

## HOUSE BILL No. 2840

By Committee on Taxation

Requested by Representative Hoheisel

3-13

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1 AN ACT concerning public moneys; relating to the deposit and investment  
2 thereof; authorizing governmental units to utilize a public moneys  
3 pooled method of securities to secure the deposit of public moneys in  
4 excess of the amount insured or guaranteed by the federal deposit  
5 insurance corporation; requiring the state treasurer to establish  
6 procedures therefor; banks, savings and loan associations and savings  
7 banks to make certain reports upon the request of a governmental unit;  
8 amending K.S.A. 9-1402 and 12-1675 and repealing the existing  
9 sections.

10

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

12

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

14

(1) "Governmental unit" means the state or any county, municipality  
15 or other political subdivision thereof.

16

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

18

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

24

(4) "Treasurer" means the state treasurer or the state treasurer's  
25 designee.

26

(b) As an alternative to the requirements to secure the deposit of  
27 public moneys in excess of the amount insured or guaranteed by the  
28 federal deposit insurance corporation pursuant to K.S.A. 9-1402 and 12-  
29 1675, and amendments thereto, a bank, savings and loan association or  
30 savings bank designated as a public depository may secure the deposits of  
31 one or more governmental units by depositing, pledging or granting a  
32 security interest in a pool of securities to secure the repayment of all public  
33 moneys deposited in such bank, savings and loan association or savings  
34 bank by such governmental units and not otherwise secured pursuant to  
35 law, if at all times the aggregate market value on such pool of securities so

1 deposited, pledged or in which a security interest is granted is equal to at  
2 least 102% of the amount on deposit that is in excess of the amount so  
3 insured or guaranteed. Each such bank, savings and loan association or  
4 savings bank shall carry on such bank's or association's accounting records  
5 a general ledger or other appropriate accounting of the total amount of all  
6 public moneys to be secured by the pool of securities as determined at the  
7 opening of each business day and the aggregate market value of the pool  
8 of securities deposited, pledged or in which a security interest is granted to  
9 secure such public moneys.

10 (c) The treasurer shall designate a bank, savings and loan association,  
11 savings bank, trust company or other qualified firm, corporation or  
12 association that is authorized to transact business in this state to serve as  
13 the administrator with respect to a public moneys pooled method. Fees and  
14 expenses of such administrator shall be paid by the banks, savings and  
15 loan association or savings bank utilizing the public moneys pooled  
16 method.

17 (d) If a bank, savings and loan association or savings bank elects to  
18 secure the deposit of public moneys through the use of the public moneys  
19 pooled method, such bank, savings and loan association or savings bank  
20 shall notify the administrator in writing that such bank, savings and loan  
21 association or savings bank has elected to utilize the public funds pooled  
22 method and the proposed effective date thereof.

23 (e) The public moneys pooled method shall not be utilized by any  
24 bank, savings and loan association or savings bank unless the treasurer has  
25 designated an administrator pursuant to subsection (c).

26 New Sec. 2. (a) When the treasurer determines that a bank, savings  
27 and loan association or savings bank has experienced a default, the  
28 treasurer shall:

29 (1) Ascertain the aggregate amounts of public moneys secured  
30 pursuant to K.S.A. 9-1402 and 12-1675, and amendments thereto, and  
31 deposited in such bank, savings and loan association or savings bank that  
32 has defaulted, as disclosed by the records of such bank, savings and loan  
33 association or savings bank. The treasurer shall determine for each  
34 governmental unit for which public moneys are deposited in the defaulting  
35 bank, savings and loan association or savings bank the accounts and  
36 amount of federal deposit insurance or guarantee that is available for each  
37 account. The treasurer shall then determine for each such governmental  
38 unit the amount of public moneys not insured or guaranteed by the federal  
39 deposit insurance corporation and the amount of public moneys secured by  
40 a pool of securities pledged, deposited or in which a security interest has  
41 been granted to secure such public moneys. Upon completion of such  
42 determination, the treasurer shall provide each such governmental unit  
43 with a statement that reports the amount of public moneys deposited by

