

**68-2311. Express highways and freeways; management and investment of moneys in freeway fund and freeway construction fund; standards and limitations; powers and duties of secretary of transportation and pooled money investment board.**

(a) All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as payments from the state freeway fund, shall be deemed to be trust funds to be held and applied solely as provided in this act. The secretary of transportation shall have the responsibility for the management of the state freeway fund and the state freeway construction fund. Within the limitations provided by this section, the pooled money investment board shall invest and reinvest moneys in the funds and shall acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of the funds, except that moneys in the state freeway construction fund may be invested only in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or in interest-bearing time deposits in any commercial bank located in Kansas, or, if the board determines that it is impossible to deposit such moneys in such time deposits, in repurchase agreements of less than 30 days' duration with a Kansas bank or with 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. In investing or reinvesting moneys in the funds, and in acquiring, retaining, managing and disposing of investments of the funds, there shall be exercised the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard and subject to subsection (c), there may be acquired, retained, managed and disposed of as investments of the funds every kind of investment which persons of prudence, discretion and intelligence acquire, retain, manage and dispose of for their own account, with the objective of all such investments being to make the moneys in such fund as productive as possible, except that no funds may be invested in the common stock of any foreign or domestic corporation. Nothing in this subsection shall be deemed to require the disposition of any common stock in which funds were invested prior to the effective date of this act.

(b) Subject to the standards, objectives and restrictions set forth in subsection (a), the pooled money investment board shall formulate policies for the investment and reinvestment of moneys in the state freeway fund and the state freeway construction fund and the acquisition, retention, management and disposition of investments of these funds. From time to time, the pooled money investment board shall review any policies so adopted and make such changes therein as it deems necessary.

(c) Notwithstanding any of the provisions of subsection (a) or any policies adopted pursuant to subsection (b) to the contrary, the pooled money investment board shall invest only those moneys which are not obligated to be expended within the immediately ensuing six-month period pursuant to contract or for debt service requirements pursuant to the provisions of this act.

(d) The pooled money investment board may enter into contracts with one or more financial advisors whom the board determines to be qualified, whereby the financial advisors undertake to perform the functions specified in subsection (a) to the extent provided in the contract. Performance of functions under contract so entered into shall be paid for out of the gross interest or other income of the investments with respect to which the functions are performed, and the net interest or other income of the investments after that payment shall be considered income of the state freeway fund. The pooled money investment board shall require a financial advisor contracted with to give a fidelity bond in such sum as may be fixed by law or, if not so fixed, as may be fixed by the board, with corporate surety authorized to do business in this state.

(e) In the acquisition or disposition of securities, the pooled money investment board may rely on the written legal opinion of a reputable and nationally recognized bond attorney or attorneys, or the written legal opinion of the attorney of the financial advisors.

(f) Except as provided in subsection (d) and this subsection the custody of money and securities of the funds shall remain with the state treasurer, except that the pooled money investment board may arrange for the custody of such money and securities as it considers advisable with a member bank of the federal reserve system, or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the bank or banks for the collection of the principal and interest or other income or of the proceeds of sale. The services provided by any such bank shall be paid for out of the gross receipts from such interest or other income, and the net interest or other income after such payment shall be considered income of the state freeway fund.

(g) With the advice and consent of the state director of accounts and reports, the pooled money investment board shall establish the requirements and procedure for reporting any and all activity relating to investment functions provided for in this section, in order to prepare a record monthly of the investment income and changes made during the preceding month. The record shall reflect a detailed summary of investment, reinvestment, purchase, sale and exchange transactions, showing the dates thereof, the prices paid and obtained, the names of the dealers and such other information as the board may consider advisable to reflect a true accounting of the investment activity of the state freeway fund and the state freeway construction fund.

(h) The pooled money investment board shall provide for an examination of the investment program annually. The examination shall include an evaluation of current investment policies and practices and of specific investments of the funds in relation to the standards and objectives set forth in subsection (a) and other criteria as may be appropriate, and recommendations relating to the investment policies and practices and to specific investments of the funds as are considered necessary or desirable.

**History:** L. 1972, ch. 252, § 10; L. 1975, ch. 404, § 5; L. 1975, ch. 427, § 233; L. 1976, ch. 297, § 2; L. 1987, ch. 295, § 7; L. 1989, ch. 48, § 89; July 1.