

HOUSE Substitute for SENATE BILL No. 387

AN ACT relating to investments of idle funds; concerning the state board of regents; deferred maintenance support funding; authorizing a pilot investment program for investment of the idle funds of a state educational institution; prescribing certain guidelines, powers, duties, functions and limitations therefor; establishing the Kansas housing loan deposit program; amending K.S.A. 2007 Supp. 75-4209 and repealing the existing section.

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

New Section 1. (a) As used in this section:

(1) “Core balance” means the amount of the idle funds of the state educational institution identified by the state educational institution as being legally available for investment for a period of time exceeding a minimum of 12 months; “core balance” shall not include any moneys appropriated from the state general fund;

(2) “state educational institution” means Emporia state university, Fort Hays state university, Pittsburg state university, Kansas state university, Wichita state university or the university of Kansas;

(3) “independent investing entity” means the foundation, corporation or other not-for-profit legal entity created or designated by the state educational institution for the purpose of implementing the pilot investment program approved by the state board of regents; and

(4) “foundation” means the investing agent designated by K.S.A. 76-156a, and amendments thereto.

(b) The state board of regents is hereby authorized to approve a pilot investment program with one state educational institution to provide for the investment of the core balance of that state educational institution’s idle funds, excluding any moneys appropriated from the state general fund.

(c) The state board of regents is authorized to determine, establish and adopt the procedures, standards, and criteria that must be used in conducting the pilot investment program and shall require the state educational institution and its independent investment entity to enter into an agreement that shall be approved by the state board of regents before such agreement is effective and may be implemented.

(d) The pilot investment program approved by the state board of regents shall be subject to the following requirements and limitations:

(1) The core balance of the idle funds for the pilot state educational institution may only be invested according to the terms and limitations established and approved by the state board of regents;

(2) the maximum amount of moneys of the state educational institution that are invested under the pilot investment program established and approved under this section shall not exceed \$40,000,000 at any one time and no moneys appropriated from the state general fund for the state educational institution shall be invested under the pilot investment program;

(3) the core balance of moneys to be invested shall be selected and identified by the state educational institution and shall be approved by the state board of regents and shall be transferred to the independent investment entity;

(4) the investment of the funds under the pilot investment program shall be managed by an independent investment entity that is designated or established by the state educational institution for the purpose of implementing and carrying out the pilot investment program; and

(5) a report on the investment portfolio for the pilot investment program and other pertinent details shall be provided to the state board of regents by the state educational institution and the independent investment entity on a quarterly basis, or whenever the state board of regents requests such a report or other information about the investment program.

(e) The pilot investment program shall last as long as it is determined appropriate or advisable by the state board of regents, except that the pilot program shall not continue for longer than five years and shall end on or before June 30, 2013. The state board of regents may terminate the pilot investment program at any time for any reason, including but not limited to a determination that the program is not providing sufficient returns or that investment losses are deemed excessive.

(f) Net interest earnings shall be remitted by the independent investing entity to the state educational institution for deposit in the state treasury. The entire amount of each such remittance shall be credited to

the deferred maintenance support fund of the state educational institution and shall only be expended for deferred maintenance projects.

(g) If the pilot investment program ends for any reason, the total amount of funds invested under the pilot investment program at that time, and any net earnings thereon, shall be returned to the state educational institution and shall be deposited and accounted for as required by law.

(h) In January of each year, the state board of regents shall provide the legislature with a report on the details and results of the pilot investment program, until the pilot investment program ends or is otherwise concluded.

New Sec. 2. The provisions of sections 2 through 7, and amendments thereto, shall be known and may be cited as the Kansas housing loan deposit program.

New Sec. 3. As used in sections 2 through 7, and amendments thereto:

(a) “Housing loan deposit” means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated with an eligible lending institution for the purpose of carrying out the intent of this act;

(b) “housing loan deposit loan package” means the forms provided by the state treasurer for the purpose of applying for a housing loan deposit;

(c) “eligible lending institution” means a depository bank, as defined under K.S.A. 75-4201, and amendments thereto, that agrees to participate in the Kansas housing loan deposit program and is eligible to be a depository of state funds;

(d) “eligible developer borrower” means any person, firm or corporation building houses; and

(e) “house” means a single-family dwelling that initially sells at or below 350% of the Kansas median household income for the previous year.

New Sec. 4. (a) The state treasurer is hereby authorized to administer the Kansas housing loan deposit program. Such program shall be for the purpose of providing incentives for the making of housing construction development loans. The state treasurer shall promulgate rules and regulations to carry out the provisions of sections 2 through 7, and amendments thereto.

(b) The state treasurer shall submit an annual report outlining the status of the program to the governor and the legislature.

New Sec. 5. (a) The state treasurer is hereby authorized to disseminate information and to provide housing loan deposit loan packages to the lending institutions eligible for participation in this act.

(b) The housing loan deposit loan package shall be completed by the borrower before being forwarded to the lending institution for consideration.

