

## As Passed by the House

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Am. Sub. S. B. No. 180

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

officials to notify local taxing authorities of 14  
pending pollution control tax exemption 15  
applications; and to repeal Section 4 of this act 16  
six months after its effective date. 17

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

**Section 1.** That sections 122.171, 149.43, 718.01, 718.14, 18  
5703.21, 5733.98, 5747.98, and 6111.31 be amended and sections 19  
150.01, 150.02, 150.03, 150.04, 150.05, 150.06, 150.07, 150.08, 20  
150.09, 150.10, 5709.211, 5725.19, 5729.08, 5733.49, 5747.80, and 21  
6111.311 of the Revised Code be enacted to read as follows: 22

**Sec. 122.171.** (A) As used in this section: 5

(1) "Capital investment project" means a plan of investment 6  
at a project site for the acquisition, construction, renovation, 7  
or repair of buildings, machinery, or equipment, or for 8  
capitalized costs of basic research and new product development 9  
determined in accordance with generally accepted accounting 10  
principles, but does not include any of the following: 11

(a) Payments made for the acquisition of personal property 12  
through operating leases; 13

(b) Project costs paid before January 1, 2002, or after 14  
December 31, 2006; 15

(c) Payments made to a related member as defined in section 16  
5733.042 of the Revised Code. 17

(2) "Eligible business" means a business with Ohio operations 18  
~~that~~ satisfying all of the following: 19

(a) Employed an average of at least one thousand employees in 20  
full-time employment positions at a project site during each of 21  
the twelve months preceding the application for a tax credit under 22

this section; and 23

(b) On or after January 1, 2002, has made payments for the 24  
capital investment project of ~~at~~ either of the following: 25

(i) At least two hundred million dollars in the aggregate at 26  
the project site during a period of three consecutive calendar 27  
years ~~that includes~~ including the calendar year that includes a 28  
day of the taxpayer's taxable year with respect to which the 29  
credit is granted; 30

(ii) If the average wage of all full-time employment 31  
positions at the project site is greater than four hundred per 32  
cent of the federal minimum wage, at least one hundred million 33  
dollars in the aggregate at the project site during a period of 34  
three consecutive calendar years including the calendar year that 35  
includes a day of the taxpayer's taxable year with respect to 36  
which the credit is granted. 37

(c) Is engaged at the project site primarily as a 38  
manufacturer or is providing significant corporate administrative 39  
functions; 40

(d) Has had a capital investment project reviewed and 41  
approved by the tax credit authority as provided in divisions (C), 42  
(D), and (E) of this section. 43

(3) "Full-time employment position" means a position of 44  
employment for consideration for at least thirty-five hours a 45  
week, ~~or any other standard of service generally accepted by~~ 46  
~~custom as full-time employment within the industry,~~ that has been 47  
filled for at least one hundred eighty days immediately preceding 48  
the filing of an application under this section, and for at least 49  
one hundred eighty days during each taxable year with respect to 50  
which the credit is granted. 51

(4) "Manufacturer" has the same meaning as in section 52  
5739.011 of the Revised Code. 53

(5) "Project site" means an integrated complex of facilities 54  
in this state, as specified by the tax credit authority under this 55  
section, within a ~~five-mile~~ fifteen-mile radius where a taxpayer 56  
~~in this state~~ is primarily operating as a ~~manufacturer as defined~~ 57  
~~in section 5739.011 of the Revised Code~~ an eligible business. 58

(B) The tax credit authority created under section 122.17 of 59  
the Revised Code may grant tax credits under this section for the 60  
purpose of fostering job retention in this state. Upon application 61  
by an eligible business and upon consideration of the 62  
recommendation of the director of budget and management, tax 63  
commissioner, and director of development under division (C) of 64  
this section, the tax credit authority may grant to an eligible 65  
business a nonrefundable credit against the tax imposed by section 66  
5733.06 or 5747.02 of the Revised Code for a period up to ten 67  
taxable years. The credit shall be in an amount not exceeding 68  
seventy-five per cent of the Ohio income tax withheld from the 69  
employees of the eligible business occupying full-time employment 70  
positions at the project site during the calendar year that 71  
includes the last day of such business' taxable year with respect 72  
to which the credit is granted. The amount of the credit shall not 73  
be based on the Ohio income tax withheld from full-time employees 74  
for a calendar year prior to the calendar year in which the ~~two~~ 75  
~~hundred million dollar~~ minimum investment requirement referred to 76  
in division (A)(2)(b) of this section is completed. The credit 77  
shall be claimed only for the taxable years specified in the 78  
eligible business' agreement with the tax credit authority under 79  
division (E) of this section, but in no event shall the credit be 80  
claimed for a taxable year terminating before the date specified 81  
in the agreement. 82

Any unused portion of a tax credit may be carried forward for 83  
not more than three additional years after the year for which the 84  
credit is granted. 85

(C) A taxpayer ~~who~~ that proposes a capital investment project 86  
to retain jobs in this state may apply to the tax credit authority 87  
to enter into an agreement for a tax credit under this section. 88  
The director of development shall prescribe the form of the 89  
application. After receipt of an application, the authority shall 90  
forward copies of the application to the director of budget and 91  
management, the tax commissioner, and the director of development, 92  
each of whom shall review the application to determine the 93  
economic impact the proposed project would have on the state and 94  
the affected political subdivisions and shall submit a summary of 95  
their determinations and recommendations to the authority. The 96  
authority shall make no agreements under this section after June 97  
30, 2007. 98

(D) Upon review of the determinations and recommendations 99  
described in division (C) of this section, the tax credit 100  
authority may enter into an agreement with the taxpayer for a 101  
credit under this section if ~~it~~ the authority determines all of 102  
the following: 103

(1) The taxpayer's capital investment project will result in 104  
the retention of full-time employment positions in this state. 105

(2) The taxpayer is economically sound and has the ability to 106  
complete the proposed capital investment project. 107

(3) The taxpayer intends to and has the ability to maintain 108  
operations at the project site for at least twice the term of the 109  
credit. 110

(4) Receiving the credit is a major factor in the taxpayer's 111  
decision to begin, continue with, or complete the project. 112

(5) The political subdivisions in which the project is 113  
located have agreed to provide substantial financial support to 114  
the project. 115

(E) An agreement under this section shall include all of the 116

following:

(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.

(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section.

(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed.

(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.

(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.

(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.

(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

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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 be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment

position from one political subdivision to another political 179  
subdivision shall be considered a relocation of an employment 180  
position unless the movement is confined to the project site. The 181  
transfer of an individual employee from one political subdivision 182  
to another political subdivision shall not be considered a 183  
relocation of an employment position as long as the individual's 184  
employment position in the first political subdivision is 185  
refilled. 186

(9) A waiver by the taxpayer of any limitations periods 187  
relating to assessments or adjustments resulting from the 188  
taxpayer's failure to comply with the agreement. 189

(F) If a taxpayer fails to meet or comply with any condition 190  
or requirement set forth in a tax credit agreement, the tax credit 191  
authority may amend the agreement to reduce the percentage or term 192  
of the credit. The reduction of the percentage or term shall take 193  
effect in the taxable year immediately following the taxable year 194  
in which the authority amends the agreement. If the taxpayer 195  
relocates employment positions in violation of the provision 196  
required under division (D)(8)(a) of this section, the taxpayer 197  
shall not claim the tax credit under section 5733.0610 of the 198  
Revised Code for any tax years following the calendar year in 199  
which the relocation occurs, or shall not claim the tax credit 200  
under section 5747.058 of the Revised Code for the taxable year in 201  
which the relocation occurs and any subsequent taxable years. 202

(G) Financial statements and other information submitted to 203  
the department of development or the tax credit authority by an 204  
applicant for or recipient of a tax credit under this section, and 205  
any information taken for any purpose from such statements or 206  
information, are not public records subject to section 149.43 of 207  
the Revised Code. However, the chairperson of the authority may 208  
make use of the statements and other information for purposes of 209  
issuing public reports or in connection with court proceedings 210



concerning tax credit agreements under this section. Upon the  
request of the tax commissioner, the chairperson of the authority  
shall provide to the commissioner any statement or other  
information submitted by an applicant for or recipient of a tax  
credit in connection with the credit. The commissioner shall  
preserve the confidentiality of the statement or other  
information.

