of investment companies registered under the federal Investment Company Act of 1940 when the investment companies' assets are limited to obligations that are eligible for investment by the financial institution and limited by their prospectuses to owning securities enumerated in law.

The bill would require a financial institution to 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 the institution by the governmental unit and not otherwise secured by law, provided that, at all times, the aggregate market value on the pool of securities is equal to at least 102.0 percent of the amount on deposit that is in excess of the amount insured or guaranteed by the FDIC.

The bill would require each financial institution to carry on its accounting records a general ledger or other appropriate accounting of the total amount of 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 deposited, pledged, or in which a security interest is granted to secure such public moneys.

The State Treasurer may serve as the administrator with respect to a public moneys pooled method or may designate

a financial institution, trust company, or other qualified firm, corporation, or association that is authorized to transact business in Kansas to serve as administrator. The administrator would be prohibited from accepting public deposits from a governmental unit while administering the public moneys pooled method, and the bill would require the administrator submit a formal conflict of interest document in a manner prescribed by the State Treasurer. Expenses of the administrator would be paid by the Office of the State Treasurer.

The bill would require the administrator be tasked with assessing and managing the sufficiency of the public moneys pooled method, including, but not limited to, the compliance by a financial institution that the aggregate market value of the pool of securities of such financial institution is an amount not less than 102.0 percent of the total amount of public moneys or funds less the portion of the public moneys or funds insured or guaranteed by the FDIC.

The bill would permit the State Treasurer to adopt rules and regulations to administer and implement the provisions of the bill, including, but not limited to, rules and regulations to assess and manage the sufficiency of the public moneys pooled method.

A financial institution in which public moneys or funds are deposited would be permitted at any time to substitute, exchange, or release securities deposited if such action does not reduce the aggregate market value of the pool of securities to an amount less than 102.0 percent of the total amount of public moneys or funds less the portion of such public moneys or funds insured or guaranteed by the FDIC.

A financial institution would be required to notify the administrator if additional collateral is required to be pledged due to an increase in deposits placed by the governmental unit and if the financial institution desires to release collateral due to a reduction in governmental unit deposits.

The bill would require that each financial institution that satisfies its requirement to secure the deposit of public moneys or funds in excess of the amount insured or guaranteed by the FDIC by depositing, pledging, or granting a security interest in a single pool of securities, or any combination thereof, render to the administrator, on or before the tenth day of each month, a statement showing, as of the last business day of the previous month, the:

- Amount of public moneys or funds deposited in the financial institution that is not insured or guaranteed by the FDIC by:
 - Each governmental unit separately; and
 - All governmental units in the aggregate;
- Aggregate market value of the pool of securities; and
- Name, phone number, and email address of a representative of each governmental unit represented in the pool.

The administrator would be required to provide a report, not later than 20 days after the deadline for receiving the statement, to each governmental unit listed in the statement, reflecting:

- The amount of public moneys and funds deposited in the financial institution by each governmental unit as of the last business day of the previous month that is not insured or guaranteed by the FDIC; and
- The aggregate market value of the pool of securities deposited as of the last business day of the previous month.

The bill would require the report to clearly notify the governmental unit if the value of the securities did not meet the statutory requirement.

If the administrator, at any time, determines the value of the securities does not meet the statutory requirement, the administrator would be required to send notice to the financial institution, allowing the institution up to five business days to adjust the securities to meet the statutory requirement. If an institution does not meet the statutory requirement within the required time frame, the institution would be subject to a fine and potential sanctions issued by the administrator, pursuant to the rules and regulations adopted by the State Treasurer.

A financial institution would not be permitted to use the public moneys pooled method unless the State Treasurer establishes a public moneys pooled method in accordance with the bill or designates an administrator.

This section would go into effect on January 1, 2026.

