

**As Passed by the House**

**133rd General Assembly**

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**H. B. No. 405**

**Representative Cross**

**Cosponsors: Representatives Manchester, Riedel, Scherer, Stoltzfus, Jones, Wilkin, Baldridge, Edwards, Callender, Hoops, Abrams, LaRe, Seitz, Stein, Swearingen, Ghanbari, Koehler, Hillyer, Wiggam, Hambley, Smith, T., Brent, Carfagna, Clites, Fraizer, Galonski, Ginter, Green, Greenspan, Hicks-Hudson, Howse, Keller, Kick, Lanese, Leland, Lepore-Hagan, Lightbody, Liston, McClain, Miller, J., O'Brien, Patterson, Perales, Plummer, Reineke, Richardson, Robinson, Roemer, Rogers, Romanchuk, Russo, Sheehy, Sobecki, Stephens, Strahorn, Sykes, Upchurch, Weinstein, West**

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**A BILL**

To amend sections 135.63, 135.78, 1733.04, and 1  
1733.24 and to enact sections 135.79, 135.791, 2  
135.792, 135.793, 135.794, 135.795, and 135.796 3  
of the Revised Code to create the adoption 4  
linked deposit program. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 135.63, 135.78, 1733.04, and 6  
1733.24 be amended and sections 135.79, 135.791, 135.792, 7  
135.793, 135.794, 135.795, and 135.796 of the Revised Code be 8  
enacted to read as follows: 9

**Sec. 135.63.** The treasurer of state may invest in linked 10  
deposits under sections 135.61 to 135.67, short-term installment 11  
loan linked deposits under sections 135.68 to 135.70, 12  
agricultural linked deposits under sections 135.71 to 135.76, 13

business linked deposits under sections 135.77 to 135.774, 14  
adoption linked deposits under sections 135.79 to 135.796, 15  
housing linked deposits under sections 135.81 to 135.87, 16  
assistive technology device linked deposits under sections 17  
135.91 to 135.97, and SaveNOW linked deposits under sections 18  
135.101 to 135.106 of the Revised Code, provided that at the 19  
time of placement of any such linked deposit the combined amount 20  
of investments in all such linked deposits is not more than 21  
twelve per cent of the state's total average investment 22  
portfolio as determined by the treasurer of state. When deciding 23  
whether to invest in any such linked deposits, the treasurer of 24  
state shall give priority to the investment, liquidity, and cash 25  
flow needs of the state. 26

**Sec. 135.78.** (A) As used in this section: 27

(1) "Eligible lending institution" means an eligible 28  
lending institution as defined in section 135.61, 135.68, 29  
135.71, ~~or~~ 135.77, or 135.79 of the Revised Code, as applicable. 30

(2) "Prevailing interest rate" means a current interest 31  
rate benchmark selected by the treasurer of state that banks are 32  
willing to pay to hold deposits for a specific time period, as 33  
measured by a third-party organization. 34

(3) "Treasurer's assessment rate" means a number not 35  
exceeding ten per cent that is calculated in a manner determined 36  
by the treasurer of state and that seeks to account for the 37  
effect that varying tax treatment among different types of 38  
financial institutions has on the ability of financial 39  
institutions to pay competitive interest rates to hold deposits. 40

(B) The treasurer of state shall, in accordance with 41  
Chapter 111. of the Revised Code, adopt rules addressing the 42

participation of eligible lending institutions in the 43  
agricultural linked deposit program under sections 135.71 to 44  
135.76 of the Revised Code ~~and,~~ the business linked deposit 45  
program under sections 135.77 to 135.774 of the Revised Code, 46  
and the adoption linked deposit program under sections 135.79 to 47  
135.796 of the Ohio Revised Code, including, but not limited to, 48  
the manner in which an eligible lending institution is 49  
designated and the linked deposits are placed, held, and 50  
collateralized. Participation of eligible lending institutions 51  
in those linked deposit programs shall not begin until these 52  
rules have been adopted. 53

(C) Notwithstanding any provision of law to the contrary, 54  
the treasurer of state may require an eligible lending 55  
institution that holds public deposits under sections 135.61 to 56  
135.67, 135.68 to 135.70, 135.71 to 135.76, ~~or~~ 135.77 to 57  
135.774, or 135.79 to 135.796 of the Revised Code, and any 58  
institution mentioned in section 135.03 of the Revised Code that 59  
holds public deposits under sections 135.71 to 135.76 of the 60  
Revised Code, to pay interest at a rate not lower than the 61  
product of the prevailing interest rate multiplied by the sum of 62  
one plus the treasurer's assessment rate. The treasurer may 63  
adopt rules necessary for the implementation of this division. 64  
The rules shall be adopted in accordance with Chapter 119. of 65  
the Revised Code. 66

