

# As Passed by the Senate

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## A B I L L

To amend sections 122.15, 122.151, 122.152, 122.154, 1  
122.171, 166.01, 166.02, 166.08, 166.11, 166.13, 2  
166.14, 166.16, 5733.98, and 5747.98 and to enact 3  
sections 166.17 to 166.21, 184.04, 5733.352, and 4  
5747.331 of the Revised Code and to amend Sections 5  
41 and 41.15 of Am. Sub. H.B. 94 of the 124th 6  
General Assembly, as subsequently amended, to 7  
increase the dollar amount that may be invested in 8  
technology and revise the eligibility requirements 9  
for, and increase the maximum amount of, 10  
technology investment tax credits that may be 11  
issued; to create the Ohio Research 12  
Commercialization Grant Program; to increase the 13  
maximum amount of obligations that may be issued 14  
to fund economic development programs; to move the 15

Innovation Ohio Loan Fund into the State Treasury; 16  
to create the Research and Development Loan Fund, 17  
and authorize the Director to make loans from that 18  
Fund and issue obligations for research and 19  
development projects; to grant tax credits for 20  
qualified research and development loan payments; 21  
to extend the maximum term of, and to change the 22  
job retention requirements for, the job retention 23  
tax credit; to grant a tax credit to corporations 24  
operating call centers to offset future changes in 25  
the corporation franchise tax law; and to make an 26  
appropriation. 27

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

**Section 1.** That sections 122.15, 122.151, 122.152, 122.154, 28  
122.171, 166.01, 166.02, 166.08, 166.11, 166.13, 166.14, 166.16, 29  
5733.98, and 5747.98 be amended and sections 166.17, 166.18, 30  
166.19, 166.20, 166.21, 184.04, 5733.352, and 5747.331 of the 31  
Revised Code be enacted to read as follows: 32

**Sec. 122.15.** As used in sections 122.15 to 122.154 of the 33  
Revised Code: 34

(A) "Edison center" means a cooperative research and 35  
development facility that receives funding through the Thomas Alva 36  
Edison grant program under division (C) of section 122.33 of the 37  
Revised Code. 38

(B) "Ohio entity" means any corporation, limited liability 39  
company, or unincorporated business organization, including a 40  
general or limited partnership, that has its principal place of 41  
business located in this state and has at least fifty per cent of 42  
its gross assets and fifty per cent of its employees located in 43

this state. If a corporation, limited liability company, or  
unincorporated business organization is a member of an affiliated  
group, the gross assets and the number of employees of all of the  
members of that affiliated group, wherever those assets and  
employees are located, shall be included for the purpose of  
determining the percentage of the corporation's, company's, or  
organization's gross assets and employees that are located in this  
state.

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(C) "Qualified trade or business" means any trade or business  
that primarily involves research and development, technology  
transfer, bio-technology, information technology, or the  
application of new technology developed through research and  
development or acquired through technology transfer. "Qualified  
trade or business" does not include any of the following:

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(1) Any trade or business involving the performance of  
services in the field of law, engineering, architecture,  
accounting, actuarial science, performing arts, consulting,  
athletics, financial services, or brokerage services, or any trade  
or business where the principal asset of the trade or business is  
the reputation or skill of one or more of its employees;

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(2) Any banking, insurance, financing, leasing, rental,  
investing, or similar business;

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(3) Any farming business, including the business of raising  
or harvesting trees;

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(4) Any business involving the production or extraction of  
products of a character with respect to which a deduction is  
allowable under section 611, 613, or 613A of the "Internal Revenue  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 611, 613, or 613A;

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(5) Any business of operating a hotel, motel, restaurant, or  
similar business;

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(6) Any trade or business involving a hospital, a private office of a licensed health care professional, a group practice of licensed health care professionals, or a nursing home. As used in division (C)(6) of this section:

(a) "Nursing home" has the same meaning as in section 3721.50 of the Revised Code.

(b) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(D) "Information technology" means the branch of technology devoted to the study and application of data and the processing thereof; the automatic acquisition, storage, manipulation or transformation, management, movement, control, display, switching, interchange, transmission or reception of data, and the development or use of hardware, software, firmware, and procedures associated with this processing. Information technology includes matters concerned with the furtherance of computer science and technology, design, development, installation and implementation of information systems and applications that in turn will be licensed or sold to a specific target market. Information technology does not include the creation of a distribution method for existing products and services.

(E) "Insider" means an individual who owns, controls, or holds power to vote five per cent or more of the outstanding securities of a business. For purposes of determining whether an investor is an insider, the percentage of voting power in the Ohio entity held by a person related to the investor shall be added to the investor's percentage of voting power in the same Ohio entity, if the investor claimed the person related to the investor as a dependent or a spouse on the investor's federal income tax return for the previous tax year.

(F) "Related to" means being the spouse, parent, child, or

sibling of an individual. 105

(G) "Research and development" means designing, creating, or 106  
formulating new or enhanced products, equipment, or processes, and 107  
conducting scientific or technological inquiry and experimentation 108  
in the physical sciences with the goal of increasing scientific 109  
knowledge that may reveal the bases for new or enhanced products, 110  
equipment, or processes. 111

(H) "State tax liability" means any tax liability incurred 112  
under division (D) of section 5707.03, section 5727.24, 5727.38, 113  
or 5747.02, or Chapter 5733. of the Revised Code. 114

(I) "Technology transfer" means the transfer of technology 115  
from one sector of the economy to another, including the transfer 116  
of military technology to civilian applications, civilian 117  
technology to military applications, or technology from public or 118  
private research laboratories to military or civilian 119  
applications. 120

(J) "Affiliated group" means two or more persons related in 121  
such a way that one of the persons owns or controls the business 122  
operations of another of those persons. In the case of a 123  
corporation issuing capital stock, one corporation owns or 124  
controls the business operations of another corporation if it owns 125  
more than fifty per cent of the other corporation's capital stock 126  
with voting rights. In the case of a limited liability company, 127  
one person owns or controls the business operations of the company 128  
if that person's membership interest, as defined in section 129  
1705.01 of the Revised Code, is greater than fifty per cent of 130  
combined membership interest of all persons owning such interests 131  
in the company. In the case of an unincorporated business 132  
organization, one person owns or controls the business operations 133  
of the organization if, under the articles of organization or 134  
other instrument governing the affairs of the organization, that 135

person has a beneficial interest in the organization's profits, 136  
surpluses, losses, or other distributions greater than fifty per 137  
cent of the combined beneficial interests of all persons having 138  
such an interest in the organization. 139

(K) "Money" means United States currency, or a check, draft, 140  
or cashier's check for United States currency, payable on demand 141  
and drawn on a bank. 142

(L) "EDGE business enterprise" means an Ohio entity certified 143  
by the director of administrative services as a participant in the 144  
encouraging diversity, growth, and equity program established by 145  
the governor's executive order 2002-17T. 146

(M) "Distressed area" has the same meaning as in section 147  
122.23 of the Revised Code. 148

**Sec. 122.151.** (A) An investor who proposes to make an 150  
investment of money in an Ohio entity may apply to an Edison 151  
center for a tax credit under this section. The Edison center 152  
shall prescribe the form of the application and any information 153  
that the investor must submit with the application. The investor 154  
shall include with the application a fee of two hundred dollars. 155  
The center, within three weeks after receiving the application, 156  
shall review it, determine whether the investor should be 157  
recommended for the tax credit, and send written notice of its 158  
initial determination to the industrial technology and enterprise 159  
advisory council and to the investor. If the center determines the 160  
investor should not be recommended for the tax credit, it shall 161  
include in the notice the reasons for the determination. Subject 162  
to divisions (C) and (D) of this section, an investor is eligible 163  
for a tax credit if all of the following requirements are met: 164

(1) The investor's investment of money is in an Ohio entity 165  
engaged in a qualified trade or business. 166

(2) The Ohio entity had less than ~~one~~ two million five  
hundred thousand dollars of gross revenue during its most recently  
completed fiscal year or had a net book value of less than ~~one~~ two  
million five hundred thousand dollars at the end of that fiscal  
year.

(3) The investment takes the form of the purchase of common  
or preferred stock, a membership interest, a partnership interest,  
or any other ownership interest.

(4) The amount of the investment for which the credit is  
being claimed does not exceed ~~one~~ three hundred ~~fifty~~ thousand  
dollars in the case of an investment in an EDGE business  
enterprise or in an Ohio entity located in a distressed area, or  
two hundred fifty thousand dollars in the case of an investment in  
any other Ohio entity.

(5) The money invested is entirely at risk of loss, where  
repayment depends upon the success of the business operations of  
the Ohio entity.

(6) No repayment of principal invested will be made for at  
least three years from the date the investment is made.

(7) The annual combined amount of any dividend and interest  
payments to be made to the investor will not exceed ten per cent  
of the amount of the investment for at least three years from the  
date the investment is made.

(8) The investor is not an employee with proprietary  
decision-making authority of the Ohio entity in which the  
investment of money is proposed, or related to such an individual.  
The Ohio entity is not an individual related to the investor. For  
purposes of this division, the industrial technology and  
enterprise advisory council shall define "an employee with  
proprietary decision-making authority."

(9) The investor is not an insider. 197

For the purposes of determining the net book value of an Ohio 198  
entity under division (A)(1) or (2) of this section, if the entity 199  
is a member of an affiliated group, the combined net book values 200  
of all of the members of that affiliated group shall be used. 201

Nothing in division (A)(6) or (7) of this section limits or 202  
disallows the distribution to an investor in a pass-through entity 203  
of a portion of the entity's profits equal to the investor's 204  
federal, state, and local income tax obligations attributable to 205  
the investor's allocable share of the entity's profits. Nothing in 206  
division (A)(6) or (7) of this section limits or disallows the 207  
sale by an investor of part or all of the investor's interests in 208  
an Ohio entity by way of a public offering of shares in the Ohio 209  
entity. 210

(B) A group of two but not more than twenty investors, each 211  
of whom proposes to make an investment of money in the same Ohio 212  
entity, may submit an application for tax credits under division 213  
(A) of this section. The group shall include with the application 214  
a fee of eight hundred dollars. The application shall identify 215  
each investor in the group and the amount of money each investor 216  
proposes to invest in the Ohio entity, and shall name a contact 217  
person for the group. The Edison center, within three weeks after 218  
receiving the application, shall review it, determine whether each 219  
investor of the group should be recommended for a tax credit under 220  
the conditions set forth in division (A) of this section, and send 221  
written notice of its determination to the industrial technology 222  
and enterprise advisory council and to the contact person. The 223  
center shall not recommend that a group of investors receive a tax 224  
credit unless each investor is eligible under those conditions. 225  
The center may disqualify from a group any investor who is not 226  
eligible under the conditions and recommend that the remaining 227



group of investors receive the tax credit. If the center 228  
determines the group should not be recommended for the tax credit, 229  
it shall include in the notice the reasons for the determination. 230

(C) The industrial technology and enterprise advisory council 231  
shall establish from among its members a three-person committee. 232  
Within four weeks after the council receives a notice of 233  
recommendation from an Edison center, the committee shall review 234  
the recommendation and issue a final determination of whether the 235  
investor or group is eligible for a tax credit under the 236  
conditions set forth in division (A) of this section. The 237  
committee may require the investor or group to submit additional 238  
information to support the application. The vote of at least two 239  
members of the committee is necessary for the issuance of a final 240  
determination or any other action of the committee. Upon making 241  
the final determination, the committee shall send written notice 242  
of approval or disapproval of the tax credit to the investor or 243  
group contact person, the director of development, and the Edison 244  
center. If the committee disapproves the tax credit, it shall 245  
include in the notice the reasons for the disapproval. 246

(D)(1) The industrial technology and enterprise advisory 247  
council committee shall not approve more than one million five 248  
hundred thousand dollars of investments in any one Ohio entity. 249  
However, if a proposed investment of money in an Ohio entity has 250  
been approved but the investor does not actually make the 251  
investment, the committee may reassign the amount of that 252  
investment to another investor, as long as the total amount 253  
invested in the entity under this section does not exceed one 254  
million five hundred thousand dollars. 255

If the one-million-five-hundred-thousand-dollar limit for an 256  
Ohio entity has not yet been reached and an application proposes 257  
an investment of money that would exceed the limit for that 258

entity, the committee shall send written notice to the investor, 259  
or for a group, the contact person, that the investment cannot be 260  
approved as requested. Upon receipt of the notice, the investor or 261  
group may amend the application to propose an investment of money 262  
that does not exceed the limit. 263

(2) Not more than ~~ten~~ twenty million dollars of tax credits 264  
shall be issued under sections 122.15 to 122.154 of the Revised 265  
Code. 266

(E) If an investor makes an approved investment of ~~money in~~ 267  
~~an Ohio entity of less than one~~ two hundred fifty thousand dollars 268  
in any Ohio entity other than an EDGE business enterprise or in an 269  
Ohio entity located in a distressed area, the investor may apply 270  
for approval of another investment of money in that entity, as 271  
long as the total amount invested in that entity by the investor 272  
under this section does not exceed ~~one~~ two hundred fifty thousand 273  
dollars. If an investor makes an approved investment of less than 274  
three hundred thousand dollars in an EDGE business enterprise or 275  
in an Ohio entity located in a distressed area, the investor may 276  
apply for approval of another investment of money in that entity, 277  
as long as the total amount invested in that entity by the 278  
investor under this section does not exceed three hundred thousand 279  
dollars. An investor who receives approval of an investment of 280  
money as part of a group may subsequently apply on an individual 281  
basis for approval of an additional investment of money in the 282  
Ohio entity. 283

(F) The industrial technology and enterprise advisory council 284  
committee shall approve or disapprove tax credit applications 285  
under this section in the order in which they are received by the 286  
council. 287

(G) The director of development may disapprove any 288  
application recommended by an Edison center and approved by the 289

industrial technology and enterprise advisory council committee, 290  
or may disapprove a credit for which a tax credit certificate has 291  
been issued under section 122.152 of the Revised Code, if the 292  
director determines that the entity in which the applicant 293  
proposes to invest or has invested is not an Ohio entity eligible 294  
to receive investments that qualify for the credit. If the 295  
director disapproves an application, the director shall certify 296  
the action to the investor, the Edison center that recommended the 297  
application, the industrial technology and enterprise advisory 298  
council, and the tax commissioner, together with a written 299  
explanation of the reasons for the disapproval. If the director 300  
disapproves a tax credit after a tax credit certificate is issued, 301  
the investor shall not claim the credit for the taxable year that 302  
includes the day the director disapproves the credit, or for any 303  
subsequent taxable year. 304

The director of development, in accordance with section 305  
111.15 of the Revised Code and with the advice of the industrial 306  
technology and enterprise advisory council, may adopt, amend, and 307  
rescind rules necessary to implement sections 122.15 to 122.154 of 308  
the Revised Code. 309

(H) An Edison center shall use application fees received 310  
under this section only for the costs of administering sections 311  
122.15 to 122.154 of the Revised Code. 312

**Sec. 122.152.** (A) After receiving notice of approval for an 313  
investment of money from the industrial technology and enterprise 314  
advisory council committee under section 122.151 of the Revised 315  
Code, an investor, within a period of time determined by the 316  
committee, may make the investment and apply to the council for a 317  
tax credit certificate. If the ~~council~~ committee is satisfied the 318  
investor has made the investment in the proper form, it shall 319

issue to the investor a tax credit certificate signed by the 320  
chairperson of the committee and the director of development 321  
indicating that the investor is allowed a tax credit ~~in an amount~~ 322  
equal to ~~twenty-five per cent of the investment~~ one of the 323  
following amounts: 324

(1) Thirty per cent of the investment if the investment was 325  
made in an EDGE business enterprise or in an Ohio entity located 326  
in a distressed area; 327

(2) Twenty-five per cent of the investment if the investment 328  
was made in an Ohio entity other than an EDGE business enterprise. 329

An investor who receives approval of a proposed investment of 330  
money through a group application, after making the investment, 331  
shall apply for a tax credit certificate on an individual basis. 332

(B) An investor who is issued a tax credit certificate under 333  
this section may claim a nonrefundable credit equal to the amount 334  
indicated on the certificate against any state tax liability. The 335  
investor shall claim the credit for the taxable year in which the 336  
certificate is issued. 337

(1) If the credit to which a taxpayer otherwise would be 338  
entitled under this section for any taxable year is greater than 339  
the tax otherwise due under division (D) of section 5707.03 or 340  
section 5727.24 or 5727.38 of the Revised Code, the excess shall 341  
be allowed as a credit in each of the ensuing fifteen taxable 342  
years, but the amount of any excess credit allowed in an ensuing 343  
taxable year shall be deducted from the balance carried forward to 344  
the next taxable year. 345

(2) If the credit to which a taxpayer otherwise would be 346  
entitled under this section for any taxable year is greater than 347  
the tax otherwise due under section 5747.02 or Chapter 5733. of 348  
the Revised Code, after allowing for any other credits that 349  
precede the credit allowed under this section in the order 350

required under section 5733.98 or 5747.98 of the Revised Code, the 351  
excess shall be allowed as a credit in each of the ensuing fifteen 352  
taxable years, but the amount of any excess credit allowed in an 353  
ensuing taxable year shall be deducted from the balance carried 354  
forward to the next taxable year. 355

(C) Any portion of a credit allowed under this section that 356  
is utilized by an investor to reduce the investor's state tax 357  
liability shall not be utilized by any other person. 358

(D) To claim a tax credit allowed under this section, an 359  
investor shall attach to the appropriate return a copy of the 360  
certificate issued to the investor under this section. 361

(E) Nothing in this section shall limit or disallow 362  
pass-through treatment of a pass-through entity's income, 363  
deductions, or credits, or other amounts necessary to compute a 364  
state tax liability. 365

(F) A tax credit certificate issued to an investor under this 366  
section may not be transferred by that investor to any other 367  
person. 368

(G)(1) The ~~industrial technology and enterprise advisory~~ 369  
~~council~~ director of development shall develop the form of the tax 370  
credit certificate and the industrial technology and enterprise 371  
advisory council committee shall use that form when issuing a tax 372  
credit certificate under this section. 373

(2) The ~~industrial technology and enterprise advisory council~~ 374  
director of development shall report to the tax commissioner any 375  
information requested by the commissioner concerning tax credit 376  
certificates issued under this section. 377