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

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

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(J) If the director of development determines that a taxpayer  
~~who has~~ that received a tax credit under this section is not  
complying with the requirement under division (E)(4) of this  
~~section or reduces the number of employees agreed to under~~  
~~division (E)(5) of this section by more than ten per cent~~, the  
director shall notify the tax credit authority of the  
noncompliance. After receiving such a notice, and after giving the  
taxpayer an opportunity to explain the noncompliance, the  
authority may terminate the agreement and require the taxpayer to  
refund to the state all or a portion of the credit claimed in

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previous years, as follows: 243

(1) If the taxpayer maintained operations at the project site 244  
for less than the term of the credit, the amount required to be 245  
refunded shall not exceed the amount of any tax credits previously 246  
allowed and received under this section. 247

(2) If the taxpayer maintained operations at the project site 248  
longer than the term of the credit but less than one and one-half 249  
times the term of the credit, the amount required to be refunded 250  
shall not exceed fifty per cent of the sum of any tax credits 251  
previously allowed and received under this section. 252

(3) If the taxpayer maintained operations at the project site 253  
for at least one and one-half times the term of the credit but 254  
less than twice the term of the credit, the amount required to be 255  
refunded shall not exceed twenty-five per cent of the sum of any 256  
tax credits previously allowed and received under this section. 257

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In determining the portion of the credit to be refunded to 259  
this state, the authority shall consider the effect of market 260  
conditions on the taxpayer's project and whether the taxpayer 261  
continues to maintain other operations in this state. After making 262  
the determination, the authority shall certify the amount to be 263  
refunded to the tax commissioner. The commissioner shall make an 264  
assessment for that amount against the taxpayer under Chapter 265  
5733. or 5747. of the Revised Code. The time limitations on 266  
assessments under Chapter 5733. or 5747. of the Revised Code do 267  
not apply to an assessment under this division, but the 268  
commissioner shall make the assessment within one year after the 269  
date the authority certifies to the commissioner the amount to be 270  
refunded. 271

If the director of development determines that a taxpayer 272  
that received a tax credit under this section has reduced the 273  
number of employees agreed to under division (E)(5) of this 274

section by more than ten per cent, the director shall notify the 275  
tax credit authority of the noncompliance. After receiving such 276  
notice, and after providing the taxpayer an opportunity to explain 277  
the noncompliance, the authority may amend the agreement to reduce 278  
the percentage or term of the tax credit. The reduction in the 279  
percentage or term shall take effect in the taxable year in which 280  
the authority amends the agreement. 281

(K) The director of development, after consultation with the 282  
tax commissioner and in accordance with Chapter 119. of the 283  
Revised Code, shall adopt rules necessary to implement this 284  
section. The rules may provide for recipients of tax credits under 285  
this section to be charged fees to cover administrative costs of 286  
the tax credit program. At the time the director gives public 287  
notice under division (A) of section 119.03 of the Revised Code of 288  
the adoption of the rules, the director shall submit copies of the 289  
proposed rules to the chairpersons of the standing committees on 290  
economic development in the senate and the house of 291  
representatives. 292

(L) On or before the thirty-first day of March of each year, 293  
the director of development shall submit a report to the governor, 294  
the president of the senate, and the speaker of the house of 295  
representatives on the tax credit program under this section. The 296  
report shall include information on the number of agreements that 297  
were entered into under this section during the preceding calendar 298  
year, a description of the project that is the subject of each 299  
such agreement, and an update on the status of projects under 300  
agreements entered into before the preceding calendar year. 301

**Sec. 149.43.** (A) As used in this section: 23

(1) "Public record" means records kept by any public office, 24  
including, but not limited to, state, county, city, village, 25  
township, and school district units, and records pertaining to the 26

delivery of educational services by an alternative school in Ohio 27  
kept by a nonprofit or for profit entity operating such 28  
alternative school pursuant to section 3313.533 of the Revised 29  
Code. "Public record" does not mean any of the following: 30  
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(a) Medical records; 32

(b) Records pertaining to probation and parole proceedings; 33

(c) Records pertaining to actions under section 2151.85 and 34  
division (C) of section 2919.121 of the Revised Code and to 35  
appeals of actions arising under those sections; 36

(d) Records pertaining to adoption proceedings, including the 37  
contents of an adoption file maintained by the department of 38  
health under section 3705.12 of the Revised Code; 39

(e) Information in a record contained in the putative father 40  
registry established by section 3107.062 of the Revised Code, 41  
regardless of whether the information is held by the department of 42  
job and family services or, pursuant to section 3111.69 of the 43  
Revised Code, the office of child support in the department or a 44  
child support enforcement agency; 45

(f) Records listed in division (A) of section 3107.42 of the 46  
Revised Code or specified in division (A) of section 3107.52 of 47  
the Revised Code; 48

(g) Trial preparation records; 49

(h) Confidential law enforcement investigatory records; 50

(i) Records containing information that is confidential under 51  
section 2317.023 or 4112.05 of the Revised Code; 52

(j) DNA records stored in the DNA database pursuant to 53  
section 109.573 of the Revised Code; 54

(k) Inmate records released by the department of 55  
rehabilitation and correction to the department of youth services 56

or a court of record pursuant to division (E) of section 5120.21	57
of the Revised Code;	58
(l) Records maintained by the department of youth services	59
pertaining to children in its custody released by the department	60
of youth services to the department of rehabilitation and	61
correction pursuant to section 5139.05 of the Revised Code;	62
(m) Intellectual property records;	63
(n) Donor profile records;	64
(o) Records maintained by the department of job and family	65
services pursuant to section 3121.894 of the Revised Code;	66
(p) Peace officer residential and familial information;	67
(q) In the case of a county hospital operated pursuant to	68
Chapter 339. of the Revised Code, information that constitutes a	69
trade secret, as defined in section 1333.61 of the Revised Code;	70
(r) Information pertaining to the recreational activities of	71
a person under the age of eighteen;	72
(s) Records provided to, statements made by review board	73
members during meetings of, and all work products of a child	74
fatality review board acting under sections 307.621 to 307.629 of	75
the Revised Code, other than the report prepared pursuant to	76
section 307.626 of the Revised Code;	77
(t) Records provided to and statements made by the executive	78
director of a public children services agency or a prosecuting	79
attorney acting pursuant to section 5153.171 of the Revised Code	80
other than the information released under that section;	81
(u) Test materials, examinations, or evaluation tools used in	82
an examination for licensure as a nursing home administrator that	83
the board of examiners of nursing home administrators administers	84
under section 4751.04 of the Revised Code or contracts under that	85
section with a private or government entity to administer;	86

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(v) Records the release of which is prohibited by state or federal law;	88 89
<u>(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code.</u>	90 91 92
(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:	93 94 95 96 97
(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;	98 99 100 101
(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;	102 103 104 105
(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;	106 107
(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.	108 109 110
(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.	111 112 113 114 115
(4) "Trial preparation record" means any record that contains	116

information that is specifically compiled in reasonable 117  
anticipation of, or in defense of, a civil or criminal action or 118  
proceeding, including the independent thought processes and 119  
personal trial preparation of an attorney. 120

(5) "Intellectual property record" means a record, other than 121  
a financial or administrative record, that is produced or 122  
collected by or for faculty or staff of a state institution of 123  
higher learning in the conduct of or as a result of study or 124  
research on an educational, commercial, scientific, artistic, 125  
technical, or scholarly issue, regardless of whether the study or 126  
research was sponsored by the institution alone or in conjunction 127  
with a governmental body or private concern, and that has not been 128  
publicly released, published, or patented. 129