(c) (1) An eligible lending institution that agrees to receive a housing loan deposit shall accept and review applications for loans from eligible developer borrowers. The lending institution shall apply all usual lending standards to determine the credit worthiness of eligible developer borrowers. The total aggregate amount of housing loan deposit loans under this program shall not exceed \$60,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(2) Only one housing loan deposit loan shall be made and be outstanding at any one time to any developer borrower.

(3) No loan shall be amortized for a period of more than five years.

(d) An eligible developer borrower shall certify on its loan application that the reduced rate loan will be used exclusively for the expenses involved in building houses.

(e) The eligible lending institution may approve or reject a housing loan deposit loan package based on the lending institution’s evaluation of the eligible developer borrowers included in the package, the amount of the individual loan in the package and other appropriate considerations.

(f) The eligible lending institution shall forward to the state treasurer, an approved housing loan deposit loan package, in the form and manner prescribed and approved by the state treasurer. The package shall include

information regarding the amount of the loan requested by each eligible developer borrower and such other information regarding each eligible developer borrower the state treasurer requires, including a certification by the applicant that such applicant is an eligible developer borrower.

(g) From July 1, 2008, through July 1, 2011, 50% of the total aggregate amount available under subsection (c)(1), shall be made available for housing loans to eligible developer borrowers building houses in the city of Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha, or Osawatomie, Kansas, or within one mile of the city limits of any such city.

New Sec. 6. (a) The state treasurer may accept or reject a housing loan deposit loan package based on the state treasurer's evaluation of whether the loan to the eligible developer borrower meets the purposes of this act. If sufficient funds are not available for a housing loan deposit, then the applications may be considered in the order received when funds are once again available subject to a review by the lending institution.

(b) Upon acceptance, the state treasurer shall certify to the director of investments the amount required for such housing loan deposit loan package and the director of investments shall place a housing loan deposit in the amount certified by the state treasurer with the eligible lending institution at an interest rate, which is 2% below the market rate provided in K.S.A. 75-4237, and amendments thereto, and which shall be recalculated on the first business day of January and July of each year using the market rate then in effect. When necessary, the state treasurer may request the director of investments to place such housing loan deposit prior to acceptance of a housing loan deposit loan package.

(c) The eligible lending institution shall enter into a housing loan deposit agreement with the state treasurer, which shall include requirements necessary to implement the purposes of the Kansas housing loan deposit program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the housing loan deposit to eligible developer borrowers at an interest rate which is not more than 4% greater than the interest rate on housing loan deposits as provided in subsection (b). Such rate shall be recalculated on the first business day of January and July of each year using the market rate then in effect. The agreement shall include provisions for the housing loan deposit to be placed for a maturity considered appropriate in coordination with the underlying housing loan. The agreement shall include provisions for the reduction of the housing loan deposit in an amount equal to any payment of loan principal by the eligible developer borrower.

New Sec. 7. (a) Upon the placement of a housing loan deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible developer borrower listed in the housing loan deposit loan package in accordance with the housing loan deposit agreement between the institution and the state treasurer. The loan shall be at a rate as provided in section 6, and amendments thereto. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution.

(b) The state treasurer shall take any and all steps necessary to implement the Kansas housing loan deposit program.

New Sec. 8. The state and the state treasurer shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible developer borrower. Any delay in payments or default on the part of an eligible developer borrower does not in any manner affect the housing loan deposit agreement between the eligible lending institution and the state treasurer.

Sec. 9. K.S.A. 2007 Supp. 75-4209 is hereby amended to read as follows: 75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, and amendments thereto, in the following investments:

(1) 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, on and after the effective date of this act moneys available for investment under this subsection shall not be invested in mortgage-backed securities

of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or 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 and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

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

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

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

(d) When moneys are available for deposits or investments, the director of investments may invest in loans pursuant to legislative mandates, except that not more than the lesser of 10% or ~~\$80,000,000~~ \$140,000,000 of the state moneys shall be invested.

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

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

(g) Investments under subsection (a) or (b) or under K.S.A. 75-4237, and amendments thereto, shall be for a period not to exceed four years, except that linked deposits authorized under the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall not exceed a period of 10 years ~~and~~; agricultural production loan deposits authorized under the provisions of K.S.A. 2007 Supp. 75-4268 through 75-4274, and amendments thereto, shall not exceed a period of eight years *and housing loan deposits authorized under sections 2 through 7, and amendments thereto, shall not exceed a period of five years.*

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

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

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

(k) Moneys and investments in the pooled money investment portfolio shall be invested and reinvested by the director of investments in accordance with investment policies developed, approved, published and updated on an annual basis by the board. Such investment policies shall include at a minimum guidelines which identify credit standards, eligible instruments, allowable maturity ranges, methods for valuing the portfolio, calculating earnings and yields and limits on portfolio concentration for each type of investment. Any changes in such investment policies shall be approved by the pooled money investment board. Such investment policies may specify the contents of reports, methods of crediting funds and accounts and other operating procedures.

(l) The board shall adopt rules and regulations to establish an overall percentage limitation on the investment of moneys in investments au-

thorized under paragraph (3) of subsection (a), and within such authorized investment, the board shall establish a percentage limitation on the investment in any single business entity.

Sec. 10. K.S.A. 2007 Supp. 75-4209 is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.