(H) An investment made by an investor or group of investors 378  
who enter into a contractual agreement with an Ohio entity to 379  
invest money in the Ohio entity is an acceptable investment if all 380

of the following conditions are met: 381

(1) The investment is made pursuant to a subscription 382  
agreement providing that the investor or group of investors is 383  
entitled to receive a refund of funds if the investment is not 384  
approved by the industrial technology and enterprise advisory 385  
council committee. 386

(2) The investment is placed in escrow until the investment 387  
is approved by the industrial technology and enterprise advisory 388  
council committee. 389

(3) The investor or group of investors shows proof of the 390  
withdrawal of the funds by the Ohio entity after the investment is 391  
approved by the industrial technology and enterprise advisory 392  
council committee. 393

**Sec. 122.154.** (A) A business may apply to an Edison center 394  
for a determination as to whether the business is an Ohio entity 395  
eligible to receive investments of money under section 122.151 of 396  
the Revised Code that qualify the investor for a tax credit under 397  
section 122.152 of the Revised Code. The business shall include 398  
with the application a fee of one hundred fifty dollars and a 399  
business plan. The Edison center shall prescribe any other 400  
information the business must submit with the application and the 401  
form of the application. The center, within three weeks after 402  
receiving the application, shall review it, determine whether the 403  
business is an Ohio entity eligible to receive investments of 404  
money that qualify for the tax credit, and send written notice to 405  
the industrial technology and enterprise advisory council and the 406  
business of its initial determination. If the center determines 407  
that the business is not an Ohio entity eligible to receive 408  
investments of money that qualify for the tax credit, it shall 409  
include in the notice the reasons for the determination. 410

Within four weeks after the council receives a notice of 411  
recommendation from an Edison center, the industrial technology 412  
and enterprise advisory council committee established under 413  
section 122.152 of the Revised Code shall review the 414  
recommendation and issue a final determination of whether the 415  
business is an Ohio entity eligible to receive investments of 416  
money under section 122.151 of the Revised Code that qualify an 417  
investor for a tax credit under section 122.152 of the Revised 418  
Code. The committee may require the business to submit additional 419  
information to support the application. The vote of at least two 420  
members of the committee is necessary for the issuance of a final 421  
determination. On making the final determination, the committee 422  
shall send written notice of approval or disapproval to the 423  
business, the director of development, and the Edison center. If 424  
the committee determines that the business is not an Ohio entity 425  
eligible to receive investments of money that qualify for the tax 426  
credit, it shall include in the notice the reasons for the 427  
determination. 428

(B) The department of development shall maintain a list of 429  
the businesses that have been determined to be Ohio entities 430  
eligible to receive investments of money that qualify for the tax 431  
credit. The department shall furnish copies of the list to the 432  
public upon request. 433

(C) The department of development may prescribe a schedule 434  
under which businesses periodically must submit information to 435  
enable the center to maintain the accuracy of the list. At the 436  
times required in the schedule, each business on the list shall 437  
submit any information the center requires to determine if the 438  
business continues to be an Ohio entity eligible to receive 439  
investments of money that qualify for the tax credit. 440

(D) An Edison center shall use fees received under this 441  
section only for the costs of administering sections 122.15 to 442

122.154 of the Revised Code. 443

(E) The Edison centers and the industrial technology and 444  
enterprise advisory council and its committee do not assume any 445  
responsibility for the accuracy or truthfulness of information 446  
furnished by an Ohio entity or its agents. 447

An investor in an Ohio entity is solely responsible for due 448  
diligence in verifying information submitted by an Ohio entity. An 449  
Edison center is not liable for any action resulting from its 450  
provision of such information to investors in accordance with 451  
sections 122.15 to 122.154 of the Revised Code. 452

**Sec. 122.171.** (A) As used in this section: 453

(1) "Capital investment project" means a plan of investment 454  
at a project site for the acquisition, construction, renovation, 455  
or repair of buildings, machinery, or equipment, or for 456  
capitalized costs of basic research and new product development 457  
determined in accordance with generally accepted accounting 458  
principles, but does not include any of the following: 459

(a) Payments made for the acquisition of personal property 460  
through operating leases; 461

(b) Project costs paid before January 1, 2002, or after 462  
December 31, 2006; 463

(c) Payments made to a related member as defined in section 464  
5733.042 of the Revised Code. 465

(2) "Eligible business" means a business with Ohio operations 466  
satisfying all of the following: 467

(a) Employed an average of at least one thousand employees in 468  
full-time employment positions at a project site during each of 469  
the twelve months preceding the application for a tax credit under 470  
this section; and 471



(b) On or after January 1, 2002, has made payments for the 472  
capital investment project of either of the following: 473

(i) At least two hundred million dollars in the aggregate at 474  
the project site during a period of three consecutive calendar 475  
years including the calendar year that includes a day of the 476  
taxpayer's taxable year with respect to which the credit is 477  
granted; 478

(ii) If the average wage of all full-time employment 479  
positions at the project site is greater than four hundred per 480  
cent of the federal minimum wage, at least one hundred million 481  
dollars in the aggregate at the project site during a period of 482  
three consecutive calendar years including the calendar year that 483  
includes a day of the taxpayer's taxable year with respect to 484  
which the credit is granted. 485

(c) Is engaged at the project site primarily as a 486  
manufacturer or is providing significant corporate administrative 487  
functions; 488

(d) Has had a capital investment project reviewed and 489  
approved by the tax credit authority as provided in divisions (C), 490  
(D), and (E) of this section. 491

(3) "Full-time employment position" means a position of 492  
employment for consideration for at least thirty-five hours a week 493  
that has been filled for at least one hundred eighty days 494  
immediately preceding the filing of an application under this 495  
section and for at least one hundred eighty days during each 496  
taxable year with respect to which the credit is granted. 497

(4) "Manufacturer" has the same meaning as in section 498  
5739.011 of the Revised Code. 499

(5) "Project site" means an integrated complex of facilities 500  
in this state, as specified by the tax credit authority under this 501

section, within a fifteen-mile radius where a taxpayer is  
primarily operating as an eligible business.

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(6) "Applicable corporation" means a corporation satisfying  
all of the following:

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(a)(i) For the entire taxable year immediately preceding the  
tax year, the corporation develops software applications primarily  
to provide telecommunication billing and information services  
through outsourcing or licensing to domestic or international  
customers.

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(ii) Sales and licensing of software generated at least six  
hundred million dollars in revenue during the taxable year  
immediately preceding the tax year the corporation is first  
entitled to claim the credit provided under division (B) of this  
section.

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(b) For the entire taxable year immediately preceding the tax  
year, the corporation or one or more of its related members  
provides customer or employee care and technical support for  
clients through one or more contact centers within this state, and  
the corporation and its related members together have a daily  
average, based on a three hundred sixty-five day year, of at least  
five hundred thousand successful customer contacts through one or  
more of their contact centers, wherever located.

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(c) The corporation is eligible for the credit under division  
(B) of this section for the tax year.

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(7) "Related member" has the same meaning as in section  
5733.042 of the Revised Code as that section existed on the  
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd  
general assembly.

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(8) "Successful customer contact" means a contact with an end  
user via telephone, including interactive voice recognition or

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similar means, where the contact culminates in a conversation or 532  
connection other than a busy signal or equipment busy. 533

(9) "Telecommunications" means all forms of 534  
telecommunications service as defined in section 5739.01 of the 535  
Revised Code, and includes services in wireless, wireline, cable, 536  
broadband, internet protocol, and satellite. 537

(10)(a) "Applicable difference" means the difference between 538  
the tax for the tax year under Chapter 5733. of the Revised Code 539  
applying the law in effect for that tax year, and the tax for that 540  
tax year if section 5733.042 of the Revised Code applied as that 541  
section existed on the effective date of its amendment by Am. Sub. 542  
H.B. 215 of the 122nd general assembly, subject to division 543  
(A)(10)(b) of this section. 544

(b) If the tax rate set forth in division (B) of section 545  
5733.06 of the Revised Code for the tax year is less than eight 546  
and one-half per cent, the tax calculated under division 547  
(A)(10)(a) of this section shall be computed by substituting a tax 548  
rate of eight and one-half per cent for the rate set forth in 549  
division (B) of section 5733.06 of the Revised Code for the tax 550  
year. 551

(c) If the resulting difference is negative, the applicable 552  
tax difference for the tax year shall be zero. 553

(B) The tax credit authority created under section 122.17 of 554  
the Revised Code may grant tax credits under this section for the 555  
purpose of fostering job retention in this state. Upon application 556  
by an eligible business and upon consideration of the 557  
recommendation of the director of budget and management, tax 558  
commissioner, and director of development under division (C) of 559  
this section, the tax credit authority may grant to an eligible 560  
business a nonrefundable credit against the tax imposed by section 561  
5733.06 or 5747.02 of the Revised Code for a period up to ~~ten~~ 562

fifteen taxable years. The credit shall be in an amount not 563  
exceeding seventy-five per cent of the Ohio income tax withheld 564  
from the employees of the eligible business occupying full-time 565  
employment positions at the project site during the calendar year 566  
that includes the last day of such business' taxable year with 567  
respect to which the credit is granted. The amount of the credit 568  
shall not be based on the Ohio income tax withheld from full-time 569  
employees for a calendar year prior to the calendar year in which 570  
the minimum investment requirement referred to in division 571  
(A)(2)(b) of this section is completed. The credit shall be 572  
claimed only for the taxable years specified in the eligible 573  
business' agreement with the tax credit authority under division 574  
(E) of this section, but in no event shall the credit be claimed 575  
for a taxable year terminating before the date specified in the 576  
agreement. 577

The credit computed under this division is in addition to any 578  
credit allowed under division (M) of this section which the tax 579  
credit authority may also include in the agreement. 580

Any unused portion of a tax credit may be carried forward for 581  
not more than three additional years after the year for which the 582  
credit is granted. 583

(C) A taxpayer that proposes a capital investment project to 584  
retain jobs in this state may apply to the tax credit authority to 585  
enter into an agreement for a tax credit under this section. The 586  
director of development shall prescribe the form of the 587  
application. After receipt of an application, the authority shall 588  
forward copies of the application to the director of budget and 589  
management, the tax commissioner, and the director of development, 590  
each of whom shall review the application to determine the 591  
economic impact the proposed project would have on the state and 592  
the affected political subdivisions and shall submit a summary of 593  
their determinations and recommendations to the authority. The 594

authority shall make no agreements under this section after June 30, 2007. 595  
596

(D) Upon review of the determinations and recommendations described in division (C) of this section, the tax credit authority may enter into an agreement with the taxpayer for a credit under this section if the authority determines all of the following: 597  
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(1) The taxpayer's capital investment project will result in the retention of full-time employment positions in this state. 602  
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(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project. 604  
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(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least twice the term of the credit. 606  
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(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project. 609  
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(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project. 611  
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(E) An agreement under this section shall include all of the following: 614  
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(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. 616  
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(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section. 620  
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(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed. 623  
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(4) A requirement that the taxpayer maintain operations at 625  
the project site for at least twice the number of years as the 626  
term of the credit. 627

(5) A requirement that the taxpayer retain a specified number 628  
of full-time employment positions at the project site and within 629  
this state for the term of the credit, including a requirement 630  
that the taxpayer continue to employ at least one thousand 631  
employees in full-time employment positions at the project site 632  
during the entire term of any agreement, subject to division 633  
(E)(7) of this section. 634

(6) A requirement that the taxpayer annually report to the 635  
director of development the number of full-time employment 636  
positions subject to the credit, the amount of tax withheld from 637  
employees in those positions, the amount of the payments made for 638  
the capital investment project, and any other information the 639  
director needs to perform the director's duties under this 640  
section. 641

(7) A requirement that the director of development annually 642  
review the annual reports of the taxpayer to verify the 643  
information reported under division (E)(6) of this section and 644  
compliance with the agreement. Upon verification, the director 645  
shall issue a certificate to the taxpayer stating that the 646  
information has been verified and identifying the amount of the 647  
credit for the taxable year. The Unless otherwise specified by the 648  
tax credit authority in a resolution and included as part of the 649  
agreement, the director shall not issue a certificate for any year 650  
in which the total number of filled full-time employment positions 651  
for each day of the calendar year divided by three hundred 652  
sixty-five is less than ninety per cent of the full-time 653  
employment positions specified in division (E)(5) of this section. 654  
In determining the number of full-time employment positions, no 655  
position shall be counted that is filled by an employee who is 656

included in the calculation of a tax credit under section 122.17 657  
of the Revised Code. 658

(8)(a) A provision requiring that the taxpayer, except as 659  
otherwise provided in division (E)(8)(b) of this section, shall 660  
not relocate employment positions from elsewhere in this state to 661  
the project site that is the subject of the agreement for the 662  
lesser of five years from the date the agreement is entered into 663  
or the number of years the taxpayer is entitled to claim the 664  
credit. 665

(b) The taxpayer may relocate employment positions from 666  
elsewhere in this state to the project site that is the subject of 667  
the agreement if the director of development determines both of 668  
the following: 669

(i) That the site from which the employment positions would 670  
be relocated is inadequate to meet market and industry conditions, 671  
expansion plans, consolidation plans, or other business 672  
considerations affecting the taxpayer; 673

(ii) That the legislative authority of the county, township, 674  
or municipal corporation from which the employment positions would 675  
be relocated has been notified of the relocation. 676

For purposes of this section, the movement of an employment 677  
position from one political subdivision to another political 678  
subdivision shall be considered a relocation of an employment 679  
position unless the movement is confined to the project site. The 680  
transfer of an individual employee from one political subdivision 681  
to another political subdivision shall not be considered a 682  
relocation of an employment position as long as the individual's 683  
employment position in the first political subdivision is 684  
refilled. 685

(9) A waiver by the taxpayer of any limitations periods 686  
relating to assessments or adjustments resulting from the 687

taxpayer's failure to comply with the agreement. 688

(F) If a taxpayer fails to meet or comply with any condition 689  
or requirement set forth in a tax credit agreement, the tax credit 690  
authority may amend the agreement to reduce the percentage or term 691  
of the credit. The reduction of the percentage or term shall take 692  
effect in the taxable year immediately following the taxable year 693  
in which the authority amends the agreement. If the taxpayer 694  
relocates employment positions in violation of the provision 695  
required under division (D)(8)(a) of this section, the taxpayer 696  
shall not claim the tax credit under section 5733.0610 of the 697  
Revised Code for any tax years following the calendar year in 698  
which the relocation occurs, or shall not claim the tax credit 699  
under section 5747.058 of the Revised Code for the taxable year in 700  
which the relocation occurs and any subsequent taxable years. 701

(G) Financial statements and other information submitted to 702  
the department of development or the tax credit authority by an 703  
applicant for or recipient of a tax credit under this section, and 704  
any information taken for any purpose from such statements or 705  
information, are not public records subject to section 149.43 of 706  
the Revised Code. However, the chairperson of the authority may 707  
make use of the statements and other information for purposes of 708  
issuing public reports or in connection with court proceedings 709  
concerning tax credit agreements under this section. Upon the 710  
request of the tax commissioner, the chairperson of the authority 711  
shall provide to the commissioner any statement or other 712  
information submitted by an applicant for or recipient of a tax 713  
credit in connection with the credit. The commissioner shall 714  
preserve the confidentiality of the statement or other 715  
information. 716

(H) A taxpayer claiming a tax credit under this section shall 717  
submit to the tax commissioner a copy of the director of 718  
development's certificate of verification under division (E)(7) of 719



this section for the taxable year. However, failure to submit a 720  
copy of the certificate does not invalidate a claim for a credit. 721

(I) For the purposes of this section, a taxpayer may include 722  
a partnership, a corporation that has made an election under 723  
subchapter S of chapter one of subtitle A of the Internal Revenue 724  
Code, or any other business entity through which income flows as a 725  
distributive share to its owners. A tax credit received under this 726  
section by a partnership, S-corporation, or other such business 727  
entity shall be apportioned among the persons to whom the income 728  
or profit of the partnership, S-corporation, or other entity is 729  
distributed, in the same proportions as those in which the income 730  
or profit is distributed. 731

(J) If the director of development determines that a taxpayer 732  
that received a tax credit under this section is not complying 733  
with the requirement under division (E)(4) of this section, the 734  
director shall notify the tax credit authority of the 735  
noncompliance. After receiving such a notice, and after giving the 736  
taxpayer an opportunity to explain the noncompliance, the 737  
authority may terminate the agreement and require the taxpayer to 738  
refund to the state all or a portion of the credit claimed in 739  
previous years, as follows: 740

(1) If the taxpayer maintained operations at the project site 741  
for less than the term of the credit, the amount required to be 742  
refunded shall not exceed the amount of any tax credits previously 743  
allowed and received under this section. 744

(2) If the taxpayer maintained operations at the project site 745  
longer than the term of the credit but less than one and one-half 746  
times the term of the credit, the amount required to be refunded 747  
shall not exceed fifty per cent of the sum of any tax credits 748  
previously allowed and received under this section. 749

(3) If the taxpayer maintained operations at the project site 750

for at least one and one-half times the term of the credit but 751  
less than twice the term of the credit, the amount required to be 752  
refunded shall not exceed twenty-five per cent of the sum of any 753  
tax credits previously allowed and received under this section. 754

In determining the portion of the credit to be refunded to 755  
this state, the authority shall consider the effect of market 756  
conditions on the taxpayer's project and whether the taxpayer 757  
continues to maintain other operations in this state. After making 758  
the determination, the authority shall certify the amount to be 759  
refunded to the tax commissioner. The commissioner shall make an 760  
assessment for that amount against the taxpayer under Chapter 761  
5733. or 5747. of the Revised Code. The time limitations on 762  
assessments under Chapter 5733. or 5747. of the Revised Code do 763  
not apply to an assessment under this division, but the 764  
commissioner shall make the assessment within one year after the 765  
date the authority certifies to the commissioner the amount to be 766  
refunded. 767

If the director of development determines that a taxpayer 768  
that received a tax credit under this section has reduced the 769  
number of employees agreed to under division (E)(5) of this 770  
section by more than ten per cent, the director shall notify the 771  
tax credit authority of the noncompliance. After receiving such 772  
notice, and after providing the taxpayer an opportunity to explain 773  
the noncompliance, the authority may amend the agreement to reduce 774  
the percentage or term of the tax credit. The reduction in the 775  
percentage or term shall take effect in the taxable year in which 776  
the authority amends the agreement. 777

(K) The director of development, after consultation with the 778  
tax commissioner and in accordance with Chapter 119. of the 779  
Revised Code, shall adopt rules necessary to implement this 780  
section. The rules may provide for recipients of tax credits under 781  
this section to be charged fees to cover administrative costs of 782

the tax credit program. At the time the director gives public  
notice under division (A) of section 119.03 of the Revised Code of  
the adoption of the rules, the director shall submit copies of the  
proposed rules to the chairpersons of the standing committees on  
economic development in the senate and the house of  
representatives.

