

**As Reported by the House Economic Development and  
Technology Committee**

**125th General Assembly  
Regular Session  
2003-2004**

**Sub. H. B. No. 1**

**Representatives T. Patton, Collier, C. Evans, Aslanides, Brown, Chandler,  
Distel, Gibbs, Gilb, Hagan, Harwood, Price, Schaffer, Schlichter, Skindell,  
J. Stewart, Strahorn, Sykes, Taylor, Walcher, Wolpert**

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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 44  
unincorporated business organization is a member of an affiliated 45  
group, the gross assets and the number of employees of all of the 46  
members of that affiliated group, wherever those assets and 47  
employees are located, shall be included for the purpose of 48  
determining the percentage of the corporation's, company's, or 49

organization's gross assets and employees that are located in this 50  
state. 51

(C) "Qualified trade or business" means any trade or business 52  
that primarily involves research and development, technology 53  
transfer, bio-technology, information technology, or the 54  
application of new technology developed through research and 55  
development or acquired through technology transfer. "Qualified 56  
trade or business" does not include any of the following: 57

(1) Any trade or business involving the performance of 58  
services in the field of law, engineering, architecture, 59  
accounting, actuarial science, performing arts, consulting, 60  
athletics, financial services, or brokerage services, or any trade 61  
or business where the principal asset of the trade or business is 62  
the reputation or skill of one or more of its employees; 63

(2) Any banking, insurance, financing, leasing, rental, 64  
investing, or similar business; 65

(3) Any farming business, including the business of raising 66  
or harvesting trees; 67

(4) Any business involving the production or extraction of 68  
products of a character with respect to which a deduction is 69  
allowable under section 611, 613, or 613A of the "Internal Revenue 70  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 611, 613, or 613A; 71

(5) Any business of operating a hotel, motel, restaurant, or 72  
similar business; 73

(6) Any trade or business involving a hospital, a private 74  
office of a licensed health care professional, a group practice of 75  
licensed health care professionals, or a nursing home. As used in 76  
division (C)(6) of this section: 77

(a) "Nursing home" has the same meaning as in section 3721.50 78  
of the Revised Code. 79

(b) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 80  
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(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. 82  
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(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. 95  
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(F) "Related to" means being the spouse, parent, child, or sibling of an individual. 104  
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(G) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or processes, and conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge that may reveal the bases for new or enhanced products, 106  
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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

**Sec. 122.151.** (A) An investor who proposes to make an 147  
investment of money in an Ohio entity may apply to an Edison 148  
center for a tax credit under this section. The Edison center 149  
shall prescribe the form of the application and any information 150  
that the investor must submit with the application. The investor 151  
shall include with the application a fee of two hundred dollars. 152  
The center, within three weeks after receiving the application, 153  
shall review it, determine whether the investor should be 154  
recommended for the tax credit, and send written notice of its 155  
initial determination to the industrial technology and enterprise 156  
advisory council and to the investor. If the center determines the 157  
investor should not be recommended for the tax credit, it shall 158  
include in the notice the reasons for the determination. Subject 159  
to divisions (C) and (D) of this section, an investor is eligible 160  
for a tax credit if all of the following requirements are met: 161

(1) The investor's investment of money is in an Ohio entity 162  
engaged in a qualified trade or business. 163

(2) The Ohio entity had less than ~~one~~ two million five 164  
hundred thousand dollars of gross revenue during its most recently 165  
completed fiscal year or had a net book value of less than ~~one~~ two 166  
million five hundred thousand dollars at the end of that fiscal 167  
year. 168

(3) The investment takes the form of the purchase of common 169  
or preferred stock, a membership interest, a partnership interest, 170  
or any other ownership interest. 171

(4) The amount of the investment for which the credit is 172

being claimed does not exceed ~~one~~ three hundred ~~fifty~~ thousand 173  
dollars in the case of an investment in an EDGE business 174  
enterprise or two hundred fifty thousand dollars in the case of an 175  
investment in any Ohio entity other than an EDGE business 176  
enterprise. 177

(5) The money invested is entirely at risk of loss, where 178  
repayment depends upon the success of the business operations of 179  
the Ohio entity. 180

(6) No repayment of principal invested will be made for at 181  
least three years from the date the investment is made. 182

(7) The annual combined amount of any dividend and interest 183  
payments to be made to the investor will not exceed ten per cent 184  
of the amount of the investment for at least three years from the 185  
date the investment is made. 186

(8) The investor is not an employee with proprietary 187  
decision-making authority of the Ohio entity in which the 188  
investment of money is proposed, or related to such an individual. 189  
The Ohio entity is not an individual related to the investor. For 190  
purposes of this division, the industrial technology and 191  
enterprise advisory council shall define "an employee with 192  
proprietary decision-making authority." 193

(9) The investor is not an insider. 194

For the purposes of determining the net book value of an Ohio 195  
entity under division (A)(1) or (2) of this section, if the entity 196  
is a member of an affiliated group, the combined net book values 197  
of all of the members of that affiliated group shall be used. 198

Nothing in division (A)(6) or (7) of this section limits or 199  
disallows the distribution to an investor in a pass-through entity 200  
of a portion of the entity's profits equal to the investor's 201  
federal, state, and local income tax obligations attributable to 202  
the investor's allocable share of the entity's profits. Nothing in 203

division (A)(6) or (7) of this section limits or disallows the 204  
sale by an investor of part or all of the investor's interests in 205  
an Ohio entity by way of a public offering of shares in the Ohio 206  
entity. 207

(B) A group of two but not more than twenty investors, each 208  
of whom proposes to make an investment of money in the same Ohio 209  
entity, may submit an application for tax credits under division 210  
(A) of this section. The group shall include with the application 211  
a fee of eight hundred dollars. The application shall identify 212  
each investor in the group and the amount of money each investor 213  
proposes to invest in the Ohio entity, and shall name a contact 214  
person for the group. The Edison center, within three weeks after 215  
receiving the application, shall review it, determine whether each 216  
investor of the group should be recommended for a tax credit under 217  
the conditions set forth in division (A) of this section, and send 218  
written notice of its determination to the industrial technology 219  
and enterprise advisory council and to the contact person. The 220  
center shall not recommend that a group of investors receive a tax 221  
credit unless each investor is eligible under those conditions. 222  
The center may disqualify from a group any investor who is not 223  
eligible under the conditions and recommend that the remaining 224  
group of investors receive the tax credit. If the center 225  
determines the group should not be recommended for the tax credit, 226  
it shall include in the notice the reasons for the determination. 227

(C) The industrial technology and enterprise advisory council 228  
shall establish from among its members a three-person committee. 229  
Within four weeks after the council receives a notice of 230  
recommendation from an Edison center, the committee shall review 231  
the recommendation and issue a final determination of whether the 232  
investor or group is eligible for a tax credit under the 233  
conditions set forth in division (A) of this section. The 234  
committee may require the investor or group to submit additional 235



information to support the application. The vote of at least two 236  
members of the committee is necessary for the issuance of a final 237  
determination or any other action of the committee. Upon making 238  
the final determination, the committee shall send written notice 239  
of approval or disapproval of the tax credit to the investor or 240  
group contact person, the director of development, and the Edison 241  
center. If the committee disapproves the tax credit, it shall 242  
include in the notice the reasons for the disapproval. 243

(D)(1) The industrial technology and enterprise advisory 244  
council committee shall not approve more than one million five 245  
hundred thousand dollars of investments in any one Ohio entity. 246  
However, if a proposed investment of money in an Ohio entity has 247  
been approved but the investor does not actually make the 248  
investment, the committee may reassign the amount of that 249  
investment to another investor, as long as the total amount 250  
invested in the entity under this section does not exceed one 251  
million five hundred thousand dollars. 252

If the one-million-five-hundred-thousand-dollar limit for an 253  
Ohio entity has not yet been reached and an application proposes 254  
an investment of money that would exceed the limit for that 255  
entity, the committee shall send written notice to the investor, 256  
or for a group, the contact person, that the investment cannot be 257  
approved as requested. Upon receipt of the notice, the investor or 258  
group may amend the application to propose an investment of money 259  
that does not exceed the limit. 260

(2) Not more than ~~ten~~ twenty million dollars of tax credits 261  
shall be issued under sections 122.15 to 122.154 of the Revised 262  
Code. 263

(E) If an investor makes an approved investment of ~~money in~~ 264  
~~an Ohio entity of~~ less than ~~one~~ two hundred fifty thousand dollars 265  
in any Ohio entity other than an EDGE business enterprise, the 266  
investor may apply for approval of another investment of money in 267

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

(F) The industrial technology and enterprise advisory council 279  
committee shall approve or disapprove tax credit applications 280  
under this section in the order in which they are received by the 281  
council. 282

(G) The director of development may disapprove any 283  
application recommended by an Edison center and approved by the 284  
industrial technology and enterprise advisory council committee, 285  
or may disapprove a credit for which a tax credit certificate has 286  
been issued under section 122.152 of the Revised Code, if the 287  
director determines that the entity in which the applicant 288  
proposes to invest or has invested is not an Ohio entity eligible 289  
to receive investments that qualify for the credit. If the 290  
director disapproves an application, the director shall certify 291  
the action to the investor, the Edison center that recommended the 292  
application, the industrial technology and enterprise advisory 293  
council, and the tax commissioner, together with a written 294  
explanation of the reasons for the disapproval. If the director 295  
disapproves a tax credit after a tax credit certificate is issued, 296  
the investor shall not claim the credit for the taxable year that 297  
includes the day the director disapproves the credit, or for any 298  
subsequent taxable year. 299

The director of development, in accordance with section 300  
111.15 of the Revised Code and with the advice of the industrial 301  
technology and enterprise advisory council, may adopt, amend, and 302  
rescind rules necessary to implement sections 122.15 to 122.154 of 303  
the Revised Code. 304

(H) An Edison center shall use application fees received 305  
under this section only for the costs of administering sections 306  
122.15 to 122.154 of the Revised Code. 307

**Sec. 122.152.** (A) After receiving notice of approval for an 308  
investment of money from the industrial technology and enterprise 309  
advisory council committee under section 122.151 of the Revised 310  
Code, an investor, within a period of time determined by the 311  
committee, may make the investment and apply to the council for a 312  
tax credit certificate. If the ~~council~~ committee is satisfied the 313  
investor has made the investment in the proper form, it shall 314  
issue to the investor a tax credit certificate signed by the 315  
chairperson of the committee and the director of development 316  
indicating that the investor is allowed a tax credit ~~in an amount~~ 317  
equal to ~~twenty five per cent of the investment~~ one of the 318  
following amounts: 319

(1) Thirty per cent of the investment if the investment was 320  
made in an EDGE business enterprise; 321

(2) Twenty-five per cent of the investment if the investment 322  
was made in an Ohio entity other than an EDGE business enterprise. 323

An investor who receives approval of a proposed investment of 324  
money through a group application, after making the investment, 325  
shall apply for a tax credit certificate on an individual basis. 326

(B) An investor who is issued a tax credit certificate under 327  
this section may claim a nonrefundable credit equal to the amount 328  
indicated on the certificate against any state tax liability. The 329

investor shall claim the credit for the taxable year in which the 330  
certificate is issued. 331

(1) If the credit to which a taxpayer otherwise would be 332  
entitled under this section for any taxable year is greater than 333  
the tax otherwise due under division (D) of section 5707.03 or 334  
section 5727.24 or 5727.38 of the Revised Code, the excess shall 335  
be allowed as a credit in each of the ensuing fifteen taxable 336  
years, but the amount of any excess credit allowed in an ensuing 337  
taxable year shall be deducted from the balance carried forward to 338  
the next taxable year. 339

(2) If the credit to which a taxpayer otherwise would be 340  
entitled under this section for any taxable year is greater than 341  
the tax otherwise due under section 5747.02 or Chapter 5733. of 342  
the Revised Code, after allowing for any other credits that 343  
precede the credit allowed under this section in the order 344  
required under section 5733.98 or 5747.98 of the Revised Code, the 345  
excess shall be allowed as a credit in each of the ensuing fifteen 346  
taxable years, but the amount of any excess credit allowed in an 347  
ensuing taxable year shall be deducted from the balance carried 348  
forward to the next taxable year. 349

(C) Any portion of a credit allowed under this section that 350  
is utilized by an investor to reduce the investor's state tax 351  
liability shall not be utilized by any other person. 352

(D) To claim a tax credit allowed under this section, an 353  
investor shall attach to the appropriate return a copy of the 354  
certificate issued to the investor under this section. 355

(E) Nothing in this section shall limit or disallow 356  
pass-through treatment of a pass-through entity's income, 357  
deductions, or credits, or other amounts necessary to compute a 358  
state tax liability. 359

(F) A tax credit certificate issued to an investor under this 360

section may not be transferred by that investor to any other 361  
person. 362

(G)(1) The ~~industrial technology and enterprise advisory~~ 363  
~~council~~ director of development shall develop the form of the tax 364  
credit certificate and the industrial technology and enterprise 365  
advisory council committee shall use that form when issuing a tax 366  
credit certificate under this section. 367

(2) The ~~industrial technology and enterprise advisory council~~ 368  
director of development shall report to the tax commissioner any 369  
information requested by the commissioner concerning tax credit 370  
certificates issued under this section. 371

(H) An investment made by an investor or group of investors 372  
who enter into a contractual agreement with an Ohio entity to 373  
invest money in the Ohio entity is an acceptable investment if all 374  
of the following conditions are met: 375

(1) The investment is made pursuant to a subscription 376  
agreement providing that the investor or group of investors is 377  
entitled to receive a refund of funds if the investment is not 378  
approved by the industrial technology and enterprise advisory 379  
council committee. 380

(2) The investment is placed in escrow until the investment 381  
is approved by the industrial technology and enterprise advisory 382  
council committee. 383

(3) The investor or group of investors shows proof of the 384  
withdrawal of the funds by the Ohio entity after the investment is 385  
approved by the industrial technology and enterprise advisory 386  
council committee. 387

**Sec. 122.154.** (A) A business may apply to an Edison center 388  
for a determination as to whether the business is an Ohio entity 389  
eligible to receive investments of money under section 122.151 of 390

the Revised Code that qualify the investor for a tax credit under 391  
section 122.152 of the Revised Code. The business shall include 392  
with the application a fee of one hundred fifty dollars and a 393  
business plan. The Edison center shall prescribe any other 394  
information the business must submit with the application and the 395  
form of the application. The center, within three weeks after 396  
receiving the application, shall review it, determine whether the 397  
business is an Ohio entity eligible to receive investments of 398  
money that qualify for the tax credit, and send written notice to 399  
the industrial technology and enterprise advisory council and the 400  
business of its initial determination. If the center determines 401  
that the business is not an Ohio entity eligible to receive 402  
investments of money that qualify for the tax credit, it shall 403  
include in the notice the reasons for the determination. 404

Within four weeks after the council receives a notice of 405  
recommendation from an Edison center, the industrial technology 406  
and enterprise advisory council committee established under 407  
section 122.152 of the Revised Code shall review the 408  
recommendation and issue a final determination of whether the 409  
business is an Ohio entity eligible to receive investments of 410  
money under section 122.151 of the Revised Code that qualify an 411  
investor for a tax credit under section 122.152 of the Revised 412  
Code. The committee may require the business to submit additional 413  
information to support the application. The vote of at least two 414  
members of the committee is necessary for the issuance of a final 415  
determination. On making the final determination, the committee 416  
shall send written notice of approval or disapproval to the 417  
business, the director of development, and the Edison center. If 418  
the committee determines that the business is not an Ohio entity 419  
eligible to receive investments of money that qualify for the tax 420  
credit, it shall include in the notice the reasons for the 421  
determination. 422

(B) The department of development shall maintain a list of 423  
the businesses that have been determined to be Ohio entities 424  
eligible to receive investments of money that qualify for the tax 425  
credit. The department shall furnish copies of the list to the 426  
public upon request. 427

