

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 276**

**Senators Cirino, Chavez**

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**A BILL**

To amend sections 122.15, 122.151, 122.153, 1  
122.154, and 122.155 of the Revised Code to 2  
modify the availability of and eligibility for 3  
tax credits awarded under the rural business 4  
growth program. 5

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

**Section 1.** That sections 122.15, 122.151, 122.153, 6  
122.154, and 122.155 of the Revised Code be amended to read as 7  
follows: 8

**Sec. 122.15.** As used in this section and sections 122.151 9  
to 122.156 of the Revised Code: 10

(A) "Affiliate" means a person that directly, or 11  
indirectly through one or more intermediaries, controls, is 12  
controlled by, or is under common control with another person. 13  
For the purposes of this division, a person is "controlled by" 14  
another person if the controlling person holds, directly or 15  
indirectly, the majority voting or ownership interest in the 16  
controlled person or has control over the day-to-day operations 17  
of the controlled person by contract or by law. 18

(B) "Border county" means a county in this state that 19

borders another state. 20

(C) "Closing date" means the date on which a rural 21  
business growth fund has collected all of the amounts specified 22  
by divisions (G) (1) and (2) of section 122.151 of the Revised 23  
Code. 24

(D) "Credit-eligible capital contribution" means an 25  
investment of cash by a person subject to the tax imposed by 26  
section 3901.86, 5725.18, 5729.03, or 5729.06 of the Revised 27  
Code in a rural business growth fund that equals the amount 28  
specified on a notice of tax credit allocation issued by the 29  
department of development under division (I) (1) of section 30  
122.151 of the Revised Code. The investment shall purchase an 31  
equity interest in the fund or purchase, at par value or 32  
premium, a debt instrument issued by the fund that meets all of 33  
the following criteria: 34

(1) The debt instrument has an original maturity date of 35  
at least five years after the date of issuance. 36

(2) The debt instrument has a repayment schedule that is 37  
not faster than a level principal amortization over five years. 38

(3) The debt instrument has no interest, distribution, or 39  
payment features dependent on the fund's profitability or the 40  
success of the fund's growth investments. 41

(E) "Eligible investment authority" means the amount 42  
stated on the notice issued under division (F) of section 43  
122.151 of the Revised Code certifying the rural business growth 44  
fund. Sixty per cent of a fund's eligible investment authority 45  
shall be comprised of credit-eligible capital contributions. 46

(F) "Full-time equivalent employee" means the quotient 47  
obtained by dividing the total number of hours for which 48

employees were compensated for employment over the preceding 49  
twelve-month period by two thousand eighty. 50

(G) "Growth investment" means any capital or equity 51  
investment in a rural business concern or any loan to a rural 52  
business concern with a stated maturity of at least one year, 53  
excluding any investment used by a rural business concern or its 54  
affiliates to refinance or buy out a prior growth investment. A 55  
secured loan or the provision of a revolving line of credit to a 56  
rural business concern is a growth investment only if the rural 57  
business growth fund obtains an affidavit from the president or 58  
chief executive officer of the rural business concern attesting 59  
that the rural business concern sought and was denied similar 60  
financing from a commercial bank. 61

(H) "Operating company" means any business that has its 62  
principal business operations in this state, for program one and 63  
program two has fewer than two hundred fifty employees ~~and or~~ 64  
for program three has fewer than two hundred ninety-nine 65  
employees, has not more than fifteen million dollars in net 66  
income for the preceding taxable year, and that is none of the 67  
following: 68

- (1) A country club; 69
- (2) A racetrack or other facility used for gambling; 70
- (3) A store the principal purpose of which is the sale of 71  
alcoholic beverages for consumption off premises; 72
- (4) A massage parlor; 73
- (5) A hot tub facility; 74
- (6) A suntan facility; 75
- (7) A business engaged in the development or holding of 76

intangibles for sale;	77
(8) A private or commercial golf course;	78
(9) A business that derives or projects to derive fifteen per cent or more of its net income from the rental or sale of real property, except any business that is a special purpose entity principally owned by a principal user of that property formed solely for the purpose of renting, either directly or indirectly, or selling real property back to such principal user if such principal user does not derive fifteen per cent or more of its gross annual revenue from the rental or sale of real property;	79 80 81 82 83 84 85 86 87
(10) A publicly traded business.	88
For the purposes of this division, "net income" means federal gross income as required to be reported under the Internal Revenue Code less federal and state taxes imposed on or measured by income.	89 90 91 92
(I) "Population" means that shown by the most recent decennial census or the most recent annual population estimate published or released by the United States census bureau, whichever is more recent.	93 94 95 96
(J) A business's "principal business operations" are in this state if at least eighty per cent of the business's employees reside in this state, the individuals who receive eighty per cent of the business's payroll reside in this state, or the business has agreed to use the proceeds of a growth investment to relocate at least eighty per cent of its employees to this state or pay at least eighty per cent of its payroll to individuals residing in this state. For the purpose of growth investments by a program two <u>or program three</u> rural business	97 98 99 100 101 102 103 104 105

