

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**S. B. No. 52**

**Senator Clancy**

**Cosponsors: Senators Miller, D., Schuler, Stivers, Spada**

—

**A B I L L**

To amend section 5747.98 and to enact sections 122.85 1  
and 5747.66 of the Revised Code to create a tax 2  
credit for individuals who invest in 3  
state-certified motion picture productions and to 4  
create the Ohio Media Production Advisory 5  
Committee to prepare a report about and make 6  
recommendations for the growth of the electronic 7  
media production industry throughout the state. 8

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

**Section 1.** That section 5747.98 be amended and sections 9  
122.85 and 5747.66 of the Revised Code be enacted to read as 10  
follows: 11

**Sec. 122.85. (A) As used in this section:** 12

(1) "Base investment" has the same meaning as in section 13  
5747.66 of the Revised Code. 14

(2) "Company" means a corporation, partnership, limited 15  
liability company, or other business entity. 16

(3) "Headquartered in Ohio" means a corporation incorporated 17  
in Ohio, or a partnership, limited liability company, or other 18

business entity domiciled and headquartered in Ohio. 19

(4) "Motion picture production" means a nationally 20  
distributed feature-length film, video, or television series made 21  
in this state, in whole or in part, for theatrical or television 22  
viewing, or as a television pilot, or a commercial made in this 23  
state that will be broadcast or cablecast to at least twenty-five 24  
per cent of the households in the United States, and includes home 25  
videos for foreign or domestic retail distribution, digital 26  
interactive media for retail distribution, music videos, 27  
episodics, serials, infomercials, documentaries, pilots, and 28  
programs produced for theatrical, cable, television network, or 29  
syndicated release. "Motion picture production" does not include 30  
political advocacy commercials, the production of radio or 31  
television coverage of news or athletic events, or any other 32  
production utilizing station staff. 33

(5) "Motion picture production company" means a company 34  
engaged in the business of producing motion pictures, but does not 35  
include any company owned, affiliated, or controlled, in whole or 36  
in part, by any company or person that is in default on a loan 37  
made by the state or a loan guaranteed by the state. 38

(B) For the purpose of encouraging the development in Ohio of 39  
a strong capital base for motion picture productions in this 40  
state, the director of development may certify a motion picture 41  
produced by a motion picture production company as a 42  
state-certified production, the investment in the production of 43  
which may qualify for a tax credit under section 5747.66 of the 44  
Revised Code. The director, in consultation with the tax 45  
commissioner, shall adopt rules that establish criteria for 46  
determining what motion picture productions qualify as 47  
state-certified productions for purposes of this section and 48  
section 5747.66 of the Revised Code. The rules shall require that 49  
the motion picture production company be headquartered in Ohio; 50

that a motion picture production that is a theatrical film include 51  
a credit acknowledgment in the film that it was filmed in this 52  
state, and give credit to any Ohio film office rendering services 53  
to the production; and that the form and content of applications 54  
for tax credit certificates under this section include, at a 55  
minimum, all of the following information: 56

(1) The name and telephone number of the motion picture 57  
production company; 58

(2) The name and telephone number of the company's contact 59  
person; 60

(3) A list of the first preproduction date through the last 61  
production date in Ohio; 62

(4) The Ohio production office address and telephone number; 63

(5) The total budget of the motion picture production; 64

(6) The total expenditures in Ohio; 65

(7) The total percentage of the motion picture production 66  
being shot in Ohio; 67

(8) The level of employment of Ohio cast and crew; 68

(9) A synopsis of the script; 69

(10) A creative elements list that includes the names of the 70  
principal cast and crew, and the producer and director; 71

(11) The date principal photography of the motion picture 72  
production will begin; 73

(12) The distribution plan for the motion picture production, 74  
including domestic and international distribution, and the sales 75  
estimates for the production. 76

(C) An application for a tax credit certificate issued under 77  
this section shall be completed before production of a motion 78  
picture commences. Expenditures made prior to initial 79

certification of a motion picture production as a state-certified 80  
production shall not be included in the calculation of base 81  
investment under division (B) of section 5747.66 of the Revised 82  
Code. 83

