

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

{As Amended by House Committee of the Whole}

Session of 2017

HOUSE BILL No. 2419

By Committee on Appropriations

4-4

1 AN ACT concerning state finances; transfers to and expenditures from the
2 budget stabilization fund; ~~{transfers to the Kansas public employees~~
3 ~~retirement fund pooled money investment portfolio;} amending~~
4 K.S.A. ~~2016~~ {2017} Supp. 75-4209 and 75-6706 and repealing the
5 existing ~~section~~ sections.
6

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

8 New Section 1. (a) Commencing with the fiscal year ending June 30,
9 2019, the director of the budget, in consultation with the director of
10 legislative research, shall certify, at the end of each fiscal year, the amount
11 of ~~actual estimated~~ **individual income** tax revenue receipts that is in excess
12 of, or is less than, the average ~~estimated~~ **individual income** tax revenue
13 receipts for the preceding three fiscal years, and shall transmit such
14 certification to the director of accounts and reports. Subject to the
15 provisions of this section, upon receipt of such certification, or as soon
16 thereafter as moneys are available, the director of accounts and reports
17 shall transfer ~~{50% of}~~ such certified excess amount, if any, from the state
18 general fund to the budget stabilization fund established by K.S.A. ~~2016~~
19 {2017} Supp. 75-6706, and amendments thereto, ~~{ and 50% of such~~
20 ~~certified excess amount to the Kansas public employees retirement~~
21 ~~fund to be applied to the payment, in full or in part, of the unfunded~~
22 ~~actuarial pension liability as directed by the Kansas public employees~~
23 ~~retirement system pooled money investment portfolio to pay in full or in~~
24 ~~part the amounts to be transferred pursuant to K.S.A. 75-4209(m)(2) and~~
25 ~~(m)(4), and amendments thereto. Any moneys transferred to the pooled~~
26 ~~money investment portfolio pursuant to this section shall be credited to~~
27 ~~the payment to be made in the current fiscal year, and each next ensuing~~
28 ~~fiscal year thereafter as moneys are available. Upon the payment in full~~
29 ~~of all transfers authorized by K.S.A. 75-4209(m)(2) and (m)(4), and~~
30 ~~amendments thereto, 100% of such certified excess amount, if any, shall~~
31 ~~be transferred from the state general fund to the budget stabilization~~
32 ~~fund}. If such transfer would cause total revenues available to the state~~

1 general fund ~~on July 1 of~~ *for* the current fiscal year to be less than total
 2 revenues ~~on July 1 of~~ *for* the previous fiscal year, then no transfer to the
 3 budget stabilization fund *or pooled money investment portfolio* shall be
 4 made. No transfer shall be made under this section if the amount of ~~actual~~
 5 ~~estimated~~ *individual income* tax revenue receipts is less than the average
 6 ~~estimated~~ *individual income* tax revenue receipts for the preceding three
 7 fiscal years.

8 (b) When determining the amount of ~~actual estimated~~ *individual*
 9 *income* tax revenue receipts for any fiscal year pursuant to this section, the
 10 amount shall be reduced by the amount of the current fiscal year's ~~actual~~
 11 ~~estimated~~ *individual income* tax revenue receipts collected or otherwise
 12 received as a result of any kind of tax increase legislation ~~enacted by the~~
 13 ~~legislature and approved by the governor~~ *passed by the legislature and*
 14 *enacted into law* in the current or preceding fiscal year.

15 (c) Nothing in this section shall require ~~actual estimated~~ *individual*
 16 *income* tax revenue receipts to be transferred to the budget stabilization
 17 fund when the budget stabilization fund balance exceeds 8% of the
 18 preceding fiscal year's state tax receipts.