growth fund, a business's "principal business operations" are 106  
also in this state if it is headquartered in a border county and 107  
at least sixty-five per cent of the business's employees reside 108  
in this state, the individuals who receive sixty-five per cent 109  
of the business's payroll reside in this state, or the business 110  
has agreed to use the proceeds of a growth investment to 111  
relocate at least sixty-five per cent of its employees to this 112  
state or pay at least sixty-five per cent of its payroll to 113  
individuals residing in this state. 114

(K) "Program one" refers to rural business growth funds 115  
certified by the department of development under section 122.151 116  
of the Revised Code before ~~the effective date of this amendment~~ 117  
September 30, 2021. 118

(L) "Program two" refers to rural business growth funds 119  
certified by the department of development under section 122.151 120  
of the Revised Code on or after ~~the effective date of this~~ 121  
~~amendment~~ September 30, 2021, but before the effective date of 122  
this amendment. 123

(M) "Program three" refers to rural business growth funds 124  
certified by the department of development under section 122.151 125  
of the Revised Code on or after the effective date of this 126  
amendment. 127

(N) "Rural area" means any county in this state having a 128  
population less than two hundred thousand. 129

~~(N)~~ (O) "Rural business concern" means an operating 130  
company that has its principal business operations located in a 131  
rural area. 132

~~(O)~~ (P) "Rural business growth fund" and "fund" mean an 133  
entity certified by the department of development under section 134

122.151 of the Revised Code.	135
<del>(P)</del> <u>(Q)</u> "Taxable year" means the calendar year ending on	136
the thirty-first day of December next preceding the day the	137
annual statement is required to be returned under section	138
5725.18 or 5729.02 of the Revised Code.	139
<del>(Q)</del> <u>(R)</u> "Tier one rural area" means any county in this	140
state having a population less than two hundred thousand and	141
more than one hundred fifty thousand.	142
<del>(R)</del> <u>(S)</u> "Tier two rural area" means any county in this	143
state having a population of more than seventy-five thousand but	144
not more than one hundred fifty thousand.	145
<del>(S)</del> <u>(T)</u> "Tier three rural area" means any county in this	146
state having a population of not more than seventy-five	147
thousand.	148
<u>(U) "Tier four rural area" means any county in the</u>	149
<u>Appalachian region, as that term is defined in section 107.21 of</u>	150
<u>the Revised Code.</u>	151
<b>Sec. 122.151.</b> (A) A person that has developed a business	152
plan to invest in rural business concerns in this state and has	153
successfully solicited private investors to make credit-eligible	154
capital contributions in support of the plan may apply to the	155
department of development for certification as a rural business	156
growth fund. The application shall include all of the following:	157
(1) The total eligible investment authority sought by the	158
applicant under the business plan;	159
(2) Documents and other evidence sufficient to prove, to	160
the satisfaction of the agency, that the applicant meets all of	161
the following criteria:	162

(a) The applicant or an affiliate of the applicant is 163  
licensed as a rural business investment company under 7 U.S.C. 164  
2009cc, or as a small business investment company under 15 165  
U.S.C. 681. 166

(b) As of the date the application is submitted, the 167  
applicant has invested more than one hundred million dollars in 168  
operating companies, including at least fifty million dollars in 169  
operating companies located in rural areas. In computing 170  
investments under this division, the applicant may include 171  
investments made by affiliates of the applicant and investments 172  
made in businesses that are not operating companies but would 173  
qualify as operating companies if the principal business 174  
operations were located in this state. 175

(3) The industries in which the applicant proposes to make 176  
growth investments and the percentage of the growth investments 177  
that will be made in each industry. The applicant shall identify 178  
each industry by using the codes utilized by the north American 179  
industry classification system. 180

(4) An estimate of the number of new full-time equivalent 181  
employees and retained full-time equivalent employees that will 182  
result from the applicant's growth investments; 183