(C) The department of development may prescribe a schedule 428  
under which businesses periodically must submit information to 429  
enable the center to maintain the accuracy of the list. At the 430  
times required in the schedule, each business on the list shall 431  
submit any information the center requires to determine if the 432  
business continues to be an Ohio entity eligible to receive 433  
investments of money that qualify for the tax credit. 434

(D) An Edison center shall use fees received under this 435  
section only for the costs of administering sections 122.15 to 436  
122.154 of the Revised Code. 437

(E) The Edison centers and the industrial technology and 438  
enterprise advisory council and its committee do not assume any 439  
responsibility for the accuracy or truthfulness of information 440  
furnished by an Ohio entity or its agents. 441

An investor in an Ohio entity is solely responsible for due 442  
diligence in verifying information submitted by an Ohio entity. An 443  
Edison center is not liable for any action resulting from its 444  
provision of such information to investors in accordance with 445  
sections 122.15 to 122.154 of the Revised Code. 446

**Sec. 122.171.** (A) As used in this section: 447

(1) "Capital investment project" means a plan of investment 448  
at a project site for the acquisition, construction, renovation, 449  
or repair of buildings, machinery, or equipment, or for 450  
capitalized costs of basic research and new product development 451  
determined in accordance with generally accepted accounting 452

principles, but does not include any of the following:	453
(a) Payments made for the acquisition of personal property through operating leases;	454 455
(b) Project costs paid before January 1, 2002, or after December 31, 2006;	456 457
(c) Payments made to a related member as defined in section 5733.042 of the Revised Code.	458 459
(2) "Eligible business" means a business with Ohio operations satisfying all of the following:	460 461
(a) Employed an average of at least one thousand employees in full-time employment positions at a project site during each of the twelve months preceding the application for a tax credit under this section; and	462 463 464 465
(b) On or after January 1, 2002, has made payments for the capital investment project of either of the following:	466 467
(i) At least two hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted;	468 469 470 471 472
(ii) If the average wage of all full-time employment positions at the project site is greater than four hundred per cent of the federal minimum wage, at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted.	473 474 475 476 477 478 479
(c) Is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions;	480 481 482



(d) Has had a capital investment project reviewed and 483  
approved by the tax credit authority as provided in divisions (C), 484  
(D), and (E) of this section. 485

(3) "Full-time employment position" means a position of 486  
employment for consideration for at least thirty-five hours a week 487  
that has been filled for at least one hundred eighty days 488  
immediately preceding the filing of an application under this 489  
section and for at least one hundred eighty days during each 490  
taxable year with respect to which the credit is granted. 491

(4) "Manufacturer" has the same meaning as in section 492  
5739.011 of the Revised Code. 493

(5) "Project site" means an integrated complex of facilities 494  
in this state, as specified by the tax credit authority under this 495  
section, within a fifteen-mile radius where a taxpayer is 496  
primarily operating as an eligible business. 497

(6) "Applicable corporation" means a corporation satisfying 498  
all of the following: 499

(a)(i) For the entire taxable year immediately preceding the 500  
tax year, the corporation develops software applications primarily 501  
to provide telecommunication billing and information services 502  
through outsourcing or licensing to domestic or international 503  
customers. 504

(ii) Sales and licensing of software generated at least six 505  
hundred million dollars in revenue during the taxable year 506  
immediately preceding the tax year the corporation is first 507  
entitled to claim the credit provided under division (B) of this 508  
section. 509

(b) For the entire taxable year immediately preceding the tax 510  
year, the corporation or one or more of its related members 511  
provides customer or employee care and technical support for 512

clients through one or more contact centers within this state, and 513  
the corporation and its related members together have a daily 514  
average, based on a three hundred sixty-five day year, of at least 515  
five hundred thousand successful customer contacts through one or 516  
more of their contact centers, wherever located. 517

(c) The corporation is eligible for the credit under division 518  
(B) of this section for the tax year. 519

(7) "Related member" has the same meaning as in section 520  
5733.042 of the Revised Code as that section existed on the 521  
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 522  
general assembly. 523

(8) "Successful customer contact" means a contact with an end 524  
user via telephone, including interactive voice recognition or 525  
similar means, where the contact culminates in a conversation or 526  
connection other than a busy signal or equipment busy. 527

(9) "Telecommunications" means all forms of 528  
telecommunications service as defined in section 5739.01 of the 529  
Revised Code, and includes services in wireless, wireline, cable, 530  
broadband, internet protocol, and satellite. 531

(10)(a) "Applicable difference" means the difference between 532  
the tax for the tax year under Chapter 5733. of the Revised Code 533  
applying the law in effect for that tax year, and the tax for that 534  
tax year if section 5733.042 of the Revised Code applied as that 535  
section existed on the effective date of its amendment by Am. Sub. 536  
H.B. 215 of the 122nd general assembly, subject to division 537  
(A)(10)(b) of this section. 538

(b) If the tax rate set forth in division (B) of section 539  
5733.06 of the Revised Code for the tax year is less than eight 540  
and one-half per cent, the tax calculated under division 541  
(A)(10)(a) of this section shall be computed by substituting a tax 542  
rate of eight and one-half per cent for the rate set forth in 543

division (B) of section 5733.06 of the Revised Code for the tax 544  
year. 545

(c) If the resulting difference is negative, the applicable 546  
tax difference for the tax year shall be zero. 547

(B) The tax credit authority created under section 122.17 of 548  
the Revised Code may grant tax credits under this section for the 549  
purpose of fostering job retention in this state. Upon application 550  
by an eligible business and upon consideration of the 551  
recommendation of the director of budget and management, tax 552  
commissioner, and director of development under division (C) of 553  
this section, the tax credit authority may grant to an eligible 554  
business a nonrefundable credit against the tax imposed by section 555  
5733.06 or 5747.02 of the Revised Code for a period up to ~~ten~~ 556  
fifteen taxable years. The credit shall be in an amount not 557  
exceeding seventy-five per cent of the Ohio income tax withheld 558  
from the employees of the eligible business occupying full-time 559  
employment positions at the project site during the calendar year 560  
that includes the last day of such business' taxable year with 561  
respect to which the credit is granted. The amount of the credit 562  
shall not be based on the Ohio income tax withheld from full-time 563  
employees for a calendar year prior to the calendar year in which 564  
the minimum investment requirement referred to in division 565  
(A)(2)(b) of this section is completed. The credit shall be 566  
claimed only for the taxable years specified in the eligible 567  
business' agreement with the tax credit authority under division 568  
(E) of this section, but in no event shall the credit be claimed 569  
for a taxable year terminating before the date specified in the 570  
agreement. 571

The credit computed under this division is in addition to any 572  
credit allowed under division (M) of this section which the tax 573  
credit authority may also include in the agreement. 574

Any unused portion of a tax credit may be carried forward for 575  
not more than three additional years after the year for which the 576  
credit is granted. 577

(C) A taxpayer that proposes a capital investment project to 578  
retain jobs in this state may apply to the tax credit authority to 579  
enter into an agreement for a tax credit under this section. The 580  
director of development shall prescribe the form of the 581  
application. After receipt of an application, the authority shall 582  
forward copies of the application to the director of budget and 583  
management, the tax commissioner, and the director of development, 584  
each of whom shall review the application to determine the 585  
economic impact the proposed project would have on the state and 586  
the affected political subdivisions and shall submit a summary of 587  
their determinations and recommendations to the authority. The 588  
authority shall make no agreements under this section after June 589  
30, 2007. 590

(D) Upon review of the determinations and recommendations 591  
described in division (C) of this section, the tax credit 592  
authority may enter into an agreement with the taxpayer for a 593  
credit under this section if the authority determines all of the 594  
following: 595

(1) The taxpayer's capital investment project will result in 596  
the retention of full-time employment positions in this state. 597

(2) The taxpayer is economically sound and has the ability to 598  
complete the proposed capital investment project. 599

(3) The taxpayer intends to and has the ability to maintain 600  
operations at the project site for at least twice the term of the 601  
credit. 602

(4) Receiving the credit is a major factor in the taxpayer's 603  
decision to begin, continue with, or complete the project. 604

(5) The political subdivisions in which the project is 605  
located have agreed to provide substantial financial support to 606  
the project. 607

(E) An agreement under this section shall include all of the 608  
following: 609

(1) A detailed description of the project that is the subject 610  
of the agreement, including the amount of the investment, the 611  
period over which the investment has been or is being made, and 612  
the number of full-time employment positions at the project site. 613

(2) The method of calculating the number of full-time 614  
employment positions as specified in division (A)(3) of this 615  
section. 616

(3) The term and percentage of the tax credit, and the first 617  
year for which the credit may be claimed. 618

(4) A requirement that the taxpayer maintain operations at 619  
the project site for at least twice the number of years as the 620  
term of the credit. 621

(5) A requirement that the taxpayer retain a specified number 622  
of full-time employment positions at the project site and within 623  
this state for the term of the credit, including a requirement 624  
that the taxpayer continue to employ at least one thousand 625  
employees in full-time employment positions at the project site 626  
during the entire term of any agreement, subject to division 627  
(E)(7) of this section. 628

(6) A requirement that the taxpayer annually report to the 629  
director of development the number of full-time employment 630  
positions subject to the credit, the amount of tax withheld from 631  
employees in those positions, the amount of the payments made for 632  
the capital investment project, and any other information the 633  
director needs to perform the director's duties under this 634

section. 635

(7) A requirement that the director of development annually 636  
review the annual reports of the taxpayer to verify the 637  
information reported under division (E)(6) of this section and 638  
compliance with the agreement. Upon verification, the director 639  
shall issue a certificate to the taxpayer stating that the 640  
information has been verified and identifying the amount of the 641  
credit for the taxable year. The Unless otherwise specified by the 642  
tax credit authority in a resolution and included as part of the 643  
agreement, the director shall not issue a certificate for any year 644  
in which the total number of filled full-time employment positions 645  
for each day of the calendar year divided by three hundred 646  
sixty-five is less than ninety per cent of the full-time 647  
employment positions specified in division (E)(5) of this section. 648  
In determining the number of full-time employment positions, no 649  
position shall be counted that is filled by an employee who is 650  
included in the calculation of a tax credit under section 122.17 651  
of the Revised Code. 652

(8)(a) A provision requiring that the taxpayer, except as 653  
otherwise provided in division (E)(8)(b) of this section, shall 654  
not relocate employment positions from elsewhere in this state to 655  
the project site that is the subject of the agreement for the 656  
lesser of five years from the date the agreement is entered into 657  
or the number of years the taxpayer is entitled to claim the 658  
credit. 659

(b) The taxpayer may relocate employment positions from 660  
elsewhere in this state to the project site that is the subject of 661  
the agreement if the director of development determines both of 662  
the following: 663

(i) That the site from which the employment positions would 664  
be relocated is inadequate to meet market and industry conditions, 665  
expansion plans, consolidation plans, or other business 666

considerations affecting the taxpayer; 667

(ii) That the legislative authority of the county, township, 668  
or municipal corporation from which the employment positions would 669  
be relocated has been notified of the relocation. 670

For purposes of this section, the movement of an employment 671  
position from one political subdivision to another political 672  
subdivision shall be considered a relocation of an employment 673  
position unless the movement is confined to the project site. The 674  
transfer of an individual employee from one political subdivision 675  
to another political subdivision shall not be considered a 676  
relocation of an employment position as long as the individual's 677  
employment position in the first political subdivision is 678  
refilled. 679

(9) A waiver by the taxpayer of any limitations periods 680  
relating to assessments or adjustments resulting from the 681  
taxpayer's failure to comply with the agreement. 682

(F) If a taxpayer fails to meet or comply with any condition 683  
or requirement set forth in a tax credit agreement, the tax credit 684  
authority may amend the agreement to reduce the percentage or term 685  
of the credit. The reduction of the percentage or term shall take 686  
effect in the taxable year immediately following the taxable year 687  
in which the authority amends the agreement. If the taxpayer 688  
relocates employment positions in violation of the provision 689  
required under division (D)(8)(a) of this section, the taxpayer 690  
shall not claim the tax credit under section 5733.0610 of the 691  
Revised Code for any tax years following the calendar year in 692  
which the relocation occurs, or shall not claim the tax credit 693  
under section 5747.058 of the Revised Code for the taxable year in 694  
which the relocation occurs and any subsequent taxable years. 695

(G) Financial statements and other information submitted to 696  
the department of development or the tax credit authority by an 697

applicant for or recipient of a tax credit under this section, and 698  
any information taken for any purpose from such statements or 699  
information, are not public records subject to section 149.43 of 700  
the Revised Code. However, the chairperson of the authority may 701  
make use of the statements and other information for purposes of 702  
issuing public reports or in connection with court proceedings 703  
concerning tax credit agreements under this section. Upon the 704  
request of the tax commissioner, the chairperson of the authority 705  
shall provide to the commissioner any statement or other 706  
information submitted by an applicant for or recipient of a tax 707  
credit in connection with the credit. The commissioner shall 708  
preserve the confidentiality of the statement or other 709  
information. 710

(H) A taxpayer claiming a tax credit under this section shall 711  
submit to the tax commissioner a copy of the director of 712  
development's certificate of verification under division (E)(7) of 713  
this section for the taxable year. However, failure to submit a 714  
copy of the certificate does not invalidate a claim for a credit. 715

(I) For the purposes of this section, a taxpayer may include 716  
a partnership, a corporation that has made an election under 717  
subchapter S of chapter one of subtitle A of the Internal Revenue 718  
Code, or any other business entity through which income flows as a 719  
distributive share to its owners. A tax credit received under this 720  
section by a partnership, S-corporation, or other such business 721  
entity shall be apportioned among the persons to whom the income 722  
or profit of the partnership, S-corporation, or other entity is 723  
distributed, in the same proportions as those in which the income 724  
or profit is distributed. 725

(J) If the director of development determines that a taxpayer 726  
that received a tax credit under this section is not complying 727  
with the requirement under division (E)(4) of this section, the 728  
director shall notify the tax credit authority of the 729



noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

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

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

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

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

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

(K) The director of development, after consultation with the  
tax commissioner and in accordance with Chapter 119. of the  
Revised Code, shall adopt rules necessary to implement this  
section. The rules may provide for recipients of tax credits under  
this section to be charged fees to cover administrative costs of  
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 794  
credit granted to the corporation or related members under 795  
division (B) of this section. The credit is subject to divisions 796  
(B) to (E) and division (J) of this section. 797

(2) A person qualifying as an applicable corporation under 798  
this section for a tax year does not necessarily qualify as an 799  
applicable corporation for any other tax year. No person is 800  
entitled to the credit allowed under division (M) of this section 801  
for the tax year immediately following the taxable year during 802  
which the person fails to meet the requirements in divisions 803  
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 804  
to the credit allowed under division (M) of this section for any 805  
tax year for which the person is not eligible for the credit 806  
provided under division (B) of this section. 807

**Sec. 166.01.** As used in this chapter: 808

(A) "Allowable costs" means all or part of the costs of 809  
project facilities ~~or~~, eligible innovation projects, or eligible 810  
research and development projects, including costs of acquiring, 811  
constructing, reconstructing, rehabilitating, renovating, 812  
enlarging, improving, equipping, or furnishing project facilities 813  
~~or~~, eligible innovation projects, or eligible research and 814  
development projects, site clearance and preparation, 815  
supplementing and relocating public capital improvements or 816  
utility facilities, designs, plans, specifications, surveys, 817  
studies, and estimates of costs, expenses necessary or incident to 818  
determining the feasibility or practicability of assisting an 819  
eligible project ~~or~~, an eligible innovation project, or an 820  
eligible research and development project, or providing project 821  
facilities or facilities related to an eligible innovation project 822  
or an eligible research and development project, architectural, 823  
engineering, and legal services fees and expenses, the costs of 824

conducting any other activities as part of a voluntary action, and 825  
such other expenses as may be necessary or incidental to the 826  
establishment or development of an eligible project ~~or~~, an 827  
eligible innovation project, or an eligible research and 828  
development project, and reimbursement of moneys advanced or 829  
applied by any governmental agency or other person for allowable 830  
costs. 831