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

(M)(1) A nonrefundable credit shall be allowed to an  
applicable corporation and its related members in an amount equal  
to the applicable difference. The credit is in addition to the  
credit granted to the corporation or related members under  
division (B) of this section. The credit is subject to divisions  
(B) to (E) and division (J) of this section.

(2) A person qualifying as an applicable corporation under  
this section for a tax year does not necessarily qualify as an  
applicable corporation for any other tax year. No person is  
entitled to the credit allowed under division (M) of this section  
for the tax year immediately following the taxable year during  
which the person fails to meet the requirements in divisions  
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled  
to the credit allowed under division (M) of this section for any  
tax year for which the person is not eligible for the credit  
provided under division (B) of this section.

Sec. 166.01. As used in this chapter: 814

(A) "Allowable costs" means all or part of the costs of 815  
project facilities ~~or~~, eligible innovation projects, or eligible 816  
research and development projects, including costs of acquiring, 817  
constructing, reconstructing, rehabilitating, renovating, 818  
enlarging, improving, equipping, or furnishing project facilities 819  
~~or~~, eligible innovation projects, or eligible research and 820  
development projects, site clearance and preparation, 821  
supplementing and relocating public capital improvements or 822  
utility facilities, designs, plans, specifications, surveys, 823  
studies, and estimates of costs, expenses necessary or incident to 824  
determining the feasibility or practicability of assisting an 825  
eligible project ~~or~~, an eligible innovation project, or an 826  
eligible research and development project, or providing project 827  
facilities or facilities related to an eligible innovation project 828  
or an eligible research and development project, architectural, 829  
engineering, and legal services fees and expenses, the costs of 830  
conducting any other activities as part of a voluntary action, and 831  
such other expenses as may be necessary or incidental to the 832  
establishment or development of an eligible project ~~or~~, an 833  
eligible innovation project, or an eligible research and 834  
development project, and reimbursement of moneys advanced or 835  
applied by any governmental agency or other person for allowable 836  
costs. 837

(B) "Allowable innovation costs" includes allowable costs of 838  
eligible innovation projects and, in addition, includes the costs 839  
of research and development of eligible innovation projects; 840  
obtaining or creating any requisite software or computer hardware 841  
related to an eligible innovation project or the products or 842  
services associated therewith; testing (including, without 843  
limitation, quality control activities necessary for initial 844

production), perfecting, and marketing of such products and 845  
services; creating and protecting intellectual property related to 846  
an eligible innovation project or any products or services related 847  
thereto, including costs of securing appropriate patent, 848  
trademark, trade secret, trade dress, copyright, or other form of 849  
intellectual property protection for an eligible innovation 850  
project or related products and services; all to the extent that 851  
such expenditures could be capitalized under then-applicable 852  
generally accepted accounting principles; and the reimbursement of 853  
moneys advanced or applied by any governmental agency or other 854  
person for allowable innovation costs. 855

(C) "Eligible innovation project" includes an eligible 856  
project, including any project facilities associated with an 857  
eligible innovation project and, in addition, includes all 858  
tangible and intangible property related to a new product or 859  
process based on new technology or the creative application of 860  
existing technology, including research and development, product 861  
or process testing, quality control, market research, and related 862  
activities, that is to be acquired, established, expanded, 863  
remodeled, rehabilitated, or modernized for industry, commerce, 864  
distribution, or research, or any combination thereof, the 865  
operation of which, alone or in conjunction with other eligible 866  
projects, eligible innovation projects, or innovation property, 867  
will create new jobs or preserve existing jobs and employment 868  
opportunities and improve the economic welfare of the people of 869  
the state. 870

(D) "Eligible project" means project facilities to be 871  
acquired, established, expanded, remodeled, rehabilitated, or 872  
modernized for industry, commerce, distribution, or research, or 873  
any combination thereof, the operation of which, alone or in 874  
conjunction with other facilities, will create new jobs or 875  
preserve existing jobs and employment opportunities and improve 876

the economic welfare of the people of the state. "Eligible project" includes, without limitation, a voluntary action. For purposes of this division, "new jobs" does not include existing jobs transferred from another facility within the state, and "existing jobs" includes only those existing jobs with work places within the municipal corporation or unincorporated area of the county in which the eligible project is located.

"Eligible project" does not include project facilities to be acquired, established, expanded, remodeled, rehabilitated, or modernized for industry, commerce, distribution, or research, or any combination of industry, commerce, distribution, or research, if the project facilities consist solely of point-of-final-purchase retail facilities. If the project facilities consist of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project facilities consisting of nonretail facilities is an eligible project. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not an eligible project. Catalog distribution facilities are not considered point-of-final-purchase retail facilities for purposes of this paragraph, and are eligible projects.

(E) "Eligible research and development project" means an eligible project, including project facilities, comprising, within, or related to, a facility or portion of a facility at which research is undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved product, process, technique, formula, or invention, a new product or process based on new technology, or the creative application of existing technology.

(F) "Financial assistance" means inducements under division

(B) of section 166.02 of the Revised Code, loan guarantees under 909  
section 166.06 of the Revised Code, and direct loans under section 910  
166.07 of the Revised Code. 911

~~(F)~~(G) "Governmental action" means any action by a 912  
governmental agency relating to the establishment, development, or 913  
operation of an eligible project ~~or~~ eligible innovation project, 914  
or eligible research and development project, and project 915  
facilities that the governmental agency acting has authority to 916  
take or provide for the purpose under law, including, but not 917  
limited to, actions relating to contracts and agreements, zoning, 918  
building, permits, acquisition and disposition of property, public 919  
capital improvements, utility and transportation service, 920  
taxation, employee recruitment and training, and liaison and 921  
coordination with and among governmental agencies. 922

~~(G)~~(H) "Governmental agency" means the state and any state 923  
department, division, commission, institution or authority; a 924  
municipal corporation, county, or township, and any agency 925  
thereof, and any other political subdivision or public corporation 926  
or the United States or any agency thereof; any agency, 927  
commission, or authority established pursuant to an interstate 928  
compact or agreement; and any combination of the above. 929

~~(H)~~(I) "Innovation financial assistance" means inducements 930  
under division (B) of section 166.12 of the Revised Code, 931  
innovation Ohio loan guarantees under section 166.15 of the 932  
Revised Code, and innovation Ohio loans under section 166.16 of 933  
the Revised Code. 934

~~(I)~~(J) "Innovation Ohio loan guarantee reserve requirement" 935  
means, at any time, with respect to innovation loan guarantees 936  
made under section 166.15 of the Revised Code, a balance in the 937  
innovation Ohio loan guarantee fund equal to the greater of twenty 938  
per cent of the then-outstanding principal amount of all 939  
outstanding innovation loan guarantees made pursuant to section 940

166.15 of the Revised Code or fifty per cent of the principal 941  
amount of the largest outstanding guarantee made pursuant to 942  
section 166.15 of the Revised Code. 943

~~(J)~~(K) "Innovation property" includes property and also 944  
includes software, inventory, licenses, contract rights, goodwill, 945  
intellectual property, including without limitation, patents, 946  
patent applications, trademarks and service marks, and trade 947  
secrets, and other tangible and intangible property, and any 948  
rights and interests in or connected to the foregoing. 949

~~(K)~~(L) "Loan guarantee reserve requirement" means, at any 950  
time, with respect to loan guarantees made under section 166.06 of 951  
the Revised Code, a balance in the loan guarantee fund equal to 952  
the greater of twenty per cent of the then-outstanding principal 953  
amount of all outstanding guarantees made pursuant to section 954  
166.06 of the Revised Code or fifty per cent of the principal 955  
amount of the largest outstanding guarantee made pursuant to 956  
section 166.06 of the Revised Code. 957

~~(L)~~(M) "Person" means any individual, firm, partnership, 958  
association, corporation, or governmental agency, and any 959  
combination thereof. 960

~~(M)~~(N) "Project facilities" means buildings, structures, and 961  
other improvements, and equipment and other property, excluding 962  
small tools, supplies, and inventory, and any one, part of, or 963  
combination of the above, comprising all or part of, or serving or 964  
being incidental to, an eligible project ~~or~~ an eligible 965  
innovation project, or an eligible research and development 966  
project, including, but not limited to, public capital 967  
improvements. 968

~~(N)~~(O) "Property" means real and personal property and 969  
interests therein. 970

~~(O)~~(P) "Public capital improvements" means capital 971



improvements or facilities that any governmental agency has 972  
authority to acquire, pay the costs of, own, maintain, or operate, 973  
or to contract with other persons to have the same done, 974  
including, but not limited to, highways, roads, streets, water and 975  
sewer facilities, railroad and other transportation facilities, 976  
and air and water pollution control and solid waste disposal 977  
facilities. 978

~~(P)~~(Q) "Research and development financial assistance" means 979  
inducements under section 166.17 of the Revised Code, research and 980  
development loans under section 166.21 of the Revised Code, and 981  
research and development tax credits under sections 5733.352 and 982  
5747.331 of the Revised Code. 983

(R) "Targeted innovation industry sectors" means industry 984  
sectors involving the production or use of advanced materials, 985  
instruments, controls and electronics, power and propulsion, 986  
biosciences, and information technology, or such other sectors as 987  
may be designated by the director of development. 988

~~(Q)~~(S) "Voluntary action" means a voluntary action, as 989  
defined in section 3746.01 of the Revised Code, that is conducted 990  
under the voluntary action program established in Chapter 3746. of 991  
the Revised Code. 992

~~(R)~~(T) "Project financing obligations" means obligations 993  
issued pursuant to section 166.08 of the Revised Code other than 994  
obligations for which the bond proceedings provide that bond 995  
service charges shall be paid from receipts of the state 996  
representing gross profit on the sale of spirituous liquor as 997  
referred to in division (B)(4) of section 4310.10 of the Revised 998  
Code. 999

~~(S)~~(U) "Regional economic development entity" means an entity 1000  
that is under contract with the director of development to 1001  
administer a loan program under this chapter in a particular area 1002

of this state. 1003

**Sec. 166.02.** (A) The general assembly finds that many local 1004  
areas throughout the state are experiencing economic stagnation or 1005  
decline, and that the economic development program provided for in 1006  
sections 166.01 to 166.11 of the Revised Code will constitute a 1007  
deserved, necessary reinvestment by the state in those areas, 1008  
materially contribute to their economic revitalization, and result 1009  
in improving the economic welfare of all the people of the state. 1010  
Accordingly, it is declared to be the public policy of the state, 1011  
through the operations under sections 166.01 to 166.11 of the 1012  
Revised Code and other applicable laws adopted pursuant to Section 1013  
13 of Article VIII, Ohio Constitution, and other authority vested 1014  
in the general assembly, to assist in and facilitate the 1015  
establishment or development of eligible projects or assist and 1016  
cooperate with any governmental agency in achieving such purpose. 1017

(B) In furtherance of such public policy and to implement 1018  
such purpose, the director of development may: 1019

(1) After consultation with appropriate governmental 1020  
agencies, enter into agreements with persons engaged in industry, 1021  
commerce, distribution, or research and with governmental agencies 1022  
to induce such persons to acquire, construct, reconstruct, 1023  
rehabilitate, renovate, enlarge, improve, equip, or furnish, or 1024  
otherwise develop, eligible projects and make provision therein 1025  
for project facilities and governmental actions, as authorized by 1026  
this chapter and other applicable laws, subject to any required 1027  
actions by the general assembly or the controlling board and 1028  
subject to applicable local government laws and regulations; 1029

(2) Provide for the guarantees and loans as provided for in 1030  
sections 166.06 and 166.07 of the Revised Code; 1031

(3) Subject to release of such moneys by the controlling 1032  
board, contract for labor and materials needed for, or contract 1033

with others, including governmental agencies, to provide, project 1034  
facilities the allowable costs of which are to be paid for or 1035  
reimbursed from moneys in the facilities establishment fund, and 1036  
contract for the operation of such project facilities; 1037

(4) Subject to release thereof by the controlling board, from 1038  
moneys in the facilities establishment fund acquire or contract to 1039  
acquire by gift, exchange, or purchase, including the obtaining 1040  
and exercise of purchase options, property, and convey or 1041  
otherwise dispose of, or provide for the conveyance or disposition 1042  
of, property so acquired or contracted to be acquired by sale, 1043  
exchange, lease, lease purchase, conditional or installment sale, 1044  
transfer, or other disposition, including the grant of an option 1045  
to purchase, to any governmental agency or to any other person 1046  
without necessity for competitive bidding and upon such terms and 1047  
conditions and manner of consideration pursuant to and as the 1048  
director determines to be appropriate to satisfy the objectives of 1049  
sections 166.01 to 166.11 of the Revised Code; 1050

(5) Retain the services of or employ financial consultants, 1051  
appraisers, consulting engineers, superintendents, managers, 1052  
construction and accounting experts, attorneys, and employees, 1053  
agents, and independent contractors as are necessary in the 1054  
director's judgment and fix the compensation for their services; 1055

(6) Receive and accept from any person grants, gifts, and 1056  
contributions of money, property, labor, and other things of 1057  
value, to be held, used and applied only for the purpose for which 1058  
such grants, gifts, and contributions are made; 1059

(7) Enter into appropriate arrangements and agreements with 1060  
any governmental agency for the taking or provision by that 1061  
governmental agency of any governmental action; 1062

(8) Do all other acts and enter into contracts and execute 1063  
all instruments necessary or appropriate to carry out the 1064

provisions of Chapter 166. of the Revised Code; 1065

(9) Adopt rules to implement any of the provisions of Chapter 1066  
166. of the Revised Code applicable to the director. 1067

(C) The determinations by the director that facilities 1068  
constitute eligible projects, that facilities are project 1069  
facilities, that costs of such facilities are allowable costs, and 1070  
all other determinations relevant thereto or to an action taken or 1071  
agreement entered into shall be conclusive for purposes of the 1072  
validity and enforceability of rights of parties arising from 1073  
actions taken and agreements entered into under this chapter. 1074

(D) Except as otherwise prescribed in Chapter 166. of the 1075  
Revised Code, all expenses and obligations incurred by the 1076  
director in carrying out the director's powers and in exercising 1077  
the director's duties under Chapter 166. of the Revised Code, 1078  
shall be payable solely from, as appropriate, moneys in the 1079  
facilities establishment fund, the loan guarantee fund, the 1080  
innovation Ohio loan guarantee fund, the innovation Ohio loan 1081  
fund, the research and development loan fund, or moneys 1082  
appropriated for such purpose by the general assembly. Chapter 1083  
166. of the Revised Code does not authorize the director or the 1084  
issuing authority under section 166.08 of the Revised Code to 1085  
incur bonded indebtedness of the state or any political 1086  
subdivision thereof, or to obligate or pledge moneys raised by 1087  
taxation for the payment of any bonds or notes issued or 1088  
guarantees made pursuant to Chapter 166. of the Revised Code. 1089

(E) No financial assistance for project facilities shall be 1090  
provided under this chapter unless the provisions of the agreement 1091  
providing for such assistance specify that all wages paid to 1092  
laborers and mechanics employed on such project facilities for 1093  
which the assistance is granted shall be paid at the prevailing 1094  
rates of wages of laborers and mechanics for the class of work 1095

called for by such project facilities, which wages shall be 1096  
determined in accordance with the requirements of Chapter 4115. of 1097  
the Revised Code for determination of prevailing wage rates, 1098  
provided that the requirements of this division do not apply where 1099  
the federal government or any of its agencies provides financing 1100  
assistance as to all or any part of the funds used in connection 1101  
with such project facilities and prescribes predetermined minimum 1102  
wages to be paid to such laborers and mechanics; and provided 1103  
further that should a nonpublic user beneficiary of the eligible 1104  
project undertake, as part of the eligible project, construction 1105  
to be performed by its regular bargaining unit employees who are 1106  
covered under a collective bargaining agreement which was in 1107  
existence prior to the date of the document authorizing such 1108  
assistance then, in that event, the rate of pay provided under the 1109  
collective bargaining agreement may be paid to such employees. 1110

(F) Any governmental agency may enter into an agreement with 1111  
the director, any other governmental agency, or a person to be 1112  
assisted under this chapter, to take or provide for the purposes 1113  
of this chapter any governmental action it is authorized to take 1114  
or provide, and to undertake on behalf and at the request of the 1115  
director any action which the director is authorized to undertake 1116  
pursuant to divisions (B)(3), (4), and (5) of this section or 1117  
divisions (B)(3), (4), and (5) of section 166.12 of the Revised 1118  
Code. Governmental agencies of the state shall cooperate with and 1119  
provide assistance to the director of development and the 1120  
controlling board in the exercise of their respective functions 1121  
under this chapter. 1122

**Sec. 166.08.** (A) As used in this chapter: 1123

(1) "Bond proceedings" means the resolution, order, trust 1124  
agreement, indenture, lease, and other agreements, amendments and 1125  
supplements to the foregoing, or any one or more or combination 1126

thereof, authorizing or providing for the terms and conditions 1127  
applicable to, or providing for the security or liquidity of, 1128  
obligations issued pursuant to this section, and the provisions 1129  
contained in such obligations. 1130

(2) "Bond service charges" means principal, including 1131  
mandatory sinking fund requirements for retirement of obligations, 1132  
and interest, and redemption premium, if any, required to be paid 1133  
by the state on obligations. 1134

(3) "Bond service fund" means the applicable fund and 1135  
accounts therein created for and pledged to the payment of bond 1136  
service charges, which may be, or may be part of, the economic 1137  
development bond service fund created by division (S) of this 1138  
section including all moneys and investments, and earnings from 1139  
investments, credited and to be credited thereto. 1140

