

As Passed by the House

134th General Assembly

Regular Session

2021-2022

Am. H. B. No. 440

Representatives Swearingen, White

Cosponsors: Representatives Johnson, Seitz, Cross, Riedel, Plummer, Click, Roemer, Abrams, Baldrige, Bird, Blackshear, Boyd, Brent, Brown, Carruthers, Creech, Crossman, Cutrona, Edwards, Fraizer, Galonski, Ghanbari, Ginter, Grendell, Gross, Hall, Hoops, Jarrells, John, Jones, Jordan, Kelly, Kick, Koehler, LaRe, Leland, Lightbody, Liston, Loychik, Manning, Miller, A., Miller, J., Miller, K., O'Brien, Oelslager, Richardson, Schmidt, Sheehy, Skindell, Stein, Stewart, Sweeney, West, Young, B., Young, T., Speaker Cupp

A BILL

To amend sections 135.143, 135.71, 135.73, and 1
135.82 and to repeal sections 135.631 and 2
135.731 of the Revised Code to expand the 3
Agricultural Linked Deposit Program and the 4
types of obligations in which the Treasurer of 5
State may invest interim funds, and to declare 6
an emergency. 7

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

Section 1. That sections 135.143, 135.71, 135.73, and 8
135.82 of the Revised Code be amended to read as follows: 9

Sec. 135.143. (A) The treasurer of state may invest or 10
execute transactions for any part or all of the interim funds of 11
the state in the following classifications of obligations: 12

(1) United States treasury bills, notes, bonds, or any 13
other obligations or securities issued by the United States 14

treasury or any other obligation guaranteed as to principal and 15
interest by the United States; 16

(2) Bonds, notes, debentures, or any other obligations or 17
securities issued by any federal government agency or 18
instrumentality; 19

(3) (a) Bonds, notes, and other obligations of the state of 20
Ohio, including, but not limited to, any obligations issued by 21
the treasurer of state, the Ohio public facilities commission, 22
the Ohio building authority, the Ohio housing finance agency, 23
the Ohio water development authority, ~~and~~ the Ohio turnpike 24
infrastructure commission, the Ohio higher educational facility 25
commission, and state institutions of higher education as 26
defined in section 3345.011 of the Revised Code; 27

(b) Bonds, notes, and other obligations of any state or 28
political subdivision thereof rated in the three highest 29
categories by at least one nationally recognized standard rating 30
service and purchased through a registered securities broker or 31
dealer, provided the treasurer of state is not the sole 32
purchaser of the bonds, notes, or other obligations at original 33
issuance. 34

(4) (a) Written repurchase agreements with any eligible 35
Ohio financial institution that is a member of the federal 36
reserve system or federal home loan bank, or any registered 37
United States government securities dealer, under the terms of 38
which agreement the treasurer of state purchases and the 39
eligible financial institution or dealer agrees unconditionally 40
to repurchase any of the securities that are listed in division 41
(A) (1), (2), or (6) of this section. The market value of 42
securities subject to these transactions must exceed the 43
principal value of the repurchase agreement by an amount 44

specified by the treasurer of state, and the securities must be 45
delivered into the custody of the treasurer of state or the 46
qualified trustee or agent designated by the treasurer of state. 47
The agreement shall contain the requirement that for each 48
transaction pursuant to the agreement, the participating 49
institution or dealer shall provide all of the following 50
information: 51

(i) The par value of the securities; 52

(ii) The type, rate, and maturity date of the securities; 53

(iii) A numerical identifier generally accepted in the 54
securities industry that designates the securities. 55

(b) The treasurer of state also may sell any securities, 56
listed in division (A)(1), (2), or (6) of this section, 57
regardless of maturity or time of redemption of the securities, 58
under the same terms and conditions for repurchase, provided 59
that the securities have been fully paid for and are owned by 60
the treasurer of state at the time of the sale. 61

