

As Introduced

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S. B. No. 144

SENATOR Mumper

A B I L L

To amend sections 5733.98 and 5747.98 and to enact
sections 122.84, 122.841, 5733.46, and 5747.75 of
the Revised Code to create the Ethanol Production
Grant Program and to create a tax credit against
corporation franchise or income tax liability for
investments in ethanol plants.

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

Section 1. That sections 5733.98 and 5747.98 be amended and
sections 122.84, 122.841, 5733.46, and 5747.75 of the Revised Code
be enacted to read as follows:

Sec. 122.84. (A) As used in this section:

(1) "Eligible facility" means an ethanol production plant
located in this state.

(2) "Ethanol" has the same meaning as in section 5733.46 of
the Revised Code.

(3) "Qualifying period" means the period that begins on the
date an eligible facility begins the production of ethanol and
ends ten calendar years after that date.

(B) Beginning January 1, 2004, the ethanol production grant
program is hereby created to encourage ethanol production in this

state, promote economic development, and improve the economic
welfare of the people of this state. For purposes of this program,
the department of development shall make grants of money from the
ethanol production incentive fund created by section 122.841 of
the Revised Code to eligible facilities that meet the criteria in
division (D) of this section. The amount of a grant for a fiscal
year shall be an amount equal to twenty cents per gallon of
ethanol produced at an eligible facility during the previous
calendar year, but shall not exceed three million dollars.

(C) Beginning in 2004, not later than the first day of
February each year, the owner or operator of an eligible facility
may submit to the department of development an application for a
grant on a form furnished by the department. The application shall
contain such information as the director of development prescribes
under division (E) of this section. Not later than the first day
of April each year, the director shall notify each applicant in
writing whether it will be awarded a grant for the ensuing fiscal
year. If, for any fiscal year, the amount of grant moneys for
which applicants qualify exceeds the amount appropriated from the
ethanol production incentive fund for that fiscal year, the
director shall reduce each grant by the proportion that the amount
appropriated bears to the total amount of grants for which
applicants would otherwise qualify.

(D) The director of development shall award an applicant a
grant only after finding that all of the following criteria are
met:

(1) The applicant is an eligible facility.

(2) The eligible facility produced the amount of ethanol
reflected on its application for a grant.

(3) The eligible facility's net profits for the previous
calendar year did not exceed three million dollars.

(4) The eligible facility's qualifying period has not 52
expired. 53

If, after a grant has been awarded, the director of 54
development determines that an eligible facility fails to meet the 55
criteria established by this division or did not produce the 56
amount of ethanol reflected on the application, the director may 57
require that the facility refund all or a portion of the grant. 58

(E) In administering the program created under this section, 59
the director of development shall adopt rules in accordance with 60
Chapter 119. of the Revised Code necessary to implement this 61
section. The rules shall establish procedures and forms by which 62
applicants may apply for a grant, standards and procedures for 63
reviewing applications and awarding a grant, and procedures for 64
distributing the grant. 65

Sec. 122.841. There is hereby created in the state treasury 66
the ethanol production incentive fund for the purposes of the 67
ethanol production program established under section 122.84 of the 68
Revised Code. The fund shall consist of all appropriations, 69
grants, gifts, and contributions of money made to the department 70
of development from any source for the fund. All investment 71
earnings of the fund shall be credited to the fund. The department 72
shall administer the fund and use all money in it to make grants 73
under section 122.84 of the Revised Code and administer the 74
program. 75

Sec. 5733.46. (A) As used in this section: 76

(1) "Ethanol" means fermentation ethyl alcohol derived from 77
agricultural products, including potatoes, cereal, grains, cheese 78
whey, and sugar beets; forest products; or other renewable 79
resources, including residue and waste generated from the 80
production, processing, and marketing of agricultural products, 81

forest products, and other renewable resources that meet all of
the specifications in the American society for testing and
materials (ASTM) specification D 4806-88 and is denatured as
specified in Parts 20 and 21 of Title 27 of the Code of Federal
Regulations.

(2) "Ethanol plant" means a facility at which ethanol is
produced.

(3) "Money" means United States currency, or a check, draft,
or cashier's check for United States currency, payable on demand
and drawn on a bank.

