

**As Passed by the House**

**136th General Assembly**

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**Am. H. B. No. 332**

**Representatives Mathews, T., Hiner**

**Cosponsors: Representatives Thomas, D., Deeter, Williams, Fischer, Abrams, Brennan, Claggett, Click, Daniels, Dovilla, Ghanbari, Hall, D., Hall, T., Holmes, Hoops, John, Johnson, Klopfenstein, Lampton, Lear, Manning, Mathews, A., Miller, J., Miller, K., Oelslager, Peterson, Plummer, Richardson, Robb Blasdel, Santucci, Schmidt, Sigrist, Synenberg, Thomas, C., White, A., Workman, Young**

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To amend sections 135.61, 135.62, 135.621, 135.623, 1733.04, and 1733.24 and to enact section 135.67 of the Revised Code to create the small defense business linked deposit program.

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

**Section 1.** That sections 135.61, 135.62, 135.621, 135.623, 1733.04, and 1733.24 be amended and section 135.67 of the Revised Code be enacted to read as follows:

**Sec. 135.61.** (A) For the purposes of this section:

(1) "Eligible borrower," "eligible credit union," and "eligible lending institution" have the same meanings as in section 135.62 of the Revised Code.

(2) "Eligible participant" and "eligible savings institution" have the same meanings as in section 135.70 of the Revised Code.

(B) The treasurer of state may invest in linked deposits under sections 135.61 to ~~135.66~~135.67 and 135.70 to 135.71 of

the Revised Code, provided that at the time any such linked 17  
deposits are placed, purchased, or designated, the combined 18  
amount of investments of public money of the state in linked 19  
deposits of any kind is not more than twelve per cent of the 20  
state's total average investment portfolio, as determined by the 21  
treasurer of state. When deciding whether to invest in any 22  
linked deposits, the treasurer of state shall give priority to 23  
the investment, liquidity, and cash flow needs of the state. 24

(C) The treasurer of state may, in accordance with section 25  
111.15 of the Revised Code, adopt rules necessary for the 26  
implementation and administration of linked deposits authorized 27  
by this section, including, but not limited to, the manner in 28  
which an eligible lending institution or eligible savings 29  
institution is designated, and the manner in which linked 30  
deposits are placed, purchased, designated, held, and 31  
collateralized. 32

(D) Notwithstanding any contrary provision of the Revised 33  
Code, the treasurer of state may require an eligible credit 34  
union that holds linked deposits authorized under this section 35  
to pay interest at a rate not lower than the product of the 36  
interest rate set in the deposit agreement, as required by 37  
sections 135.623 and 135.703 of the Revised Code, multiplied by 38  
the sum of one plus the treasurer of state's assessment rate. 39  
The treasurer of state may, in accordance with section 119.03 of 40  
the Revised Code, adopt rules necessary for the implementation 41  
of this division. 42

(E) (1) Records of the treasurer of state, an eligible 43  
lending institution, or an eligible savings institution are not 44  
public records within the meaning of section 149.43 of the 45  
Revised Code if any of the following apply: 46

(a) The record is provided by an eligible borrower to an 47  
eligible lending institution, or by an eligible participant to 48  
an eligible savings institution, to obtain a financial service 49  
or product from such institution. 50

(b) The record results from a transaction between the 51  
eligible borrower and the eligible lending institution, or the 52  
eligible participant and the eligible savings institution, 53  
involving a financial product or service. 54

(c) An eligible lending institution or eligible savings 55  
institution otherwise obtains the record about an eligible 56  
borrower or eligible participant in connection with providing a 57  
financial product or service. 58

(2) The records specified in division (E)(1) of this 59  
section may include names, addresses, telephone numbers, social 60  
security numbers, income, credit scores, information obtained 61  
through cookies and other internet collection devices, loan 62  
amounts, contributors to a linked deposit savings account, and 63  
amounts contributed to, earned by, or distributed from a linked 64  
deposit savings account. 65

