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Senators Armbruster, Harris, Fingerhut, Spada, Ryan, Roberts, Amstutz, Austria, Blessing, Brady, Carnes, Coughlin, DiDonato, Finan, Randy Gardner, Robert Gardner, Goodman, Hagan, Herington, Hottinger, Jacobson, Mead, Mumper, Nein, Oelslager, White, Prentiss, Mallory, Espy, Wachtmann
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A B I L L

To amend sections 122.171, 149.43, 718.01, 718.14, 1
5703.21, 5733.98, 5747.98, and 6111.31 and to 2
enact sections 150.01, 150.02, 150.03, 150.04, 3
150.05, 150.06, 150.07, 150.08, 150.09, 150.10, 4
5709.211, 5725.19, 5729.08, 5733.49, 5747.80, and 5
6111.311 of the Revised Code to create the Ohio 6
Venture Capital Program to provide for the 7
direction of moneys of a private investment fund 8
into venture capital investments that are secured 9
by program revenues or tax credits; to modify 10
eligibility for and other terms of the job 11
retention tax credit; to prohibit municipal 12
corporations from taxing S corporation 13
shareholders' distributive shares of net profits; 14

to require state and county tax officials to 15
notify local taxing authorities of pending 16
pollution control tax exemption applications; to 17
adjust the debt service formula allocation of 18
Youngstown State University; and to repeal Section 19
4 of this act six months after its effective date.

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

Section 1. That sections 122.171, 149.43, 718.01, 718.14, 20
5703.21, 5733.98, 5747.98, and 6111.31 be amended and sections 21
150.01, 150.02, 150.03, 150.04, 150.05, 150.06, 150.07, 150.08, 22
150.09, 150.10, 5709.211, 5725.19, 5729.08, 5733.49, 5747.80, and 23
6111.311 of the Revised Code be enacted to read as follows: 24

Sec. 122.171. (A) As used in this section: 25

(1) "Capital investment project" means a plan of investment 26
at a project site for the acquisition, construction, renovation, 27
or repair of buildings, machinery, or equipment, or for 28
capitalized costs of basic research and new product development 29
determined in accordance with generally accepted accounting 30
principles, but does not include any of the following: 31

(a) Payments made for the acquisition of personal property 32
through operating leases; 33

(b) Project costs paid before January 1, 2002, or after 34
December 31, 2006; 35

(c) Payments made to a related member as defined in section 36
5733.042 of the Revised Code. 37

(2) "Eligible business" means a business with Ohio operations 38
~~that~~ satisfying all of the following: 39

(a) Employed an average of at least one thousand employees in 40

full-time employment positions at a project site during each of 41
the twelve months preceding the application for a tax credit under 42
this section; and 43

(b) On or after January 1, 2002, has made payments for the 44
capital investment project of ~~at~~ either of the following: 45

(i) At least two hundred million dollars in the aggregate at 46
the project site during a period of three consecutive calendar 47
years ~~that includes~~ including the calendar year that includes a 48
day of the taxpayer's taxable year with respect to which the 49
credit is granted; 50

(ii) If the average wage of all full-time employment 51
positions at the project site is greater than four hundred per 52
cent of the federal minimum wage, at least one hundred million 53
dollars in the aggregate at the project site during a period of 54
three consecutive calendar years including the calendar year that 55
includes a day of the taxpayer's taxable year with respect to 56
which the credit is granted. 57

(c) Is engaged at the project site primarily as a 58
manufacturer or is providing significant corporate administrative 59
functions; 60

(d) Has had a capital investment project reviewed and 61
approved by the tax credit authority as provided in divisions (C), 62
(D), and (E) of this section. 63

(3) "Full-time employment position" means a position of 64
employment for consideration for at least thirty-five hours a 65
week, ~~or any other standard of service generally accepted by~~ 66
~~custom as full-time employment within the industry,~~ that has been 67
filled for at least one hundred eighty days immediately preceding 68
the filing of an application under this section, and for at least 69
one hundred eighty days during each taxable year with respect to 70
which the credit is granted. 71

(4) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code. 72
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(5) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a ~~five-mile~~ fifteen-mile radius where a taxpayer in this state is primarily operating as a ~~manufacturer as defined in section 5739.011 of the Revised Code~~ an eligible business. 74
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(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a period up to ten taxable years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the ~~two hundred million dollar~~ minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit shall be claimed only for the taxable years specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year terminating before the date specified in the agreement. 79
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Any unused portion of a tax credit may be carried forward for 103

not more than three additional years after the year for which the 104
credit is granted. 105

(C) A taxpayer ~~who~~ that proposes a capital investment project 106
to retain jobs in this state may apply to the tax credit authority 107
to enter into an agreement for a tax credit under this section. 108
The director of development shall prescribe the form of the 109
application. After receipt of an application, the authority shall 110
forward copies of the application to the director of budget and 111
management, the tax commissioner, and the director of development, 112
each of whom shall review the application to determine the 113
economic impact the proposed project would have on the state and 114
the affected political subdivisions and shall submit a summary of 115
their determinations and recommendations to the authority. The 116
authority shall make no agreements under this section after June 117
30, 2007. 118

(D) Upon review of the determinations and recommendations 119
described in division (C) of this section, the tax credit 120
authority may enter into an agreement with the taxpayer for a 121
credit under this section if ~~it~~ the authority determines all of 122
the following: 123

(1) The taxpayer's capital investment project will result in 124
the retention of full-time employment positions in this state. 125

(2) The taxpayer is economically sound and has the ability to 126
complete the proposed capital investment project. 127

(3) The taxpayer intends to and has the ability to maintain 128
operations at the project site for at least twice the term of the 129
credit. 130

(4) Receiving the credit is a major factor in the taxpayer's 131
decision to begin, continue with, or complete the project. 132

(5) The political subdivisions in which the project is 133
located have agreed to provide substantial financial support to 134

the project.	135
(E) An agreement under this section shall include all of the following:	136 137
(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, and the number of full-time employment positions at the project site+.	138 139 140 141 142
(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section+.	143 144 145
(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed+.	146 147
(4) A requirement that the taxpayer maintain operations at the project site for at least twice the number of years as the term of the credit+.	148 149 150
(5) A requirement that the taxpayer retain a specified number of full-time employment positions at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least one thousand employees in full-time employment positions at the project site during the entire term of any agreement, subject to division (E)(7) of this section+.	151 152 153 154 155 156 157
(6) A requirement that the taxpayer annually report to the director of development the number of full-time employment positions subject to the credit, the amount of tax withheld from employees in those positions, the amount of the payments made for the capital investment project, and any other information the director needs to perform the director's duties under this section+.	158 159 160 161 162 163 164

(7) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(6) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year. The director shall not issue a certificate for any year in which the total number of filled full-time employment positions for each day of the calendar year divided by three hundred sixty-five is less than ninety per cent of the full-time employment positions specified in division (E)(5) of this section. In determining the number of full-time employment positions, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (E)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the credit.

(b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township,

or municipal corporation from which the employment positions would 196
be relocated has been notified of the relocation. 197

For purposes of this section, the movement of an employment 198
position from one political subdivision to another political 199
subdivision shall be considered a relocation of an employment 200
position unless the movement is confined to the project site. The 201
transfer of an individual employee from one political subdivision 202
to another political subdivision shall not be considered a 203
relocation of an employment position as long as the individual's 204
employment position in the first political subdivision is 205
refilled. 206

(9) A waiver by the taxpayer of any limitations periods 207
relating to assessments or adjustments resulting from the 208
taxpayer's failure to comply with the agreement. 209

(F) If a taxpayer fails to meet or comply with any condition 210
or requirement set forth in a tax credit agreement, the tax credit 211
authority may amend the agreement to reduce the percentage or term 212
of the credit. The reduction of the percentage or term shall take 213
effect in the taxable year immediately following the taxable year 214
in which the authority amends the agreement. If the taxpayer 215
relocates employment positions in violation of the provision 216
required under division (D)(8)(a) of this section, the taxpayer 217
shall not claim the tax credit under section 5733.0610 of the 218
Revised Code for any tax years following the calendar year in 219
which the relocation occurs, or shall not claim the tax credit 220
under section 5747.058 of the Revised Code for the taxable year in 221
which the relocation occurs and any subsequent taxable years. 222

(G) Financial statements and other information submitted to 223
the department of development or the tax credit authority by an 224
applicant for or recipient of a tax credit under this section, and 225
any information taken for any purpose from such statements or 226
information, are not public records subject to section 149.43 of 227

the Revised Code. However, the chairperson of the authority may 228
make use of the statements and other information for purposes of 229
issuing public reports or in connection with court proceedings 230
concerning tax credit agreements under this section. Upon the 231
request of the tax commissioner, the chairperson of the authority 232
shall provide to the commissioner any statement or other 233
information submitted by an applicant for or recipient of a tax 234
credit in connection with the credit. The commissioner shall 235
preserve the confidentiality of the statement or other 236
information. 237

(H) A taxpayer claiming a tax credit under this section shall 238
submit to the tax commissioner a copy of the director of 239
development's certificate of verification under division (E)(7) of 240
this section for the taxable year. However, failure to submit a 241
copy of the certificate does not invalidate a claim for a credit. 242

(I) For the purposes of this section, a taxpayer may include 243
a partnership, a corporation that has made an election under 244
subchapter S of chapter one of subtitle A of the Internal Revenue 245
Code, or any other business entity through which income flows as a 246
distributive share to its owners. A tax credit received under this 247
section by a partnership, S-corporation, or other such business 248
entity shall be apportioned among the persons to whom the income 249
or profit of the partnership, S-corporation, or other entity is 250
distributed, in the same proportions as those in which the income 251
or profit is distributed. 252

(J) If the director of development determines that a taxpayer 253
~~who has that~~ received a tax credit under this section is not 254
complying with the requirement under division (E)(4) of this 255
~~section or reduces the number of employees agreed to under~~ 256
~~division (E)(5) of this section by more than ten per cent,~~ the 257
director shall notify the tax credit authority of the 258
noncompliance. After receiving such a notice, and after giving the 259

taxpayer an opportunity to explain the noncompliance, the 260
authority may terminate the agreement and require the taxpayer to 261
refund to the state all or a portion of the credit claimed in 262
previous years, as follows: 263

