

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**H. B. No. 511**

**Representatives Beck, Gonzales**

—

**A BILL**

To amend sections 121.22, 122.15, 122.151, 122.152, 1  
122.153, 122.154, 122.28, 122.30 to 122.36, 2  
150.03, 150.05, 150.07, 184.02, and 5725.33 and to 3  
repeal section 122.29 of the Revised Code to make 4  
various changes to the administration of the 5  
investment tax credit, the venture capital loan 6  
loss tax credit, and the New Markets tax credit, 7  
including the increase of the maximum amount of 8  
the investment tax credit and the venture capital 9  
loan loss tax credit, the elimination of the 10  
Industrial Technology and Enterprise Advisory 11  
Councils, and the acceleration of the receipt of 12  
New Markets tax credit installments. 13

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

**Section 1.** That sections 121.22, 122.15, 122.151, 122.152, 14  
122.153, 122.154, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 15  
122.35, 122.36, 150.03, 150.05, 150.07, 184.02, and 5725.33 of the 16  
Revised Code be amended to read as follows: 17

**Sec. 121.22.** (A) This section shall be liberally construed to 18  
require public officials to take official action and to conduct 19  
all deliberations upon official business only in open meetings 20

unless the subject matter is specifically excepted by law.	21
(B) As used in this section:	22
(1) "Public body" means any of the following:	23
(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;	24 25 26 27 28 29
(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;	30 31
(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.	32 33 34 35 36 37 38 39 40 41
(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.	42 43
(3) "Regulated individual" means either of the following:	44
(a) A student in a state or local public educational institution;	45 46
(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.	47 48 49 50

(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.	51 52
(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.	53 54 55 56 57
The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.	58 59 60 61 62
(D) This section does not apply to any of the following:	63
(1) A grand jury;	64
(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;	65 66 67
(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;	68 69 70
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	71 72
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	73 74 75
(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	76 77 78
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to	79 80

division (B) of section 4723.281 of the Revised Code;	81
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	82 83 84
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	85 86 87
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	88 89 90 91
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	92 93 94 95
(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code.	96 97 98 99
(E) The controlling board, the development financing advisory council, the <del>industrial technology and enterprise advisory council</del> <u>third frontier commission</u> , the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, <u>commission</u> , or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, <u>commission</u> , or board from the applicant:	100 101 102 103 104 105 106 107 108 109 110
(1) Marketing plans;	111

(2) Specific business strategy;	112
(3) Production techniques and trade secrets;	113
(4) Financial projections;	114
(5) Personal financial statements of the applicant or members	115
of the applicant's immediate family, including, but not limited	116
to, tax records or other similar information not open to public	117
inspection.	118
The vote by the authority, council, <u>commission</u> , or board to	119
accept or reject the application, as well as all proceedings of	120
the authority, council, <u>commission</u> , or board not subject to this	121
division, shall be open to the public and governed by this	122
section.	123
(F) Every public body, by rule, shall establish a reasonable	124
method whereby any person may determine the time and place of all	125
regularly scheduled meetings and the time, place, and purpose of	126
all special meetings. A public body shall not hold a special	127
meeting unless it gives at least twenty-four hours' advance notice	128
to the news media that have requested notification, except in the	129
event of an emergency requiring immediate official action. In the	130
event of an emergency, the member or members calling the meeting	131
shall notify the news media that have requested notification	132
immediately of the time, place, and purpose of the meeting.	133
The rule shall provide that any person, upon request and	134
payment of a reasonable fee, may obtain reasonable advance	135
notification of all meetings at which any specific type of public	136
business is to be discussed. Provisions for advance notification	137
may include, but are not limited to, mailing the agenda of	138
meetings to all subscribers on a mailing list or mailing notices	139
in self-addressed, stamped envelopes provided by the person.	140
(G) Except as provided in division (J) of this section, the	141
members of a public body may hold an executive session only after	142

a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, a joint township hospital operated pursuant to Chapter 513. of the Revised Code, or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those

divisions are to be considered at the executive session. 206

A public body specified in division (B)(1)(c) of this section 207  
shall not hold an executive session when meeting for the purposes 208  
specified in that division. 209

(H) A resolution, rule, or formal action of any kind is 210  
invalid unless adopted in an open meeting of the public body. A 211  
resolution, rule, or formal action adopted in an open meeting that 212  
results from deliberations in a meeting not open to the public is 213  
invalid unless the deliberations were for a purpose specifically 214  
authorized in division (G) or (J) of this section and conducted at 215  
an executive session held in compliance with this section. A 216  
resolution, rule, or formal action adopted in an open meeting is 217  
invalid if the public body that adopted the resolution, rule, or 218  
formal action violated division (F) of this section. 219

(I)(1) Any person may bring an action to enforce this 220  
section. An action under division (I)(1) of this section shall be 221  
brought within two years after the date of the alleged violation 222  
or threatened violation. Upon proof of a violation or threatened 223  
violation of this section in an action brought by any person, the 224  
court of common pleas shall issue an injunction to compel the 225  
members of the public body to comply with its provisions. 226

(2)(a) If the court of common pleas issues an injunction 227  
pursuant to division (I)(1) of this section, the court shall order 228  
the public body that it enjoins to pay a civil forfeiture of five 229  
hundred dollars to the party that sought the injunction and shall 230  
award to that party all court costs and, subject to reduction as 231  
described in division (I)(2) of this section, reasonable 232  
attorney's fees. The court, in its discretion, may reduce an award 233  
of attorney's fees to the party that sought the injunction or not 234  
award attorney's fees to that party if the court determines both 235  
of the following: 236

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents 268  
described in division (B) of section 5901.09 of the Revised Code; 269

(c) Reviewing matters relating to an applicant's request for 270  
financial assistance under sections 5901.01 to 5901.15 of the 271  
Revised Code. 272

(2) A veterans service commission shall not exclude an 273  
applicant for, recipient of, or former recipient of financial 274  
assistance under sections 5901.01 to 5901.15 of the Revised Code, 275  
and shall not exclude representatives selected by the applicant, 276  
recipient, or former recipient, from a meeting that the commission 277  
conducts as an executive session that pertains to the applicant's, 278  
recipient's, or former recipient's application for financial 279  
assistance. 280

(3) A veterans service commission shall vote on the grant or 281  
denial of financial assistance under sections 5901.01 to 5901.15 282  
of the Revised Code only in an open meeting of the commission. The 283  
minutes of the meeting shall indicate the name, address, and 284  
occupation of the applicant, whether the assistance was granted or 285  
denied, the amount of the assistance if assistance is granted, and 286  
the votes for and against the granting of assistance. 287

**Sec. 122.15.** As used in sections 122.15 to 122.154 of the 288  
Revised Code: 289

(A) "~~Edison center~~ Director" means a ~~cooperative research and~~ 290  
~~development facility that receives funding through the Thomas Alva~~ 291  
~~Edison grant program under division (C) of section 122.33~~ director 292  
of ~~the Revised Code~~ development. 293

(B) "Ohio entity" means any corporation, limited liability 294  
company, or unincorporated business organization, including a 295  
general or limited partnership, that has its principal place of 296  
business located in this state and has at least fifty per cent of 297

its gross assets and fifty per cent of its employees located in 298  
this state. If a corporation, limited liability company, or 299  
unincorporated business organization is a member of an affiliated 300  
group, the gross assets and the number of employees of all of the 301  
members of that affiliated group, wherever those assets and 302  
employees are located, shall be included for the purpose of 303  
determining the percentage of the corporation's, company's, or 304  
organization's gross assets and employees that are located in this 305  
state. 306

(C) "Qualified trade or business" means any trade or business 307  
that primarily involves research and development, technology 308  
transfer, bio-technology, information technology, or the 309  
application of new technology developed through research and 310  
development or acquired through technology transfer. "Qualified 311  
trade or business" does not include any of the following: 312

(1) Any trade or business involving the performance of 313  
services in the field of law, engineering, architecture, 314  
accounting, actuarial science, performing arts, consulting, 315  
athletics, financial services, or brokerage services, or any trade 316  
or business where the principal asset of the trade or business is 317  
the reputation or skill of one or more of its employees; 318

(2) Any banking, insurance, financing, leasing, rental, 319  
investing, or similar business; 320

(3) Any farming business, including the business of raising 321  
or harvesting trees; 322

(4) Any business involving the production or extraction of 323  
products of a character with respect to which a deduction is 324  
allowable under section 611, 613, or 613A of the "Internal Revenue 325  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 611, 613, or 613A; 326