(B) "Allowable innovation costs" includes allowable costs of 832  
eligible innovation projects and, in addition, includes the costs 833  
of research and development of eligible innovation projects; 834  
obtaining or creating any requisite software or computer hardware 835  
related to an eligible innovation project or the products or 836  
services associated therewith; testing (including, without 837  
limitation, quality control activities necessary for initial 838  
production), perfecting, and marketing of such products and 839  
services; creating and protecting intellectual property related to 840  
an eligible innovation project or any products or services related 841  
thereto, including costs of securing appropriate patent, 842  
trademark, trade secret, trade dress, copyright, or other form of 843  
intellectual property protection for an eligible innovation 844  
project or related products and services; all to the extent that 845  
such expenditures could be capitalized under then-applicable 846  
generally accepted accounting principles; and the reimbursement of 847  
moneys advanced or applied by any governmental agency or other 848  
person for allowable innovation costs. 849

(C) "Eligible innovation project" includes an eligible 850  
project, including any project facilities associated with an 851  
eligible innovation project and, in addition, includes all 852  
tangible and intangible property related to a new product or 853  
process based on new technology or the creative application of 854  
existing technology, including research and development, product 855  
or process testing, quality control, market research, and related 856

activities, that is to be acquired, established, expanded, 857  
remodeled, rehabilitated, or modernized for industry, commerce, 858  
distribution, or research, or any combination thereof, the 859  
operation of which, alone or in conjunction with other eligible 860  
projects, eligible innovation projects, or innovation property, 861  
will create new jobs or preserve existing jobs and employment 862  
opportunities and improve the economic welfare of the people of 863  
the state. 864

(D) "Eligible project" means project facilities to be 865  
acquired, established, expanded, remodeled, rehabilitated, or 866  
modernized for industry, commerce, distribution, or research, or 867  
any combination thereof, the operation of which, alone or in 868  
conjunction with other facilities, will create new jobs or 869  
preserve existing jobs and employment opportunities and improve 870  
the economic welfare of the people of the state. "Eligible 871  
project" includes, without limitation, a voluntary action. For 872  
purposes of this division, "new jobs" does not include existing 873  
jobs transferred from another facility within the state, and 874  
"existing jobs" includes only those existing jobs with work places 875  
within the municipal corporation or unincorporated area of the 876  
county in which the eligible project is located. 877

"Eligible project" does not include project facilities to be 878  
acquired, established, expanded, remodeled, rehabilitated, or 879  
modernized for industry, commerce, distribution, or research, or 880  
any combination of industry, commerce, distribution, or research, 881  
if the project facilities consist solely of 882  
point-of-final-purchase retail facilities. If the project 883  
facilities consist of both point-of-final-purchase retail 884  
facilities and nonretail facilities, only the portion of the 885  
project facilities consisting of nonretail facilities is an 886  
eligible project. If a warehouse facility is part of a 887  
point-of-final-purchase retail facility and supplies only that 888

facility, the warehouse facility is not an eligible project. 889  
Catalog distribution facilities are not considered 890  
point-of-final-purchase retail facilities for purposes of this 891  
paragraph, and are eligible projects. 892

(E) "Eligible research and development project" means an 893  
eligible project, including project facilities, comprising, 894  
within, or related to, a facility or portion of a facility at 895  
which research is undertaken for the purpose of discovering 896  
information that is technological in nature and the application of 897  
which is intended to be useful in the development of a new or 898  
improved product, process, technique, formula, or invention, a new 899  
product or process based on new technology, or the creative 900  
application of existing technology. 901

(F) "Financial assistance" means inducements under division 902  
(B) of section 166.02 of the Revised Code, loan guarantees under 903  
section 166.06 of the Revised Code, and direct loans under section 904  
166.07 of the Revised Code. 905

~~(F)~~(G) "Governmental action" means any action by a 906  
governmental agency relating to the establishment, development, or 907  
operation of an eligible project ~~or~~ eligible innovation project, 908  
or eligible research and development project, and project 909  
facilities that the governmental agency acting has authority to 910  
take or provide for the purpose under law, including, but not 911  
limited to, actions relating to contracts and agreements, zoning, 912  
building, permits, acquisition and disposition of property, public 913  
capital improvements, utility and transportation service, 914  
taxation, employee recruitment and training, and liaison and 915  
coordination with and among governmental agencies. 916

~~(G)~~(H) "Governmental agency" means the state and any state 917  
department, division, commission, institution or authority; a 918  
municipal corporation, county, or township, and any agency 919  
thereof, and any other political subdivision or public corporation 920

or the United States or any agency thereof; any agency, 921  
commission, or authority established pursuant to an interstate 922  
compact or agreement; and any combination of the above. 923

~~(H)~~(I) "Innovation financial assistance" means inducements 924  
under division (B) of section 166.12 of the Revised Code, 925  
innovation Ohio loan guarantees under section 166.15 of the 926  
Revised Code, and innovation Ohio loans under section 166.16 of 927  
the Revised Code. 928

~~(I)~~(J) "Innovation Ohio loan guarantee reserve requirement" 929  
means, at any time, with respect to innovation loan guarantees 930  
made under section 166.15 of the Revised Code, a balance in the 931  
innovation Ohio loan guarantee fund equal to the greater of twenty 932  
per cent of the then-outstanding principal amount of all 933  
outstanding innovation loan guarantees made pursuant to section 934  
166.15 of the Revised Code or fifty per cent of the principal 935  
amount of the largest outstanding guarantee made pursuant to 936  
section 166.15 of the Revised Code. 937

~~(J)~~(K) "Innovation property" includes property and also 938  
includes software, inventory, licenses, contract rights, goodwill, 939  
intellectual property, including without limitation, patents, 940  
patent applications, trademarks and service marks, and trade 941  
secrets, and other tangible and intangible property, and any 942  
rights and interests in or connected to the foregoing. 943

~~(K)~~(L) "Loan guarantee reserve requirement" means, at any 944  
time, with respect to loan guarantees made under section 166.06 of 945  
the Revised Code, a balance in the loan guarantee fund equal to 946  
the greater of twenty per cent of the then-outstanding principal 947  
amount of all outstanding guarantees made pursuant to section 948  
166.06 of the Revised Code or fifty per cent of the principal 949  
amount of the largest outstanding guarantee made pursuant to 950  
section 166.06 of the Revised Code. 951

~~(L)~~(M) "Person" means any individual, firm, partnership, 952  
association, corporation, or governmental agency, and any 953  
combination thereof. 954

~~(M)~~(N) "Project facilities" means buildings, structures, and 955  
other improvements, and equipment and other property, excluding 956  
small tools, supplies, and inventory, and any one, part of, or 957  
combination of the above, comprising all or part of, or serving or 958  
being incidental to, an eligible project ~~or~~, an eligible 959  
innovation project, or an eligible research and development 960  
project, including, but not limited to, public capital 961  
improvements. 962

~~(N)~~(O) "Property" means real and personal property and 963  
interests therein. 964

~~(O)~~(P) "Public capital improvements" means capital 965  
improvements or facilities that any governmental agency has 966  
authority to acquire, pay the costs of, own, maintain, or operate, 967  
or to contract with other persons to have the same done, 968  
including, but not limited to, highways, roads, streets, water and 969  
sewer facilities, railroad and other transportation facilities, 970  
and air and water pollution control and solid waste disposal 971  
facilities. 972

~~(P)~~(Q) "Research and development financial assistance" means 973  
inducements under section 166.17 of the Revised Code, research and 974  
development loans under section 166.21 of the Revised Code, and 975  
research and development tax credits under sections 5733.352 and 976  
5747.331 of the Revised Code. 977

(R) "Targeted innovation industry sectors" means industry 978  
sectors involving the production or use of advanced materials, 979  
instruments, controls and electronics, power and propulsion, 980  
biosciences, and information technology, or such other sectors as 981  
may be designated by the director of development. 982



~~(Q)~~(S) "Voluntary action" means a voluntary action, as 983  
defined in section 3746.01 of the Revised Code, that is conducted 984  
under the voluntary action program established in Chapter 3746. of 985  
the Revised Code. 986

~~(R)~~(T) "Project financing obligations" means obligations 987  
issued pursuant to section 166.08 of the Revised Code other than 988  
obligations for which the bond proceedings provide that bond 989  
service charges shall be paid from receipts of the state 990  
representing gross profit on the sale of spirituous liquor as 991  
referred to in division (B)(4) of section 4310.10 of the Revised 992  
Code. 993

~~(S)~~(U) "Regional economic development entity" means an entity 994  
that is under contract with the director of development to 995  
administer a loan program under this chapter in a particular area 996  
of this state. 997

**Sec. 166.02.** (A) The general assembly finds that many local 998  
areas throughout the state are experiencing economic stagnation or 999  
decline, and that the economic development program provided for in 1000  
sections 166.01 to 166.11 of the Revised Code will constitute a 1001  
deserved, necessary reinvestment by the state in those areas, 1002  
materially contribute to their economic revitalization, and result 1003  
in improving the economic welfare of all the people of the state. 1004  
Accordingly, it is declared to be the public policy of the state, 1005  
through the operations under sections 166.01 to 166.11 of the 1006  
Revised Code and other applicable laws adopted pursuant to Section 1007  
13 of Article VIII, Ohio Constitution, and other authority vested 1008  
in the general assembly, to assist in and facilitate the 1009  
establishment or development of eligible projects or assist and 1010  
cooperate with any governmental agency in achieving such purpose. 1011

(B) In furtherance of such public policy and to implement 1012  
such purpose, the director of development may: 1013

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

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

(3) Subject to release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, project facilities the allowable costs of which are to be paid for or reimbursed from moneys in the facilities establishment fund, and contract for the operation of such project facilities;

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

(5) Retain the services of or employ financial consultants,	1045
appraisers, consulting engineers, superintendents, managers,	1046
construction and accounting experts, attorneys, and employees,	1047
agents, and independent contractors as are necessary in the	1048
director's judgment and fix the compensation for their services;	1049
(6) Receive and accept from any person grants, gifts, and	1050
contributions of money, property, labor, and other things of	1051
value, to be held, used and applied only for the purpose for which	1052
such grants, gifts, and contributions are made;	1053
(7) Enter into appropriate arrangements and agreements with	1054
any governmental agency for the taking or provision by that	1055
governmental agency of any governmental action;	1056
(8) Do all other acts and enter into contracts and execute	1057
all instruments necessary or appropriate to carry out the	1058
provisions of Chapter 166. of the Revised Code;	1059
(9) Adopt rules to implement any of the provisions of Chapter	1060
166. of the Revised Code applicable to the director.	1061
(C) The determinations by the director that facilities	1062
constitute eligible projects, that facilities are project	1063
facilities, that costs of such facilities are allowable costs, and	1064
all other determinations relevant thereto or to an action taken or	1065
agreement entered into shall be conclusive for purposes of the	1066
validity and enforceability of rights of parties arising from	1067
actions taken and agreements entered into under this chapter.	1068
(D) Except as otherwise prescribed in Chapter 166. of the	1069
Revised Code, all expenses and obligations incurred by the	1070
director in carrying out the director's powers and in exercising	1071
the director's duties under Chapter 166. of the Revised Code,	1072
shall be payable solely from, as appropriate, moneys in the	1073
facilities establishment fund, the loan guarantee fund, the	1074
innovation Ohio loan guarantee fund, the innovation Ohio loan	1075

fund, the research and development loan fund, or moneys 1076  
appropriated for such purpose by the general assembly. Chapter 1077  
166. of the Revised Code does not authorize the director or the 1078  
issuing authority under section 166.08 of the Revised Code to 1079  
incur bonded indebtedness of the state or any political 1080  
subdivision thereof, or to obligate or pledge moneys raised by 1081  
taxation for the payment of any bonds or notes issued or 1082  
guarantees made pursuant to Chapter 166. of the Revised Code. 1083

(E) No financial assistance for project facilities shall be 1084  
provided under this chapter unless the provisions of the agreement 1085  
providing for such assistance specify that all wages paid to 1086  
laborers and mechanics employed on such project facilities for 1087  
which the assistance is granted shall be paid at the prevailing 1088  
rates of wages of laborers and mechanics for the class of work 1089  
called for by such project facilities, which wages shall be 1090  
determined in accordance with the requirements of Chapter 4115. of 1091  
the Revised Code for determination of prevailing wage rates, 1092  
provided that the requirements of this division do not apply where 1093  
the federal government or any of its agencies provides financing 1094  
assistance as to all or any part of the funds used in connection 1095  
with such project facilities and prescribes predetermined minimum 1096  
wages to be paid to such laborers and mechanics; and provided 1097  
further that should a nonpublic user beneficiary of the eligible 1098  
project undertake, as part of the eligible project, construction 1099  
to be performed by its regular bargaining unit employees who are 1100  
covered under a collective bargaining agreement which was in 1101  
existence prior to the date of the document authorizing such 1102  
assistance then, in that event, the rate of pay provided under the 1103  
collective bargaining agreement may be paid to such employees. 1104

(F) Any governmental agency may enter into an agreement with 1105  
the director, any other governmental agency, or a person to be 1106  
assisted under this chapter, to take or provide for the purposes 1107

of this chapter any governmental action it is authorized to take 1108  
or provide, and to undertake on behalf and at the request of the 1109  
director any action which the director is authorized to undertake 1110  
pursuant to divisions (B)(3), (4), and (5) of this section or 1111  
divisions (B)(3), (4), and (5) of section 166.12 of the Revised 1112  
Code. Governmental agencies of the state shall cooperate with and 1113  
provide assistance to the director of development and the 1114  
controlling board in the exercise of their respective functions 1115  
under this chapter. 1116

**Sec. 166.08.** (A) As used in this chapter: 1117

(1) "Bond proceedings" means the resolution, order, trust 1118  
agreement, indenture, lease, and other agreements, amendments and 1119  
supplements to the foregoing, or any one or more or combination 1120  
thereof, authorizing or providing for the terms and conditions 1121  
applicable to, or providing for the security or liquidity of, 1122  
obligations issued pursuant to this section, and the provisions 1123  
contained in such obligations. 1124

(2) "Bond service charges" means principal, including 1125  
mandatory sinking fund requirements for retirement of obligations, 1126  
and interest, and redemption premium, if any, required to be paid 1127  
by the state on obligations. 1128

(3) "Bond service fund" means the applicable fund and 1129  
accounts therein created for and pledged to the payment of bond 1130  
service charges, which may be, or may be part of, the economic 1131  
development bond service fund created by division (S) of this 1132  
section including all moneys and investments, and earnings from 1133  
investments, credited and to be credited thereto. 1134

(4) "Issuing authority" means the treasurer of state, or the 1135  
officer who by law performs the functions of such officer. 1136

(5) "Obligations" means bonds, notes, or other evidence of 1137

obligation including interest coupons pertaining thereto, issued 1138  
pursuant to this section. 1139

(6) "Pledged receipts" means all receipts of the state 1140  
representing the gross profit on the sale of spirituous liquor, as 1141  
referred to in division (B)(4) of section 4301.10 of the Revised 1142  
Code, after paying all costs and expenses of the division of 1143  
liquor control and providing an adequate working capital reserve 1144  
for the division of liquor control as provided in that division, 1145  
but excluding the sum required by the second paragraph of section 1146  
4301.12 of the Revised Code, as in effect on May 2, 1980, to be 1147  
paid into the state treasury; moneys accruing to the state from 1148  
the lease, sale, or other disposition, or use, of project 1149  
facilities, and from the repayment, including interest, of loans 1150  
made from proceeds received from the sale of obligations; accrued 1151  
interest received from the sale of obligations; income from the 1152  
investment of the special funds; and any gifts, grants, donations, 1153  
and pledges, and receipts therefrom, available for the payment of 1154  
bond service charges. 1155

(7) "Special funds" or "funds" means, except where the 1156  
context does not permit, the bond service fund, and any other 1157  
funds, including reserve funds, created under the bond 1158  
proceedings, and the economic development bond service fund 1159  
created by division (S) of this section to the extent provided in 1160  
the bond proceedings, including all moneys and investments, and 1161  
earnings from investment, credited and to be credited thereto. 1162

