

{As Amended by House Committee of the Whole}

Session of 2017

HOUSE BILL No. 2419

By Committee on Appropriations

4-4

1 AN ACT concerning state finances; transfers to and expenditures from the
2 budget stabilization fund; ~~transfers to the Kansas public employees~~
3 ~~retirement fund;~~ amending K.S.A. ~~2016~~ {2017} Supp. 75-6706 and
4 repealing the existing section.

pooled money investment portfolio

75-4209 and

sections

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Commencing with the fiscal year ending June 30,
8 2019, the director of the budget, in consultation with the director of
9 legislative research, shall certify, at the end of each fiscal year, the amount
10 of actual estimated tax revenue receipts that is in excess of, or is less than,
11 the average estimated tax revenue receipts for the preceding three fiscal
12 years, and shall transmit such certification to the director of accounts and
13 reports. Subject to the provisions of this section, upon receipt of such
14 certification, or as soon thereafter as moneys are available, the director of
15 accounts and reports shall transfer {50% of} such certified excess amount,
16 if any, from the state general fund to the budget stabilization fund
17 established by K.S.A. ~~2016~~ {2017} Supp. 75-6706, and amendments
18 thereto, ~~and 50% of such certified excess amount to the Kansas public~~
19 ~~employees retirement fund to be applied to the payment, in full or in~~
20 ~~part, of the unfunded actuarial pension liability as directed by the~~
21 ~~Kansas public employees retirement system}. If such transfer would
22 cause total revenues available to the state general fund on July 1 of the
23 current fiscal year to be less than total revenues on July 1 of the previous
24 fiscal year, then no transfer to the budget stabilization fund shall be made.
25 No transfer shall be made under this section if the amount of actual
26 estimated tax revenue receipts is less than the average estimated tax
27 revenue receipts for the preceding three fiscal years.~~

pooled money investment portfolio to pay in full or in part the amounts to be transferred pursuant to K.S.A. 75-4209(m)(2) and (m)(4), and amendments thereto. Any moneys transferred to the pooled money investment portfolio pursuant to this section shall be credited to the payment to be made in the current fiscal year, and each next ensuing fiscal year thereafter as moneys are available. Upon the payment in full of all transfers authorized by K.S.A. 75-4209(m)(2) and (m)(4), and amendments thereto, 100% of such certified excess amount, if any, shall be transferred from the state general fund to the budget stabilization fund.

or pooled money investment portfolio

28 (b) When determining the amount of actual estimated tax revenue
29 receipts for any fiscal year pursuant to this section, the amount shall be
30 reduced by the amount of the current fiscal year's actual estimated tax
31 revenue receipts collected or otherwise received as a result of any kind of
32 tax increase legislation ~~enacted by the legislature and approved by the~~
33 ~~governor~~ in the current or preceding fiscal year.

passed by the legislature and enacted into law

34 (c) Nothing in this section shall require actual estimated tax revenue
35 receipts to be transferred to the budget stabilization fund when the budget
36 stabilization fund balance exceeds 8% of the preceding fiscal year's state

1 tax receipts.

2 (d) As used in this section:

3 (1) "Actual estimated tax revenue receipts" means receipts received
4 pursuant to K.S.A. 79-32,101(a)(1), and amendments thereto; and

and

5 (2) "state tax receipts" means receipts from any state income tax,
6 sales tax, compensating use tax or other excise tax or tax in the nature of
7 an excise tax, or estate or inheritance tax, or tax in the nature of an estate
8 or inheritance tax, but shall not include receipts from any property tax, or
9 tax in the nature of property tax, or any tax on motor fuels; and

10 ~~(3) "unfunded actuarial pension liability" means the unfunded
11 actuarially accrued liability of the state for the state of Kansas and
12 participating employers under K.S.A. 74-4931, and amendments
13 thereto, portion of such liability of the Kansas public employees
14 retirement system, determined as of the later of December 31, 2016, or
15 the end of the most recent calendar year for which an actuarial
16 valuation report is available}.~~

17 Sec. 2. K.S.A. 2016 Supp. 75-6706 is hereby amended to read as
18 follows: 75-6706. (a) On July 1, 2017, the budget stabilization fund is
19 hereby established in the state treasury.

20 (b) On or before the 10th day of each month commencing July 1,
21 2017, the director of accounts and reports shall transfer from the state
22 general fund to the budget stabilization fund interest earnings based on:

23 (1) The average daily balance of moneys in the budget stabilization
24 fund, for the preceding month; and

25 (2) the net earnings rate of the pooled money investment portfolio for
26 the preceding month.

