

Approved: February 18, 1994

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:13 a.m. on February 17, 1994 in Room 529-S of the Capitol.

Members present: Senators Corbin, Lawrence, Lee, Moran, Petty, Praeger, and Steffes.

Committee staff present: William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary
Richard Ryan, Legislative Research Department

Conferees appearing before the committee: Sally Thompson, State Treasurer
James Maag, Kansas Bankers Association
Judi Stork, Kansas Bank Department

Others attending: See attached list

Senator Praeger made a motion, seconded by Senator Steffes, to approve the minutes of the meetings of February 15 and 16 as submitted. The motion carried.

The chairman reopened the hearing on SB 154, relating to calling of municipal bonds prior to maturity. This bill was originally heard in committee during the 1993 session. State Treasurer Sally Thompson appeared before the committee as a proponent of this legislation and explained that the State Treasurer, who is the paying agent on 80% of all municipal bonds, must notify the bond holder 30 days prior to the call to allow sufficient time to send bonds for payment by the call date. This bill would allow an additional 15 days for the paying agent to process and mail the required notice to holders. Ms. Thompson also requested that this bill be amended to remove section (2) and renumber subsequent sections. (Attachment #1.)

James Maag, Kansas Bankers Association, testified that his organization has no objections to SB 154 as amended. (Attachment #2.)

Senator Moran made a motion to amend SB 154 by deleting section (2) and renumbering subsequent sections, and to pass the bill favorably as amended. The motion was seconded by Senator Steffes. The motion carried.

Hearing was opened on SB 634, concerning the investment of proceeds of bonds or notes in the Municipal Investment Pool (MIP). Sally Thompson, State Treasurer, explained that this bill provides for the inclusion of the MIP in existing lists of acceptable investments authorized for bond proceeds and that the change would provide an additional option for the municipality, which could place proceeds from bonds, notes, etc., at their option, in the MIP. (Attachment #1.) Mr. Maag questioned the language on page 1, line 32. Ms. Thompson explained that one institution had found this provision very useful and Mr. Maag agreed to retaining this language. There being no questions and no other conferees, the hearing was closed.

Senator Steffes made a motion to move SB 634 favorably, and to place it on the Consent Calendar. Senator Praeger seconded the motion. The motion carried.

The chairman opened the hearing on SB 635, which concerns the investment of public money. Sally Thompson, State Treasurer, explained the bill and detailed what each provision would accomplish. (Attachment #1.) Ms. Thompson also advised the committee that the language on page 1, lines 19-20 required a clarifying amendment. (Attachment #3.) At Senator Bond's request, Ms. Thompson defined a reverse repurchase agreement and in response to Senator Steffes, replied that it is in fact a sale instead of a loan, with an agreement to repurchase within a limited amount of time.

Senator Steffes made a motion, seconded by Senator Praeger to adopt the clarifying amendment requested by Ms. Thompson. The motion carried.

Senator Petty moved to recommend SB 635 favorably as amended. Senator Corbin seconded the motion; the motion carried. Senator Steffes will carry this bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:13 a.m. on February 17, 1994.

The hearing on SB 636 was opened. Ms. Thompson, explained in detail each of the provisions of the bill, stating that the majority of the changes are technical in nature and that only two policy changes are contained in the bill. (Attachment #1.) Ms. Thompson also requested amendments to provide better and clearer language throughout the bill. (Attachment #4.) After receiving Ms. Thompson's explanation of Page 6, line 26, Mr. Maag stated that his organization has no problems with the language.

Judi Stork, State Banking Department, requested that this bill be amended to reflect that, on page 1, line 23, "Kansas" refers to the "state," "national bank," or "trust company;" that the language on page 1, line 34 clearly reflect that "out of state" refers to affiliate, non-affiliate bank, and centralized securities depository; and that clarifying language be inserted on page 1, lines 37-41. (Attachment #5.)

Ms. Thompson and Mr. Maag concurred with the amendments requested by Ms. Stork.

Richard Ryan, Legislative Research Department, suggested that the title should be revised to more accurately reflect the content of the bill.