(6) "Donor profile record" means all records about donors or 130  
potential donors to a public institution of higher education 131  
except the names and reported addresses of the actual donors and 132  
the date, amount, and conditions of the actual donation. 133

(7) "Peace officer residential and familial information" 134  
means either of the following: 135

(a) Any information maintained in a personnel record of a 136  
peace officer that discloses any of the following: 137

(i) The address of the actual personal residence of a peace 138  
officer, except for the state or political subdivision in which 139  
the peace officer resides; 140

(ii) Information compiled from referral to or participation 141  
in an employee assistance program; 142

(iii) The social security number, the residential telephone 143  
number, any bank account, debit card, charge card, or credit card 144  
number, or the emergency telephone number of, or any medical 145  
information pertaining to, a peace officer; 146

(iv) The name of any beneficiary of employment benefits, 147  
including, but not limited to, life insurance benefits, provided 148  
to a peace officer by the peace officer's employer; 149

(v) The identity and amount of any charitable or employment 150  
benefit deduction made by the peace officer's employer from the 151  
peace officer's compensation unless the amount of the deduction is 152  
required by state or federal law; 153

(vi) The name, the residential address, the name of the 154  
employer, the address of the employer, the social security number, 155  
the residential telephone number, any bank account, debit card, 156  
charge card, or credit card number, or the emergency telephone 157  
number of the spouse, a former spouse, or any child of a peace 158  
officer. 159

(b) Any record that identifies a person's occupation as a 160  
peace officer other than statements required to include the 161  
disclosure of that fact under the campaign finance law. 162

As used in divisions (A)(7) and (B)(5) of this section, 163  
"peace officer" has the same meaning as in section 109.71 of the 164  
Revised Code and also includes the superintendent and troopers of 165  
the state highway patrol; it does not include the sheriff of a 166  
county or a supervisory employee who, in the absence of the 167  
sheriff, is authorized to stand in for, exercise the authority of, 168  
and perform the duties of the sheriff. 169

(8) "Information pertaining to the recreational activities of 170  
a person under the age of eighteen" means information that is kept 171  
in the ordinary course of business by a public office, that 172  
pertains to the recreational activities of a person under the age 173  
of eighteen years, and that discloses any of the following: 174

(a) The address or telephone number of a person under the age 175  
of eighteen or the address or telephone number of that person's 176  
parent, guardian, custodian, or emergency contact person; 177



(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 178  
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(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 180  
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(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office. 182  
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(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division. 188  
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(2) If any person chooses to obtain a copy of a public record in accordance with division (B)(1) of this section, the public office or person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of 198  
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it in accordance with the choice made by the person seeking the  
copy.

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

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

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

(4) A public office or person responsible for public records  
is not required to permit a person who is incarcerated pursuant to  
a criminal conviction or a juvenile adjudication to inspect or to  
obtain a copy of any public record concerning a criminal  
investigation or prosecution or concerning what would be a

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criminal investigation or prosecution if the subject of the 242  
investigation or prosecution were an adult, unless the request to 243  
inspect or to obtain a copy of the record is for the purpose of 244  
acquiring information that is subject to release as a public 245  
record under this section and the judge who imposed the sentence 246  
or made the adjudication with respect to the person, or the 247  
judge's successor in office, finds that the information sought in 248  
the public record is necessary to support what appears to be a 249  
justiciable claim of the person. 250

(5) Upon written request made and signed by a journalist on 251  
or after December 16, 1999, a public office, or person responsible 252  
for public records, having custody of the records of the agency 253  
employing a specified peace officer shall disclose to the 254  
journalist the address of the actual personal residence of the 255  
peace officer and, if the peace officer's spouse, former spouse, 256  
or child is employed by a public office, the name and address of 257  
the employer of the peace officer's spouse, former spouse, or 258  
child. The request shall include the journalist's name and title 259  
and the name and address of the journalist's employer and shall 260  
state that disclosure of the information sought would be in the 261  
public interest. 262

As used in division (B)(5) of this section, "journalist" 263  
means a person engaged in, connected with, or employed by any news 264  
medium, including a newspaper, magazine, press association, news 265  
agency, or wire service, a radio or television station, or a 266  
similar medium, for the purpose of gathering, processing, 267  
transmitting, compiling, editing, or disseminating information for 268  
the general public. 269

(C) If a person allegedly is aggrieved by the failure of a 270  
public office to promptly prepare a public record and to make it 271  
available to the person for inspection in accordance with division 272  
(B) of this section, or if a person who has requested a copy of a 273

public record allegedly is aggrieved by the failure of a public 274  
office or the person responsible for the public record to make a 275  
copy available to the person allegedly aggrieved in accordance 276  
with division (B) of this section, the person allegedly aggrieved 277  
may commence a mandamus action to obtain a judgment that orders 278  
the public office or the person responsible for the public record 279  
to comply with division (B) of this section and that awards 280  
reasonable attorney's fees to the person that instituted the 281  
mandamus action. The mandamus action may be commenced in the court 282  
of common pleas of the county in which division (B) of this 283  
section allegedly was not complied with, in the supreme court 284  
pursuant to its original jurisdiction under Section 2 of Article 285  
IV, Ohio Constitution, or in the court of appeals for the 286  
appellate district in which division (B) of this section allegedly 287  
was not complied with pursuant to its original jurisdiction under 288  
Section 3 of Article IV, Ohio Constitution. 289

(D) Chapter 1347. of the Revised Code does not limit the 290  
provisions of this section. 291

(E)(1) The bureau of motor vehicles may adopt rules pursuant 292  
to Chapter 119. of the Revised Code to reasonably limit the number 293  
of bulk commercial special extraction requests made by a person 294  
for the same records or for updated records during a calendar 295  
year. The rules may include provisions for charges to be made for 296  
bulk commercial special extraction requests for the actual cost of 297  
the bureau, plus special extraction costs, plus ten per cent. The 298  
bureau may charge for expenses for redacting information, the 299  
release of which is prohibited by law. 300

(2) As used in divisions (B)(3) and (E)(1) of this section: 301

(a) "Actual cost" means the cost of depleted supplies, 302  
records storage media costs, actual mailing and alternative 303  
delivery costs, or other transmitting costs, and any direct 304  
equipment operating and maintenance costs, including actual costs 305

paid to private contractors for copying services. 306

(b) "Bulk commercial special extraction request" means a 307  
request for copies of a record for information in a format other 308  
than the format already available, or information that cannot be 309  
extracted without examination of all items in a records series, 310  
class of records, or data base by a person who intends to use or 311  
forward the copies for surveys, marketing, solicitation, or resale 312  
for commercial purposes. "Bulk commercial special extraction 313  
request" does not include a request by a person who gives 314  
assurance to the bureau that the person making the request does 315  
not intend to use or forward the requested copies for surveys, 316  
marketing, solicitation, or resale for commercial purposes. 317

(c) "Commercial" means profit-seeking production, buying, or 318  
selling of any good, service, or other product. 319

(d) "Special extraction costs" means the cost of the time 320  
spent by the lowest paid employee competent to perform the task, 321  
the actual amount paid to outside private contractors employed by 322  
the bureau, or the actual cost incurred to create computer 323  
programs to make the special extraction. "Special extraction 324  
costs" include any charges paid to a public agency for computer or 325  
records services. 326

(3) For purposes of divisions (E)(1) and (2) of this section, 327  
"commercial surveys, marketing, solicitation, or resale" shall be 328  
narrowly construed and does not include reporting or gathering 329  
news, reporting or gathering information to assist citizen 330  
oversight or understanding of the operation or activities of 331  
government, or nonprofit educational research. 332

**Sec. 150.01. (A) As used in this chapter:** 333

(1) "Authority" means the Ohio venture capital authority 334  
created under section 150.02 of the Revised Code. 335