(4) "Issuing authority" means the treasurer of state, or the 1141  
officer who by law performs the functions of such officer. 1142

(5) "Obligations" means bonds, notes, or other evidence of 1143  
obligation including interest coupons pertaining thereto, issued 1144  
pursuant to this section. 1145

(6) "Pledged receipts" means all receipts of the state 1146  
representing the gross profit on the sale of spirituous liquor, as 1147  
referred to in division (B)(4) of section 4301.10 of the Revised 1148  
Code, after paying all costs and expenses of the division of 1149  
liquor control and providing an adequate working capital reserve 1150  
for the division of liquor control as provided in that division, 1151  
but excluding the sum required by the second paragraph of section 1152  
4301.12 of the Revised Code, as in effect on May 2, 1980, to be 1153  
paid into the state treasury; moneys accruing to the state from 1154  
the lease, sale, or other disposition, or use, of project 1155  
facilities, and from the repayment, including interest, of loans 1156  
made from proceeds received from the sale of obligations; accrued 1157

interest received from the sale of obligations; income from the 1158  
investment of the special funds; and any gifts, grants, donations, 1159  
and pledges, and receipts therefrom, available for the payment of 1160  
bond service charges. 1161

(7) "Special funds" or "funds" means, except where the 1162  
context does not permit, the bond service fund, and any other 1163  
funds, including reserve funds, created under the bond 1164  
proceedings, and the economic development bond service fund 1165  
created by division (S) of this section to the extent provided in 1166  
the bond proceedings, including all moneys and investments, and 1167  
earnings from investment, credited and to be credited thereto. 1168

(B) Subject to the limitations provided in section 166.11 of 1169  
the Revised Code, the issuing authority, upon the certification by 1170  
the director of development to the issuing authority of the amount 1171  
of moneys or additional moneys needed in the facilities 1172  
establishment fund, the loan guarantee fund, the innovation Ohio 1173  
loan fund, ~~or~~ the innovation Ohio loan guarantee fund, or the 1174  
research and development loan fund for the purpose of paying, or 1175  
making loans for, allowable costs from the facilities 1176  
establishment fund ~~or~~, allowable innovation costs from the 1177  
innovation Ohio loan fund, or allowable costs from the research 1178  
and development loan fund, or needed for capitalized interest, for 1179  
funding reserves, and for paying costs and expenses incurred in 1180  
connection with the issuance, carrying, securing, paying, 1181  
redeeming, or retirement of the obligations or any obligations 1182  
refunded thereby, including payment of costs and expenses relating 1183  
to letters of credit, lines of credit, insurance, put agreements, 1184  
standby purchase agreements, indexing, marketing, remarketing and 1185  
administrative arrangements, interest swap or hedging agreements, 1186  
and any other credit enhancement, liquidity, remarketing, renewal, 1187  
or refunding arrangements, all of which are authorized by this 1188  
section, or providing moneys for the loan guarantee fund or the 1189

innovation Ohio loan guarantee fund, as provided in this chapter 1190  
or needed for the purposes of funds established in accordance with 1191  
or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 1192  
122.561, 122.57, and 122.80 of the Revised Code which are within 1193  
the authorization of Section 13 of Article VIII, Ohio 1194  
Constitution, shall issue obligations of the state under this 1195  
section in the required amount; provided that such obligations may 1196  
be issued to satisfy the covenants in contracts of guarantee made 1197  
under section 166.06 or 166.15 of the Revised Code, 1198  
notwithstanding limitations otherwise applicable to the issuance 1199  
of obligations under this section. The proceeds of such 1200  
obligations, except for the portion to be deposited in special 1201  
funds, including reserve funds, as may be provided in the bond 1202  
proceedings, shall as provided in the bond proceedings be 1203  
deposited by the director of development to the facilities 1204  
establishment fund, the loan guarantee fund, the innovation Ohio 1205  
loan guarantee fund, ~~or~~ the innovation Ohio loan fund, or the 1206  
research and development loan fund. Bond proceedings for project 1207  
financing obligations may provide that the proceeds derived from 1208  
the issuance of such obligations shall be deposited into such fund 1209  
or funds provided for in the bond proceedings and, to the extent 1210  
provided for in the bond proceedings, such proceeds shall be 1211  
deemed to have been deposited into the facilities establishment 1212  
fund and transferred to such fund or funds. The issuing authority 1213  
may appoint trustees, paying agents, and transfer agents and may 1214  
retain the services of financial advisors, accounting experts, and 1215  
attorneys, and retain or contract for the services of marketing, 1216  
remarketing, indexing, and administrative agents, other 1217  
consultants, and independent contractors, including printing 1218  
services, as are necessary in the issuing authority's judgment to 1219  
carry out this section. The costs of such services are allowable 1220  
costs payable from the facilities establishment fund or the 1221  
research and development loan fund or allowable innovation costs 1222



payable from the innovation Ohio loan fund. 1223

(C) The holders or owners of such obligations shall have no 1224  
right to have moneys raised by taxation obligated or pledged, and 1225  
moneys raised by taxation shall not be obligated or pledged, for 1226  
the payment of bond service charges. Such holders or owners shall 1227  
have no rights to payment of bond service charges from any moneys 1228  
accruing to the state from the lease, sale, or other disposition, 1229  
or use, of project facilities, or from payment of the principal of 1230  
or interest on loans made, or fees charged for guarantees made, or 1231  
from any money or property received by the director, treasurer of 1232  
state, or the state under Chapter 122. of the Revised Code, or 1233  
from any other use of the proceeds of the sale of the obligations, 1234  
and no such moneys may be used for the payment of bond service 1235  
charges, except for accrued interest, capitalized interest, and 1236  
reserves funded from proceeds received upon the sale of the 1237  
obligations and except as otherwise expressly provided in the 1238  
applicable bond proceedings pursuant to written directions by the 1239  
director. The right of such holders and owners to payment of bond 1240  
service charges is limited to all or that portion of the pledged 1241  
receipts and those special funds pledged thereto pursuant to the 1242  
bond proceedings in accordance with this section, and each such 1243  
obligation shall bear on its face a statement to that effect. 1244

(D) Obligations shall be authorized by resolution or order of 1245  
the issuing authority and the bond proceedings shall provide for 1246  
the purpose thereof and the principal amount or amounts, and shall 1247  
provide for or authorize the manner or agency for determining the 1248  
principal maturity or maturities, not exceeding twenty-five years 1249  
from the date of issuance, the interest rate or rates or the 1250  
maximum interest rate, the date of the obligations and the dates 1251  
of payment of interest thereon, their denomination, and the 1252  
establishment within or without the state of a place or places of 1253  
payment of bond service charges. Sections 9.98 to 9.983 of the 1254

Revised Code are applicable to obligations issued under this 1255  
section, subject to any applicable limitation under section 166.11 1256  
of the Revised Code. The purpose of such obligations may be stated 1257  
in the bond proceedings in terms describing the general purpose or 1258  
purposes to be served. The bond proceedings also shall provide, 1259  
subject to the provisions of any other applicable bond 1260  
proceedings, for the pledge of all, or such part as the issuing 1261  
authority may determine, of the pledged receipts and the 1262  
applicable special fund or funds to the payment of bond service 1263  
charges, which pledges may be made either prior or subordinate to 1264  
other expenses, claims, or payments, and may be made to secure the 1265  
obligations on a parity with obligations theretofore or thereafter 1266  
issued, if and to the extent provided in the bond proceedings. The 1267  
pledged receipts and special funds so pledged and thereafter 1268  
received by the state are immediately subject to the lien of such 1269  
pledge without any physical delivery thereof or further act, and 1270  
the lien of any such pledges is valid and binding against all 1271  
parties having claims of any kind against the state or any 1272  
governmental agency of the state, irrespective of whether such 1273  
parties have notice thereof, and shall create a perfected security 1274  
interest for all purposes of Chapter 1309. of the Revised Code, 1275  
without the necessity for separation or delivery of funds or for 1276  
the filing or recording of the bond proceedings by which such 1277  
pledge is created or any certificate, statement or other document 1278  
with respect thereto; and the pledge of such pledged receipts and 1279  
special funds is effective and the money therefrom and thereof may 1280  
be applied to the purposes for which pledged without necessity for 1281  
any act of appropriation. Every pledge, and every covenant and 1282  
agreement made with respect thereto, made in the bond proceedings 1283  
may therein be extended to the benefit of the owners and holders 1284  
of obligations authorized by this section, and to any trustee 1285  
therefor, for the further security of the payment of the bond 1286  
service charges. 1287

|  |      |
|--|------|
| (E) The bond proceedings may contain additional provisions as      | 1288 |
| to:  | 1289 |
| (1) The redemption of obligations prior to maturity at the         | 1290 |
| option of the issuing authority at such price or prices and under  | 1291 |
| such terms and conditions as are provided in the bond proceedings; | 1292 |
| (2) Other terms of the obligations;                                | 1293 |
| (3) Limitations on the issuance of additional obligations;         | 1294 |
| (4) The terms of any trust agreement or indenture securing         | 1295 |
| the obligations or under which the same may be issued;             | 1296 |
| (5) The deposit, investment and application of special funds,      | 1297 |
| and the safeguarding of moneys on hand or on deposit, without      | 1298 |
| regard to Chapter 131. or 135. of the Revised Code, but subject to | 1299 |
| any special provisions of this chapter, with respect to particular | 1300 |
| funds or moneys, provided that any bank or trust company which     | 1301 |
| acts as depository of any moneys in the special funds may furnish  | 1302 |
| such indemnifying bonds or may pledge such securities as required  | 1303 |
| by the issuing authority;  | 1304 |
| (6) Any or every provision of the bond proceedings being           | 1305 |
| binding upon such officer, board, commission, authority, agency,   | 1306 |
| department, or other person or body as may from time to time have  | 1307 |
| the authority under law to take such actions as may be necessary   | 1308 |
| to perform all or any part of the duty required by such provision; | 1309 |
| (7) Any provision that may be made in a trust agreement or         | 1310 |
| indenture;   | 1311 |
| (8) Any other or additional agreements with the holders of         | 1312 |
| the obligations, or the trustee therefor, relating to the          | 1313 |
| obligations or the security therefor, including the assignment of  | 1314 |
| mortgages or other security obtained or to be obtained for loans   | 1315 |
| under section 122.43, 166.07, or 166.16 of the Revised Code.       | 1316 |
| (F) The obligations may have the great seal of the state or a      | 1317 |

facsimile thereof affixed thereto or printed thereon. The 1318  
obligations and any coupons pertaining to obligations shall be 1319  
signed or bear the facsimile signature of the issuing authority. 1320  
Any obligations or coupons may be executed by the person who, on 1321  
the date of execution, is the proper issuing authority although on 1322  
the date of such bonds or coupons such person was not the issuing 1323  
authority. If the issuing authority whose signature or a facsimile 1324  
of whose signature appears on any such obligation or coupon ceases 1325  
to be the issuing authority before delivery thereof, such 1326  
signature or facsimile is nevertheless valid and sufficient for 1327  
all purposes as if the former issuing authority had remained the 1328  
issuing authority until such delivery; and if the seal to be 1329  
affixed to obligations has been changed after a facsimile of the 1330  
seal has been imprinted on such obligations, such facsimile seal 1331  
shall continue to be sufficient as to such obligations and 1332  
obligations issued in substitution or exchange therefor. 1333

(G) All obligations are negotiable instruments and securities 1334  
under Chapter 1308. of the Revised Code, subject to the provisions 1335  
of the bond proceedings as to registration. The obligations may be 1336  
issued in coupon or in registered form, or both, as the issuing 1337  
authority determines. Provision may be made for the registration 1338  
of any obligations with coupons attached thereto as to principal 1339  
alone or as to both principal and interest, their exchange for 1340  
obligations so registered, and for the conversion or reconversion 1341  
into obligations with coupons attached thereto of any obligations 1342  
registered as to both principal and interest, and for reasonable 1343  
charges for such registration, exchange, conversion, and 1344  
reconversion. 1345

(H) Obligations may be sold at public sale or at private 1346  
sale, as determined in the bond proceedings. 1347

Obligations issued to provide moneys for the loan guarantee 1348  
fund or the innovation Ohio loan guarantee fund may, as determined 1349

by the issuing authority, be sold at private sale, and without  
publication of a notice of sale.

(I) Pending preparation of definitive obligations, the  
issuing authority may issue interim receipts or certificates which  
shall be exchanged for such definitive obligations.

(J) In the discretion of the issuing authority, obligations  
may be secured additionally by a trust agreement or indenture  
between the issuing authority and a corporate trustee which may be  
any trust company or bank having its principal place of business  
within the state. Any such agreement or indenture may contain the  
resolution or order authorizing the issuance of the obligations,  
any provisions that may be contained in any bond proceedings, and  
other provisions which are customary or appropriate in an  
agreement or indenture of such type, including, but not limited  
to:

(1) Maintenance of each pledge, trust agreement, indenture,  
or other instrument comprising part of the bond proceedings until  
the state has fully paid the bond service charges on the  
obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be  
made by the bond proceedings, or any other agreement of the  
issuing authority made as a part of the contract under which the  
obligations were issued, enforcement of such payments or agreement  
by mandamus, the appointment of a receiver, suit in equity, action  
at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and  
of the trustee, and provisions for protecting and enforcing them,  
including limitations on rights of individual holders of  
obligations;

(4) The replacement of any obligations that become mutilated  
or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(K) Any holders of obligations or trustees under the bond proceedings, except to the extent that their rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority, the director of development, or the division of liquor control required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority, the director of development, or the division of liquor control in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the custody of the treasurer of state, which are pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the issuing authority or the state or governmental agencies of the state to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each governmental

agency and its officers, members, or employees, undertaken 1413  
pursuant to the bond proceedings or any agreement or lease, 1414  
lease-purchase agreement, or loan made under authority of this 1415  
chapter, and in every agreement by or with the issuing authority, 1416  
is hereby established as a duty of the issuing authority, and of 1417  
each such officer, member, or employee having authority to perform 1418  
such duty, specifically enjoined by the law resulting from an 1419  
office, trust, or station within the meaning of section 2731.01 of 1420  
the Revised Code. 1421

The person who is at the time the issuing authority, or the 1422  
issuing authority's officers or employees, are not liable in their 1423  
personal capacities on any obligations issued by the issuing 1424  
authority or any agreements of or with the issuing authority. 1425

(L) The issuing authority may authorize and issue obligations 1426  
for the refunding, including funding and retirement, and advance 1427  
refunding with or without payment or redemption prior to maturity, 1428  
of any obligations previously issued by the issuing authority. 1429  
Such obligations may be issued in amounts sufficient for payment 1430  
of the principal amount of the prior obligations, any redemption 1431  
premiums thereon, principal maturities of any such obligations 1432  
maturing prior to the redemption of the remaining obligations on a 1433  
parity therewith, interest accrued or to accrue to the maturity 1434  
dates or dates of redemption of such obligations, and any 1435  
allowable costs including expenses incurred or to be incurred in 1436  
connection with such issuance and such refunding, funding, and 1437  
retirement. Subject to the bond proceedings therefor, the portion 1438  
of proceeds of the sale of obligations issued under this division 1439  
to be applied to bond service charges on the prior obligations 1440  
shall be credited to an appropriate account held by the trustee 1441  
for such prior or new obligations or to the appropriate account in 1442  
the bond service fund for such obligations. Obligations authorized 1443  
under this division shall be deemed to be issued for those 1444

purposes for which such prior obligations were issued and are 1445  
subject to the provisions of this section pertaining to other 1446  
obligations, except as otherwise provided in this section; 1447  
provided that, unless otherwise authorized by the general 1448  
assembly, any limitations imposed by the general assembly pursuant 1449  
to this section with respect to bond service charges applicable to 1450  
the prior obligations shall be applicable to the obligations 1451  
issued under this division to refund, fund, advance refund or 1452  
retire such prior obligations. 1453

(M) The authority to issue obligations under this section 1454  
includes authority to issue obligations in the form of bond 1455  
anticipation notes and to renew the same from time to time by the 1456  
issuance of new notes. The holders of such notes or interest 1457  
coupons pertaining thereto shall have a right to be paid solely 1458  
from the pledged receipts and special funds that may be pledged to 1459  
the payment of the bonds anticipated, or from the proceeds of such 1460  
bonds or renewal notes, or both, as the issuing authority provides 1461  
in the resolution or order authorizing such notes. Such notes may 1462  
be additionally secured by covenants of the issuing authority to 1463  
the effect that the issuing authority and the state will do such 1464  
or all things necessary for the issuance of such bonds or renewal 1465  
notes in appropriate amount, and apply the proceeds thereof to the 1466  
extent necessary, to make full payment of the principal of and 1467  
interest on such notes at the time or times contemplated, as 1468  
provided in such resolution or order. For such purpose, the 1469  
issuing authority may issue bonds or renewal notes in such 1470  
principal amount and upon such terms as may be necessary to 1471  
provide funds to pay when required the principal of and interest 1472  
on such notes, notwithstanding any limitations prescribed by or 1473  
for purposes of this section. Subject to this division, all 1474  
provisions for and references to obligations in this section are 1475  
applicable to notes authorized under this division. 1476



The issuing authority in the bond proceedings authorizing the 1477  
issuance of bond anticipation notes shall set forth for such bonds 1478  
an estimated interest rate and a schedule of principal payments 1479  
for such bonds and the annual maturity dates thereof, and for 1480  
purposes of any limitation on bond service charges prescribed 1481  
under division (A) of section 166.11 of the Revised Code, the 1482  
amount of bond service charges on such bond anticipation notes is 1483  
deemed to be the bond service charges for the bonds anticipated 1484  
thereby as set forth in the bond proceedings applicable to such 1485  
notes, but this provision does not modify any authority in this 1486  
section to pledge receipts and special funds to, and covenant to 1487  
issue bonds to fund, the payment of principal of and interest and 1488  
any premium on such notes. 1489