(B) Beginning in tax year 2001 and ending in tax year 2011,
there is hereby allowed a refundable credit against the tax
imposed by section 5733.06 of the Revised Code for a taxpayer that
invests money in an ethanol plant. The amount of the credit equals
fifty per cent of the money the taxpayer invests in the ethanol
plant, but the credit amount shall not exceed fifty thousand
dollars. The credit shall be claimed in the tax year in which the
investment was made. For purposes of making tax payments under
this chapter, taxes equal to the amount of the refundable credit
shall be considered to be paid to this state on the first day of
the tax year.

(C) The taxpayer shall claim the credit in the order required
by section 5733.98 of the Revised Code. If the amount of the
credit under this section exceeds the amount of tax otherwise due
under section 5733.06 of the Revised Code after the deduction of
all other credits in that order, the taxpayer is entitled to a
refund of the excess.

(D) A taxpayer may transfer to another taxpayer all or a
portion of the credit to which the initial taxpayer is entitled
under this section by providing written notice of the transfer to
the tax commissioner, in such form as the commissioner prescribes,

at any time prior to the use of the credit. The taxpayer to which
the credit is transferred may apply it against the tax imposed by
section 5733.06 of the Revised Code and is entitled to any refund
amount, to the same extent as the initial taxpayer.

(E) The tax commissioner may require that the taxpayer
furnish information as is necessary to support the claim for the
credit under this section, and no credit shall be allowed unless
the information is provided.

Sec. 5733.98. (A) To provide a uniform procedure for
calculating the amount of tax imposed by section 5733.06 of the
Revised Code that is due under this chapter, a taxpayer shall
claim any credits to which it is entitled in the following order,
except as otherwise provided in section 5733.058 of the Revised
Code:

(1) The credit for taxes paid by a qualifying pass-through
entity allowed under section 5733.0611 of the Revised Code;

(2) The credit for qualifying affiliated groups under section
5733.068 of the Revised Code;

(3) The subsidiary corporation credit under section 5733.067
of the Revised Code;

(4) The savings and loan assessment credit under section
5733.063 of the Revised Code;

(5) The credit for recycling and litter prevention donations
under section 5733.064 of the Revised Code;

(6) The credit for employers that enter into agreements with
child day-care centers under section 5733.36 of the Revised Code;

(7) The credit for employers that reimburse employee child
day-care expenses under section 5733.38 of the Revised Code;

(8) The credit for maintaining railroad active grade crossing

warning devices under section 5733.43 of the Revised Code;	143
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(9) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	145
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(10) The credit for manufacturing investments under section 5733.061 of the Revised Code;	147
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(11) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	149
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(12) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	152
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(13) The job training credit under section 5733.42 of the Revised Code;	154
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(14) The credit for qualified research expenses under section 5733.351 of the Revised Code;	156
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(15) The enterprise zone credit under section 5709.66 of the Revised Code;	158
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(16) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	160
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(17) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	162
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(18) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	164
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(19) The export sales credit under section 5733.069 of the Revised Code;	166
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(20) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	168
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(21) The enterprise zone credits under section 5709.65 of the Revised Code;	170
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(22) The credit for using Ohio coal under section 5733.39 of the Revised Code; 172 173

(23) The refundable jobs creation credit under section 5733.0610 of the Revised Code; 174 175

(24) The refundable ethanol plant investment credit under section 5733.46 of the Revised Code. 176 177

(B) For any credit except the refundable jobs creation credit and the refundable ethanol investment credit, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 178 179 180 181 182 183 184

Sec. 5747.75. (A) As used in this section: 185

(1) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources that meet all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations. 186 187 188 189 190 191 192 193 194 195

(2) "Ethanol plant" means a facility at which ethanol is produced. 196 197

(3) "Money" means United States currency, or a check, draft, or cashier's check for United States currency, payable on demand and drawn on a bank. 198 199 200

(B) Beginning in taxable year 2001 and ending in taxable year 201

2011, there is hereby allowed a refundable credit against the tax
imposed by section 5747.02 of the Revised Code for a taxpayer that
invests money in an ethanol plant. The amount of the credit equals
fifty per cent of the money the taxpayer invests in the ethanol
plant, but the credit amount shall not exceed fifty thousand
dollars. The credit shall be claimed in the taxable year in which
the investment was made. For purposes of making tax payments under
this chapter, taxes equal to the amount of the refundable credit
shall be considered to be paid to this state on the first day of
the taxable year.

(C) The taxpayer shall claim the credit in the order required
by section 5747.98 of the Revised Code. If the amount of the
credit under this section exceeds the amount of tax otherwise due
under section 5747.02 of the Revised Code after the deduction of
all other credits in that order, the taxpayer is entitled to a
refund of the excess.