(5) Any business of operating a hotel, motel, restaurant, or 327  
similar business; 328

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

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

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

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

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

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

sibling of an individual. 360

(G) "Research and development" means designing, creating, or 361  
formulating new or enhanced products, equipment, or processes, and 362  
conducting scientific or technological inquiry and experimentation 363  
in the physical sciences with the goal of increasing scientific 364  
knowledge that may reveal the bases for new or enhanced products, 365  
equipment, or processes. 366

(H) "State tax liability" means any tax liability incurred 367  
under division (D) of section 5707.03, section 5727.24, 5727.38, 368  
or 5747.02, or Chapter 5733. of the Revised Code. 369

(I) "Technology transfer" means the transfer of technology 370  
from one sector of the economy to another, including the transfer 371  
of military technology to civilian applications, civilian 372  
technology to military applications, or technology from public or 373  
private research laboratories to military or civilian 374  
applications. 375

(J) "Affiliated group" means two or more persons related in 376  
such a way that one of the persons owns or controls the business 377  
operations of another of those persons. In the case of a 378  
corporation issuing capital stock, one corporation owns or 379  
controls the business operations of another corporation if it owns 380  
more than fifty per cent of the other corporation's capital stock 381  
with voting rights. In the case of a limited liability company, 382  
one person owns or controls the business operations of the company 383  
if that person's membership interest, as defined in section 384  
1705.01 of the Revised Code, is greater than fifty per cent of 385  
combined membership interest of all persons owning such interests 386  
in the company. In the case of an unincorporated business 387  
organization, one person owns or controls the business operations 388  
of the organization if, under the articles of organization or 389  
other instrument governing the affairs of the organization, that 390  
person has a beneficial interest in the organization's profits, 391

surpluses, losses, or other distributions greater than fifty per 392  
cent of the combined beneficial interests of all persons having 393  
such an interest in the organization. 394

(K) "Money" means United States currency, or a check, draft, 395  
or cashier's check for United States currency, payable on demand 396  
and drawn on a bank. 397

(L) "EDGE business enterprise" means an Ohio entity certified 398  
by the director of administrative services as a participant in the 399  
encouraging diversity, growth, and equity program established by 400  
the governor's executive order 2002-17T. 401

(M) "Distressed area" has the same meaning as in section 402  
122.23 of the Revised Code. 403

**Sec. 122.151.** (A) An investor who proposes to make an 404  
investment of money in an Ohio entity may apply to ~~an Edison~~ 405  
~~center~~ the director for a tax credit under this section. The 406  
~~Edison center~~ director shall prescribe the form of the application 407  
and any information that the investor must submit with the 408  
application. The investor shall include with the application a fee 409  
of two hundred dollars. The ~~center~~ director, within ~~three~~ four 410  
weeks after receiving the application, shall review it, determine 411  
whether the investor should be recommended for the tax credit, and 412  
send written notice of ~~its~~ the director's initial determination to 413  
the ~~industrial technology and enterprise advisory council~~ third 414  
frontier commission established under section 184.01 of the 415  
Revised Code and to the investor. If the ~~center~~ director 416  
determines the investor should not be recommended for the tax 417  
credit, ~~it~~ the director shall include in the notice the reasons 418  
for the determination. Subject to divisions (C) and (D) of this 419  
section, an investor is eligible for a tax credit if all of the 420  
following requirements are met: 421

(1) The investor's investment of money is in an Ohio entity 422

engaged in a qualified trade or business. 423

(2) The Ohio entity had less than two million five hundred 424  
thousand dollars of gross revenue during its most recently 425  
completed fiscal year or had a net book value of less than two 426  
million five hundred thousand dollars at the end of that fiscal 427  
year. 428

(3) The investment takes the form of the purchase of common 429  
or preferred stock, a membership interest, a partnership interest, 430  
or any other ownership interest. 431

(4) The amount of the investment for which the credit is 432  
being claimed does not exceed three hundred thousand dollars in 433  
the case of an investment in an EDGE business enterprise or in an 434  
Ohio entity located in a distressed area, or two hundred fifty 435  
thousand dollars in the case of an investment in any other Ohio 436  
entity. 437

(5) The money invested is entirely at risk of loss, where 438  
repayment depends upon the success of the business operations of 439  
the Ohio entity. 440

(6) No repayment of principal invested will be made for at 441  
least three years from the date the investment is made. 442

(7) The annual combined amount of any dividend and interest 443  
payments to be made to the investor will not exceed ten per cent 444  
of the amount of the investment for at least three years from the 445  
date the investment is made. 446

(8) The investor is not an employee with proprietary 447  
decision-making authority of the Ohio entity in which the 448  
investment of money is proposed, or related to such an individual. 449  
The Ohio entity is not an individual related to the investor. For 450  
purposes of this division, the ~~industrial technology and~~ 451  
~~enterprise advisory council~~ director shall define "an employee 452  
with proprietary decision-making authority." 453

(9) The investor is not an insider. 454

For the purposes of determining the net book value of an Ohio 455  
entity under division (A)(1) or (2) of this section, if the entity 456  
is a member of an affiliated group, the combined net book values 457  
of all of the members of that affiliated group shall be used. 458

Nothing in division (A)(6) or (7) of this section limits or 459  
disallows the distribution to an investor in a pass-through entity 460  
of a portion of the entity's profits equal to the investor's 461  
federal, state, and local income tax obligations attributable to 462  
the investor's allocable share of the entity's profits. Nothing in 463  
division (A)(6) or (7) of this section limits or disallows the 464  
sale by an investor of part or all of the investor's interests in 465  
an Ohio entity by way of a public offering of shares in the Ohio 466  
entity. 467

(B) A group of two but not more than twenty investors, each 468  
of whom proposes to make an investment of money in the same Ohio 469  
entity, may submit an application for tax credits under division 470  
(A) of this section. The group shall include with the application 471  
a fee of eight hundred dollars. The application shall identify 472  
each investor in the group and the amount of money each investor 473  
proposes to invest in the Ohio entity, and shall name a contact 474  
person for the group. The ~~Edison center~~ director, within ~~three~~ 475  
four weeks after receiving the application, shall review it, 476  
determine whether each investor of the group should be recommended 477  
for a tax credit under the conditions set forth in division (A) of 478  
this section, and send written notice of ~~its~~ the director's 479  
determination to the ~~industrial technology and enterprise advisory~~ 480  
~~council~~ commission and to the contact person. The ~~center~~ director 481  
shall not recommend that a group of investors receive a tax credit 482  
unless each investor is eligible under those conditions. The 483  
~~center~~ director may disqualify from a group any investor who is 484  
not eligible under the conditions and recommend that the remaining 485

group of investors receive the tax credit. If the ~~center~~ director 486  
determines the group should not be recommended for the tax credit, 487  
~~it~~ the director shall include in the notice the reasons for the 488  
determination. 489

(C) ~~The industrial technology and enterprise advisory council~~ 490  
~~shall establish from among its members a three person committee.~~ 491  
Within four weeks after the ~~council~~ commission receives a notice 492  
of recommendation from an ~~Edison center~~ the director, the 493  
~~committee~~ commission shall review the recommendation and issue a 494  
final determination of whether the investor or group is eligible 495  
for a tax credit under the conditions set forth in division (A) of 496  
this section. The ~~committee~~ commission may require the investor or 497  
group to submit additional information to support the application. 498  
~~The vote of at least two members of the committee is necessary for~~ 499  
~~the issuance of a final determination or any other action of the~~ 500  
~~committee.~~ Upon making the final determination, the ~~committee~~ 501  
commission shall send written notice of approval or disapproval of 502  
the tax credit to the investor or group contact person, and the 503  
~~director of development, and the Edison center.~~ If the ~~committee~~ 504  
commission disapproves the tax credit, it shall include in the 505  
notice the reasons for the disapproval. 506

(D)(1) ~~The industrial technology and enterprise advisory~~ 507  
~~council committee~~ commission shall not approve more than one 508  
million five hundred thousand dollars of investments in any one 509  
Ohio entity. However, if a proposed investment of money in an Ohio 510  
entity has been approved but the investor does not actually make 511  
the investment, the ~~committee~~ commission may reassign the amount 512  
of that investment to another investor, as long as the total 513  
amount invested in the entity under this section does not exceed 514  
one million five hundred thousand dollars. 515