**Sec. 135.62.** As used in sections 135.62 to ~~135.66~~135.67 66  
of the Revised Code: 67

(A) "Discount interest rate" means an interest rate below 68  
the prevailing interest rate that the treasurer of state 69  
determines eligible lending institutions are willing to pay to 70  
hold linked deposits. 71

(B) "Eligible borrower" means a borrower that has met all 72  
the requirements necessary to participate in the adoption linked 73  
deposit program under section 135.63 of the Revised Code, 74  
agricultural linked deposit program under section 135.64 of the 75

Revised Code, small business linked deposit program under 76  
section 135.65 of the Revised Code, ~~or~~ home improvement linked 77  
deposit program under section 135.66 of the Revised Code, or 78  
small defense business linked deposit program under section 79  
135.67 of the Revised Code. 80

(C) "Eligible credit union" means, notwithstanding any 81  
contrary provision of sections 135.01 to 135.21 of the Revised 82  
Code, a federal credit union, a foreign credit union licensed 83  
pursuant to section 1733.39 of the Revised Code, or a credit 84  
union as defined in section 1733.01 of the Revised Code, located 85  
in this state. 86

(D) "Eligible lending institution" means a financial 87  
institution that is eligible to make loans, agrees to 88  
participate in the applicable linked deposit program, and is one 89  
of the following: 90

(1) A public depository of state funds, or an eligible 91  
credit union designated under division (A) of section 135.12 of 92  
the Revised Code; 93

(2) For the agricultural linked deposit program, 94  
notwithstanding any contrary provision of sections 135.01 to 95  
135.21 of the Revised Code, an institution of the farm credit 96  
system organized under the federal "Farm Credit Act of 1971," 85 97  
Stat. 583, 12 U.S.C. 2001, as amended. 98

(E) "Homestead" means a dwelling owned and occupied in 99  
this state as a single-family primary residence by an individual 100  
for the purpose of qualifying for the home improvement linked 101  
deposit program. "Homestead" includes a house, condo, a unit in 102  
a multiple-unit dwelling, manufactured home or mobile home taxed 103  
as real property pursuant to division (B) of section 4503.06 of 104

the Revised Code, or any other building with a residential 105  
classification, as allowed by the treasurer of state. 106

"Homestead" includes so much of the land surrounding the 107  
dwelling as is reasonably necessary for the use of the dwelling 108  
as a residence, as determined by the treasurer of state. 109

(F) "Linked deposit" means a certificate of deposit, a 110  
share certificate, other financial institution instrument, or 111  
portion of an existing deposit of interim funds made in 112  
accordance with section 135.09 of the Revised Code placed, 113  
purchased, or designated by the treasurer of state with an 114  
eligible lending institution; provided the institution agrees to 115  
lend up to the value of such certificate of deposit, share 116  
certificate, or other financial institution instrument, or 117  
designated portion of an existing deposit to eligible borrowers 118  
for applicable linked deposit programs at the rate established 119  
in division (A) of section 135.624 of the Revised Code, and in 120  
accordance with the deposit agreement provided in section 121  
135.623 of the Revised Code. 122

(G) "Linked deposit program" means a program authorized 123  
under sections 135.61 to ~~135.66~~ 135.67 of the Revised Code and 124  
established by the treasurer of state pursuant to such sections. 125

(H) "Loan" means a contractual agreement under which an 126  
eligible lending institution agrees to lend money to an eligible 127  
borrower in the form of an upfront lump sum, a line of credit, 128  
or any other reasonable arrangement approved by the treasurer of 129  
state. 130

(I) "Manufactured home" has the same meaning as in section 131  
3781.06 of the Revised Code. 132

