

As Engrossed: 2/4/91, 3/13/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 682 OF 1991
SENATE BILL 262

4 **By: Senators Cassady, Bradford, Hardin, Walters, Jewell, and Lewellen**

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For An Act To Be Entitled

8 "AN ACT TO CREATE THE ARKANSAS LINKED DEPOSIT PROGRAM OF
9 1991; TO PROVIDE FOR LEGISLATIVE INTENT AND PURPOSE; TO
10 PROVIDE FOR DEFINITIONS; TO AUTHORIZE THE STATE TREASURER
11 TO USE A CERTAIN PERCENTAGE OF STATE FUNDS FOR THE PLAN;
12 TO AUTHORIZE THE TREASURER TO ENTER INTO AGREEMENTS WITH
13 PARTICIPATING LENDING INSTITUTIONS OF THIS STATE WHEREBY
14 THE STATE MAKES DEPOSITS WITH PARTICIPATING LENDING
15 INSTITUTIONS AT RATES OF INTEREST LOWER THAN THE
16 PREVAILING MARKET RATES OF INTEREST IN RETURN FOR THE
17 COMMITMENT OF THE LENDING INSTITUTION TO LEND EQUAL
18 AMOUNTS OF FUNDS TO ELIGIBLE AGRICULTURAL AND BUSINESS
19 BORROWERS AT SIMILARLY REDUCED RATES OF INTEREST WITH THE
20 OBJECTIVE OF STIMULATING AGRICULTURE AND SMALL BUSINESS
21 AND PRESERVING OR CREATING JOBS FOR ARKANSAS CITIZENS; TO
22 ESTABLISH CRITERIA FOR QUALIFYING FOR SUCH LOW INTEREST
23 LOANS; TO PROVIDE FOR AMOUNTS AND TERMS OF SUCH LOANS; TO
24 PROVIDE FOR THE PRICING OF SUCH LINKED DEPOSITS AND THE
25 LOANS UPON WHICH THEY ARE BASED; TO PROVIDE FOR
26 APPLICATION FORMS AND PROCEDURES FOR SUCH LOANS; AND TO
27 REQUIRE ANNUAL REPORTING BY THE TREASURER TO THE GOVERNOR
28 REGARDING THE PLAN; AND FOR OTHER PURPOSES."

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30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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32 SECTION 1. This act shall be known as, and may be cited as the
33 "Arkansas Linked Deposit Program Act of 1991."

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35 SECTION 2. LEGISLATIVE FINDINGS. The General Assembly hereby finds
36 that it will be beneficial to the State of Arkansas to create a plan for

1 linked deposits in which the State Treasurer is authorized to deposit or
2 invest a portion of the state's portfolio of investments with participating
3 lending institutions in relatively low-yielding deposit accounts, certificates
4 of deposit, or other authorized investments, where such institutions have made
5 commitments to make available lower cost loans on the basis of these linked
6 deposits for qualifying small businesses and agricultural enterprises. The
7 General Assembly further finds that such lower cost loans will result in a
8 significant contribution to the economic and agricultural growth and
9 development of the state, and will assist in maintaining or improving business
10 and agricultural profitability as well as preserving and creating jobs for
11 Arkansas citizens.

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13 SECTION 3. The following terms shall have the definitions ascribed to
14 them, unless the context clearly indicates otherwise:

15 (a) "Act" means the Arkansas Linked Deposit Program Act of 1991.

16 (b) "Treasurer" means the treasurer for the State of Arkansas.

17 (c) "Lending institution" or "eligible lending institution" or "lender"
18 means all banks and savings and loan associations which are authorized
19 depositories of state funds, which agree to participate in the linked deposit
20 program. *For the purposes of this act, an institution of the farm credit*
21 *system organized under the "Farm Credit Act of 1971", as amended, may be*
22 *allowed to participate in the Arkansas Linked Deposit Program.*

23 (d) "Linked deposit" or "linked deposit program" means an agreement
24 between the treasurer and an eligible lending institution whereby a deposit is
25 placed with the institution at a rate of return which is below the current
26 market rate for such a deposit, as determined by the treasurer and approved by
27 the State Board of Finance, provided the institution agrees to lend the
28 equivalent value of such deposit to eligible small businesses and agricultural
29 enterprises at a correspondingly reduced rate of interest.

30 (e) "Eligible agricultural enterprise" means any person, corporation,
31 partnership, or other entity which is engaged in the production of
32 agricultural, livestock, poultry, timber, dairy, or fruit or other
33 horticultural products and which:

34 (1) derives at least 70% of its gross income from such
35 production;

36 (2) is headquartered in Arkansas and operates primarily in

1 Arkansas; and

2 (3) has gross sales which do not exceed \$5,000,000 annually.