1 such governmental unit in the defaulting bank, savings and loan  
2 association or savings bank, the amount of public moneys that may be  
3 insured or guaranteed by the federal deposit insurance corporation and the  
4 amount of public moneys secured by a pool of securities, or any  
5 combination thereof, pursuant to K.S.A. 9-1402 and 12-1675, and  
6 amendments thereto. Each such governmental unit shall verify the  
7 information in such report with such governmental unit's records within 10  
8 business days after receiving the report and information from the treasurer;  
9 and

10 (2) shall repay each governmental unit for the public moneys not  
11 insured or guaranteed by the federal deposit insurance corporation  
12 deposited in the bank, savings and loan association or savings bank by the  
13 governmental unit upon receipt of a verified report from such  
14 governmental unit and if the defaulting bank, savings and loan association  
15 or savings bank is to be liquidated or if for any other reason the treasurer  
16 determines that public moneys are not likely to be promptly paid upon  
17 demand. In the event that the amount of the deposit guaranty bond or the  
18 proceeds of the securities held by the treasurer after liquidation is  
19 insufficient to cover all public moneys not insured or guaranteed by the  
20 federal deposit insurance corporation for all governmental units served by  
21 the treasurer, the treasurer shall pay out to each governmental unit  
22 available amounts pro rata in accordance with the respective public  
23 moneys not insured or guaranteed by the federal deposit insurance  
24 corporation for each such governmental unit.

25 (b) In the event that a federal deposit insurance agency is appointed  
26 and acts as a liquidator or receiver of any bank, savings and loan  
27 association or savings bank under state or federal law, the duties under this  
28 section that are specified to be performed by the treasurer in the event of  
29 default may be delegated to and performed by such federal deposit  
30 insurance agency.

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

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

37 (2) all other governmental units and secured pursuant to K.S.A. 9-  
38 1402 and 12-1675, and amendments thereto, and the aggregate market  
39 value of the pool of securities deposited, pledged or in which a security  
40 interest has been granted to secure public moneys held by the bank,  
41 savings and loan association or savings bank, including those deposited by  
42 the governmental unit.

43 (b) A qualified trustee upon the request of a governmental unit, shall

1 report as of the date of such request the aggregate market value of the pool  
2 of securities deposited, pledged or in which a security interest has been  
3 granted by the bank, savings and loan association or savings bank and  
4 provide an itemized list of the securities in such pool. The governmental  
5 unit shall specify the date on which such report shall be made by such  
6 qualified trustee.

7 Sec. 4. K.S.A. 9-1402 is hereby amended to read as follows: 9-1402.

8 (a) Before any deposit of public moneys or funds shall be made by any  
9 ~~municipal corporation or quasi-municipal corporation~~ *governmental unit*  
10 of the state of Kansas with any bank, savings and loan association or  
11 savings bank, such ~~municipal or quasi-municipal corporation~~  
12 *governmental unit* shall obtain security for such deposit in one of the  
13 following manners prescribed by this section.

14 (b) Such bank, savings and loan association or savings bank may give  
15 a corporate surety bond of some surety corporation authorized to do  
16 business in this state, ~~which such~~ bond shall be in an amount equal to the  
17 public moneys or funds on deposit at any given time less the amount of  
18 such public moneys or funds ~~which that~~ is insured by the federal deposit  
19 insurance corporation or its successor and such bond shall be conditioned  
20 that such deposit shall be paid promptly on the order of the ~~municipal~~  
21 ~~corporation or quasi-municipal corporation~~ *governmental unit* making  
22 such deposits.