(J) "Mobile home" has the same meaning as in section 133

4501.01 of the Revised Code.	134
(K) "Other financial institution instrument" means:	135
(1) For the agricultural linked deposit program under	136
section 135.64 of the Revised Code, an investment by the	137
treasurer of state in bonds, notes, debentures, or other	138
obligations or securities issued by the federal farm credit bank	139
with regard to an eligible lending institution;	140
(2) For all linked deposit programs other than the	141
agricultural linked deposit program, a product that otherwise	142
would pay the prevailing interest rate approved by the treasurer	143
of state, for the purpose of providing eligible borrowers with	144
the benefits of the applicable linked deposit program, and in	145
accordance with the deposit agreement provided in section	146
135.623 of the Revised Code.	147
(L) "Owner" includes a holder of one of the several	148
estates in fee, a vendee in possession under a purchase	149
agreement or a land contract, a mortgagor, a life tenant, one or	150
more tenants with a right of survivorship, tenants in common, a	151
settlor of a revocable or irrevocable inter vivos trust holding	152
the title to a homestead occupied by the settlor as of right	153
under the trust, or any other determination as made by the	154
treasurer of state.	155
(M) "Prevailing interest rate" means a current market	156
interest rate selected by the treasurer of state that eligible	157
lending institutions are willing to pay to hold deposits of the	158
treasurer of state.	159
(N) "Qualifying adoption expense" means any expense	160
incurred to legally adopt a child as described in division (C)	161
of section 3107.055 of the Revised Code, including any costs	162

incurred by the eligible borrower proximately relating to the 163  
completion and approval of the home study under section 3107.031 164  
of the Revised Code, and any other expense as determined by the 165  
treasurer of state. 166

(O) "Treasurer of state's assessment rate" means a rate 167  
not exceeding ten per cent that is calculated in a manner 168  
determined by the treasurer of state and that seeks to account 169  
for the effect that varying tax treatment among different types 170  
of financial institutions has on the ability of financial 171  
institutions to pay competitive interest rates to hold deposits. 172

**Sec. 135.621.** (A) An eligible lending institution that 173  
desires to receive a linked deposit shall accept and review 174  
applications for loans from eligible borrowers for linked 175  
deposit programs in which the eligible lending institution 176  
participates. The eligible lending institution shall apply all 177  
usual lending standards to determine the credit worthiness of 178  
each eligible borrower. No loan shall exceed the amount 179  
determined by the treasurer of state. 180

(B) An eligible borrower shall certify on its loan 181  
application that the reduced rate loan will be used exclusively 182  
for the purposes of the applicable linked deposit program, as 183  
described in section 135.63, 135.64, 135.65, ~~or~~ 135.66, or 184  
135.67 of the Revised Code. Whoever knowingly makes a false 185  
statement concerning such application is guilty of the offense 186  
of falsification under section 2921.13 of the Revised Code. 187

(C) The eligible lending institution shall forward to the 188  
treasurer of state a linked deposit loan package, in the form 189  
and manner prescribed by the treasurer of state. The package 190  
shall include such information as required by the treasurer of 191  
state, including the amount of each loan requested by each 192

eligible borrower and all other information as described in 193  
section 135.63, 135.64, 135.65, ~~or 135.66~~, or 135.67 of the 194  
Revised Code for the applicable linked deposit program. The 195  
institution shall certify both of the following: 196

(1) That each applicant is an eligible borrower and, for 197  
each such eligible borrower, the present borrowing rate; 198

(2) That the eligible lending institution applied all of 199  
its usual lending standards to determine the credit worthiness 200  
of each eligible borrower. 201

(D) No fee shall be charged to any party for the 202  
preparation, processing, or reporting of any application to an 203  
eligible lending institution or the treasurer of state for 204  
participation in a linked deposit program. 205

**Sec. 135.623.** (A) An eligible lending institution shall 206  
enter into a deposit agreement with the treasurer of state, 207  
which shall include requirements necessary to carry out the 208  
purposes of sections 135.62 to ~~135.66~~ 135.67 of the Revised 209  
Code. 210