(1) If the taxpayer maintained operations at the project site 264
for less than the term of the credit, the amount required to be 265
refunded shall not exceed the amount of any tax credits previously 266
allowed and received under this section. 267

(2) If the taxpayer maintained operations at the project site 268
longer than the term of the credit but less than one and one-half 269
times the term of the credit, the amount required to be refunded 270
shall not exceed fifty per cent of the sum of any tax credits 271
previously allowed and received under this section. 272

(3) If the taxpayer maintained operations at the project site 273
for at least one and one-half times the term of the credit but 274
less than twice the term of the credit, the amount required to be 275
refunded shall not exceed twenty-five per cent of the sum of any 276
tax credits previously allowed and received under this section. 277

In determining the portion of the credit to be refunded to 279
this state, the authority shall consider the effect of market 280
conditions on the taxpayer's project and whether the taxpayer 281
continues to maintain other operations in this state. After making 282
the determination, the authority shall certify the amount to be 283
refunded to the tax commissioner. The commissioner shall make an 284
assessment for that amount against the taxpayer under Chapter 285
5733. or 5747. of the Revised Code. The time limitations on 286
assessments under Chapter 5733. or 5747. of the Revised Code do 287
not apply to an assessment under this division, but the 288
commissioner shall make the assessment within one year after the 289
date the authority certifies to the commissioner the amount to be 290
refunded. 291

If the director of development determines that a taxpayer 292
that received a tax credit under this section has reduced the 293
number of employees agreed to under division (E)(5) of this 294
section by more than ten per cent, the director shall notify the 295
tax credit authority of the noncompliance. After receiving such 296
notice, and after providing the taxpayer an opportunity to explain 297
the noncompliance, the authority may amend the agreement to reduce 298
the percentage or term of the tax credit. The reduction in the 299
percentage or term shall take effect in the taxable year in which 300
the authority amends the agreement. 301

(K) The director of development, after consultation with the 302
tax commissioner and in accordance with Chapter 119. of the 303
Revised Code, shall adopt rules necessary to implement this 304
section. The rules may provide for recipients of tax credits under 305
this section to be charged fees to cover administrative costs of 306
the tax credit program. At the time the director gives public 307
notice under division (A) of section 119.03 of the Revised Code of 308
the adoption of the rules, the director shall submit copies of the 309
proposed rules to the chairpersons of the standing committees on 310
economic development in the senate and the house of 311
representatives. 312

(L) On or before the thirty-first day of March of each year, 313
the director of development shall submit a report to the governor, 314
the president of the senate, and the speaker of the house of 315
representatives on the tax credit program under this section. The 316
report shall include information on the number of agreements that 317
were entered into under this section during the preceding calendar 318
year, a description of the project that is the subject of each 319
such agreement, and an update on the status of projects under 320
agreements entered into before the preceding calendar year. 321

Sec. 149.43. (A) As used in this section: 322

(1) "Public record" means records kept by any public office,	323
including, but not limited to, state, county, city, village,	324
township, and school district units, and records pertaining to the	325
delivery of educational services by an alternative school in Ohio	326
kept by a nonprofit or for profit entity operating such	327
alternative school pursuant to section 3313.533 of the Revised	328
Code. "Public record" does not mean any of the following:	329
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(a) Medical records;	331
(b) Records pertaining to probation and parole proceedings;	332
(c) Records pertaining to actions under section 2151.85 and	333
division (C) of section 2919.121 of the Revised Code and to	334
appeals of actions arising under those sections;	335
(d) Records pertaining to adoption proceedings, including the	336
contents of an adoption file maintained by the department of	337
health under section 3705.12 of the Revised Code;	338
(e) Information in a record contained in the putative father	339
registry established by section 3107.062 of the Revised Code,	340
regardless of whether the information is held by the department of	341
job and family services or, pursuant to section 3111.69 of the	342
Revised Code, the office of child support in the department or a	343
child support enforcement agency;	344
(f) Records listed in division (A) of section 3107.42 of the	345
Revised Code or specified in division (A) of section 3107.52 of	346
the Revised Code;	347
(g) Trial preparation records;	348
(h) Confidential law enforcement investigatory records;	349
(i) Records containing information that is confidential under	350
section 2317.023 or 4112.05 of the Revised Code;	351
(j) DNA records stored in the DNA database pursuant to	352

section 109.573 of the Revised Code;	353
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	354 355 356 357
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	358 359 360 361
(m) Intellectual property records;	362
(n) Donor profile records;	363
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	364 365
(p) Peace officer residential and familial information;	366
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	367 368 369
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	370 371
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;	372 373 374 375 376
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	377 378 379 380
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that	381 382

the board of examiners of nursing home administrators administers 383
under section 4751.04 of the Revised Code or contracts under that 384
section with a private or government entity to administer; 385
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(v) Records the release of which is prohibited by state or 387
federal law; 388

(w) Proprietary information of or relating to any person that 389
is submitted to or compiled by the Ohio venture capital authority 390
created under section 150.01 of the Revised Code. 391

(2) "Confidential law enforcement investigatory record" means 392
any record that pertains to a law enforcement matter of a 393
criminal, quasi-criminal, civil, or administrative nature, but 394
only to the extent that the release of the record would create a 395
high probability of disclosure of any of the following: 396

(a) The identity of a suspect who has not been charged with 397
the offense to which the record pertains, or of an information 398
source or witness to whom confidentiality has been reasonably 399
promised; 400

(b) Information provided by an information source or witness 401
to whom confidentiality has been reasonably promised, which 402
information would reasonably tend to disclose the source's or 403
witness's identity; 404

(c) Specific confidential investigatory techniques or 405
procedures or specific investigatory work product; 406

(d) Information that would endanger the life or physical 407
safety of law enforcement personnel, a crime victim, a witness, or 408
a confidential information source. 409

(3) "Medical record" means any document or combination of 410
documents, except births, deaths, and the fact of admission to or 411
discharge from a hospital, that pertains to the medical history, 412

diagnosis, prognosis, or medical condition of a patient and that 413
is generated and maintained in the process of medical treatment. 414

(4) "Trial preparation record" means any record that contains 415
information that is specifically compiled in reasonable 416
anticipation of, or in defense of, a civil or criminal action or 417
proceeding, including the independent thought processes and 418
personal trial preparation of an attorney. 419

(5) "Intellectual property record" means a record, other than 420
a financial or administrative record, that is produced or 421
collected by or for faculty or staff of a state institution of 422
higher learning in the conduct of or as a result of study or 423
research on an educational, commercial, scientific, artistic, 424
technical, or scholarly issue, regardless of whether the study or 425
research was sponsored by the institution alone or in conjunction 426
with a governmental body or private concern, and that has not been 427
publicly released, published, or patented. 428

(6) "Donor profile record" means all records about donors or 429
potential donors to a public institution of higher education 430
except the names and reported addresses of the actual donors and 431
the date, amount, and conditions of the actual donation. 432

(7) "Peace officer residential and familial information" 433
means either of the following: 434

(a) Any information maintained in a personnel record of a 435
peace officer that discloses any of the following: 436

(i) The address of the actual personal residence of a peace 437
officer, except for the state or political subdivision in which 438
the peace officer resides; 439

(ii) Information compiled from referral to or participation 440
in an employee assistance program; 441

(iii) The social security number, the residential telephone 442

number, any bank account, debit card, charge card, or credit card 443
number, or the emergency telephone number of, or any medical 444
information pertaining to, a peace officer; 445

(iv) The name of any beneficiary of employment benefits, 446
including, but not limited to, life insurance benefits, provided 447
to a peace officer by the peace officer's employer; 448

(v) The identity and amount of any charitable or employment 449
benefit deduction made by the peace officer's employer from the 450
peace officer's compensation unless the amount of the deduction is 451
required by state or federal law; 452

(vi) The name, the residential address, the name of the 453
employer, the address of the employer, the social security number, 454
the residential telephone number, any bank account, debit card, 455
charge card, or credit card number, or the emergency telephone 456
number of the spouse, a former spouse, or any child of a peace 457
officer. 458

(b) Any record that identifies a person's occupation as a 459
peace officer other than statements required to include the 460
disclosure of that fact under the campaign finance law. 461

As used in divisions (A)(7) and (B)(5) of this section, 462
"peace officer" has the same meaning as in section 109.71 of the 463
Revised Code and also includes the superintendent and troopers of 464
the state highway patrol; it does not include the sheriff of a 465
county or a supervisory employee who, in the absence of the 466
sheriff, is authorized to stand in for, exercise the authority of, 467
and perform the duties of the sheriff. 468

(8) "Information pertaining to the recreational activities of 469
a person under the age of eighteen" means information that is kept 470
in the ordinary course of business by a public office, that 471
pertains to the recreational activities of a person under the age 472
of eighteen years, and that discloses any of the following: 473

(a) The address or telephone number of a person under the age 474
of eighteen or the address or telephone number of that person's 475
parent, guardian, custodian, or emergency contact person; 476

(b) The social security number, birth date, or photographic 477
image of a person under the age of eighteen; 478

(c) Any medical record, history, or information pertaining to 479
a person under the age of eighteen; 480

(d) Any additional information sought or required about a 481
person under the age of eighteen for the purpose of allowing that 482
person to participate in any recreational activity conducted or 483
sponsored by a public office or to use or obtain admission 484
privileges to any recreational facility owned or operated by a 485
public office. 486

(B)(1) Subject to division (B)(4) of this section, all public 487
records shall be promptly prepared and made available for 488
inspection to any person at all reasonable times during regular 489
business hours. Subject to division (B)(4) of this section, upon 490
request, a public office or person responsible for public records 491
shall make copies available at cost, within a reasonable period of 492
time. In order to facilitate broader access to public records, 493
public offices shall maintain public records in a manner that they 494
can be made available for inspection in accordance with this 495
division. 496