If the one-million-five-hundred-thousand-dollar limit for an 516  
Ohio entity has not yet been reached and an application proposes 517

an investment of money that would exceed the limit for that 518  
entity, the ~~committee~~ commission shall send written notice to the 519  
investor, or for a group, the contact person, that the investment 520  
cannot be approved as requested. Upon receipt of the notice, the 521  
investor or group may amend the application to propose an 522  
investment of money that does not exceed the limit. 523

(2) Not more than ~~forty-five~~ fifty-one million dollars of tax 524  
credits shall be issued under sections 122.15 to 122.154 of the 525  
Revised Code. 526

(E) If an investor makes an approved investment of less than 527  
two hundred fifty thousand dollars in any Ohio entity other than 528  
an EDGE business enterprise or in an Ohio entity located in a 529  
distressed area, the investor may apply for approval of another 530  
investment of money in that entity, as long as the total amount 531  
invested in that entity by the investor under this section does 532  
not exceed two hundred fifty thousand dollars. If an investor 533  
makes an approved investment of less than three hundred thousand 534  
dollars in an EDGE business enterprise or in an Ohio entity 535  
located in a distressed area, the investor may apply for approval 536  
of another investment of money in that entity, as long as the 537  
total amount invested in that entity by the investor under this 538  
section does not exceed three hundred thousand dollars. An 539  
investor who receives approval of an investment of money as part 540  
of a group may subsequently apply on an individual basis for 541  
approval of an additional investment of money in the Ohio entity. 542

(F) The ~~industrial technology and enterprise advisory council~~ 543  
~~committee~~ commission shall approve or disapprove tax credit 544  
applications under this section in the order in which they are 545  
received by the ~~council~~ commission. 546

(G) The director ~~of development may disapprove any~~ 547  
~~application recommended by an Edison center and approved by the~~ 548  
~~industrial technology and enterprise advisory council committee,~~ 549

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

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

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

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

commission and the director of ~~development~~ indicating that the 581  
investor is allowed a tax credit equal to one of the following 582  
amounts: 583

(1) Thirty per cent of the investment if the investment was 584  
made in an EDGE business enterprise or in an Ohio entity located 585  
in a distressed area; 586

(2) Twenty-five per cent of the investment if the investment 587  
was made in an Ohio entity other than an EDGE business enterprise. 588

An investor who receives approval of a proposed investment of 589  
money through a group application, after making the investment, 590  
shall apply for a tax credit certificate on an individual basis. 591

(B) An investor who is issued a tax credit certificate under 592  
this section may claim a nonrefundable credit equal to the amount 593  
indicated on the certificate against any state tax liability. The 594  
investor shall claim the credit for the taxable year in which the 595  
certificate is issued. 596

(1) If the credit to which a taxpayer otherwise would be 597  
entitled under this section for any taxable year is greater than 598  
the tax otherwise due under division (D) of section 5707.03 or 599  
section 5727.24 or 5727.38 of the Revised Code, the excess shall 600  
be allowed as a credit in each of the ensuing fifteen taxable 601  
years, but the amount of any excess credit allowed in an ensuing 602  
taxable year shall be deducted from the balance carried forward to 603  
the next taxable year. 604

(2) If the credit to which a taxpayer otherwise would be 605  
entitled under this section for any taxable year is greater than 606  
the tax otherwise due under section 5747.02 or Chapter 5733. of 607  
the Revised Code, after allowing for any other credits that 608  
precede the credit allowed under this section in the order 609  
required under section 5733.98 or 5747.98 of the Revised Code, the 610  
excess shall be allowed as a credit in each of the ensuing fifteen 611

taxable years, but the amount of any excess credit allowed in an 612  
ensuing taxable year shall be deducted from the balance carried 613  
forward to the next taxable year. 614

(C) Any portion of a credit allowed under this section that 615  
is utilized by an investor to reduce the investor's state tax 616  
liability shall not be utilized by any other person. 617

(D) To claim a tax credit allowed under this section, an 618  
investor shall attach to the appropriate return a copy of the 619  
certificate issued to the investor under this section. 620

(E) Nothing in this section shall limit or disallow 621  
pass-through treatment of a pass-through entity's income, 622  
deductions, or credits, or other amounts necessary to compute a 623  
state tax liability. 624

(F) A tax credit certificate issued to an investor under this 625  
section may not be transferred by that investor to any other 626  
person. 627

(G)(1) The director ~~of development~~ shall develop the form of 628  
the tax credit certificate and the ~~industrial technology and~~ 629  
~~enterprise advisory council committee~~ commission shall use that 630  
form when issuing a tax credit certificate under this section. 631

(2) The director ~~of development~~ shall report to the tax 632  
commissioner any information requested by the commissioner 633  
concerning tax credit certificates issued under this section. 634

(H) An investment made by an investor or group of investors 635  
who enter into a contractual agreement with an Ohio entity to 636  
invest money in the Ohio entity is an acceptable investment if all 637  
of the following conditions are met: 638

(1) The investment is made pursuant to a subscription 639  
agreement providing that the investor or group of investors is 640  
entitled to receive a refund of funds if the investment is not 641

approved by the ~~industrial technology and enterprise advisory~~ 642  
~~council committee~~ commission. 643

(2) The investment is placed in escrow until the investment 644  
is approved by the ~~industrial technology and enterprise advisory~~ 645  
~~council committee~~ commission. 646

(3) The investor or group of investors shows proof of the 647  
withdrawal of the funds by the Ohio entity after the investment is 648  
approved by the ~~industrial technology and enterprise advisory~~ 649  
~~council committee~~ commission. 650

**Sec. 122.153.** If the ~~industrial technology and enterprise~~ 651  
~~advisory council committee~~ third frontier commission receives 652  
information alleging that an investor that was issued a tax credit 653  
certificate presented false information to an ~~Edison center~~ the 654  
director or the ~~committee~~ commission in connection with obtaining 655  
the certificate, it shall send written notice to the investor that 656  
if the allegation is found to be true the investor may be 657  
penalized as provided in this section. After giving the investor 658  
an opportunity to be heard on the allegation, the ~~committee~~ 659  
commission shall determine if the investor presented false 660  
information in connection with obtaining a tax credit certificate. 661

If the ~~committee~~ commission determines the investor submitted 662  
false information, it may revoke any remaining tax credit 663  
available to the investor. The ~~committee~~ commission shall send 664  
written notice of the revocation to the investor and the tax 665  
commissioner. The tax commissioner may make an assessment against 666  
the investor to recapture any amount of tax credit that the 667  
investor already has claimed. The time limitations on assessments 668  
under the laws of the particular tax against which the investor 669  
claimed the credit do not apply to an assessment under this 670  
section. 671

Sec. 122.154. (A) A business may apply to ~~an Edison center~~ the director for a determination as to whether the business is an Ohio entity eligible to receive investments of money under section 122.151 of the Revised Code that qualify the investor for a tax credit under section 122.152 of the Revised Code. The business shall include with the application a fee of one hundred fifty dollars and a business plan. The ~~Edison center~~ director shall prescribe any other information the business must submit with the application and the form of the application. The ~~center~~ director, within ~~three~~ four weeks after receiving the application, shall review it, determine whether the business is an Ohio entity eligible to receive investments of money that qualify for the tax credit, and send written notice to the ~~industrial technology and enterprise advisory council~~ third frontier commission and the business of ~~its~~ the director's initial determination. If the ~~center~~ director determines that the business is not an Ohio entity eligible to receive investments of money that qualify for the tax credit, ~~it~~ the director shall include in the notice the reasons for the determination.