Senator Lee moved to adopt each of the amendments requested, and to move the bill favorably as amended. Senator Lawrence seconded the motion. The motion carried.

The committee adjourned at 10:04 a.m.

The next meeting is scheduled for February 18, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2/17/94

[illegible]

bill, pg. & number	change	explanation
<u>SB 154</u>		
Page 1 lines 20&21	<i>30 to 45 days</i>	The State Treasurer, who is the paying agent on 80% of all Municipal Bonds, must notify the bond holder 30 days prior to the call to allow sufficient time to send bonds for payment by the call date. The additional 15 days would allow our Bond Division time for the paying agent to process and mail the required 30-day notice to holders.
Page 2 lines 12&13	<i>trust powers</i>	When the State Treasurer acts as paying agent for a refunding issue of a municipality, it may be more efficient to allow those proceeds to be placed directly with the Office of the State Treasurer. The proposed change would allow the municipality to choose the option that is most efficient.
<u>SB 634</u>		
Page 1 lines 21,22&23	<i>MIP acceptable investment for bond proceeds</i>	Provides for the inclusion of the Municipal Investment Pool (MIP) to existing laundry list of acceptable investments authorized for bond proceeds (Muni bond statute: 10-131). Change would provide additional option for the municipality.
<u>SB 635</u>		
Page 1 New section 1 lines 29&30	<i>reverse repos in MIP</i>	This change would allow more flexibility in managing the portfolio. Makes statute uniform with other investment statutes.
Page 3 lines 27-41	<i>trust depts. subject to same terms as MIP</i>	There seems to be a misconception among some financial institutions as to their authority in providing investment services to municipalities. This change aims to correct that misconception and sets forth the true intent of the law.
Page 4 lines 37-42	<i>language to explicitly include repurchase agreements</i>	Codifies the opinion from the Attorney General on delivering and securing repurchase agreements.
<u>SB 636</u>		
*Page 1 line 25 lines 31-41	<i>Adds FRB defines interstate banking joint custody issues</i>	Previously omitted. Codifies an opinion from the Attorney General in regard to interstate banking and joint custody issues, as well as related party transactions and related party prohibitions.
Page 2 lines 24-27		
Page 3 lines 12-18	<i>redefines warrant</i>	This section recognizes the vast changes that have occurred in the financial industry and simply broadens the instruments recognized as warrants.
*Page 3 lines 25-27	<i>definitions</i>	Clarifies definition of a bank as per the AG's opinion and redefines securities to include letters of credit and deposit guaranty bonds.
Page 4 lines 20-22		
Page 5 lines 19-22		

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2/17/94
Attachment #1

bill	number	change	explanation
*Page 5 lines 40-43 Page 6 lines 1-2		<i>definitions</i>	Adds definitions for custodial banks and centralized securities depository.
Page 6 lines 11,17,26-28		<i>adds qualifying language</i>	Adds qualifying language to allow rules and regs to specify which banks are authorized to hold state funds.
Page 7 lines 6&7 lines 23-25		<i>allows investment in state projects</i>	Changes the language to allow investment in state agency bonds and projects. Removes transition language.
Page 7 New section 5 lines 42-43 Page 8 lines 1-13		<i>establishes an idle reserve fund</i>	Alleviates excessive unbudgeted fluctuations in the SGF due to movements in interest rates.
Page 8 lines 32-34 Page 9 lines 8-9		<i>eliminates old language</i>	Eliminates old A&R language which is a holdover from the time when A&R selected bank accounts rather than PMIB. This change was suggested by A&R since noncompliance has been noted in the statewide audit.
*Page 9 lines 14-24		<i>security agreement</i>	Requires a written security agreement for all accounts greater than \$100,000. Other FDIC requirements for collateral protection are covered here.
*Page 9 lines 31-43 Page 10 lines 1-38 Page 11 lines 9&10		<i>custodial agreement</i>	Codifies an opinion from the Attorney General on affiliates, custodial relationships, and joint custody receipts. Requires an agreement between affiliates (when one puts up collateral for another) in order to perfect security interest. Requires a custodial agreement. Requires collateral coverage of accrued interest.
*Page 11 lines 14-38 lines 41&42		<i>conservator changes term</i>	Amends default provisions to include the appointment of a receiver or conservator. Provides for transfer of securities to the state for recovery of deposit. Changes impaired to inadequate.
*Page 12 lines 5-12		<i>conversion of deposit to repo</i>	At a bank's option, this provides conversion of deposit to repo for lack of proper capital levels.
Page 12 lines 29-43 Page 13 lines 1-10		<i>deletes statutory reference to a specific job title</i>	Removes old language from original PMIB organization.
			<p>7/1/94 2/17/94 1-2</p> <p>*Denotes language needed to perfect security interest or reflect custodial agreements with banks and codify the AG's opinion on relationships between custodial and depository banks.</p>