19 (d) As used in this section:

20 (1) ~~"Actual estimated tax revenue receipts" means receipts received~~
 21 ~~pursuant to K.S.A. 79-32,101(a)(1), and amendments thereto; and~~
 22 *"Individual income tax revenue receipts" means individual estimated*
 23 *tax payments received pursuant to K.S.A. 79-32,101(a)(1), and*
 24 *amendments thereto, and individual tax payments due pursuant to*
 25 *K.S.A. 79-3225, and amendments thereto. Actual individual income tax*
 26 *payments shall not include refunds or withholding taxes pursuant to*
 27 *K.S.A. 79-3294 et seq., and amendments thereto; and*

28 (2) "state tax receipts" means receipts from any state income tax,
 29 sales tax, compensating use tax or other excise tax or tax in the nature of
 30 an excise tax, or estate or inheritance tax, or tax in the nature of an estate
 31 or inheritance tax, but shall not include receipts from any property tax, or
 32 tax in the nature of property tax, or any tax on motor fuels; ~~and~~

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

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

43 (b) ~~On or before the 10th day of each month commencing July 1,~~

1 2017, the director of accounts and reports shall transfer from the state
2 general fund to the budget stabilization fund interest earnings based on:

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

5 (2) ~~the net earnings rate of the pooled money investment portfolio for~~
6 ~~the preceding month.~~

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

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

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

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

23 (d) (1) ~~During the 2016 interim between regular sessions of the~~
24 ~~legislature, The legislative budget committee shall study and review the~~
25 ~~policy concerning the balance of, transfers to and expenditures from the~~
26 ~~budget stabilization fund. The legislative budget committee study and~~
27 ~~review shall include, but not be limited to, the following:~~

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

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

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

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

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

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

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

38 (F) ~~Circumstances under which expenditures may be made from the~~
39 ~~fund.~~

40 (2) ~~The legislative budget committee may make recommendations~~
41 ~~and introduce legislation as it deems necessary to implement such~~
42 ~~recommendations.~~

43 (3) ~~Notwithstanding the provisions of sections 52 and 53 of chapter~~

1 104 of the 2015 Session Laws of Kansas, section 18 of chapter 12 of the
2 2016 Session Laws of Kansas, this or any other appropriation act of the
3 2016 regular session of the legislature, the legislative budget committee
4 may meet not more than 10 days to study and review such policies as
5 determined by the chairperson of the committee.

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

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

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

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

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

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

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

41 *(d) When moneys are available for deposits or investments, the*
42 *director of investments may invest in loans pursuant to legislative*
43 *mandates, except that not more than the greater of 10% or \$140,000,000*

1 *of the state moneys shall be invested. The provisions of this subsection*
2 *shall not apply to the provisions of subsection (m).*

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

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

11 *(g) Investments under subsection (a) or (b) or under K.S.A. 75-*
12 *4237, and amendments thereto, shall be for a period not to exceed four*
13 *years, except that linked deposits authorized under the provisions of*
14 *K.S.A. 2-3703 through 2-3707, and amendments thereto, shall not*
15 *exceed a period of 10 years; agricultural production loan deposits*
16 *authorized under the provisions of K.S.A. 2017 Supp. 75-4268 through*
17 *75-4274, and amendments thereto, shall not exceed a period of eight*
18 *years and housing loan deposits authorized under K.S.A. 2017 Supp. 75-*
19 *4276 through 75-4282, and amendments thereto, shall not exceed a*
20 *period of five years or 20 years, as applicable pursuant to K.S.A. 2017*
21 *Supp. 75-4279, and amendments thereto.*

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

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

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

34 *(k) Moneys and investments in the pooled money investment*
35 *portfolio shall be invested and reinvested by the director of investments*
36 *in accordance with investment policies developed, approved, published*
37 *and updated on an annual basis by the board. Such investment policies*
38 *shall include at a minimum guidelines which identify credit standards,*
39 *eligible instruments, allowable maturity ranges, methods for valuing the*
40 *portfolio, calculating earnings and yields and limits on portfolio*
41 *concentration for each type of investment. Any changes in such*
42 *investment policies shall be approved by the pooled money investment*
43 *board. Such investment policies may specify the contents of reports,*