(5) Securities lending agreements with any eligible 62
financial institution that is a member of the federal reserve 63
system or federal home loan bank or any recognized United States 64
government securities dealer, under the terms of which 65
agreements the treasurer of state lends securities and the 66
eligible financial institution or dealer agrees to 67
simultaneously exchange similar securities or cash, equal value 68
for equal value. 69

Securities and cash received as collateral for a 70
securities lending agreement are not interim funds of the state. 71
The investment of cash collateral received pursuant to a 72
securities lending agreement may be invested only in such 73

instruments specified by the treasurer of state in accordance 74
with a written investment policy. 75

(6) Various forms of commercial paper issued by any entity 76
that is organized under the laws of the United States or a 77
state, which notes are rated in the two highest categories by 78
two nationally recognized standard rating services, provided 79
that the total amount invested under this section in any 80
commercial paper at any time shall not exceed forty per cent of 81
the state's total average portfolio, as determined and 82
calculated by the treasurer of state; 83

(7) Bankers acceptances, maturing in two hundred seventy 84
days or less, provided that the total amount invested in bankers 85
acceptances at any time shall not exceed ten per cent of the 86
state's total average portfolio, as determined and calculated by 87
the treasurer of state; 88

(8) Certificates of deposit in eligible institutions 89
applying for interim moneys as provided in section 135.08 of the 90
Revised Code, including linked deposits as provided in sections 91
135.61 to 135.67 of the Revised Code, agricultural linked 92
deposits as provided in sections 135.71 to 135.76 of the Revised 93
Code, business linked deposits as provided in sections 135.77 to 94
135.774 of the Revised Code, and housing linked deposits as 95
provided in sections 135.81 to 135.87 of the Revised Code; 96

(9) Negotiable certificates of deposit denominated in 97
United States dollars issued by a nationally or state-chartered 98
bank, a savings association or a federal association, a state or 99
federal credit union, or a federally licensed or state-licensed 100
branch of a foreign bank, which are rated in the two highest 101
categories by two nationally recognized standard rating 102
services, provided that the total amount invested under this 103

section in negotiable certificates of deposit at any time shall 104
not exceed twenty-five per cent of the state's total average 105
portfolio, as determined and calculated by the treasurer of 106
state. Interim funds invested in accordance with division (A) (9) 107
of this section are not limited to institutions applying for 108
interim moneys under section 135.08 of the Revised Code, nor are 109
they subject to any pledging requirements described in sections 110
135.18, 135.181, or 135.182 of the Revised Code. 111

(10) The state treasurer's investment pool authorized 112
under section 135.45 of the Revised Code; 113

(11) Debt interests, other than commercial paper described 114
in division (A) (6) of this section, rated in the three highest 115
categories by two nationally recognized standard rating services 116
and issued by entities that are organized under the laws of the 117
United States or a state, or issued by foreign nations 118
diplomatically recognized by the United States government, or 119
any instrument based on, derived from, or related to such 120
interests, provided that: 121

(a) The investments in debt interests other than 122
commercial paper shall not exceed in the aggregate twenty-five 123
per cent of the state's portfolio. 124

(b) The investments in debt interests issued by foreign 125
nations shall not exceed in the aggregate two per cent of the 126
state's portfolio. 127

The treasurer of state shall invest under division (A) (11) 128
of this section in a debt interest issued by a foreign nation 129
only if the debt interest is backed by the full faith and credit 130
of that foreign nation, and provided that all interest and 131
principal shall be denominated and payable in United States 132

funds.	133
(c) When added to the investment in commercial paper and negotiable certificates of deposit, the investments in the debt interests of a single issuer shall not exceed in the aggregate five per cent of the state's portfolio.	134 135 136 137
(d) For purposes of division (A) (11) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, in the three highest categories by two nationally recognized standard rating services.	138 139 140 141 142 143
(e) For purposes of division (A) (11) of this section, the "state's portfolio" means the state's total average portfolio, as determined and calculated by the treasurer of state.	144 145 146
(12) No-load money market mutual funds rated in the highest category by one nationally recognized standard rating service or consisting exclusively of obligations described in division (A) (1), (2), or (6) of this section and repurchase agreements secured by such obligations- <u>i</u>	147 148 149 150 151
(13) Obligations issued by, or on behalf of, an Ohio political subdivision under Chapter 133. of the Revised Code or Section 12 of Article XVIII, Ohio Constitution, and identified in an agreement described in division (G) of this section; <u>i</u>	152 153 154 155
<u>(14) Obligations issued by the state of Ohio, any political subdivision thereof, or by or on behalf of any nonprofit corporation or association doing business in this state rated in the four highest categories by at least one nationally recognized standard rating service and identified in an agreement described in division (K) of this section.</u>	156 157 158 159 160 161

