



KANSAS STATE DEPARTMENT OF EDUCATION

Guidelines for Investment of Idle Funds By School Districts

Contents:

- *General investment authority of local governments*
- *Types of investments authorized*
- *Direct investments*
- *Pledging securities and requirements*
- *Security – peak deposit periods*
- *Use of investment income*
- *Distribution of tax money*
- *Investment proceeds from bond issues and temporary notes*
- *Insurance*
- *Active and time accounts*



School Finance

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MEMORANDUM

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GENERAL INVESTMENT AUTHORITY OF LOCAL GOVERNMENTS

This memorandum summarizes the general local government investment statutes as amended through 2018. The general investment statutes do not restrict investment of proceeds of bond issues, sinking funds, building funds, local pension or retirement funds, or other funds or moneys the investments of which are specifically authorized by other statutes. Also summarized is the statute relating to distribution of taxes by the county treasurer to taxing subdivisions.

The general investment statutes apply to counties, cities, townships, school districts, area vocational-technical schools, community colleges, firefighters' relief associations, community mental health and retardation centers, and any other governmental entity having authority to receive and expend public moneys.

Types of Investment Authorized

Under K.S.A. [12-1675](#), as amended, local units of government may first invest moneys which are not immediately required for the purposes which they were collected or received as follows:

- Savings deposits, time deposits, open accounts, certificates of deposits, or time certificates of deposits.
 - [Banks](#),¹ [Savings & Loan associations](#),² or [savings banks](#)³ which have a [main](#)⁴ or [branch](#)⁵ office in the investing unit and which will make deposits available to the investing unit at interest rates equal to or greater than the [investment rate](#),⁶; or
 - If there is no main or branch office of an eligible financial institution in the investing unit, or no eligible financial institution will pay the investment rate or greater, then the investing unit may invest in banks, S&L associations, or savings banks which have a main or branch office in the county or counties in which all or part of the unit is located and which will make deposits available to the investing unit at interest rates equal to or greater than the investment rate.
 - Maturities may not exceed two years.

OR

- Repurchase agreements (repos) for direct or insured obligations of the federal government or any agency thereof.
 - Such investments may be made at any time and they must be with a bank, S&L association, or savings bank having a main or branch office in the investing unit, except:
 - if there is no office in the unit or if an eligible financial institution in the unit will not enter into an agreement at an interest rate equal to or higher than the investment rate, then a repo may be made with a bank, S&L association, or savings bank having an office in the county or counties in which all or part of the investing unit is located;
 - or, as a last resort, if no bank, S&L association, or savings bank in such county or counties will enter into an agreement at a rate at least equal to the investment rate, then a repo may be made with a bank, S&L association, or savings bank located in Kansas.

OR

- Temporary notes or no-fund warrants issued by the investing governmental unit.
If no eligible financial institutions, whether in the investing unit or within the county or counties of the investing unit, will accept the local unit funds at a rate at least equal to the investment rate, the investing unit may then invest in any of the following:
 - U.S. treasury bills or notes with maturities not exceeding two years.
 - The Municipal Investment Pool Fund
 - Any deposit in the pool must be for the same term as the deposit that was offered and refused locally.
 - Upon maturity, deposits in the pool must be offered to eligible financial institutions for investment and refused before they may be reinvested in the pool.
 - Local units may invest the proceeds of bonds or temporary notes not currently needed without having first to offer the investment to eligible financial institutions (K.S.A. [10-131](#), as amended).
 - The Director of Investments of the state Pooled Money Investment Board (PMIB) may invest money in the pool fund in accordance with policies of the PMIB.
 - A fee, applied as a fixed percentage of moneys in the portfolio, shall be charged (*i.e.*, deducted from earnings). The fee is apportioned at the rate of .10 percent on the state money in the portfolio and a .25 percent on money in the Municipal Investment Pool within the portfolio.
- Direct investments authorized for cities, counties, and school districts

- Only cities, counties, and school districts that have written investment policies approved by their governing bodies and by the PMIB may make directly the investments authorized in that statute.
- If a city or county violates K.S.A. [12-1675\(c\)](#) or (d), as amended, or the rules and regulations of the PMIB, it forfeits its direct investment authority for two years and can be reinstated only after a complete review of its investment policy by the PMIB. Notice and an opportunity to be heard on the matter of forfeiture must be given in accordance with the Kansas Administrative Procedure Act.
- Investments in securities shall be transacted only with banks, S&L associations, and savings banks or primary government securities dealers which report to the Federal Reserve Bank of New York; or broker-dealers registered in compliance with Section 15C of the Securities Exchange Act of 1934 and registered pursuant to K.S.A. [17-12a401](#) and amendments thereto.
- Multiple client investment pools managed by trust departments of commercial banks
 - Trust departments must be of banks which have main or branch offices in the county or counties where the investing unit is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under K.S.A. [9-2107](#), and amendments thereto, and have offices located in the county or counties in which the investing unit is located.
 - Investments by such departments are subject to the same terms, conditions, and limitations that are applicable to the Municipal Investment Pool.