27 (e) On and after July 1, 2017, no moneys in the budget stabilization
28 fund shall be expended pursuant to this subsection unless the expenditure
29 either has been approved by an appropriation or other act of the legislature
30 or has been approved by the state finance council acting on this matter
31 which is hereby characterized as a matter of legislative delegation and
32 subject to the guidelines prescribed in K.S.A. 75-3711(e), and amendments
33 thereto. *All moneys credited to the budget stabilization fund shall be
34 expended or transferred for only the following purposes:*

35 (1) *If a decrease in state general fund revenue occurs in the current
36 fiscal year compared to the previous fiscal year.*

37 (2) *If a decrease occurs in actual tax receipt revenues receipts to the
38 state general fund compared to the estimated tax receipt revenues receipts
39 on which the budget was based pursuant to the joint estimate of revenue
40 under K.S.A. 75-6701, and amendments thereto.*

41 (3) *To provide relief and assistance from the effects of a disaster
42 emergency declared under K.S.A. 48-924, and amendments thereto.*

43 (d) (1) During the 2016 interim between regular sessions of the

~~1 legislature. The legislative budget committee shall study and review the
2 policy concerning the balance of, transfers to and expenditures from the
3 budget stabilization fund. The legislative budget committee study and
4 review shall include, but not be limited to, the following:~~

~~5 (A) Risk-based budget stabilization fund practices utilized in other
6 states.~~

~~7 (B) The appropriate number of years to review the state general fund:~~

~~8 (i) Revenue variances from projections; and~~

~~9 (ii) expenditure variances from budgets.~~

~~10 (C) The entity to certify the amount necessary in the budget
11 stabilization fund to maintain the appropriate risk-based balance.~~

~~12 (D) Plan to fund the budget stabilization fund.~~

~~13 (E) Process and circumstances to reach the appropriate risk-based
14 balance, including the amount of risk that is acceptable.~~

~~15 (F) Circumstances under which expenditures may be made from the
16 fund.~~

~~17 (2) The legislative budget committee may make recommendations
18 and introduce legislation as it deems necessary to implement such
19 recommendations.~~

~~20 (3) Notwithstanding the provisions of sections 52 and 53 of chapter
21 104 of the 2015 Session Laws of Kansas, section 18 of chapter 12 of the
22 2016 Session Laws of Kansas, this or any other appropriation act of the
23 2016 regular session of the legislature, the legislative budget committee
24 may meet not more than 10 days to study and review such policies as
25 determined by the chairperson of the committee.~~

**26 {Sec. 2. K.S.A. 2017 Supp. 75-6706 is hereby amended to read as
27 follows: 75-6706. (a) On July 1, 2017, the budget stabilization fund is
28 hereby established in the state treasury.**

**29 (b) On or before the 10th day of each month commencing July 1,
30 2017, the director of accounts and reports shall transfer from the state
31 general fund to the budget stabilization fund interest earnings based
32 on:**

**33 (1) The average daily balance of moneys in the budget
34 stabilization fund, for the preceding month; and**

**35 (2) the net earnings rate of the pooled money investment portfolio
36 for the preceding month.**

**37 (c) On and after July 1, 2017, no moneys in the budget
38 stabilization fund shall be expended pursuant to this subsection unless
39 the expenditure either has been approved by an appropriation or
40 other act of the legislature or has been approved by the state finance
41 council acting on this matter which is hereby characterized as a
42 matter of legislative delegation and subject to the guidelines
43 prescribed in K.S.A. 75-3711(c), and amendments thereto. *All moneys***

<p>Sec. 2. K.S.A. 2017 Supp 75-4209 [see attached] Renumber remaining sections.</p>

1 credited to the budget stabilization fund shall be expended or transferred
2 for only the following purposes:

3 (1) If a decrease in state general fund revenue occurs in the current
4 fiscal year compared to the previous fiscal year.

5 (2) If a decrease occurs in actual tax revenue receipts to the state
6 general fund compared to the estimated tax revenue receipts on which the
7 budget was based pursuant to the joint estimate of revenue under K.S.A.
8 75-6701, and amendments thereto.

9 (3) To provide relief and assistance from the effects of a disaster
10 emergency declared under K.S.A. 48-924, and amendments thereto.

11 (d) (1) The legislative budget committee shall study and review
12 the policy concerning the balance of, transfers to and expenditures
13 from the budget stabilization fund. The legislative budget committee
14 study and review shall include, but not be limited to, the following:

15 (A) Risk-based budget stabilization fund practices utilized in
16 other states.

17 (B) The appropriate number of years to review the state general
18 fund:

19 (i) Revenue variances from projections; and

20 (ii) expenditure variances from budgets.

21 (C) The entity to certify the amount necessary in the budget
22 stabilization fund to maintain the appropriate risk-based balance.

23 (D) Plan to fund the budget stabilization fund.

24 (E) Process and circumstances to reach the appropriate risk-
25 based balance, including the amount of risk that is acceptable.

26 (F) Circumstances under which expenditures may be made from
27 the fund.

28 (2) The legislative budget committee may make recommendations
29 and introduce legislation as it deems necessary to implement such
30 recommendations.

31 (e) On or before August 15, 2019, the director of the budget, in
32 consultation with the director of legislative research, shall certify the
33 amount of the unencumbered ending balance in the state general fund
34 for fiscal year 2019. Upon making such certification, the director of
35 the budget shall authorize the director of accounts and reports to
36 transfer 10% of such ending balance from the state general fund to
37 the budget stabilization fund.)