(B) Whenever, during a period of designation, the treasurer of state classifies public moneys as interim moneys, the treasurer of state shall notify the state board of deposit of such action. The notification shall be given within thirty days after such classification and, in the event the state board of deposit does not concur in such classification or in the investments or deposits made under this section, the board may order the treasurer of state to sell or liquidate any of the investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer of state on the date fixed in such order at the then current market price. Neither the treasurer of state nor the members of the state board of deposit shall be held accountable for any loss occasioned by sales or liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making these sales or liquidations is payable as other expenses of the treasurer's office.

(C) If any securities or obligations invested in by the treasurer of state pursuant to this section are registrable either as to principal or interest, or both, such securities or obligations shall be registered in the name of the treasurer of state.

(D) The treasurer of state is responsible for the safekeeping of all securities or obligations under this section. Any such securities or obligations may be deposited for safekeeping as provided in section 113.05 of the Revised Code.

(E) Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer

of state and credited by the treasurer of state to the proper 192
fund of the state. 193

(F) Whenever investments or deposits acquired under this 194
section mature and become due and payable, the treasurer of 195
state shall present them for payment according to their tenor, 196
and shall collect the moneys payable thereon. The moneys so 197
collected shall be treated as public moneys subject to sections 198
135.01 to 135.21 of the Revised Code. 199

(G) The treasurer of state and any entity issuing 200
obligations referred to in division (A)(13) of this section, 201
which obligations mature within one year from the original date 202
of issuance, may enter into an agreement providing for: 203

(1) The purchase of those obligations by the treasurer of 204
state on terms and subject to conditions set forth in the 205
agreement; 206

(2) The payment to the treasurer of state of a reasonable 207
fee as consideration for the agreement of the treasurer of state 208
to purchase those obligations; provided, however, that the 209
treasurer of state shall not be authorized to enter into any 210
such agreement with a board of education of a school district 211
that has an outstanding obligation with respect to a loan 212
received under authority of section 3313.483 of the Revised 213
Code. 214

(H) For purposes of division (G) of this section, a fee 215
shall not be considered reasonable unless it is set to recover 216
only the direct costs, a reasonable estimate of the indirect 217
costs associated with the purchasing of obligations under 218
division (G) of this section and any reselling of the 219
obligations or any interest in the obligations, including 220

interests in a fund comprised of the obligations, and the 221
administration thereof. No money from the general revenue fund 222
shall be used to subsidize the purchase or resale of these 223
obligations. 224

(I) All money collected by the treasurer of state from the 225
fee imposed by division (G) of this section shall be deposited 226
to the credit of the state political subdivision obligations 227
fund, which is hereby created in the state treasury. Money 228
credited to the fund shall be used solely to pay the treasurer 229
of state's direct and indirect costs associated with purchasing 230
and reselling obligations under division (G) of this section. 231

(J) As used in this section, "political subdivision" means 232
a county, township, municipal corporation, school district, or 233
other body corporate and politic responsible for governmental 234
activities in a geographic area smaller than that of the state. 235

(K) (1) The treasurer of state and any entity issuing 236
obligations referred to in division (A) (14) of this section, 237
which obligations have a demand feature to tender the obligation 238
at par plus accrued interest, may enter into an agreement 239
providing for the following: 240

(a) The purchase of the obligations by the treasurer of 241
state on terms and subject to conditions set forth in the 242
agreement; 243