(2) "Lender" means any person that lends money to the program fund as provided in this chapter. 336  
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(3) "Loss" means a loss incurred with respect to a lender's loan to the program fund. Such a loss is incurred only if and to the extent a program administrator fails to satisfy its obligations to the lender to make timely payments of principal or interest as provided in the loan agreement between the lender and the program administrator. "Loss" does not include either of the following: 338  
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(a) Any loss incurred by the program fund, including a loss attributable to any investment made by a program administrator; 345  
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(b) Any loss of the capital required to be provided by a program administrator, or income accruing to that capital, under the agreement entered into under division (B) of section 150.05 of the Revised Code. 347  
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(4) "Ohio-based business enterprise" means a person that is engaged in business, that employs at least one individual on a full-time or part-time basis at a place of business in this state, including a person engaged in business if that person is a self-employed individual, and that is in the seed or early stage of business development requiring initial or early stage funding or is an established business enterprise developing new methods or technologies. 351  
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(5) "Ohio-based venture capital fund" means a venture capital fund having its principal office in this state, where the majority of the fund's staff are employed and where at least one investment professional is employed who has at least five years of experience in venture capital investment. 359  
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(6) "Program fund" means the fund created under section 150.03 of the Revised Code. 364  
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(B) The general assembly declares that its purpose in 366

enacting Chapter 150. of the Revised Code is to increase the  
amount of private investment capital available in this state for  
Ohio-based business enterprises in the seed or early stages of  
business development and requiring initial or early stage funding,  
as well as established Ohio-based business enterprises developing  
new methods or technologies, thereby increasing employment,  
creating additional wealth, and otherwise benefiting the economic  
welfare of the people of this state. Accordingly, it is the  
intention of the general assembly that the Ohio venture capital  
authority focus its investment policy principally on venture  
capital funds investing in such Ohio-based business enterprises.

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

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

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Initial gubernatorial appointees to the authority shall serve  
staggered terms, with one term expiring on January 31, 2004, two

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terms expiring on January 31, 2005, two terms expiring on January 31, 2006, and two terms expiring on January 31, 2007. Thereafter, terms of office for all appointees shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. A vacancy on the authority shall be filled in the same manner as the original appointment, except that a person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any appointed member of the authority is eligible for reappointment.

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

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

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

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**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

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hereby created. The program fund shall consist of the proceeds of 429  
loans acquired by a program administrator. The authority is 430  
subject to Chapter 119. of the Revised Code with respect to the 431  
establishment or modification of the policy. The policy shall meet 432  
all the following requirements: 433

(A) It is consistent with the purpose of the program stated 434  
in section 150.01 of the Revised Code. 435

(B) Subject to divisions (C), (D), and (E) of this section, 436  
it permits the investment of money from the program fund in 437  
private, for-profit venture capital funds, including funds of 438  
funds, that invest in enterprises in the seed or early stage of 439  
business development or established business enterprises 440  
developing new methods or technologies, and that demonstrate 441  
potential to generate high levels of successful investment 442  
performance.

(C) It specifies that a program administrator or fund manager 443  
employed by the program administrator shall invest not less than 444  
seventy-five per cent of program fund money under its investment 445  
authority in Ohio-based venture capital funds. 446

(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 447  
employed by the program administrator shall not invest money from 448  
the program fund in a venture capital fund to the extent that the 449  
total amount of program fund money invested in the venture capital 450  
fund, when combined with any program fund money invested in a 452  
venture capital fund under the same management as that venture  
capital fund, exceeds the lesser of the following:

<u>(1) Ten million dollars;</u>	453
<u>(2)(a) In the case of an Ohio-based venture capital fund,</u>	454
<u>fifty per cent of the total amount of capital committed to the</u>	455
<u>fund from all sources, after accounting for capital committed from</u>	456
<u>the program fund;</u>	457
<u>(b) In the case of any other venture capital fund, twenty per</u>	458
<u>cent of the total amount of capital committed to the fund from all</u>	459
<u>sources, after accounting for capital committed from the program</u>	460
<u>fund.</u>	461
<u>(F) It specifies that a program administrator or fund manager</u>	462
<u>employed by the program administrator shall not commit capital</u>	463
<u>from the program fund to a venture capital fund until the venture</u>	464
<u>capital fund receives commitment of at least the same amount from</u>	465
<u>other investors in the fund.</u>	466
<u>(G) It specifies the general conditions a private, for-profit</u>	467
<u>investment fund must meet to be selected as a program</u>	468
<u>administrator under section 150.05 of the Revised Code, including,</u>	469
<u>as a significant selection standard, direct experience managing</u>	470
<u>external or nonproprietary capital in private equity fund of funds</u>	471
<u>formats.</u>	472
<u>(H) It specifies the criteria the authority must consider</u>	473
<u>when making a determination under division (B)(1) of section</u>	474
<u>150.04 of the Revised Code.</u>	475
<u>(I) It includes investment standards and general limitations</u>	476
<u>on allowable investments that the authority considers reasonable</u>	477
<u>and necessary to achieve the purposes of this chapter as stated in</u>	478
<u>division (B) of section 150.01 of the Revised Code, minimize the</u>	479
<u>need for the authority to grant tax credits under section 150.07</u>	480
<u>of the Revised Code, ensure compliance of the program</u>	481
<u>administrators with all applicable laws of this state and the</u>	482
<u>United States, and ensure the safety and soundness of investments</u>	483

of money from the program fund. 484

(J) It prohibits the investment of money from the program 485  
fund directly in persons other than venture capital funds, except 486  
for temporary investment in investment grade debt securities or 487  
temporary deposit in interest-bearing accounts or funds pending 488  
permanent investment in venture capital funds. 489

**Sec. 150.04.** (A) The investment policy established or 493  
modified under section 150.03 of the Revised Code shall specify 494  
the terms and conditions under which the authority may grant tax 495  
credits under section 150.07 of the Revised Code, subject to that 496  
section and division (B) of this section, to provide security 497  
against lenders' losses. 498

(B) Nothing in this chapter authorizes the providing of 499  
security against losses on any bases other than the following: 500

(1) The application first of moneys of the Ohio venture 501  
capital fund, created under section 150.08 of the Revised Code, 502  
that the authority, under the criteria in its investment policy, 503  
determines may be expended without adversely affecting the ability 504  
of the authority to continue fulfilling the purpose of this 505  
chapter as stated in section 150.01 of the Revised Code; and then 506

(2) The granting of tax credits pursuant to section 150.07 of 507  
the Revised Code, but only to the extent moneys under division 508  
(B)(1) of this section are insufficient. 509

**Sec. 150.05.** (A) The authority shall select, as program 510  
administrators, not more than two private, for-profit investment 511  
funds to acquire loans for the program fund and to invest money in 512  
the program fund as prescribed in the investment policy 513  
established or modified by the authority in accordance with 514  
sections 150.03 and 150.04 of the Revised Code. To be eligible for 515  
selection, an investment fund must be incorporated or organized 516

under Chapter 1701., 1705., 1775., 1782., or 1783. of the Revised  
Code, must have an established business presence in this state,  
and must be capitalized in accordance with any state and federal  
laws applicable to the issuance or sale of securities.

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

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

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

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

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

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(5) Description of any documents that may be incorporated by  
reference into the request for proposals, provided that the

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request specifies where such documents may be obtained and such documents are readily available to all interested parties.

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

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

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

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The agreement shall do all of the following:

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

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(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

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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;

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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;

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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;

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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;

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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  
entered into under section 150.07 of the Revised Code;

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(7) Specify any general limitations regarding the employment  
of a fund manager by the program administrator, in addition to an

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express limitation that the fund manager be a person with demonstrated, substantial, successful experience in the design and management of seed and venture capital investment programs and in capital formation. The fund manager may be, but need not be, an equity owner or affiliate of the program administrator.