Sec. 135.79. As used in sections 135.79 to 135.796 of the 67  
Revised Code: 68

(A) "Eligible borrower" means an individual who is a 69  
resident of this state and to whom either of the following 70  
applies: 71

(1) The individual completes a home study pursuant to 72

section 3107.031 of the Revised Code and is approved. 73

(2) The individual is pursuing an adoption through the 74  
public foster care system and meets the requirements set by the 75  
department of job and family services. 76

(B) "Eligible lending institution" means a financial 77  
institution that may make secured or unsecured personal loans, 78  
agrees to participate in the adoption linked deposit program, 79  
and is either of the following: 80

(1) A public depository of state funds under section 81  
135.03 of the Revised Code; 82

(2) Notwithstanding sections 135.01 to 135.21 of the 83  
Revised Code, a federal credit union, a foreign credit union 84  
licensed pursuant to section 1733.39 of the Revised Code, or a 85  
credit union as defined in section 1733.01 of the Revised Code, 86  
located in this state. 87

(C) "Adoption linked deposit" means a certificate of 88  
deposit or other financial institution instrument placed by the 89  
treasurer of state with an eligible lending institution at a 90  
rate below current market rate, as determined and calculated by 91  
the treasurer of state, provided the institution agrees to lend 92  
the value of such deposit or instrument, according to the 93  
agreement provided in division (C) of section 135.793 of the 94  
Revised Code, to eligible borrowers at a rate that reflects an 95  
equal percentage rate reduction below the present borrowing rate 96  
applicable to each specific borrower at the time of the 97  
placement of state funds in the institution. 98

(D) "Other financial institution instrument" means a fully 99  
collateralized product that otherwise would pay market rates of 100  
interest approved by the treasurer of state. 101

(E) "Loan" means a contractual agreement under which an 102  
eligible lending institution agrees to lend money to an eligible 103  
borrower in the form of an upfront lump sum, a line of credit, 104  
or any other reasonable arrangement approved by the treasurer of 105  
state. 106

(F) "Qualifying adoption expense" means any expense 107  
incurred to legally adopt a child as described in division (C) 108  
of section 3107.055 of the Revised Code, including any costs 109  
incurred by the eligible borrower proximately relating to the 110  
completion and approval of the home study under section 3107.031 111  
of the Revised Code, and any other expense as determined by the 112  
treasurer of state. 113

**Sec. 135.791.** The general assembly finds that the 114  
financial costs of adoption in this state have grown and the 115  
growth has placed a substantial financial burden on families 116  
seeking to adopt in this state. Accordingly, it is declared to 117  
be the public policy of the state through the adoption linked 118  
deposit program to create an availability of lower-cost loans to 119  
reduce the financial burdens of adoption and to strengthen 120  
families in this state. 121

**Sec. 135.792.** (A) An eligible lending institution that 122  
desires to receive an adoption linked deposit shall accept and 123  
review applications for loans to eligible borrowers. The lending 124  
institution shall apply all usual lending standards to determine 125  
the credit worthiness of each eligible borrower. 126

(B) (1) An eligible borrower shall certify on the 127  
borrower's loan application that the reduced rate loan will be 128  
used exclusively to pay for qualifying adoption expenses. 129

(2) Whoever knowingly makes a false statement concerning 130

such application is guilty of the offense of falsification under 131  
section 2921.13 of the Revised Code. 132

(C) The eligible lending institution shall do all of the 133  
following: 134

(1) Forward to the treasurer of state an adoption linked 135  
deposit loan package, in the form and manner prescribed by the 136  
treasurer of state. The package shall include information as 137  
required by the treasurer of state, including the amount of the 138  
loan requested. 139

(2) Certify that each applicant is an eligible borrower, 140  
and shall, for each borrower, certify the present borrowing rate 141  
applicable to each specific eligible borrower; 142

(3) Certify that the eligible lending institution applied 143  
all of its usual lending standards to determine the credit 144  
worthiness of each eligible borrower. 145

**Sec. 135.793.** (A) The treasurer of state may accept or 146  
reject an adoption linked deposit loan package or any portion 147  
thereof, based on the treasurer's evaluation of the eligible 148  
borrower included in the package and the amount of state funds 149  
to be placed with an eligible lending institution. 150