Within four weeks after the ~~council~~ commission receives a notice of recommendation from ~~an Edison center~~ the director, the ~~industrial technology and enterprise advisory council~~ committee established under section 122.152 of the Revised Code commission shall review the recommendation and issue a final determination of whether the business is an Ohio entity eligible to receive investments of money under section 122.151 of the Revised Code that qualify an investor for a tax credit under section 122.152 of the Revised Code. The ~~committee~~ commission may require the business to submit additional information to support the application. ~~The vote of at least two members of the committee is necessary for the issuance of a final determination.~~ On making the final determination, the ~~committee~~ commission shall send written

notice of approval or disapproval to the business, and the 704  
director ~~of development, and the Edison center~~. If the ~~committee~~ 705  
commission determines that the business is not an Ohio entity 706  
eligible to receive investments of money that qualify for the tax 707  
credit, it shall include in the notice the reasons for the 708  
determination. 709

(B) The department of development shall maintain a list of 710  
the businesses that have been determined to be Ohio entities 711  
eligible to receive investments of money that qualify for the tax 712  
credit. The department shall furnish copies of the list to the 713  
public upon request. 714

(C) The department ~~of development~~ may prescribe a schedule 715  
under which businesses periodically must submit information to 716  
enable the ~~center~~ department to maintain the accuracy of the list. 717  
At the times required in the schedule, each business on the list 718  
shall submit any information the ~~center~~ department requires to 719  
determine if the business continues to be an Ohio entity eligible 720  
to receive investments of money that qualify for the tax credit. 721

(D) ~~An Edison center~~ The director shall use fees received 722  
under this section only for the costs of administering sections 723  
122.15 to 122.154 of the Revised Code. 724

(E) The ~~Edison centers~~ director and the ~~industrial technology~~ 725  
~~and enterprise advisory council and its committee~~ commission do 726  
not assume any responsibility for the accuracy or truthfulness of 727  
information furnished by an Ohio entity or its agents. 728

An investor in an Ohio entity is solely responsible for due 729  
diligence in verifying information submitted by an Ohio entity. ~~An~~ 730  
~~Edison center~~ The department is not liable for any action 731  
resulting from its provision of such information to investors in 732  
accordance with sections 122.15 to 122.154 of the Revised Code. 733

**Sec. 122.28.** As used in sections 122.28 and 122.30 to 122.36 734  
of the Revised Code: 735

(A) "New technology" means the development through science or 736  
research of methods, processes, and procedures, including but not 737  
limited to those involving the processing and utilization of coal, 738  
for practical application in industrial or agribusiness 739  
situations. 740

(B) "Industrial research" means study and investigation in 741  
giving new shapes, new qualities or new combinations to matter or 742  
material products by the application of labor thereto or the 743  
rehabilitation of an existing matter or material product. 744

(C) "Enterprise" means a business with its principal place of 745  
business in this state or which proposes to be engaged in this 746  
state in research and development or in the provision of products 747  
or services involving a significant amount of new technology. 748

(D) "Educational institutions" means nonprofit public and 749  
private colleges and universities, incorporated or unincorporated, 750  
in the state. 751

(E) "Small business" means an enterprise with less than four 752  
hundred employees, including corporations, partnerships, 753  
unincorporated entities, proprietorships, and joint enterprises. 754

(F) "Applied research" means the application of basic 755  
research for the development of new technology. 756

**Sec. 122.30.** The ~~industrial technology and enterprise~~ 757  
~~advisory council~~ third frontier commission established in section 758  
184.01 of the Revised Code and the director of development are 759  
vested with the powers and duties provided in sections 122.28 and 760  
122.30 to 122.36 of the Revised Code, to promote the welfare of 761  
the people of the state through the interaction of the business 762  
and industrial community and educational institutions in the 763

development of new technology and enterprise. 764

(A) It is necessary for the state to establish the ~~industrial~~ 765  
~~technology and enterprise advisory council and the~~ programs 766  
created pursuant to sections 122.28 and 122.30 to 122.36 of the 767  
Revised Code to accomplish the following purposes which are 768  
determined to be essential: 769

(1) Improve the existing industrial and agricultural base of 770  
the state; 771

(2) Improve the economy of the state by providing employment, 772  
increasing productivity, and slowing the rate of inflation; 773

(3) Develop markets worldwide for the products of the state's 774  
natural resources and agricultural and manufacturing industries; 775

(4) Maintain a high standard of living for the people of the 776  
state. 777

(B) The ~~industrial technology and enterprise advisory council~~ 778  
commission shall do ~~all~~ both of the following: 779

(1) Make recommendations to the director of development as to 780  
applications for assistance pursuant to sections 122.28 and 122.30 781  
to 122.36 of the Revised Code. The ~~council~~ commission may revise 782  
its recommendations to reflect any changes in the proposed 783  
assistance made by the director. 784

(2) Advise the director in the administration of sections 785  
122.28 and 122.30 to 122.36 of the Revised Code; 786

~~(3) Adopt bylaws to govern the conduct of the council's~~ 787  
~~business.~~ 788

(C) The director of development shall do all of the 789  
following: 790

(1) Receive applications for assistance under sections 122.28 791  
and 122.30 to 122.36 of the Revised Code and, after processing, 792  
forward them to the ~~council~~ commission together with necessary 793

supporting information;	794
(2) Receive the recommendations of the <del>council</del> <u>commission</u> and	795
make a final determination whether to approve the application for	796
assistance;	797
(3) Transmit determinations to approve assistance exceeding	798
forty thousand dollars to the controlling board, together with any	799
information the controlling board requires, for the board's review	800
and decision as to whether to approve the assistance;	801
(4) Gather and disseminate information and conduct hearings,	802
conferences, seminars, investigations, and special studies on	803
problems and programs concerning industrial research and new	804
technology and their commercial applications in the state;	805
(5) Establish an annual program to recognize the	806
accomplishments and contributions of individuals and organizations	807
in the development of industrial research and new technology in	808
the state;	809
(6) Stimulate both public and industrial awareness and	810
interest in industrial research and development of new technology	811
primarily in the areas of industrial processes, implementation,	812
energy, agribusiness, medical technology, avionics, and food	813
processing;	814
(7) Develop and implement comprehensive and coordinated	815
policies, programs, and procedures promoting industrial research	816
and new technology;	817
(8) Propose appropriate legislation or executive actions to	818
stimulate the development of industrial research and new	819
technology by enterprises and individuals;	820
(9) Encourage and facilitate contracts between industry,	821
agriculture, educational institutions, federal agencies, and state	822
agencies, with special emphasis on industrial research and new	823

technology by small businesses and agribusiness; 824

(10) Participate with any state agency in developing specific 825  
programs and goals to assist in the development of industrial 826  
research and new technology and monitor performance; 827

(11) Assist enterprises in obtaining alternative forms of 828  
governmental or commercial financing for industrial research and 829  
new technology; 830

(12) Assist enterprises or individuals in the implementation 831  
of new programs and policies and the expansion of existing 832  
programs to provide an atmosphere conducive to increased 833  
cooperation among and participation by individuals, enterprises, 834  
and educational institutions engaged in industrial research and 835  
the development of new technology; 836

(13) Advertise, prepare, print, and distribute books, maps, 837  
pamphlets, and other information which in the judgment of the 838  
director will further its purposes; 839

(14) Include in the director's annual report to the governor 840  
and the general assembly a report on the activities for the 841  
preceding calendar year under sections 122.28 and 122.30 to 122.36 842  
of the Revised Code; 843

(15) Approve the expenditure of money appropriated by the 844  
general assembly for the purpose of sections 122.28 and 122.30 to 845  
122.36 of the Revised Code; 846

(16) Identify and implement federal research and development 847  
programs which would link Ohio's industrial base, research 848  
facilities, and natural resources; 849

(17) Employ and fix the compensation of technical and 850  
professional personnel, who shall be in the unclassified civil 851  
service, and employ other personnel, who shall be in the 852  
classified civil service, as necessary to carry out the provisions 853

of sections 122.28 and 122.30 to 122.36 of the Revised Code. 854

**Sec. 122.31.** All expenses and obligations incurred by the 855  
director of development and the ~~industrial technology and~~ 856  
~~enterprise advisory council~~ third frontier commission in carrying 857  
out their powers and in exercising their duties under sections 858  
122.28 and 122.30 to 122.36 of the Revised Code, are payable from 859  
revenues or other receipts or income from grants, gifts, 860  
contributions, compensation, reimbursement, and funds established 861  
in accordance with those sections or general revenue funds 862  
appropriated by the general assembly for operating expenses of the 863  
director or ~~council~~ commission. 864

**Sec. 122.32.** The director of development, on behalf of the 865  
programs authorized pursuant to sections 122.28 and 122.30 to 866  
122.36 of the Revised Code, may receive and accept grants, gifts, 867  
and contributions of money, property, labor, and other things of 868  
value to be held, used, and applied only for the purpose for which 869  
the grants, gifts, and contributions are made, from individuals, 870  
private and public corporations, from the United States or any 871  
agency of the United States, and from any political subdivision of 872  
the state. The director may agree to repay any contribution of 873  
money or to return any property contributed or its value at times, 874  
in amounts, and on terms and conditions excluding the payment of 875  
interest as the director determines at the time the contribution 876  
is made. The director may evidence the obligation by written 877  
contracts, subject to section 122.31 of the Revised Code, provided 878  
that the director shall not thereby incur indebtedness of or 879  
impose liability upon the state or any political subdivision. 880