Financial Institutions in Default (New Section 2)

The bill would require the administrator, when they have determined that a financial institution has experienced a default, to:

- Ascertain the aggregate amounts of public moneys secured pursuant to the State Banking Code and other continuing law and deposited in the defaulting financial institution, as disclosed by the financial institution's records;
- Then determine for each governmental unit the amount of public moneys not insured or guaranteed by the FDIC and the amount of public moneys secured by a pool of securities pledged;
- Then provide each governmental unit with a statement that reports the amount of public moneys deposited by the governmental unit in the defaulting financial institution, the amount of public moneys that may be insured or guaranteed by the

FDIC, and the amount of public moneys secured by the pool of securities, or any combination thereof, pursuant to continuing law;

- Each governmental unit would be required to verify the information in the report with the governmental unit's records within ten business days after receiving the report and information from the administrator; and
- Repay each governmental unit for the public moneys not insured or guaranteed by the FDIC deposited into the financial institution by the governmental unit upon receipt of a verified report from the governmental unit. The administrator may liquidate the securities pledges for immediate distribution if the administrator determines that public moneys are not likely to be promptly paid upon demand.

Any liquidation would be required to conform to the procedures established in the bill. In the event that the amount of the deposit guaranty bond or the proceeds of the securities held by the administrator after liquidation is insufficient to cover all public moneys not insured or guaranteed by the FDIC for all governmental units served by the administrator, the administrator would pay out to each governmental unit available amounts *pro rata* in accordance with the respective public moneys not insured or guaranteed by the FDIC for each governmental unit.

The bill would allow the administrator's listed duties under this section to be delegated to and performed by a federal deposit insurance agency, in the event that a federal deposit insurance agency is appointed and acts as a liquidator or receiver of any financial institution under state or federal law.

This section would go into effect on January 1, 2026.

Reports (New Section 3)

The bill would require a financial institution, upon the request of a governmental unit, to report, as of the date of the request, the amount of public moneys deposited in the financial institution that is not insured or guaranteed by the FDIC by:

- The governmental unit making the request; and
- The total amount for all other governmental units secured pursuant to continuing law, and the aggregate value of the pool of securities, including those public moneys deposited by the governmental unit.

The report would be required to be made on or before the date the governmental unit specifies.

The bill would also require a qualified trustee, upon the request of a governmental unit, to report on a date specified by the governmental unit the aggregate market value of the pool of securities and provide an itemized list of the pool of securities as of the date of the request.

This section would go into effect on January 1, 2026.

Restrictions on Investment Advisers (New Section 4)

Excluding federally registered investment advisers, the bill would prohibit an investment adviser that executes bids for the investment of public moneys on behalf of the 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.

The bill would define “investment adviser” as defined in the Uniform Securities Act.

Compliance Complaints (New Section 5)

If an eligible financial institution has a good faith reason to believe that a governmental entity has not acted in compliance with the law, the eligible financial institution would be permitted to file a complaint with the State Treasurer in writing and signed by an executive officer of the institution. The complaint would be submitted in the form prescribed by the State Treasurer.

Each filed complaint would be confidential, not subject to the Open Records Act, and not to be disclosed except as provided in the bill. This provision would expire on July 1, 2030, unless the Legislature reviews and acts to continue the provision prior to July 1, 2030.

If the State Treasurer determines that the verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of the law, the State Treasurer would be required to promptly investigate the alleged violation.

If, after the investigation, the State Treasurer finds that probable cause does not exist to believe the allegations of the complaint, the State Treasurer would dismiss the complaint. If the State Treasurer finds that probable cause exists to believe the allegations of the complaint, the complaint would no longer be confidential and may be disclosed. Upon making any such finding, the State Treasurer would schedule a hearing, not more than 30 days after the finding. In either event, the State Treasurer shall notify the complainant and respondent of the determination.

The State Treasurer would be required to notify the Attorney General and the Pooled Money Investment Board (PMIB) of any apparent violation of law that is discovered during the course of the investigation.

Any governmental entity that knowingly violates the law:

- For the first violation, would be required to complete a training approved by the State Treasurer concerning the law's requirements; and
- For a second and each succeeding violation, would be liable for the payment of a civil penalty in an action brought by the Attorney General, in a sum set by the court of not to exceed \$500 for each violation.
 - Any civil penalty sued for and recovered hereunder by the Attorney General would be paid into the Attorney General's Open Government Fund.

Requiring the Pooled Method of Securities (Section 6)

The bill would amend part of the State Banking Code to require financial institutions to secure the deposit of public moneys of one or more governmental units through the public moneys pooled method. The bill would also replace the term "municipal corporation or quasi-municipal corporation" with "governmental unit," and define "governmental unit" as the state or any county, municipality, or other political subdivision of the state.