23 (c) Such bank, savings and loan association or savings bank may  
24 deposit, maintain, pledge, assign and grant a security interest in, or cause  
25 its agent, trustee, wholly owned subsidiary or affiliate having identical  
26 ownership to deposit, maintain, pledge, assign and grant a security interest  
27 in, for the benefit of the governing body of the ~~municipal corporation or~~  
28 ~~quasi-municipal corporation~~ *governmental unit* in the manner provided in  
29 this section, securities, security entitlements, financial assets and securities  
30 accounts owned by the depository institution directly or indirectly through  
31 the institution's agent or trustee holding securities on the institution's  
32 behalf, or owned by the depository institutions wholly owned subsidiary or  
33 by such affiliate, the market value of which is equal to 100% of the total  
34 deposits at any given time, and such securities, security entitlements,  
35 financial assets and securities accounts, may be accepted or rejected by the  
36 governing body of the ~~municipal corporation or quasi-municipal~~  
37 ~~corporation~~ *governmental unit* and shall consist of the following and  
38 security entitlements thereto:

39 (1) Direct obligations of, or obligations that are insured as to principal  
40 and interest by, the United States of America or any agency thereof and  
41 obligations, including, but not limited to, letters of credit and securities of  
42 United States sponsored corporations ~~which that~~ under federal law may be  
43 accepted as security for public funds;

1 (2) bonds of any ~~municipal corporation or quasi-municipal~~  
2 ~~corporation~~ *governmental unit* of the state of Kansas ~~which~~ *that* have been  
3 refunded in advance of the bonds' maturity and are fully secured as to  
4 payment of principal and interest thereon by deposit in trust, under escrow  
5 agreement with a bank, of direct obligations of, or obligations the principal  
6 of and the interest on which are unconditionally guaranteed by, the United  
7 States of America;

8 (3) bonds of the state of Kansas;

9 (4) general obligation bonds of any ~~municipal corporation or quasi-~~  
10 ~~municipal corporation~~ *governmental unit* of the state of Kansas;

11 (5) revenue bonds of any ~~municipal corporation or quasi-municipal~~  
12 ~~corporation~~ *governmental unit* of the state of Kansas if approved by the  
13 commissioner;

14 (6) temporary notes of any ~~municipal corporation or quasi-municipal~~  
15 ~~corporation~~ *governmental unit* of the state of Kansas ~~which~~ *that* are  
16 general obligations of the ~~municipal or quasi-municipal corporation~~  
17 *governmental unit* issuing the same;

18 (7) warrants of any ~~municipal corporation or quasi-municipal~~  
19 ~~corporation~~ *governmental unit* of the state of Kansas the issuance of which  
20 is authorized by the state board of tax appeals and ~~which~~ *that* are payable  
21 from the proceeds of a mandatory tax levy;

22 (8) bonds of either a Kansas not-for-profit corporation or of a local  
23 housing authority that are rated at least Aa by Moody's investors service or  
24 AA by Standard & Poor's corp.;

25 (9) bonds issued pursuant to K.S.A. 12-1740 et seq., and amendments  
26 thereto, that are rated at least MIG-1 or Aa by Moody's investors service or  
27 AA by Standard & Poor's corp.;

28 (10) notes of a Kansas not-for-profit corporation that are issued to  
29 provide only the interim funds for a mortgage loan that is insured by the  
30 federal housing administration;

31 (11) bonds issued pursuant to K.S.A. 74-8901 through 74-8916, and  
32 amendments thereto;

33 (12) bonds issued pursuant to K.S.A. 68-2319 through 68-2330, and  
34 amendments thereto;

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

38 (14) (A) negotiable promissory notes together with first lien  
39 mortgages on one to four family residential real estate located in Kansas  
40 securing payment of such notes when such notes or mortgages:

41 (i) Are underwritten by the federal national mortgage association, the  
42 federal home loan mortgage corporation, the federal housing  
43 administration or the veterans administration standards;

1 (ii) have been in existence with the same borrower for at least two  
 2 years and with no history of any installment being unpaid for 30 days or  
 3 more; and

4 (iii) are valued at not to exceed 50% of the lesser of the following  
 5 three values: Outstanding mortgage balance, current appraised value of the  
 6 real estate or discounted present value based upon current federal national  
 7 mortgage association or government national mortgage association interest  
 8 rates quoted for conventional, federal housing administration or veterans  
 9 administration mortgage loans.