**Sec. 122.33.** The director of development shall administer the 881  
following programs: 882

(A) The industrial technology and enterprise development 883

grant program, to provide capital to acquire, construct, enlarge, 884  
improve, or equip and to sell, lease, exchange, and otherwise 885  
dispose of property, structures, equipment, and facilities within 886  
the state. 887

Such funding may be made to enterprises that propose to 888  
develop new products or technologies when the director finds all 889  
of the following factors to be present: 890

(1) The undertaking will benefit the people of the state by 891  
creating or preserving jobs and employment opportunities or 892  
improving the economic welfare of the people of the state, and 893  
promoting the development of new technology. 894

(2) There is reasonable assurance that the potential 895  
royalties to be derived from the sale of the product or process 896  
described in the proposal will be sufficient to repay the funding 897  
pursuant to sections 122.28 and 122.30 to 122.36 of the Revised 898  
Code and that, in making the agreement, as it relates to patents, 899  
copyrights, and other ownership rights, there is reasonable 900  
assurance that the resulting new technology will be utilized to 901  
the maximum extent possible in facilities located in Ohio. 902

(3) The technology and research to be undertaken will allow 903  
enterprises to compete more effectively in the marketplace. Grants 904  
of capital may be in such form and conditioned upon such terms as 905  
the ~~board~~ director deems appropriate. 906

(B) The industrial technology and enterprise resources 907  
program to provide for the collection, dissemination, and exchange 908  
of information regarding equipment, facilities, and business 909  
planning consultation resources available in business, industry, 910  
and educational institutions and to establish methods by which 911  
small businesses may use available facilities and resources. The 912  
methods may include, but need not be limited to, leases 913  
reimbursing the educational institutions for their actual costs 914

incurred in maintaining the facilities and agreements assigning 915  
royalties from development of successful products or processes 916  
through the use of the facilities and resources. The director 917  
shall operate this program in conjunction with the board of 918  
regents. 919

(C) The Thomas Alva Edison grant program to provide grants to 920  
foster research, development, or technology transfer efforts 921  
involving enterprises and educational institutions that will lead 922  
to the creation of jobs. 923

(1) Grants may be made to a nonprofit organization or a 924  
public or private educational institution, department, college, 925  
institute, faculty member, or other administrative subdivision or 926  
related entity of an educational institution when the director 927  
finds that the undertaking will benefit the people of the state by 928  
supporting research in advanced technology areas likely to improve 929  
the economic welfare of the people of the state through promoting 930  
the development of new commercial technology. 931

(2) Grants may be made in a form and conditioned upon terms 932  
as the director considers appropriate. 933

(3) Grants made under this program shall in all instances be 934  
in conjunction with a contribution to the project by a cooperating 935  
enterprise which maintains or proposes to maintain a relevant 936  
research, development, or manufacturing facility in the state, by 937  
a nonprofit organization, or by an educational institution or 938  
related entity; however, funding provided by an educational 939  
institution or related entity shall not be from general revenue 940  
funds appropriated by the Ohio general assembly. No grant made 941  
under this program shall exceed the contribution made by the 942  
cooperating enterprise, nonprofit organization, or educational 943  
institution or related entity. The director may consider 944  
cooperating contributions in the form of state of the art new 945  
equipment or in other forms provided the director determines that 946

the contribution is essential to the successful implementation of 947  
the project. The director may adopt rules or guidelines for the 948  
valuation of contributions of equipment or other property. 949

(4) The director may determine fields of research from which 950  
grant applications will be accepted under this program. 951

**Sec. 122.34.** The exercise of the powers granted by sections 952  
122.28 and 122.30 to 122.36 of the Revised Code will be in all 953  
respects for the benefit of the people of the state, for the 954  
improvement of commerce and prosperity, improvement of employment 955  
conditions, and will constitute the performance of essential 956  
governmental functions. 957

**Sec. 122.35.** All moneys received under sections 122.28 and 958  
122.30 to 122.36 of the Revised Code are trust funds to be held 959  
and applied solely as provided in those sections and section 960  
166.03 of the Revised Code. All moneys, except when deposited with 961  
the treasurer of the state, shall be kept and secured in 962  
depositories as selected by the director of development in the 963  
manner provided in sections 135.01 to 135.21 of the Revised Code, 964  
insofar as those sections are applicable. All moneys held by the 965  
director in trust to carry out the purposes of sections 122.28 and 966  
122.30 to 122.36 of the Revised Code shall be used as provided in 967  
sections 122.28 and 122.30 to 122.36 of the Revised Code and at no 968  
time be part of other public funds. 969

**Sec. 122.36.** Any materials or data submitted to, made 970  
available to, or received by the director of development, the 971  
~~industrial technology and enterprise advisory council~~ third 972  
frontier commission, or the controlling board, to the extent that 973  
the material or data consist of trade secrets, as defined in 974  
section 1333.61 of the Revised Code, or commercial or financial 975  
information, regarding projects are not public records for the 976

purposes of section 149.43 of the Revised Code. 977

**Sec. 150.03.** Within ninety days after April 9, 2003, the 978  
authority shall establish, and subsequently may modify as it 979  
considers necessary, a written investment policy governing the 980  
investment of money from the program fund, which is hereby 981  
created. The program fund shall consist of the proceeds of loans 982  
acquired by a program administrator. The authority is subject to 983  
Chapter 119. of the Revised Code with respect to the establishment 984  
or modification of the policy. The policy shall meet all the 985  
following requirements: 986

(A) It is consistent with the purpose of the program stated 987  
in section 150.01 of the Revised Code. 988

(B) Subject to divisions (C), (D), and (E) of this section, 989  
it permits the investment of money from the program fund in 990  
private, for-profit venture capital funds, including funds of 991  
funds, that invest in enterprises in the seed or early stage of 992  
business development or established business enterprises 993  
developing new methods or technologies, and that demonstrate 994  
potential to generate high levels of successful investment 995  
performance. 996

(C) It specifies that a program administrator or fund manager 997  
employed by the program administrator shall invest not less than 998  
seventy-five per cent of program fund money under its investment 999  
authority in Ohio-based venture capital funds. 1000

(D) It specifies both of the following: 1001

(1) That not less than an amount equal to fifty per cent of 1002  
program fund money invested in any venture capital fund be 1003  
invested by the venture capital fund in Ohio-based business 1004  
enterprises; 1005

(2) That, commencing with the first program fund commitment 1006

to each venture capital fund, the aggregate amount funded into 1007  
Ohio-based business enterprises by all venture capital funds to 1008  
which the program fund has committed be not less than the 1009  
aggregate amount of all program fund money funded into those 1010  
venture capital funds. 1011

(E) It specifies that a program administrator or fund manager 1012  
employed by the program administrator shall not invest money from 1013  
the program fund in a venture capital fund to the extent that the 1014  
total amount of program fund money invested in the venture capital 1015  
fund, when combined with any program fund money invested in a 1016  
venture capital fund under the same management as, and formed 1017  
within two years before or after the formation of, that venture 1018  
capital fund, exceeds the lesser of the following: 1019

(1) Ten million dollars; 1020

(2)(a) In the case of an Ohio-based venture capital fund, 1021  
fifty per cent of the total amount of capital committed to the 1022  
fund from all sources, after accounting for capital committed from 1023  
the program fund; 1024

(b) In the case of any other venture capital fund, twenty per 1025  
cent of the total amount of capital committed to the fund from all 1026  
sources, after accounting for capital committed from the program 1027  
fund. 1028

(F) It specifies that a program administrator or fund manager 1029  
employed by the program administrator shall not commit capital 1030  
from the program fund to a venture capital fund until the venture 1031  
capital fund receives commitment of at least the same amount from 1032  
other investors in the fund. 1033

(G) It specifies the general conditions a private, for-profit 1034  
investment fund must meet to be selected as a program 1035  
administrator under section 150.05 of the Revised Code, including, 1036  
as a significant selection standard, direct experience managing 1037

external or nonproprietary capital in private equity fund of funds 1038  
formats. 1039

(H) It specifies the criteria the authority must consider 1040  
when making a determination under division (B)(1) of section 1041  
150.04 of the Revised Code. 1042

(I) It includes investment standards and general limitations 1043  
on allowable investments that the authority considers reasonable 1044  
and necessary to achieve the purposes of this chapter as stated in 1045  
division (B) of section 150.01 of the Revised Code, minimize the 1046  
need for the authority to grant tax credits under section 150.07 1047  
of the Revised Code, ensure compliance of the program 1048  
administrators with all applicable laws of this state and the 1049  
United States, and ensure the safety and soundness of investments 1050  
of money from the program fund. 1051