(b) Payment to the treasurer of state of a fee as 244
consideration for the agreement of the treasurer of state to 245
purchase the obligations. 246

(2) The treasurer of state shall not enter into agreements 247
under division (K) (1) of this section for obligations that, in 248
the aggregate, exceed ten per cent of the state's total average 249

portfolio, as determined and calculated by the treasurer of 250
state. 251

(3) For purposes of division (A) (14) of this section, an 252
obligation is rated in the four highest categories by at least 253
one nationally recognized standard rating service if either the 254
debt interest itself or the obligor of the debt interest is 255
rated in the four highest categories by at least one nationally 256
recognized standard rating service. 257

(4) All money collected by the treasurer of state from the 258
fee imposed by division (K) of this section shall be deposited 259
to the credit of the state securities tender program fund, which 260
is hereby created in the state treasury. The amount of income 261
from the state securities tender program credited to the state 262
securities tender program fund shall not exceed one per cent of 263
the average par value of obligations subject to agreements under 264
division (K) (1) of this section. All other such income shall be 265
credited to the general revenue fund. The treasurer of state may 266
use the state securities tender program fund solely for 267
operations of the office of the treasurer of state. 268

(L) (1) The treasurer of state and a state university or 269
college issuing obligations under section 3345.12 of the Revised 270
Code may enter into an agreement providing for the following: 271

(a) The purchase of those obligations by the treasurer of 272
state pursuant to division (A) (3) (a) of this section on terms 273
and subject to conditions set forth in the agreement; 274

(b) The department of higher education to withhold, in the 275
event the state university or college does not pay bond service 276
charges on the obligations when due, appropriated funds 277
allocated to the state university or college in an amount 278

sufficient to pay bond service charges on the obligations, less 279
any amounts deposited for that purpose under the bond 280
proceedings. Upon the request of the treasurer of state, the 281
department of higher education shall promptly pay to the 282
treasurer of state the amounts withheld. 283

(2) For purposes of division (L) (1) of this section, 284
"obligations," "state university or college," "bond service 285
charges," and "bond proceedings" have the same meanings as in 286
section 3345.12 of the Revised Code. 287

Sec. 135.71. As used in sections 135.71 to 135.76 of the 288
Revised Code: 289

(A) "Eligible agricultural business" means any person 290
engaged in agriculture that has all of the following 291
characteristics: 292

(1) Is headquartered and domiciled in this state; 293

(2) Maintains land or facilities for agricultural purposes 294
in this state provided that the land or facilities within this 295
state comprise not less than fifty-one per cent of the total of 296
all lands or facilities maintained by the person; 297

(3) Is either organized for profit or as an agricultural 298
cooperative as defined in section 1729.01 of the Revised Code. 299

(B) "Eligible lending institution" means a financial 300
institution that is eligible to make commercial loans, agrees to 301
participate in the agricultural linked deposit program, and is 302
any of the following: 303

(1) Is a public depository of state funds under section 304
135.03 of the Revised Code; 305

(2) Notwithstanding sections 135.01 to 135.21 of the 306

Revised Code, is an institution of the farm credit system 307
organized under the federal "Farm Credit Act of 1971," 85 Stat. 308
583, 12 U.S.C.A. 2001, as amended; 309

(3) Notwithstanding sections 135.01 to 135.21 of the 310
Revised Code, is a federal credit union, a foreign credit union 311
licensed pursuant to section 1733.39 of the Revised Code, or a 312
credit union as defined in section 1733.01 of the Revised Code, 313
located in this state. 314

(C) "Agricultural linked deposit" means a certificate of 315
deposit placed by the treasurer of state with an eligible 316
lending institution under section 135.74 of the Revised Code, 317
share certificates issued by an eligible lending institution 318
that are purchased by the treasurer of state, or an investment 319
in bonds, notes, debentures, or other obligations or securities 320
issued by the federal farm credit bank with regard to an 321
eligible lending institution. 322