All security purchases, including those acquired by repurchase agreements shall occur on a delivery versus payment basis, and they must be perfected in the name of the investing unit, and shall be delivered to the purchaser or a third party custodian who may be the State Treasurer.

Pledging Securities

Banks, S&L associations, or savings banks taking local units' investments must pledge qualified securities listed in K.S.A. [9-1402](#), as amended, equal to 100 percent of the deposit in excess of [Federal Deposit Insurance Corporation \(FDIC\) coverage](#), and securities pledged must be at market value.⁷

- [Securities, security entitlements, and financial assets](#)⁸ securing the deposits of investing units must be deposited with (1) a bank or trust company incorporated under the laws of this state or organized under the laws of the United States or another state and which has a main or branch office in this state, (2) the Federal Home Loan Bank of Topeka, or (3) the State Treasurer.

- All securities, security entitlements, and financial assets must be deposited in a securities account pursuant to a written custodial agreement and a receipt taken therefore with one copy going to the investing unit making the public deposit and one copy to the depository.
- The depository bank, S&L association, or savings bank must enter into a written agreement with the investing units granting those investing units a security interest in the securities, security entitlements, and financial assets and the security interests must be perfected by the depository institution under the Kansas Uniform Commercial Code and be given to the investing units.
- A custodial bank or trust company which receives securities, security entitlements, and financial assets for safekeeping is not prohibited from issuing a receipt and placing the securities, security entitlements, and financial assets in such bank's, S&L association's, or savings bank's account with any bank or trust company chartered in Kansas or another state, any national bank, or any centralized securities depository (a clearing agency registered with the Securities and Exchange Commission which provides safekeeping and book-entry settlement services to its participants) located in the United States.
- No securities, security entitlements, and financial assets pledged may be deposited in any bank, trust company, or national bank which is owned directly or indirectly by any parent corporation of the depository bank, or with any bank, trust company, or national bank, having common controlling shareholders, having a common majority of the board of directors or having common directors with the ability to control or influence directly or indirectly the acts or policies of the bank, S&L association, or savings bank securing such public deposits.
- When securities are deposited with the State Treasurer, a charge for the service shall be made which is equivalent to the reasonable and customary charge made therefore.

The Federal Reserve Bank of Kansas City also may act as a custodial depository under regulations and operating letters of the Bank.

Active Accounts — Opinions of Attorney General

In 1975 and 1976, the Attorney General ruled that counties, cities, school districts, and community colleges may transfer part of their demand account to a savings account and by prearranged agreement transfer money back to the demand account when needed. (Opinion Nos. 75-448 and 76-212.) Such an arrangement is not subject to the requirements of the general investment law because that law applies only to idle, not active, funds.

On June 13, 1983, the Attorney General issued another opinion (No. 83-88) to the effect that local units may deposit active funds in interest bearing NOW (negotiable order of withdrawal) and money market deposit accounts. He said that investment of inactive or idle funds may be invested only in the ways listed in the then applicable general investment statute, but those restrictions do not apply to active funds, i.e., those which local units make use of regularly and immediately. Therefore, NOW and money

market accounts, which have no minimum maturity and from which withdrawals can be made on demand with no penalty, are permissible deposits for local units.

For all types of active accounts, then, including noninterest bearing demand or checking accounts in banks, local units may make deposits in banks, S&L associations, and federally chartered savings banks, which have offices in the county or counties in which all or part of the local unit is located, if satisfactory security can be obtained.

On April 3, 1995, the Attorney General issued a further opinion (No. 95-39) to the effect that local units must deposit active funds in financial institutions with home offices in the state of Kansas. Since "home office" was not a defined term, some confusion arose as to which financial institutions could be depositories for local units' active accounts. **1997 SB 132** removed the ambiguity in the law by allowing local units to designate banks, S&L associations, and savings banks organized under the laws of the United States or another state which do not have a main office in this state, or to designate any bank, S&L association, or savings bank regardless of its charter sites as depositories for their active accounts. However, local units are precluded from using the latter financial institutions as depositories unless the eligible financial institutions cannot or will not provide an acceptable bid, which includes services, for the depositing of public funds. Then, banks, S&L associations, and savings banks organized under the laws of the United States or another state which do not have a main office in this state but have branch offices in the county or counties in which all or part of the local units are located can be depositories, provided satisfactory security can be obtained. (Eligibility for inactive accounts was not affected by **1997 SB 132** and, therefore, such accounts may only be invested with banks, S&L associations, or savings banks incorporated under the laws of this state or organized under the laws of the United States and which have a main office in this state, or as otherwise authorized by law.)