(J) It prohibits the investment of money from the program 1052  
fund directly in persons other than venture capital funds, except 1053  
for temporary investment in investment grade debt securities or 1054  
temporary deposit in interest-bearing accounts or funds pending 1055  
permanent investment in venture capital funds. 1056

**Sec. 150.05.** (A) The authority shall select, as program 1057  
administrators, not more than two private, for-profit investment 1058  
funds to acquire loans for the program fund and to invest money in 1059  
the program fund as prescribed in the investment policy 1060  
established or modified by the authority in accordance with 1061  
sections 150.03 and 150.04 of the Revised Code. The authority 1062  
shall give equal consideration, in selecting these program 1063  
administrators, to minority owned and controlled investment funds, 1064  
to funds owned and controlled by women, to ventures involving 1065  
minority owned and controlled funds, and to ventures involving 1066  
funds owned and controlled by women that otherwise meet the 1067  
policies and criteria established by the authority. To be eligible 1068

for selection, an investment fund must be incorporated or 1069  
organized under Chapter 1701., 1705., 1775., 1776., 1782., or 1070  
1783. of the Revised Code, ~~must have an established business~~ 1071  
~~presence in this state,~~ and must be capitalized in accordance with 1072  
any state and federal laws applicable to the issuance or sale of 1073  
securities. 1074

The authority shall select program administrators only after 1075  
soliciting and evaluating requests for proposals as prescribed in 1076  
this section. The authority shall publish a notice of a request 1077  
for proposals in newspapers of general circulation in this state 1078  
once each week for two consecutive weeks before a date specified 1079  
by the authority as the date on which it will begin accepting 1080  
proposals. The notices shall contain a general description of the 1081  
subject of the proposed agreement and the location where the 1082  
request for proposals may be obtained. The request for proposals 1083  
shall include all the following: 1084

(1) Instructions and information to respondents concerning 1085  
the submission of proposals, including the name and address of the 1086  
office where proposals are to be submitted; 1087

(2) Instructions regarding the manner in which respondents 1088  
may communicate with the authority, including the names, titles, 1089  
and telephone numbers of the individuals to whom such 1090  
communications shall be directed; 1091

(3) Description of the performance criteria that will be used 1092  
to evaluate whether a respondent selected by the authority is 1093  
satisfying the authority's investment policy; 1094

(4) Description of the factors and criteria to be considered 1095  
in evaluating respondents' proposals, which shall include the past 1096  
performance of the respondent in successfully administering 1097  
similar programs and achieving positive investment returns, the 1098  
relative importance of each factor or criterion, and description 1099

of the authority's evaluation procedure; 1100

(5) Description of any documents that may be incorporated by 1101  
reference into the request for proposals, provided that the 1102  
request specifies where such documents may be obtained and such 1103  
documents are readily available to all interested parties. 1104

After the date specified for receiving proposals, the 1105  
authority shall evaluate submitted proposals. The authority may 1106  
discuss a respondent's proposal with that respondent to clarify or 1107  
revise a proposal or the terms of the agreement. 1108

The authority shall choose for review proposals from at least 1109  
three respondents the authority considers qualified to operate the 1110  
program in the best interests of the investment policy adopted by 1111  
the authority. If three or fewer proposals are submitted, the 1112  
authority shall review each proposal. The authority may cancel a 1113  
request for proposals at any time before entering into an 1114  
agreement with a respondent. The authority shall provide 1115  
respondents fair and equal opportunity for such discussions. The 1116  
authority may terminate discussions with any respondent upon 1117  
written notice to the respondent. 1118

(B) After reviewing the chosen proposals, the authority may 1119  
select not more than two such respondents and enter into a written 1120  
agreement with each of the selected respondents, provided that at 1121  
no time shall there be agreements with more than two persons. 1122

The agreement shall do all of the following: 1123

(1) Specify that borrowing and investing by the program 1124  
administrator will be budgeted to guarantee that no tax credits 1125  
will be granted during the first four years of the Ohio venture 1126  
capital program, and will be structured to ensure that payments of 1127  
principal, interest, or interest equivalent due in any fiscal 1128  
year, when added to such payments due from any other program 1129  
administrator, does not exceed ~~twenty~~ twenty-six million five 1130

hundred thousand dollars; 1131

(2) Require investment by the program administrator or the 1132  
fund manager employed by the program administrator to be in 1133  
compliance with the investment policy established or modified in 1134  
accordance with sections 150.03 and 150.04 of the Revised Code 1135  
that is in effect at the time the investment is made, and prohibit 1136  
the program administrator or fund manager from engaging in any 1137  
investment activities other than activities to carry out that 1138  
policy; 1139

(3) Require periodic financial reporting by the program 1140  
administrator to the authority, which reporting shall include an 1141  
annual audit by an independent auditor and such other financial 1142  
reporting as is specified in the agreement or otherwise required 1143  
by the authority for the purpose of ensuring that the program 1144  
administrator is carrying out the investment policy; 1145

(4) Specify any like standards or general limitations in 1146  
addition to or in furtherance of investment standards or 1147  
limitations that apply pursuant to division (H) of section 150.03 1148  
of the Revised Code; 1149

(5) Require the program administrator to apply program fund 1150  
revenue first to the payment of principal borrowed by the program 1151  
administrator for investment under the program, then to interest 1152  
related to that principal, and then to amounts necessary to cover 1153  
the program administrator's pro rata share required under division 1154  
(B)(9) of this section; and require the program administrator to 1155  
pay the authority not less than ninety per cent of the amount by 1156  
which program fund revenue attributable to investments under the 1157  
program administrator's investment authority exceeds amounts so 1158  
applied; 1159

(6) Specify the procedures by which the program administrator 1160  
shall certify immediately to the authority the necessity for the 1161

authority to issue tax credit certificates pursuant to contracts 1162  
entered into under section 150.07 of the Revised Code; 1163

(7) Specify any general limitations regarding the employment 1164  
of a fund manager by the program administrator, in addition to an 1165  
express limitation that the fund manager be a person with 1166  
demonstrated, substantial, successful experience in the design and 1167  
management of seed and venture capital investment programs and in 1168  
capital formation. The fund manager may be, but need not be, an 1169  
equity owner or affiliate of the program administrator. 1170

(8) Specify the terms and conditions under which the 1171  
authority or the program administrator may terminate the 1172  
agreement, including in the circumstance that the program 1173  
administrator or fund manager violates the investment policy; 1174

(9) Require the program administrator or fund manager 1175  
employed by the program administrator to provide capital in the 1176  
form of a loan equal to one per cent of the amount of outstanding 1177  
loans by lenders to the program fund. The loan from the program 1178  
administrator or fund manager shall be on the same terms and 1179  
conditions as loans from other lenders, except that the loan from 1180  
the program administrator or fund manager shall not be secured by 1181  
the Ohio venture capital fund or tax credits available to other 1182  
lenders under division (B) of section 150.04 of the Revised Code. 1183  
Such capital shall be placed at the same risk as the proceeds from 1184  
such loans. The program administrator shall receive a pro rata 1185  
share of the net income, including net loss, from the investment 1186  
of money from the program fund, but is not entitled to the 1187  
security against losses provided under section 150.04 of the 1188  
Revised Code. 1189

(10) Specify that the program administrator and the fund 1190  
manager employed by the program administrator must have a 1191  
significant presence in this state, and define how a significant 1192  
presence in this state shall be determined. 1193

**Sec. 150.07.** (A) For the purpose stated in section 150.01 of 1194  
the Revised Code, the authority may authorize a lender to claim 1195  
one of the refundable tax credits allowed under section 5707.031, 1196  
5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the Revised 1197  
Code. The credits shall be authorized by a written contract with 1198  
the lender. The contract shall specify the terms under which the 1199  
lender may claim the credit, including the amount of loss, if any, 1200  
the lender must incur before the lender may claim the credit; 1201  
specify that the credit shall not exceed the amount of the loss; 1202  
and specify that the lender may claim the credit only for a loss 1203  
certified by a program administrator to the authority under the 1204  
procedures prescribed under division (B)(6) of section 150.05 of 1205  
the Revised Code. The program administrator shall provide to the 1206  
authority an estimate of the amount of tax credits, if any, that 1207  
are likely, in the administrator's reasonable judgment, to be 1208  
claimed by a lender during the current and next succeeding state 1209  
fiscal years. The estimate shall be provided at the same time each 1210  
year that the administrator is required to report the annual audit 1211  
to the authority under section 150.05 of the Revised Code. 1212