(5) A revenue impact assessment for the applicant's 184  
proposed growth investments prepared by a nationally recognized 185  
third-party independent economic forecasting firm using a 186  
dynamic economic forecasting model. The revenue impact 187  
assessment shall analyze the applicant's business plan over the 188  
ten years following the date the application is submitted to the 189  
agency. 190

(6) A signed affidavit from each investor successfully 191

solicited by the applicant to make a credit eligible capital 192  
contribution in support of the business plan. Each affidavit 193  
shall include information sufficient for the agency and the 194  
superintendent of insurance to identify the investor and shall 195  
state the amount of the investor's credit-eligible capital 196  
contribution. 197

(7) A nonrefundable application fee of five thousand 198  
dollars. 199

(B) (1) Except as provided in division (B) (2) of this 200  
section, the agency shall review and make a determination with 201  
respect to each application submitted under division (A) of this 202  
section within sixty days of receipt. The agency shall review 203  
and make determinations on the applications in the order in 204  
which the applications are received by the agency. Applications 205  
received by the agency on the same day shall be deemed to have 206  
been received simultaneously. The agency shall approve not more 207  
than seventy-five million dollars in eligible investment 208  
authority and not more than forty-five million dollars in 209  
credit-eligible capital contributions under this section for 210  
program one rural business growth funds. The agency shall 211  
approve not more than seventy-five million dollars in eligible 212  
investment authority and not more than forty-five million 213  
dollars in credit-eligible contributions under this section for 214  
program two rural business growth funds. The agency shall 215  
approve not more than one hundred fifty million dollars in 216  
eligible investment authority and not more than ninety million 217  
dollars in credit-eligible contributions under this section for 218  
program three rural business growth funds. 219

(2) If the agency denies an application for certification 220  
as a fund, and approving a subsequently submitted application 221



would result in exceeding the dollar limitation on eligible	222
investment authority or credit-eligible contributions prescribed	223
by division (B) (1) of this section assuming the previously	224
denied application were completed, clarified, or cured under	225
division (D) of this section, the agency shall refrain from	226
making a determination on the subsequently submitted application	227
until the previously denied application is reconsidered or the	228
fifteen-day period for submitting additional information	229
respecting that application has passed, whichever comes first.	230
(C) The agency shall deny an application submitted under	231
this section if any of the following are true:	232
(1) The application is incomplete.	233
(2) The application fee is not paid in full.	234
(3) The applicant does not satisfy all the criteria	235
described in division (A) (2) of this section.	236
(4) The revenue impact assessment submitted under division	237
(A) (5) of this section does not demonstrate that the applicant's	238
business plan will result in a positive economic impact on this	239
state over a ten-year period that exceeds the cumulative amount	240
of tax credits that would be issued under section 122.152 of the	241
Revised Code if the application were approved.	242
(5) The credit-eligible capital contributions described in	243
affidavits submitted under division (A) (6) of this section do	244
not equal sixty per cent of the total amount of eligible	245
investment authority sought under the applicant's business plan.	246
(6) The agency has already approved the maximum total	247
eligible investment authority and credit-eligible capital	248
contributions allowed under division (B) of this section.	249

(D) If the agency denies an application under division (C) 250  
of this section, the agency shall send notice of its 251  
determination to the applicant. The notice shall include the 252  
reason or reasons that the application was denied. If the 253  
application was denied for any reason other than the reason 254  
specified in division (C)(6) of this section, the applicant may 255  
provide additional information to the agency to complete, 256  
clarify, or cure defects in the application. The additional 257  
information must be submitted within fifteen days after the date 258  
the notice of denial was dispatched by the agency. If the person 259  
submits additional information within fifteen days, the agency 260  
shall reconsider the application within thirty days after 261  
receiving the additional information. The application shall be 262  
reviewed and considered before any pending application submitted 263  
after the original submission date of the reconsidered 264  
application. If the person does not submit additional 265  
information within fifteen days after dispatch of the notice of 266  
denial, the person may submit a new application with a new 267  
submission date at any time. 268

(E) If approving multiple simultaneously submitted 269  
applications would result in exceeding the overall eligible 270  
investment limit prescribed by division (B) of this section, the 271  
agency shall proportionally reduce the eligible investment 272  
authority and the credit-eligible capital contributions for each 273  
approved application as necessary to avoid exceeding the limit. 274