Investment of Public Moneys (Section 7)

The bill would amend law regarding the investment of governmental units' public moneys to provide that, in selecting a financial institution, the governmental unit may accept any rate agreed upon by the governmental unit and the eligible financial institution.

The bill would require the investing governmental unit to select one or more eligible financial institutions that makes deposits available to the governmental unit at interest rates equal to or greater than the investment rate.

The bill would also amend the law to require public moneys deposited through a selected financial institution be secured by the public moneys pooled method.

In selecting a depository institution, an investing governmental unit would be required to allow an eligible financial institution two business days to respond to the bid.

Municipal Investment Pool Fund (Section 8)

The bill would require that deposits in the Municipal Investment Pool Fund be accompanied with:

- A certification to prove compliance with the requirement that the financial institution made investments available at interest rates equal to or greater than the investment rate; and
- A listing of the financial institutions from which the governmental unit requested bids.

Investment Policies (Section 9)

The bill would amend continuing law 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 require the PMIB to report annually to the Legislature a list of governmental units that have been approved under the bill, including the documents listed.

State Moneys (Section 10)

The bill would amend law regarding state moneys to cap the dollar amount of state moneys invested in any one bank at 2.5 percent of the bank certificate of deposit (CD) program.

The bill would also amend 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 bill would provide that the investment rate would be determined each business day by the Director of Investments, in accordance with any procedures established by the PMIB, at an interest rate that is up to 2.0 percent less than the market rate provided by this section. [*Note:* Under current law, subject to the policies of the PMIB, the market rate is required to reflect the highest rate at which state moneys can be invested on the open market in investments authorized by law for equivalent maturities.]

Background

The bill was introduced by the House Committee on Financial Institutions and Pensions at the request of Representative Hoheisel on behalf of the 2024 Special Committee on Centralized Pooled Collateral and PMIB Modernization.

House Committee on Financial Institutions and Pensions

In the House Committee hearing on February 3, 2025, **proponent** testimony was provided by representatives of the Community Bankers Association of Kansas, GNBANK, Kansas Bankers Association, Office of the State Bank Commissioner, and Peoples Bank and Trust. The proponents generally stated the bill would encourage the reinvestment of local tax dollars into communities and would grow the state economy.

The proponents discussed how the three major aspects of the bill could benefit Kansas: the optional centralized collateral pool program would make the process for pledging collateral more effective and, in turn, free up collateral for reinvestment; the PMIB would have greater flexibility to set competitive bank CD rates; and matching the bank investment rate with the Municipal Investment Pool Rate would level the playing field and encourage local banks to keep money local.

Written-only proponent testimony was provided by representatives of the Kansas Business Roundtable and the Kansas Chamber.

Neutral testimony was provided by a Policy Fellow at the Fort Hays State University Docking Institute of Public Affairs and the State Treasurer. The Policy Fellow presented a report titled "How Public Funds Investment Policy Impacts the Kansas Economy: An Analysis and Adaptation of Previous Research." The State Treasurer addressed the bill's establishment of a collateral pool, changing the PMIB CD Program rate as informed by the Docking Institute report, and the difference in the Municipal Investment Pool rate and the statutory rate. The State Treasurer emphasized that a collateral pool would be viable and could benefit all parties.

Opponent testimony was provided by representatives of Columbia Capital Management, Johnson County Board of County Commissioners, Kansas Association of Counties, the League of Kansas Municipalities, and the cities of Leawood, Prairie Village, Merriam, Mission, Roeland Park, Westwood Hills, Olathe, and Topeka. The opponents generally expressed concern that changing the bank statutory rate would result in substantial losses for localities, which would have to be recovered by raising property taxes. The opponents disputed the study's findings regarding community reinvestment as the bill does not contain a provision requiring reinvestment. Conferees also mentioned a potential conflict with federal law regarding municipal bond proceeds.

Written-only opponent testimony was provided by representatives of the cities of Arkansas City, Derby, Edgerton, Hays, Overland Park, and Winfield, two local government finance professionals, and a private citizen.