(N) Obligations issued under this section are lawful 1490  
investments for banks, societies for savings, savings and loan 1491  
associations, deposit guarantee associations, trust companies, 1492  
trustees, fiduciaries, insurance companies, including domestic for 1493  
life and domestic not for life, trustees or other officers having 1494  
charge of sinking and bond retirement or other special funds of 1495  
political subdivisions and taxing districts of this state, the 1496  
commissioners of the sinking fund of the state, the administrator 1497  
of workers' compensation, the state teachers retirement system, 1498  
the public employees retirement system, the school employees 1499  
retirement system, and the Ohio police and fire pension fund, 1500  
notwithstanding any other provisions of the Revised Code or rules 1501  
adopted pursuant thereto by any governmental agency of the state 1502  
with respect to investments by them, and are also acceptable as 1503  
security for the deposit of public moneys. 1504

(O) Unless otherwise provided in any applicable bond 1505  
proceedings, moneys to the credit of or in the special funds 1506  
established by or pursuant to this section may be invested by or 1507  
on behalf of the issuing authority only in notes, bonds, or other 1508

obligations of the United States, or of any agency or 1509  
instrumentality of the United States, obligations guaranteed as to 1510  
principal and interest by the United States, obligations of this 1511  
state or any political subdivision of this state, and certificates 1512  
of deposit of any national bank located in this state and any 1513  
bank, as defined in section 1101.01 of the Revised Code, subject 1514  
to inspection by the superintendent of banks. If the law or the 1515  
instrument creating a trust pursuant to division (J) of this 1516  
section expressly permits investment in direct obligations of the 1517  
United States or an agency of the United States, unless expressly 1518  
prohibited by the instrument, such moneys also may be invested in 1519  
no-front-end-load money market mutual funds consisting exclusively 1520  
of obligations of the United States or an agency of the United 1521  
States and in repurchase agreements, including those issued by the 1522  
fiduciary itself, secured by obligations of the United States or 1523  
an agency of the United States; and in common trust funds 1524  
established in accordance with section 1111.20 of the Revised Code 1525  
and consisting exclusively of any such securities, notwithstanding 1526  
division (A)(4) of that section. The income from such investments 1527  
shall be credited to such funds as the issuing authority 1528  
determines, and such investments may be sold at such times as the 1529  
issuing authority determines or authorizes. 1530

(P) Provision may be made in the applicable bond proceedings 1531  
for the establishment of separate accounts in the bond service 1532  
fund and for the application of such accounts only to the 1533  
specified bond service charges on obligations pertinent to such 1534  
accounts and bond service fund and for other accounts therein 1535  
within the general purposes of such fund. Unless otherwise 1536  
provided in any applicable bond proceedings, moneys to the credit 1537  
of or in the several special funds established pursuant to this 1538  
section shall be disbursed on the order of the treasurer of state, 1539  
provided that no such order is required for the payment from the 1540

bond service fund when due of bond service charges on obligations. 1541

(Q) The issuing authority may pledge all, or such portion as 1542  
the issuing authority determines, of the pledged receipts to the 1543  
payment of bond service charges on obligations issued under this 1544  
section, and for the establishment and maintenance of any 1545  
reserves, as provided in the bond proceedings, and make other 1546  
provisions therein with respect to pledged receipts as authorized 1547  
by this chapter, which provisions are controlling notwithstanding 1548  
any other provisions of law pertaining thereto. 1549

(R) The issuing authority may covenant in the bond 1550  
proceedings, and any such covenants are controlling 1551  
notwithstanding any other provision of law, that the state and 1552  
applicable officers and governmental agencies of the state, 1553  
including the general assembly, so long as any obligations are 1554  
outstanding, shall: 1555

(1) Maintain statutory authority for and cause to be charged 1556  
and collected wholesale and retail prices for spirituous liquor 1557  
sold by the state or its agents so that the pledged receipts are 1558  
sufficient in amount to meet bond service charges, and the 1559  
establishment and maintenance of any reserves and other 1560  
requirements provided for in the bond proceedings, and, as 1561  
necessary, to meet covenants contained in contracts of guarantee 1562  
made under section 166.06 of the Revised Code; 1563

(2) Take or permit no action, by statute or otherwise, that 1564  
would impair the exemption from federal income taxation of the 1565  
interest on the obligations. 1566

(S) There is hereby created the economic development bond 1567  
service fund, which shall be in the custody of the treasurer of 1568  
state but shall be separate and apart from and not a part of the 1569  
state treasury. All moneys received by or on account of the 1570  
issuing authority or state agencies and required by the applicable 1571

bond proceedings, consistent with this section, to be deposited, 1572  
transferred, or credited to a bond service fund or the economic 1573  
development bond service fund, and all other moneys transferred or 1574  
allocated to or received for the purposes of the fund, shall be 1575  
deposited and credited to such fund and to any separate accounts 1576  
therein, subject to applicable provisions of the bond proceedings, 1577  
but without necessity for any act of appropriation. During the 1578  
period beginning with the date of the first issuance of 1579  
obligations and continuing during such time as any such 1580  
obligations are outstanding, and so long as moneys in the 1581  
pertinent bond service funds are insufficient to pay all bond 1582  
services charges on such obligations becoming due in each year, a 1583  
sufficient amount of the gross profit on the sale of spirituous 1584  
liquor included in pledged receipts are committed and shall be 1585  
paid to the bond service fund or economic development bond service 1586  
fund in each year for the purpose of paying the bond service 1587  
charges becoming due in that year without necessity for further 1588  
act of appropriation for such purpose and notwithstanding anything 1589  
to the contrary in Chapter 4301. of the Revised Code. The economic 1590  
development bond service fund is a trust fund and is hereby 1591  
pledged to the payment of bond service charges to the extent 1592  
provided in the applicable bond proceedings, and payment thereof 1593  
from such fund shall be made or provided for by the treasurer of 1594  
state in accordance with such bond proceedings without necessity 1595  
for any act of appropriation. 1596

(T) The obligations, the transfer thereof, and the income 1597  
therefrom, including any profit made on the sale thereof, shall at 1598  
all times be free from taxation within the state. 1599

**Sec. 166.11.** (A) The aggregate principal amount of project 1600  
financing obligations that may be issued under section 166.08 of 1601  
the Revised Code is three hundred million dollars, plus the 1602

principal amount of such project financing obligations retired by 1603  
payments. The aggregate principal amount of obligations, exclusive 1604  
of project financing obligations, that may be issued under section 1605  
166.08 of the Revised Code is ~~three~~ five hundred million dollars, 1606  
plus the principal amount of any such obligations retired by 1607  
payment, the amounts held or obligations pledged for the payment 1608  
of the principal amount of any such obligations outstanding, 1609  
amounts in special funds held as reserves to meet bond service 1610  
charges, and amounts of obligations issued to provide moneys 1611  
required to meet payments from the loan guarantee fund created in 1612  
section 166.06 of the Revised Code and the innovation Ohio loan 1613  
guarantee fund created in section 166.15 of the Revised Code, ~~and~~ 1614  
~~minus the amount if any by which four per cent of the unpaid~~ 1615  
~~principal amount of loan repayments guaranteed under section~~ 1616  
~~166.06 of the Revised Code exceeds the amount in the loan~~ 1617  
~~guarantee fund.~~ The terms of the obligations issued under section 1618  
166.08 of the Revised Code, other than obligations issued to meet 1619  
guarantees that cannot be satisfied from amounts then held in the 1620  
loan guarantee fund or the innovation Ohio loan guarantee fund, 1621  
shall be such that the aggregate amount of moneys used from profit 1622  
from the sale of spirituous liquor, and not from other sources, in 1623  
any fiscal year shall not exceed ~~twenty-five~~ forty-five million 1624  
dollars. For purposes of the preceding sentence, "other sources" 1625  
include the annual investment income on special funds to the 1626  
extent it will be available for payment of any bond service 1627  
charges in lieu of use of profit from the sale of spirituous 1628  
liquor, and shall be estimated on the basis of the expected 1629  
funding of those special funds and assumed investment earnings 1630  
thereon at a rate equal to the weighted average yield on 1631  
investments of those special funds determined as of any date 1632  
within sixty days immediately preceding the date of issuance of 1633  
the bonds in respect of which the determination is being made. The 1634  
determinations required by this division shall be made by the 1635

treasurer of state at the time of issuance of an issue of 1636  
obligations and shall be conclusive for purposes of such issue of 1637  
obligations from and after their issuance and delivery. 1638

(B) The aggregate amount of the guaranteed portion of the 1639  
unpaid principal of loans guaranteed under sections 166.06 and 1640  
166.15 of the Revised Code and the unpaid principal of loans made 1641  
under sections 166.07 ~~and~~, 166.16, and 166.21 of the Revised Code 1642  
may not at any time exceed ~~seven~~ eight hundred million dollars. Of 1643  
that ~~seven~~ eight hundred million dollars, the aggregate amount of 1644  
the guaranteed portion of the unpaid principal of loans guaranteed 1645  
under sections 166.06 and 166.15 of the Revised Code shall not at 1646  
any time exceed two hundred million dollars. However, the 1647  
limitations established under this division do not apply to loans 1648  
made with proceeds from the issuance and sale of project financing 1649  
obligations. 1650

**Sec. 166.13.** (A) Prior to entering into each agreement to 1651  
provide innovation financial assistance under sections 166.12, 1652  
166.15, and 166.16 of the Revised Code, the director of 1653  
development shall determine whether the assistance will conform to 1654  
the requirements of sections 166.12 to 166.16 of the Revised Code. 1655  
Such determination, and the facts upon which it is based, shall be 1656  
set forth by the director in submissions made to the controlling 1657  
board for purposes of section 166.16 of the Revised Code and to 1658  
the development ~~finance~~ financing advisory council under section 1659  
166.14 of the Revised Code. An agreement to provide assistance 1660  
under sections 166.12, 166.15, and 166.16 of the Revised Code 1661  
shall set forth the determination, which shall be conclusive for 1662  
purposes of the validity and enforceability of the agreement and 1663  
any innovation loan guarantees, innovation loans, or other 1664  
agreements entered into pursuant to the agreement to provide 1665  
innovation financial assistance. 1666

(B) Whenever a person applies for innovation financial assistance under sections 166.12, 166.15, and 166.16 of the Revised Code and the eligible innovation project for which innovation financial assistance is requested is to relocate an eligible innovation project that is currently being operated by the person and that is located in another county, municipal corporation, or township, the director shall provide written notification to the appropriate local governmental bodies and state officials. The notification shall contain the following information:

(1) The name of the person applying for innovation financial assistance;

(2) The county, and the municipal corporation or township, in which the eligible innovation project for which innovation financial assistance is requested is located; and

(3) The county, and the municipal corporation or township, in which the eligible innovation project to be replaced is located.

The director shall provide the written notification to the appropriate local governmental bodies and state officials so that they receive the notification at least five days before the development ~~finance~~ financing advisory council meeting at which the council considers the request for innovation financial assistance pursuant to sections 166.12, 166.15, and 166.16 of the Revised Code.

(C) As used in division (B) of this section:

(1) "Appropriate local governmental bodies" means:

(a) The boards of county commissioners or legislative authorities of the county in which the project for which innovation financial assistance is requested is located and of the county in which the eligible innovation project to be replaced is

|  |                                      |
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| located;   | 1697                                 |
| (b) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible innovation project for which innovation financial assistance is requested is located; and                                       | 1698<br>1699<br>1700<br>1701         |
| (c) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible innovation project to be replaced is located.   | 1702<br>1703<br>1704                 |
| (2) "State officials" means:   | 1705                                 |
| (a) The state representative and state senator in whose districts the project for which innovation financial assistance is requested is located;   | 1706<br>1707<br>1708                 |
| (b) The state representative and state senator in whose districts the innovation project to be replaced is located.  | 1709<br>1710                         |
| <b>Sec. 166.14.</b> (A) In determining the eligible innovation projects to be assisted and the nature, amount, and terms of innovation financial assistance to be provided for an eligible innovation project under sections 166.12 to 166.16 of the Revised Code: | 1711<br>1712<br>1713<br>1714<br>1715 |
| (1) The director of development shall take into consideration all of the following:  | 1716<br>1717                         |
| (a) The number of jobs to be created or preserved by the eligible innovation project, directly or indirectly;  | 1718<br>1719                         |
| (b) Payrolls, and the taxes generated, at both state and local levels, by or in connection with the eligible innovation project and by the employment created or preserved by or in connection with the eligible innovation project;                               | 1720<br>1721<br>1722<br>1723         |
| (c) The size, nature, and cost of the eligible innovation project, including the prospect of the eligible innovation project   | 1724<br>1725                         |



|  |      |
|--|------|
| for providing long-term jobs in enterprises consistent with the              | 1726 |
| changing economics of the state and the nation;                              | 1727 |
| (d) The needs of any private sector enterprise to be                         | 1728 |
| assisted;  | 1729 |
| (e) The amount and kind of assistance, if any, to be provided                | 1730 |
| to the private sector enterprise by other governmental agencies              | 1731 |
| through tax exemption or abatement, financing assistance with                | 1732 |
| industrial development bonds, and otherwise, with respect to the             | 1733 |
| eligible innovation project or with respect to any providers of              | 1734 |
| innovation property to be included as part of the eligible                   | 1735 |
| innovation project;  | 1736 |
| (f) The likelihood of the successful implementation of the                   | 1737 |
| proposed eligible innovation project;  | 1738 |
| (g) Whether the eligible innovation project involves the use                 | 1739 |
| of technology in a targeted innovation industry sector.                      | 1740 |
| (2) The benefits to the local area, including taxes, jobs,                   | 1741 |
| and reduced unemployment and reduced welfare costs, among others,            | 1742 |
| may be accorded value in the leasing or sales of innovation                  | 1743 |
| project facilities and in loan and guarantee arrangements.                   | 1744 |
| (3) In making determinations under division (A)(1) of this                   | 1745 |
| section, the director may consider the effect of an eligible                 | 1746 |
| innovation project upon any entity engaged to provide innovation             | 1747 |
| property to be acquired, leased, or licensed in connection with              | 1748 |
| such assistance.   | 1749 |
| (B) The director shall submit to the development <del>finance</del>          | 1750 |
| <u>financing</u> advisory council data pertinent to the considerations       | 1751 |
| set forth in division (A) of this section, the terms of the                  | 1752 |
| proposed innovation financial assistance, and such other relevant            | 1753 |
| information as the council may request.                                      | 1754 |
| (C) The development <del>finance</del> <u>financing</u> advisory council, on | 1755 |

the basis of such data, shall make recommendations as to the 1756  
appropriateness of the innovation financial assistance to be 1757  
provided. The recommendations may be revised to reflect any 1758  
changes in the proposed innovation financial assistance as the 1759  
director may submit to the council. The recommendations, as 1760  
amended, of the council as to the appropriateness of the proposed 1761  
innovation financial assistance shall be submitted to the 1762  
controlling board. 1763

(D) Financial statements and other data submitted to the 1764  
director of development, the development ~~finance~~ financing 1765  
advisory council, or the controlling board by any private sector 1766  
person in connection with innovation financial assistance under 1767  
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 1768  
information taken from such statements or data for any purpose, 1769  
shall not be open to public inspection. The development ~~finance~~ 1770  
financing advisory council in considering confidential information 1771  
in connection with innovation financial assistance under this 1772  
chapter may, only for consideration of the confidential 1773  
information referred to, and in the manner provided in division 1774  
(E) of section 121.22 of the Revised Code, close the meeting 1775  
during such consideration. 1776

**Sec. 166.16.** (A) The director of development, with the 1777  
approval of the controlling board and subject to the other 1778  
applicable provisions of this chapter, may lend moneys in the 1779  
innovation Ohio loan fund to persons for the purpose of paying 1780  
allowable innovation costs of an eligible innovation project if 1781  
the director determines that: 1782

(1) The project is an eligible innovation project and is 1783  
economically sound. 1784

(2) The borrower is unable to finance the necessary allowable 1785  
costs through ordinary financial channels upon comparable terms. 1786

(3) The amount to be lent from the innovation Ohio loan fund 1787  
will not exceed ninety per cent of the total costs of the eligible 1788  
innovation project. 1789

(4) The repayment of the loan from the innovation Ohio loan 1790  
fund will be secured by a mortgage, lien, assignment, or pledge, 1791  
or other interest in property or innovation property at such level 1792  
of priority and value as the director may determine necessary, 1793  
provided that, in making such a determination, the director may 1794  
take into account the value of any rights granted by the borrower 1795  
to the director to control the use of any property or innovation 1796  
property of the borrower under the circumstances described in the 1797  
loan documents. 1798

(B) The determinations of the director under division (A) of 1799  
this section shall be conclusive for purposes of the validity of a 1800  
loan commitment evidenced by a loan agreement signed by the 1801  
director. 1802

(C) Fees, charges, rates of interest, times of payment of 1803  
interest and principal, and other terms, conditions, and 1804  
provisions of and security for loans made from the innovation Ohio 1805  
loan fund shall be such as the director determines to be 1806  
appropriate and in furtherance of the purpose for which the loans 1807  
are made. The moneys used in making the loans shall be disbursed 1808  
from the innovation Ohio loan fund upon order of the director. 1809  
Unless otherwise specified in any indenture or other instrument 1810  
securing obligations under division (D) of section 166.08 of the 1811  
Revised Code, any payments of principal and interest from loans 1812  
made from the innovation Ohio loan fund shall be paid to the 1813  
innovation Ohio loan fund and used for the purpose of making 1814  
loans. 1815

(D) ~~The~~ There is hereby created in the state treasury the 1816  
innovation Ohio loan fund ~~is hereby created as a special revenue~~ 1817

~~fund and a trust fund which shall be in the custody of the~~ 1818  
~~treasurer of state but shall be separate and apart from and not a~~ 1819  
~~part of the state treasury.~~ The fund shall consist of ~~all~~ grants, 1820  
gifts, and contributions of moneys or rights to moneys lawfully 1821  
designated for or deposited in such fund, all moneys and rights to 1822  
moneys lawfully appropriated and transferred to such fund, 1823  
including moneys received from the issuance of obligations for 1824  
purposes of allowable innovation costs under section 166.08 of the 1825  
Revised Code, and moneys deposited to such fund pursuant to 1826  
divisions (C) and (G) of this section. All investment earnings on 1827  
the cash balance in the fund shall be credited to the fund. The 1828  
~~innovation Ohio loan~~ fund shall not be comprised, in any part, of 1829  
moneys raised by taxation. 1830