(B) The deposit agreement shall specify the maturity 211  
period of the linked deposit considered appropriate by the 212  
treasurer of state, which shall not exceed five years, as well 213  
as any other information, terms, or conditions the treasurer of 214  
state may require. Interest shall be paid by the eligible 215  
lending institution at times determined by the treasurer of 216  
state. 217

**Sec. 135.67.** (A) As used in this section: 218

(1) "Armed forces" has the same meaning as in section 219  
5903.01 of the Revised Code. 220

(2) "Gross receipts" has the same meaning as in section 221  
5751.01 of the Revised Code. 222

(B) The general assembly finds that the defense industry 223  
makes significant contributions to the economic well-being of 224  
this state. However, various economic challenges, such as 225  
tightened capital availability, inflationary pressures, and 226  
rising interest rates, can discourage fledgling businesses, 227  
particularly small businesses, from taking root in this state 228  
and engaging with the defense industry. Accordingly, it is 229  
declared to be the public policy of the state to make reduced 230  
rate loans available to defense-oriented businesses, including 231  
subcontractors for those businesses, through the small defense 232  
business linked deposit program. 233

(C) An eligible borrower for the small defense business 234  
linked deposit program is any person that has all the following 235  
characteristics: 236

(1) Is currently headquartered or domiciled in this state, 237  
and has been headquartered or domiciled in this state for at 238  
least five years preceding the person's application for 239  
participation in the linked deposit program; 240

(2) Maintains offices or operating facilities in this 241  
state that comprise not less than fifty-one per cent of the 242  
total of all offices and operating facilities maintained by the 243  
person; 244

(3) Is a party to, or has been a party to, a contract or 245  
subcontract with the armed forces or an agency or 246  
instrumentality of the United States government for the 247  
provision of goods or services to the armed forces; 248

(4) Has less than fifty million dollars in gross receipts 249

<u>for the twelve months preceding application to the linked</u>	250
<u>deposit program;</u>	251
<u>(5) Is organized for profit.</u>	252
<u>(D) An eligible lending institution for the small defense</u>	253
<u>business linked deposit program must be able to make commercial</u>	254
<u>loans.</u>	255
<u>(E) An eligible borrower shall certify on the loan</u>	256
<u>application that the reduced rate loan will be used exclusively</u>	257
<u>in this state to create new jobs, preserve existing jobs and</u>	258
<u>employment opportunities, or materially contribute to the</u>	259
<u>preservation or growth of the eligible borrower's business.</u>	260
<b>Sec. 1733.04.</b> (A) In addition to the authority conferred	261
by section 1701.13 of the Revised Code, but subject to any	262
limitations contained in sections 1733.01 to 1733.45 of the	263
Revised Code, and its articles and regulations, a credit union	264
may do any of the following:	265
(1) Make loans as provided in section 1733.25 of the	266
Revised Code;	267
(2) Invest its money as provided in section 1733.30 of the	268
Revised Code;	269
(3) If authorized by the code of regulations, rebate to	270
the borrowing members a portion of the member's interest paid to	271
the credit union;	272
(4) If authorized by the regulations, charge a membership	273
or entrance fee;	274
(5) Purchase group savings life insurance and group credit	275
life insurance;	276

(6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;	277 278
(7) Act as trustee or custodian, for which reasonable compensation may be received, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a tax-advantaged savings plan that qualifies for specific tax treatment under sections 223, 401(d), 408, 408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 401(d), 408, 408A, and 530, as amended, for its members or groups of its members, provided that the funds of such plans are invested in share accounts or share certificate accounts of the credit union. These services include, but are not limited to, acting as a trustee or custodian for member retirement, education, or health savings accounts.	279 280 281 282 283 284 285 286 287 288 289 290
(8) Participate in and pledge assets in connection with the linked deposit programs under sections 135.61 to <del>135.66</del> <u>135.67</u> of the Revised Code and sections 135.70 to 135.71 of the Revised Code.	291 292 293 294
(B) The authority of a credit union shall be subject to the following:	295 296
(1) A credit union may not borrow money in excess of twenty-five per cent of its shares and undivided earnings, without prior specific authorization by the superintendent of credit unions.	297 298 299 300
(2) A credit union may not pay a commission or other compensation to any person for securing members or for the sale of its shares, except that reasonable incentives may be made available directly to members or potential members to promote thrift.	301 302 303 304 305