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 17, 1994

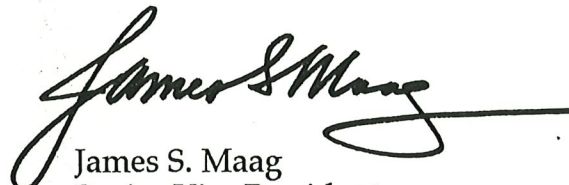
TO: Senate Committee on Financial Institutions and Insurance
RE: SB 154, SB 634, SB 635, SB 636

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present comments on the bills cited above. We have been meeting with the Treasurer and her staff concerning SB 634, SB 635, and SB 636, and we find these bills to be acceptable with the appropriate technical amendments which were discussed.

Our position on SB 154 remains the same as it was in 1993. We have no objection to the changes proposed in Section 1 of the bill, but we do not believe the amendments to Section 2 are either necessary or desirable. As stated in our previous testimony, Kansas banks have provided this escrow service for many years and there is no indication it has created problems for local units of government and is a service which should continue to be handled by private sector institutions. We would request the committee delete Section 2 of the bill before making any final recommendations on the measure.

We would be willing to answer any questions the committee might have concerning these various bills. Thank you again for allowing us to present our views.


James S. Maag
Senior Vice President

*Senate 7/41
2/17/94
Attachment #2*



SENATE BILL No. 635

By Committee on Financial Institutions and Insurance

2-1

AN ACT relating to public moneys; concerning the investment thereof; amending K.S.A. 1993 Supp. 12-1675 and repealing the existing section.

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

New Section 1. Whenever the daily withdrawals in the municipal investment pool established in K.S.A. 1993 Supp. 12-1677a, and amendments thereto, exceed the available cash in such municipal investment pool and there are municipal investment pool moneys in investments authorized in ~~paragraph (1)~~ of subsection (b) of K.S.A. 12-1677a, and amendments thereto, the ~~treasurer~~, with approval of the ~~board~~, may:

(a) Borrow upon the security of any one or more interest-bearing time deposits in an amount sufficient to meet the municipal investment pool's obligations. Any such loan shall be repaid in full within 60 days or prior to July 1, whichever occurs first. Interest payment by the state for any loan under this section shall be made only by way of setoff from interest obligations to the state from the bank making such loan. The amount borrowed under this section from any bank shall never exceed an amount equal to the amount of municipal investment pool moneys on deposit in the bank; or

(b) enter into reverse repurchase agreements utilizing securities purchased by the board pursuant to paragraph (1) of subsection (b) of K.S.A. 12-1677a, and amendments thereto. Such reverse repurchase agreements may be entered into with Kansas banks or primary government securities dealers which report to the market reports division of the federal reserve bank of New York. Expenses of reverse repurchase agreements shall be paid by deducting such expenses against other interest income to the municipal investment pool.

Sec. 2. K.S.A. 1993 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may

state

pooled money investment

Senate 4141 2/17/94
Attachment #3

SENATE BILL No. 636

By Committee on Financial Institutions and Insurance

2-1

AN ACT concerning state moneys; relating to the deposit thereof; amending K.S.A. 75-4215, 75-4217, 75-4220 and 75-4221 and K.S.A. 1993 Supp. 9-1405, 75-3732, 75-4201, 75-4209, 75-4214, 75-4218 and 75-4222 and repealing the existing sections.

