

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 599

AN ACT

To repeal sections 30.260, 30.753, and 30.758, RSMo, and to enact in lieu thereof three new sections relating to investments in linked deposits by the state treasurer.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Section 30.260, 30.753, and 30.758, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 30.260, 30.753, and 30.758, to read as follows:

30.260. 1. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by Section 15, Article IV of the Missouri Constitution. Such asset allocation plan shall also set diversification limits, as applicable, which shall include a restriction limiting the total amount of time deposits of state moneys, not including linked deposits, placed with any one single banking institution to be no greater than ~~[ten]~~ twenty percent of all time deposits of state moneys authorized under the asset allocation plan. The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor and general assembly at the commencement of each regular session of the general assembly or at any time the

written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in Section 15, Article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

(1) The preservation of such state moneys;

(2) The benefits to the economy and welfare of the people of Missouri when such state money is invested in banking institutions in this state that, in turn, provide additional loans and investments in the Missouri economy and generate state taxes from such initial investments and the loans and investments created by the banking institutions, compared to the removal or

withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in Section 15, Article IV of the Missouri Constitution;

(3) The liquidity needs of the state;

(4) The aggregate return in earnings and taxes on the deposits and the investment to be derived therefrom; and

(5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to 30.765.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to 30.860, the rate of interest payable by all banking institutions on time deposits of state moneys shall be set under subdivisions (1) to (5) of this subsection and subsections 6 and 7 of this section. The rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity. The rate of interest payable by all banking institutions on time deposits of state moneys is as follows:

(1) Beginning January 1, 2010, the rate of interest payable by a banking institution on up to seven million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination

of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than seven million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of seven million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(2) Beginning January 1, 2011, the rate of interest payable by a banking institution on up to five million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than five million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of five million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(3) Beginning January 1, 2012, the rate of interest payable by a banking institution on up to three million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking

institution that holds more than three million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of three million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(4) Beginning January 1, 2013, the rate of interest payable by a banking institution on up to one million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than one million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of one million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(5) Beginning January 1, 2014, the rate of interest payable by a banking institution on all time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section.

5. Notwithstanding subdivisions (1) to (5) of subsection 4 of this section, for any new time deposits of state moneys placed after January 1, 2010, with a term longer than eighteen months, the rate of interest payable by a banking institution shall be set at the market rate as determined in subsection 6 of this section.

6. Market rate shall be determined no less frequently than once a month by the director of investments in the office of state treasurer. The process for determining a market rate shall include due consideration of prevailing rates offered for certificates of deposit by well-capitalized Missouri financial institutions, the advance rate established by the Federal Home Loan Bank of Des Moines for member institutions and the costs of collateralization, as well as an evaluation of the credit risk associated with other authorized securities under Section 15, Article IV, of the Missouri Constitution or any other calculation determined by the state treasurer based on current market investment indicators. Banking institutions may also offer a higher rate than the market rate for any time deposit placed with the state treasurer in excess of the total amount of state moneys set at the United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit indicated in subdivisions (1) to (5) of subsection 4 of this section.

7. Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright or by repurchase agreement investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for

such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for cash or other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

8. As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in Section 15, Article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.753. 1. The state treasurer may invest in linked deposits; however, the total amount so deposited at any one time shall not exceed, in the aggregate, [seven hundred twenty] eight hundred million dollars. No more than three hundred thirty million dollars of the aggregate deposit shall be used for linked deposits to eligible farming operations, eligible locally owned businesses, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, and eligible facility borrowers, no more than one hundred [ten] ninety million of the aggregate deposit shall be used for linked deposits to small businesses, no more than twenty million dollars shall be used for linked deposits to eligible multitenant development enterprises, and no more than twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, no more than two hundred twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses and no more than twenty million dollars of the aggregate deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible student borrowers, eligible alternative energy operations, eligible alternative energy consumers, and eligible governmental entities from the aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation, and funds initially allocated to another type are available and not in demand, the state treasurer may commingle allocations among the types of linked deposits.

2. The minimum deposit to be made by the state treasurer to



an eligible lending institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked deposit loans for eligible job enhancement businesses may be made for the purposes of assisting with relocation expenses, working capital, interim construction, inventory, site development, machinery and equipment, or other expenses necessary to create or retain jobs in the recipient firm.

30.758. 1. The state treasurer may accept or reject a linked deposit loan package or any portion thereof.

2. The state treasurer shall make a good faith effort to ensure that the linked deposits are placed with eligible lending institutions to make linked deposit loans to minority- or female-owned eligible multitenant enterprises, eligible farming operations, eligible alternative energy operations, eligible alternative energy consumers, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible governmental entities, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems. Results of such effort shall be included in the linked deposit review committee's annual report to the governor.

3. Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place linked deposits with the eligible lending institution as follows: when market rates are five percent or above, the state treasurer shall reduce the market rate by up to three percentage points to obtain

the linked deposit rate; when market rates are less than five percent, the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit rate. All linked deposit rates are determined and calculated by the state treasurer. When necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan package.

4. The eligible lending institution shall enter into a deposit agreement with the state treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750 to 30.765. The deposit agreement shall specify the length of time for which the lending institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals shall not exceed five years, except as otherwise provided in this chapter. The agreement shall also include provisions for the linked deposit of a linked deposit for an eligible facility borrower, eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, eligible alternative energy consumer, eligible locally owned business, eligible small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or job enhancement business. Interest shall be paid at the times determined by the state treasurer.

5. The period of time for which such linked deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked

deposit is used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive market interest rates on any linked deposit or any portion thereof for any period of time for which there is no corresponding linked deposit loan outstanding to an eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, eligible alternative energy consumer, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, except as otherwise provided in this subsection. Within thirty days after the annual anniversary date of the linked deposit, the eligible lending institution shall repay the state treasurer any linked deposit principal received from borrowers in the previous yearly period and thereafter repay such principal within thirty days of the yearly anniversary date calculated separately for each linked deposit loan, and repaid at the linked deposit rate. Such principal payment shall be accelerated when more than thirty percent of the linked deposit loan is repaid within a single monthly period. Any principal received and not repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving line of credit agreement between the banking institution and its

borrower, the full amount of the line of credit shall be excluded from the repayment provisions of this subsection.

6. The state treasurer shall give priority to maintaining linked deposit agreement renewals over funding new linked deposit applications.