(C) (1) A credit union may have service facilities other than its home office.	306 307
(2) Real estate may be acquired by lease, purchase, or otherwise as necessary and to the extent required for use of the credit union presently and in the future operation of its office or headquarters, and in case of a purchase of real estate, the superintendent must first be notified in writing prior to the purchase of the real estate. Nothing herein contained shall be deemed to prohibit a credit union from taking title to real estate in connection with a default in the payment of a loan, provided that title to such real estate shall not be held by the credit union for more than two years without the prior written approval of the superintendent. A credit union also may lease space in any real estate it acquires in accordance with rules adopted by the superintendent.	308 309 310 311 312 313 314 315 316 317 318 319 320
(D) (1) As used in division (D) of this section:	321
(a) "School" means an elementary or secondary school.	322
(b) "Student" means a child enrolled in a school.	323
(c) "Student branch" means the designation provided to the credit union for the in-school services and financial education offered to students.	324 325 326
(2) A credit union, upon agreement with a school board, in the case of a public school, or the governing authority, in the case of a nonpublic school, and with the permission of the superintendent, may open and maintain a student branch.	327 328 329 330
(3) Notwithstanding any other provision of this section, any student enrolled in the school maintaining a student branch who is not otherwise qualified for membership in the credit union maintaining the student branch is qualified to be a member	331 332 333 334

of that student branch.	335
(4) The student's membership in the student branch expires upon the student's graduation from secondary school.	336 337
(5) The student branch is for the express use of students and may not be used by faculty, staff, or lineal ancestors or descendants of students.	338 339 340
(6) Faculty, staff, or lineal ancestors or descendants of students are not eligible for membership in the credit union maintaining the student branch unless otherwise qualified by this section to be members.	341 342 343 344
(7) The superintendent may adopt rules appropriate to the formation and operation of student branches.	345 346
(E) A credit union may guarantee the signature of a member in connection with a transaction involving tangible or intangible property in which a member has or seeks to acquire an interest.	347 348 349 350
<b>Sec. 1733.24.</b> (A) A credit union is authorized to receive funds for deposit in share accounts, share draft accounts, and share certificates from its members, from other credit unions, and from an officer, employee, or agent of the federal, state, or local governments, or political subdivisions of the state, in accordance with such terms, rates, and conditions as may be established by its board of directors, and for purposes of the linked deposit programs created under sections 135.61 to <del>135.66</del> <u>135.67</u> of the Revised Code and sections 135.70 to 135.71 of the Revised Code.	351 352 353 354 355 356 357 358 359 360
(B) The shares and share accounts of the credit union may be of one or more classes, as designated by the board of directors, subject to approval of the superintendent of credit	361 362 363

unions based on rules that shall assure equitable distribution 364  
of dividends among classes, considering costs and advantages of 365  
each class to the members of the credit union, including without 366  
limitation special services rendered, length of ownership, 367  
minimum investment, conditions of repurchase, and other 368  
appropriate standards or combinations thereof. In the event the 369  
articles of incorporation of the credit union indicate the 370  
authorized number of shares to be unlimited, the designation of 371  
classification of shares and share accounts of the credit union 372  
may be effected by the board of directors, subject to the 373  
approval of the superintendent, and does not require amendment 374  
of the articles of incorporation. All shares of the credit union 375  
shall have a par value per share as set by the board of 376  
directors. Redemptions and liquidating dividends shall be 377  
prorated to each member on the basis of the price paid the 378  
credit union for such share, irrespective of the class of such 379  
shares. 380