(F) The agency shall not deny a rural business growth fund 275  
application or reduce the requested eligible investment 276  
authority for reasons other than those described in divisions 277  
(C) and (E) of this section. If the agency approves such an 278  
application, the agency shall issue a written notice to the 279  
applicant certifying that the applicant qualifies as a rural 280

business growth fund and specifying the amount of the	281
applicant's eligible investment authority.	282
(G) A fund shall do all of the following within sixty days	283
after receiving the certification issued under division (F) of	284
this section:	285
(1) Collect the credit-eligible capital contributions from	286
each investor whose affidavit was included in the application.	287
If the rural business growth fund's requested eligible	288
investment authority is proportionally reduced under division	289
(E) of this section, the investor's required credit-eligible	290
capital contribution shall be reduced by the same proportion.	291
(2) Collect one or more investments of cash that, when	292
added to the contributions collected under division (G) (1) of	293
this section, equal the fund's eligible investment authority. At	294
least ten per cent of the fund's eligible investment authority	295
shall be comprised of equity investments contributed directly or	296
indirectly by affiliates of the fund, including employees,	297
officers, and directors of such affiliates.	298
(H) Within sixty-five days after receiving the	299
certification issued under division (F) (1) of this section, the	300
fund shall send to the agency documentation sufficient to prove	301
that the amounts described in divisions (G) (1) and (2) of this	302
section have been collected. The fund shall identify any	303
affiliate of an investor described in division (G) (1) of this	304
section that will seek to claim the credit allowed by section	305
122.152 of the Revised Code. If the fund fails to fully comply	306
with division (G) of this section, the fund's certification	307
shall lapse.	308
Eligible investment authority and corresponding credit-	309

eligible capital contributions that lapse under this division do 310  
not count toward limits on total eligible investment authority 311  
and credit-eligible capital contributions prescribed by division 312  
(B) of this section. Once eligible investment authority has 313  
lapsed, the agency shall first award lapsed authority pro rata 314  
to each fund that was awarded less than the requested eligible 315  
investment authority because of the operation of division (E) of 316  
this section. Any remaining eligible investment authority may be 317  
awarded by the agency to new applicants. 318

(I) After receiving documentation sufficient to prove that 319  
the amounts described in divisions (G) (1) and (2) of this 320  
section have been collected, the agency shall issue the 321  
following notices: 322

(1) To each investor or affiliate identified in division 323  
(H) of this section, a notice of the amount and utilization 324  
schedule of the tax credits allocated to that investor or 325  
affiliate as a result of its credit-eligible capital 326  
contribution; 327

(2) To the superintendent of insurance, a notice of the 328  
amount and utilization schedule of the tax credits allocated to 329  
each investor described in division (G) (1) of this section and 330  
any affiliate of such investor who will seek to claim the credit 331  
allowed by section 122.152 of the Revised Code. 332

(J) Application fees submitted to the agency pursuant to 333  
division (A) (7) of this section shall be credited to the tax 334  
incentives operating fund created under section 122.174 of the 335  
Revised Code, and shall be used by the agency to administer 336  
sections 122.15 to 122.156 of the Revised Code. 337

**Sec. 122.153.** (A) The department of development shall not 338

be required to issue a tax credit certificate under section	339
122.152 of the Revised Code if <del>either</del> <u>any</u> of the following	340
applies:	341
(1) The credit-eligible capital contribution was made in a	342
program one rural business growth fund that fails to:	343
(a) Invest fifty per cent of its eligible investment	344
authority in growth investments within one year of the closing	345
date; and	346
(b) Invest one hundred per cent of its eligible investment	347
authority in growth investments in this state within two years	348
of the closing date.	349
(2) The credit eligible contribution was made in a program	350
two rural business growth fund that fails to:	351
(a) Invest twenty-five per cent of its eligible investment	352
authority in growth investments within one year of the closing	353
date;	354
(b) Invest fifty per cent of its eligible investment	355
authority in growth investments within two years of the closing	356
date; and	357
(c) Invest one hundred per cent of its eligible investment	358
authority in growth investments within three years of the	359
closing date, including seventy-five per cent of its eligible	360
investment authority in rural business concerns that have their	361
principal business operations in tier two or tier three rural	362
areas, and twenty-five per cent of its eligible investment	363
authority in rural business concerns that have their principal	364
business operations in tier three rural areas. The amount by	365
which a rural business growth fund's growth investments in rural	366
business concerns that have their principal business operations	367

in tier one rural areas exceeds twenty-five per cent of the 368  
fund's eligible investment authority shall not count towards the 369  
satisfaction of the requirements prescribed by division (A) (2) 370  
(c) of this section. 371

(3) The credit eligible contribution was made in a program 372  
three rural business growth fund that fails to: 373