(B) Subject to the limitations provided in section 166.11 of 1163  
the Revised Code, the issuing authority, upon the certification by 1164  
the director of development to the issuing authority of the amount 1165  
of moneys or additional moneys needed in the facilities 1166  
establishment fund, the loan guarantee fund, the innovation Ohio 1167  
loan fund, ~~or~~ the innovation Ohio loan guarantee fund, or the 1168  
research and development loan fund for the purpose of paying, or 1169

making loans for, allowable costs from the facilities 1170  
establishment fund ~~or~~, allowable innovation costs from the 1171  
innovation Ohio loan fund, or allowable costs from the research 1172  
and development loan fund, or needed for capitalized interest, for 1173  
funding reserves, and for paying costs and expenses incurred in 1174  
connection with the issuance, carrying, securing, paying, 1175  
redeeming, or retirement of the obligations or any obligations 1176  
refunded thereby, including payment of costs and expenses relating 1177  
to letters of credit, lines of credit, insurance, put agreements, 1178  
standby purchase agreements, indexing, marketing, remarketing and 1179  
administrative arrangements, interest swap or hedging agreements, 1180  
and any other credit enhancement, liquidity, remarketing, renewal, 1181  
or refunding arrangements, all of which are authorized by this 1182  
section, or providing moneys for the loan guarantee fund or the 1183  
innovation Ohio loan guarantee fund, as provided in this chapter 1184  
or needed for the purposes of funds established in accordance with 1185  
or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 1186  
122.561, 122.57, and 122.80 of the Revised Code which are within 1187  
the authorization of Section 13 of Article VIII, Ohio 1188  
Constitution, shall issue obligations of the state under this 1189  
section in the required amount; provided that such obligations may 1190  
be issued to satisfy the covenants in contracts of guarantee made 1191  
under section 166.06 or 166.15 of the Revised Code, 1192  
notwithstanding limitations otherwise applicable to the issuance 1193  
of obligations under this section. The proceeds of such 1194  
obligations, except for the portion to be deposited in special 1195  
funds, including reserve funds, as may be provided in the bond 1196  
proceedings, shall as provided in the bond proceedings be 1197  
deposited by the director of development to the facilities 1198  
establishment fund, the loan guarantee fund, the innovation Ohio 1199  
loan guarantee fund, ~~or~~ the innovation Ohio loan fund, or the 1200  
research and development loan fund. Bond proceedings for project 1201  
financing obligations may provide that the proceeds derived from 1202

the issuance of such obligations shall be deposited into such fund 1203  
or funds provided for in the bond proceedings and, to the extent 1204  
provided for in the bond proceedings, such proceeds shall be 1205  
deemed to have been deposited into the facilities establishment 1206  
fund and transferred to such fund or funds. The issuing authority 1207  
may appoint trustees, paying agents, and transfer agents and may 1208  
retain the services of financial advisors, accounting experts, and 1209  
attorneys, and retain or contract for the services of marketing, 1210  
remarketing, indexing, and administrative agents, other 1211  
consultants, and independent contractors, including printing 1212  
services, as are necessary in the issuing authority's judgment to 1213  
carry out this section. The costs of such services are allowable 1214  
costs payable from the facilities establishment fund or the 1215  
research and development loan fund or allowable innovation costs 1216  
payable from the innovation Ohio loan fund. 1217

(C) The holders or owners of such obligations shall have no 1218  
right to have moneys raised by taxation obligated or pledged, and 1219  
moneys raised by taxation shall not be obligated or pledged, for 1220  
the payment of bond service charges. Such holders or owners shall 1221  
have no rights to payment of bond service charges from any moneys 1222  
accruing to the state from the lease, sale, or other disposition, 1223  
or use, of project facilities, or from payment of the principal of 1224  
or interest on loans made, or fees charged for guarantees made, or 1225  
from any money or property received by the director, treasurer of 1226  
state, or the state under Chapter 122. of the Revised Code, or 1227  
from any other use of the proceeds of the sale of the obligations, 1228  
and no such moneys may be used for the payment of bond service 1229  
charges, except for accrued interest, capitalized interest, and 1230  
reserves funded from proceeds received upon the sale of the 1231  
obligations and except as otherwise expressly provided in the 1232  
applicable bond proceedings pursuant to written directions by the 1233  
director. The right of such holders and owners to payment of bond 1234  
service charges is limited to all or that portion of the pledged 1235



receipts and those special funds pledged thereto pursuant to the 1236  
bond proceedings in accordance with this section, and each such 1237  
obligation shall bear on its face a statement to that effect. 1238

(D) Obligations shall be authorized by resolution or order of 1239  
the issuing authority and the bond proceedings shall provide for 1240  
the purpose thereof and the principal amount or amounts, and shall 1241  
provide for or authorize the manner or agency for determining the 1242  
principal maturity or maturities, not exceeding twenty-five years 1243  
from the date of issuance, the interest rate or rates or the 1244  
maximum interest rate, the date of the obligations and the dates 1245  
of payment of interest thereon, their denomination, and the 1246  
establishment within or without the state of a place or places of 1247  
payment of bond service charges. Sections 9.98 to 9.983 of the 1248  
Revised Code are applicable to obligations issued under this 1249  
section, subject to any applicable limitation under section 166.11 1250  
of the Revised Code. The purpose of such obligations may be stated 1251  
in the bond proceedings in terms describing the general purpose or 1252  
purposes to be served. The bond proceedings also shall provide, 1253  
subject to the provisions of any other applicable bond 1254  
proceedings, for the pledge of all, or such part as the issuing 1255  
authority may determine, of the pledged receipts and the 1256  
applicable special fund or funds to the payment of bond service 1257  
charges, which pledges may be made either prior or subordinate to 1258  
other expenses, claims, or payments, and may be made to secure the 1259  
obligations on a parity with obligations theretofore or thereafter 1260  
issued, if and to the extent provided in the bond proceedings. The 1261  
pledged receipts and special funds so pledged and thereafter 1262  
received by the state are immediately subject to the lien of such 1263  
pledge without any physical delivery thereof or further act, and 1264  
the lien of any such pledges is valid and binding against all 1265  
parties having claims of any kind against the state or any 1266  
governmental agency of the state, irrespective of whether such 1267  
parties have notice thereof, and shall create a perfected security 1268

interest for all purposes of Chapter 1309. of the Revised Code, 1269  
without the necessity for separation or delivery of funds or for 1270  
the filing or recording of the bond proceedings by which such 1271  
pledge is created or any certificate, statement or other document 1272  
with respect thereto; and the pledge of such pledged receipts and 1273  
special funds is effective and the money therefrom and thereof may 1274  
be applied to the purposes for which pledged without necessity for 1275  
any act of appropriation. Every pledge, and every covenant and 1276  
agreement made with respect thereto, made in the bond proceedings 1277  
may therein be extended to the benefit of the owners and holders 1278  
of obligations authorized by this section, and to any trustee 1279  
therefor, for the further security of the payment of the bond 1280  
service charges. 1281

(E) The bond proceedings may contain additional provisions as 1282  
to: 1283

(1) The redemption of obligations prior to maturity at the 1284  
option of the issuing authority at such price or prices and under 1285  
such terms and conditions as are provided in the bond proceedings; 1286

(2) Other terms of the obligations; 1287

(3) Limitations on the issuance of additional obligations; 1288

(4) The terms of any trust agreement or indenture securing 1289  
the obligations or under which the same may be issued; 1290

(5) The deposit, investment and application of special funds, 1291  
and the safeguarding of moneys on hand or on deposit, without 1292  
regard to Chapter 131. or 135. of the Revised Code, but subject to 1293  
any special provisions of this chapter, with respect to particular 1294  
funds or moneys, provided that any bank or trust company which 1295  
acts as depository of any moneys in the special funds may furnish 1296  
such indemnifying bonds or may pledge such securities as required 1297  
by the issuing authority; 1298

(6) Any or every provision of the bond proceedings being 1299

binding upon such officer, board, commission, authority, agency, 1300  
department, or other person or body as may from time to time have 1301  
the authority under law to take such actions as may be necessary 1302  
to perform all or any part of the duty required by such provision; 1303

(7) Any provision that may be made in a trust agreement or 1304  
indenture; 1305

(8) Any other or additional agreements with the holders of 1306  
the obligations, or the trustee therefor, relating to the 1307  
obligations or the security therefor, including the assignment of 1308  
mortgages or other security obtained or to be obtained for loans 1309  
under section 122.43, 166.07, or 166.16 of the Revised Code. 1310

(F) The obligations may have the great seal of the state or a 1311  
facsimile thereof affixed thereto or printed thereon. The 1312  
obligations and any coupons pertaining to obligations shall be 1313  
signed or bear the facsimile signature of the issuing authority. 1314  
Any obligations or coupons may be executed by the person who, on 1315  
the date of execution, is the proper issuing authority although on 1316  
the date of such bonds or coupons such person was not the issuing 1317  
authority. If the issuing authority whose signature or a facsimile 1318  
of whose signature appears on any such obligation or coupon ceases 1319  
to be the issuing authority before delivery thereof, such 1320  
signature or facsimile is nevertheless valid and sufficient for 1321  
all purposes as if the former issuing authority had remained the 1322  
issuing authority until such delivery; and if the seal to be 1323  
affixed to obligations has been changed after a facsimile of the 1324  
seal has been imprinted on such obligations, such facsimile seal 1325  
shall continue to be sufficient as to such obligations and 1326  
obligations issued in substitution or exchange therefor. 1327

(G) All obligations are negotiable instruments and securities 1328  
under Chapter 1308. of the Revised Code, subject to the provisions 1329  
of the bond proceedings as to registration. The obligations may be 1330  
issued in coupon or in registered form, or both, as the issuing 1331

authority determines. Provision may be made for the registration 1332  
of any obligations with coupons attached thereto as to principal 1333  
alone or as to both principal and interest, their exchange for 1334  
obligations so registered, and for the conversion or reconversion 1335  
into obligations with coupons attached thereto of any obligations 1336  
registered as to both principal and interest, and for reasonable 1337  
charges for such registration, exchange, conversion, and 1338  
reconversion. 1339

(H) Obligations may be sold at public sale or at private 1340  
sale, as determined in the bond proceedings. 1341

Obligations issued to provide moneys for the loan guarantee 1342  
fund or the innovation Ohio loan guarantee fund may, as determined 1343  
by the issuing authority, be sold at private sale, and without 1344  
publication of a notice of sale. 1345

(I) Pending preparation of definitive obligations, the 1346  
issuing authority may issue interim receipts or certificates which 1347  
shall be exchanged for such definitive obligations. 1348

(J) In the discretion of the issuing authority, obligations 1349  
may be secured additionally by a trust agreement or indenture 1350  
between the issuing authority and a corporate trustee which may be 1351  
any trust company or bank having its principal place of business 1352  
within the state. Any such agreement or indenture may contain the 1353  
resolution or order authorizing the issuance of the obligations, 1354  
any provisions that may be contained in any bond proceedings, and 1355  
other provisions which are customary or appropriate in an 1356  
agreement or indenture of such type, including, but not limited 1357  
to: 1358

(1) Maintenance of each pledge, trust agreement, indenture, 1359  
or other instrument comprising part of the bond proceedings until 1360  
the state has fully paid the bond service charges on the 1361  
obligations secured thereby, or provision therefor has been made; 1362

(2) In the event of default in any payments required to be 1363  
made by the bond proceedings, or any other agreement of the 1364  
issuing authority made as a part of the contract under which the 1365  
obligations were issued, enforcement of such payments or agreement 1366  
by mandamus, the appointment of a receiver, suit in equity, action 1367  
at law, or any combination of the foregoing; 1368

(3) The rights and remedies of the holders of obligations and 1369  
of the trustee, and provisions for protecting and enforcing them, 1370  
including limitations on rights of individual holders of 1371  
obligations; 1372

(4) The replacement of any obligations that become mutilated 1373  
or are destroyed, lost, or stolen; 1374

(5) Such other provisions as the trustee and the issuing 1375  
authority agree upon, including limitations, conditions, or 1376  
qualifications relating to any of the foregoing. 1377

(K) Any holders of obligations or trustees under the bond 1378  
proceedings, except to the extent that their rights are restricted 1379  
by the bond proceedings, may by any suitable form of legal 1380  
proceedings, protect and enforce any rights under the laws of this 1381  
state or granted by such bond proceedings. Such rights include the 1382  
right to compel the performance of all duties of the issuing 1383  
authority, the director of development, or the division of liquor 1384  
control required by this chapter or the bond proceedings; to 1385  
enjoin unlawful activities; and in the event of default with 1386  
respect to the payment of any bond service charges on any 1387  
obligations or in the performance of any covenant or agreement on 1388  
the part of the issuing authority, the director of development, or 1389  
the division of liquor control in the bond proceedings, to apply 1390  
to a court having jurisdiction of the cause to appoint a receiver 1391  
to receive and administer the pledged receipts and special funds, 1392  
other than those in the custody of the treasurer of state, which 1393

are pledged to the payment of the bond service charges on such 1394  
obligations or which are the subject of the covenant or agreement, 1395  
with full power to pay, and to provide for payment of bond service 1396  
charges on, such obligations, and with such powers, subject to the 1397  
direction of the court, as are accorded receivers in general 1398  
equity cases, excluding any power to pledge additional revenues or 1399  
receipts or other income or moneys of the issuing authority or the 1400  
state or governmental agencies of the state to the payment of such 1401  
principal and interest and excluding the power to take possession 1402  
of, mortgage, or cause the sale or otherwise dispose of any 1403  
project facilities. 1404

Each duty of the issuing authority and the issuing 1405  
authority's officers and employees, and of each governmental 1406  
agency and its officers, members, or employees, undertaken 1407  
pursuant to the bond proceedings or any agreement or lease, 1408  
lease-purchase agreement, or loan made under authority of this 1409  
chapter, and in every agreement by or with the issuing authority, 1410  
is hereby established as a duty of the issuing authority, and of 1411  
each such officer, member, or employee having authority to perform 1412  
such duty, specifically enjoined by the law resulting from an 1413  
office, trust, or station within the meaning of section 2731.01 of 1414  
the Revised Code. 1415

The person who is at the time the issuing authority, or the 1416  
issuing authority's officers or employees, are not liable in their 1417  
personal capacities on any obligations issued by the issuing 1418  
authority or any agreements of or with the issuing authority. 1419

(L) The issuing authority may authorize and issue obligations 1420  
for the refunding, including funding and retirement, and advance 1421  
refunding with or without payment or redemption prior to maturity, 1422  
of any obligations previously issued by the issuing authority. 1423  
Such obligations may be issued in amounts sufficient for payment 1424  
of the principal amount of the prior obligations, any redemption 1425

premiums thereon, principal maturities of any such obligations 1426  
maturing prior to the redemption of the remaining obligations on a 1427  
parity therewith, interest accrued or to accrue to the maturity 1428  
dates or dates of redemption of such obligations, and any 1429  
allowable costs including expenses incurred or to be incurred in 1430  
connection with such issuance and such refunding, funding, and 1431  
retirement. Subject to the bond proceedings therefor, the portion 1432  
of proceeds of the sale of obligations issued under this division 1433  
to be applied to bond service charges on the prior obligations 1434  
shall be credited to an appropriate account held by the trustee 1435  
for such prior or new obligations or to the appropriate account in 1436  
the bond service fund for such obligations. Obligations authorized 1437  
under this division shall be deemed to be issued for those 1438  
purposes for which such prior obligations were issued and are 1439  
subject to the provisions of this section pertaining to other 1440  
obligations, except as otherwise provided in this section; 1441  
provided that, unless otherwise authorized by the general 1442  
assembly, any limitations imposed by the general assembly pursuant 1443  
to this section with respect to bond service charges applicable to 1444  
the prior obligations shall be applicable to the obligations 1445  
issued under this division to refund, fund, advance refund or 1446  
retire such prior obligations. 1447