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

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

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

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(B) The selection of a program administrator and the entering into an agreement under section 150.05 of the Revised Code do not constitute a purchase of services under Chapter 125. of the Revised Code.

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

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

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

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

(B) Tax credits may be authorized at any time after the authority establishes the investment policy under section 150.03 of the Revised Code, but a tax credit so authorized may not be claimed until the beginning of the fifth year after the authority establishes the investment policy. A tax credit may not be claimed



after June 30, 2026.

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

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

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

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(B) Except as provided in division (C) of this section, money  
in the Ohio venture capital fund shall be used exclusively to  
provide security against losses as authorized under this chapter.

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(C) If the amount in the venture capital fund exceeds the

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amount reasonably necessary to provide security against such 714  
losses, the excess may be used, upon appropriation by the general 715  
assembly, to provide scholarships or other financial assistance to 716  
students enrolled in a course of study in the fields of physical 717  
or natural sciences, mathematics, or engineering at an institution 718  
of higher education in this state. 719

Sec. 150.09. The state, the governor, or a member of the 720  
authority is not liable in damages to any person in a civil action 721  
for any loss incurred as a result of any investment made by a 722  
program administrator or fund manager employed by the program 723  
administrator. 724

Sec. 150.10. (A) On the first day of January of the second 725  
year after the date of entering into an agreement under section 726  
150.05 of the Revised Code and of each ensuing year, the authority 727  
shall file with the clerk of the house of representatives, the 728  
clerk of the senate, and the chairpersons of the house and senate 729  
standing committees predominantly concerned with economic 730  
development a written report on the Ohio venture capital program. 731  
The report shall include all the following: 732

(1) A description of the details of the investment policy 733  
established or modified in accordance with sections 150.03 and 734  
150.04 of the Revised Code; 735

(2) The authority's assessment of the program's achievement 736  
of its purpose stated in section 150.01 of the Revised Code; 737

(3) The value of tax credit certificates issued by the 738  
authority under section 150.07 of the Revised Code in each fiscal 739  
year ending on or before the preceding thirtieth day of June; 740

(4) The amount of tax credits claimed pursuant to section 741  
5725.19, 5729.08, 5733.49, or 5747.80 of the Revised Code, as to 742  
the respective taxes involved; 743

(5) The financial status of the Ohio venture capital fund; 744

(6) The names of venture capital funds in which money from 745  
the program fund has been invested and the locations of their 746  
principal offices, and the names of the enterprises in which each 747  
of those venture capital funds has invested such money and the 748  
locations of those enterprises' principal offices; 749

(7) Any recommendations for modifying the program to better 750  
achieve the purpose stated in section 150.01 of the Revised Code. 751

(B) During each year that a report is issued under division 752  
(A) of this section, the chairperson of the authority, or another 753  
member of the authority designated by the chairperson as the 754  
authority's representative, shall be required to appear in person 755  
before the standing committees of the house and senate 756  
predominantly concerned with economic development to give 757  
testimony concerning the status of the Ohio venture capital 758  
program. 759

**Sec. 718.01.** (A) As used in this chapter: 760

(1) "Internal Revenue Code" means the Internal Revenue Code 761  
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 762

(2) "Schedule C" means internal revenue service schedule C 763  
filed by a taxpayer pursuant to the Internal Revenue Code. 764

(3) "Form 2106" means internal revenue service form 2106 765  
filed by a taxpayer pursuant to the Internal Revenue Code. 766

(4) "Intangible income" means income of any of the following 767  
types: income yield, interest, dividends, or other income arising 768  
from the ownership, sale, exchange, or other disposition of 769  
intangible property including, but not limited to, investments, 770  
deposits, money, or credits as those terms are defined in Chapter 771  
5701. of the Revised Code. 772

(5) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. 773  
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(B) No municipal corporation with respect to that income that it may tax shall tax such income at other than a uniform rate. 776  
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(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?" 779  
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FOR THE INCOME TAX 792  
AGAINST THE INCOME TAX" 793

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose. 794  
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(D)(1) Except as otherwise provided in division (D)(2) or (F)(9) of this section, no municipal corporation shall exempt from a tax on income, compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession. 796  
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(2) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from a tax on income any compensation arising from the grant, sale, exchange, or other 801  
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disposition of a stock option; the exercise of a stock option; or 804  
the sale, exchange, or other disposition of stock purchased under 805  
a stock option. 806

(E) Nothing in this section shall prevent a municipal 807  
corporation from permitting lawful deductions as prescribed by 808  
ordinance. If a taxpayer's taxable income includes income against 809  
which the taxpayer has taken a deduction for federal income tax 810  
purposes as reportable on the taxpayer's form 2106, and against 811  
which a like deduction has not been allowed by the municipal 812  
corporation, the municipal corporation shall deduct from the 813  
taxpayer's taxable income an amount equal to the deduction shown 814  
on such form allowable against such income, to the extent not 815  
otherwise so allowed as a deduction by the municipal corporation. 816  
In the case of a taxpayer who has a net profit from a business or 817  
profession that is operated as a sole proprietorship, no municipal 818  
corporation may tax or use as the base for determining the amount 819  
of the net profit that shall be considered as having a taxable 820  
situs in the municipal corporation, a greater amount than the net 821  
profit reported by the taxpayer on schedule C filed in reference 822  
to the year in question as taxable income from such sole 823  
proprietorship, except as otherwise specifically provided by 824  
ordinance or regulation. 825

(F) A municipal corporation shall not tax any of the 826  
following: 827

(1) The military pay or allowances of members of the armed 828  
forces of the United States and of members of their reserve 829  
components, including the Ohio national guard; 830

(2) The income of religious, fraternal, charitable, 831  
scientific, literary, or educational institutions to the extent 832  
that such income is derived from tax-exempt real estate, 833  
tax-exempt tangible or intangible property, or tax-exempt 834  
activities; 835

(3) Except as otherwise provided in division (G) of this section, intangible income; 836  
837

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation. 838  
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(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation; 845  
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(6) The income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Revised Code, may be taxed by a municipal corporation, subject to Chapter 5745. of the Revised Code. 854  
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(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code; 860  
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(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code; 863  
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(9) An S corporation shareholder's distributive share of net 866

profits of the S corporation, except to the extent such 867  
distributive share of net profits represents income earned for 868  
services performed by the shareholder for the S corporation. 869

(G) Any municipal corporation that taxes any type of 870  
intangible income on March 29, 1988, pursuant to Section 3 of 871  
Amended Substitute Senate Bill No. 238 of the 116th general 872  
assembly, may continue to tax that type of income after 1988 if a 873  
majority of the electors of the municipal corporation voting on 874  
the question of whether to permit the taxation of that type of 875  
intangible income after 1988 vote in favor thereof at an election 876  
held on November 8, 1988. 877

(H) Nothing in this section or section 718.02 of the Revised 878  
Code shall authorize the levy of any tax on income that a 879  
municipal corporation is not authorized to levy under existing 880  
laws or shall require a municipal corporation to allow a deduction 881  
from taxable income for losses incurred from a sole proprietorship 882  
or partnership. 883

**Sec. 718.14.** (A) As used in this section: 884

~~(1) "S corporation" means a corporation that has made an~~ 885  
~~election under subchapter S of Chapter 1 of Subtitle A of the~~ 886  
~~Internal Revenue Code for its taxable year.~~ 887

~~(2)~~ "Limited liability company" means a limited liability 888  
company formed under Chapter 1705. of the Revised Code or under 889  
the laws of another state. 890

~~(3)~~(2) "Pass-through entity" means a partnership, S 891  
~~corporation~~, limited liability company, or any other class of 892  
entity the income or profits from which are given pass-through 893  
treatment under the Internal Revenue Code, excluding an S 894  
corporation. 895

~~(4)~~(3) "Income from a pass-through entity" means partnership 896

income of partners, ~~distributive shares of shareholders of an S~~ 897  
~~corporation~~, membership interests of members of a limited 898  
liability company, or other distributive or proportionate 899  
~~ownership~~ shares of income from other pass-through entities. 900