The House Committee resumed the hearing on February 26, 2025. Representatives of the Kansas Bankers Association and the City of Topeka provided an update on the negotiations among stakeholders and the resulting decision to remove the bill language on municipal bond proceeds and remove the change in the bank statutory investment rate, among other things. The State Treasurer stated that the proposed amendments would greatly reduce the fiscal note on the bill.

No other testimony was provided.

The House Committee amended the bill to do the following:

Pooled Method of Securities (New Section 1)

- Require financial institutions designated as public depositories to secure governmental unit deposits through the public moneys pooled method;
- Prohibit the administrator from accepting public deposits from a governmental unit while administering the public moneys pooled method, and require the administrator submit a formal conflict of interest document in a manner prescribed by the State Treasurer;
- Require the administrator's expenses be paid by the Office of the State Treasurer;
- Remove a provision requiring notification of election to utilize the public funds pooled method;

- Require the administrator be tasked with assessing and managing the sufficiency of the public moneys pooled method, including, but not limited to, compliance with the 102.0 percent requirement;
- Permit the State Treasurer to adopt rules and regulations to administer and implement the provisions of the bill;
- Permit a financial institution in which public moneys or funds are deposited, at any time, to substitute, exchange, or release securities deposited if such action does not reduce the aggregate market value of the pool of securities to an amount that is less than 102.0 percent of the total amount of public moneys or funds less the portion of such public moneys or funds insured or guaranteed by the FDIC;
- Require a financial institution to notify the administrator if additional collateral is required to be pledged due to an increase in deposits placed by the governmental unit and if the financial institution desires to release collateral due to a reduction in governmental unit deposits;
- Require that each financial institution that satisfies its requirement to secure the deposit of public moneys or funds in excess of the amount insured or guaranteed by the FDIC render a statement to the administrator with specific requirements;
- Require the administrator provide a report, not later than 20 days after the deadline for receiving the statement, to each governmental unit listed in the statement, reflecting:
 - The amount of public moneys and funds deposited in the financial institution by each governmental unit as of the last business day

- of the previous month that is not insured or guaranteed by the FDIC; and
- The aggregate market value of the pool of securities deposited as of the last business day of the previous month.
- Require the report to clearly notify the governmental unit if the value of the securities did not meet the statutory requirement;
- Require the administrator, if the administrator determines the value of the securities does not meet the statutory requirement at any time, to send notice to the financial institution, allowing the institution up to five business days to adjust the securities to meet the statutory requirement;
 - If an institution does not meet the statutory requirement within the required time frame, the institution would be subject to a fine and potential sanctions issued by the administrator, pursuant to the rules and regulations adopted by the State Treasurer;

Financial Institutions in Default (New Section 2)

- Replace certain references to the State Treasurer with “administrator;”
- Clarify that the amount of public moneys secured by a pool of securities is pledged;
- Add language permitting the administrator to liquidate the securities pledged for immediate distribution in the event a bank defaults;
- Add language requiring any liquidation to conform to the procedures established in the bill;

Reporting (New Section 3)

- Clarify the financial institution's reporting requirements to include the total amount of all other governmental units secured pursuant to law;
- Require the requested report be made on or before the date the governmental unit specifies;

Compliance Complaints (New Section 5)

- Insert a new section detailing the complaint process that a financial institution may pursue if there is reason to believe a governmental unit has not acted in compliance with the law;
 - Establish a training requirement for a governmental unit's first violation of the law and penalties for a second and each succeeding violation of the law;

Amendments to Continuing Law

- Require financial institutions to secure the deposit of public moneys of one or more governmental units through the public moneys pooled method, and similarly, require public moneys deposited by the governing body of any investing governmental unit through a selected institution be secured by the public moneys pooled method;
- Remove the section on municipal bond proceeds;
- Add a provision requiring the investing governmental unit allow an eligible financial institution two business days to respond to the bid;
- Remove the section that would have changed the bank statutory investment rate;

- Change the stipulation that deposits in the Municipal Investment Pool Fund be accompanied with a listing of the financial institutions from which the governmental unit requested bids to no longer be only for the preceding calendar year;
- Remove previous language about the complaint process, as it was moved to a new section of law;
- Insert a statutory amendment to require the investment policy of any governmental unit to include:
 - A list 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.
- Require the PMIB to report annually to the Legislature a list of governmental units that have been approved under the bill, including the documents listed; and
- Make technical and conforming amendments.