(2) If any person chooses to obtain a copy of a public record 497
in accordance with division (B)(1) of this section, the public 498
office or person responsible for the public record shall permit 499
that person to choose to have the public record duplicated upon 500
paper, upon the same medium upon which the public office or person 501
responsible for the public record keeps it, or upon any other 502
medium upon which the public office or person responsible for the 503
public record determines that it reasonably can be duplicated as 504

an integral part of the normal operations of the public office or 505
person responsible for the public record. When the person seeking 506
the copy makes a choice under this division, the public office or 507
person responsible for the public record shall provide a copy of 508
it in accordance with the choice made by the person seeking the 509
copy. 510

(3) Upon a request made in accordance with division (B)(1) of 511
this section, a public office or person responsible for public 512
records shall transmit a copy of a public record to any person by 513
United States mail within a reasonable period of time after 514
receiving the request for the copy. The public office or person 515
responsible for the public record may require the person making 516
the request to pay in advance the cost of postage and other 517
supplies used in the mailing. 518

Any public office may adopt a policy and procedures that it 519
will follow in transmitting, within a reasonable period of time 520
after receiving a request, copies of public records by United 521
States mail pursuant to this division. A public office that adopts 522
a policy and procedures under this division shall comply with them 523
in performing its duties under this division. 524

In any policy and procedures adopted under this division, a 525
public office may limit the number of records requested by a 526
person that the office will transmit by United States mail to ten 527
per month, unless the person certifies to the office in writing 528
that the person does not intend to use or forward the requested 529
records, or the information contained in them, for commercial 530
purposes. For purposes of this division, "commercial" shall be 531
narrowly construed and does not include reporting or gathering 532
news, reporting or gathering information to assist citizen 533
oversight or understanding of the operation or activities of 534
government, or nonprofit educational research. 535

(4) A public office or person responsible for public records 536

is not required to permit a person who is incarcerated pursuant to 537
a criminal conviction or a juvenile adjudication to inspect or to 538
obtain a copy of any public record concerning a criminal 539
investigation or prosecution or concerning what would be a 540
criminal investigation or prosecution if the subject of the 541
investigation or prosecution were an adult, unless the request to 542
inspect or to obtain a copy of the record is for the purpose of 543
acquiring information that is subject to release as a public 544
record under this section and the judge who imposed the sentence 545
or made the adjudication with respect to the person, or the 546
judge's successor in office, finds that the information sought in 547
the public record is necessary to support what appears to be a 548
justiciable claim of the person. 549

(5) Upon written request made and signed by a journalist on 550
or after December 16, 1999, a public office, or person responsible 551
for public records, having custody of the records of the agency 552
employing a specified peace officer shall disclose to the 553
journalist the address of the actual personal residence of the 554
peace officer and, if the peace officer's spouse, former spouse, 555
or child is employed by a public office, the name and address of 556
the employer of the peace officer's spouse, former spouse, or 557
child. The request shall include the journalist's name and title 558
and the name and address of the journalist's employer and shall 559
state that disclosure of the information sought would be in the 560
public interest. 561

As used in division (B)(5) of this section, "journalist" 562
means a person engaged in, connected with, or employed by any news 563
medium, including a newspaper, magazine, press association, news 564
agency, or wire service, a radio or television station, or a 565
similar medium, for the purpose of gathering, processing, 566
transmitting, compiling, editing, or disseminating information for 567
the general public. 568

(C) If a person allegedly is aggrieved by the failure of a public office to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or if a person who has requested a copy of a public record allegedly is aggrieved by the failure of a public office or the person responsible for the public record to make a copy available to the person allegedly aggrieved in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section and that awards reasonable attorney's fees to the person that instituted the mandamus action. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in divisions (B)(3) and (E)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, 601
records storage media costs, actual mailing and alternative 602
delivery costs, or other transmitting costs, and any direct 603
equipment operating and maintenance costs, including actual costs 604
paid to private contractors for copying services. 605

(b) "Bulk commercial special extraction request" means a 606
request for copies of a record for information in a format other 607
than the format already available, or information that cannot be 608
extracted without examination of all items in a records series, 609
class of records, or data base by a person who intends to use or 610
forward the copies for surveys, marketing, solicitation, or resale 611
for commercial purposes. "Bulk commercial special extraction 612
request" does not include a request by a person who gives 613
assurance to the bureau that the person making the request does 614
not intend to use or forward the requested copies for surveys, 615
marketing, solicitation, or resale for commercial purposes. 616

(c) "Commercial" means profit-seeking production, buying, or 617
selling of any good, service, or other product. 618

(d) "Special extraction costs" means the cost of the time 619
spent by the lowest paid employee competent to perform the task, 620
the actual amount paid to outside private contractors employed by 621
the bureau, or the actual cost incurred to create computer 622
programs to make the special extraction. "Special extraction 623
costs" include any charges paid to a public agency for computer or 624
records services. 625

(3) For purposes of divisions (E)(1) and (2) of this section, 626
"commercial surveys, marketing, solicitation, or resale" shall be 627
narrowly construed and does not include reporting or gathering 628
news, reporting or gathering information to assist citizen 629
oversight or understanding of the operation or activities of 630
government, or nonprofit educational research. 631

<u>Sec. 150.01. (A) As used in this chapter:</u>	632
<u>(1) "Authority" means the Ohio venture capital authority</u>	633
<u>created under section 150.02 of the Revised Code.</u>	634
<u>(2) "Lender" means any person that lends money to the program</u>	635
<u>fund as provided in this chapter.</u>	636
<u>(3) "Loss" means a loss incurred with respect to a lender's</u>	637
<u>loan to the program fund. Such a loss is incurred only if and to</u>	638
<u>the extent a program administrator fails to satisfy its</u>	639
<u>obligations to the lender to make timely payments of principal or</u>	640
<u>interest as provided in the loan agreement between the lender and</u>	641
<u>the program administrator. "Loss" does not include either of the</u>	642
<u>following:</u>	643
<u>(a) Any loss incurred by the program fund, including a loss</u>	644
<u>attributable to any investment made by a program administrator;</u>	645
<u>(b) Any loss of the capital required to be provided by a</u>	646
<u>program administrator, or income accruing to that capital, under</u>	647
<u>the agreement entered into under division (B) of section 150.05 of</u>	648
<u>the Revised Code.</u>	649
<u>(4) "Ohio-based business enterprise" means a person that is</u>	650
<u>engaged in business, that employs at least one individual on a</u>	651
<u>full-time or part-time basis at a place of business in this state,</u>	652
<u>including a person engaged in business if that person is a</u>	653
<u>self-employed individual, and that is in the seed or early stage</u>	654
<u>of business development requiring initial or early stage funding</u>	655
<u>or is an established business enterprise developing new methods or</u>	656
<u>technologies.</u>	657
<u>(5) "Ohio-based venture capital fund" means a venture capital</u>	658
<u>fund having its principal office in this state, where the majority</u>	659
<u>of the fund's staff are employed and where at least one investment</u>	660
<u>professional is employed who has at least five years of experience</u>	661

in venture capital investment. 662

(6) "Program fund" means the fund created under section 663
150.03 of the Revised Code. 664

(B) The general assembly declares that its purpose in 665
enacting Chapter 150. of the Revised Code is to increase the 666
amount of private investment capital available in this state for 667
Ohio-based business enterprises in the seed or early stages of 668
business development and requiring initial or early stage funding, 669
as well as established Ohio-based business enterprises developing 670
new methods or technologies, thereby increasing employment, 671
creating additional wealth, and otherwise benefiting the economic 672
welfare of the people of this state. Accordingly, it is the 673
intention of the general assembly that the Ohio venture capital 674
authority focus its investment policy principally on venture 675
capital funds investing in such Ohio-based business enterprises. 676

Sec. 150.02. (A) There is hereby created the Ohio venture 677
capital authority, which shall exercise the powers and perform the 678
duties prescribed by this chapter. The exercise by the authority 679
of its powers and duties is hereby declared to be an essential 680
state governmental function. The authority is subject to all laws 681
generally applicable to state agencies and public officials, 682
including, but not limited to, Chapter 119. and sections 121.22 683
and 149.43 of the Revised Code, to the extent those laws do not 684
conflict with this chapter. 685

(B) The authority shall consist of nine members. Seven of the 686
members shall be appointed by the governor, with the advice and 687
consent of the senate, from among the general public. All 688
appointed members shall have experience in the field of banking, 689
investments, commercial law, or industry relevant to the purpose 690
of the Ohio venture capital program as stated in section 150.01 of 691
the Revised Code. The director of development and tax commissioner 692

or their designees shall be ex officio, nonvoting members. 693

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Initial gubernatorial appointees to the authority shall serve 695
staggered terms, with one term expiring on January 31, 2004, two 696
terms expiring on January 31, 2005, two terms expiring on January 697
31, 2006, and two terms expiring on January 31, 2007. Thereafter, 698
terms of office for all appointees shall be for four years, with 699
each term ending on the same day of the same month as did the term 700
that it succeeds. A vacancy on the authority shall be filled in 701
the same manner as the original appointment, except that a person 702
appointed to fill a vacancy shall be appointed to the remainder of 703
the unexpired term. Any appointed member of the authority is 704
eligible for reappointment. 705

A member of the authority may be removed by the member's 706
appointing authority for misfeasance, malfeasance, willful neglect 707
of duty, or other cause, after notice and a public hearing, unless 708
the notice and hearing are waived in writing by the member. 709

710

(C) Members of the authority shall serve without 711
compensation, but shall receive their reasonable and necessary 712
expenses incurred in the conduct of authority business. The 713
governor shall designate a member of the authority to serve as 714
chairperson. A majority of the voting members of the authority 715
constitutes a quorum, and the affirmative vote of a majority of 716
the voting members present is necessary for any action taken by 717
the authority. A vacancy in the voting membership of the authority 718
does not impair the right of a quorum to exercise all rights and 719
perform all duties of the authority. 720

(D) The department of development shall provide the authority 721
with office space and such technical assistance as the authority 722
requires. 723

Sec. 150.03. Within ninety days after the effective date of this section, the authority shall establish, and subsequently may modify as it considers necessary, a written investment policy governing the investment of money from the program fund, which is hereby created. The program fund shall consist of the proceeds of loans acquired by a program administrator. The authority is subject to Chapter 119. of the Revised Code with respect to the establishment or modification of the policy. The policy shall meet all the following requirements:

(A) It is consistent with the purpose of the program stated in section 150.01 of the Revised Code.