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

Section 1. K.S.A. 1993 Supp. 9-1405 is hereby amended to read as follows: 9-1405. (a) All bonds and securities given by any bank, state or federally chartered savings and loan association or federally chartered savings bank to secure public moneys of the United States or any board, commission or agency thereof, shall be deposited as required by the United States government or any of its designated agencies.

(b) All bonds and securities pledged to secure the deposits of any municipal corporation or quasi-municipal corporation shall be deposited with a Kansas state or national bank or trust company having adequate modern facilities for the safekeeping of securities, *the federal reserve bank of Kansas City*, the federal home loan bank of Topeka or with the state treasurer, and a joint custody receipt taken therefor with one copy going to the municipal corporation or quasi-municipal corporation making the public deposit and one copy going to the bank, state or federally chartered savings and loan association or federally chartered savings bank which has secured such public deposits. *This section shall not prohibit any custodial bank receiving securities for safekeeping from issuing a joint custody receipt and placing those securities in such bank's account with an out-of-state affiliate, a nonaffiliate bank or a centralized securities depository.* No bonds or securities pledged to secure public deposits shall be left for safekeeping ~~in any safe deposit vault owned or controlled directly or indirectly by with any Kansas state or national bank or trust company owned directly or indirectly by a parent corporation, having common controlling shareholders or a common majority of the board of directors with the ability to control or influence directly or indirectly~~ the bank, state or federally chartered savings and loan association or federally chartered savings bank securing such public deposits. When bonds and securities are deposited

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the acts or policies of

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Attachment #4

1 with the state treasurer as authorized by this subsection, the state
2 treasurer shall make a charge for such service which is equivalent
3 to the reasonable and customary charge made therefor.

4 (c) All such bonds and securities shall be deposited under a joint
5 custody receipt issued by a bank ~~within the state of Kansas or the~~ or trust company
6 federal reserve bank of Kansas City, the federal home loan bank of
7 Topeka or with the state treasurer. All bonds or securities held by
8 any depository and for which a joint custody receipt has been issued
9 shall be retained by such depository and not released except upon
10 consent of both the municipal corporation or quasi-municipal cor-
11 poration making the deposit and the bank, state or federally chartered
12 savings and loan association or federally chartered savings bank taking
13 or securing such deposit. In every report required to be published
14 by any bank, state or federally chartered savings and loan association
15 or federally chartered savings bank it shall show in full all of the
16 assets pledged or deposited as security for public moneys.

17 (d) A bank, state or federally chartered savings and loan asso-
18 ciation or federally chartered savings bank which fails to pay ac-
19 cording to its terms any deposit of public moneys of any municipal
20 or quasi-municipal corporation shall immediately take such actions
21 as are required to enable bonds and securities pledged to secure
22 such deposit to be sold to satisfy its obligation to the municipal or
23 quasi-municipal corporation.

24 (e) *As used in this section: "Centralized securities depository"*
25 *means a clearing agency registered with the securities and exchange*
26 *commission which provides safekeeping and book-entry settlement*
27 *services to its participants.*

28 Sec. 2. K.S.A. 1993 Supp. 75-3732 is hereby amended to read
29 as follows: 75-3732. (a) Subject to the provisions of K.S.A. 75-3731,
30 and amendments thereto, the director of accounts and reports shall
31 provide for the payment of accounts, bills, claims, funds and demands
32 by issuing warrants drawn on the state treasurer or as an alternative,
33 permissive method in the case of claims for salaries or wages, by
34 utilizing procedures authorized by K.S.A. 75-5540, and amendments
35 thereto. Except as authorized by subsection (c) and (d), the director
36 of accounts and reports shall sign and the state treasurer shall cosign
37 all such warrants for money before their delivery by the director of
38 accounts and reports to the persons entitled thereto. Forms for such
39 warrants shall be prescribed by the director of accounts and reports.
40 The director of accounts and reports shall transmit to the state treas-
41 urer a duplicate copy of the director's record of all warrants issued
42 by the director.