10 (B) Securities under paragraph (A) shall be taken at their value for  
 11 not more than 50% of the security required under the provisions of this  
 12 section.

13 (C) Securities under paragraph (A) shall be withdrawn immediately  
 14 from the collateral pool if any installment is unpaid for 30 days or more.

15 (D) A status report on all such loans shall be provided to the investing  
 16 governmental entity by the financial institution on a quarterly basis.

17 (d) *Such bank, savings and loan association or savings bank may*  
 18 *secure the deposit of public moneys of one or more governmental units*  
 19 *through a pool of eligible securities established by such bank, savings and*  
 20 *loan association or savings bank with a custodian to be held subject to the*  
 21 *order of the state treasurer or an administrator designated by the state*  
 22 *treasurer pursuant to section 1, and amendments thereto, for the benefit of*  
 23 *the governmental unit having public moneys with such bank, savings and*  
 24 *loan association or savings bank as provided in section 1, and*  
 25 *amendments thereto.*

26 (e) No such bank, savings and loan association or savings bank may  
 27 deposit and maintain for the benefit of the governing body of a ~~municipal~~  
 28 ~~or quasi-municipal corporation~~ governmental unit of the state of Kansas,  
 29 any securities which consist of:

30 (1) Bonds secured by revenues of a utility which has been in  
 31 operation for less than three years; or

32 (2) bonds issued under K.S.A. 12-1740 et seq., and amendments  
 33 thereto, unless such bonds have been refunded in advance of their maturity  
 34 as provided in subsection (d) or such bonds are rated at least Aa by  
 35 Moody's investors service or AA by Standard & Poor's corp.

36 ~~(e)~~(f) Any applicant requesting approval of a revenue bond pursuant  
 37 to subsection (c)(5) shall pay to the commissioner a fee in an amount  
 38 established pursuant to K.S.A. 9-1726, and amendments thereto, to defray  
 39 the expenses of the commissioner in the examination and investigation of  
 40 the application. The commissioner shall remit all amounts received under  
 41 this section to the state treasurer in accordance with the provisions of  
 42 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
 43 remittance, the state treasurer shall deposit the entire amount in the state

1 treasury to the credit of the bank investigation fund. The moneys in the  
2 bank investigation fund shall be used to pay the expenses of the  
3 commissioner in the examination and investigation of such applications  
4 and any unused balance shall be transferred to the bank commissioner fee  
5 fund.

6 (g) *For purposes of this section, "governmental unit" means the state*  
7 *or any county, municipality or other political subdivision thereof.*

8 Sec. 5. K.S.A. 12-1675 is hereby amended to read as follows: 12-  
9 1675. (a) The governing body of any county, city, township, school  
10 district, area vocational-technical school, community college, firemen's  
11 relief association, community mental health center, community facility for  
12 people with intellectual disability or any other governmental entity, unit or  
13 subdivision in the state of Kansas having authority to receive, hold and  
14 expend public moneys or funds may invest any moneys ~~which~~ *that* are not  
15 immediately required for the purposes for which the moneys were  
16 collected or received, and the investment of which is not subject to or  
17 regulated by any other statute.