(B) Subject to divisions (C), (D), and (E) of this section, it permits the investment of money from the program fund in private, for-profit venture capital funds, including funds of funds, that invest in enterprises in the seed or early stage of business development or established business enterprises developing new methods or technologies, and that demonstrate potential to generate high levels of successful investment performance.

(C) It specifies that a program administrator or fund manager employed by the program administrator shall invest not less than seventy-five per cent of program fund money under its investment authority in Ohio-based venture capital funds.

(D) It specifies that not less than an amount equal to fifty per cent of program fund money invested in any venture capital fund be invested by the venture capital fund in Ohio-based business enterprises.

(E) It specifies that a program administrator or fund manager employed by the program administrator shall not invest money from the program fund in a venture capital fund to the extent that the

total amount of program fund money invested in the venture capital 754
fund, when combined with any program fund money invested in a 755
venture capital fund under the same management as that venture 756
capital fund, exceeds the lesser of the following: 757

(1) Ten million dollars; 758

(2)(a) In the case of an Ohio-based venture capital fund, 759
fifty per cent of the total amount of capital committed to the 760
fund from all sources, after accounting for capital committed from 761
the program fund; 762

(b) In the case of any other venture capital fund, twenty per 763
cent of the total amount of capital committed to the fund from all 764
sources, after accounting for capital committed from the program 765
fund. 766

(F) It specifies that a program administrator or fund manager 767
employed by the program administrator shall not commit capital 768
from the program fund to a venture capital fund until the venture 769
capital fund receives commitment of at least the same amount from 770
other investors in the fund. 771

(G) It specifies the general conditions a private, for-profit 772
investment fund must meet to be selected as a program 773
administrator under section 150.05 of the Revised Code, including, 774
as a significant selection standard, direct experience managing 775
external or nonproprietary capital in private equity fund of funds 776
formats. 777

(H) It specifies the criteria the authority must consider 778
when making a determination under division (B)(1) of section 779
150.04 of the Revised Code. 780

(I) It includes investment standards and general limitations 781
on allowable investments that the authority considers reasonable 782
and necessary to achieve the purposes of this chapter as stated in 783
division (B) of section 150.01 of the Revised Code, minimize the 784

need for the authority to grant tax credits under section 150.07 785
of the Revised Code, ensure compliance of the program 786
administrators with all applicable laws of this state and the 787
United States, and ensure the safety and soundness of investments 788
of money from the program fund. 789

(J) It prohibits the investment of money from the program 790
fund directly in persons other than venture capital funds, except 791
for temporary investment in investment grade debt securities or 792
temporary deposit in interest-bearing accounts or funds pending 793
permanent investment in venture capital funds. 794

Sec. 150.04. (A) The investment policy established or 795
modified under section 150.03 of the Revised Code shall specify 796
the terms and conditions under which the authority may grant tax 797
credits under section 150.07 of the Revised Code, subject to that 798
section and division (B) of this section, to provide security 799
against lenders' losses. 800

(B) Nothing in this chapter authorizes the providing of 801
security against losses on any bases other than the following: 802

(1) The application first of moneys of the Ohio venture 803
capital fund, created under section 150.08 of the Revised Code, 804
that the authority, under the criteria in its investment policy, 805
determines may be expended without adversely affecting the ability 806
of the authority to continue fulfilling the purpose of this 807
chapter as stated in section 150.01 of the Revised Code; and then 808

(2) The granting of tax credits pursuant to section 150.07 of 809
the Revised Code, but only to the extent moneys under division 810
(B)(1) of this section are insufficient. 811

Sec. 150.05. (A) The authority shall select, as program 812
administrators, not more than two private, for-profit investment 813
funds to acquire loans for the program fund and to invest money in 814

the program fund as prescribed in the investment policy 815
established or modified by the authority in accordance with 816
sections 150.03 and 150.04 of the Revised Code. To be eligible for 817
selection, an investment fund must be incorporated or organized 818
under Chapter 1701., 1705., 1775., 1782., or 1783. of the Revised 819
Code, must have an established business presence in this state, 820
and must be capitalized in accordance with any state and federal 821
laws applicable to the issuance or sale of securities. 822

The authority shall select program administrators only after 823
soliciting and evaluating requests for proposals as prescribed in 824
this section. The authority shall publish a notice of a request 825
for proposals in newspapers of general circulation in this state 826
once each week for two consecutive weeks before a date specified 827
by the authority as the date on which it will begin accepting 828
proposals. The notices shall contain a general description of the 829
subject of the proposed agreement and the location where the 830
request for proposals may be obtained. The request for proposals 831
shall include all the following: 832

(1) Instructions and information to respondents concerning 833
the submission of proposals, including the name and address of the 834
office where proposals are to be submitted; 835

(2) Instructions regarding the manner in which respondents 836
may communicate with the authority, including the names, titles, 837
and telephone numbers of the individuals to whom such 838
communications shall be directed; 839

(3) Description of the performance criteria that will be used 840
to evaluate whether a respondent selected by the authority is 841
satisfying the authority's investment policy; 842

(4) Description of the factors and criteria to be considered 843
in evaluating respondents' proposals, the relative importance of 844
each factor or criterion, and description of the authority's 845

evaluation procedure; 846

(5) Description of any documents that may be incorporated by 847
reference into the request for proposals, provided that the 848
request specifies where such documents may be obtained and such 849
documents are readily available to all interested parties. 850

After the date specified for receiving proposals, the 851
authority shall evaluate submitted proposals. The authority may 852
discuss a respondent's proposal with that respondent to clarify or 853
revise a proposal or the terms of the agreement. 854

The authority shall choose for review proposals from at least 855
three respondents the authority considers qualified to operate the 856
program in the best interests of the investment policy adopted by 857
the authority. If three or fewer proposals are submitted, the 858
authority shall review each proposal. The authority may cancel a 859
request for proposals at any time before entering into an 860
agreement with a respondent. The authority shall provide 861
respondents fair and equal opportunity for such discussions. The 862
authority may terminate discussions with any respondent upon 863
written notice to the respondent. 864

(B) After reviewing the chosen proposals, the authority may 865
select not more than two such respondents and enter into a written 866
agreement with each of the selected respondents, provided that at 867
no time shall there be agreements with more than two persons. 868

The agreement shall do all of the following: 869

(1) Specify that borrowing and investing by the program 870
administrator will be budgeted to guarantee that no tax credits 871
will be granted during the first four years of the Ohio venture 872
capital program, and will be structured to ensure that payments of 873
principal, interest, or interest equivalent due in any fiscal 874
year, when added to such payments due from any other program 875
administrator, does not exceed twenty million dollars; 876

(2) Require investment by the program administrator or the fund manager employed by the program administrator to be in compliance with the investment policy established or modified in accordance with sections 150.03 and 150.04 of the Revised Code that is in effect at the time the investment is made, and prohibit the program administrator or fund manager from engaging in any investment activities other than activities to carry out that policy; 877
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(3) Require periodic financial reporting by the program administrator to the authority, which reporting shall include an annual audit by an independent auditor and such other financial reporting as is specified in the agreement or otherwise required by the authority for the purpose of ensuring that the program administrator is carrying out the investment policy; 885
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(4) Specify any like standards or general limitations in addition to or in furtherance of investment standards or limitations that apply pursuant to division (H) of section 150.03 of the Revised Code; 891
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(5) Require the program administrator to apply program fund revenue first to the payment of principal borrowed by the program administrator for investment under the program, then to interest related to that principal, and then to amounts necessary to cover the program administrator's pro rata share required under division (B) (9) of this section; and require the program administrator to pay the authority not less than ninety per cent of the amount by which program fund revenue attributable to investments under the program administrator's investment authority exceeds amounts so applied; 895
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(6) Specify the procedures by which the program administrator shall certify immediately to the authority the necessity for the authority to issue tax credit certificates pursuant to contracts 905
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entered into under section 150.07 of the Revised Code; 908

(7) Specify any general limitations regarding the employment 909
of a fund manager by the program administrator, in addition to an 910
express limitation that the fund manager be a person with 911
demonstrated, substantial, successful experience in the design and 912
management of seed and venture capital investment programs and in 913
capital formation. The fund manager may be, but need not be, an 914
equity owner or affiliate of the program administrator. 915

(8) Specify the terms and conditions under which the 916
authority or the program administrator may terminate the 917
agreement, including in the circumstance that the program 918
administrator or fund manager violates the investment policy; 919

(9) Require the program administrator or fund manager 920
employed by the program administrator to provide capital in the 921
form of a loan equal to one per cent of the amount of outstanding 922
loans by lenders to the program fund. The loan from the program 923
administrator or fund manager shall be on the same terms and 924
conditions as loans from other lenders, except that the loan from 925
the program administrator or fund manager shall not be secured by 926
the Ohio venture capital fund or tax credits available to other 927
lenders under division (B) of section 150.04 of the Revised Code. 928
Such capital shall be placed at the same risk as the proceeds from 929
such loans. The program administrator shall receive a pro rata 930
share of the net income, including net loss, from the investment 931
of money from the program fund, but is not entitled to the 932
security against losses provided under section 150.04 of the 933
Revised Code. 934

Sec. 150.06. (A) The authority is not an agency as defined in 935
section 101.82 of the Revised Code for purposes of divisions (A) 936
and (B) of section 101.83 of the Revised Code. 937

(B) The selection of a program administrator and the entering 938

into an agreement under section 150.05 of the Revised Code do not 939
constitute a purchase of services under Chapter 125. of the 940
Revised Code. 941

(C) Notwithstanding section 121.22 of the Revised Code, the 942
authority may hold an executive session for either of the 943
following purposes, but only after a majority of a quorum of the 944
authority determines, by a roll call vote, to hold the session, 945
and only at a regular or special meeting: 946