3 (f) "Eligible small business" means any person, proprietor,
4 corporation, partnership or other entity which:

5 (1) is headquartered in Arkansas and operates primarily in
6 Arkansas;

7 (2) is organized for profit;

8 (3) has no more than 75 employees at the time it applies for a
9 loan under the Plan;

10 (4) has gross sales which do not exceed \$5,000,000 annually; and

11 (5) demonstrates to the lending institution that a significant
12 number of jobs are sustained or created as a result of the loan.

13 (g) "Program" means the Arkansas Linked Deposit Program.

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15 SECTION 4. The State Treasurer is authorized, effective upon the
16 passage of this act to use up to twenty percent (20%) of the total amount of
17 the treasurer's investment portfolio for the Arkansas Linked Deposit Program.
18 Deposits and investments made by the State Treasurer under the provision of
19 this act and in accordance with the State Treasury Management Law shall not
20 exceed \$50,000,000.

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22 SECTION 5. (a) Pursuant to the program, the maximum loan or loans to
23 each eligible agricultural enterprise shall not exceed the total amount of two
24 hundred and fifty thousand dollars (\$250,000) outstanding at any one (1) time
25 under the provisions of the Arkansas Linked Deposit Program. The proceeds of
26 any such agricultural enterprise loan may be used for either working capital
27 or fixed asset financing.

28 (b) Pursuant to the program, the maximum loan or loans to each eligible
29 small business shall not exceed the total amount of two hundred and fifty
30 thousand dollars (\$250,000) outstanding at any one (1) time under the
31 provisions of the Arkansas Linked Deposit Program. The proceeds of any such
32 business loan may be used for either working capital or fixed asset financing.

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34 SECTION 6. The Treasurer, with the approval of the State Board of
35 Finance, shall determine the rate, term, method, and date of payment of

1 interest on each linked deposit. The Treasurer shall consider all other
2 financial factors in arriving at a rate of interest on the linked deposit.
3 The lending institutions shall have all credit and loan decisions, based on
4 the criteria defined in this act. Loans made by lending institutions pursuant
5 to the act shall be made at a rate of interest which shall reflect the same
6 percentage point reduction established by the State Treasurer, and approved by
7 the State Board of Finance.

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9 SECTION 7. Any agreement entered into between the state and a
10 participating eligible lending institution pursuant to the Plan established by
11 this act shall be in writing and shall include specifically all terms,
12 conditions and requirements of this act.

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14 SECTION 8. The Treasurer shall establish procedures and other
15 requirements for participation in the plan, and shall provide simplified rules
16 and supplemental loan application forms to the participating lending
17 institutions for linked deposit loans. Such forms shall reflect the specific
18 requests for information required by this act for eligible agricultural and
19 small business loans, respectively. Upon completion of any application for a
20 loan pursuant to the act, the lender shall send the supplemental loan
21 application form to the State Treasurer to effectuate the deposit or
22 investment of state treasury funds with the lending institution.

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24 SECTION 9. The Treasurer shall prepare an annual report to the
25 Governor, not later than October 1 following the close of the state fiscal
26 year, outlining the activities during the previous year, the results of the
27 act in terms of benefits, and a summary of findings based on the Treasurer's
28 monitoring of the plan.

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30 SECTION 10. The State Treasurer, with the approval of the State Board
31 of Finance, is authorized to promulgate rules and regulations with respect to
32 its powers and duties pursuant to this act and the rights and obligations of
33 participating lending institutions pursuant to this act.

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35 SECTION 11. If, for any reason, any section or provision of this act

1 shall be held to be unconstitutional or invalid for any reason, such holding
2 shall not affect the remainder of this act, but this act, insofar as it is not
3 in conflict with the Constitution of this State or the Constitution of the
4 United States, shall be permitted to stand, and the various provisions of the
5 act are hereby declared to be severable for that purpose.

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7 SECTION 12. (a) This act shall be liberally construed to accomplish
8 the purposes thereof.

9 (b) This act shall be interpreted to supplement existing laws
10 conferring rights and powers upon the State Treasurer.

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12 SECTION 13. All provisions of this act of a general and permanent
13 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
14 Code Revision Commission shall incorporate the same in the Code.

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16 SECTION 14. If any provision of this act or the application thereof to
17 any person or circumstance is held invalid, such invalidity shall not affect
18 other provisions or applications of the act which can be given effect without
19 the invalid provision or application, and to this end the provisions of this
20 act are declared to be severable.

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22 SECTION 15. All laws and parts of laws in conflict with this act are
23 hereby repealed.

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25 SECTION 16. EMERGENCY CLAUSE. It has been found and it is hereby
26 declared by the General Assembly that there is an immediate need to stimulate
27 the development of lending programs for eligible small businesses and eligible
28 agricultural enterprises to assist the goals and aspirations of the State's
29 inhabitants, and other essential purposes. For these reasons, it is declared
30 necessary for the preservation of the public peace, health, and safety that
31 this act become effective without delay. It is therefore, declared that an
32 emergency exists, and this act shall take effect on July 1, 1991.

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/s/Cassady, et al

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APPROVED: 3-21-91