43 (b) When the claim as shown to be due any individual payee on

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any voucher submitted by an agency is less than \$5, no warrant shall be issued except as approved by the director of accounts and reports. Claims for amounts less than \$5 shall be paid by an agency from the agency's imprest fund or petty cash fund under procedures prescribed by the director of accounts and reports or as otherwise prescribed by the director.

(c) The director of accounts and reports may designate one or more persons to sign, on behalf of the director of accounts and reports, warrants which do not exceed \$5,000 for the payment of prizes to the holders of valid winning lottery tickets or shares pursuant to K.S.A. 74-8712, and amendments thereto.

(d) ~~The secretary of administration and the state treasurer may agree, in writing, to the establishment of funds transfers of the type described in article 4a of the uniform commercial code for various categories of payments. In addition to the paper warrants described in subsection (a), the term warrant or state warrant as used in state law, shall also include payments pursuant to any funds transfers authorized pursuant to this subsection.~~

establish funds transfers pursuant to

Sec. 3. K.S.A. 1993 Supp. 75-4201 is hereby amended to read as follows: 75-4201. As used in this act, unless the context otherwise requires:

(a) "Treasurer" means state treasurer.

(b) "Controller" means director of accounts and reports.

(c) "Board" means the pooled money investment board.

(d) "Bank" means a state bank incorporated under the laws of Kansas or a national bank doing business having such bank's home office within the state of Kansas.

(e) "State moneys" means all moneys in the treasury of the state or coming lawfully into the possession of the treasurer.

(f) "Custodial moneys" means state moneys deposited with the treasurer which, in the written opinion of the attorney general, are required by contract, bequest or law to be segregated from other bank accounts.

(g) "Special moneys" means moneys which are required to be or are deposited in a custodial bank account or a fee agency account by the state or any agency thereof.

(h) "State bank account" means state moneys or special moneys deposited in accordance with the provisions of this act.

(i) "Operating account" means a state bank account which is payable or withdrawable, in whole or in part, on demand.

(j) "Investment account" means a state bank account which is not payable on demand but shall not include custodial accounts.

(k) "Market rate" means the average of the average equivalent

obligations of the municipal corporation or quasi-municipal corporation issuing the same.

(6) Warrants of any municipal corporation or quasi-municipal corporation within the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy.

(7) Bonds of any municipal or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America. A copy of such escrow agreement shall be furnished to the treasurer.

(8) Securities listed in paragraph (13) of subsection (d) of K.S.A. 9-1402 and amendments thereto within limitations of K.S.A. 9-1402 and amendments thereto. ~~Such securities may be accepted or rejected by the treasurer.~~

(9) ~~A bond guaranteeing deposits in a bank, savings or savings and loan association in excess of federal deposit insurance corporation insurance, underwritten by an insurance company authorized to do business in the state of Kansas.~~

~~(9)(10)~~ All of such securities shall be current as to interest according to the terms thereof.

~~(10)(11)~~ Whenever a bond is authorized to be pledged as a security under this section, such bond shall be accepted as a security if: (i) In the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security; (ii) in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered; or (iii) in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

(q) "Savings bank" means a federally chartered savings bank insured by the federal deposit insurance corporation and doing business within the state of Kansas.

(r) "Savings and loan association" means a state or federally chartered savings and loan association insured by the federal deposit insurance corporation and doing business within the state of Kansas.

(s) "Custodial bank" means a bank designated to keep safely ~~lateral~~ pledged as security for state bank accounts.

(t) "Centralized securities depository" means a clearing agency registered with the securities and exchange commission which pro-

corporate surety

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vides safekeeping and book-entry settlement services to its participants.