Security — Peak Deposit Periods

During periods of peak deposits at tax paying and distributing times and continuing for not over 60 days at any given time and not over 120 days in a calendar year, the amount of security for the deposit of public moneys as required by K.S.A. [9-1402](#), as amended, may be reduced by not more than half the amount otherwise required. The public entity and the depository institution may enter into an agreement which designates the beginning of each such 60-day period. (See K.S.A. [9-1403](#).)

Use of Investment Income

Unless otherwise required by state or federal law, such income received by school districts shall be deposited in accordance with K.S.A. [72-5166](#).

Distribution of Tax Money

K.S.A. [12-1678a](#) permits boards of county commissioners to invest [undistributed taxes](#)⁹ of any taxing subdivision which are in the possession of the county treasurer. Such investments are governed by the general investment statutes and income therefrom must be credited to the county general fund.

However, the statute cited above requires each county treasurer to distribute taxes (but not interest thereon) collected for each taxing subdivision within or partially within the county as follows: on or before January 20, June 5, and October 31, the estimated amount collected for and owed, but not less than the amount actually collected as of not more than 20 days before the distribution date; and on or before the last business day before March 20 and September 20, not less than 95 percent of the estimated amount collected for or owed to each taxing subdivision, but, again, not less than the amount actually collected as of not over 20 days prior to the distribution date. An alternative method of distribution of taxes and any interest thereon may be agreed to by the board of county commissioners and the governing body of any taxing subdivision within or partly within the county.

The law also allows a taxing subdivision, in order to meet its fiscal needs, to request special payments in advance of the above dates. Such payments cannot exceed the amount actually collected for and owed to the subdivision. There must be a certification from the taxing unit that it has neither sufficient cash on hand nor an investment which can be converted to cash to meet its expenditure needs. No special payment shall be made between December 1 of any year and January 1 of the next succeeding year or between May 1 and June 1 of any year.

ENDNOTES

1. "**Bank**" means any bank incorporated under the laws of this state, or organized under the laws of the United States and which has a main office in this state.
2. "**Savings and loan associations (S&L)**" means any S&L association incorporated under the laws of this state, or organized under the laws of the United States and which has a main office in this state.
3. "**Savings bank**" means any savings bank organized under the laws of the United States and which has a main office in this state.
4. "**Main office**" means the place of business specified in the articles of association, certificate of authority, or similar document, where the business of the institution is carried on and which is not a branch.
5. "**Branch office**" means any office, agency, or other place of business within this state, other than the main office, at which deposits are received, checks paid or money lent with approval of the appropriate

regulatory authorities. Branch does not include an automated teller machine, remote service unit, or similar device.

6. "**Investment rate**" means a rate which is the equivalent yield for United States government securities having a maturity date as published in the *Wall Street Journal*, nearest the maturity date for equivalent maturities. The 0 to 90-day rate shall be computed on the average effective federal funds rate as published by the Federal Reserve System for the previous week. The Director of Investments of the state Pooled Money Investment Board must calculate the investment rate on Monday of each week and publish it that week in the *Kansas Register*. The rate is available on the Internet at <http://pooledmoneyinvestmentboard.com>

7. FDIC coverage could reach \$200,000–\$100,000 on time deposits and \$100,000 on non-interest bearing active accounts. Alternatives to pledging of securities are a personal bond equal to twice the amount on deposit at any given time or a corporate surety bond equal to the amount on deposit at any given time.

8. "**Securities**," "**security entitlement**," "**financial assets**," "**securities account**," "**security agreement**," "**security interest**," "**perfection**," and "**control**" as these terms are used in this section on pledging have the meanings given such terms under the Kansas Uniform Commercial Code.

9. Includes ad valorem taxes, local gross earnings taxes, special assessments, and all other taxes and fees collected with or at the same time as ad valorem taxes.

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Kansas Bankers Association

LOCAL PUBLIC FUNDS DEPOSITS

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This publication has been prepared by the Division of Fiscal and Administrative Services, State Department of Education, the Legislative Research Department, and the Kansas Bankers Association to provide data on investment of idle funds by school districts.

It is hoped that this publication will provide the type of information that every unified school district can use to advantage as they invest their idle funds.

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