(1) Presenting, reviewing, or discussing proprietary 947
information relating to any person unless that person has 948
consented in writing to disclosure of such information by the 949
authority; 950

(2) Preparing for, conducting, or reviewing negotiating 951
sessions with any private, for-profit investment fund for the 952
purpose of selecting a program administrator and entering into an 953
agreement under section 150.05 of the Revised Code. 954

Sec. 150.07. (A) For the purpose stated in section 150.01 of 955
the Revised Code, the authority may authorize a lender to claim 956
one of the tax credits allowed under section 5725.19, 5729.08, 957
5733.49, or 5747.80 of the Revised Code. The credits shall be 958
authorized by a written contract with the lender. The contract 959
shall specify the terms under which the lender may claim the 960
credit, including the amount of loss, if any, the lender must 961
incur before the lender may claim the credit; specify that the 962
credit shall not exceed the amount of the loss; and specify that 963
the lender may claim the credit only for a loss certified by a 964
program administrator to the authority under the procedures 965
prescribed under division (B)(6) of section 150.05 of the Revised 966
Code. 967

(B) Tax credits may be authorized at any time after the 968
authority establishes the investment policy under section 150.03 969

of the Revised Code, but a tax credit so authorized may not be 970
claimed until the beginning of the fifth year after the authority 971
establishes the investment policy. A tax credit may not be claimed 972
after June 30, 2026. 973

(C) Upon receiving certification of a lender's loss from a 974
program administrator pursuant to the procedures in the investment 975
policy, the authority shall issue a tax credit certificate to the 976
lender, except as otherwise provided in division (D) of this 977
section. The authority shall not issue a certificate until the 978
lender, in the manner prescribed by the authority, elects to 979
receive a refundable or nonrefundable tax credit. The election, 980
once made, is irrevocable. The certificate shall state the amount 981
of the credit, whether the credit is refundable or nonrefundable, 982
and the calendar year, under section 5725.19 or 5729.08, the tax 983
year, under section 5733.49, or the taxable year under section 984
5747.80 of the Revised Code, for which the credit may be claimed. 985
The authority, in conjunction with the tax commissioner, shall 986
develop a system for issuing tax credit certificates for the 987
purpose of verifying that any credit claimed is a credit issued 988
under this section and is properly taken in the year specified in 989
the certificate and in compliance with division (B) of this 990
section. 991

(D) The authority shall not, in any fiscal year, issue tax 992
credit certificates in a total amount exceeding twenty million 993
dollars. 994

Sec. 150.08. (A) There is hereby created in the state 995
treasury the Ohio venture capital fund, to which shall be credited 996
all payments received by the authority pursuant to division (B)(5) 997
of section 150.05 of the Revised Code and all interest earned on 998
moneys of the fund. 999

(B) Except as provided in division (C) of this section, money 1000

in the Ohio venture capital fund shall be used exclusively to 1001
provide security against losses as authorized under this chapter. 1002

(C) If the amount in the venture capital fund exceeds the 1003
amount reasonably necessary to provide security against such 1004
losses, the excess may be used, upon appropriation by the general 1005
assembly, to provide scholarships or other financial assistance to 1006
students enrolled in a course of study in the fields of physical 1007
or natural sciences, mathematics, or engineering at an institution 1008
of higher education in this state. 1009

Sec. 150.09. The state, the governor, or a member of the 1010
authority is not liable in damages to any person in a civil action 1011
for any loss incurred as a result of any investment made by a 1012
program administrator or fund manager employed by the program 1013
administrator. 1014

Sec. 150.10. (A) On the first day of January of the second 1015
year after the date of entering into an agreement under section 1016
150.05 of the Revised Code and of each ensuing year, the authority 1017
shall file with the clerk of the house of representatives, the 1018
clerk of the senate, and the chairpersons of the house and senate 1019
standing committees predominantly concerned with economic 1020
development a written report on the Ohio venture capital program. 1021
The report shall include all the following: 1022

(1) A description of the details of the investment policy 1023
established or modified in accordance with sections 150.03 and 1024
150.04 of the Revised Code; 1025

(2) The authority's assessment of the program's achievement 1026
of its purpose stated in section 150.01 of the Revised Code; 1027

(3) The value of tax credit certificates issued by the 1028
authority under section 150.07 of the Revised Code in each fiscal 1029
year ending on or before the preceding thirtieth day of June; 1030

(4) The amount of tax credits claimed pursuant to section 5725.19, 5729.08, 5733.49, or 5747.80 of the Revised Code, as to the respective taxes involved; 1031
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(5) The financial status of the Ohio venture capital fund; 1034

(6) The names of venture capital funds in which money from the program fund has been invested and the locations of their principal offices, and the names of the enterprises in which each of those venture capital funds has invested such money and the locations of those enterprises' principal offices; 1035
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(7) Any recommendations for modifying the program to better achieve the purpose stated in section 150.01 of the Revised Code. 1040
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(B) During each year that a report is issued under division (A) of this section, the chairperson of the authority, or another member of the authority designated by the chairperson as the authority's representative, shall be required to appear in person before the standing committees of the house and senate predominantly concerned with economic development to give testimony concerning the status of the Ohio venture capital program. 1042
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Sec. 718.01. (A) As used in this chapter: 1050

(1) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 1051
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(2) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code. 1053
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(3) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. 1055
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(4) "Intangible income" means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of 1057
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intangible property including, but not limited to, investments, 1060
deposits, money, or credits as those terms are defined in Chapter 1061
5701. of the Revised Code. 1062

(5) "S corporation" means a corporation that has made an 1063
election under subchapter S of Chapter 1 of Subtitle A of the 1064
Internal Revenue Code for its taxable year. 1065

(B) No municipal corporation with respect to that income that 1066
it may tax shall tax such income at other than a uniform rate. 1067
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(C) No municipal corporation shall levy a tax on income at a 1069
rate in excess of one per cent without having obtained the 1070
approval of the excess by a majority of the electors of the 1071
municipality voting on the question at a general, primary, or 1072
special election. The legislative authority of the municipal 1073
corporation shall file with the board of elections at least 1074
seventy-five days before the day of the election a copy of the 1075
ordinance together with a resolution specifying the date the 1076
election is to be held and directing the board of elections to 1077
conduct the election. The ballot shall be in the following form: 1078
"Shall the Ordinance providing for a ... per cent levy on income 1079
for (Brief description of the purpose of the proposed levy) be 1080
passed? 1081

FOR THE INCOME TAX 1082

AGAINST THE INCOME TAX" 1083

In the event of an affirmative vote, the proceeds of the levy 1084
may be used only for the specified purpose. 1085

(D)(1) Except as otherwise provided in division (D)(2) or 1086
(F)(9) of this section, no municipal corporation shall exempt from 1087
a tax on income, compensation for personal services of individuals 1088
over eighteen years of age or the net profit from a business or 1089
profession. 1090

(2) The legislative authority of a municipal corporation may, 1091
by ordinance or resolution, exempt from a tax on income any 1092
compensation arising from the grant, sale, exchange, or other 1093
disposition of a stock option; the exercise of a stock option; or 1094
the sale, exchange, or other disposition of stock purchased under 1095
a stock option. 1096

(E) Nothing in this section shall prevent a municipal 1097
corporation from permitting lawful deductions as prescribed by 1098
ordinance. If a taxpayer's taxable income includes income against 1099
which the taxpayer has taken a deduction for federal income tax 1100
purposes as reportable on the taxpayer's form 2106, and against 1101
which a like deduction has not been allowed by the municipal 1102
corporation, the municipal corporation shall deduct from the 1103
taxpayer's taxable income an amount equal to the deduction shown 1104
on such form allowable against such income, to the extent not 1105
otherwise so allowed as a deduction by the municipal corporation. 1106
In the case of a taxpayer who has a net profit from a business or 1107
profession that is operated as a sole proprietorship, no municipal 1108
corporation may tax or use as the base for determining the amount 1109
of the net profit that shall be considered as having a taxable 1110
situs in the municipal corporation, a greater amount than the net 1111
profit reported by the taxpayer on schedule C filed in reference 1112
to the year in question as taxable income from such sole 1113
proprietorship, except as otherwise specifically provided by 1114
ordinance or regulation. 1115

(F) A municipal corporation shall not tax any of the 1116
following: 1117

(1) The military pay or allowances of members of the armed 1118
forces of the United States and of members of their reserve 1119
components, including the Ohio national guard; 1120

(2) The income of religious, fraternal, charitable, 1121

scientific, literary, or educational institutions to the extent 1122
that such income is derived from tax-exempt real estate, 1123
tax-exempt tangible or intangible property, or tax-exempt 1124
activities; 1125

(3) Except as otherwise provided in division (G) of this 1126
section, intangible income; 1127

(4) Compensation paid under section 3501.28 or 3501.36 of the 1128
Revised Code to a person serving as a precinct election official, 1129
to the extent that such compensation does not exceed one thousand 1130
dollars annually. Such compensation in excess of one thousand 1131
dollars may be subjected to taxation by a municipal corporation. A 1132
municipal corporation shall not require the payer of such 1133
compensation to withhold any tax from that compensation. 1134

(5) Compensation paid to an employee of a transit authority, 1135
regional transit authority, or regional transit commission created 1136
under Chapter 306. of the Revised Code for operating a transit bus 1137
or other motor vehicle for the authority or commission in or 1138
through the municipal corporation, unless the bus or vehicle is 1139
operated on a regularly scheduled route, the operator is subject 1140
to such a tax by reason of residence or domicile in the municipal 1141
corporation, or the headquarters of the authority or commission is 1142
located within the municipal corporation; 1143

(6) The income of a public utility when that public utility 1144
is subject to the tax levied under section 5727.24 or 5727.30 of 1145
the Revised Code, except starting January 1, 2002, the income of 1146
an electric company or combined company, as defined in section 1147
5727.01 of the Revised Code, may be taxed by a municipal 1148
corporation, subject to Chapter 5745. of the Revised Code. 1149