(M) The authority to issue obligations under this section 1448  
includes authority to issue obligations in the form of bond 1449  
anticipation notes and to renew the same from time to time by the 1450  
issuance of new notes. The holders of such notes or interest 1451  
coupons pertaining thereto shall have a right to be paid solely 1452  
from the pledged receipts and special funds that may be pledged to 1453  
the payment of the bonds anticipated, or from the proceeds of such 1454  
bonds or renewal notes, or both, as the issuing authority provides 1455  
in the resolution or order authorizing such notes. Such notes may 1456  
be additionally secured by covenants of the issuing authority to 1457  
the effect that the issuing authority and the state will do such 1458

or all things necessary for the issuance of such bonds or renewal 1459  
notes in appropriate amount, and apply the proceeds thereof to the 1460  
extent necessary, to make full payment of the principal of and 1461  
interest on such notes at the time or times contemplated, as 1462  
provided in such resolution or order. For such purpose, the 1463  
issuing authority may issue bonds or renewal notes in such 1464  
principal amount and upon such terms as may be necessary to 1465  
provide funds to pay when required the principal of and interest 1466  
on such notes, notwithstanding any limitations prescribed by or 1467  
for purposes of this section. Subject to this division, all 1468  
provisions for and references to obligations in this section are 1469  
applicable to notes authorized under this division. 1470

The issuing authority in the bond proceedings authorizing the 1471  
issuance of bond anticipation notes shall set forth for such bonds 1472  
an estimated interest rate and a schedule of principal payments 1473  
for such bonds and the annual maturity dates thereof, and for 1474  
purposes of any limitation on bond service charges prescribed 1475  
under division (A) of section 166.11 of the Revised Code, the 1476  
amount of bond service charges on such bond anticipation notes is 1477  
deemed to be the bond service charges for the bonds anticipated 1478  
thereby as set forth in the bond proceedings applicable to such 1479  
notes, but this provision does not modify any authority in this 1480  
section to pledge receipts and special funds to, and covenant to 1481  
issue bonds to fund, the payment of principal of and interest and 1482  
any premium on such notes. 1483

(N) Obligations issued under this section are lawful 1484  
investments for banks, societies for savings, savings and loan 1485  
associations, deposit guarantee associations, trust companies, 1486  
trustees, fiduciaries, insurance companies, including domestic for 1487  
life and domestic not for life, trustees or other officers having 1488  
charge of sinking and bond retirement or other special funds of 1489  
political subdivisions and taxing districts of this state, the 1490



commissioners of the sinking fund of the state, the administrator 1491  
of workers' compensation, the state teachers retirement system, 1492  
the public employees retirement system, the school employees 1493  
retirement system, and the Ohio police and fire pension fund, 1494  
notwithstanding any other provisions of the Revised Code or rules 1495  
adopted pursuant thereto by any governmental agency of the state 1496  
with respect to investments by them, and are also acceptable as 1497  
security for the deposit of public moneys. 1498

(O) Unless otherwise provided in any applicable bond 1499  
proceedings, moneys to the credit of or in the special funds 1500  
established by or pursuant to this section may be invested by or 1501  
on behalf of the issuing authority only in notes, bonds, or other 1502  
obligations of the United States, or of any agency or 1503  
instrumentality of the United States, obligations guaranteed as to 1504  
principal and interest by the United States, obligations of this 1505  
state or any political subdivision of this state, and certificates 1506  
of deposit of any national bank located in this state and any 1507  
bank, as defined in section 1101.01 of the Revised Code, subject 1508  
to inspection by the superintendent of banks. If the law or the 1509  
instrument creating a trust pursuant to division (J) of this 1510  
section expressly permits investment in direct obligations of the 1511  
United States or an agency of the United States, unless expressly 1512  
prohibited by the instrument, such moneys also may be invested in 1513  
no-front-end-load money market mutual funds consisting exclusively 1514  
of obligations of the United States or an agency of the United 1515  
States and in repurchase agreements, including those issued by the 1516  
fiduciary itself, secured by obligations of the United States or 1517  
an agency of the United States; and in common trust funds 1518  
established in accordance with section 1111.20 of the Revised Code 1519  
and consisting exclusively of any such securities, notwithstanding 1520  
division (A)(4) of that section. The income from such investments 1521  
shall be credited to such funds as the issuing authority 1522  
determines, and such investments may be sold at such times as the 1523

issuing authority determines or authorizes. 1524

(P) Provision may be made in the applicable bond proceedings 1525  
for the establishment of separate accounts in the bond service 1526  
fund and for the application of such accounts only to the 1527  
specified bond service charges on obligations pertinent to such 1528  
accounts and bond service fund and for other accounts therein 1529  
within the general purposes of such fund. Unless otherwise 1530  
provided in any applicable bond proceedings, moneys to the credit 1531  
of or in the several special funds established pursuant to this 1532  
section shall be disbursed on the order of the treasurer of state, 1533  
provided that no such order is required for the payment from the 1534  
bond service fund when due of bond service charges on obligations. 1535

(Q) The issuing authority may pledge all, or such portion as 1536  
the issuing authority determines, of the pledged receipts to the 1537  
payment of bond service charges on obligations issued under this 1538  
section, and for the establishment and maintenance of any 1539  
reserves, as provided in the bond proceedings, and make other 1540  
provisions therein with respect to pledged receipts as authorized 1541  
by this chapter, which provisions are controlling notwithstanding 1542  
any other provisions of law pertaining thereto. 1543

(R) The issuing authority may covenant in the bond 1544  
proceedings, and any such covenants are controlling 1545  
notwithstanding any other provision of law, that the state and 1546  
applicable officers and governmental agencies of the state, 1547  
including the general assembly, so long as any obligations are 1548  
outstanding, shall: 1549

(1) Maintain statutory authority for and cause to be charged 1550  
and collected wholesale and retail prices for spirituous liquor 1551  
sold by the state or its agents so that the pledged receipts are 1552  
sufficient in amount to meet bond service charges, and the 1553  
establishment and maintenance of any reserves and other 1554  
requirements provided for in the bond proceedings, and, as 1555

necessary, to meet covenants contained in contracts of guarantee 1556  
made under section 166.06 of the Revised Code; 1557

(2) Take or permit no action, by statute or otherwise, that 1558  
would impair the exemption from federal income taxation of the 1559  
interest on the obligations. 1560

(S) There is hereby created the economic development bond 1561  
service fund, which shall be in the custody of the treasurer of 1562  
state but shall be separate and apart from and not a part of the 1563  
state treasury. All moneys received by or on account of the 1564  
issuing authority or state agencies and required by the applicable 1565  
bond proceedings, consistent with this section, to be deposited, 1566  
transferred, or credited to a bond service fund or the economic 1567  
development bond service fund, and all other moneys transferred or 1568  
allocated to or received for the purposes of the fund, shall be 1569  
deposited and credited to such fund and to any separate accounts 1570  
therein, subject to applicable provisions of the bond proceedings, 1571  
but without necessity for any act of appropriation. During the 1572  
period beginning with the date of the first issuance of 1573  
obligations and continuing during such time as any such 1574  
obligations are outstanding, and so long as moneys in the 1575  
pertinent bond service funds are insufficient to pay all bond 1576  
services charges on such obligations becoming due in each year, a 1577  
sufficient amount of the gross profit on the sale of spirituous 1578  
liquor included in pledged receipts are committed and shall be 1579  
paid to the bond service fund or economic development bond service 1580  
fund in each year for the purpose of paying the bond service 1581  
charges becoming due in that year without necessity for further 1582  
act of appropriation for such purpose and notwithstanding anything 1583  
to the contrary in Chapter 4301. of the Revised Code. The economic 1584  
development bond service fund is a trust fund and is hereby 1585  
pledged to the payment of bond service charges to the extent 1586  
provided in the applicable bond proceedings, and payment thereof 1587

from such fund shall be made or provided for by the treasurer of 1588  
state in accordance with such bond proceedings without necessity 1589  
for any act of appropriation. 1590

(T) The obligations, the transfer thereof, and the income 1591  
therefrom, including any profit made on the sale thereof, shall at 1592  
all times be free from taxation within the state. 1593

**Sec. 166.11.** (A) The aggregate principal amount of project 1594  
financing obligations that may be issued under section 166.08 of 1595  
the Revised Code is three hundred million dollars, plus the 1596  
principal amount of such project financing obligations retired by 1597  
payments. The aggregate principal amount of obligations, exclusive 1598  
of project financing obligations, that may be issued under section 1599  
166.08 of the Revised Code is ~~three~~ five hundred million dollars, 1600  
plus the principal amount of any such obligations retired by 1601  
payment, the amounts held or obligations pledged for the payment 1602  
of the principal amount of any such obligations outstanding, 1603  
amounts in special funds held as reserves to meet bond service 1604  
charges, and amounts of obligations issued to provide moneys 1605  
required to meet payments from the loan guarantee fund created in 1606  
section 166.06 of the Revised Code and the innovation Ohio loan 1607  
guarantee fund created in section 166.15 of the Revised Code, ~~and~~ 1608  
~~minus the amount if any by which four per cent of the unpaid~~ 1609  
~~principal amount of loan repayments guaranteed under section~~ 1610  
~~166.06 of the Revised Code exceeds the amount in the loan~~ 1611  
~~guarantee fund.~~ The terms of the obligations issued under section 1612  
166.08 of the Revised Code, other than obligations issued to meet 1613  
guarantees that cannot be satisfied from amounts then held in the 1614  
loan guarantee fund or the innovation Ohio loan guarantee fund, 1615  
shall be such that the aggregate amount of moneys used from profit 1616  
from the sale of spirituous liquor, and not from other sources, in 1617  
any fiscal year shall not exceed ~~twenty-five~~ forty-five million 1618  
dollars. For purposes of the preceding sentence, "other sources" 1619

include the annual investment income on special funds to the 1620  
extent it will be available for payment of any bond service 1621  
charges in lieu of use of profit from the sale of spirituous 1622  
liquor, and shall be estimated on the basis of the expected 1623  
funding of those special funds and assumed investment earnings 1624  
thereon at a rate equal to the weighted average yield on 1625  
investments of those special funds determined as of any date 1626  
within sixty days immediately preceding the date of issuance of 1627  
the bonds in respect of which the determination is being made. The 1628  
determinations required by this division shall be made by the 1629  
treasurer of state at the time of issuance of an issue of 1630  
obligations and shall be conclusive for purposes of such issue of 1631  
obligations from and after their issuance and delivery. 1632

(B) The aggregate amount of the guaranteed portion of the 1633  
unpaid principal of loans guaranteed under sections 166.06 and 1634  
166.15 of the Revised Code and the unpaid principal of loans made 1635  
under sections 166.07 ~~and~~, 166.16, and 166.21 of the Revised Code 1636  
may not at any time exceed ~~seven~~ eight hundred million dollars. Of 1637  
that ~~seven~~ eight hundred million dollars, the aggregate amount of 1638  
the guaranteed portion of the unpaid principal of loans guaranteed 1639  
under sections 166.06 and 166.15 of the Revised Code shall not at 1640  
any time exceed two hundred million dollars. However, the 1641  
limitations established under this division do not apply to loans 1642  
made with proceeds from the issuance and sale of project financing 1643  
obligations. 1644

**Sec. 166.13.** (A) Prior to entering into each agreement to 1645  
provide innovation financial assistance under sections 166.12, 1646  
166.15, and 166.16 of the Revised Code, the director of 1647  
development shall determine whether the assistance will conform to 1648  
the requirements of sections 166.12 to 166.16 of the Revised Code. 1649  
Such determination, and the facts upon which it is based, shall be 1650

set forth by the director in submissions made to the controlling board for purposes of section 166.16 of the Revised Code and to the development ~~finance~~ financing advisory council under section 166.14 of the Revised Code. An agreement to provide assistance under sections 166.12, 166.15, and 166.16 of the Revised Code shall set forth the determination, which shall be conclusive for purposes of the validity and enforceability of the agreement and any innovation loan guarantees, innovation loans, or other agreements entered into pursuant to the agreement to provide innovation financial assistance.

(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 1682  
assistance pursuant to sections 166.12, 166.15, and 166.16 of the 1683  
Revised Code. 1684

(C) As used in division (B) of this section: 1685

(1) "Appropriate local governmental bodies" means: 1686

(a) The boards of county commissioners or legislative 1687  
authorities of the county in which the project for which 1688  
innovation financial assistance is requested is located and of the 1689  
county in which the eligible innovation project to be replaced is 1690  
located; 1691

(b) The legislative authority of the municipal corporation or 1692  
the board of township trustees of the township in which the 1693  
eligible innovation project for which innovation financial 1694  
assistance is requested is located; and 1695

(c) The legislative authority of the municipal corporation or 1696  
the board of township trustees of the township in which the 1697  
eligible innovation project to be replaced is located. 1698

(2) "State officials" means: 1699

(a) The state representative and state senator in whose 1700  
districts the project for which innovation financial assistance is 1701  
requested is located; 1702

(b) The state representative and state senator in whose 1703  
districts the innovation project to be replaced is located. 1704

**Sec. 166.14.** (A) In determining the eligible innovation 1705  
projects to be assisted and the nature, amount, and terms of 1706  
innovation financial assistance to be provided for an eligible 1707  
innovation project under sections 166.12 to 166.16 of the Revised 1708  
Code: 1709

(1) The director of development shall take into consideration 1710

all of the following:	1711
(a) The number of jobs to be created or preserved by the eligible innovation project, directly or indirectly;	1712 1713
(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;	1714 1715 1716 1717
(c) The size, nature, and cost of the eligible innovation project, including the prospect of the eligible innovation project for providing long-term jobs in enterprises consistent with the changing economics of the state and the nation;	1718 1719 1720 1721
(d) The needs of any private sector enterprise to be assisted;	1722 1723
(e) 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 innovation project or with respect to any providers of innovation property to be included as part of the eligible innovation project;	1724 1725 1726 1727 1728 1729 1730
(f) The likelihood of the successful implementation of the proposed eligible innovation project;	1731 1732
(g) Whether the eligible innovation project involves the use of technology in a targeted innovation industry sector.	1733 1734
(2) The benefits to the local area, including taxes, jobs, and reduced unemployment and reduced welfare costs, among others, may be accorded value in the leasing or sales of innovation project facilities and in loan and guarantee arrangements.	1735 1736 1737 1738
(3) In making determinations under division (A)(1) of this section, the director may consider the effect of an eligible	1739 1740



innovation project upon any entity engaged to provide innovation 1741  
property to be acquired, leased, or licensed in connection with 1742  
such assistance. 1743

(B) The director shall submit to the development ~~finance~~ 1744  
financing advisory council data pertinent to the considerations 1745  
set forth in division (A) of this section, the terms of the 1746  
proposed innovation financial assistance, and such other relevant 1747  
information as the council may request. 1748

(C) The development ~~finance~~ financing advisory council, on 1749  
the basis of such data, shall make recommendations as to the 1750  
appropriateness of the innovation financial assistance to be 1751  
provided. The recommendations may be revised to reflect any 1752  
changes in the proposed innovation financial assistance as the 1753  
director may submit to the council. The recommendations, as 1754  
amended, of the council as to the appropriateness of the proposed 1755  
innovation financial assistance shall be submitted to the 1756  
controlling board. 1757

(D) Financial statements and other data submitted to the 1758  
director of development, the development ~~finance~~ financing 1759  
advisory council, or the controlling board by any private sector 1760  
person in connection with innovation financial assistance under 1761  
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 1762  
information taken from such statements or data for any purpose, 1763  
shall not be open to public inspection. The development ~~finance~~ 1764  
financing advisory council in considering confidential information 1765  
in connection with innovation financial assistance under this 1766  
chapter may, only for consideration of the confidential 1767  
information referred to, and in the manner provided in division 1768  
(E) of section 121.22 of the Revised Code, close the meeting 1769  
during such consideration. 1770

**Sec. 166.16.** (A) The director of development, with the 1771

approval of the controlling board and subject to the other 1772  
applicable provisions of this chapter, may lend moneys in the 1773  
innovation Ohio loan fund to persons for the purpose of paying 1774  
allowable innovation costs of an eligible innovation project if 1775  
the director determines that: 1776