1 *methods of crediting funds and accounts and other operating*
2 *procedures.*

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

8 *(m) (1) During the fiscal year ending June 30, 2017, the director of*
9 *the budget shall estimate on or before June 27, 2017, the amount of the*
10 *unencumbered ending balance in the state general fund for fiscal year*
11 *2017. If the amount of such unencumbered ending balance in the state*
12 *general fund is less than \$50,000,000, the director of the budget shall*
13 *certify the difference between \$50,000,000, and the amount of such*
14 *unencumbered ending balance to the pooled money investment board.*
15 *Upon the liquidation of all investments and reinvestments of state*
16 *moneys pursuant to K.S.A. 2017 Supp. 75-2263(j), and amendments*
17 *thereto, and upon receipt of such certification by the director of the*
18 *budget, during the fiscal year ending June 30, 2017, the pooled money*
19 *investment board shall authorize the director of accounts and reports to*
20 *transfer an amount equal to the amount certified by the director of the*
21 *budget pursuant to this subsection from the pooled money investment*
22 *portfolio to the state general fund. Upon receipt of such authorization,*
23 *the director of accounts and reports shall make such transfer. The*
24 *chairperson of the pooled money investment board shall transmit a copy*
25 *of such authorization to the director of legislative research and the*
26 *director of the budget.*

27 *(2) On or before June 30, 2019, June 30, 2020, June 30, 2021, June*
28 *30, 2022, June 30, 2023, and June 30, 2024, the director of accounts and*
29 *reports shall transfer an amount equal to 1/6 of the amount transferred*
30 *pursuant to subsection (m)(1) from the state general fund to the pooled*
31 *money investment portfolio. Any transfer made pursuant to this*
32 *paragraph shall be reduced by the amount of moneys credited to any fiscal*
33 *year payment pursuant to section 1, and amendments thereto.*

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

1 **(4) On or before June 30, 2019, June 30, 2020, June 30, 2021, June**
2 **30, 2022, June 30, 2023, and June 30, 2024, the director of accounts and**
3 **reports shall transfer an amount equal to 1/6 of the amount transferred**
4 **pursuant to subsection (m)(3) from the state general fund to the pooled**
5 **money investment portfolio. Any transfer made pursuant to this**
6 **paragraph shall be reduced by the amount of moneys credited to any fiscal**
7 **year payment pursuant to section 1, and amendments thereto.**

8 **{Sec. ~~2~~ 3. K.S.A. 2017 Supp. 75-6706 is hereby amended to read**
9 **as follows: 75-6706. (a) On July 1, 2017, the budget stabilization fund**
10 **is hereby established in the state treasury.**

11 **(b) On or before the 10th day of each month commencing July 1,**
12 **2017, the director of accounts and reports shall transfer from the state**
13 **general fund to the budget stabilization fund interest earnings based**
14 **on:**

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

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

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

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

30 **(2) If a decrease occurs in actual tax revenue receipts to the state**
31 **general fund compared to the estimated tax revenue receipts on which the**
32 **budget was based pursuant to the joint estimate of revenue under K.S.A.**
33 **75-6701, and amendments thereto.**

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

36 **(d) (1) The legislative budget committee shall study and review**
37 **the policy concerning the balance of, transfers to and expenditures**
38 **from the budget stabilization fund. The legislative budget committee**
39 **study and review shall include, but not be limited to, the following:**

40 **(A) Risk-based budget stabilization fund practices utilized in**
41 **other states.**

42 **(B) The appropriate number of years to review the state general**
43 **fund:**

- 1 (i) Revenue variances from projections; and
2 (ii) expenditure variances from budgets.
3 (C) The entity to certify the amount necessary in the budget
4 stabilization fund to maintain the appropriate risk-based balance.
5 (D) Plan to fund the budget stabilization fund.
6 (E) Process and circumstances to reach the appropriate risk-
7 based balance, including the amount of risk that is acceptable.
8 (F) Circumstances under which expenditures may be made from
9 the fund.

10 (2) The legislative budget committee may make recommendations
11 and introduce legislation as it deems necessary to implement such
12 recommendations.

13 ~~(e) On or before August 15, 2019, the director of the budget, in~~
14 ~~consultation with the director of legislative research, shall certify the~~
15 ~~amount of the unencumbered ending balance in the state general fund for~~
16 ~~fiscal year 2019. Upon making such certification, the director of the~~
17 ~~budget shall authorize the director of accounts and reports to transfer 10%~~
18 ~~of such ending balance from the state general fund to the budget~~
19 ~~stabilization fund.}~~

20 Sec. ~~3~~. 4. K.S.A. ~~2016~~ {2017} Supp. 75-4209 and 75-6706 ~~is~~ are
21 hereby repealed.

22 Sec. ~~4~~. 5. This act shall take effect and be in force from and after its
23 publication in the statute book.