(E) The director may take actions necessary or appropriate to 1831  
collect or otherwise deal with any loan made under this section. 1832

(F) The director may fix service charges for the making of a 1833  
loan. The charges shall be payable at such times and place and in 1834  
such amounts and manner as may be prescribed by the director. 1835

~~(G) The treasurer of state shall serve as an agent for the~~ 1836  
~~director in the making of deposits and withdrawals and maintenance~~ 1837  
~~of records pertaining to the innovation Ohio loan fund.~~ 1838

~~(H)~~(1) There shall be credited to the innovation Ohio loan 1839  
fund the moneys received by this state from the repayment of 1840  
innovation Ohio loans and recovery on loan guarantees, including 1841  
interest thereon, made from the innovation Ohio loan fund or from 1842  
the innovation Ohio loan guarantee fund and from the sale, lease, 1843  
or other disposition of property acquired or constructed ~~from~~ with 1844  
moneys in the innovation Ohio loan fund with moneys derived from 1845  
the proceeds of the sale of obligations under section 166.08 of 1846  
the Revised Code. Such moneys shall be applied as provided in this 1847  
chapter pursuant to appropriations made by the general assembly. 1848

(2) Notwithstanding division ~~(H)~~(G)(1) of this section, any 1849  
amounts recovered on innovation Ohio loan guarantees shall be 1850  
deposited to the credit of the innovation Ohio loan guarantee fund 1851  
to the extent necessary to restore that fund to the innovation 1852  
Ohio loan guarantee reserve requirement or any level in excess 1853  
thereof required by any guarantee contract. Money in the 1854  
innovation Ohio loan guarantee fund in excess of the innovation 1855  
Ohio loan guarantee reserve requirement, but subject to the 1856  
provisions and requirements of any guarantee contracts, may be 1857  
transferred to the innovation Ohio loan fund by the treasurer of 1858  
state upon the order of the director of development. 1859

(3) In addition to the requirements of division ~~(H)~~(G)(1) of 1860  
this section, moneys referred to in that division may be deposited 1861  
to the credit of separate accounts within the innovation Ohio loan 1862  
fund or in the bond service fund and pledged to the security of 1863  
obligations, applied to the payment of bond service charges 1864  
without need for appropriation, released from any such pledge and 1865  
transferred to the innovation Ohio loan fund, all as and to the 1866  
extent provided in the bond proceedings pursuant to written 1867  
directions by the director of development. Accounts may be 1868  
established by the director in the innovation Ohio loan fund for 1869  
particular projects or otherwise. ~~Income from the investment of~~ 1870  
~~moneys in the innovation Ohio loan fund shall be credited to that~~ 1871  
~~fund and, as may be provided in bond proceedings, to particular~~ 1872  
~~accounts in that fund.~~ The ~~treasurer of state~~ director may 1873  
withdraw from the innovation Ohio loan fund or, subject to 1874  
provisions of the applicable bond proceedings, from any special 1875  
funds established pursuant to the bond proceedings, or from any 1876  
accounts in such funds, any amounts of investment income required 1877  
to be rebated and paid to the federal government in order to 1878  
maintain the exemption from federal income taxation of interest on 1879  
obligations issued under this chapter, which withdrawal and 1880

payment may be made without necessity for appropriation. 1881

Sec. 166.17. (A) The general assembly finds that in order to 1882  
enhance the economic opportunities available to and improve the 1883  
economic welfare of all the people of the state, and to maintain 1884  
and enhance the competitiveness of the Ohio economy, it is 1885  
necessary to ensure that the people of the state will continue to 1886  
have access to high-value jobs in technology, and that, to 1887  
facilitate such continued access, it is necessary to provide 1888  
incentives to retain and attract businesses that will develop new 1889  
or improved technologies, processes, and products, or apply 1890  
existing technologies in new ways. Further, the general assembly 1891  
finds that the attraction of such jobs and their presence in this 1892  
state will materially contribute to the economic welfare of all 1893  
the people of the state. Accordingly, it is declared to be the 1894  
public policy of this state, through operations under sections 1895  
166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code and 1896  
the provisions for financial assistance contained in those 1897  
sections, other applicable laws adopted pursuant to Section 13 of 1898  
Article VIII, Ohio Constitution, and other authority vested in the 1899  
general assembly, to assist in and facilitate the establishment or 1900  
development of eligible research and development projects or 1901  
assist and cooperate with any governmental agency in achieving 1902  
that purpose. 1903

(B) In furtherance of that public policy and to implement 1904  
that purpose, the director of development may do any of the 1905  
following: 1906

(1) After consultation with appropriate governmental 1907  
agencies, enter into agreements with persons engaged in industry, 1908  
commerce, distribution, or research and with governmental 1909  
agencies, to induce such persons to acquire, construct, 1910  
reconstruct, rehabilitate, renovate, enlarge, improve, equip, 1911

furnish, or develop eligible research and development projects, or 1912  
to enable governmental agencies to acquire, construct, 1913  
reconstruct, rehabilitate, renovate, enlarge, improve, equip, 1914  
furnish, or develop eligible research and development projects for 1915  
lease to persons engaged in industry, commerce, distribution, or 1916  
research; 1917

(2) Provide for loans under section 166.21 of the Revised 1918  
Code to finance eligible research and development projects; 1919

(3) Subject to the release of moneys in the research and 1920  
development loan fund by the controlling board, contract for labor 1921  
and materials needed for, or contract with others, including 1922  
governmental agencies, to provide, eligible research and 1923  
development projects, the allowable costs of which are to be paid 1924  
for or reimbursed from such moneys, and contract for the operation 1925  
of those projects; 1926

(4) From moneys in the research and development loan fund, 1927  
subject to release thereof by the controlling board, acquire or 1928  
contract to acquire property by gift, exchange, or purchase, 1929  
including by obtaining and exercising purchase options, and convey 1930  
or otherwise dispose of, or provide for the conveyance or 1931  
disposition of, that property by sale, exchange, lease, lease 1932  
purchase, conditional or installment sale, transfer, or other 1933  
disposition, including the grant of an option to purchase, to any 1934  
governmental agency or to any other person without necessity for 1935  
competitive bidding and upon such terms and conditions and manner 1936  
of consideration pursuant to, and as the director determines to be 1937  
appropriate to satisfy the objectives of, Chapter 166. of the 1938  
Revised Code; 1939

(5) Retain the services of or employ financial consultants, 1940  
appraisers, consulting engineers, superintendents, managers, 1941  
construction and accounting experts, attorneys, employees, agents, 1942

|   |      |
|---|------|
| <u>and independent contractors as are necessary in the director's</u>     | 1943 |
| <u>judgment, and fix the compensation for their services;</u>             | 1944 |
| <u>(6) Receive and accept from any person, grants, gifts, and</u>         | 1945 |
| <u>contributions of money, property, labor, and other things of</u>       | 1946 |
| <u>value, to be held, used, and applied only for the purpose for</u>      | 1947 |
| <u>which such grants, gifts, and contributions are made;</u>              | 1948 |
| <u>(7) Enter into arrangements and agreements with any</u>                | 1949 |
| <u>governmental agency for the agency to take or provide any</u>          | 1950 |
| <u>governmental action with respect to eligible research and</u>          | 1951 |
| <u>development projects;</u>  | 1952 |
| <u>(8) Do all other acts, enter into contracts, execute all</u>           | 1953 |
| <u>instruments, and make all certifications necessary or appropriate</u>  | 1954 |
| <u>to carry out sections 166.01, 166.17 to 166.21, 5733.352, and</u>      | 1955 |
| <u>5747.331 of the Revised Code;</u>                                      | 1956 |
| <u>(9) With respect to property that is the subject of or</u>             | 1957 |
| <u>related to research and development financial assistance, take</u>     | 1958 |
| <u>such interests, including, but not limited to, mortgages, security</u> | 1959 |
| <u>interests, leasehold interests, assignments, and exclusive or</u>      | 1960 |
| <u>nonexclusive licenses, as may be necessary or appropriate under</u>    | 1961 |
| <u>the circumstances, to ensure that the property is used within this</u> | 1962 |
| <u>state and that products or services associated with that property</u>  | 1963 |
| <u>are produced or, in the case of services, delivered, by persons</u>    | 1964 |
| <u>employed within this state;</u>  | 1965 |
| <u>(10) Adopt rules necessary to implement any of the provisions</u>      | 1966 |
| <u>of sections 166.17 to 166.21, 5733.352, and 5747.331 of the</u>        | 1967 |
| <u>Revised Code that are applicable to the director.</u>                  | 1968 |
| <u>(C) The determination by the director that facilities or</u>           | 1969 |
| <u>property constitute an eligible research and development project</u>   | 1970 |
| <u>and that the costs of such facilities or property are allowable</u>    | 1971 |
| <u>costs related to the project, and all other determinations</u>         | 1972 |
| <u>relevant thereto, or to an action taken or agreement entered into,</u> | 1973 |



shall be conclusive for purposes of the validity and 1974  
enforceability of rights of parties arising from actions taken and 1975  
agreements entered into under sections 166.17 to 166.21, 5733.352, 1976  
and 5747.331 of the Revised Code. 1977

**Sec. 166.18.** (A) Prior to entering into each agreement to 1978  
provide research and development financial assistance, the 1979  
director of development shall determine whether the assistance 1980  
will conform to the requirements of sections 166.17 to 166.21, 1981  
5733.352, and 5747.331 of the Revised Code. Such determination, 1982  
and the facts upon which it is based, shall be set forth by the 1983  
director in submissions made to the controlling board for purposes 1984  
of section 166.17 of the Revised Code and to the development 1985  
financing advisory council under section 166.19 of the Revised 1986  
Code. An agreement to provide research and development financial 1987  
assistance under section 166.17 or 166.21 of the Revised Code 1988  
shall set forth the determination, which shall be conclusive for 1989  
purposes of the validity and enforceability of the agreement, and 1990  
any loans or other agreements entered into pursuant to the 1991  
agreement, to provide research and development financial 1992  
assistance. 1993

(B) Whenever a person applies for research and development 1994  
financial assistance, and the eligible research and development 1995  
project for which that assistance is requested is to relocate an 1996  
eligible research and development project that is currently being 1997  
operated by the person and that is located in another county, 1998  
municipal corporation, or township within the state, the director 1999  
shall provide written notification to the appropriate local 2000  
governmental bodies and state officials. The notification shall 2001  
state all of the following: 2002

(1) The name of the person applying for research and 2003  
development financial assistance; 2004

(2) The county, and the municipal corporation or township, in which the project for which research and development financial assistance is requested will be located; 2005  
2006  
2007

(3) The county, and the municipal corporation or township, in which the eligible research and development project is located at the time such financial assistance is requested. 2008  
2009  
2010

The director shall provide the written notification to the appropriate local governmental bodies and state officials so that they receive the notification at least five days before the development financing advisory council meeting at which the council considers the request for research and development financial assistance. 2011  
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(C) As used in division (B) of this section: 2017

(1) "Appropriate local governmental bodies" means all of the following: 2018  
2019

(a) The board of county commissioners of or legislative authorities of special districts in the county in which the eligible research and development project for which research and development financial assistance is requested is located and of the county in which the project will be located; 2020  
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(b) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible research and development project for which research and development financial assistance is requested is located and of the municipal corporation or township in which the project will be located. 2025  
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(2) "State officials" means both of the following: 2031

(a) The state representative and state senator in whose district the eligible research and development project for which research and development financial assistance is requested is 2032  
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| <u>located;</u>   | 2035 |
| <u>(b) The state representative and state senator in whose district the eligible research and development project will be located.</u>  | 2036 |
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| <b><u>Sec. 166.19. (A)(1) In determining the eligible research and development projects to be assisted and the nature, amount, and terms of the research and development financial assistance to be provided, the director of development shall consider all of the following:</u></b>  | 2039 |
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| <u>(a) The number of jobs to be created or preserved, directly or indirectly, by or in connection with the eligible research and development project;</u>   | 2044 |
|   | 2045 |
|   | 2046 |
| <u>(b) Payrolls, and the taxes generated at both state and local levels, by the eligible research and development project and by the employment created or preserved by or in connection with the project;</u>  | 2047 |
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| <u>(c) The size, nature, and cost of the eligible research and development project;</u>   | 2051 |
|   | 2052 |
| <u>(d) The likelihood that the eligible research and development project will create long-term jobs in enterprises consistent with the changing economy of the state and nation;</u>  | 2053 |
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| <u>(e) The needs of any private sector enterprise to be assisted, taking into consideration the amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible research and development project or with respect to any providers of research and development property to be included as part of the project;</u> | 2056 |
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| <u>(f) The likelihood that the eligible research and development</u>  | 2064 |

project will be successfully implemented. 2065

(2) The director may consider the benefits to the local area, including taxes, jobs, and reduced unemployment and reduced welfare costs, in the leasing or sale of eligible research and development project facilities and in loan arrangements. 2066  
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(3) The director may consider the effect of an eligible research and development project upon any entity engaged to provide research and development property to be acquired, leased, or licensed in connection with research and development financial assistance. 2070  
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(B) The director shall submit to the development financing advisory council data pertinent to the considerations set forth in division (A) of this section, the terms of the proposed research and development assistance, and such other relevant information as the council may request. 2075  
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(C) The development financing advisory council, on the basis of the data submitted under division (B) of this section, shall make recommendations as to the appropriateness of the research and development financial assistance to be provided. The recommendations may be revised to reflect any changes in the proposed research and development financial assistance that the director may submit to the council. The recommendations of the council as to the appropriateness of the proposed research and development financial assistance shall be submitted to the controlling board. 2080  
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(D) Financial statements and other data submitted to the director of development, the development financing advisory council, or the controlling board by any private sector person in connection with research and development financial assistance, or any information taken from such statements or data for any purpose, shall not be open to public inspection. The development 2090  
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financing advisory council, in considering confidential 2096  
information in connection with research and development financial 2097  
assistance may, only for consideration of the confidential 2098  
information referred to and in the manner provided in division (E) 2099  
of section 121.22 of the Revised Code, close the meeting during 2100  
such consideration. 2101

Sec. 166.20. There is hereby created in the state treasury 2102  
the research and development loan fund. The fund shall consist of 2103  
moneys received from the issuance of obligations for research and 2104  
development purposes under section 166.08 of the Revised Code; 2105  
moneys deposited to the fund pursuant to divisions (C) and (G) of 2106  
section 166.21 of the Revised Code; service charges imposed under 2107  
section 166.21 of the Revised Code; and any grants, gifts, or 2108  
contributions of money received by the director of development to 2109  
be used for making loans under section 166.21 of the Revised Code. 2110  
All investment earnings on the cash balance in the fund shall be 2111  
credited to the fund. The fund shall not be comprised, in any 2112  
part, of moneys raised by taxation. 2113

Sec. 166.21. (A) The director of development, with the 2114  
approval of the controlling board and subject to other applicable 2115  
provisions of this chapter, may lend moneys in the research and 2116  
development loan fund to persons for the purpose of paying 2117  
allowable costs of eligible research and development projects, if 2118  
the director determines that all of the following conditions are 2119  
met: 2120

(1) The project is an eligible research and development 2121  
project and is economically sound; 2122

(2) The amount to be lent from the research and development 2123  
loan fund will not exceed seventy-five per cent of the total costs 2124  
of the eligible research and development project; 2125

(3) The repayment of the loan from the research and development loan fund will be secured by a mortgage, lien, assignment, pledge, or other interest in property or other assets of the borrower at such level of priority and value as the director considers necessary, provided that, in making such a determination, the director shall take into account the value of any rights granted by the borrower to the director to control the use of any assets of the borrower under the circumstances described in the loan documents. 2126  
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(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director. 2135  
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(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms and conditions of, and security for, loans made from the research and development loan fund shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making loans shall be disbursed from the fund upon order of the director. Unless otherwise specified in any indenture or other instrument securing obligations under division (D) of section 166.08 of the Revised Code, any payments of principal and interest from loans made from the fund shall be paid to the fund and used for the purpose of making loans under this section. 2139  
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(D)(1) As used in this division, "qualified research and development loan payments" means payments of principal and interest on a loan made from the research and development loan fund. 2151  
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(2) Each year, the director may, upon request, issue a certificate to a borrower of moneys from the research and 2155  
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development loan fund indicating the amount of the qualified 2157  
research and development loan payments made by or on behalf of the 2158  
borrower during the calendar year immediately preceding the tax 2159  
year, as defined in section 5733.04 of the Revised Code, or 2160  
taxable year, as defined in section 5747.01 of the Revised Code, 2161  
for which the certificate is issued. In addition to indicating the 2162  
amount of qualified research and development loan payments, the 2163  
certificate shall include a determination of the director that as 2164  
of the thirty-first day of December of the calendar year for which 2165  
the certificate is issued, the borrower is not in default under 2166  
the loan agreement, lease, or other instrument governing repayment 2167  
of the loan, including compliance with the job creation and 2168  
retention commitments that are part of the qualified research and 2169  
development project. The director shall not issue a certificate in 2170  
an amount that exceeds one hundred fifty thousand dollars. 2171

(E) The director may take actions necessary or appropriate to 2172  
collect or otherwise deal with any loan made under this section. 2173

(F) The director may fix service charges for the making of a 2174  
loan. The charges shall be payable at such times and place and in 2175  
such amounts and manner as may be prescribed by the director. 2176

(G)(1) There shall be credited to the research and 2177  
development loan fund moneys received by this state from the 2178  
repayment of loans, including interest thereon, made from the 2179  
fund, and moneys received from the sale, lease, or other 2180  
disposition of property acquired or constructed with moneys in the 2181  
fund derived from the proceeds of the sale of obligations under 2182  
section 166.08 of the Revised Code. Moneys in the fund shall be 2183  
applied as provided in this chapter pursuant to appropriations 2184  
made by the general assembly. 2185