(7) On and after January 1, 2003, items excluded from federal 1150
gross income pursuant to section 107 of the Internal Revenue Code; 1151
1152

(8) On and after January 1, 2001, compensation paid to a 1153
nonresident individual to the extent prohibited under section 1154
718.011 of the Revised Code; 1155

(9) Except as provided in division (H) of this section, an S 1156
corporation shareholder's distributive share of net profits of the 1157
S corporation, other than any part of the distributive share of 1158
net profits that represents wages as defined in section 3121(a) of 1159
the Internal Revenue Code or net earnings from self-employment as 1160
defined in section 1402(a) of the Internal Revenue Code, to the 1161
extent such distributive share would not be allocated or 1162
apportioned to this state under division (B)(1) and (2) of section 1163
5733.05 of the Revised Code if the S corporation were a 1164
corporation subject to the taxes imposed under Chapter 5733. of 1165
the Revised Code. 1166

(G) Any municipal corporation that taxes any type of 1167
intangible income on March 29, 1988, pursuant to Section 3 of 1168
Amended Substitute Senate Bill No. 238 of the 116th general 1169
assembly, may continue to tax that type of income after 1988 if a 1170
majority of the electors of the municipal corporation voting on 1171
the question of whether to permit the taxation of that type of 1172
intangible income after 1988 vote in favor thereof at an election 1173
held on November 8, 1988. 1174

(H) Any municipal corporation that, on December 6, 2002, 1175
taxes an S corporation shareholder's distributive share of net 1176
profits of the S corporation to any greater extent than that 1177
permitted under division (F)(9) of this section may continue after 1178
2002 to tax such distributive shares to such greater extent only 1179
if a majority of the electors of the municipal corporation voting 1180
on the question of such continuation vote in favor thereof at an 1181
election held on November 4, 2003. If a majority of electors vote 1182
in favor of that question, then, for purposes of section 718.14 of 1183
the Revised Code, "pass-through entity" includes S corporations, 1184

"income from a pass-through entity" includes distributive shares 1185
from an S corporation, and "owner" includes a shareholder of an S 1186
corporation, notwithstanding that section to the contrary. 1187

(I) Nothing in this section or section 718.02 of the Revised 1188
Code shall authorize the levy of any tax on income that a 1189
municipal corporation is not authorized to levy under existing 1190
laws or shall require a municipal corporation to allow a deduction 1191
from taxable income for losses incurred from a sole proprietorship 1192
or partnership. 1193

Sec. 718.14. (A) As used in this section: 1194

(1) ~~"S corporation" means a corporation that has made an~~ 1195
~~election under subchapter S of Chapter 1 of Subtitle A of the~~ 1196
~~Internal Revenue Code for its taxable year.~~ 1197

~~(2)~~ "Limited liability company" means a limited liability 1198
company formed under Chapter 1705. of the Revised Code or under 1199
the laws of another state. 1200

~~(3)~~(2) "Pass-through entity" means a partnership, S 1201
~~corporation,~~ limited liability company, or any other class of 1202
entity the income or profits from which are given pass-through 1203
treatment under the Internal Revenue Code, excluding an S 1204
corporation. 1205

~~(4)~~(3) "Income from a pass-through entity" means partnership 1206
income of partners, ~~distributive shares of shareholders of an S~~ 1207
~~corporation,~~ membership interests of members of a limited 1208
liability company, or other distributive or proportionate 1209
~~ownership~~ shares of income from other pass-through entities. 1210

~~(5)~~(4) "Owner" means a partner of a partnership, a 1211
~~shareholder of an S corporation,~~ a member of a limited liability 1212
company, or other person with an ownership interest in a 1213
pass-through entity. 1214

~~(6)~~(5) "Owner's proportionate share," with respect to each 1215
owner of a pass-through entity, means the ratio of (a) the owner's 1216
income from the pass-through entity that is subject to taxation by 1217
the municipal corporation, to (b) the total income from that 1218
entity of all owners whose income from the entity is subject to 1219
taxation by that municipal corporation. 1220

(B) On and after January 1, 2003, any municipal corporation 1221
imposing a tax that applies to income from a pass-through entity 1222
shall grant a credit to each owner who is domiciled in the 1223
municipal corporation for taxes paid to another municipal 1224
corporation by a pass-through entity that does not conduct 1225
business in the municipal corporation. The amount of the credit 1226
shall equal the lesser of the following amounts, subject to 1227
division (C) of this section: 1228

(1) The owner's proportionate share of the amount, if any, of 1229
tax paid by the pass-through entity to another municipal 1230
corporation in this state; 1231

(2) The owner's proportionate share of the amount of tax that 1232
would be imposed on the pass-through entity by the municipal 1233
corporation in which the taxpayer is domiciled if the pass-through 1234
entity conducted business in the municipal corporation. 1235

(C) If a municipal corporation grants a credit for a 1236
percentage, less than one hundred per cent, of the amount of 1237
income taxes paid on compensation by an individual who resides or 1238
is domiciled in the municipal corporation to another municipal 1239
corporation, the amount of credit otherwise required by division 1240
(B) of this section shall be multiplied by that percentage. 1241

(D) On and after January 1, 2003, any municipal corporation 1242
that imposes a tax on income of or from a pass-through entity 1243
shall specify by ordinance or rule whether the tax applies to 1244
income of the pass-through entity in the hands of the entity or to 1245

income from the pass-through entity in the hands of the owners of 1246
the entity. A municipal corporation may specify a different 1247
ordinance or rule under this division for each of the classes of 1248
pass-through entity enumerated in division (A)~~(3)~~(2) of this 1249
section. 1250

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) 1251
of this section, no agent of the department of taxation, except in 1252
the agent's report to the department or when called on to testify 1253
in any court or proceeding, shall divulge any information acquired 1254
by the agent as to the transactions, property, or business of any 1255
person while acting or claiming to act under orders of the 1256
department. Whoever violates this provision shall thereafter be 1257
disqualified from acting as an officer or employee or in any other 1258
capacity under appointment or employment of the department. 1259
1260

(B)(1) For purposes of an audit pursuant to section 117.15 of 1261
the Revised Code, or an audit of the department pursuant to 1262
Chapter 117. of the Revised Code, or an audit, pursuant to that 1263
chapter, the objective of which is to express an opinion on a 1264
financial report or statement prepared or issued pursuant to 1265
division (A)(7) or (9) of section 126.21 of the Revised Code, the 1266
officers and employees of the auditor of state charged with 1267
conducting the audit shall have access to and the right to examine 1268
any state tax returns and state tax return information in the 1269
possession of the department to the extent that the access and 1270
examination are necessary for purposes of the audit. Any 1271
information acquired as the result of that access and examination 1272
shall not be divulged for any purpose other than as required for 1273
the audit or unless the officers and employees are required to 1274
testify in a court or proceeding under compulsion of legal 1275
process. Whoever violates this provision shall thereafter be 1276
disqualified from acting as an officer or employee or in any other 1277

capacity under appointment or employment of the auditor of state.	1278
(2) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state solely for purposes of an audit of the department.	1279 1280 1281 1282 1283 1284
(C) Division (A) of this section does not prohibit any of the following:	1285 1286
(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;	1287 1288 1289 1290
(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;	1291 1292 1293
(3) Disclosing to the board of motor vehicle collision repair registration any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;	1294 1295 1296 1297 1298
(4) Providing information to the administrator of workers' compensation pursuant to section 4123.591 of the Revised Code;	1299 1300
(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;	1301 1302 1303
(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code;	1304 1305 1306 1307

(7) Providing information regarding the name, account number, 1308
or business address of a holder of a vendor's license issued 1309
pursuant to section 5739.17 of the Revised Code, a holder of a 1310
direct payment permit issued pursuant to section 5739.031 of the 1311
Revised Code, or a seller having a use tax account maintained 1312
pursuant to section 5741.17 of the Revised Code, or information 1313
regarding the active or inactive status of a vendor's license, 1314
direct payment permit, or seller's use tax account; 1315

(8) Releasing invoices or invoice information furnished under 1316
section 4301.433 of the Revised Code pursuant to that section; 1317

(9) Providing to a county auditor notices or documents 1318
concerning or affecting the taxable value of property in the 1319
county auditor's county. Unless authorized by law to disclose 1320
documents so provided, the county auditor shall not disclose such 1321
documents. 1322

Sec. 5709.211. As used in this section: (A) "Facility" means 1324
an air pollution control facility, noise pollution control 1325
facility, energy conversion facility, thermal efficiency 1326
improvement facility, or solid waste energy conversion facility as 1327
defined in section 5709.20 or 5709.45 of the Revised Code. 1328

(B) "Tax exemption certificate" means a certificate issued 1329
under section 5709.21 or 5709.46 of the Revised Code. 1330

As soon as is practicable after receiving an application for 1331
a tax exemption certificate, the tax commissioner shall provide a 1332
copy of the application and of any accompanying documentation to 1333
the county auditor of the county in which the facility is located. 1334
The copy shall be accompanied by a statement showing an estimate 1335
of what the assessed value of the facility would be, based on the 1336
appropriate assessment percentage, if the facility were to be 1337
taxable, and an estimate of the taxes that would be chargeable 1338

against the facility computed on the basis of the rate of taxation 1339
in the taxing district in the year in which the application is 1340
received. Within sixty days after receiving such a statement, the 1341
county auditor shall issue a notice to the taxing authority of 1342
each taxing unit in which the facility is or is to be located. The 1343
notice shall state that an application for a tax exemption 1344
certificate has been filed for the facility; the estimated 1345
assessed value of the facility shown on the statement; the annual 1346
amount of taxes that would be charged and payable on that value at 1347
the current rate of taxation in effect in the taxing unit; and 1348
that, if approved, the application entitles the facility to 1349
exemption from taxation and the taxing unit may be required to 1350
refund any taxes on the facility accruing after the certificate 1351
becomes effective. The tax commissioner shall issue an amended 1352
statement if, after the original statement is issued, the estimate 1353
of such assessed value increases or decreases by more than ten per 1354
cent of the estimated value shown on the most recently issued 1355
statement or amended statement, and the county auditor shall issue 1356
an amended notice reflecting such change. 1357