(1) The project is an eligible innovation project and is 1777  
economically sound. 1778

(2) The borrower is unable to finance the necessary allowable 1779  
costs through ordinary financial channels upon comparable terms. 1780

(3) The amount to be lent from the innovation Ohio loan fund 1781  
will not exceed ninety per cent of the total costs of the eligible 1782  
innovation project. 1783

(4) The repayment of the loan from the innovation Ohio loan 1784  
fund will be secured by a mortgage, lien, assignment, or pledge, 1785  
or other interest in property or innovation property at such level 1786  
of priority and value as the director may determine necessary, 1787  
provided that, in making such a determination, the director may 1788  
take into account the value of any rights granted by the borrower 1789  
to the director to control the use of any property or innovation 1790  
property of the borrower under the circumstances described in the 1791  
loan documents. 1792

(B) The determinations of the director under division (A) of 1793  
this section shall be conclusive for purposes of the validity of a 1794  
loan commitment evidenced by a loan agreement signed by the 1795  
director. 1796

(C) Fees, charges, rates of interest, times of payment of 1797  
interest and principal, and other terms, conditions, and 1798  
provisions of and security for loans made from the innovation Ohio 1799  
loan fund shall be such as the director determines to be 1800  
appropriate and in furtherance of the purpose for which the loans 1801

are made. The moneys used in making the loans shall be disbursed 1802  
from the innovation Ohio loan fund upon order of the director. 1803  
Unless otherwise specified in any indenture or other instrument 1804  
securing obligations under division (D) of section 166.08 of the 1805  
Revised Code, any payments of principal and interest from loans 1806  
made from the innovation Ohio loan fund shall be paid to the 1807  
innovation Ohio loan fund and used for the purpose of making 1808  
loans. 1809

(D) ~~The~~ There is hereby created in the state treasury the 1810  
innovation Ohio loan fund ~~is hereby created as a special revenue~~ 1811  
~~fund and a trust fund which shall be in the custody of the~~ 1812  
~~treasurer of state but shall be separate and apart from and not a~~ 1813  
~~part of the state treasury.~~ The fund shall consist of all grants, 1814  
gifts, and contributions of moneys or rights to moneys lawfully 1815  
designated for or deposited in such fund, all moneys and rights to 1816  
moneys lawfully appropriated and transferred to such fund, 1817  
including moneys received from the issuance of obligations for 1818  
purposes of allowable innovation costs under section 166.08 of the 1819  
Revised Code, and moneys deposited to such fund pursuant to 1820  
divisions (C) and (G) of this section. All investment earnings on 1821  
the cash balance in the fund shall be credited to the fund. The 1822  
~~innovation Ohio loan~~ fund shall not be comprised, in any part, of 1823  
moneys raised by taxation. 1824

(E) The director may take actions necessary or appropriate to 1825  
collect or otherwise deal with any loan made under this section. 1826

(F) The director may fix service charges for the making of a 1827  
loan. The charges shall be payable at such times and place and in 1828  
such amounts and manner as may be prescribed by the director. 1829

(G) ~~The treasurer of state shall serve as an agent for the~~ 1830  
~~director in the making of deposits and withdrawals and maintenance~~ 1831  
~~of records pertaining to the innovation Ohio loan fund.~~ 1832

~~(H)~~(1) There shall be credited to the innovation Ohio loan 1833  
fund the moneys received by this state from the repayment of 1834  
innovation Ohio loans and recovery on loan guarantees, including 1835  
interest thereon, made from the innovation Ohio loan fund or from 1836  
the innovation Ohio loan guarantee fund and from the sale, lease, 1837  
or other disposition of property acquired or constructed ~~from~~ with 1838  
moneys in the innovation Ohio loan fund with moneys derived from 1839  
the proceeds of the sale of obligations under section 166.08 of 1840  
the Revised Code. Such moneys shall be applied as provided in this 1841  
chapter pursuant to appropriations made by the general assembly. 1842

(2) Notwithstanding division ~~(H)~~(G)(1) of this section, any 1843  
amounts recovered on innovation Ohio loan guarantees shall be 1844  
deposited to the credit of the innovation Ohio loan guarantee fund 1845  
to the extent necessary to restore that fund to the innovation 1846  
Ohio loan guarantee reserve requirement or any level in excess 1847  
thereof required by any guarantee contract. Money in the 1848  
innovation Ohio loan guarantee fund in excess of the innovation 1849  
Ohio loan guarantee reserve requirement, but subject to the 1850  
provisions and requirements of any guarantee contracts, may be 1851  
transferred to the innovation Ohio loan fund by the treasurer of 1852  
state upon the order of the director of development. 1853

(3) In addition to the requirements of division ~~(H)~~(G)(1) of 1854  
this section, moneys referred to in that division may be deposited 1855  
to the credit of separate accounts within the innovation Ohio loan 1856  
fund or in the bond service fund and pledged to the security of 1857  
obligations, applied to the payment of bond service charges 1858  
without need for appropriation, released from any such pledge and 1859  
transferred to the innovation Ohio loan fund, all as and to the 1860  
extent provided in the bond proceedings pursuant to written 1861  
directions by the director of development. Accounts may be 1862  
established by the director in the innovation Ohio loan fund for 1863  
particular projects or otherwise. ~~Income from the investment of~~ 1864

~~moneys in the innovation Ohio loan fund shall be credited to that~~ 1865  
~~fund and, as may be provided in bond proceedings, to particular~~ 1866  
~~accounts in that fund. The treasurer of state director may~~ 1867  
withdraw from the innovation Ohio loan fund or, subject to 1868  
provisions of the applicable bond proceedings, from any special 1869  
funds established pursuant to the bond proceedings, or from any 1870  
accounts in such funds, any amounts of investment income required 1871  
to be rebated and paid to the federal government in order to 1872  
maintain the exemption from federal income taxation of interest on 1873  
obligations issued under this chapter, which withdrawal and 1874  
payment may be made without necessity for appropriation. 1875

Sec. 166.17. (A) The general assembly finds that in order to 1876  
enhance the economic opportunities available to and improve the 1877  
economic welfare of all the people of the state, and to maintain 1878  
and enhance the competitiveness of the Ohio economy, it is 1879  
necessary to ensure that the people of the state will continue to 1880  
have access to high-value jobs in technology, and that, to 1881  
facilitate such continued access, it is necessary to provide 1882  
incentives to retain and attract businesses that will develop new 1883  
or improved technologies, processes, and products, or apply 1884  
existing technologies in new ways. Further, the general assembly 1885  
finds that the attraction of such jobs and their presence in this 1886  
state will materially contribute to the economic welfare of all 1887  
the people of the state. Accordingly, it is declared to be the 1888  
public policy of this state, through operations under sections 1889  
166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code and 1890  
the provisions for financial assistance contained in those 1891  
sections, other applicable laws adopted pursuant to Section 13 of 1892  
Article VIII, Ohio Constitution, and other authority vested in the 1893  
general assembly, to assist in and facilitate the establishment or 1894  
development of eligible research and development projects or 1895  
assist and cooperate with any governmental agency in achieving 1896

that purpose. 1897

(B) In furtherance of that public policy and to implement 1898  
that purpose, the director of development may do any of the 1899  
following: 1900

(1) After consultation with appropriate governmental 1901  
agencies, enter into agreements with persons engaged in industry, 1902  
commerce, distribution, or research and with governmental 1903  
agencies, to induce such persons to acquire, construct, 1904  
reconstruct, rehabilitate, renovate, enlarge, improve, equip, 1905  
furnish, or develop eligible research and development projects, or 1906  
to enable governmental agencies to acquire, construct, 1907  
reconstruct, rehabilitate, renovate, enlarge, improve, equip, 1908  
furnish, or develop eligible research and development projects for 1909  
lease to persons engaged in industry, commerce, distribution, or 1910  
research; 1911

(2) Provide for loans under section 166.21 of the Revised 1912  
Code to finance eligible research and development projects; 1913

(3) Subject to the release of moneys in the research and 1914  
development loan fund by the controlling board, contract for labor 1915  
and materials needed for, or contract with others, including 1916  
governmental agencies, to provide, eligible research and 1917  
development projects, the allowable costs of which are to be paid 1918  
for or reimbursed from such moneys, and contract for the operation 1919  
of those projects; 1920

(4) From moneys in the research and development loan fund, 1921  
subject to release thereof by the controlling board, acquire or 1922  
contract to acquire property by gift, exchange, or purchase, 1923  
including by obtaining and exercising purchase options, and convey 1924  
or otherwise dispose of, or provide for the conveyance or 1925  
disposition of, that property by sale, exchange, lease, lease 1926

purchase, conditional or installment sale, transfer, or other 1927  
disposition, including the grant of an option to purchase, to any 1928  
governmental agency or to any other person without necessity for 1929  
competitive bidding and upon such terms and conditions and manner 1930  
of consideration pursuant to, and as the director determines to be 1931  
appropriate to satisfy the objectives of, Chapter 166. of the 1932  
Revised Code; 1933

(5) Retain the services of or employ financial consultants, 1934  
appraisers, consulting engineers, superintendents, managers, 1935  
construction and accounting experts, attorneys, employees, agents, 1936  
and independent contractors as are necessary in the director's 1937  
judgment, and fix the compensation for their services; 1938

(6) Receive and accept from any person, grants, gifts, and 1939  
contributions of money, property, labor, and other things of 1940  
value, to be held, used, and applied only for the purpose for 1941  
which such grants, gifts, and contributions are made; 1942

(7) Enter into arrangements and agreements with any 1943  
governmental agency for the agency to take or provide any 1944  
governmental action with respect to eligible research and 1945  
development projects; 1946

(8) Do all other acts, enter into contracts, execute all 1947  
instruments, and make all certifications necessary or appropriate 1948  
to carry out sections 166.01, 166.17 to 166.21, 5733.352, and 1949  
5747.331 of the Revised Code; 1950

(9) With respect to property that is the subject of or 1951  
related to research and development financial assistance, take 1952  
such interests, including, but not limited to, mortgages, security 1953  
interests, leasehold interests, assignments, and exclusive or 1954  
nonexclusive licenses, as may be necessary or appropriate under 1955  
the circumstances, to ensure that the property is used within this 1956  
state and that products or services associated with that property 1957

are produced or, in the case of services, delivered, by persons 1958  
employed within this state; 1959

(10) Adopt rules necessary to implement any of the provisions 1960  
of sections 166.17 to 166.21, 5733.352, and 5747.331 of the 1961  
Revised Code that are applicable to the director. 1962

(C) The determination by the director that facilities or 1963  
property constitute an eligible research and development project 1964  
and that the costs of such facilities or property are allowable 1965  
costs related to the project, and all other determinations 1966  
relevant thereto, or to an action taken or agreement entered into, 1967  
shall be conclusive for purposes of the validity and 1968  
enforceability of rights of parties arising from actions taken and 1969  
agreements entered into under sections 166.17 to 166.21, 5733.352, 1970  
and 5747.331 of the Revised Code. 1971

Sec. 166.18. (A) Prior to entering into each agreement to 1972  
provide research and development financial assistance, the 1973  
director of development shall determine whether the assistance 1974  
will conform to the requirements of sections 166.17 to 166.21, 1975  
5733.352, and 5747.331 of the Revised Code. Such determination, 1976  
and the facts upon which it is based, shall be set forth by the 1977  
director in submissions made to the controlling board for purposes 1978  
of section 166.17 of the Revised Code and to the development 1979  
financing advisory council under section 166.19 of the Revised 1980  
Code. An agreement to provide research and development financial 1981  
assistance under section 166.17 or 166.21 of the Revised Code 1982  
shall set forth the determination, which shall be conclusive for 1983  
purposes of the validity and enforceability of the agreement, and 1984  
any loans or other agreements entered into pursuant to the 1985  
agreement, to provide research and development financial 1986  
assistance. 1987

(B) Whenever a person applies for research and development 1988



financial assistance, and the eligible research and development project for which that assistance is requested is to relocate an eligible research and development project that is currently being operated by the person and that is located in another county, municipal corporation, or township within the state, the director shall provide written notification to the appropriate local governmental bodies and state officials. The notification shall state all of the following:

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

(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;

(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.

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.

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

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

(a) The board of county commissioners of 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;

(b) The legislative authority of the municipal corporation or

the board of township trustees of the township in which the 2019  
eligible research and development project for which research and 2020  
development financial assistance is requested is located and of 2021  
the municipal corporation or township in which the project will be 2022  
located. 2023

(2) "State officials" means both of the following: 2024

(a) The state representative and state senator in whose 2025  
district the eligible research and development project for which 2026  
research and development financial assistance is requested is 2027  
located; 2028

(b) The state representative and state senator in whose 2029  
district the eligible research and development project will be 2030  
located. 2031

Sec. 166.19. (A)(1) In determining the eligible research and 2032  
development projects to be assisted and the nature, amount, and 2033  
terms of the research and development financial assistance to be 2034  
provided, the director of development shall consider all of the 2035  
following: 2036

(a) The number of jobs to be created or preserved, directly 2037  
or indirectly, by or in connection with the eligible research and 2038  
development project; 2039

(b) Payrolls, and the taxes generated at both state and local 2040  
levels, by the eligible research and development project and by 2041  
the employment created or preserved by or in connection with the 2042  
project; 2043

(c) The size, nature, and cost of the eligible research and 2044  
development project; 2045

(d) The likelihood that the eligible research and development 2046  
project will create long-term jobs in enterprises consistent with 2047  
the changing economy of the state and nation; 2048

(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; 2049  
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(f) The likelihood that the eligible research and development project will be successfully implemented. 2057  
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(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. 2059  
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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. 2063  
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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. 2068  
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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 2073  
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council as to the appropriateness of the proposed research and 2080  
development financial assistance shall be submitted to the 2081  
controlling board. 2082

(D) Financial statements and other data submitted to the 2083  
director of development, the development financing advisory 2084  
council, or the controlling board by any private sector person in 2085  
connection with research and development financial assistance, or 2086  
any information taken from such statements or data for any 2087  
purpose, shall not be open to public inspection. The development 2088  
financing advisory council, in considering confidential 2089  
information in connection with research and development financial 2090  
assistance may, only for consideration of the confidential 2091  
information referred to and in the manner provided in division (E) 2092  
of section 121.22 of the Revised Code, close the meeting during 2093  
such consideration. 2094

**Sec. 166.20.** There is hereby created in the state treasury 2095  
the research and development loan fund. The fund shall consist of 2096  
moneys received from the issuance of obligations for research and 2097  
development purposes under section 166.08 of the Revised Code; 2098  
moneys deposited to the fund pursuant to divisions (C) and (G) of 2099  
section 166.21 of the Revised Code; service charges imposed under 2100  
section 166.21 of the Revised Code; and any grants, gifts, or 2101  
contributions of money received by the director of development to 2102  
be used for making loans under section 166.21 of the Revised Code. 2103  
All investment earnings on the cash balance in the fund shall be 2104  
credited to the fund. The fund shall not be comprised, in any 2105  
part, of moneys raised by taxation. 2106

**Sec. 166.21.** (A) The director of development, with the 2107  
approval of the controlling board and subject to other applicable 2108  
provisions of this chapter, may lend moneys in the research and 2109

development loan fund to persons for the purpose of paying 2110  
allowable costs of eligible research and development projects, if 2111  
the director determines that all of the following conditions are 2112  
met: 2113

(1) The project is an eligible research and development 2114  
project and is economically sound; 2115

(2) The amount to be lent from the research and development 2116  
loan fund will not exceed seventy-five per cent of the total costs 2117  
of the eligible research and development project; 2118

(3) The repayment of the loan from the research and 2119  
development loan fund will be secured by a mortgage, lien, 2120  
assignment, pledge, or other interest in property or other assets 2121  
of the borrower at such level of priority and value as the 2122  
director considers necessary, provided that, in making such a 2123  
determination, the director shall take into account the value of 2124  
any rights granted by the borrower to the director to control the 2125  
use of any assets of the borrower under the circumstances 2126  
described in the loan documents. 2127