(D)(1) The director of development shall submit the 84  
director's initial certification of a motion picture production as 85  
a state-certified production to the tax commissioner. The initial 86  
certification shall include a unique identifying number for each 87  
state-certified production. 88

(2) Upon completion of the motion picture production, the 89  
director of development shall review the motion picture production 90  
company's base investment and issue a tax credit certificate to 91  
any taxpayer who is an individual who invested in the motion 92  
picture production and who may be eligible to claim the tax credit 93  
under section 5747.66 of the Revised Code. The tax credit 94  
certificate shall include the identifying number assigned to that 95  
state-certified production in the initial certification. The 96  
director shall issue certificates in the order in which the 97  
principal photography of the motion picture production was 98  
scheduled to begin. The director shall not issue a tax credit 99  
certificate if the production, in the opinion of the director, 100  
violates any Ohio obscenity statute. 101

**Sec. 5747.66. (A) As used in this section:** 102

(1) "Base investment" means expenditures paid by a motion 103  
picture production company to companies headquartered in Ohio, 104  
expenditures for Ohio resident talent employees, and that portion 105  
of expenditures paid to Ohio residents for below-the-line employee 106  
wages, benefits, payroll costs, production equipment and facility 107  
rentals or purchases, legal services, accounting services, and 108  
post-production services. Nonresident crew wages, benefits, and 109  
payroll costs may be included in the calculation of base 110

investment under division (B) of this section if at least seventy 111  
per cent of a state-certified production's crew wages and benefits 112  
are allocated to Ohio residents and nonresident crew are treated 113  
as Ohio employees and have Ohio employee withholding taxes 114  
withheld from their wages. "Base investment" also includes: 115

(a) Guaranteed holding fees and residuals for commercials in 116  
an amount that does not exceed three times the screen actors 117  
guild/American federation of television and radio artists scale; 118

(b) Payments made to a talent or crew personal service 119  
corporation if the corporation pays the tax levied under Chapter 120  
5751. of the Revised Code on those payments, and the person 121  
receiving payments from the corporation pays the tax levied under 122  
section 5747.02 of the Revised Code on those payments and is 123  
covered by the corporation under Ohio workers' compensation and 124  
unemployment insurance; 125

(c) Up to twenty per cent of combined talent agent 126  
commissions or service fees; and 127

(d) The cost of renting or purchasing highly specialized 128  
production equipment from entities outside this state, provided 129  
that the equipment is not available in this state and provided 130  
that the application filed under section 122.85 of the Revised 131  
Code clearly states the reason for having to do so. 132

"Base investment" does not include talent wages, salaries, 133  
and benefits paid in excess of three times the screen actors 134  
guild/American federation of television and radio artists scale 135  
for actors or artists with an equity box office interest or 136  
similar interest in a motion picture production; advertising, 137  
marketing, distribution, or post-production of a motion picture 138  
production; meals, except craft services; car rentals; air 139  
transportation; or lodging, except for Ohio resident talent or 140  
crew. 141

(2) "Company," "headquartered in Ohio," "motion picture production," and "motion picture production company" have the same meanings as in section 122.85 of the Revised Code. 142  
143  
144

(3) "State-certified production" means a motion picture production for which a tax credit certificate has been issued by the director of development under section 122.85 of the Revised Code. 145  
146  
147  
148

(B) Beginning in taxable year 2008, a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code for a taxpayer who is an individual who invests money in a state-certified production. No taxpayer is entitled to a credit under this section unless the taxpayer has obtained a tax credit certificate issued by the director of development under division (D)(2) of section 122.85 of the Revised Code. The credit shall be calculated as a percentage of the investment, according to the total base investment dollars certified for the production, as follows: 149  
150  
151  
152  
153  
154  
155  
156  
157  
158

(1) If the total base investment is greater than three hundred thousand dollars and less than or equal to eight million dollars, the taxpayer shall be allowed a credit of fifteen per cent of the actual investment made by the taxpayer; 159  
160  
161  
162