The House Committee recommended a substitute bill be passed incorporating the amendments.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the State Treasurer is unable to estimate the bill's cost of administration and associated fee revenue. However, in the long-term, the agency states that fee revenue would offset the cost of administration.

The Office of the State Treasurer estimates that it would incur costs for initial development and implementation of the pool as well as ongoing costs to oversee any designated administrator, provide information to pool participants, governmental units, PMIB, and the public in connection with the pool. If an administrator is designated, there would be costs associated with contracting with the designee that would be incurred for initial implementation and periodically thereafter, depending on the term of the applicable contracts. As a result of investigating similar programs in other states, the agency estimates it would require at least 1.00 position at a cost of \$129,301 for FY 2026 and \$129,301 in FY 2027 from the State General Fund (SGF), which would provide for salary and wages and other operating costs. The position would be dedicated to the other duties explained in the fiscal note. The agency also would require \$121,000 in FY 2026 from the SGF for initial consulting and other costs associated with initial implementation and contracting with a designated administrator. The agency indicates other agency staff would incur additional workload associated with initial pool implementation and initial and ongoing contracts with and oversight of any designated administrator. The agency anticipates it would use existing resources for the additional workload.

The PMIB indicates the bill would decrease SGF revenues by \$5,750,000 in FY 2026 and by \$11.5 million in FY 2027. The PMIB indicates the bill affects two of its programs, the Municipal Investment Pool (MIP) and the Bank CDs. The bill would decrease revenues in the MIP, assuming that the lower statutory rate would allow banks to more successfully win bids on municipal deposits. As of December 31, 2024, the MIP had a balance of \$1.0 billion. The PMIB assumes a 25.0 percent decrease in the MIP balance, or \$250.0 million. Currently, the MIP rate paid to municipalities is 0.5 percent lower than the statutory rate and 1.5 percent lower for overnight balances. The statutory rate roughly approximates the yield that the PMIB could earn if municipal deposits were invested in the portfolio. Therefore, any reduction in the MIP balances would reduce fee revenues for

the PMIB and the SGF. Any fees collected by the PMIB that exceed its expenditures are transferred to the SGF monthly. The PMIB earns 1.0 percent on the deposits. This would result in a loss of \$1,250,000 in FY 2026 (\$250.0 million x 1.0 percent x six months) and loss of \$2.5 million in FY 2027 (\$250.0 million x 1.0 percent x 12 months) in SGF revenues from the MIP program. The bill would also reduce the rate offered on Bank CDs, which will reduce SGF revenues. Currently, the rate paid on Bank CDs is a market rate based on allowable investments for the PMIB. The bill would allow a reduction of this rate up to 2.0 percent below the current rate. The PMIB assumes the lower rate offered would increase the demand for Bank CDs, which will result in more of the PMIB's assets being invested at rates that are lower than what could otherwise be invested in the market. In its analysis, the PMIB also assumes it would achieve an average of 10.0 percent of its portfolio in Bank CDs. A constant portfolio balance of \$9.0 billion is assumed resulting in a Bank CD balance of \$900.0 million. (\$9.0 billion x 10.0 percent). The bill would allow the PMIB a spread at up to 2.0 percent. The PMIB assumes 1.0 percent in its analysis. It is estimated the bill would reduce SGF revenues by \$4.5 million in FY 2026 (\$900.0 million x 1.0 percent x six months) and by \$9.0 million in FY 2027 (\$900.0 million x 1.0 percent x 12 months). This analysis only details the impact to the PMIB and does not consider any potential benefits that may be realized from money deposited in local banks.

The Office of the State Bank Commissioner indicates the bill would not have a fiscal effect on the agency's operations. Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicate, under the bill, local governments could receive lower rates on deposit funds, which would reduce their revenues. However, the Association and the League are unable to estimate the fiscal effect.

Pooled Money Investment Board; Municipal Investment Pool Fund; financial institutions; public moneys; pooled method of securities; deposits; State Treasurer; Attorney General; Open Government Fund