(B) Upon acceptance of the adoption linked deposit loan 151  
package or any portion thereof, the treasurer of state may place 152  
certificates of deposit or other financial institution 153  
instruments with the eligible lending institution at a rate 154  
below current market rates, as determined and calculated by the 155  
treasurer of state. When necessary, the treasurer of state may 156  
place certificates of deposit or other financial institution 157  
instruments prior to acceptance of an adoption linked deposit 158  
loan package. 159

(C) (1) The eligible lending institution shall enter into a 160  
deposit agreement with the treasurer of state, which shall 161  
include requirements necessary to carry out the purpose of 162  
sections 135.79 to 135.796 of the Revised Code. Such 163  
requirements shall reflect the market conditions prevailing in 164  
the eligible lending institution's lending area. 165

(2) The agreement under division (C) (1) of this section 166  
may include a specification of the period of time in which the 167  
lending institution is to lend funds upon the placement of an 168  
adoption linked deposit, and shall include provisions for the 169  
certificates of deposit or other financial institution 170  
instruments to be placed for any maturity considered appropriate 171  
by the treasurer of state not to exceed five years, and may be 172  
renewed for up to an additional five years at the option of the 173  
treasurer of state. Interest shall be paid at the times 174  
determined by the treasurer of state. 175

(D) Eligible lending institutions shall comply fully with 176  
Chapter 135. of the Revised Code. 177

**Sec. 135.794.** (A) Upon the placement of an adoption linked 178  
deposit with an eligible lending institution, such institution 179  
is required to lend such funds to each approved eligible 180  
borrower listed in the adoption linked deposit loan package 181  
required by division (C) of section 135.792 of the Revised Code 182  
and in accordance with the deposit agreement required by 183  
division (C) of section 135.793 of the Revised Code. The loan 184  
shall be at a rate that reflects a percentage rate reduction 185  
below the present borrowing rate applicable to each borrower 186  
that is equal to or greater than the percentage rate reduction 187  
below market rates at which the certificates of deposit or other 188  
financial institution instruments that constitute the adoption 189

linked deposit were placed. A certification of compliance with 190  
this section in the form and manner as prescribed by the 191  
treasurer of state shall be required of the eligible lending 192  
institution. 193

(B) The treasurer of state shall take any and all steps 194  
necessary to implement the adoption linked deposit program and 195  
monitor compliance of eligible lending institutions and eligible 196  
borrowers, including the development of guidelines as necessary. 197

(C) Annually, by the first day of February, the treasurer 198  
of state shall report on the adoption linked deposit program for 199  
the preceding calendar year to the governor, the speaker of the 200  
house of representative, and the president of the senate. The 201  
report shall set forth the adoption linked deposits made by the 202  
treasurer of state under the program during the year and shall 203  
include information regarding the nature, terms, and amounts of 204  
the loans upon which the adoption linked deposits were based and 205  
the eligible borrowers to which the loans were made. 206

**Sec. 135.795.** The treasurer of state may adopt rules 207  
necessary for the implementation and administration of sections 208  
135.79 to 135.796 of the Revised Code. Such rules shall be 209  
adopted in accordance with section 111.15 of the Revised Code. 210

**Sec. 135.796.** The state and treasurer of state are not 211  
liable to any eligible lending institution in any manner for 212  
payment of the principle or interest on the loan to an eligible 213  
borrower. Any delay in payments or default on the part of an 214  
eligible borrower shall not in any manner affect the agreement 215  
between the eligible lending institution and the treasurer of 216  
state. 217

**Sec. 1733.04.** (A) In addition to the authority conferred 218



by section 1701.13 of the Revised Code, but subject to any 219  
limitations contained in sections 1733.01 to 1733.45 of the 220  
Revised Code, and its articles and regulations, a credit union 221  
may do any of the following: 222

(1) Make loans as provided in section 1733.25 of the 223  
Revised Code; 224

(2) Invest its money as provided in section 1733.30 of the 225  
Revised Code; 226

(3) If authorized by the code of regulations, rebate to 227  
the borrowing members a portion of the member's interest paid to 228  
the credit union; 229

(4) If authorized by the regulations, charge a membership 230  
or entrance fee; 231

(5) Purchase group savings life insurance and group credit 232  
life insurance; 233

(6) Make reasonable contributions to any nonprofit civic, 234  
charitable, or service organizations; 235