(B) Tax credits may be authorized at any time after the 1213  
authority establishes the investment policy under section 150.03 1214  
of the Revised Code, but a tax credit so authorized may not be 1215  
claimed before July 1, 2007, or after June 30, 2026, except, with 1216  
respect to loans made from the proceeds of obligations issued 1217  
under section 4582.71 of the Revised Code, a tax credit may not be 1218  
claimed before July 1, 2012, or after June 30, 2036. 1219

(C)(1) Upon receiving certification of a lender's loss from a 1220  
program administrator pursuant to the procedures in the investment 1221  
policy, the authority shall issue a tax credit certificate to the 1222  
lender, except as otherwise provided in division (D) of this 1223  
section. 1224

(2) If the lender is a pass-through entity, as defined in 1225  
section 5733.04 of the Revised Code, then each equity investor in 1226  
the lender pass-through entity shall be entitled to claim one of 1227  
the tax credits allowed under division (A) of this section for 1228  
that equity investor's taxable year in which or with which ends 1229  
the taxable year of the lender pass-through entity in an amount 1230  
based on the equity investor's distributive or proportionate share 1231  
of the credit amount set forth in the certificate issued by the 1232  
authority. If all equity investors of the lender pass-through 1233  
entity are not eligible to claim a credit against the same tax set 1234  
forth in division (A) of this section, then each equity investor 1235  
may elect to claim a credit against the tax to which the equity 1236  
investor is subject to in an amount based on the equity investor's 1237  
distributive or proportionate share of the credit amount set forth 1238  
in the certificate issued by the authority. 1239

(3) The certificate shall state the amount of the credit and 1240  
the calendar year under section 5707.031, 5725.19, 5727.241, or 1241  
5729.08, the tax year under section 5733.49, or the taxable year 1242  
under section 5747.80 of the Revised Code for which the credit may 1243  
be claimed. The authority, in conjunction with the tax 1244  
commissioner, shall develop a system for issuing tax credit 1245  
certificates for the purpose of verifying that any credit claimed 1246  
is a credit issued under this section and is properly taken in the 1247  
year specified in the certificate and in compliance with division 1248  
(B) of this section. 1249

(D) The authority shall not, in any fiscal year, issue tax 1250  
credit certificates under this section in a total amount exceeding 1251  
~~twenty~~ twenty-six million five hundred thousand dollars. The 1252  
authority shall not issue tax credit certificates under this 1253  
section in a total amount exceeding three hundred eighty million 1254  
dollars. 1255

(E) Notwithstanding any other section of this chapter or any 1256

provision of Chapter 5707., 5725., 5727., 5729., 5733., or 5747. 1257  
of the Revised Code, if provided by the terms of an agreement 1258  
entered into by the issuer and the authority under division (E) of 1259  
section 150.02 of the Revised Code, and subject to the limitations 1260  
of divisions (B) and (D) of this section, a trustee shall have the 1261  
right, for the benefit of the issuer, to receive and claim the 1262  
credits authorized under division (A) of this section solely for 1263  
the purpose provided for in section 150.04 of the Revised Code, 1264  
and the trustee shall be entitled to file a tax return, an amended 1265  
tax return, or an estimated tax return at such times as are 1266  
permitted or required under the applicable provisions of Chapter 1267  
5707., 5725., 5727., 5729., 5733., or 5747. of the Revised Code 1268  
for the purpose of claiming credits issued to the trustee. The 1269  
trustee shall receive the proceeds of such a tax credit for the 1270  
benefit of the issuer, and shall apply the proceeds solely to 1271  
satisfy a loss or restore a reserve as provided in section 150.04 1272  
of the Revised Code. Nothing in this section shall require a 1273  
trustee to file a tax return under any chapter for any purpose 1274  
other than claiming such credits if the trustee is not otherwise 1275  
required to make such a filing. 1276

The general assembly may from time to time modify or repeal 1277  
any of the taxes against which the credits authorized under 1278  
division (A) of this section may be claimed, and may authorize 1279  
those credits to be claimed for the purposes provided for in 1280  
section 150.04 of the Revised Code with respect to any other tax 1281  
imposed by this state; provided, that if any obligations issued 1282  
under section 4582.71 of the Revised Code are then outstanding and 1283  
such modification or repeal would have the effect of impairing any 1284  
covenant made in or pursuant to an agreement under division (E) of 1285  
section 150.02 of the Revised Code regarding the maintenance or 1286  
restoration of reserves established and maintained with a trustee 1287  
consistent with division (B)(2) of section 150.04 of the Revised 1288  
Code and such agreement, the state shall provide other security to 1289

the extent necessary to avoid or offset the impairment of such 1290  
covenant. 1291

**Sec. 184.02.** (A) In addition to the powers and duties under 1292  
sections 121.22, 122.15 to 122.154, 122.28, 122.30 to 122.36, 1293  
184.10 to 184.20, and 184.37 of the Revised Code, the third 1294  
frontier commission may perform any act to ensure the performance 1295  
of any function necessary or appropriate to carry out the purposes 1296  
of, and exercise the powers granted under, sections 184.01 and 1297  
184.02 of the Revised Code. In addition, the commission may do any 1298  
of the following: 1299

(1) Adopt, amend, and rescind rules under section 111.15 of 1300  
the Revised Code for the administration of any aspect of its 1301  
operations; 1302

(2) Adopt bylaws governing its operations, including bylaws 1303  
that establish procedures and set policies as may be necessary to 1304  
assist with the furtherance of its purposes; 1305

(3) Appoint and set the compensation of employees needed to 1306  
carry out its duties; 1307

(4) Contract with, retain the services of, or designate, and 1308  
fix the compensation of, such financial consultants, accountants, 1309  
other consultants and advisors, and other independent contractors 1310  
as may be necessary or desirable to carry out its duties; 1311

(5) Solicit input and comments from the third frontier 1312  
advisory board, and specialized industry, professional, and other 1313  
relevant interest groups concerning its purposes; 1314

(6) Facilitate alignment of the state's science and 1315  
technology programs and activities; 1316

(7) Make grants and loans to individuals, public agencies, 1317  
private companies or organizations, or joint ventures for any of 1318  
the broad range of activities related to its purposes. 1319

(B) In addition to the powers and duties under sections 1320  
184.10 to 184.20 and 184.37 of the Revised Code, the commission 1321  
shall do all of the following: 1322

(1) Establish a competitive process for the award of grants 1323  
and loans that is designed to fund the most meritorious proposals 1324  
and, when appropriate, provide for peer review of proposals; 1325

(2) Within ninety days after the end of each fiscal year, 1326  
submit to the governor and the general assembly a report of the 1327  
activities of the commission during the preceding fiscal year; 1328

(3) With specific application to the biomedical research and 1329  
technology transfer trust fund, periodically make strategic 1330  
assessments of the types of state investments in biomedical 1331  
research and biotechnology in the state that would likely create 1332  
jobs and business opportunities in the state and produce the most 1333  
beneficial long-term improvements to the public health of Ohioans, 1334  
including, but not limited to, biomedical research and 1335  
biotechnology initiatives that address tobacco-related illnesses 1336  
as may be outlined in any master agreement. The commission shall 1337  
award grants and loans from the fund pursuant to a process 1338  
established under division (B)(1) of this section. 1339

**Sec. 5725.33.** (A) Except as otherwise provided in this 1340  
section, terms used in this section have the same meaning as 1341  
section 45D of the Internal Revenue Code, any related proposed, 1342  
temporary or final regulations promulgated under the Internal 1343  
Revenue Code, any rules or guidance of the internal revenue 1344  
service or the United States department of the treasury, and any 1345  
related rules or guidance issued by the community development 1346  
financial institutions fund of the United States department of the 1347  
treasury, as such law, regulations, rules, and guidance exist on 1348  
the effective date of the ~~enactment~~ amendment of this section by 1349  
~~H. B. 1~~ B. 1 of the ~~128th~~ 129th general assembly. 1350

As used in this section: 1351

(1) ~~"Adjusted purchase price" means the amount paid for 1352  
qualified equity investments multiplied by the qualified 1353  
low income community investments made by the issuer in projects 1354  
located in this state as a percentage of the total amount of 1355  
qualified low income community investments made by the issuer in 1356  
projects located in all states on the credit allowance date during 1357  
the applicable tax year, subject to divisions (B)(1) and (2) of 1358  
this section. 1359~~