18 (b) Such moneys shall be invested only:

19 (1) In temporary notes or no-fund warrants issued by such investing  
20 governmental unit;

21 (2) in savings deposits, demand deposits, time deposit, open accounts,  
22 certificates of deposit or time certificates of deposit with maturities of not  
23 more than two years:

24 (A) In banks, savings and loan associations and savings banks, ~~which~~  
25 *that* have main or branch offices located in such investing governmental  
26 unit; or

27 (B) if no main or branch office of a bank, savings and loan  
28 association or savings bank is located in such investing governmental unit,  
29 then in banks, savings and loan associations and savings banks, ~~which~~ *that*  
30 have main or branch offices in the county or counties in which all or part  
31 of such investing governmental unit is located;

32 (3) in repurchase agreements with:

33 (A) Banks, savings and loan associations and savings banks, which  
34 have main or branch offices located in such investing governmental unit,  
35 for direct obligations of, or obligations that are insured as to principal and  
36 interest by, the United States government or any agency thereof; or

37 (B) (i) if no main or branch office of a bank, savings and loan  
38 association or savings bank, is located in such investing governmental  
39 unit; or

40 (ii) if no such bank, savings and loan association or savings bank  
41 having a main or branch office located in such investing governmental unit  
42 is willing to enter into such an agreement with the investing governmental  
43 unit at an interest rate equal to or greater than the investment rate, as

1 defined in ~~subsection (g)~~ of K.S.A. 12-1675a(g), and amendments thereto,  
2 then such repurchase agreements may be entered into with banks, savings  
3 and loan associations or savings banks which have main or branch offices  
4 in the county or counties in which all or part of such investing  
5 governmental unit is located; or

6 (C) if no bank, savings and loan association or savings bank, having a  
7 main or branch office in such county or counties is willing to enter into  
8 such an agreement with the investing governmental unit at an interest rate  
9 equal to or greater than the investment rate, as defined in ~~subsection (g)~~ of  
10 K.S.A. 12-1675a(g), and amendments thereto, then such repurchase  
11 agreements may be entered into with banks, savings and loan associations  
12 or savings banks located within this state;

13 (4) in direct obligations of or obligations that are insured as to  
14 principal and interest by the United States or any agency thereof, not  
15 including mortgage-backed securities with maturities as the governing  
16 body shall determine, but not exceeding two years. Such investment  
17 transactions shall only be conducted with:

18 (A) Banks, savings and loan associations and savings banks;

19 (B) the federal reserve bank of Kansas City, Missouri; or ~~with~~

20 (C) primary government securities dealers which report to the market  
21 report division of the federal reserve bank of New York, or any broker-  
22 dealer engaged in the business of selling government securities ~~which that~~  
23 is registered in compliance with the requirements of section 15 or 15C of  
24 the securities exchange act of 1934 and registered pursuant to K.S.A. 17-  
25 12a401, and amendments thereto;

26 (5) in the municipal investment pool fund established in K.S.A. 12-  
27 1677a, and amendments thereto;

28 (6) in the investments authorized and in accordance with the  
29 conditions prescribed in K.S.A. 12-1677b, and amendments thereto;

30 (7) in multiple municipal client investment pools managed by the  
31 trust departments of banks ~~which that~~ have main or branch offices located  
32 in the county or counties where such investing governmental unit is  
33 located or with trust companies incorporated under the laws of this state  
34 ~~which that~~ have contracted to provide trust services under the provisions  
35 of K.S.A. 9-2107, and amendments thereto, with banks ~~which that~~ have  
36 main or branch offices located in the county or counties in which such  
37 investing governmental unit is located. Public moneys invested under this  
38 paragraph shall be secured in the same manner as provided for under  
39 K.S.A. 9-1402, and amendments thereto. Pooled investments of public  
40 moneys made by trust departments under this paragraph shall be subject to  
41 the same terms, conditions and limitations as are applicable to the  
42 municipal investment pool established by K.S.A. 12-1677a, and  
43 amendments thereto; or



1 (8) municipal bonds or other obligations issued by any municipality  
2 of the state of Kansas as defined in K.S.A. 10-1101, and amendments  
3 thereto, ~~which~~ *that* are general obligations of the municipality issuing the  
4 same.