(B) The determinations of the director under division (A) of 2128  
this section shall be conclusive for purposes of the validity of a 2129  
loan commitment evidenced by a loan agreement signed by the 2130  
director. 2131

(C) Fees, charges, rates of interest, times of payment of 2132  
interest and principal, and other terms and conditions of, and 2133  
security for, loans made from the research and development loan 2134  
fund shall be such as the director determines to be appropriate 2135  
and in furtherance of the purpose for which the loans are made. 2136  
The moneys used in making loans shall be disbursed from the fund 2137  
upon order of the director. Unless otherwise specified in any 2138  
indenture or other instrument securing obligations under division 2139

(D) of section 166.08 of the Revised Code, any payments of 2140  
principal and interest from loans made from the fund shall be paid 2141  
to the fund and used for the purpose of making loans under this 2142  
section. 2143

(D)(1) As used in this division, "qualified research and 2144  
development loan payments" means payments of principal and 2145  
interest on a loan made from the research and development loan 2146  
fund. 2147

(2) Each year, the director may, upon request, issue a 2148  
certificate to a borrower of moneys from the research and 2149  
development loan fund indicating the amount of the qualified 2150  
research and development loan payments made by or on behalf of the 2151  
borrower during the calendar year immediately preceding the tax 2152  
year, as defined in section 5733.04 of the Revised Code, or 2153  
taxable year, as defined in section 5747.01 of the Revised Code, 2154  
for which the certificate is issued. In addition to indicating the 2155  
amount of qualified research and development loan payments, the 2156  
certificate shall include a determination of the director that as 2157  
of the thirty-first day of December of the calendar year for which 2158  
the certificate is issued, the borrower is not in default under 2159  
the loan agreement, lease, or other instrument governing repayment 2160  
of the loan, including compliance with the job creation and 2161  
retention commitments that are part of the qualified research and 2162  
development project. The director shall not issue a certificate in 2163  
an amount that exceeds one hundred fifty thousand dollars. 2164

(E) The director may take actions necessary or appropriate to 2165  
collect or otherwise deal with any loan made under this section. 2166

(F) The director may fix service charges for the making of a 2167  
loan. The charges shall be payable at such times and place and in 2168  
such amounts and manner as may be prescribed by the director. 2169

(G)(1) There shall be credited to the research and 2170

development loan fund moneys received by this state from the 2171  
repayment of loans, including interest thereon, made from the 2172  
fund, and moneys received from the sale, lease, or other 2173  
disposition of property acquired or constructed with moneys in the 2174  
fund derived from the proceeds of the sale of obligations under 2175  
section 166.08 of the Revised Code. Moneys in the fund shall be 2176  
applied as provided in this chapter pursuant to appropriations 2177  
made by the general assembly. 2178

(2) In addition to the requirements in division (G)(1) of 2179  
this section, moneys referred to in that division may be deposited 2180  
to the credit of separate accounts established by the director of 2181  
development within the research and development loan fund or in 2182  
the bond service fund and pledged to the security of obligations, 2183  
applied to the payment of bond service charges without need for 2184  
appropriation, released from any such pledge and transferred to 2185  
the research and development loan fund, all as and to the extent 2186  
provided in the bond proceedings pursuant to written directions of 2187  
the director of development. Accounts may be established by the 2188  
director in the research and development loan fund for particular 2189  
projects or otherwise. The director may withdraw from the fund or, 2190  
subject to provisions of the applicable bond proceedings, from any 2191  
special funds established pursuant to the bond proceedings, or 2192  
from any accounts in such funds, any amounts of investment income 2193  
required to be rebated and paid to the federal government in order 2194  
to maintain the exemption from federal income taxation of interest 2195  
on obligations issued under this chapter, which withdrawal and 2196  
payment may be made without the necessity for appropriation. 2197

**Sec. 184.04.** (A) The Ohio research commercialization grant 2198  
program is hereby created to improve the commercial viability of 2199  
research projects by improving the ability of small technology 2200  
companies to assess their commercial potential and the commercial 2201

potential of research projects, and by promoting the 2202  
competitiveness of these companies through the augmentation of 2203  
federal research and development funding. The third frontier 2204  
commission shall award grants to eligible applicants on a 2205  
competitive basis for the following purposes: 2206

(1) Commercialization of a core competency technology, 2207  
including, but not limited to, advanced materials; instruments, 2208  
controls, and electronics; biosciences; power and propulsion; and 2209  
information technology; 2210

(2) Other business activities related to the 2211  
commercialization of a core competency technology. 2212

(B) In order to be eligible for an Ohio research 2213  
commercialization grant, the applicant shall demonstrate both of 2214  
the following to the third frontier commission: 2215

(1) It is located in Ohio; 2216

(2) It either: 2217

(a) Has received a phase I award of funds under the small 2218  
business innovation research program or the small business 2219  
technology transfer program established in 15 U.S.C. 638, or a 2220  
similar award of federal funds under a program designated by the 2221  
third frontier commission as qualifying an applicant for a grant 2222  
under this section; or 2223

(b) Demonstrates eligibility for an award of funds under the 2224  
federal advanced technology program established in 15 U.S.C. 278n 2225  
or a similar federal program designated by the third frontier 2226  
commission as qualifying an applicant for a grant under this 2227  
section. 2228

(C) The third frontier commission shall review proposals from 2229  
applicants that meet the requirements stated in division (B) of 2230  
this section, and may issue commitments to applicants for 2231



conditional grants of funds under this section, conditioned on the 2232  
applicant receiving a phase II award of funds under the federal 2233  
small business innovation research program or the small business 2234  
technology transfer program, an award of funds under the federal 2235  
advanced technology program, or an award of federal funds under a 2236  
similar federal program designated by the director. 2237

(D) No funds shall be disbursed under the Ohio research 2238  
commercialization grant program until the third frontier 2239  
commission has received notice from the applicant, in such form as 2240  
the commission prescribes, that the applicant has received an 2241  
award of federal funds under a program described in division 2242  
(B)(2)(b) or (C) of this section. 2243

(E) An eligible applicant that receives a grant under the 2244  
Ohio research commercialization grant program is not precluded 2245  
from being considered for or participating in other financial 2246  
assistance programs offered by the department of development. 2247

(F) The third frontier commission shall adopt rules under 2248  
Chapter 119. of the Revised Code establishing all of the 2249  
following: 2250

(1) Forms and procedures by which eligible applicants may 2251  
apply for grants under this section; 2252

(2) Criteria for reviewing, evaluating, and ranking 2253  
applications, and for approving applications from eligible 2254  
applicants that best serve the goals of the Ohio research 2255  
commercialization grant program; 2256

(3) Reporting requirements and monitoring procedures; 2257

(4) The federal awards and programs that make an applicant 2258  
eligible for a grant under divisions (B) and (C) of this section; 2259

(5) Any other rules necessary to implement and administer the 2260  
Ohio research commercialization grant program. 2261

Sec. 5733.352. (A) As used in this section: 2262

(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 taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 2263  
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(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 2267  
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(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code. 2269  
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(B) Beginning in tax year 2004, a nonrefundable credit is allowed against the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax year for which the credit is claimed. The amount of the credit for a tax 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 5733.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the tax 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 tax year or years until fully used. 2272  
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(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following: 2288  
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(1) A related member of that borrower; 2290

(2) The owner or lessee of the eligible research and 2291

<u>development project;</u>	2292
<u>(3) A related member of the owner or lessee of the eligible research and development project.</u>	2293
<u>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.</u>	2294
<u>(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.</u>	2295
<u>(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.</u>	2296
<u>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:</u>	2297
<u>(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;</u>	2298
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(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;	2322 2323
(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	2324 2325
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	2326 2327
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	2328 2329
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	2330 2331
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	2332 2333
(8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;	2334 2335
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	2336 2337
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	2338 2339
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	2340 2341
(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;	2342 2343 2344 2345
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	2346 2347 2348
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	2349 2350

(15) The job training credit under section 5733.42 of the Revised Code;	2351 2352
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	2353 2354
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	2355 2356
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	2357 2358
(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	2359 2360
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	2361 2362
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	2363 2364
(22) The export sales credit under section 5733.069 of the Revised Code;	2365 2366
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	2367 2368
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	2369 2370
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	2371 2372
(26) <u>The research and development credit under section 5733.352 of the Revised Code;</u>	2373 2374
<u>(27)</u> The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	2375 2376
<del>(27)</del> (28) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	2377 2378

~~(28)~~(29) 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.

(B) For any credit except the credits enumerated in divisions  
(A)~~(26)~~, (27), ~~and~~ (28), and (29) 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.

**Sec. 5747.331.** (A) As used in this section:

(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.

(2) "Related member" has the same meaning as in section  
5733.042 of the Revised Code.

(3) "Qualified research and development loan payments" has  
the same meaning as in division (D) of section 166.21 of the  
Revised Code.

(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 2409  
required under section 5747.98 of the Revised Code. The credit, to 2410  
the extent it exceeds the taxpayer's tax liability for the taxable 2411  
year after allowance for any other credits that precede the credit 2412  
under this section in that order, shall be carried forward to the 2413  
next succeeding taxable year or years until fully used. 2414

(C) A borrower entitled to a credit under this section may 2415  
assign the credit, or a portion thereof, to any of the following: 2416

(1) A related member of that borrower; 2417

(2) The owner or lessee of the eligible research and 2418  
development project; 2419

(3) A related member of the owner or lessee of the eligible 2420  
research and development project. 2421

A borrower making an assignment under this division shall 2422  
provide written notice of the assignment to the tax commissioner 2423  
and the director of development, in such form as the tax 2424  
commissioner prescribes, before the credit that was assigned is 2425  
used. The assignor may not claim the credit to the extent it was 2426  
assigned to an assignee. The assignee may claim the credit only to 2427  
the extent the assignor has not claimed it. 2428

(D) If any taxpayer is a shareholder in an S corporation, a 2429  
partner in a partnership, or a member in a limited liability 2430  
company treated as a partnership for federal income tax purposes, 2431  
the taxpayer shall be allowed the taxpayer's distributive or 2432  
proportionate share of the credit available through the S 2433  
corporation, partnership, or limited liability company. 2434

(E) The aggregate credit against the taxes imposed by 2435  
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 2436  
Code that may be claimed under this section and section 5733.352 2437  
of the Revised Code by a borrower as a result of qualified 2438

research and development loan payments attributable during a 2439  
calendar year to any one loan shall not exceed one hundred fifty 2440  
thousand dollars. 2441

**Sec. 5747.98.** (A) To provide a uniform procedure for 2442  
calculating the amount of tax due under section 5747.02 of the 2443  
Revised Code, a taxpayer shall claim any credits to which the 2444  
taxpayer is entitled in the following order: 2445

(1) The retirement income credit under division (B) of 2446  
section 5747.055 of the Revised Code; 2447

(2) The senior citizen credit under division (C) of section 2448  
5747.05 of the Revised Code; 2449

(3) The lump sum distribution credit under division (D) of 2450  
section 5747.05 of the Revised Code; 2451

(4) The dependent care credit under section 5747.054 of the 2452  
Revised Code; 2453

(5) The lump sum retirement income credit under division (C) 2454  
of section 5747.055 of the Revised Code; 2455

(6) The lump sum retirement income credit under division (D) 2456  
of section 5747.055 of the Revised Code; 2457

(7) The lump sum retirement income credit under division (E) 2458  
of section 5747.055 of the Revised Code; 2459

(8) The credit for displaced workers who pay for job training 2460  
under section 5747.27 of the Revised Code; 2461

(9) The campaign contribution credit under section 5747.29 of 2462  
the Revised Code; 2463

(10) The twenty-dollar personal exemption credit under 2464  
section 5747.022 of the Revised Code; 2465

(11) The joint filing credit under division (G) of section 2466



5747.05 of the Revised Code;	2467
(12) The nonresident credit under division (A) of section	2468
5747.05 of the Revised Code;	2469
(13) The credit for a resident's out-of-state income under	2470
division (B) of section 5747.05 of the Revised Code;	2471
(14) The credit for employers that enter into agreements with	2472
child day-care centers under section 5747.34 of the Revised Code;	2473
(15) The credit for employers that reimburse employee child	2474
day-care expenses under section 5747.36 of the Revised Code;	2475
(16) The credit for adoption of a minor child under section	2476
5747.37 of the Revised Code;	2477
(17) The credit for purchases of lights and reflectors under	2478
section 5747.38 of the Revised Code;	2479
(18) The job retention credit under division (B) of section	2480
5747.058 of the Revised Code;	2481
(19) The credit for losses on loans made under the Ohio	2482
venture capital program under sections 150.01 to 150.10 of the	2483
Revised Code if the taxpayer elected a nonrefundable credit under	2484
section 150.07 of the Revised Code;	2485
(20) The credit for purchases of new manufacturing machinery	2486
and equipment under section 5747.26 or section 5747.261 of the	2487
Revised Code;	2488
(21) The second credit for purchases of new manufacturing	2489
machinery and equipment and the credit for using Ohio coal under	2490
section 5747.31 of the Revised Code;	2491
(22) The job training credit under section 5747.39 of the	2492
Revised Code;	2493
(23) The enterprise zone credit under section 5709.66 of the	2494
Revised Code;	2495

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	2496 2497
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	2498 2499
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	2500 2501
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	2502 2503
(28) The export sales credit under section 5747.057 of the Revised Code;	2504 2505
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	2506 2507
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	2508 2509
(31) <u>The research and development credit under section 5747.331 of the Revised Code;</u>	2510 2511
<u>(32)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	2512 2513
<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;	2514 2515
<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;	2516 2517 2518
<del>(34)</del> <u>(35)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	2519 2520
<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.	2521 2522 2523 2524

(B) For any credit, except the credits enumerated in 2525  
divisions (A)~~(31)~~(32) to ~~(35)~~(36) of this section and the credit 2526  
granted under division (I) of section 5747.08 of the Revised Code, 2527  
the amount of the credit for a taxable year shall not exceed the 2528  
tax due after allowing for any other credit that precedes it in 2529  
the order required under this section. Any excess amount of a 2530  
particular credit may be carried forward if authorized under the 2531  
section creating that credit. Nothing in this chapter shall be 2532  
construed to allow a taxpayer to claim, directly or indirectly, a 2533  
credit more than once for a taxable year. 2534

**Section 2.** That existing sections 122.15, 122.151, 122.152, 2535  
122.154, 122.171, 166.01, 166.02, 166.08, 166.11, 166.13, 166.14, 2536  
166.16, 5733.98, and 5747.98 of the Revised Code are hereby 2537  
repealed. 2538

**Section 3.** All items in this section are hereby appropriated 2539  
as designated out of any moneys in the state treasury to the 2540  
credit of the Research and Development Fund (Fund 010). For all 2541  
appropriations made in this act, those in the first column are for 2542  
fiscal year 2004 and those in the second column are for fiscal 2543  
year 2005. The appropriations made in this act are in addition to 2544  
any other appropriations made for the 2003-2005 biennium. 2545

DEV DEPARTMENT OF DEVELOPMENT 2546

Appropriations

Research and Development Loan Fund 2547

010195-665	Research and	\$ 50,000,000	\$ 55,000,000	2548
	Development			

TOTAL 010	Research and	\$ 50,000,000	\$ 55,000,000	2549
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Development Loan Fund

TOTAL ALL BUDGET FUND		\$ 50,000,000	\$ 55,000,000	2550
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GROUPS

REASERCH AND DEVELOPMENT 2551

The foregoing appropriation item 195-665, Research and 2552  
 Development, shall be used to provide for research and development 2553  
 purposes including loans pursuant to Chapter 166. and particularly 2554  
 sections 166.17 to 166.21 of the Revised Code. Of the foregoing 2555  
 appropriation item 195-665, Research and Development, the 2556  
 unencumbered balance of the appropriation at the end of fiscal 2557  
 year 2004 is transferred by the Director of Budget and Management 2558  
 to fiscal year 2005. 2559