(C) (1) Each credit union shall have one class of shares 381  
designated as "membership share." The membership shares, or if a 382  
credit union has but one class of shares, then all of the shares 383  
of the credit union, shall have a par value as set by the board 384  
of directors. 385

(2) Two or more persons that are eligible for membership 386  
that have jointly subscribed for one or more shares under a 387  
joint account each may be admitted to membership. 388

(D) A credit union need not issue certificates for any or 389  
all of its classes of shares but irrespective of whether 390  
certificates are issued, a registry of shares must be kept, 391  
including all of the transactions of the credit union pertaining 392  
to such shares. 393

(E) A credit union is authorized to maintain share draft 394  
accounts in accordance with rules prescribed by the 395  
superintendent. The credit union may pay dividends on share 396  
draft accounts, may pay dividends at different rates on 397  
different types of share draft accounts, and may permit the 398  
owners of such share draft accounts to make withdrawals by 399  
negotiable or transferable instruments or other orders for the 400  
purpose of making transfers to third parties. 401

(F) Unless otherwise provided by written agreement of the 402  
parties, the rights, responsibilities, and liabilities attaching 403  
to a share draft withdrawn from, transferred to, or otherwise 404  
handled by a credit union are defined in and governed by 405  
Chapters 1303. and 1304. of the Revised Code, as if the credit 406  
union were a bank. 407

(G) Unless otherwise provided in the articles or 408  
regulations, a member may designate any person or persons to own 409  
or hold shares, or share accounts with the member in joint 410  
tenancy with right of survivorship and not as tenants in common. 411

(H) Shares or share accounts may be issued in the name of 412  
a custodian under the Ohio transfers to minors act, a member in 413  
trust for a beneficiary, a fiduciary or custodian in trust for a 414  
member beneficiary, or a fiduciary or custodian in trust upon 415  
the death of a member. Redemption of such shares or payment of 416  
such share accounts to a member, to the extent of the payment, 417  
discharges the liability of the credit union to the member and 418  
the beneficiary, and the credit union shall be under no 419  
obligation to see to the application of the payment. Unless 420  
prior to the death of a member, the member has notified the 421  
credit union in writing in a form approved by the credit union 422  
of a different beneficiary to receive the proceeds of such 423

shares or share accounts, then the proceeds shall be paid to the 424  
beneficiary or to the beneficiary's parent or legal 425  
representative. Any payment made pursuant to written 426  
instructions of the member or pursuant to the provisions herein 427  
contained shall be a valid and sufficient release and discharge 428  
of the credit union in connection with any such share or share 429  
accounts. 430

(I) (1) Except as otherwise provided in the articles or 431  
regulations, and subject to the provisions thereof, a minor may 432  
purchase shares, share accounts, or other depository 433  
instruments, and except for qualification as a voting member, 434  
the credit union may deal with the minor with respect to shares, 435  
share accounts, or other depository instruments owned by the 436  
minor as if the minor were a person of legal age. 437

(2) If shares, share accounts, or other depository 438  
instruments are issued in the name of a minor, redemption of any 439  
part or all of the shares or withdrawal of funds by payment to 440  
the minor of the shares or funds and any declared dividends or 441  
interest releases the credit union from all obligation to the 442  
minor as to the shares reduced or funds withdrawn. 443

(J) The regulations may require advance written notice of 444  
a member's intention to withdraw the member's shares. Such 445  
advance notice shall not exceed sixty days. 446

(K) Notwithstanding any provision of law to the contrary, 447  
funds deposited in a share account, share certificate, or in any 448  
other manner pursuant to a program offered by a credit union to 449  
promote consumer savings do not constitute valuable 450  
consideration for purposes of a scheme of chance under Chapter 451  
2915. of the Revised Code. 452

<b>Section 2.</b> That existing sections 135.61, 135.62, 135.621,	453
135.623, 1733.04, and 1733.24 of the Revised Code are hereby	454
repealed.	455