Sec. 4. K.S.A. 1993 Supp. 75-4209 is hereby amended to read as follows: 75-4209. (a) After the board determines the liquidity needs for the state, and determines the varying maturities of the investment accounts to be offered and the amount of state moneys to be invested in each of the maturities offered, in accordance with rules and regulations adopted pursuant to K.S.A. 1993 Supp. 75-4232, and amendments thereto, the board shall make available state moneys eligible for investment accounts in the following manner:

(1) (A) The board shall offer to all qualified banks, on a competitive bid basis, state moneys for deposit in investment accounts at maturities of not more than four years and such bids shall be at a rate of at least the market rate, as defined in subsection (k) of K.S.A. 75-4201, and amendments thereto.

(B) As part of the offering under subparagraph (A) the board shall offer to all qualified banks, on a twelve-month average, 50% of the amount of state moneys available for investment or \$350,000,000, whichever amount is greater, at maturities of not more than four years and at the investment rate as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto. Such accounts shall be apportioned by the board among the banks which propose to receive such accounts and which qualify therefor on the basis of the ratio of each bank's combined capital, undivided profits and surplus to the total capital, undivided profits and surplus of all such banks.

(C) Qualified banks shall be determined in accordance with capitalization requirements established by rules and regulations adopted pursuant to K.S.A. 1993 Supp. 75-4232, and amendments thereto.

(2) The board may invest and reinvest state moneys eligible for investment which are not invested in accordance with paragraph (1), in the following investments:

(A) 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, except that not more than 10% of the moneys available for investment under this subsection may be invested in mortgage backed securities of such enterprises and of the government national mortgage association;

(B) repurchase agreements with a Kansas bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligation of, or obligations that are insured as to principal and interest by

(u) "Depository bank" means a bank, savings bank, or savings and loan association authorized and eligible to receive state monies.

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deposited in a fee agency account designated by the board. The same shall be remitted monthly, or more often if required by the board, to the state treasurer by such agency drawing on such fee agency account all moneys therein except such balance as is specified by the board and except for any direct refunds of tuition, fees or charges from such fee agency account authorized under K.S.A. 76-738, and amendments thereto. When requested, such agency shall file with the board, state treasurer and director of accounts and reports a detailed and verified report with each deposit showing the sources from which such fees, tuition and charges were received.

(d) Fee agency accounts and moneys to be deposited therein shall be subject to post audit under article 11 of chapter 46 of Kansas Statutes Annotated.

Sec. 8. K.S.A. 75-4217 is hereby amended to read as follows: 75-4217. Awards of all state bank accounts, *aggregating more than \$100,000*, shall be made pursuant to *a written agreements between the board and the banks having such accounts security agreement between the depository bank and the board, granting the state of Kansas a security interest in securities pledged to secure payment of deposits in state bank accounts. This agreement shall be approved by the board of directors of the depository bank, as reflected in the minutes of the board. From the time of execution, the security agreement shall remain continuously an official record of the depository bank.* Separate security agreements shall be entered into for each class of account in each bank.

Sec. 9. K.S.A. 1993 Supp. 75-4218 is hereby amended to read as follows: 75-4218. (a) All state bank accounts shall be secured by pledge of securities as provided in this section.

(b) The bank, savings bank or savings and loan association receiving or having a state bank account shall deposit or cause its agent, trustee or an affiliate bank having identical ownership as the bank receiving or having such account to deposit, securities owned by it, or by its agent or trustee holding securities on its behalf, or by such its affiliate bank, in one of the following ways:

(1) Deposit with the treasurer.

(2) Deposit with a bank having adequate modern facilities for the safekeeping of securities and doing business in the state of Kansas, and which facilities shall have had the prior approval of the board. Any such bank receiving securities for safekeeping shall be liable to the state for any loss suffered by the state in the event

the bank relinquishes the custody of any such securities contrary to the provisions of this act or rules and regulations adopted thereunder. This section shall not prohibit any such custodial bank re-

acceptable to the board and

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ceiving securities for safekeeping from issuing a joint custody receipt and placing those securities in its account with an out-of-state affiliate, a nonaffiliate bank or a centralized securities depository. No such deposit of securities shall be made in any facility owned or controlled directly or indirectly by the _____, having a parent corporation, having common controlling shareholders or a common majority of the board of directors or having common directors with the ability to direct or indirectly control or influence the bank, savings bank or savings and loan association depositing the same.