Within the limits set forth in this act, the Director of 2560  
 Budget and Management shall establish accounts indicating source 2561  
 and amount of funds for each appropriation made in this act, and 2562  
 shall determine the form and manner in which appropriation 2563  
 accounts shall be maintained. Expenditures from appropriations 2564  
 contained in this act shall be accounted for as though made in Am. 2565  
 Sub. H.B. 95 of the 125th General Assembly. 2566

The appropriations made in this act are subject to all 2567  
 provisions of Am. Sub. H.B. 95 of the 125th General Assembly that 2568  
 are generally applicable to such appropriations. 2569

**Section 4.** That Section 41 of Am. Sub. H.B. 94 of the 124th 2570  
 General Assembly, as most recently amended by Am. Sub. H.B. 405 of 2571  
 the 124th General Assembly, be amended to read as follows: 2572

**Sec. 41.** DEV DEPARTMENT OF DEVELOPMENT 2573

General Revenue Fund 2574

GRF195-100	Personal	\$ 2,651,334	\$ 2,920,941	2575
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Services

GRF195-200	Maintenance	\$ 589,524	\$ 601,314	2576
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GRF195-300	Equipment	\$ 108,161	\$ 110,324	2577
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GRF195-400	Thomas Edison	\$ 20,000,000	\$ 20,000,000	2578
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Program

GRF195-404	Small Business Development	\$ 2,452,342	\$ 2,529,843	2579
GRF195-405	Minority Business Development Division	\$ 2,278,888	\$ 2,297,314	2580
GRF195-406	Transitional and Permanent Housing	\$ 2,770,145	\$ 2,770,155	2581
GRF195-407	Travel and Tourism	\$ 6,345,500	\$ 6,448,399	2582
GRF195-408	Coal Research Development	\$ 562,551	\$ 585,290	2583
GRF195-412	Business Development Grants	\$ 8,033,935	\$ 9,092,851	2584
GRF195-414	First Frontier Match	\$ 490,000	\$ 490,000	2585
GRF195-415	Regional Offices and Economic Development	\$ 6,420,675	\$ 6,735,253	2586
GRF195-416	Governor's Office of Appalachia	\$ 5,466,954	\$ 5,475,126	2587
GRF195-417	Urban/Rural Initiative	\$ 980,000	\$ 980,000	2588
GRF195-422	Technology Action	\$ 14,000,000	\$ 14,000,000	2589
GRF195-426	Clean Ohio Implementation	\$ 448,000	\$ 641,000	2590
GRF195-433	Community Development Corporation	\$ 2,530,860	\$ 2,530,860	2591

Grants			
GRF195-432	International	\$ 5,390,000	\$ 5,551,700 2592
Trade			
GRF195-434	Investment in	\$12,500,000	\$12,500,000 2593
Training Grants			
GRF195-436	Labor/Management	\$ 1,146,805	\$ 1,152,752 2594
Cooperation			
GRF195-440	Emergency	\$ 2,768,313	\$ 2,841,441 2595
Shelter Housing			
Grants			
GRF195-441	Low and Moderate	\$19,000,000	\$19,000,000 2596
Income Housing			
GRF195-497	TDBG Operating	\$ 1,208,576	\$ 1,215,295 2597
Match			
GRF195-498	State Energy	\$ 153,558	\$ 158,548 2598
Match			
GRF195-501	Appalachian	\$ 453,962	\$ 453,962 2599
Local			
Development			
Districts			
GRF195-502	Appalachian	\$ 219,912	\$ 219,912 2600
Regional			
Commission Dues			
GRF195-505	Utility Bill	\$ 7,350,000	\$ 7,350,000 2601
Credits			
GRF195-507	Travel and	\$ 1,250,000	\$ 1,250,000 2602
Tourism Grants			
GRF195-906	Coal Research	\$ 8,971,700	\$ 9,420,300 2603
and Development			
General			
Obligation Debt			
Service			
TOTAL GRF	General Revenue	\$36,541,695	\$39,322,580 2604

Fund

General Services Fund Group				2605
135195-605	Supportive Services	\$ 9,038,988	\$ 9,531,707	2606
136195-621	International Trade	\$ 100,000	\$ 24,915	2607
685195-636	General Reimbursements	\$ 1,275,234	\$ 1,323,021	2608
TOTAL GSF	General Services			2609
Fund				
Group		\$ 10,414,222	\$ 10,879,643	2610
Federal Special Revenue Fund Group				2611
3K8195-611	Community Development Block Grant	\$ 65,149,441	\$ 65,088,961	2612
3K9195-611	Home Energy Assistance Block Grant	\$ 62,000,000	\$ 62,000,000	2613
3K9195-614	HEAP Weatherization	\$ 10,412,041	\$ 10,412,041	2614
3L0195-612	Community Services Block Grant	\$ 22,135,000	\$ 22,135,000	2615
3V1195-601	HOME Program	\$ 40,000,000	\$ 40,000,000	2616
3X3195-619	TANF Housing Program	\$ 5,200,000	\$ 0	2617
308195-602	Appalachian Regional Commission	\$ 350,000	\$ 350,200	2618
308195-603	Housing and Urban Development	\$ 5,000,000	\$ 5,000,000	2619

As Reported by the House Economic Development and Technology Committee

308195-605	Federal Projects	\$ 7,855,501	\$ 7,855,501	2620
308195-609	Small Business Administration	\$ 3,799,626	\$ 3,799,626	2621
308195-618	Energy Federal Grants	\$ 2,803,560	\$ 2,803,560	2622
335195-610	Oil Overcharge	\$ 8,500,000	\$ 8,500,000	2623
380195-622	Housing Development Operating	\$ 4,507,212	\$ 4,696,198	2624
TOTAL FED Federal Special Revenue Fund Group				2625
Fund Group				\$237,712,381 \$232,641,087 2626
State Special Revenue Fund Group				2627
4F2195-639	State Special Projects	\$ 1,052,762	\$ 1,079,082	2628
4H4195-641	First Frontier	\$ 600,000	\$ 650,000	2629
4S0195-630	Enterprise Zone Operating	\$ 211,900	\$ 211,900	2630
4S1195-634	Job Creation Tax Credit Operating	\$ 372,700	\$ 375,800	2631
4W1195-646	Minority Business Enterprise Loan	\$ 2,572,960	\$ 2,580,597	2632
444195-607	Water and Sewer Commission Loans	\$ 511,000	\$ 523,775	2633
445195-617	Housing Finance Operating	\$ 3,782,808	\$ 3,968,184	2634
450195-624	Minority Business Bonding Program Administration	\$ 13,232	\$ 13,563	2635
451195-625	Economic Development	\$ 2,062,451	\$ 2,143,918	2636



Financing				
Operating				
5M4195-659	Universal	\$ 60,000,000	\$ 60,000,000	2637
	Service			
5M5195-660	Energy	\$ 12,000,000	\$ 12,000,000	2638
	Efficiency			
	Revolving Loan			
611195-631	Water and Sewer	\$ 15,330	\$ 15,713	2639
	Administration			
617195-654	Volume Cap	\$ 200,000	\$ 200,000	2640
	Administration			
646195-638	Low and Moderate	\$ 21,539,552	\$ 22,103,807	2641
	Income Housing			
	Trust Fund			
TOTAL SSR State Special				2642
Revenue				
Fund Group		\$ 204,934,695	\$ 205,866,339	2643
Facilities Establishment Fund				2644
037195-615	Facilities	\$ 56,701,684	\$ 58,119,226	2645
	Establishment			
4Z6195-647	Rural Industrial	\$ 5,000,000	\$ 5,000,000	2646
	Park Loan			
5D1195-649	Port Authority	\$ 2,500,000	\$ 2,500,000	2647
	Bond Reserves			
5D2195-650	Urban	\$ 10,000,000	\$ 10,475,000	2648
	Redevelopment			
	Loans			
5H1195-652	Family Farm Loan	\$ 2,246,375	\$ 2,246,375	2649
	Guarantee			
5S8195-627	Rural	\$ 5,000,000	\$ 5,000,000	2650
	Development			
	Initiative			
5S9195-628	Capital Access	\$ 3,000,000	\$ 3,000,000	2651

Loan Program			
TOTAL 037 Facilities			2652
Establishment Fund	\$ 84,448,059	\$ 86,340,601	2653
<u>Innovation Ohio Loan Fund</u>			2654
<u>009195-664</u> Innovation Ohio	\$	<u>0 \$ 50,000,000</u>	2655
<u>TOTAL 009 Innovation Ohio</u>	<u>\$</u>	<u>0 \$ 50,000,000</u>	2656
<u>Loan Fund</u>			
Coal Research/Development Fund			2657
046195-632	Coal Research	\$ 12,847,178	\$ 13,168,357 2658
	and Development		
	Fund		
TOTAL 046 Coal Research/			2659
Development Fund	\$ 12,847,178	\$ 13,168,357	2660
TOTAL ALL BUDGET FUND	\$86,898,230	<del>\$88,218,607</del>	2661
GROUPS		<u>738,218,607</u>	

**Section 5.** That existing Section 41 of Am. Sub. H.B. 94 of 2663  
the 124th General Assembly, as most recently amended by Am. Sub. 2664  
H.B. 405 of the 124th General Assembly, is hereby repealed. 2665

**Section 6.** That Section 41.15 of Am. Sub. H.B. 94 of the 2666  
124th General Assembly, as amended by Am. Sub. H.B. 405 of the 2667  
124th General Assembly, be amended to read as follows: 2668

**Sec. 41.15. FACILITIES ESTABLISHMENT FUND** 2669

The foregoing appropriation item 195-615, Facilities 2670  
Establishment (Fund 037), shall be used for the purposes of the 2671  
Facilities Establishment Fund under Chapter 166. of the Revised 2672  
Code. 2673

Notwithstanding Chapter 166. of the Revised Code, up to 2674  
\$1,600,000 may be transferred each fiscal year from the Facilities 2675  
Establishment Fund (Fund 037) to the Economic Development 2676

Financing Operating Fund (Fund 451). The transfer is subject to 2677  
Controlling Board approval pursuant to division (B) of section 2678  
166.03 of the Revised Code. 2679

Notwithstanding Chapter 166. of the Revised Code, up to 2680  
\$3,800,000 may be transferred in each fiscal year of the biennium 2681  
from the Facilities Establishment Fund (Fund 037) to the Minority 2682  
Business Enterprise Loan Fund (Fund 4W1). The transfer is subject 2683  
to Controlling Board approval pursuant to division (B) of section 2684  
166.03 of the Revised Code. 2685

Notwithstanding Chapter 166. of the Revised Code, up to 2686  
\$5,000,000 cash may be transferred during the biennium from the 2687  
Facilities Establishment Fund (Fund 037) to the Port Authority 2688  
Bond Reserves Fund (Fund 5D1) for use by any port authority in 2689  
establishing or supplementing bond reserve funds for any bond 2690  
issuance permitted under Chapter 4582. of the Revised Code. The 2691  
Director of Development shall develop program guidelines for the 2692  
transfer and release of funds, including, but not limited to, a 2693  
provision that a port authority shall receive not more than 2694  
\$2,000,000 total from the fund. The transfer and release of funds 2695  
are subject to Controlling Board approval. 2696

Notwithstanding Chapter 166. of the Revised Code, up to 2697  
\$20,475,000 cash may be transferred during the biennium from the 2698  
Facilities Establishment Fund (Fund 037) to the Urban 2699  
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 2700  
barriers to urban core redevelopment. The Director of Development 2701  
shall develop program guidelines for the transfer and release of 2702  
funds, including, but not limited to, the completion of all 2703  
appropriate environmental assessments before state assistance is 2704  
committed to a project. 2705

Notwithstanding Chapter 166. of the Revised Code, up to 2706  
\$5,000,000 per fiscal year in cash may be transferred from the 2707  
Facilities Establishment Fund (Fund 037) to the Rural Industrial 2708

Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.	2709 2710
FAMILY FARM LOAN PROGRAM	2711
Notwithstanding Chapter 166. of the Revised Code, up to \$2,246,375 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Fund (Fund 5H1) in the Department of Development. These moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.	2712 2713 2714 2715 2716 2717
Financial assistance from the Family Farm Loan Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established in accordance with sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.	2718 2719 2720 2721
When the Family Farm Loan Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).	2722 2723 2724 2725
RURAL DEVELOPMENT INITIATIVE FUND	2726
(A)(1) There is hereby created in the state treasury the Rural Development Initiative Fund (Fund 5S8). The fund shall receive moneys from the Facilities Establishment Fund. The Director of Development may make grants from the fund as specified in division (A)(2) of this section to eligible applicants in Appalachian counties and in rural counties in the state that are designated as distressed pursuant to section 122.25 of the Revised Code. Preference shall be given to eligible applicants located in Appalachian counties designated as distressed by the federal Appalachian Regional Commission. The fund shall cease to exist after June 30, 2007. All moneys remaining in the fund after that date shall revert to the Facilities Establishment Fund.	2727 2728 2729 2730 2731 2732 2733 2734 2735 2736 2737 2738
(2) The Director of Development shall make grants from the	2739

Rural Development Initiative Fund only to eligible applicants who 2740  
also qualify for and receive funding under the Rural Industrial 2741  
Park Loan Program as specified in sections 122.23 to 122.27 of the 2742  
Revised Code. Eligible applicants shall use the grants for the 2743  
purposes specified in section 122.24 of the Revised Code. All 2744  
projects supported by grants from the fund are subject to Chapter 2745  
4115. of the Revised Code as specified in division (E) of section 2746  
166.02 of the Revised Code. The Director shall develop program 2747  
guidelines for the transfer and release of funds. The release of 2748  
grant moneys to an eligible applicant is subject to Controlling 2749  
Board approval. 2750

(B) Notwithstanding Chapter 166. of the Revised Code, the 2751  
Director of Budget and Management may transfer up to \$5,000,000 2752  
per fiscal year in cash on an as needed basis at the request of 2753  
the Director of Development from the Facilities Establishment Fund 2754  
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 2755  
The transfer is subject to Controlling Board approval pursuant to 2756  
section 166.03 of the Revised Code. 2757

CAPITAL ACCESS LOAN PROGRAM 2758

The foregoing appropriation item 195-628, Capital Access Loan 2759  
Program, shall be used for operating, program, and administrative 2760  
expenses of the program. Funds for the Capital Access Loan Program 2761  
shall be used to assist participating financial institutions in 2762  
making program loans to eligible businesses that face barriers in 2763  
accessing working capital and obtaining fixed asset financing. 2764

Notwithstanding Chapter 166. of the Revised Code, the 2765  
Director of Budget and Management may transfer up to \$3,000,000 2766  
per fiscal year in cash on an as needed basis at the request of 2767  
the Director of Development from the Facilities Establishment Fund 2768  
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 2769  
transfer is subject to Controlling Board approval pursuant to 2770  
section 166.03 of the Revised Code. 2771

<u>INNOVATION OHIO LOAN PROGRAM</u>	2772
<u>The foregoing appropriation item 195-664, Innovation Ohio,</u>	2773
<u>shall be used to provide for Innovation Ohio loans and loan</u>	2774
<u>guarantees pursuant the Chapter 166. and particularly sections</u>	2775
<u>166.12 to 166.16 of the Revised Code.</u>	2776
<b>Section 7.</b> That existing Section 41.15 of Am. Sub. H.B. 94 of	2777
the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the	2778
124th General Assembly, is hereby repealed.	2779
<b>Section 8.</b> The codified and uncodified sections of law	2780
contained in this act are not subject to the referendum.	2781
Therefore, under Section 1d of Article II, Ohio Constitution and	2782
section 1.471 of the Revised Code, the codified and uncodified	2783
sections of law contained in this act go into immediate effect	2784
when this act becomes law.	2785
<b>Section 9.</b> Section 122.171 of the Revised Code is presented	2786
in this act as a composite of the section as amended by both H.B.	2787
675 and Am. Sub. S.B. 180 of the 124th General Assembly. The	2788
General Assembly, applying the principle stated in division (B) of	2789
section 1.52 of the Revised Code that amendments are to be	2790
harmonized if reasonably capable of simultaneous operation, finds	2791
that the composite is the resulting version of the section in	2792
effect prior to the effective date of the section as presented in	2793
this act.	2794