(2) If the total base investment is greater than eight million dollars, the taxpayer shall be allowed a credit of twenty per cent of the actual investment made by the taxpayer. 163  
164  
165

The total dollar amount of credits that may be issued under this section to taxpayers in a taxable year shall not exceed three million dollars. 166  
167  
168

(C) The credit shall be claimed in the taxable year indicated on the tax credit certificate. The taxpayer shall claim the credit allowed under this section in the order required by section 5747.98 of the Revised Code. The taxpayer may carry forward any 169  
170  
171  
172

credit amount in excess of its tax due under section 5747.02 of 173  
the Revised Code, after allowing for all other credits preceding 174  
the credit allowed under this section in that order. The excess 175  
credit, if any, may be carried forward for not more than three 176  
taxable years following the taxable year for which the credit is 177  
first claimed under this section. 178

(D) The total tax credits taken under this section for a 179  
state-certified production shall never exceed the total base 180  
investment for that production, and the total dollar amount of tax 181  
credits that may be taken for a state-certified production shall 182  
not exceed five hundred thousand dollars. 183

**Sec. 5747.98.** (A) To provide a uniform procedure for 184  
calculating the amount of tax due under section 5747.02 of the 185  
Revised Code, a taxpayer shall claim any credits to which the 186  
taxpayer is entitled in the following order: 187

(1) The retirement income credit under division (B) of 188  
section 5747.055 of the Revised Code; 189

(2) The senior citizen credit under division (C) of section 190  
5747.05 of the Revised Code; 191

(3) The lump sum distribution credit under division (D) of 192  
section 5747.05 of the Revised Code; 193

(4) The dependent care credit under section 5747.054 of the 194  
Revised Code; 195

(5) The lump sum retirement income credit under division (C) 196  
of section 5747.055 of the Revised Code; 197

(6) The lump sum retirement income credit under division (D) 198  
of section 5747.055 of the Revised Code; 199

(7) The lump sum retirement income credit under division (E) 200  
of section 5747.055 of the Revised Code; 201

(8) The low-income credit under section 5747.056 of the Revised Code;	202 203
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	204 205
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	206 207
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	208 209
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	210 211
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	212 213
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	214 215
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	216 217
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	218 219
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	220 221
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	222 223
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	224 225
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	226 227 228
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under	229 230



section 5747.31 of the Revised Code;	231
(22) The job training credit under section 5747.39 of the Revised Code;	232 233
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	234 235
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	236 237
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	238 239
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	240 241
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	242 243
(28) The export sales credit under section 5747.057 of the Revised Code;	244 245
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	246 247
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	248 249
(31) The research and development credit under section 5747.331 of the Revised Code;	250 251
(32) <u>The motion picture production investment credit under section 5747.66 of the Revised Code;</u>	252 253
<u>(33)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	254 255
<del>(33)</del> <u>(34)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	256 257
<del>(34)</del> <u>(35)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of	258 259

section 5747.08 of the Revised Code;	260
<del>(35)</del> (36) The refundable credit for tax withheld under	261
division (B)(1) of section 5747.062 of the Revised Code;	262
<del>(36)</del> (37) The refundable credit under section 5747.80 of the	263
Revised Code for losses on loans made to the Ohio venture capital	264
program under sections 150.01 to 150.10 of the Revised Code.	265
(B) For any credit, except the credits enumerated in	266
divisions (A) <del>(32)</del> (33) to <del>(36)</del> (37) of this section and the credit	267
granted under division (I) of section 5747.08 of the Revised Code,	268
the amount of the credit for a taxable year shall not exceed the	269
tax due after allowing for any other credit that precedes it in	270
the order required under this section. Any excess amount of a	271
particular credit may be carried forward if authorized under the	272
section creating that credit. Nothing in this chapter shall be	273
construed to allow a taxpayer to claim, directly or indirectly, a	274
credit more than once for a taxable year.	275
<b>Section 2.</b> That existing section 5747.98 of the Revised Code	276
is hereby repealed.	277
<b>Section 3.</b> (A)(1) The Ohio Media Production Advisory	278
Committee shall conduct a comprehensive study of the electronic	279
media production industry in Ohio. The study shall identify and	280
benchmark Ohio's current and potential capabilities for growth in	281
the sectors and subsectors of commercials and industrial,	282
educational, and entertainment media.	283
(2) Based on the study, the Committee shall prepare a	284
comprehensive report of its findings, along with recommendations	285
for private sector and public policy initiatives that can lead to	286
the future growth of the electronic media production industry,	287
increase job opportunities, and enhance Ohio's image as a	288
desirable place to do business.	289