(3) Deposit with the federal reserve bank of Kansas City, Missouri.

(4) Deposit with the federal home loan bank of Topeka, Kansas.

(5) Any combination of (1), (2), (3) and (4).

(c) The depository bank shall obtain a written agreement from its affiliate bank that the affiliate bank grants a security interest in securities owned by the affiliate bank which are pledged on behalf of the depository bank to secure payment of deposits made with the depository bank pursuant to this section. Such agreement shall be approved by the board of directors of the affiliate bank. From the time of execution of such agreement, the agreement shall remain continuously an official record of the affiliate bank. Any such deposit of securities, except with the treasurer, shall have a joint custody receipt which provides for a perfected security interest taken therefor _____ to the state of Kansas and reflected in its minutes.

with one copy going to the treasurer and one copy going to the bank, savings bank or savings and loan association which deposits such securities. In lieu of the initial deposit of securities provided for in this subsection (c), the treasurer or the treasurer's duly authorized deputy, for a period of not to exceed 10 calendar days, may accept the telephone assurance of a bank qualified as provided in (2) or (3) of subsection (b), that the depository bank has requested the issuance of a joint custody receipt with the state of Kansas, specifying the securities pledged, for the purpose of compliance with this section and that such joint custody receipt will be forthcoming. _____ which shall constitute a perfected security interest

(d) The depository bank, the board and the custodial bank shall enter into a written agreement for the safekeeping of securities and the agreement shall be maintained in the records of the depository bank.

(e) Securities deposited to comply with this section may be withdrawn on application of the bank, savings bank or savings and loan association depositing the securities, if such application is approved by the treasurer or the treasurer's duly authorized deputy for the reason that such deposit of securities is no longer needed to

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comply with this section or are required for collection by virtue of their maturity or for exchange. Securities withdrawn for collection by virtue of their maturity or for exchange shall be replaced within 15 calendar days, but until replaced the state shall retain a first lien on the withdrawn security or the proceeds therefrom.

(e) (f) Operating accounts, investment accounts, fee agency accounts and custodial accounts shall be secured by pledge of securities, the market value of which is equal to 100% of the amount of *the deposits in the account, plus accrued interest, less so much of any such the amount of deposits in the account as is* protected by the federal deposit insurance corporation. Any agency responsible for a fee agency account shall transfer immediately all moneys not so secured to the state treasurer for deposit in the state treasury.

Sec. 10. K.S.A. 75-4220 is hereby amended to read as follows: 75-4220. ~~The bank and securities pledged by it~~ (a) *Each depository or its affiliate bank pledging securities for such depository pursuant to K.S.A. 75-4218, and amendments thereto,* shall be liable for payment in case any bank having a state bank account of any type shall fail (a) to if: (1) *The depository bank fails to:* (A) Pay any check, draft or warrant drawn by the treasurer and director of accounts and reports; ~~or (b) to;~~ or (B) account for any check, draft, warrant, order, or certificate of deposit, or any money entrusted to ~~it~~ *such bank* by the treasurer; or (2) *a conservator or receiver is appointed for the depository bank.*

Any loss incurred by the state by reason of failure by any ~~bank~~ _____ depository to safely keep and account for state or special moneys and interest thereon shall be recovered by the state from the ~~bank~~ _____ depository and a sale of the securities pledged under this act. The attorney general is authorized to prosecute in the name of the state any and all actions for recovery of any loss incurred by the state under this act.

In case of default by any ~~bank~~ _____ depository having a state bank account of any type, the securities pledged under this act ~~shall be sold by the person holding such securities, if not in the possession of the treasurer, shall be transferred to the treasurer by the custodial bank to be sold by the treasurer~~ and payment of the proceeds of such sale shall be made to the state to the extent of ~~its~~ *the state's* interest, but ~~such sale shall be without recourse as to the state subject to the provisions of K.S.A. 75-4221, and amendments thereto.~~

Sec. 11. K.S.A. 75-4221 is hereby amended to read as follows:

75-4221. (a) In all cases wherein it shall appear to the board that securities pledged by any ~~bank~~ _____ depository have become in any manner ~~impaired inadequate,~~ it shall be the duty of the board to immediately notify such ~~bank~~ _____ depository and demand that additional security be

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pledged to make good such ~~impairment inadequacy~~; and in default of such additional security being promptly furnished, the board shall instruct the treasurer ~~and the director of accounts and reports to~~ ~~forthwith~~ close the account.

