

House Substitute for SENATE BILL No. 36

By Committee on Agriculture and Natural Resources

3-19

1 AN ACT concerning the department of health and environment; creating
2 the local conservation lending program.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

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

6 (1) "Department" means the Kansas department of health and
7 environment.

8 (2) "Eligible borrower" means:

9 (A) Any individual, limited liability agricultural company, limited
10 agricultural partnership or family farm corporation, as defined in K.S.A.
11 17-5903, and amendments thereto, involved in farming or livestock
12 production;

13 (B) a responsible party or an owner of real property, but does not
14 include the state, any state agency, the federal government or any agency
15 of the federal government; or

16 (C) a person who: (i) Is involved in a transaction related to real
17 property; (ii) is not a responsible party or owner of the real property; (iii)
18 voluntarily takes corrective action on the property in response to a request
19 or order for corrective action from the department; and (iv) voluntarily
20 implements an eligible conservation practice.

21 (3) "Eligible financial institution" means a bank or other financial
22 institution or association chartered or incorporated under the laws of this
23 state, or organized under the laws of the United States or another state,
24 which has a main or branch office or chapter in this state that agrees to
25 participate in the Kansas local conservation lending program and is
26 eligible to be a depository of state funds.

27 (4) "Eligible practice" means a conservation practice that prevents or
28 reduces water pollution from nonpoint sources by using the most effective
29 and practicable means of achieving water quality goals. Eligible practices
30 include, but are not limited to, structural and nonstructural controls or
31 systems as identified in the nonpoint source management plan.

32 (5) "Eligible project" means an individual conservation practice or
33 system of conservation practices located within Kansas and identified in
34 the nonpoint source management plan as eligible for a low interest loan
35 through the local conservation lending program.

36 (6) "Linked deposit agreement" means the agreement and associated

1 attachments provided by the secretary to the eligible financial institution
2 for participation in the program.

3 (7) "Project application" means the forms provided by the department
4 for the purpose of determining and certifying eligibility for funding a
5 project through the local conservation lending program.

6 (8) "Secretary" means the secretary of health and environment.

7 (b) There is hereby created a local conservation linked deposit
8 lending program, hereby referred to as the local conservation lending
9 program. The secretary may establish and administer the local
10 conservation lending program to facilitate loans by eligible financial
11 institutions for the construction, design, rehabilitation and enhancement of
12 nonpoint source control systems for public or private owners thereof. The
13 eligible financial institution shall enter into a linked deposit agreement
14 with the secretary, which shall include requirements necessary to
15 implement the purposes of the local conservation lending program.

16 (c) The secretary shall prepare a nonpoint source management plan.
17 The nonpoint source management plan, shall identify eligibility criteria,
18 practices eligible for funding through the local conservation lending
19 program, eligibility criteria for borrowers, eligibility criteria for costs,
20 project completion and certification requirements and process, and
21 establish other program requirements.

22 (d) The secretary shall authorize a linked deposit in the amount
23 certified by the secretary using long-term investment funds available from
24 the Kansas water pollution control revolving fund, K.S.A. 65-3322, and
25 amendments thereto, or from other available sources to the secretary, into
26 eligible financial institutions in the form of low-yielding certificates of
27 deposit or time or demand deposits, or other authorized deposits or
28 investments. If sufficient funds are not available for a linked deposit then
29 the applications may be considered when funds become available at an
30 interest rate identified annually by the secretary in the nonpoint source
31 management plan.

32 (e) The secretary is hereby authorized to disseminate information
33 regarding eligibility for potential participants in this program.

34 (f) The secretary may accept or reject a project application based on
35 the secretary's determination of project eligibility consistent with the
36 eligibility criteria in the nonpoint source management plan. Upon
37 acceptance of a project application, the secretary shall notify the eligible
38 financial institution and borrower of approval.

39 (g) An eligible financial institution that agrees to receive a local
40 conservation loan deposit shall accept and review applications for loans
41 from eligible borrowers. The eligible financial institution shall apply all
42 usual lending standards to determine the credit worthiness of eligible
43 borrowers.

1 (h) The eligible financial institution may approve or reject a loan
2 application based on the financial institution's evaluation of the eligible
3 borrowers included in the application, the amount of the loan in the
4 application and other appropriate considerations.

5 (i) The eligible financial institution shall enter into a local
6 conservation linked deposit participation agreement with the secretary,
7 which shall include requirements necessary to implement the purposes of
8 the Kansas local conservation loan deposit program.

9 (j) The loans authorized by this act shall not be deemed to constitute a
10 debt or liability of the state or the secretary, and shall not constitute a
11 pledge of the full faith and credit of the state, any political subdivision
12 thereof or the secretary. The state, any political subdivision thereof or the
13 secretary shall not, in any event, be liable for the payment of the principal
14 or interest on any such loan made by an eligible financial institution to an
15 eligible borrower. Any delay in payments or default on the part of an
16 eligible borrower does not, in any manner, affect the linked deposit
17 agreement between the eligible financial institution and the secretary.

18 (k) The secretary is hereby authorized to adopt any rules and
19 regulations necessary to carry out the provisions of this section.

20 Sec. 2. This act shall take effect and be in force from and after its
21 publication in the statute book.