(a) Invest twenty-five per cent of its eligible investment 374  
authority in growth investments within one year of the closing 375  
date; 376

(b) Invest fifty per cent of its eligible investment 377  
authority in growth investments within two years of the closing 378  
date; and 379

(c) Invest one hundred per cent of its eligible investment 380  
authority in growth investments within three years of the 381  
closing date, including not less than fifty per cent of its 382  
eligible investment authority in rural business concerns that 383  
have their principal business operations in tier four rural 384  
areas, and not less than seventy-five per cent of its eligible 385  
investment authority in rural business concerns that have their 386  
principal business operations in tier two, tier three, or tier 387  
four rural areas. The amount by which a rural business growth 388  
fund's growth investments in rural business concerns that have 389  
their principal business operations in tier one rural areas 390  
exceeds twenty-five per cent of the fund's eligible investment 391  
authority shall not count towards the satisfaction of the 392  
requirements prescribed by division (A) (3) (c) of this section. 393

(B) The agency shall recapture tax credits claimed under 394  
section 122.152 of the Revised Code if any of the following 395  
occur with respect to the rural business growth fund: 396

(1) The fund, after investing one hundred per cent of its  
eligible investment authority in growth investments in this  
state, fails to maintain that investment until the sixth  
anniversary of the closing date. For the purposes of this  
division, an investment is maintained even if the investment is  
sold or repaid so long as the fund reinvests an amount equal to  
the capital returned or recovered by the fund from the original  
investment, exclusive of any profits realized, in other growth  
investments in this state within one year of the receipt of such  
capital.

(2) The fund makes a distribution or payment after the  
fund complies with division (G) of section 122.151 of the  
Revised Code and before the fund decertifies under division (D)  
of this section that results in the fund having less than one  
hundred per cent of its eligible investment authority invested  
in growth investments in this state.

(3) The fund makes a growth investment in a rural business  
concern that directly or indirectly through an affiliate owns,  
has the right to acquire an ownership interest, makes a loan to,  
or makes an investment in the fund, an affiliate of the fund, or  
an investor in the fund. Division ~~(A)(3)~~ (B)(3) of this section  
does not apply to investments in publicly traded securities by a  
rural business concern or an owner or affiliate of a rural  
business concern.

Before recapturing one or more tax credits under this  
division, the agency shall notify the fund of the reasons for  
the pending recapture. If the fund corrects the violations  
outlined in the notice to the satisfaction of the agency within  
thirty days of the date the notice was dispatched, the agency  
shall not recapture the tax credits.

(C) (1) The amount by which one or more growth investments 427  
by a program one rural business growth fund in the same rural 428  
business concern exceeds twenty per cent of the fund's eligible 429  
investment authority shall not be counted as a growth investment 430  
for the purposes of this section. The amount by which one or 431  
more growth investments by a program two rural business growth 432  
fund in the same business concern exceeds five million dollars 433  
shall not be counted as a growth investment for the purposes of 434  
this section. The amount by which one or more growth investments 435  
by a program three rural business growth fund in the same 436  
business concern exceeds seven million five hundred thousand 437  
dollars shall not be counted as a growth investment for purposes 438  
of this section. A growth investment returned or repaid by a 439  
rural business concern to a program one ~~or~~, program two, or 440  
program three rural business growth fund and then reinvested by 441  
the fund in the same rural business concern does not count as an 442  
investment in the same rural business concern for the purposes 443  
of the limitations prescribed by division (C) (1) of this 444  
section. 445

(2) The aggregate amount of growth investments by all 446  
rural business growth funds in the same rural business concern, 447  
including amounts reinvested in a rural business concern 448  
following a returned or repayment of a growth investment, shall 449  
not exceed fifteen million dollars. 450

(3) A growth investment in an affiliate of a rural 451  
business concern shall be treated as a growth investment in that 452  
rural business concern for the purposes of division (C) of this 453  
section. 454

(D) If the agency recaptures a tax credit under this 455  
section, the agency shall notify the superintendent of insurance 456



of the recapture. The superintendent shall make an assessment 457  
under Chapter 5725. or 5729. of the Revised Code for the amount 458  
of the credit claimed by each certificate owner associated with 459  
the fund before the recapture was finalized. The time 460  
limitations on assessments under those chapters do not apply to 461  
an assessment under this division, but the superintendent shall 462  
make the assessment within one year after the date the agency 463  
notifies the superintendent of the recapture. Following the 464  
recapture of a tax credit under this section, no tax credit 465  
certificate associated with the fund may be utilized. 466  
Notwithstanding division (B) of section 122.152 of the Revised 467  
Code, if a tax credit is recaptured under this section the 468  
agency shall not issue future tax credit certificates to 469  
taxpayers that made credit-eligible capital contributions to the 470  
fund. 471