~~(2) "Applicable percentage" means ~~zero~~ five per cent for each 1360  
of the first ~~two~~ three credit allowance dates, ~~seven per cent for~~ 1361  
~~the third credit allowance date,~~ and eight six per cent for the 1362  
four following credit allowance dates. 1363~~

~~(3)(2) "Credit allowance date" means the date, on or after 1364  
January 1, 2010, a qualified equity investment is made and each of 1365  
the six anniversary dates thereafter. For qualified equity 1366  
investments made after ~~the effective date of this section~~ October 1367  
16, 2009, but before January 1, 2010, the initial credit allowance 1368  
date is January 1, 2010, and each of the six anniversary dates 1369  
thereafter is on the first day of January of each year. 1370~~

~~(4) "Qualified active low income community business" excludes 1371  
any business that derives or projects to derive fifteen per cent 1372  
or more of annual revenue from the rental or sale of real 1373  
property, except any business that is a special purpose entity 1374  
principally owned by a principal user of that property formed 1375  
solely for the purpose of renting, either directly or indirectly, 1376  
or selling real property back to such principal user if such 1377  
principal user does not derive fifteen per cent or more of its 1378  
gross annual revenue from the rental or sale of real property. 1379~~

~~(5)(3) "Qualified community development entity" includes only 1380  
entities: 1381~~

(a) That have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;

(b) Whose service area includes any portion of this state;  
and

(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section. The investment may be committed from any qualified community development entity.

~~(6)(4)~~ "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:

(a) Is acquired after ~~the effective date of the enactment of this section~~ October 16, 2009, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment.

"Qualified equity investment" includes any equity investment that would, but for division (A)~~(6)(4)~~(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against

the tax imposed by section 5725.18 of the Revised Code for an 1412  
insurance company holding a qualified equity investment on the 1413  
credit allowance date occurring in the calendar year for which the 1414  
tax is due. The credit shall equal the applicable percentage of 1415  
the ~~adjusted purchase price~~ of qualified low-income community 1416  
investments, subject to divisions (B)(1) and (2) of this section: 1417

(1) For the purpose of calculating the amount of qualified 1418  
low-income community investments held by a qualified community 1419  
development entity, an investment shall be considered held by a 1420  
qualified community development entity even if the investment has 1421  
been sold or repaid, provided that, at any time before the seventh 1422  
anniversary of the issuance of the qualified equity investment, 1423  
the qualified community development entity reinvests an amount 1424  
equal to the capital returned to or received or recovered by the 1425  
qualified community development entity from the original 1426  
investment, exclusive of any profits realized and costs incurred 1427  
in the sale or repayment, in another qualified low-income 1428  
community investment within twelve months of the receipt of such 1429  
capital. If the qualified low-income community investment is sold 1430  
or repaid after the sixth anniversary of the issuance of the 1431  
qualified equity investment, the qualified low-income community 1432  
investment shall be considered held by the ~~qualified~~ qualified 1433  
community development entity through the seventh anniversary of 1434  
the qualified equity investment's issuance. 1435

(2) The qualified low-income community investment shall be 1436  
made in projects located in this state and shall equal the sum of 1437  
the qualified low-income community investments in each qualified 1438  
active low-income community business in this state, not to exceed 1439  
two million five hundred sixty-four thousand one hundred three 1440  
dollars, in which the qualified community development entity 1441  
invests, including such investments in any such businesses in this 1442  
state related to that qualified active low-income community 1443

business through majority ownership or control. The credit for the 1444  
sum of such investments shall not exceed one million dollars. 1445

The credit shall be claimed in the order prescribed by 1446  
section 5725.98 of the Revised Code. If the amount of the credit 1447  
exceeds the amount of tax otherwise due after deducting all other 1448  
credits in that order, the excess may be carried forward and 1449  
applied to the tax due for not more than four ensuing years. 1450

By claiming a tax credit under this section, an insurance 1451  
company waives its rights under section 5725.222 of the Revised 1452  
Code with respect to the time limitation for the assessment of 1453  
taxes as it relates to credits claimed that later become subject 1454  
to recapture under division (E) of this section. 1455

(C) The amount of qualified equity investments on the basis 1456  
of which credits may be claimed under this section and sections 1457  
5729.16 and 5733.58 of the Revised Code shall not exceed the 1458  
amount, estimated by the director of development, that would cause 1459  
the total amount of credits allowed each fiscal year to exceed ten 1460  
million dollars, computed without regard to the potential for 1461  
taxpayers to carry tax credits forward to later years. 1462

(D) If any amount of the federal tax credit allowed for a 1463  
qualified equity investment for which a credit was received under 1464  
this section is recaptured under section 45D of the Internal 1465  
Revenue Code, or if the director of development determines that an 1466  
investment for which a tax credit is claimed under this section is 1467  
not a qualified equity investment or that the proceeds of an 1468  
investment for which a tax credit is claimed under this section 1469  
are used to make qualified low-income community investments other 1470  
than in a qualified active low-income community business, all or a 1471  
portion of the credit received on account of that investment shall 1472  
be paid by the insurance company that received the credit to the 1473  
superintendent of insurance. The amount to be recovered shall be 1474  
determined by the director of development pursuant to rules 1475

adopted under division (E) of this section. The director shall 1476  
certify any amount due under this division to the superintendent 1477  
of insurance, and the superintendent shall notify the treasurer of 1478  
state of the amount due. Upon notification, the treasurer shall 1479  
invoice the insurance company for the amount due. The amount due 1480  
is payable not later than thirty days after the date the treasurer 1481  
invoices the insurance company. The amount due shall be considered 1482  
to be tax due under section 5725.18 of the Revised Code, and may 1483  
be collected by assessment without regard to the time limitations 1484  
imposed under section 5725.222 of the Revised Code for the 1485  
assessment of taxes by the superintendent. All amounts collected 1486  
under this division shall be credited as revenue from the tax 1487  
levied under section 5725.18 of the Revised Code. 1488

(E) The tax credits authorized under this section and 1489  
sections 5729.16 and 5733.58 of the Revised Code shall be 1490  
administered by the department of development. The director of 1491  
development, in consultation with the tax commissioner and the 1492  
superintendent of insurance, pursuant to Chapter 119. of the 1493  
Revised Code, shall adopt rules for the administration of this 1494  
section and sections 5729.16 and 5733.58 of the Revised Code. The 1495  
rules shall provide for determining the recovery of credits under 1496  
division (D) of this section, division (D) of section 5729.16, and 1497  
section 5733.58 of the Revised Code, including prorating the 1498  
amount of the credit to be recovered on any reasonable basis, the 1499  
manner in which credits may be allocated among claimants, and the 1500  
amount of any application or other fees to be charged in 1501  
connection with a recovery. 1502

(F) There is hereby created in the state treasury the new 1503  
markets tax credit operating fund. The director of development is 1504  
authorized to charge reasonable application and other fees in 1505  
connection with the administration of tax credits authorized by 1506  
this section and sections 5729.16 and 5733.58 of the Revised Code. 1507

Any such fees collected shall be credited to the fund. The 1508  
director of development shall use money in the fund to pay 1509  
expenses related to the administration of tax credits authorized 1510  
under sections 5725.33, 5729.16, and 5733.58 of the Revised Code. 1511

**Section 2.** That existing sections 121.22, 122.15, 122.151, 1512  
122.152, 122.153, 122.154, 122.28, 122.30, 122.31, 122.32, 122.33, 1513  
122.34, 122.35, 122.36, 150.03, 150.05, 150.07, 184.02, and 1514  
5725.33 and section 122.29 of the Revised Code are hereby 1515  
repealed. 1516

**Section 3.** Section 122.33 of the Revised Code is presented in 1517  
this act as a composite of the section as amended by both Am. Sub. 1518  
H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. The 1519  
General Assembly, applying the principle stated in division (B) of 1520  
section 1.52 of the Revised Code that amendments are to be 1521  
harmonized if reasonably capable of simultaneous operation, finds 1522  
that the composite is the resulting version of the section in 1523  
effect prior to the effective date of the section as presented in 1524  
this act. 1525

**Section 4.** The amendment by this act of sections 121.22, 1526  
122.15, 122.151, 122.152, 122.153, 122.154, 122.28, 122.30, 1527  
122.31, 122.32, 122.33, 122.34, 122.35, 122.36, and 184.02 of the 1528  
Revised Code, and the repeal by this act of section 122.29 of the 1529  
Revised Code, take effect on October 1, 2012. 1530