~~(5)(4)~~ "Owner" means a partner of a partnership, a 901  
~~shareholder of an S corporation~~, a member of a limited liability 902  
company, or other person with an ownership interest in a 903  
pass-through entity. 904

~~(6)(5)~~ "Owner's proportionate share," with respect to each 905  
owner of a pass-through entity, means the ratio of (a) the owner's 906  
income from the pass-through entity that is subject to taxation by 907  
the municipal corporation, to (b) the total income from that 908  
entity of all owners whose income from the entity is subject to 909  
taxation by that municipal corporation. 910

(B) On and after January 1, 2003, any municipal corporation 911  
imposing a tax that applies to income from a pass-through entity 912  
shall grant a credit to each owner who is domiciled in the 913  
municipal corporation for taxes paid to another municipal 914  
corporation by a pass-through entity that does not conduct 915  
business in the municipal corporation. The amount of the credit 916  
shall equal the lesser of the following amounts, subject to 917  
division (C) of this section: 918

(1) The owner's proportionate share of the amount, if any, of 919  
tax paid by the pass-through entity to another municipal 920  
corporation in this state; 921

(2) The owner's proportionate share of the amount of tax that 922  
would be imposed on the pass-through entity by the municipal 923  
corporation in which the taxpayer is domiciled if the pass-through 924  
entity conducted business in the municipal corporation. 925

(C) If a municipal corporation grants a credit for a 926  
percentage, less than one hundred per cent, of the amount of 927



income taxes paid on compensation by an individual who resides or  
is domiciled in the municipal corporation to another municipal  
corporation, the amount of credit otherwise required by division  
(B) of this section shall be multiplied by that percentage.

(D) On and after January 1, 2003, any municipal corporation  
that imposes a tax on income of or from a pass-through entity  
shall specify by ordinance or rule whether the tax applies to  
income of the pass-through entity in the hands of the entity or to  
income from the pass-through entity in the hands of the owners of  
the entity. A municipal corporation may specify a different  
ordinance or rule under this division for each of the classes of  
pass-through entity enumerated in division (A)~~(3)~~(2) of this  
section.

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

(B)(1) For purposes of an audit pursuant to section 117.15 of  
the Revised Code, or an audit of the department pursuant to  
Chapter 117. of the Revised Code, or an audit, pursuant to that  
chapter, the objective of which is to express an opinion on a  
financial report or statement prepared or issued pursuant to  
division (A)(7) or (9) of section 126.21 of the Revised Code, the  
officers and employees of the auditor of state charged with  
conducting the audit shall have access to and the right to examine

any state tax returns and state tax return information in the 959  
possession of the department to the extent that the access and 960  
examination are necessary for purposes of the audit. Any 961  
information acquired as the result of that access and examination 962  
shall not be divulged for any purpose other than as required for 963  
the audit or unless the officers and employees are required to 964  
testify in a court or proceeding under compulsion of legal 965  
process. Whoever violates this provision shall thereafter be 966  
disqualified from acting as an officer or employee or in any other 967  
capacity under appointment or employment of the auditor of state. 968

(2) As provided by section 6103(d)(2) of the Internal Revenue 969  
Code, any federal tax returns or federal tax information that the 970  
department has acquired from the internal revenue service, through 971  
federal and state statutory authority, may be disclosed to the 972  
auditor of state solely for purposes of an audit of the 973  
department. 974

(C) Division (A) of this section does not prohibit any of the 975  
following: 976

(1) Divulging information contained in applications, 977  
complaints, and related documents filed with the department under 978  
section 5715.27 of the Revised Code or in applications filed with 979  
the department under section 5715.39 of the Revised Code; 980

(2) Providing information to the office of child support 981  
within the department of job and family services pursuant to 982  
section 3125.43 of the Revised Code; 983

(3) Disclosing to the board of motor vehicle collision repair 984  
registration any information in the possession of the department 985  
that is necessary for the board to verify the existence of an 986  
applicant's valid vendor's license and current state tax 987  
identification number under section 4775.07 of the Revised Code; 988

(4) Providing information to the administrator of workers' 989

- compensation pursuant to section 4123.591 of the Revised Code; 990
- (5) Providing to the attorney general information the 991  
department obtains under division (J) of section 1346.01 of the 992  
Revised Code; 993
- (6) Permitting properly authorized officers, employees, or 994  
agents of a municipal corporation from inspecting reports or 995  
information pursuant to rules adopted under section 5745.16 of the 996  
Revised Code; 997
- (7) Providing information regarding the name, account number, 998  
or business address of a holder of a vendor's license issued 999  
pursuant to section 5739.17 of the Revised Code, a holder of a 1000  
direct payment permit issued pursuant to section 5739.031 of the 1001  
Revised Code, or a seller having a use tax account maintained 1002  
pursuant to section 5741.17 of the Revised Code, or information 1003  
regarding the active or inactive status of a vendor's license, 1004  
direct payment permit, or seller's use tax account; 1005
- (8) Releasing invoices or invoice information furnished under 1006  
section 4301.433 of the Revised Code pursuant to that section; 1007
- (9) Providing to a county auditor notices or documents  
concerning or affecting the taxable value of property in the  
county auditor's county. Unless authorized by law to disclose  
documents so provided, the county auditor shall not disclose such  
documents.

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

(B) "Tax exemption certificate" means a certificate issued

under section 5709.21 or 5709.46 of the Revised Code.

As soon as is practicable after receiving an application for 1012  
a tax exemption certificate, the tax commissioner shall provide a 1013  
copy of the application and of any accompanying documentation to 1018  
the county auditor of the county in which the facility is located. 1019  
The copy shall be accompanied by a statement showing an estimate 1020  
of what the assessed value of the facility would be, based on the 1021  
appropriate assessment percentage, if the facility were to be 1022  
taxable, and an estimate of the taxes that would be chargeable 1024  
against the facility computed on the basis of the rate of taxation 1025  
in the taxing district in the year in which the application is 1026  
received. Within sixty days after receiving such a statement, the 1027  
county auditor shall issue a notice to the taxing authority of 1028  
each taxing unit in which the facility is or is to be located. The 1029  
notice shall state that an application for a tax exemption 1031  
certificate has been filed for the facility; the estimated 1032  
assessed value of the facility shown on the statement; the annual 1033  
amount of taxes that would be charged and payable on that value at 1034  
the current rate of taxation in effect in the taxing unit; and 1035  
that, if approved, the application entitles the facility to 1036  
exemption from taxation and the taxing unit may be required to  
refund any taxes on the facility accruing after the certificate  
becomes effective. The tax commissioner shall issue an amended  
statement if, after the original statement is issued, the estimate  
of such assessed value increases or decreases by more than ten per  
cent of the estimated value shown on the most recently issued  
statement or amended statement, and the county auditor shall issue  
an amended notice reflecting such change.

The tax commissioner's statement and the county auditor's 1037  
notice are issued exclusively for the purpose of notifying taxing 1038  
authorities of the potential for a refund of taxes paid on a 1040  
facility before a tax exemption certificate is issued. The 1041

statement and notice are not appealable by any person and do not 1042  
constitute an assessment that is subject to a petition for 1043  
reassessment by the taxpayer. The notice issued by the county 1044  
auditor does not constitute a notice required by law to be given 1045  
for the purpose of section 5717.02 of the Revised Code. 1046

**Sec. 5725.19.** Upon the issuance of a tax credit certificate 1047  
by the Ohio venture capital authority under section 150.07 of the 1048  
Revised Code, a credit may be claimed against the tax imposed on a 1049  
domestic insurance company under section 5725.18 of the Revised 1050  
Code. The credit shall be claimed in the calendar year specified 1051  
in the certificate issued by the authority. If the company elected 1052  
a refundable credit under section 150.07 of the Revised Code, and  
the amount of the credit shown on the certificate exceeds the tax  
otherwise due under section 5725.18 of the Revised Code, the  
company may receive a refund equal to seventy-five per cent of  
such excess. If the company elected a nonrefundable credit, the  
amount of the credit shown on the certificate shall not exceed the  
amount of tax otherwise due.