(3) Broadcast and cable television, radio stations, and 290  
musical and performing arts groups shall not be within the 291  
Committee's purview or addressed in its study or report. 292

(B) In carrying out its duties under division (A) of this 293  
section, the Ohio Media Production Advisory Committee shall 294  
identify competitive market factors and seek input and advice from 295  
specialists in Ohio and elsewhere who are involved in the 296  
production of electronic media, including national, regional, and 297  
local advertisers and advertising agencies; production, 298  
post-production, and sound recording studios; equipment and crew 299  
service vendors; independent producers; writers; the academic 300  
community; specialists in entertainment law, accounting, and 301  
finance; elected and appointed officials; and business, trade, 302  
labor, and professional organizations. 303

(C) Not later than nine months after the effective date of 304  
this section, the Committee shall provide to the General Assembly 305  
copies of its recommendations and report. 306

**Section 4.** (A) The Ohio Media Production Advisory Committee 307  
is hereby created to advise the Director of Development on issues 308  
pertaining to electronic media production growth throughout Ohio; 309  
to evaluate and advise the General Assembly as to the 310  
effectiveness of the tax credit enacted by this act; to offer 311  
advice to the Director regarding the adoption under section 122.85 312  
of the Revised Code of rules for, and the interpretation and 313  
implementation of, the tax credit; and to carry out the duties 314  
prescribed in Section 3 of this act. The Committee shall consist 315  
of the following members: 316

(1) Three members of the House of Representatives, to be 317  
appointed by the Speaker of the House of Representatives in 318  
consultation with the Minority Leader of the House of 319  
Representatives; 320

(2) Three members of the Senate, to be appointed by the President of the Senate in consultation with the Minority Leader of the Senate;	321 322 323
(3) One representative of one film commission in Ohio, to be appointed by the Governor;	324 325
(4) One representative of the Department of Taxation, to be appointed by the Tax Commissioner;	326 327
(5) One representative of the Department of Development, to be appointed by the Director of Development;	328 329
(6) One representative of each of the following entities headquartered in Ohio, to be appointed by the Governor:	330 331
(a) A national advertiser;	332
(b) An advertising agency;	333
(c) A production company;	334
(d) A post-production company;	335
(e) A sound recording facility;	336
(f) A production payroll, production tax, or production accounting firm;	337 338
(g) An independent producer;	339
(h) An equipment and crew service provider;	340
(i) Talent from the Screen Actors Guild or the American Federation of Television and Radio Artists.	341 342
(7) One representative each from a full service production company headquartered in northeast Ohio, in central Ohio, and in southwest Ohio, all three of these representatives to be appointed by the Governor;	343 344 345 346
(8) One representative of higher education in Ohio who is involved with media production, to be appointed by the Governor.	347 348

(B) Appointments to the Committee shall be made within thirty 349  
days after the effective date of this section. The chairperson of 350  
the Committee shall be one of the Senate members of the Committee, 351  
selected by the President of the Senate. The Committee shall meet 352  
at least once every two months. Members of the Committee shall 353  
serve without compensation. 354

(C) Upon submission of its recommendations and report under 355  
Section 3 of this act, the Committee shall cease to exist. 356

**Section 5.** From fiscal year 2008 appropriations to the 357  
Department of Development that may be used for this purpose, the 358  
Director of Development shall provide up to \$50,000 to pay for the 359  
study and report required by Section 3 of this act. 360