(2) In addition to the requirements in division (G)(1) of 2186  
this section, moneys referred to in that division may be deposited 2187

to the credit of separate accounts established by the director of 2188  
development within the research and development loan fund or in 2189  
the bond service fund and pledged to the security of obligations, 2190  
applied to the payment of bond service charges without need for 2191  
appropriation, released from any such pledge and transferred to 2192  
the research and development loan fund, all as and to the extent 2193  
provided in the bond proceedings pursuant to written directions of 2194  
the director of development. Accounts may be established by the 2195  
director in the research and development loan fund for particular 2196  
projects or otherwise. The director may withdraw from the fund or, 2197  
subject to provisions of the applicable bond proceedings, from any 2198  
special funds established pursuant to the bond proceedings, or 2199  
from any accounts in such funds, any amounts of investment income 2200  
required to be rebated and paid to the federal government in order 2201  
to maintain the exemption from federal income taxation of interest 2202  
on obligations issued under this chapter, which withdrawal and 2203  
payment may be made without the necessity for appropriation. 2204

**Sec. 184.04.** (A) The Ohio research commercialization grant 2205  
program is hereby created to improve the commercial viability of 2206  
research projects by improving the ability of small technology 2207  
companies to assess their commercial potential and the commercial 2208  
potential of research projects, and by promoting the 2209  
competitiveness of these companies through the augmentation of 2210  
federal research and development funding. The third frontier 2211  
commission shall award grants to eligible applicants on a 2212  
competitive basis for the following purposes: 2213

(1) Commercialization of a core competency technology, 2214  
including, but not limited to, advanced materials; instruments, 2215  
controls, and electronics; biosciences; power and propulsion; and 2216  
information technology; 2217

(2) Other business activities related to the 2218



commercialization of a core competency technology. 2219

(B) In order to be eligible for an Ohio research 2220  
commercialization grant, the applicant shall demonstrate both of 2221  
the following to the third frontier commission: 2222

(1) It is located in Ohio; 2223

(2) It either: 2224

(a) Has received a phase I award of funds under the small 2225  
business innovation research program or the small business 2226  
technology transfer program established in 15 U.S.C. 638, or a 2227  
similar award of federal funds under a program designated by the 2228  
third frontier commission as qualifying an applicant for a grant 2229  
under this section; or 2230

(b) Demonstrates eligibility for an award of funds under the 2231  
federal advanced technology program established in 15 U.S.C. 278n 2232  
or a similar federal program designated by the third frontier 2233  
commission as qualifying an applicant for a grant under this 2234  
section. 2235

(C) The third frontier commission shall review proposals from 2236  
applicants that meet the requirements stated in division (B) of 2237  
this section, and may issue commitments to applicants for 2238  
conditional grants of funds under this section, conditioned on the 2239  
applicant receiving a phase II award of funds under the federal 2240  
small business innovation research program or the small business 2241  
technology transfer program, an award of funds under the federal 2242  
advanced technology program, or an award of federal funds under a 2243  
similar federal program designated by the director. 2244

(D) No funds shall be disbursed under the Ohio research 2245  
commercialization grant program until the third frontier 2246  
commission has received notice from the applicant, in such form as 2247  
the commission prescribes, that the applicant has received an 2248

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| <u>award of federal funds under a program described in division</u>       | 2249 |
| <u>(B)(2)(b) or (C) of this section.</u>                                  | 2250 |
| <u>(E) An eligible applicant that receives a grant under the</u>          | 2251 |
| <u>Ohio research commercialization grant program is not precluded</u>     | 2252 |
| <u>from being considered for or participating in other financial</u>      | 2253 |
| <u>assistance programs offered by the department of development.</u>      | 2254 |
| <u>(F) The third frontier commission shall adopt rules under</u>          | 2255 |
| <u>Chapter 119. of the Revised Code establishing all of the</u>           | 2256 |
| <u>following:</u>   | 2257 |
| <u>(1) Forms and procedures by which eligible applicants may</u>          | 2258 |
| <u>apply for grants under this section;</u>                               | 2259 |
| <u>(2) Criteria for reviewing, evaluating, and ranking</u>                | 2260 |
| <u>applications, and for approving applications from eligible</u>         | 2261 |
| <u>applicants that best serve the goals of the Ohio research</u>          | 2262 |
| <u>commercialization grant program;</u>                                   | 2263 |
| <u>(3) Reporting requirements and monitoring procedures;</u>              | 2264 |
| <u>(4) The federal awards and programs that make an applicant</u>         | 2265 |
| <u>eligible for a grant under divisions (B) and (C) of this section;</u>  | 2266 |
| <u>(5) Any other rules necessary to implement and administer the</u>      | 2267 |
| <u>Ohio research commercialization grant program.</u>                     | 2268 |
| <b><u>Sec. 5733.352. (A) As used in this section:</u></b>                 | 2269 |
| <u>(1) "Borrower" means any person that receives a loan from the</u>      | 2270 |
| <u>director of development under section 166.21 of the Revised Code,</u>  | 2271 |
| <u>regardless of whether the borrower is subject to the taxes imposed</u> | 2272 |
| <u>by sections 5733.06, 5733.065, and 5733.066 of the Revised Code.</u>   | 2273 |
| <u>(2) "Related member" has the same meaning as in section</u>            | 2274 |
| <u>5733.042 of the Revised Code.</u>                                      | 2275 |
| <u>(3) "Qualified research and development loan payments" has</u>         | 2276 |
| <u>the same meaning as in division (D) of section 166.21 of the</u>       | 2277 |

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| <u>Revised Code.</u>  | 2278 |
| <u>(B) Beginning in tax year 2004, a nonrefundable credit is</u>          | 2279 |
| <u>allowed against the taxes imposed by sections 5733.06, 5733.065,</u>   | 2280 |
| <u>and 5733.066 of the Revised Code equal to a borrower's qualified</u>   | 2281 |
| <u>research and development loan payments made during the calendar</u>    | 2282 |
| <u>year immediately preceding the tax year for which the credit is</u>    | 2283 |
| <u>claimed. The amount of the credit for a tax year shall not exceed</u>  | 2284 |
| <u>one hundred fifty thousand dollars. No taxpayer is entitled to</u>     | 2285 |
| <u>claim a credit under this section unless it has obtained a</u>         | 2286 |
| <u>certificate issued by the director of development under division</u>   | 2287 |
| <u>(D) of section 166.21 of the Revised Code. The credit shall be</u>     | 2288 |
| <u>claimed in the order required under section 5733.98 of the Revised</u> | 2289 |
| <u>Code. The credit, to the extent it exceeds the taxpayer's tax</u>      | 2290 |
| <u>liability for the tax year after allowance for any other credits</u>   | 2291 |
| <u>that precede the credit under this section in that order, shall be</u> | 2292 |
| <u>carried forward to the next succeeding tax year or years until</u>     | 2293 |
| <u>fully used.</u>  | 2294 |
| <u>(C) A borrower entitled to a credit under this section may</u>         | 2295 |
| <u>assign the credit, or a portion thereof, to any of the following:</u>  | 2296 |
| <u>(1) A related member of that borrower;</u>                             | 2297 |
| <u>(2) The owner or lessee of the eligible research and</u>               | 2298 |
| <u>development project;</u>   | 2299 |
| <u>(3) A related member of the owner or lessee of the eligible</u>        | 2300 |
| <u>research and development project.</u>                                  | 2301 |
| <u>A borrower making an assignment under this division shall</u>          | 2302 |
| <u>provide written notice of the assignment to the tax commissioner</u>   | 2303 |
| <u>and the director of development, in such form as the tax</u>           | 2304 |
| <u>commissioner prescribes, before the credit that was assigned is</u>    | 2305 |
| <u>used. The assignor may not claim the credit to the extent it was</u>   | 2306 |
| <u>assigned to an assignee. The assignee may claim the credit only to</u> | 2307 |
| <u>the extent the assignor has not claimed it.</u>                        | 2308 |

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company. 2309  
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(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5747.331 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars. 2314  
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**Sec. 5733.98.** (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code: 2321  
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(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 2327  
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(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code; 2329  
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(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code; 2331  
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(4) The subsidiary corporation credit under section 5733.067 of the Revised Code; 2333  
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(5) The savings and loan assessment credit under section 5733.063 of the Revised Code; 2335  
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(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code; 2337  
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| (7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;  | 2339<br>2340                 |
| (8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;   | 2341<br>2342                 |
| (9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;  | 2343<br>2344                 |
| (10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;   | 2345<br>2346                 |
| (11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;  | 2347<br>2348                 |
| (12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of <del>th</del> <u>the</u> Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code; | 2349<br>2350<br>2351<br>2352 |
| (13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;   | 2353<br>2354<br>2355         |
| (14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;  | 2356<br>2357                 |
| (15) The job training credit under section 5733.42 of the Revised Code;   | 2358<br>2359                 |
| (16) The credit for qualified research expenses under section 5733.351 of the Revised Code;   | 2360<br>2361                 |
| (17) The enterprise zone credit under section 5709.66 of the Revised Code;  | 2362<br>2363                 |
| (18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;  | 2364<br>2365                 |
| (19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;  | 2366<br>2367                 |

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| (20) The ethanol plant investment credit under section 5733.46 of the Revised Code;  | 2368<br>2369   |
| (21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;   | 2370<br>2371   |
| (22) The export sales credit under section 5733.069 of the Revised Code;   | 2372<br>2373   |
| (23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;  | 2374<br>2375   |
| (24) The enterprise zone credits under section 5709.65 of the Revised Code;  | 2376<br>2377   |
| (25) The credit for using Ohio coal under section 5733.39 of the Revised Code;   | 2378<br>2379   |
| (26) <u>The research and development credit under section 5733.352 of the Revised Code;</u>  | 2380<br>2381   |
| <u>(27)</u> The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;   | 2382<br>2383   |
| <del>(27)</del> <u>(28)</u> The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;  | 2384<br>2385   |
| <del>(28)</del> <u>(29)</u> The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.  | 2386<br>2387<br>2388<br>2389                         |
| (B) For any credit except the credits enumerated in divisions (A) <del>(26)</del> , <u>(27)</u> , <del>and (28)</del> , <u>and (29)</u> of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. | 2390<br>2391<br>2392<br>2393<br>2394<br>2395<br>2396 |

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| <u>Sec. 5747.331. (A) As used in this section:</u>  | 2397   |
| <u>(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.</u>   | 2398<br>2399<br>2400<br>2401   |
| <u>(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.</u>  | 2402<br>2403   |
| <u>(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.</u>  | 2404<br>2405<br>2406   |
| <u>(B) Beginning in taxable year 2003, a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully used.</u> | 2407<br>2408<br>2409<br>2410<br>2411<br>2412<br>2413<br>2414<br>2415<br>2416<br>2417<br>2418<br>2419<br>2420<br>2421 |
| <u>(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:</u>   | 2422<br>2423   |
| <u>(1) A related member of that borrower;</u>   | 2424   |
| <u>(2) The owner or lessee of the eligible research and development project;</u>  | 2425<br>2426   |

(3) A related member of the owner or lessee of the eligible research and development project. 2427  
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A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it. 2429  
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(D) If any taxpayer is a shareholder in an S corporation, a partner in a partnership, or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the S corporation, partnership, or limited liability company. 2436  
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(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5733.352 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars. 2442  
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**Sec. 5747.98.** (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 taxpayer is entitled in the following order: 2449  
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(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code; 2453  
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(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code; 2455  
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| (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;                                 | 2457<br>2458 |
| (4) The dependent care credit under section 5747.054 of the Revised Code;   | 2459<br>2460 |
| (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;                           | 2461<br>2462 |
| (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;                           | 2463<br>2464 |
| (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;                           | 2465<br>2466 |
| (8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;                        | 2467<br>2468 |
| (9) The campaign contribution credit under section 5747.29 of the Revised Code;   | 2469<br>2470 |
| (10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;                                    | 2471<br>2472 |
| (11) The joint filing credit under division (G) of section 5747.05 of the Revised Code;   | 2473<br>2474 |
| (12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;  | 2475<br>2476 |
| (13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;                 | 2477<br>2478 |
| (14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code; | 2479<br>2480 |
| (15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;        | 2481<br>2482 |
| (16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;  | 2483<br>2484 |

|  |                              |
|--|------------------------------|
| (17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;  | 2485<br>2486                 |
| (18) The job retention credit under division (B) of section 5747.058 of the Revised Code;  | 2487<br>2488                 |
| (19) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code; | 2489<br>2490<br>2491<br>2492 |
| (20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;  | 2493<br>2494<br>2495         |
| (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;  | 2496<br>2497<br>2498         |
| (22) The job training credit under section 5747.39 of the Revised Code;  | 2499<br>2500                 |
| (23) The enterprise zone credit under section 5709.66 of the Revised Code;   | 2501<br>2502                 |
| (24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;   | 2503<br>2504                 |
| (25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;   | 2505<br>2506                 |
| (26) The ethanol plant investment credit under section 5747.75 of the Revised Code;  | 2507<br>2508                 |
| (27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;   | 2509<br>2510                 |
| (28) The export sales credit under section 5747.057 of the Revised Code;   | 2511<br>2512                 |
| (29) The credit for research and development and technology  | 2513                         |

|  |      |
|--|------|
| transfer investors under section 5747.33 of the Revised Code;  | 2514 |
| (30) The enterprise zone credits under section 5709.65 of the Revised Code;  | 2515 |
|  | 2516 |
| (31) <u>The research and development credit under section 5747.331 of the Revised Code;</u>  | 2517 |
|  | 2518 |
| <u>(32)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;  | 2519 |
|  | 2520 |
| <del>(32)</del> <u>(33)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;  | 2521 |
|  | 2522 |
| <del>(33)</del> <u>(34)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;   | 2523 |
|  | 2524 |
|  | 2525 |
| <del>(34)</del> <u>(35)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;  | 2526 |
|  | 2527 |
| <del>(35)</del> <u>(36)</u> The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.  | 2528 |
|  | 2529 |
|  | 2530 |
|  | 2531 |
| (B) For any credit, except the credits enumerated in divisions (A) <del>(31)</del> <u>(32)</u> to <del>(35)</del> <u>(36)</u> of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. | 2532 |
|  | 2533 |
|  | 2534 |
|  | 2535 |
|  | 2536 |
|  | 2537 |
|  | 2538 |
|  | 2539 |
|  | 2540 |
|  | 2541 |
| <b>Section 2.</b> That existing sections 122.15, 122.151, 122.152,   | 2542 |

122.154, 122.171, 166.01, 166.02, 166.08, 166.11, 166.13, 166.14, 2543  
166.16, 5733.98, and 5747.98 of the Revised Code are hereby 2544  
repealed. 2545

**Section 3.** All items in this section are hereby appropriated 2546  
as designated out of any moneys in the state treasury to the 2547  
credit of the Research and Development Fund (Fund 010). For all 2548  
appropriations made in this act, those in the first column are for 2549  
fiscal year 2004 and those in the second column are for fiscal 2550  
year 2005. The appropriations made in this act are in addition to 2551  
any other appropriations made for the 2003-2005 biennium. 2552

DEV DEPARTMENT OF DEVELOPMENT 2553

Appropriations

|                                    |    |            |    |            |      |
|------------------------------------|----|------------|----|------------|------|
| Research and Development Loan Fund |    |            |    | 2554       |      |
| 010 195-665 Research and           | \$ | 50,000,000 | \$ | 55,000,000 | 2555 |
| Development                        |    |            |    |            |      |
| TOTAL 010 Research and Development | \$ | 50,000,000 | \$ | 55,000,000 | 2556 |
| Loan Fund                          |    |            |    |            |      |
| TOTAL ALL BUDGET FUND GROUPS       | \$ | 50,000,000 | \$ | 55,000,000 | 2557 |

REASERCH AND DEVELOPMENT 2558

The foregoing appropriation item 195-665, Research and 2559  
Development, shall be used to provide for research and development 2560  
purposes including loans pursuant to Chapter 166. and particularly 2561  
sections 166.17 to 166.21 of the Revised Code. Of the foregoing 2562  
appropriation item 195-665, Research and Development, the 2563  
unencumbered balance of the appropriation at the end of fiscal 2564  
year 2004 is transferred by the Director of Budget and Management 2565  
to fiscal year 2005. 2566

Within the limits set forth in this act, the Director of 2567  
Budget and Management shall establish accounts indicating source 2568  
and amount of funds for each appropriation made in this act, and 2569  
shall determine the form and manner in which appropriation 2570

accounts shall be maintained. Expenditures from appropriations 2571  
contained in this act shall be accounted for as though made in Am. 2572  
Sub. H.B. 95 of the 125th General Assembly. 2573

The appropriations made in this act are subject to all 2574  
provisions of Am. Sub. H.B. 95 of the 125th General Assembly that 2575  
are generally applicable to such appropriations. 2576

**Section 4.** That Section 41 of Am. Sub. H.B. 94 of the 124th 2577  
General Assembly, as most recently amended by Am. Sub. H.B. 405 of 2578  
the 124th General Assembly, be amended to read as follows: 2579