**Sec. 5729.08.** Upon the issuance of a tax credit certificate 1053  
by the Ohio venture capital authority under section 150.07 of the 1054  
Revised Code, a credit may be claimed against the tax imposed on a 1055  
foreign insurance company under section 5729.03 of the Revised 1056  
Code. The credit shall be claimed in the calendar year specified 1057  
in the certificate issued by the authority. If the company elected 1058  
a refundable credit under section 150.07 of the Revised Code, and  
the amount of the credit shown on the certificate exceeds the tax  
otherwise due under section 5729.03 of the Revised Code, the  
company may receive a refund equal to seventy-five per cent of  
such excess. If the company elected a nonrefundable credit, the  
amount of the credit shown on the certificate shall not exceed the  
amount of tax otherwise due.

Sec. 5733.49. Upon the issuance of a tax credit certificate 1059  
by the Ohio venture capital authority under section 150.07 of the 1060  
Revised Code, a credit may be claimed against the tax imposed by 1061  
section 5733.06 of the Revised Code. The credit shall be claimed 1062  
for the tax year specified in the certificate issued by the 1063  
authority and in the order required under section 5733.98 of the 1064  
Revised Code. 1065

**Sec. 5733.98.** (A) To provide a uniform procedure for 1066  
calculating the amount of tax imposed by section 5733.06 of the 1067  
Revised Code that is due under this chapter, a taxpayer shall 1068  
claim any credits to which it is entitled in the following order, 1069  
except as otherwise provided in section 5733.058 of the Revised 1070  
Code: 1071

(1) The credit for taxes paid by a qualifying pass-through 1072  
entity allowed under section 5733.0611 of the Revised Code; 1073

(2) The credit allowed for financial institutions under 1074  
section 5733.45 of the Revised Code; 1075

(3) The credit for qualifying affiliated groups under section 1076  
5733.068 of the Revised Code; 1077

(4) The subsidiary corporation credit under section 5733.067 1078  
of the Revised Code; 1079

(5) The savings and loan assessment credit under section 1080  
5733.063 of the Revised Code; 1081

(6) The credit for recycling and litter prevention donations 1082  
under section 5733.064 of the Revised Code; 1083

(7) The credit for employers that enter into agreements with 1084  
child day-care centers under section 5733.36 of the Revised Code; 1085

(8) The credit for employers that reimburse employee child 1086  
day-care expenses under section 5733.38 of the Revised Code; 1087

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	1088 1089
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	1090 1091
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	1092 1093
(12) The credit for manufacturing investments under section 5733.061 of the Revised Code;	1094 1095
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	1096 1097 1098
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	1099 1100
(15) The job training credit under section 5733.42 of the Revised Code;	1101 1102
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	1103 1104
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	1105 1106
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	1107 1108
(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	1109 1110
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	1111 1112
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	1113 1114
(22) The export sales credit under section 5733.069 of the Revised Code;	1115 1116

(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	1117 1118
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	1119 1120
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	1121 1122
(26) <u>The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;</u>	1123 1124 1125
<u>(27)</u> The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	1126 1127
<del>(27)</del> <u>(28)</u> The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code.	1128 1129
(B) For any credit except the refundable credits enumerated in 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.	1130 1131 1132 1133 1134 1135
<b><u>Sec. 5747.80.</u></b> <u>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 Revised Code.</u>	1136 1137 1138 1139 1140 1141 1142
<b>Sec. 5747.98.</b> (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the	1143 1144 1145



taxpayer is entitled in the following order:	1146
(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;	1147 1148
(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	1149 1150
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	1151 1152
(4) The dependent care credit under section 5747.054 of the Revised Code;	1153 1154
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	1155 1156
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	1157 1158
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	1159 1160
(8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	1161 1162
(9) The campaign contribution credit under section 5747.29 of the Revised Code;	1163 1164
(10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1165 1166
(11) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	1167 1168
(12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1169 1170
(13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1171 1172
(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	1173 1174

	1175
(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;	1176 1177
(16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	1178 1179
(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	1180 1181
(18) The job retention credit under division (B) of section 5747.058 of the Revised Code;	1182 1183
(19) The credit for manufacturing investments under section 5747.051 of the Revised Code;	1184 1185
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	1186 1187 1188
(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;	1189 1190 1191
(22) The job training credit under section 5747.39 of the Revised Code;	1192 1193
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	1194 1195
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	1196 1197
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	1198 1199
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	1200 1201
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1202 1203

(28) The export sales credit under section 5747.057 of the Revised Code;	1204 1205
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	1206 1207
(30) <u>The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;</u>	1208 1209 1210
(31) The enterprise zone credits under section 5709.65 of the Revised Code;	1211 1212
<del>(31)</del> (32) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	1213 1214
<del>(32)</del> (33) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	1215 1216 1217
<del>(33)</del> (34) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	1218 1219 1220
<del>(34)</del> (35) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code.	1221 1222
(B) For any credit, except the refundable credits enumerated in 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.	1223 1224 1225 1226 1227 1228 1229 1230 1231 1232

Sec. 6111.31. Appliances, equipment, machinery, and 1233  
structures comprising all or a part of an industrial water 1234  
pollution control facility as defined in section 6111.01 of the 1235  
Revised Code, and installed pursuant to the approval of the 1236  
environmental protection agency or any other governmental agency 1237  
having authority to approve the installation of industrial or 1238  
other water pollution abatement or control facilities, and which 1239  
is initially placed in operation, or is initially capable of 1240  
operation on or after December 31, 1965, shall be excepted from 1241  
personal property taxes, franchise taxes and sales and use taxes, 1242  
as provided in this section. Application for an industrial water 1243  
pollution control certificate shall be filed with the director of 1244  
environmental protection in such manner and in such form as may be 1245  
prescribed by regulations adopted and promulgated by the director 1246  
and shall contain plans and specifications of the structure or 1247  
structures, including all materials to be incorporated therein, 1248  
and a descriptive list of all appliances, equipment, and machinery 1249  
to be used as an industrial water pollution control facility. 1250  
Within thirty days after receiving such an application, the 1251  
director shall forward a copy of the application to the tax 1252  
commissioner. The director shall promptly determine whether such 1253  
application should be allowed or disallowed, in whole or in part, 1254  
and shall give notice of such determination by mail to the 1255  
applicant, the tax commissioner, and the auditor of the county or 1256  
counties in which the structure or items described in the 1257  
application will be located. 1258

Within fifteen days after the date of the mailing of such 1259  
notice the applicant, the tax commissioner, or such county auditor 1260  
may apply in writing for a reconsideration of the director's 1261  
determination and request the director to hold a hearing on such 1262  
application. Upon receipt of such application for reconsideration 1263  
and request for hearing, the director shall set a date for such 1264

hearing and send notice thereof by mail to all persons notified of 1265  
the filing of such application. Such hearing shall be held not 1266  
less than fifteen nor more than thirty days from the date of the 1267  
mailing of the notice thereof. 1268

If no application for reconsideration and request for hearing 1269  
is filed within such period of fifteen days, the director's 1270  
determination shall be final. If such application and request is 1271  
filed, the director, after such hearing, shall finally determine 1272  
whether the application for an industrial water pollution control 1273  
certificate should be allowed or disallowed, in whole or in part, 1274  
and shall send notice thereof by mail to all persons notified of 1275  
the application for reconsideration. 1276

If any determination of the director which has become final 1277  
contains a finding that any of the structures or items enumerated 1278  
in the application for a certificate will be an industrial water 1279  
pollution control facility, the director shall issue an industrial 1280  
water pollution control certificate to that effect. 1281