The tax commissioner's statement and the county auditor's 1358
notice are issued exclusively for the purpose of notifying taxing 1359
authorities of the potential for a refund of taxes paid on a 1360
facility before a tax exemption certificate is issued. The 1361
statement and notice are not appealable by any person and do not 1362
constitute an assessment that is subject to a petition for 1363
reassessment by the taxpayer. The notice issued by the county 1364
auditor does not constitute a notice required by law to be given 1365
for the purpose of section 5717.02 of the Revised Code. 1366

Sec. 5725.19. Upon the issuance of a tax credit certificate 1367
by the Ohio venture capital authority under section 150.07 of the 1368
Revised Code, a credit may be claimed against the tax imposed on a 1369
domestic insurance company under section 5725.18 of the Revised 1370

Code. The credit shall be claimed in the calendar year specified 1371
in the certificate issued by the authority. If the company elected 1372
a refundable credit under section 150.07 of the Revised Code, and 1373
the amount of the credit shown on the certificate exceeds the tax 1374
otherwise due under section 5725.18 of the Revised Code, the 1375
company may receive a refund equal to seventy-five per cent of 1376
such excess. If the company elected a nonrefundable credit, the 1377
amount of the credit shown on the certificate shall not exceed the 1378
amount of tax otherwise due. 1379

Sec. 5729.08. Upon the issuance of a tax credit certificate 1380
by the Ohio venture capital authority under section 150.07 of the 1381
Revised Code, a credit may be claimed against the tax imposed on a 1382
foreign insurance company under section 5729.03 of the Revised 1383
Code. The credit shall be claimed in the calendar year specified 1384
in the certificate issued by the authority. If the company elected 1385
a refundable credit under section 150.07 of the Revised Code, and 1386
the amount of the credit shown on the certificate exceeds the tax 1387
otherwise due under section 5729.03 of the Revised Code, the 1388
company may receive a refund equal to seventy-five per cent of 1389
such excess. If the company elected a nonrefundable credit, the 1390
amount of the credit shown on the certificate shall not exceed the 1391
amount of tax otherwise due. 1392

Sec. 5733.49. Upon the issuance of a tax credit certificate 1393
by the Ohio venture capital authority under section 150.07 of the 1394
Revised Code, a credit may be claimed against the tax imposed by 1395
section 5733.06 of the Revised Code. The credit shall be claimed 1396
for the tax year specified in the certificate issued by the 1397
authority and in the order required under section 5733.98 of the 1398
Revised Code. If the taxpayer elected a refundable credit under 1399
section 150.07 of the Revised Code, and the amount of the credit 1400
shown on the certificate exceeds the tax otherwise due under 1401

sections 5733.06, 5733.065, and 5733.066 of the Revised Code after 1402
all credits, including the credit allowed under this section, are 1403
deducted in that order, the taxpayer shall receive a refund equal 1404
to seventy-five per cent of that excess. If the taxpayer elected a 1405
nonrefundable credit, the amount of the credit, claimed in that 1406
order, shall not exceed the tax otherwise due under those sections 1407
after all the taxpayer's credits are deducted in that order. 1408

Sec. 5733.98. (A) To provide a uniform procedure for 1409
calculating the amount of tax imposed by section 5733.06 of the 1410
Revised Code that is due under this chapter, a taxpayer shall 1411
claim any credits to which it is entitled in the following order, 1412
except as otherwise provided in section 5733.058 of the Revised 1413
Code: 1414

(1) The credit for taxes paid by a qualifying pass-through 1415
entity allowed under section 5733.0611 of the Revised Code; 1416

(2) The credit allowed for financial institutions under 1417
section 5733.45 of the Revised Code; 1418

(3) The credit for qualifying affiliated groups under section 1419
5733.068 of the Revised Code; 1420

(4) The subsidiary corporation credit under section 5733.067 1421
of the Revised Code; 1422

(5) The savings and loan assessment credit under section 1423
5733.063 of the Revised Code; 1424

(6) The credit for recycling and litter prevention donations 1425
under section 5733.064 of the Revised Code; 1426

(7) The credit for employers that enter into agreements with 1427
child day-care centers under section 5733.36 of the Revised Code; 1428

(8) The credit for employers that reimburse employee child 1429
day-care expenses under section 5733.38 of the Revised Code; 1430

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	1431 1432
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	1433 1434
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	1435 1436
(12) The credit for manufacturing investments under section 5733.061 <u>losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of th Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of</u> the Revised Code;	1437 1438 1439 1440 1441
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	1442 1443 1444
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	1445 1446
(15) The job training credit under section 5733.42 of the Revised Code;	1447 1448
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	1449 1450
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	1451 1452
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	1453 1454
(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	1455 1456
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	1457 1458
(21) The credit for purchases of qualifying grape production	1459

property under section 5733.32 of the Revised Code;	1460
(22) The export sales credit under section 5733.069 of the Revised Code;	1461 1462
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	1463 1464
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	1465 1466
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	1467 1468
(26) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	1469 1470
(27) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	1471 1472
<u>(28) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.</u>	1473 1474 1475 1476
(B) For any credit except the refundable credits enumerated in divisions (A)(26), (27), and (28) of this section, 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.	1477 1478 1479 1480 1481 1482 1483
<u>Sec. 5747.80. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate issued by the authority and in the order required under section 5747.98 of the</u>	1484 1485 1486 1487 1488 1489

Revised Code. If the taxpayer elected a refundable credit under 1490
section 150.07 of the Revised Code, and the amount of the credit 1491
shown on the certificate exceeds the tax otherwise due under 1492
section 5747.02 of the Revised Code after all credits, including 1493
the credit allowed under this section, are deducted in that order, 1494
the taxpayer shall receive a refund equal to seventy-five per cent 1495
of that excess. If the taxpayer elected a nonrefundable credit, 1496
the amount of the credit, claimed in that order, shall not exceed 1497
the tax otherwise due after all the taxpayer's credits are 1498
deducted in that order. 1499

Sec. 5747.98. (A) To provide a uniform procedure for 1500
calculating the amount of tax due under section 5747.02 of the 1501
Revised Code, a taxpayer shall claim any credits to which the 1502
taxpayer is entitled in the following order: 1503

(1) The retirement income credit under division (B) of 1504
section 5747.055 of the Revised Code; 1505

(2) The senior citizen credit under division (C) of section 1506
5747.05 of the Revised Code; 1507

(3) The lump sum distribution credit under division (D) of 1508
section 5747.05 of the Revised Code; 1509

(4) The dependent care credit under section 5747.054 of the 1510
Revised Code; 1511

(5) The lump sum retirement income credit under division (C) 1512
of section 5747.055 of the Revised Code; 1513

(6) The lump sum retirement income credit under division (D) 1514
of section 5747.055 of the Revised Code; 1515

(7) The lump sum retirement income credit under division (E) 1516
of section 5747.055 of the Revised Code; 1517

(8) The credit for displaced workers who pay for job training 1518
under section 5747.27 of the Revised Code; 1519

(9) The campaign contribution credit under section 5747.29 of the Revised Code;	1520 1521
(10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1522 1523
(11) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	1524 1525
(12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1526 1527
(13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1528 1529
(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	1530 1531 1532
(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;	1533 1534
(16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	1535 1536
(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	1537 1538
(18) The job retention credit under division (B) of section 5747.058 of the Revised Code;	1539 1540
(19) The credit for manufacturing investments under section 5747.051 losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	1541 1542 1543 1544 1545
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	1546 1547 1548

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	1549 1550 1551
(22) The job training credit under section 5747.39 of the Revised Code;	1552 1553
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	1554 1555
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	1556 1557
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	1558 1559
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	1560 1561
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1562 1563
(28) The export sales credit under section 5747.057 of the Revised Code;	1564 1565
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	1566 1567
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	1568 1569
(31) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	1570 1571
(32) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	1572 1573
(33) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	1574 1575 1576
(34) The refundable credit for tax withheld under division	1577

(B)(1) of section 5747.062 of the Revised Code;	1578
<u>(35) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.</u>	1579 1580 1581 1582
(B) For any credit, except the refundable credits enumerated in divisions (A)(31) to (35) 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.	1583 1584 1585 1586 1587 1588 1589 1590 1591 1592
Sec. 6111.31. Appliances, equipment, machinery, and structures comprising all or a part of an industrial water pollution control facility as defined in section 6111.01 of the Revised Code, and installed pursuant to the approval of the environmental protection agency or any other governmental agency having authority to approve the installation of industrial or other water pollution abatement or control facilities, and which is initially placed in operation, or is initially capable of operation on or after December 31, 1965, shall be excepted from personal property taxes, franchise taxes and sales and use taxes, as provided in this section. Application for an industrial water pollution control certificate shall be filed with the director of environmental protection in such manner and in such form as may be prescribed by regulations adopted and promulgated by the director and shall contain plans and specifications of the structure or structures, including all materials to be incorporated therein,	1593 1594 1595 1596 1597 1598 1599 1600 1601 1602 1603 1604 1605 1606 1607 1608

and a descriptive list of all appliances, equipment, and machinery 1609
to be used as an industrial water pollution control facility. 1610

Within thirty days after receiving such an application, the 1611
director shall forward a copy of the application to the tax 1612
commissioner. The director shall promptly determine whether such 1613
application should be allowed or disallowed, in whole or in part, 1614
and shall give notice of such determination by mail to the 1615
applicant, the tax commissioner, and the auditor of the county or 1616
counties in which the structure or items described in the 1617
application will be located. 1618

Within fifteen days after the date of the mailing of such 1619
notice the applicant, the tax commissioner, or such county auditor 1620
may apply in writing for a reconsideration of the director's 1621
determination and request the director to hold a hearing on such 1622
application. Upon receipt of such application for reconsideration 1623
and request for hearing, the director shall set a date for such 1624
hearing and send notice thereof by mail to all persons notified of 1625
the filing of such application. Such hearing shall be held not 1626
less than fifteen nor more than thirty days from the date of the 1627
mailing of the notice thereof. 1628