**Sec. 41.** DEV DEPARTMENT OF DEVELOPMENT 2580

General Revenue Fund 2581

GRF 195-100 Personal Services \$ 2,651,334 \$ 2,920,941 2582

GRF 195-200 Maintenance \$ 589,524 \$ 601,314 2583

GRF 195-300 Equipment \$ 108,161 \$ 110,324 2584

GRF 195-401 Thomas Edison Program \$ 20,000,000 \$ 20,000,000 2585

GRF 195-404 Small Business \$ 2,452,342 \$ 2,529,843 2586

Development

GRF 195-405 Minority Business \$ 2,278,888 \$ 2,297,314 2587

Development Division

GRF 195-406 Transitional and \$ 2,770,145 \$ 2,770,155 2588

Permanent Housing

GRF 195-407 Travel and Tourism \$ 6,345,500 \$ 6,448,399 2589

GRF 195-408 Coal Research \$ 562,551 \$ 585,290 2590

Development

GRF 195-412 Business Development \$ 8,033,935 \$ 9,092,851 2591

Grants

GRF 195-414 First Frontier Match \$ 490,000 \$ 490,000 2592

GRF 195-415 Regional Offices and \$ 6,420,675 \$ 6,735,253 2593

Economic Development

GRF 195-416 Governor's Office of \$ 5,466,954 \$ 5,475,126 2594

|             |                        |                             |             |    |             |      |
|-------------|------------------------|-----------------------------|-------------|----|-------------|------|
|             |                        | Appalachia                  |             |    |             |      |
| GRF 195-417 | Urban/Rural Initiative | \$                          | 980,000     | \$ | 980,000     | 2595 |
| GRF 195-422 | Technology Action      | \$                          | 14,000,000  | \$ | 14,000,000  | 2596 |
| GRF 195-426 | Clean Ohio             | \$                          | 448,000     | \$ | 641,000     | 2597 |
|             |                        | Implementation              |             |    |             |      |
| GRF 195-431 | Community Development  | \$                          | 2,530,860   | \$ | 2,530,860   | 2598 |
|             |                        | Corporation Grants          |             |    |             |      |
| GRF 195-432 | International Trade    | \$                          | 5,390,000   | \$ | 5,551,700   | 2599 |
| GRF 195-434 | Investment in Training | \$                          | 12,500,000  | \$ | 12,500,000  | 2600 |
|             |                        | Grants                      |             |    |             |      |
| GRF 195-436 | Labor/Management       | \$                          | 1,146,805   | \$ | 1,152,752   | 2601 |
|             |                        | Cooperation                 |             |    |             |      |
| GRF 195-440 | Emergency Shelter      | \$                          | 2,768,313   | \$ | 2,841,441   | 2602 |
|             |                        | Housing Grants              |             |    |             |      |
| GRF 195-441 | Low and Moderate       | \$                          | 19,000,000  | \$ | 19,000,000  | 2603 |
|             |                        | Income Housing              |             |    |             |      |
| GRF 195-497 | CDBG Operating Match   | \$                          | 1,208,576   | \$ | 1,215,295   | 2604 |
| GRF 195-498 | State Energy Match     | \$                          | 153,558     | \$ | 158,548     | 2605 |
| GRF 195-501 | Appalachian Local      | \$                          | 453,962     | \$ | 453,962     | 2606 |
|             |                        | Development Districts       |             |    |             |      |
| GRF 195-502 | Appalachian Regional   | \$                          | 219,912     | \$ | 219,912     | 2607 |
|             |                        | Commission Dues             |             |    |             |      |
| GRF 195-505 | Utility Bill Credits   | \$                          | 7,350,000   | \$ | 7,350,000   | 2608 |
| GRF 195-507 | Travel and Tourism     | \$                          | 1,250,000   | \$ | 1,250,000   | 2609 |
|             |                        | Grants                      |             |    |             |      |
| GRF 195-906 | Coal Research and      | \$                          | 8,971,700   | \$ | 9,420,300   | 2610 |
|             |                        | Development General         |             |    |             |      |
|             |                        | Obligation Debt             |             |    |             |      |
|             |                        | Service                     |             |    |             |      |
| TOTAL GRF   | General Revenue Fund   | \$                          | 136,541,695 | \$ | 139,322,580 | 2611 |
|             |                        | General Services Fund Group |             |    |             | 2612 |
| 135 195-605 | Supportive Services    | \$                          | 9,038,988   | \$ | 9,531,707   | 2613 |
| 136 195-621 | International Trade    | \$                          | 100,000     | \$ | 24,915      | 2614 |

|                                    |         |                        |    |             |    |             |      |
|------------------------------------|---------|------------------------|----|-------------|----|-------------|------|
| 685                                | 195-636 | General Reimbursements | \$ | 1,275,234   | \$ | 1,323,021   | 2615 |
| TOTAL GSF General Services Fund    |         |                        |    |             |    |             | 2616 |
| Group                              |         |                        | \$ | 10,414,222  | \$ | 10,879,643  | 2617 |
| Federal Special Revenue Fund Group |         |                        |    |             |    |             | 2618 |
| 3K8                                | 195-613 | Community Development  | \$ | 65,149,441  | \$ | 65,088,961  | 2619 |
| Block Grant                        |         |                        |    |             |    |             |      |
| 3K9                                | 195-611 | Home Energy Assistance | \$ | 62,000,000  | \$ | 62,000,000  | 2620 |
| Block Grant                        |         |                        |    |             |    |             |      |
| 3K9                                | 195-614 | HEAP Weatherization    | \$ | 10,412,041  | \$ | 10,412,041  | 2621 |
| 3L0                                | 195-612 | Community Services     | \$ | 22,135,000  | \$ | 22,135,000  | 2622 |
| Block Grant                        |         |                        |    |             |    |             |      |
| 3V1                                | 195-601 | HOME Program           | \$ | 40,000,000  | \$ | 40,000,000  | 2623 |
| 3X3                                | 195-619 | TANF Housing Program   | \$ | 5,200,000   | \$ | 0           | 2624 |
| 308                                | 195-602 | Appalachian Regional   | \$ | 350,000     | \$ | 350,200     | 2625 |
| Commission                         |         |                        |    |             |    |             |      |
| 308                                | 195-603 | Housing and Urban      | \$ | 5,000,000   | \$ | 5,000,000   | 2626 |
| Development                        |         |                        |    |             |    |             |      |
| 308                                | 195-605 | Federal Projects       | \$ | 7,855,501   | \$ | 7,855,501   | 2627 |
| 308                                | 195-609 | Small Business         | \$ | 3,799,626   | \$ | 3,799,626   | 2628 |
| Administration                     |         |                        |    |             |    |             |      |
| 308                                | 195-618 | Energy Federal Grants  | \$ | 2,803,560   | \$ | 2,803,560   | 2629 |
| 335                                | 195-610 | Oil Overcharge         | \$ | 8,500,000   | \$ | 8,500,000   | 2630 |
| 380                                | 195-622 | Housing Development    | \$ | 4,507,212   | \$ | 4,696,198   | 2631 |
| Operating                          |         |                        |    |             |    |             |      |
| TOTAL FED Federal Special Revenue  |         |                        |    |             |    |             | 2632 |
| Fund Group                         |         |                        | \$ | 237,712,381 | \$ | 232,641,087 | 2633 |
| State Special Revenue Fund Group   |         |                        |    |             |    |             | 2634 |
| 4F2                                | 195-639 | State Special Projects | \$ | 1,052,762   | \$ | 1,079,082   | 2635 |
| 4H4                                | 195-641 | First Frontier         | \$ | 600,000     | \$ | 650,000     | 2636 |
| 4S0                                | 195-630 | Enterprise Zone        | \$ | 211,900     | \$ | 211,900     | 2637 |
| Operating                          |         |                        |    |             |    |             |      |
| 4S1                                | 195-634 | Job Creation Tax       | \$ | 372,700     | \$ | 375,800     | 2638 |

|     |         |                                 |    |             |    |             |      |
|-----|---------|---------------------------------|----|-------------|----|-------------|------|
|     |         | Credit Operating                |    |             |    |             |      |
| 4W1 | 195-646 | Minority Business               | \$ | 2,572,960   | \$ | 2,580,597   | 2639 |
|     |         | Enterprise Loan                 |    |             |    |             |      |
| 444 | 195-607 | Water and Sewer                 | \$ | 511,000     | \$ | 523,775     | 2640 |
|     |         | Commission Loans                |    |             |    |             |      |
| 445 | 195-617 | Housing Finance                 | \$ | 3,782,808   | \$ | 3,968,184   | 2641 |
|     |         | Operating                       |    |             |    |             |      |
| 450 | 195-624 | Minority Business               | \$ | 13,232      | \$ | 13,563      | 2642 |
|     |         | Bonding Program                 |    |             |    |             |      |
|     |         | Administration                  |    |             |    |             |      |
| 451 | 195-625 | Economic Development            | \$ | 2,062,451   | \$ | 2,143,918   | 2643 |
|     |         | Financing Operating             |    |             |    |             |      |
| 5M4 | 195-659 | Universal Service               | \$ | 160,000,000 | \$ | 160,000,000 | 2644 |
| 5M5 | 195-660 | Energy Efficiency               | \$ | 12,000,000  | \$ | 12,000,000  | 2645 |
|     |         | Revolving Loan                  |    |             |    |             |      |
| 611 | 195-631 | Water and Sewer                 | \$ | 15,330      | \$ | 15,713      | 2646 |
|     |         | Administration                  |    |             |    |             |      |
| 617 | 195-654 | Volume Cap                      | \$ | 200,000     | \$ | 200,000     | 2647 |
|     |         | Administration                  |    |             |    |             |      |
| 646 | 195-638 | Low and Moderate                | \$ | 21,539,552  | \$ | 22,103,807  | 2648 |
|     |         | Income Housing Trust            |    |             |    |             |      |
|     |         | Fund                            |    |             |    |             |      |
|     |         | TOTAL SSR State Special Revenue |    |             |    |             | 2649 |
|     |         | Fund Group                      | \$ | 204,934,695 | \$ | 205,866,339 | 2650 |
|     |         | Facilities Establishment Fund   |    |             |    |             | 2651 |
| 037 | 195-615 | Facilities                      | \$ | 56,701,684  | \$ | 58,119,226  | 2652 |
|     |         | Establishment                   |    |             |    |             |      |
| 4Z6 | 195-647 | Rural Industrial Park           | \$ | 5,000,000   | \$ | 5,000,000   | 2653 |
|     |         | Loan                            |    |             |    |             |      |
| 5D1 | 195-649 | Port Authority Bond             | \$ | 2,500,000   | \$ | 2,500,000   | 2654 |
|     |         | Reserves                        |    |             |    |             |      |
| 5D2 | 195-650 | Urban Redevelopment             | \$ | 10,000,000  | \$ | 10,475,000  | 2655 |
|     |         | Loans                           |    |             |    |             |      |



|  |    |             |    |  |              |
|--|----|-------------|----|--|--------------|
| 5H1 195-652 Family Farm Loan                 | \$ | 2,246,375   | \$ | 2,246,375                                    | 2656         |
| Guarantee                                    |    |             |    |  |              |
| 5S8 195-627 Rural Development                | \$ | 5,000,000   | \$ | 5,000,000                                    | 2657         |
| Initiative                                   |    |             |    |  |              |
| 5S9 195-628 Capital Access Loan              | \$ | 3,000,000   | \$ | 3,000,000                                    | 2658         |
| Program                                      |    |             |    |  |              |
| TOTAL 037 Facilities                         |    |             |    |  | 2659         |
| Establishment Fund                           | \$ | 84,448,059  | \$ | 86,340,601                                   | 2660         |
| <u>Innovation Ohio Loan Fund</u>             |    |             |    |  | 2661         |
| <u>009 195-664 Innovation Ohio</u>           | \$ | 0           | \$ | <u>50,000,000</u>                            | 2662         |
| <u>TOTAL 009 Innovation Ohio Loan Fund</u>   | \$ | 0           | \$ | <u>50,000,000</u>                            | 2663         |
| Coal Research/Development Fund               |    |             |    |  | 2664         |
| 046 195-632 Coal Research and                | \$ | 12,847,178  | \$ | 13,168,357                                   | 2665         |
| Development Fund                             |    |             |    |  |              |
| TOTAL 046 Coal Research/<br>Development Fund | \$ | 12,847,178  | \$ | 13,168,357                                   | 2666<br>2667 |
| TOTAL ALL BUDGET FUND GROUPS                 | \$ | 686,898,230 | \$ | <del>688,218,607</del><br><u>738,218,607</u> | 2668         |

**Section 5.** That existing Section 41 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by Am. Sub. H.B. 405 of the 124th General Assembly, is hereby repealed.

**Section 6.** That Section 41.15 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, be amended to read as follows:

**Sec. 41.15. FACILITIES ESTABLISHMENT FUND**

The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to 2681  
\$1,600,000 may be transferred each fiscal year from the Facilities 2682  
Establishment Fund (Fund 037) to the Economic Development 2683  
Financing Operating Fund (Fund 451). The transfer is subject to 2684  
Controlling Board approval pursuant to division (B) of section 2685  
166.03 of the Revised Code. 2686

Notwithstanding Chapter 166. of the Revised Code, up to 2687  
\$3,800,000 may be transferred in each fiscal year of the biennium 2688  
from the Facilities Establishment Fund (Fund 037) to the Minority 2689  
Business Enterprise Loan Fund (Fund 4W1). The transfer is subject 2690  
to Controlling Board approval pursuant to division (B) of section 2691  
166.03 of the Revised Code. 2692

Notwithstanding Chapter 166. of the Revised Code, up to 2693  
\$5,000,000 cash may be transferred during the biennium from the 2694  
Facilities Establishment Fund (Fund 037) to the Port Authority 2695  
Bond Reserves Fund (Fund 5D1) for use by any port authority in 2696  
establishing or supplementing bond reserve funds for any bond 2697  
issuance permitted under Chapter 4582. of the Revised Code. The 2698  
Director of Development shall develop program guidelines for the 2699  
transfer and release of funds, including, but not limited to, a 2700  
provision that a port authority shall receive not more than 2701  
\$2,000,000 total from the fund. The transfer and release of funds 2702  
are subject to Controlling Board approval. 2703

Notwithstanding Chapter 166. of the Revised Code, up to 2704  
\$20,475,000 cash may be transferred during the biennium from the 2705  
Facilities Establishment Fund (Fund 037) to the Urban 2706  
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 2707  
barriers to urban core redevelopment. The Director of Development 2708  
shall develop program guidelines for the transfer and release of 2709  
funds, including, but not limited to, the completion of all 2710  
appropriate environmental assessments before state assistance is 2711  
committed to a project. 2712

Notwithstanding Chapter 166. of the Revised Code, up to 2713  
\$5,000,000 per fiscal year in cash may be transferred from the 2714  
Facilities Establishment Fund (Fund 037) to the Rural Industrial 2715  
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 2716  
Board approval pursuant to section 166.03 of the Revised Code. 2717

FAMILY FARM LOAN PROGRAM 2718

Notwithstanding Chapter 166. of the Revised Code, up to 2719  
\$2,246,375 in each fiscal year shall be transferred from moneys in 2720  
the Facilities Establishment Fund (Fund 037) to the Family Farm 2721  
Loan Fund (Fund 5H1) in the Department of Development. These 2722  
moneys shall be used for loan guarantees. The transfer is subject 2723  
to Controlling Board approval. 2724

Financial assistance from the Family Farm Loan Fund (Fund 2725  
5H1) shall be repaid to Fund 5H1. This fund is established in 2726  
accordance with sections 166.031, 901.80, 901.81, 901.82, and 2727  
901.83 of the Revised Code. 2728

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, 2729  
all outstanding balances, all loan repayments, and any other 2730  
outstanding obligations shall revert to the Facilities 2731  
Establishment Fund (Fund 037). 2732

RURAL DEVELOPMENT INITIATIVE FUND 2733

(A)(1) There is hereby created in the state treasury the 2734  
Rural Development Initiative Fund (Fund 5S8). The fund shall 2735  
receive moneys from the Facilities Establishment Fund. The 2736  
Director of Development may make grants from the fund as specified 2737  
in division (A)(2) of this section to eligible applicants in 2738  
Appalachian counties and in rural counties in the state that are 2739  
designated as distressed pursuant to section 122.25 of the Revised 2740  
Code. Preference shall be given to eligible applicants located in 2741  
Appalachian counties designated as distressed by the federal 2742  
Appalachian Regional Commission. The fund shall cease to exist 2743

after June 30, 2007. All moneys remaining in the fund after that 2744  
date shall revert to the Facilities Establishment Fund. 2745

(2) The Director of Development shall make grants from the 2746  
Rural Development Initiative Fund only to eligible applicants who 2747  
also qualify for and receive funding under the Rural Industrial 2748  
Park Loan Program as specified in sections 122.23 to 122.27 of the 2749  
Revised Code. Eligible applicants shall use the grants for the 2750  
purposes specified in section 122.24 of the Revised Code. All 2751  
projects supported by grants from the fund are subject to Chapter 2752  
4115. of the Revised Code as specified in division (E) of section 2753  
166.02 of the Revised Code. The Director shall develop program 2754  
guidelines for the transfer and release of funds. The release of 2755  
grant moneys to an eligible applicant is subject to Controlling 2756  
Board approval. 2757

(B) Notwithstanding Chapter 166. of the Revised Code, the 2758  
Director of Budget and Management may transfer up to \$5,000,000 2759  
per fiscal year in cash on an as needed basis at the request of 2760  
the Director of Development from the Facilities Establishment Fund 2761  
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 2762  
The transfer is subject to Controlling Board approval pursuant to 2763  
section 166.03 of the Revised Code. 2764

CAPITAL ACCESS LOAN PROGRAM 2765

The foregoing appropriation item 195-628, Capital Access Loan 2766  
Program, shall be used for operating, program, and administrative 2767  
expenses of the program. Funds for the Capital Access Loan Program 2768  
shall be used to assist participating financial institutions in 2769  
making program loans to eligible businesses that face barriers in 2770  
accessing working capital and obtaining fixed asset financing. 2771

Notwithstanding Chapter 166. of the Revised Code, the 2772  
Director of Budget and Management may transfer up to \$3,000,000 2773  
per fiscal year in cash on an as needed basis at the request of 2774

the Director of Development from the Facilities Establishment Fund 2775  
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 2776  
transfer is subject to Controlling Board approval pursuant to 2777  
section 166.03 of the Revised Code. 2778

INNOVATION OHIO LOAN PROGRAM 2779

The foregoing appropriation item 195-664, Innovation Ohio, 2780  
shall be used to provide for Innovation Ohio loans and loan 2781  
guarantees pursuant the Chapter 166. and particularly sections 2782  
166.12 to 166.16 of the Revised Code. 2783

**Section 7.** That existing Section 41.15 of Am. Sub. H.B. 94 of 2784  
the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 2785  
124th General Assembly, is hereby repealed. 2786

**Section 8.** The codified and uncodified sections of law 2787  
contained in this act are not subject to the referendum. 2788  
Therefore, under Section 1d of Article II, Ohio Constitution and 2789  
section 1.471 of the Revised Code, the codified and uncodified 2790  
sections of law contained in this act go into immediate effect 2791  
when this act becomes law. 2792

**Section 9.** Section 122.171 of the Revised Code is presented 2793  
in this act as a composite of the section as amended by both H.B. 2794  
675 and Am. Sub. S.B. 180 of the 124th General Assembly. The 2795  
General Assembly, applying the principle stated in division (B) of 2796  
section 1.52 of the Revised Code that amendments are to be 2797  
harmonized if reasonably capable of simultaneous operation, finds 2798  
that the composite is the resulting version of the section in 2799  
effect prior to the effective date of the section as presented in 2800  
this act. 2801