The effective date of such certificate shall be the date when 1282  
the item or items described therein are acquired or when title to 1283  
or possession of such item or items is first transferred to the 1284  
applicant or when construction of any structure or structures 1285  
enumerated therein begins, whichever is earlier, provided such 1286  
application shall not relate to facilities placed in operation or 1287  
capable of operation prior to December 31, 1965, and shall remain 1288  
in force and effect until revoked or modified as provided by 1289  
section 6111.32 or 6111.33 of the Revised Code. 1290

Upon the issuance of a certificate the director shall send, 1291  
by certified mail, such certificate to the applicant and a 1292  
certified copy thereof to the tax commissioner and to the county 1293  
auditor of the county or counties in which any property to which 1294  
the certificate relates is located. The county auditor shall file 1295  
such certified copy of the certificate of record in ~~his~~ the 1296

auditor's office. 1297

Sec. 6111.311. As soon as is practicable after receiving a 1298  
copy of an application for an industrial water pollution control 1299  
certificate from the director of environmental protection under 1300  
section 6111.31 of the Revised Code, the tax commissioner shall 1301  
estimate the assessed value of the industrial water pollution 1302  
control facility that is the subject of the application and shall 1303  
issue a statement showing such value and the effective date of the 1304  
certificate, if known, to the county auditor of the county in 1305  
which the facility is located. The tax commissioner is not 1306  
required to issue the statement if, before issuing the statement, 1307  
the tax commissioner receives notice of the director's 1308  
determination allowing or disallowing the application. Within 1309  
sixty days after receiving such a statement, the county auditor 1310  
shall issue a notice to the taxing authority of each taxing unit 1311  
in which the facility is or is to be located, unless the county 1312  
auditor has, within that period, received notice of the director's 1313  
determination allowing or disallowing the application. The notice 1314  
shall state that an application for an industrial water pollution 1315  
control facility has been filed for the facility; the effective 1316  
date of the certificate if the date is shown on the tax 1317  
commissioner's statement; the estimated assessed value of the 1318  
facility shown on the statement; the annual amount of taxes that 1319  
would be charged and payable on that value at the current rate of 1320  
taxation in effect in the taxing unit; and that, if approved, the 1321  
application entitles the facility to exemption from taxation and 1322  
the taxing unit may be required to refund any taxes on the 1323  
facility accruing after the effective date of the certificate. The 1324  
tax commissioner shall issue an amended statement if, after the 1325  
original statement is issued, the estimate of such assessed value 1326  
increases or decreases by more than ten per cent of the estimated 1327  
value shown on the most recently issued statement or amended 1328

statement, and the county auditor shall issue an amended notice 1329  
reflecting such change. 1330

The tax commissioner's statement and the county auditor's 1331  
notice are issued exclusively for the purpose of notifying taxing 1332  
authorities of the potential for a refund of taxes paid on an 1333  
industrial water pollution control facility before a pollution 1334  
control certificate is issued. The statement and notice are not 1335  
appealable by any person and do not constitute an assessment that 1336  
is subject to a petition for reassessment by the taxpayer. The 1337  
notice issued by the county auditor does not constitute a notice 1338  
required by law to be given for the purpose of section 5717.02 of 1339  
the Revised Code. 1340

**Section 2.** That existing sections 122.171, 149.43, 718.01, 1341  
718.14, 5703.21, 5733.98, 5747.98, and 6111.31 of the Revised Code 1342  
are hereby repealed. 1343

**Section 3.** The enactment by this act of sections 5709.211 and 1344  
6111.311 of the Revised Code applies to applications for air and 1345  
noise pollution control certificates and to applications for 1346  
industrial water pollution control certificates filed on or after 1347  
the effective date of this act. 1348

The enactment of those sections also applies to such 1349  
applications filed before the effective date of this act if such a 1350  
certificate has not been issued before January 1, 2004. With 1351  
respect to such applications, the Tax Commissioner shall issue the 1352  
statements required by those sections as soon as is practicable 1353  
after that effective date, and county auditors shall issue the 1354  
notices required by those sections within sixty days after such a 1355  
statement is received by the county auditor. 1356

**Section 4.** (A) As used in this section, "qualifying taxpayer" 1357

means a person satisfying all of the following: 1358

(1) The person disputes the valuation or assessment of one or 1359  
more parcels of real property classified according to use as 1360  
commercial real property; 1361

(2) The person filed an original complaint against the 1362  
valuation or assessment of such property under section 5715.13 or 1363  
5715.19 of the Revised Code that was dismissed by a county board 1364  
of revision, the Board of Tax Appeals, or a court for lack of 1365  
jurisdictional validity upon finding the filing of the complaint 1366  
was the unauthorized practice of law; 1367

(3) The person has not paid in full the taxes, assessments, 1368  
or charges due on the valuation or assessment of such property for 1369  
the tax years to which those complaints relate. 1370

(B) Notwithstanding section 5715.13 or division (A) of 1371  
section 5715.19 of the Revised Code, a qualifying taxpayer or a 1372  
qualifying taxpayer's attorney may file, with the proper county 1373  
board of revision, a complaint with respect to property described 1374  
in division (A) of this section and with respect to any tax years 1375  
to which the original complaints related and occurring within one 1376  
sexennial reappraisal period within the ten years preceding the 1377  
effective date of this section. The complaint shall be filed not 1378  
later than six months after the effective date of this section. 1379  
Upon the proper and timely filing of a complaint under this 1380  
section, the board of revision shall proceed as otherwise 1381  
prescribed in Chapter 5715. of the Revised Code and shall certify 1382  
its action to the county auditor. Notwithstanding section 5715.22 1383  
of the Revised Code, if the board of revision finds that the 1384  
amount of taxes, assessments, and charges paid for the tax years 1385  
to which the complaint relates exceeds the amount due for those 1386  
years, the county auditor shall not draw a warrant for the refund 1387  
of the overpayment or any portion thereof, and shall not credit 1388  
the overpayment or any portion thereof against the amount of any 1389



taxes, assessments, or charges that may be due in the future from 1390  
the qualifying taxpayer. The county auditor shall adjust the 1391  
amount of taxes, assessments, and charges shown to be due on the 1392  
current tax list from the years to which the complaint relates in 1393  
accordance with the board's finding, and shall certify such 1394  
adjustment to the county treasurer, who shall adjust the tax 1395  
duplicate accordingly. 1396

(C) It is the intent of the General Assembly to exercise its 1397  
authority under Ohio Constitution, Article II, Section 28, to pass 1398  
a general law authorizing courts to carry into effect, upon such 1399  
terms as are just and equitable, the manifest intention of 1400  
parties, and officers, by curing omissions, defects, and errors in 1401  
instruments and proceedings arising out of their want of 1402  
conformity with the laws of this state. This section is remedial 1403  
legislation and does not affect pending or past complaints where 1404  
jurisdiction over a complainant absolutely vested with a county 1405  
board of revision. It is the intent of the General Assembly that 1406  
if a board of revision never had jurisdiction over a complainant 1407  
because the complainant's previous complaint failed to vest 1408  
jurisdictional validity because of an unauthorized practice of law 1409  
violation, then no rights have vested with respect to the 1410  
determination of the total valuation or assessment of a commercial 1411  
parcel owned by the complainant, and, as such, there is not a 1412  
reasonable expectation of finality with regard to said 1413  
determination. Further, it is the intent of the General Assembly 1414  
that this section merely modifies the existing right of a property 1415  
owner, granted under sections 5715.13 and 5715.19 of the Revised 1416  
Code, to file a complaint against a determination of the total 1417  
valuation or assessment of a commercial parcel owned by the 1418  
complainant, by expanding the statute of limitations under which a 1419  
complaint can be filed. 1420

**Section 5.** Section 4 of this act is hereby repealed on the 1421

first day of the seventh month beginning after the effective date	1422
of this section.	1423