If no application for reconsideration and request for hearing 1629
is filed within such period of fifteen days, the director's 1630
determination shall be final. If such application and request is 1631
filed, the director, after such hearing, shall finally determine 1632
whether the application for an industrial water pollution control 1633
certificate should be allowed or disallowed, in whole or in part, 1634
and shall send notice thereof by mail to all persons notified of 1635
the application for reconsideration. 1636

If any determination of the director which has become final 1637
contains a finding that any of the structures or items enumerated 1638
in the application for a certificate will be an industrial water 1639
pollution control facility, the director shall issue an industrial 1640

water pollution control certificate to that effect. 1641

The effective date of such certificate shall be the date when 1642
the item or items described therein are acquired or when title to 1643
or possession of such item or items is first transferred to the 1644
applicant or when construction of any structure or structures 1645
enumerated therein begins, whichever is earlier, provided such 1646
application shall not relate to facilities placed in operation or 1647
capable of operation prior to December 31, 1965, and shall remain 1648
in force and effect until revoked or modified as provided by 1649
section 6111.32 or 6111.33 of the Revised Code. 1650

Upon the issuance of a certificate the director shall send, 1651
by certified mail, such certificate to the applicant and a 1652
certified copy thereof to the tax commissioner and to the county 1653
auditor of the county or counties in which any property to which 1654
the certificate relates is located. The county auditor shall file 1655
such certified copy of the certificate of record in ~~his~~ the 1656
auditor's office. 1657

Sec. 6111.311. As soon as is practicable after receiving a 1658
copy of an application for an industrial water pollution control 1659
certificate from the director of environmental protection under 1660
section 6111.31 of the Revised Code, the tax commissioner shall 1661
provide a copy of the application and of any accompanying 1662
documentation to the county auditor of the county in which the 1663
facility is located. The copy shall be accompanied by a statement 1664
showing an estimate of what the assessed value of the facility 1665
would be, based on the appropriate assessment percentage, if the 1666
facility were to be taxable, and an estimate of the taxes that 1667
would be chargeable against the facility computed on the basis of 1668
the rate of taxation in the taxing district in the year in which 1669
the application is received. The tax commissioner is not required 1670
to provide the copy or statement if, before doing so, the tax 1671

commissioner receives notice of the director's determination 1672
allowing or disallowing the application. Within sixty days after 1673
receiving such a statement, the county auditor shall issue a 1674
notice to the taxing authority of each taxing unit in which the 1675
facility is or is to be located, unless the county auditor has, 1676
within that period, received notice of the director's 1677
determination allowing or disallowing the application. The notice 1678
shall state that an application for an industrial water pollution 1679
control facility has been filed for the facility; the estimated 1680
assessed value of the facility shown on the statement; the annual 1681
amount of taxes that would be charged and payable on that value at 1682
the current rate of taxation in effect in the taxing unit; and 1683
that, if approved, the application entitles the facility to 1684
exemption from taxation and the taxing unit may be required to 1685
refund any taxes on the facility accruing after the certificate 1686
becomes effective. The tax commissioner shall issue an amended 1687
statement if, after the original statement is issued, the estimate 1688
of such assessed value increases or decreases by more than ten per 1689
cent of the estimated value shown on the most recently issued 1690
statement or amended statement, and the county auditor shall issue 1691
an amended notice reflecting such change. 1692

The tax commissioner's statement and the county auditor's 1693
notice are issued exclusively for the purpose of notifying taxing 1694
authorities of the potential for a refund of taxes paid on an 1695
industrial water pollution control facility before a pollution 1696
control certificate is issued. The statement and notice are not 1697
appealable by any person and do not constitute an assessment that 1698
is subject to a petition for reassessment by the taxpayer. The 1699
notice issued by the county auditor does not constitute a notice 1700
required by law to be given for the purpose of section 5717.02 of 1701
the Revised Code. 1702

Section 2. That existing sections 122.171, 149.43, 718.01, 1703

718.14, 5703.21, 5733.98, 5747.98, and 6111.31 of the Revised Code 1704
are hereby repealed. 1705

Section 3. The enactment by this act of sections 5709.211 and 1706
6111.311 of the Revised Code applies to applications for air and 1707
noise pollution control certificates and to applications for 1708
industrial water pollution control certificates filed on or after 1709
the effective date of this act. 1710

The enactment of those sections also applies to such 1711
applications filed before the effective date of this act if such a 1712
certificate has not been issued before January 1, 2004. With 1713
respect to such applications, the Tax Commissioner shall issue the 1714
statements required by those sections as soon as is practicable 1715
after that effective date, and county auditors shall issue the 1716
notices required by those sections within sixty days after such a 1717
statement is received by the county auditor. 1718

Section 4. (A) As used in this section, "qualifying taxpayer" 1719
means a person satisfying all of the following: 1720

(1) The person disputes the valuation or assessment of one or 1721
more parcels of real property classified according to use as 1722
commercial real property; 1723

(2) The person filed an original complaint against the 1724
valuation or assessment of such property under section 5715.13 or 1725
5715.19 of the Revised Code that was dismissed by a county board 1726
of revision, the Board of Tax Appeals, or a court for lack of 1727
jurisdictional validity upon finding the filing of the complaint 1728
was the unauthorized practice of law; 1729

(3) The person has not paid in full the taxes, assessments, 1730
or charges due on the valuation or assessment of such property for 1731
the tax years to which those complaints relate. 1732

(B) A qualifying taxpayer or a qualifying taxpayer's attorney 1733

may file, with the Board of Tax Appeals, a complaint with respect 1734
to property described in division (A) of this section and with 1735
respect to any tax years to which the original complaints related 1736
and occurring within one sexennial reappraisal period within the 1737
ten years preceding the effective date of this section. The 1738
complaint shall be filed on or with any forms, prescribed by the 1739
Tax Commissioner under section 5715.30 of the Revised Code or 1740
otherwise, for the filing of a complaint under section 5715.13 or 1741
5715.19 of the Revised Code, and such a form shall constitute a 1742
proper form for filing a complaint with the Board of Tax Appeals 1743
under this section if the filing otherwise complies with this 1744
section. At the same time as the complaint is filed, the 1745
qualifying taxpayer shall file a notice of the complaint with the 1746
county board of revision with which the original complaint was 1747
filed. The complaint and the notice of complaint shall be filed 1748
not later than six months after the effective date of this 1749
section. The board of revision, upon receiving notice of the 1750
complaint, shall notify, by certified mail, any person that was a 1751
party to any proceeding on the original complaint conducted by the 1752
board of revision, and file proof of such notice with the Board of 1753
Tax Appeals. Notwithstanding sections 5703.02, 5715.13, 5715.19, 1754
and 5717.01 of the Revised Code, the Board of Tax Appeals is 1755
hereby vested with original jurisdiction to hear and determine 1756
such complaints. 1757

Upon the proper and timely filing of a complaint under this 1758
section, the Board of Tax Appeals shall proceed as otherwise 1759
prescribed in section 5717.01 of the Revised Code to hear the 1760
complaint on the basis of the evidence offered to the Board of Tax 1761
Appeals, or to cause its examiners to hear the complaint on such 1762
evidence and report their findings to the Board. The Board of Tax 1763
Appeals shall certify its action to the county auditor. 1764
Notwithstanding section 5715.22 of the Revised Code, if the Board 1765
of Tax Appeals finds that the amount of taxes, assessments, and 1766

charges paid for the tax years to which the complaint relates 1767
exceeds the amount due for those years, the county auditor shall 1768
not draw a warrant for the refund of the overpayment or any 1769
portion thereof, and shall not credit the overpayment or any 1770
portion thereof against the amount of any taxes, assessments, or 1771
charges that may be due in the future from the qualifying 1772
taxpayer. The county auditor shall adjust the amount of taxes, 1773
assessments, and charges shown to be due on the current tax list 1774
from the years to which the complaint relates in accordance with 1775
the Board's finding, and shall certify such adjustment to the 1776
county treasurer, who shall adjust the tax duplicate accordingly. 1777
The finding of the Board of Tax Appeals under this section may be 1778
appealed by the parties and in the manner prescribed under section 1779
5717.04 of the Revised Code for the institution of appeals from 1780
decisions of the Board of Tax Appeals determining appeals from 1781
decisions of county boards of revision. 1782

(C) It is the intent of the General Assembly to exercise its 1783
authority under Ohio Constitution, Article II, Section 28, to pass 1784
a general law authorizing courts to carry into effect, upon such 1785
terms as are just and equitable, the manifest intention of 1786
parties, and officers, by curing omissions, defects, and errors in 1787
instruments and proceedings arising out of their want of 1788
conformity with the laws of this state. This section is remedial 1789
legislation and does not affect pending or past complaints where 1790
jurisdiction over a complainant absolutely vested with a county 1791
board of revision. It is the intent of the General Assembly that 1792
if a board of revision never had jurisdiction over a complainant 1793
because the complainant's previous complaint failed to vest 1794
jurisdictional validity because of an unauthorized practice of law 1795
violation, then no rights have vested with respect to the 1796
determination of the total valuation or assessment of a commercial 1797
parcel owned by the complainant, and, as such, there is not a 1798
reasonable expectation of finality with regard to said 1799

determination. Further, it is the intent of the General Assembly 1800
that this section merely modifies the existing right of a property 1801
owner, granted under sections 5715.13 and 5715.19 of the Revised 1802
Code, to file a complaint against a determination of the total 1803
valuation or assessment of a commercial parcel owned by the 1804
complainant, by expanding the statute of limitations under which a 1805
complaint can be filed. 1806

Section 5. Section 4 of this act is hereby repealed on the 1807
first day of the seventh month beginning after the effective date 1808
of this section. 1809

Section 6. Instead of the \$8,459,014 amount applying to 1810
Youngstown State University in Section 19.47, Debt Service Formula 1811
Allocation, of H.B. 675 of the 124th General Assembly, \$6,959,014 1812
applies to Youngstown State University for purposes of that 1813
section, notwithstanding the order in which H.B. 675 and this act 1814
are enacted. 1815