38 Sec. 3. K.S.A. ~~2016~~ {2017} Supp. 75-6706 is hereby repealed.

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

are

75-4209 and

Sec. 2. K.S.A. 2017 Supp. 75-4209 is hereby amended to read as follows: 75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, and amendments thereto, in the following investments:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, on and after the effective date of this act moneys available for investment under this subsection shall not be invested in mortgage-backed securities of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

(3) commercial paper that does not exceed 270 days to maturity and which has received one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm; and

(4) corporate bonds which have received one of the two highest ratings by a nationally recognized investment rating firm.

(b) When moneys are available for deposit or investments, the director of investments may invest in SKILL act projects and bonds pursuant to K.S.A. 74-8920, and amendments thereto, and in state agency bonds and bond projects.

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

(d) When moneys are available for deposits or investments, the director of investments may invest in loans pursuant to legislative mandates, except that not more than the greater of 10% or \$140,000,000 of the state moneys shall be invested. The provisions of this subsection shall not apply to the provisions of subsection (m).

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

(f) Investments made by the director of investments under the provisions of this section shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(g) Investments under subsection (a) or (b) or under K.S.A. 75-4237, and amendments thereto, shall be for a period not to exceed four years, except that linked deposits authorized under the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall not exceed a period of 10 years; agricultural production loan deposits authorized under the provisions of K.S.A. 2017 Supp. 75-4268 through 75-4274, and amendments thereto, shall not exceed a period of eight years and housing loan deposits authorized under K.S.A. 2017 Supp. 75-4276 through 75-4282, and amendments thereto, shall not exceed a period of five years or 20 years, as applicable pursuant to K.S.A. 2017 Supp. 75-4279, and amendments thereto.

(h) Investments in securities under subsection (a)(1) shall be limited to securities which do not have any more interest rate risk than do direct United States government obligations of similar maturities. For purposes of this subsection, "interest rate risk" means market value changes due to changes in current interest rates.

(i) The director of investments shall not invest state moneys eligible for investment under subsection (a), in the municipal investment pool fund, created under K.S.A. 12-1677a, and amendments thereto.

(j) The director of investments shall not invest moneys in the pooled money investment portfolio in derivatives. As used in this subsection, "derivatives" means a financial contract whose value depends on the value of an underlying asset or index of asset values.

(k) Moneys and investments in the pooled money investment portfolio shall be invested and reinvested by the director of investments in accordance with investment policies developed, approved, published and updated on an annual basis by the board. Such investment policies shall include at a minimum guidelines which identify credit standards, eligible instruments, allowable maturity ranges, methods for valuing the portfolio, calculating earnings and yields and limits on portfolio concentration for each type of investment. Any changes in such investment policies shall be approved by the pooled money investment board. Such investment policies may specify the contents of reports, methods of crediting funds and accounts and other operating procedures.

(l) The board shall adopt rules and regulations to establish an overall percentage limitation on the investment of moneys in investments authorized under subsection (a)(3), and within such authorized investment, the board shall establish a percentage limitation on the investment in any single business entity.

(m)(1) During the fiscal year ending June 30, 2017, the director of the budget shall estimate on or before June 27, 2017, the amount of the unencumbered ending balance in the state general fund for fiscal year 2017. If the amount of such unencumbered ending balance in the state general fund is less than \$50,000,000, the director of the budget shall certify the difference between \$50,000,000, and the amount of such unencumbered ending balance to the pooled money investment board. Upon the liquidation of all investments and reinvestments of state moneys pursuant to K.S.A. 2017 Supp. 75-2263(j), and amendments thereto, and upon receipt of such certification by the director of the budget, during the fiscal year ending June 30, 2017, the pooled money investment board shall authorize the director of accounts and reports to transfer an amount equal to the amount certified by the director of the budget pursuant to this subsection from the pooled money investment portfolio to the state general fund. Upon receipt of such authorization, the director of accounts and reports shall make such transfer. The chairperson of the pooled money investment board shall transmit a copy of such authorization to the director of legislative research and the director of the budget.

(2) On or before June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, the director of accounts and reports shall transfer an amount equal to 1/6 of the amount transferred pursuant to subsection (m)(1) from the state general fund to the pooled money investment portfolio. Any transfer made pursuant to this subsection shall be reduced by the amount of moneys credited to any fiscal year payment pursuant to section 1, and amendments thereto.

(3) During the fiscal year ending June 30, 2018, after any transfer made pursuant to subsection (m)(1), the pooled money investment board shall authorize the director of accounts and reports to transfer the remaining amount of all investments and reinvestments of state moneys liquidated pursuant to K.S.A. 2017 Supp. 75-2263(j), and amendments thereto, from the pooled money investment portfolio to the state general fund. Upon receipt of such authorization, the director of accounts and reports shall make such transfer. The chairperson of the pooled money investment board shall transmit a copy of such authorization to the director of legislative research and the director of the budget.

(4) On or before June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, the director of accounts and reports shall transfer an amount equal to 1/6 of the amount transferred pursuant to subsection (m)(3) from the state general fund to the pooled money investment portfolio. Any transfer made pursuant to this subsection shall be reduced by the amount of moneys credited to any fiscal year payment pursuant to section 1, and amendments thereto.