(D) "Loan" means a contractual agreement under which an 323
eligible lending institution agrees to lend money in the form of 324
an upfront lump sum, a line of credit, or any other reasonable 325
arrangement approved by the treasurer of state. 326

Sec. 135.73. (A) An eligible lending institution that 327
desires to receive an agricultural linked deposit shall accept 328
and review applications for loans from eligible agricultural 329
businesses. The lending institution shall apply all usual 330
lending standards to determine the creditworthiness of each 331
eligible agricultural business. No loan shall exceed ~~one hundred~~ 332
~~fifty thousand dollars~~ an amount determined by the treasurer of 333
state. 334

(B) An eligible agricultural business shall certify on its 335

loan application that the reduced rate loan will be used 336
exclusively for agricultural purposes on land or in facilities 337
owned or operated by the business in this state and that the 338
loan will materially contribute to the preservation of the 339
business. Whoever knowingly makes a false statement concerning 340
such application is guilty of the offense of falsification under 341
section 2921.13 of the Revised Code. 342

(C) In considering which eligible agricultural businesses 343
to include in the agricultural linked deposit loan package for 344
reduced rate loans, the eligible lending institution shall give 345
priority to the immediacy of a business's financial need for the 346
loan to meet planting deadlines. The institution may also 347
consider the economic needs of the area in which the business is 348
located and other factors it considers appropriate to determine 349
the relative financial need of the business. 350

(D) The eligible lending institution shall forward to the 351
treasurer of state an agricultural linked deposit loan package, 352
in the form and manner prescribed by the treasurer of state. The 353
package shall include information regarding the amount of the 354
loan requested by each eligible agricultural business and such 355
other information regarding each business as the treasurer of 356
state requires. The institution shall certify that each 357
applicant is an eligible agricultural business, and shall, for 358
each business, certify the present borrowing rate applicable to 359
each specific eligible agricultural business. 360

Sec. 135.82. (A) The general assembly finds that there 361
exists in this state a lack of affordable financing options to 362
promote solutions to a number of housing issues, including, but 363
not limited to, home improvement, home restoration, energy 364
efficiency, retention of historic significance, controlling 365

urban sprawl, neighborhood revitalization, affordable housing, 366
home ownership for persons unable to secure conventional 367
financing, urban development, and economic revitalization of a 368
residential area as a result of a natural disaster or other 369
catastrophic occurrence. Accordingly, it is declared to be the 370
public policy of the state through housing linked deposits to 371
create an availability of lower cost funds to inject needed 372
capital into local residential communities. 373

(B) Pursuant to the findings and declarations of division 374
(A) of this section and subject to the amount authorized to be 375
invested in linked deposits pursuant to ~~sections~~ section 135.63 376
and ~~135.631~~ of the Revised Code, both of the following apply: 377

(1) Housing linked deposits are authorized under which the 378
state partners with eligible governmental subdivisions in 379
accordance with section 135.83 of the Revised Code to provide, 380
pursuant to section 135.84 of the Revised Code, an availability 381
of lower cost funds for lending purposes that materially will 382
contribute to the solutions addressing housing issues, described 383
in division (A) of this section, across the state. 384

(2) In the absence of an eligible governmental subdivision 385
linked deposit program, the treasurer of state may develop an 386
application process and procedures and eligibility requirements 387
for participation in a housing linked deposit program that 388
provides, pursuant to section 135.84 of the Revised Code, an 389
availability of lower cost funds for lending purposes that 390
materially will contribute to the solutions addressing housing 391
issues, described in division (A) of this section, across the 392
state. 393

Section 2. That existing sections 135.143, 135.71, 135.73, 394
and 135.82 of the Revised Code are hereby repealed. 395

Section 3. That sections 135.631 and 135.731 of the Revised Code are hereby repealed.

Section 4. The amendment of sections 135.71, 135.73, and 135.82 and the repeal of sections 135.631 and 135.731 of the Revised Code in this act are hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to provide financial assistance to persons in agriculture when the application window opens in the first quarter of next year. Therefore, those amendments and repeals shall go into immediate effect.