(b) In cases where a ~~bank's capitalization~~ fails to meet the requirements established by the board pursuant to K.S.A. 75-4209, and amendments thereto, the board shall instruct the treasurer to advise the ~~bank~~ it must select one of the following options: a depository bank

(1) Close the account for the full amount, including accrued interest and without penalty if the deposit exceeds seven days, or

(2) convert the account to a repurchase agreement under terms acceptable to the board. depository

(c) In the event of the insolvency or dissolution from any cause of a ~~bank~~ having a state bank account of any type, the state shall be entitled to file a claim for the full amount of such account and shall retain or collect dividends or interest on securities pledged by said ~~such bank~~ until the amount of said ~~the~~ dividends or interest added to the amount realized from sale of any securities so pledged to the state shall ~~equal equals~~ the amount of said ~~the~~ account and any interest due thereon. depository

The state shall be fully responsible to any ~~bank~~ for the safe return of any securities deposited in the state treasury in accordance with this act. depository

Sec. 12. K.S.A. 1993 Supp. 75-4222 is hereby amended to read as follows: 75-4222. (a) It shall be unlawful for the pooled money investment board to award a state bank account to any ~~bank~~ in which any member of the board is interested as a stockholder or officer, except upon the unanimous vote of the other members of the board. depository

(b) The state treasurer shall be chairperson of the board. The board shall appoint an executive officer and such executive officer shall be in the classified service of the Kansas civil service act. The person performing the functions and duties of the executive officer immediately prior to the effective date of this act shall continue as executive officer and shall attain permanent status in the classified position without examination and without a probationary period and shall retain all retirement benefits which such person had prior to the effective date of this act, and such person's service shall be deemed to have been continuous. The board may appoint such additional classified employees as may be needed. The persons employed as classified employees of the board immediately prior to the effective date of this act shall continue in such employment and shall attain permanent status in the classified service without

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(b) All bonds and securities pledged to secure the deposits of any municipal corporation or quasi-municipal corporation shall be deposited with a ~~Kansas state or national~~ bank, or trust company, **or national bank authorized to do business in Kansas** having adequate modern facilities for the safekeeping of securities, the federal reserve bank of Kansas City, the federal home loan bank of Topeka or with the state treasurer, and a joint custody receipt taken therefor with one copy going to the municipal corporation or quasi-municipal corporation making the public deposit and one copy going to the bank, state or federally chartered savings and loan association or federally chartered savings bank which has secured such public deposits. This section shall not prohibit any custodial bank receiving securities for safekeeping from issuing a joint custody receipt and placing those securities in such bank's account with an ~~out of state affiliate, a nonaffiliate bank,~~ **any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, or a any centralized securities depository, wherever located within the United States.** No bonds or securities pledged to secure public deposits shall be left for safekeeping with any ~~Kansas state or national~~ bank, or trust company, **or national bank authorized to do business** ^{which is} ~~in Kansas~~ owned directly or indirectly by a ~~any~~ parent corporation **of the depository bank, or with any bank, trust company, or national bank authorized to do business in Kansas** having common controlling shareholders, **having** ~~or~~ a common majority of the board of directors or ^{common} **having directors** with the ability to control or influence directly or indirectly **the acts or policies** of the bank, state or federally chartered savings and loan association, or federally chartered savings bank securing such public deposits. When bonds and securities are deposited with the state treasurer as authorized by this subsection, the state treasurer shall make a charge for such service which is equivalent to the reasonable and customary charge made thereof.

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Attachment # 5

ALSO... the language at the bottom of page nine and the top of page ten should be changed^d
to reflect the same change in language.

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