5 (c) The investments authorized in ~~paragraphs (4), (5), (6), (7) or (8)~~  
6 ~~of subsection (b)(4), (5), (6), (7) or (8)~~ shall be utilized only if the banks,  
7 savings and loan associations and savings banks eligible for investments  
8 authorized in ~~paragraph (2) of subsection (b)(2)~~, cannot or will not make  
9 the investments authorized in ~~paragraph (2) of subsection (b)(2)~~ available  
10 to the investing governmental unit at interest rates equal to or greater than  
11 the investment rate, as defined in ~~subsection (g) of K.S.A. 12-1675a(g)~~,  
12 and amendments thereto.

13 (d) In selecting a depository pursuant to ~~paragraph (2) of subsection~~  
14 ~~(b)(2)~~, if a bank, savings and loan association or savings bank eligible for  
15 an investment deposit thereunder has an office located in the investing  
16 governmental unit and such financial institution will make such deposits  
17 available to the investing governmental unit at interest rates equal to or  
18 greater than the investment rate, as defined in ~~subsection (g) of K.S.A. 12-~~  
19 ~~1675a(g)~~, and amendments thereto, and such financial institution  
20 otherwise qualifies for such deposit, the investing governmental unit shall  
21 select one or more of such eligible financial institutions for deposit of  
22 funds pursuant to this section. If no such financial institution qualifies for  
23 such deposits, the investing governmental unit may select for such deposits  
24 one or more eligible banks, savings and loan associations or savings banks  
25 ~~which~~ *that* have offices in the county or counties in which all or a part of  
26 such investing governmental unit is located ~~which~~ *that* will make such  
27 deposits available to the investing governmental unit at interest rates equal  
28 to or greater than the investment rate, as defined in ~~subsection (g) of~~  
29 ~~K.S.A. 12-1675a(g)~~, and amendments thereto, and ~~which~~ otherwise qualify  
30 for such deposits.

31 (e) (1) All security purchases and repurchase agreements shall occur  
32 on a delivery versus payment basis.

33 (2) All securities, including those acquired by repurchase agreements,  
34 shall be perfected in the name of the investing governmental unit and shall  
35 be delivered to the purchaser or a third-party custodian which may be the  
36 state treasurer.

37 (f) Public moneys deposited pursuant to ~~subsection (b)(2) of K.S.A.~~  
38 ~~12-1675, and amendments thereto~~, by the governing body of any  
39 governmental unit listed in ~~subsection (a) of K.S.A. 12-1675, and~~  
40 ~~amendments thereto~~, through a selected bank, savings and loan association  
41 or savings bank ~~which~~ *that* is part of a reciprocal deposit program in which  
42 the bank, savings and loan association or savings bank:

43 (1) Receives reciprocal deposits from other participating institutions

1 located in the United States in an amount equal to the amount of funds  
2 deposited by the ~~municipal corporation or quasi-municipal corporation~~  
3 *investing governmental unit*; and

4 (2) for which the total cumulative amount of each deposit does not  
5 exceed the maximum deposit insurance amount for one depositor at one  
6 financial institution as determined by the federal deposit insurance  
7 corporation.

8 Such deposits shall not be treated as securities and need not be secured  
9 as provided in this or any other ~~act~~ *statute*.

10 (g) *Public moneys deposited pursuant to subsection (b)(2) by the*  
11 *governing body of any investing governmental unit specified in subsection*  
12 *(a) through a selected bank, savings and loan association or savings bank*  
13 *may be invested in a pool of eligible securities established by such bank,*  
14 *savings and loan association or savings bank with a custodian to be held*  
15 *subject to the order of the state treasurer or an administrator designated*  
16 *by the state treasurer pursuant to section 1, and amendments thereto, for*  
17 *the benefit of such investing governmental unit having public moneys with*  
18 *such bank, savings and loan association or savings bank as provided in*  
19 *section 1, and amendments thereto.*

20 Sec. 6. K.S.A. 9-1402 and 12-1675 are hereby repealed.

21 Sec. 7. This act shall take effect and be in force from and after its  
22 publication in the statute book.