(7) Act as trustee or custodian, for which reasonable 236  
compensation may be received, under any written trust instrument 237  
or custodial agreement created or organized in the United States 238  
and forming part of a tax-advantaged savings plan that qualifies 239  
for specific tax treatment under sections 223, 401(d), 408, 240  
408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 241  
401(d), 408, 408A, and 530, as amended, for its members or 242  
groups of its members, provided that the funds of such plans are 243  
invested in share accounts or share certificate accounts of the 244  
credit union. These services include, but are not limited to, 245  
acting as a trustee or custodian for member retirement, 246  
education, or health savings accounts. 247

(8) Participate in and pledge assets in connection with 248  
the business linked deposit program under sections 135.77 to 249  
135.774 of the Revised Code ~~and,~~ the agricultural linked deposit 250  
program under sections 135.71 to 135.76 of the Revised Code, and 251  
the adoption linked deposit program under sections 135.79 to 252  
135.796 of the Revised Code. 253

(B) The authority of a credit union shall be subject to 254  
the following: 255

(1) A credit union may not borrow money in excess of 256  
twenty-five per cent of its shares and undivided earnings, 257  
without prior specific authorization by the superintendent of 258  
credit unions. 259

(2) A credit union may not pay a commission or other 260  
compensation to any person for securing members or for the sale 261  
of its shares, except that reasonable incentives may be made 262  
available directly to members or potential members to promote 263  
thrift. 264

(C) (1) A credit union may have service facilities other 265  
than its home office. 266

(2) Real estate may be acquired by lease, purchase, or 267  
otherwise as necessary and to the extent required for use of the 268  
credit union presently and in the future operation of its office 269  
or headquarters, and in case of a purchase of real estate, the 270  
superintendent must first be notified in writing prior to the 271  
purchase of the real estate. Nothing herein contained shall be 272  
deemed to prohibit a credit union from taking title to real 273  
estate in connection with a default in the payment of a loan, 274  
provided that title to such real estate shall not be held by the 275  
credit union for more than two years without the prior written 276

approval of the superintendent. A credit union also may lease 277  
space in any real estate it acquires in accordance with rules 278  
adopted by the superintendent. 279

(D) (1) As used in division (D) of this section: 280

(a) "School" means an elementary or secondary school. 281

(b) "Student" means a child enrolled in a school. 282

(c) "Student branch" means the designation provided to the 283  
credit union for the in-school services and financial education 284  
offered to students. 285

(2) A credit union, upon agreement with a school board, in 286  
the case of a public school, or the governing authority, in the 287  
case of a nonpublic school, and with the permission of the 288  
superintendent, may open and maintain a student branch. 289

(3) Notwithstanding any other provision of this section, 290  
any student enrolled in the school maintaining a student branch 291  
who is not otherwise qualified for membership in the credit 292  
union maintaining the student branch is qualified to be a member 293  
of that student branch. 294

(4) The student's membership in the student branch expires 295  
upon the student's graduation from secondary school. 296

(5) The student branch is for the express use of students 297  
and may not be used by faculty, staff, or lineal ancestors or 298  
descendents of students. 299

(6) Faculty, staff, or lineal ancestors or descendents of 300  
students are not eligible for membership in the credit union 301  
maintaining the student branch unless otherwise qualified by 302  
this section to be members. 303

(7) The superintendent may adopt rules appropriate to the 304  
formation and operation of student branches. 305

(E) A credit union may guarantee the signature of a member 306  
in connection with a transaction involving tangible or 307  
intangible property in which a member has or seeks to acquire an 308  
interest. 309

**Sec. 1733.24.** (A) A credit union is authorized to receive 310  
funds for deposit in share accounts, share draft accounts, and 311  
share certificates from its members, from other credit unions, 312  
and from an officer, employee, or agent of the federal, state, 313  
or local governments, or political subdivisions of the state, in 314  
accordance with such terms, rates, and conditions as may be 315  
established by its board of directors, and for purposes of the 316  
agricultural linked deposit program created under sections 317  
135.71 to 135.76 of the Revised Code ~~and~~, the business linked 318  
deposit program created under sections 135.77 to 135.774 of the 319  
Revised Code, and the adoption linked deposit program under 320  
sections 135.79 to 135.796 of the Revised Code. 321