(D) If the taxpayer is a direct or indirect investor in a
pass-through entity that has made an investment under this
section, the taxpayer may claim its proportionate or distributive
share of the credit allowed under this section.

(E) A taxpayer may transfer to another taxpayer all or a
portion of the credit to which the initial taxpayer is entitled
under this section by providing written notice of the transfer to
the tax commissioner, in such form as the commissioner prescribes,
at any time prior to the use of the credit. The taxpayer to which
the credit is transferred may apply it against the tax imposed by
section 5747.02 of the Revised Code and is entitled to any refund
amount, to the same extent as the initial taxpayer.

(F) The tax commissioner may require that the taxpayer
furnish information as is necessary to support the claim for the
credit under this section, and no credit shall be allowed unless
the information is provided.

Sec. 5747.98. (A) To provide a uniform procedure for	234
calculating the amount of tax due under section 5747.02 of the	235
Revised Code, a taxpayer shall claim any credits to which the	236
taxpayer is entitled in the following order:	237
(1) The retirement income credit under division (B) of	238
section 5747.055 of the Revised Code;	239
(2) The senior citizen credit under division (C) of section	240
5747.05 of the Revised Code;	241
(3) The lump sum distribution credit under division (D) of	242
section 5747.05 of the Revised Code;	243
(4) The dependent care credit under section 5747.054 of the	244
Revised Code;	245
(5) The lump sum retirement income credit under division (C)	246
of section 5747.055 of the Revised Code;	247
(6) The lump sum retirement income credit under division (D)	248
of section 5747.055 of the Revised Code;	249
(7) The lump sum retirement income credit under division (E)	250
of section 5747.055 of the Revised Code;	251
(8) The credit for displaced workers who pay for job training	252
under section 5747.27 of the Revised Code;	253
(9) The campaign contribution credit under section 5747.29 of	254
the Revised Code;	255
(10) The twenty-dollar personal exemption credit under	256
section 5747.022 of the Revised Code;	257
(11) The joint filing credit under division (G) of section	258
5747.05 of the Revised Code;	259
(12) The nonresident credit under division (A) of section	260
5747.05 of the Revised Code;	261

(13) The credit for a resident's out-of-state income under	262
division (B) of section 5747.05 of the Revised Code;	263
(14) The credit for employers that enter into agreements with	264
child day-care centers under section 5747.34 of the Revised Code;	265
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(15) The credit for employers that reimburse employee child	267
day-care expenses under section 5747.36 of the Revised Code;	268
(16) The credit for adoption of a minor child under section	269
5747.37 of the Revised Code;	270
(17) The credit for purchases of lights and reflectors under	271
section 5747.38 of the Revised Code;	272
(18) The credit for manufacturing investments under section	273
5747.051 of the Revised Code;	274
(19) The credit for purchases of new manufacturing machinery	275
and equipment under section 5747.26 or section 5747.261 of the	276
Revised Code;	277
(20) The second credit for purchases of new manufacturing	278
machinery and equipment and the credit for using Ohio coal under	279
section 5747.31 of the Revised Code;	280
(21) The job training credit under section 5747.39 of the	281
Revised Code;	282
(22) The enterprise zone credit under section 5709.66 of the	283
Revised Code;	284
(23) The credit for the eligible costs associated with a	285
voluntary action under section 5747.32 of the Revised Code;	286
(24) The credit for employers that establish on-site child	287
day-care centers under section 5747.35 of the Revised Code;	288
(25) The credit for purchases of qualifying grape production	289
property under section 5747.28 of the Revised Code;	290

(26) The export sales credit under section 5747.057 of the Revised Code;	291 292
(27) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	293 294
(28) The enterprise zone credits under section 5709.65 of the Revised Code;	295 296
(29) The refundable jobs creation credit under section 5747.058 of the Revised Code;	297 298
(30) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	299 300
(31) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	301 302 303
<u>(32) The refundable ethanol plant investment credit under section 5747.75 of the Revised Code.</u>	304 305
(B) For any credit, except the refundable credits enumerated in divisions (A)(29), (30), <u>and (31), and (32)</u> of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	306 307 308 309 310 311 312 313 314 315
Section 2. That existing sections 5733.98 and 5747.98 of the Revised Code are hereby repealed.	316 317
Section 3. Not later than thirty days after the effective date of this act, the Director of Budget and Management shall	318 319

transfer ten million dollars from the General Revenue Fund to the	320
Ethanol Production Incentive Fund.	321