ENROLLED HOUSE
BILL NO. 2798

By: Askins, Widener, Toure, Deutschendorf, Ervin, Blackburn and Culver of the House

and

Hobson and Stipe of the Senate

An Act relating to public finance; amending 62 O.S. 1991, Section 88.5, as amended by Section 3, Chapter 88, O.S.L. 1995 (62 O.S. Supp. 1995, Section 88.5), which relates to the Small Business Linked Deposit Act; authorizing approval of certain increases by Oklahoma Linked Deposit Review Board; prescribing conditions related thereto; modifying provisions related to meetings of the Oklahoma Linked Deposit Review Board; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 1991, Section 88.5, as amended by Section 3, Chapter 88, O.S.L. 1995 (62 O.S. Supp. 1995, Section 88.5), is amended to read as follows:

Section 88.5 A. The State Treasurer and the Department of Commerce are hereby authorized to disseminate information and to provide small business linked deposit loan packages to the lending institutions eligible for participation under this act.

B. The small business linked deposit loan package shall be completed by the borrower before being forwarded to the lending institution for consideration. Any technical assistance in completing such loan package shall be provided by the State Treasurer.

C. An eligible lending institution that desires to receive a small business linked deposit shall accept and review applications for loans from eligible participants. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible participant. Loans under this act shall conform to the following conditions:

1. Maximum loan amounts under the Oklahoma Small Business Linked Deposit Act shall:

a. not exceed One Million Dollars ($1,000,000.00) for an eligible small business,

b. not exceed Six Million Dollars ($6,000,000.00) for an eligible industrial park or any public trust authorized in accordance with Section 176 of Title 60 of the Oklahoma Statutes engaged in industrial development as determined by the Oklahoma Linked Deposit Review Board. Such public trusts are limited

to fifteen percent (15%) of the total available funds and a nonrenewable term not to exceed six (6) months unless their purpose is to make package passthrough loans to other private recipients for industrial development purposes. Loans made by an eligible trust cannot exceed the interest rate established by this act. Any recipient of a loan through an eligible trust must meet the criteria of this act to receive a small business linked deposit loan;

2. An eligible participant shall certify on the loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in accordance with the purpose of this section;

3. Only one linked deposit loan shall be made and be outstanding at any time to any eligible participant; provided that the linked deposit loan may be refinanced;

4. No linked deposit loan shall be approved for any otherwise eligible participant when fifty percent (50%) or more of the interest in or control of such otherwise eligible participant is owned directly or indirectly by a person who owns directly or indirectly fifty percent (50%) or more of or controls another participating eligible participant;

5. No loan shall be made to any officer or director of the lending institution making the loan or to any entity in which any such officer or director maintains a controlling interest;

6. No loan shall be made to any employee of the State Treasurer's office or members of the Board or to any entity in which any such officer or director maintains a controlling interest;

7. The criteria for the amount of loans used for refinance shall be established by the Oklahoma Linked Deposit Review Board to reflect legislative intent to tighten previous criteria on refinancing;

8. The criteria for the amount of loans per job ratio shall be established by the Oklahoma Linked Deposit Review Board to reflect legislative intent to maximize the program in terms of the jobs created or saved;

9. Whoever knowingly makes a false statement concerning a linked deposit loan application shall be prohibited from entering into the linked deposit loan program; and

10. Linked deposits may be made for any maturity considered appropriate by the State Treasurer not to exceed two (2) years and may be renewed for up to an additional three renewals not to exceed two (2) years each at the discretion of the State Treasurer with the approval of the lending institution. No renewals will be allowed unless the amount of principal has been reduced by a minimum of five percent (5%) and all interest paid to date from the time of the prior loan or renewal. However, ~~such~~ at renewal the Oklahoma Linked Deposit Review Board may approve an increase in the amount of principal, if the business is expanding and additional jobs will be created. An approval of such an increase in principal will not extend the maximum years of participation in the program. In addition, loans made to eligible participants where the loan is to be used within an enterprise zone may be made for the maturity date of three (3) years and have another three (3) years of renewal. Loans made to be used within Priority Enterprise Zones may be made with a maturity date of five (5) years and have another three (3) years of renewal. Interest shall be paid at the times determined by the State Treasurer. The State Treasurer may place a small business linked deposit with an eligible lending institution or decline to do so based on the cash flow needs of the state, the security of state

funds, investment needs of the state and the ratio of state funds deposited to jobs which would be sustained or created.

D. In considering which eligible participants to include in the small business linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the business is located and other factors it considers appropriate to determine the relative financial need of the business including those criteria set forth in the Community Reinvestment Act of the United States. Location in an enterprise zone shall be evidence of the economic needs of the area.

E. The eligible lending institution shall forward to the State Treasurer a small business linked 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 participant, the number of jobs to be created or sustained, an estimate of the number of zone residents to be employed in such jobs where the loan is to be used in an enterprise zone and such other information regarding each business the State Treasurer and the Board requires. The institution shall certify that each applicant is an eligible participant, and shall, for each business, certify the present borrowing rate applicable to each specific eligible small business.

F. Upon receipt of a completed small business linked deposit loan package, the State Treasurer shall forward the loan package to the Board, Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall review the small business linked deposit loan package to determine if said package is qualified under this act. Within ten (10) days of receipt of the loan package, the Oklahoma Tax Commission and the Oklahoma Employment Security Commission shall determine and certify with the Board whether or not the applicant is in good standing. The Board shall make a recommendation concerning the package ~~within ten (10) business days~~ at the next regularly scheduled Board meeting or at a special Board meeting, after receipt of the responses from the Oklahoma Tax Commission and the Oklahoma Employment Security Commission. No applicant will be approved without certification of good standing with the Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall return the package to the State Treasurer with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendation shall include reasons for said rejection. The Board shall forward a copy of its rejection notice to the lending institution and the borrower. The State Treasurer shall keep a chronological list of applications forwarded by the Board for approval or rejection.

SECTION 2. This act shall become effective July 1, 1996.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of February, 1996.

Speaker of the House of Representatives

Passed the Senate the 8th day of April, 1996.

President of the Senate