(B) The shares and share accounts of the credit union may 322  
be of one or more classes, as designated by the board of 323  
directors, subject to approval of the superintendent of credit 324  
unions based on rules that shall assure equitable distribution 325  
of dividends among classes, considering costs and advantages of 326  
each class to the members of the credit union, including without 327  
limitation special services rendered, length of ownership, 328  
minimum investment, conditions of repurchase, and other 329  
appropriate standards or combinations thereof. In the event the 330  
articles of incorporation of the credit union indicate the 331  
authorized number of shares to be unlimited, the designation of 332  
classification of shares and share accounts of the credit union 333

may be effected by the board of directors, subject to the 334  
approval of the superintendent, and does not require amendment 335  
of the articles of incorporation. All shares of the credit union 336  
shall have a par value per share as set by the board of 337  
directors. Redemptions and liquidating dividends shall be 338  
prorated to each member on the basis of the price paid the 339  
credit union for such share, irrespective of the class of such 340  
shares. 341

(C) (1) Each credit union shall have one class of shares 342  
designated as "membership share." The membership shares, or if a 343  
credit union has but one class of shares, then all of the shares 344  
of the credit union, shall have a par value as set by the board 345  
of directors. 346

(2) Two or more persons that are eligible for membership 347  
that have jointly subscribed for one or more shares under a 348  
joint account each may be admitted to membership. 349

(D) A credit union need not issue certificates for any or 350  
all of its classes of shares but irrespective of whether 351  
certificates are issued, a registry of shares must be kept, 352  
including all of the transactions of the credit union pertaining 353  
to such shares. 354

(E) A credit union is authorized to maintain share draft 355  
accounts in accordance with rules prescribed by the 356  
superintendent. The credit union may pay dividends on share 357  
draft accounts, may pay dividends at different rates on 358  
different types of share draft accounts, and may permit the 359  
owners of such share draft accounts to make withdrawals by 360  
negotiable or transferable instruments or other orders for the 361  
purpose of making transfers to third parties. 362

(F) Unless otherwise provided by written agreement of the 363  
parties, the rights, responsibilities, and liabilities attaching 364  
to a share draft withdrawn from, transferred to, or otherwise 365  
handled by a credit union are defined in and governed by 366  
Chapters 1303. and 1304. of the Revised Code, as if the credit 367  
union were a bank. 368

(G) Unless otherwise provided in the articles or 369  
regulations, a member may designate any person or persons to own 370  
or hold shares, or share accounts with the member in joint 371  
tenancy with right of survivorship and not as tenants in common. 372

(H) Shares or share accounts may be issued in the name of 373  
a custodian under the Ohio transfers to minors act, a member in 374  
trust for a beneficiary, a fiduciary or custodian in trust for a 375  
member beneficiary, or a fiduciary or custodian in trust upon 376  
the death of a member. Redemption of such shares or payment of 377  
such share accounts to a member, to the extent of the payment, 378  
discharges the liability of the credit union to the member and 379  
the beneficiary, and the credit union shall be under no 380  
obligation to see to the application of the payment. Unless 381  
prior to the death of a member, the member has notified the 382  
credit union in writing in a form approved by the credit union 383  
of a different beneficiary to receive the proceeds of such 384  
shares or share accounts, then the proceeds shall be paid to the 385  
beneficiary or to the beneficiary's parent or legal 386  
representative. Any payment made pursuant to written 387  
instructions of the member or pursuant to the provisions herein 388  
contained shall be a valid and sufficient release and discharge 389  
of the credit union in connection with any such share or share 390  
accounts. 391

(I) (1) Except as otherwise provided in the articles or 392

regulations, and subject to the provisions thereof, a minor may 393  
purchase shares, share accounts, or other depository 394  
instruments, and except for qualification as a voting member, 395  
the credit union may deal with the minor with respect to shares, 396  
share accounts, or other depository instruments owned by the 397  
minor as if the minor were a person of legal age. 398

(2) If shares, share accounts, or other depository 399  
instruments are issued in the name of a minor, redemption of any 400  
part or all of the shares or withdrawal of funds by payment to 401  
the minor of the shares or funds and any declared dividends or 402  
interest releases the credit union from all obligation to the 403  
minor as to the shares reduced or funds withdrawn. 404

(J) The regulations may require advance written notice of 405  
a member's intention to withdraw the member's shares. Such 406  
advance notice shall not exceed sixty days. 407

(K) Notwithstanding any provision of law to the contrary, 408  
funds deposited in a share account, share certificate, or in any 409  
other manner pursuant to a program offered by a credit union to 410  
promote consumer savings do not constitute valuable 411  
consideration for purposes of a scheme of chance under Chapter 412  
2915. of the Revised Code. 413

**Section 2.** That existing sections 135.63, 135.78, 1733.04, 414  
and 1733.24 of the Revised Code are hereby repealed. 415