(E) (1) On or after the sixth anniversary of the closing 472  
date, a fund that has not committed any of the acts described in 473  
division (B) of this section may apply to the agency to 474  
decertify as a rural business growth fund. The agency shall 475  
respond to the application within sixty days after receiving the 476  
application. In evaluating the application, the fact that no tax 477  
credit has been recaptured with respect to the fund shall be 478  
sufficient evidence to prove that the fund is eligible for 479  
decertification. The agency shall not unreasonably deny an 480  
application submitted under this division. 481

(2) The agency shall send notice of its determination with 482  
respect to an application submitted under division (E) (1) of 483  
this section to the fund. If the application is denied, the 484  
notice shall include the reason or reasons for the 485  
determination. 486

(3) The agency shall not recapture a tax credit due to any actions of a fund that occur after the date the fund's application for decertification is approved. Division (E) (3) of this section does not prohibit the agency from recapturing a tax credit due to the actions of a fund that occur before the date the fund's application for decertification is approved, even if those actions are discovered after that date.

**Sec. 122.154.** (A) Each rural business growth fund shall submit a report to the department of development on or before the first day of each March following the end of the calendar year that includes the closing date until the calendar year after the fund has decertified. The report shall provide an itemization of the fund's growth investments and shall include the following documents and information:

(1) A bank statement evidencing each growth investment;

(2) The name, location, and industry class of each business that received a growth investment from the fund and evidence that the business qualified as a rural business concern at the time the investment was made. If the fund obtained a written opinion from the agency on the business's status as a rural business concern under section 122.156 of the Revised Code, or if the fund makes a written request for such an opinion and the agency failed to respond within thirty days as required by that section, a copy of the agency's favorable opinion or a dated copy of the fund's unanswered request, as applicable, shall be sufficient evidence that the business qualified as a rural business concern at the time the investment was made.

(3) The number of employment positions that existed at each business described in division (A) (2) of this section on the date the business received the growth investment;

(4) The number of new full-time equivalent employees 517  
resulting from each of the fund's growth investments made or 518  
maintained in the preceding calendar year; 519

(5) Any other information required by the agency. 520

(B) Each fund shall submit a report to the agency on or 521  
before the fifth business day after the first, second, and for 522  
program two and program three funds, third anniversaries of the 523  
closing date that provides documentation sufficient to prove 524  
that the fund has met the investment thresholds described in 525  
division (A) of section 122.153 of the Revised Code and has not 526  
implicated any of the other recapture provisions described in 527  
division (B) of that section. 528

(C) Each certified rural business growth fund shall pay 529  
the agency an annual fee of twenty thousand dollars. The initial 530  
annual fee required of a fund shall be due and payable to the 531  
agency along with the submission of documentation required under 532  
division (H) of section 122.151 of the Revised Code. Each 533  
subsequent annual fee is due and payable on the last day of 534  
February following the first and each ensuing anniversary of the 535  
closing date. If the fund is required to submit an annual report 536  
under division (A) of this section, the annual fee shall be 537  
submitted along with the report. No fund shall be required to 538  
pay an annual fee after the fund has decertified under section 539  
122.153 of the Revised Code. Annual fees paid to the agency 540  
under this section shall be credited to the tax incentives 541  
operating fund created under section 122.174 of the Revised 542  
Code. 543

(D) The director of development, after consultation with 544  
the superintendent of insurance and in accordance with Chapter 545  
119. of the Revised Code, may adopt rules necessary to implement 546

sections 122.15 to 122.156 of the Revised Code. 547

**Sec. 122.155.** (A) (1) For each calendar year in which a 548  
rural business growth fund makes or maintains a growth 549  
investment in a rural business concern in this state, the fund 550  
shall determine the number of new full-time equivalent employees 551  
produced at the business concern as a result of the investment. 552  
New full-time equivalent employees shall be computed by 553  
subtracting the number of full-time equivalent employees at the 554  
rural business concern on the date of the fund's initial growth 555  
investment in the rural business concern from the number of 556  
full-time equivalent employees at the rural business concern on 557  
the last day of the calendar year. If the computation results in 558  
a number less than zero, the number of new full-time equivalent 559  
employees, produced by the fund's growth investment for that 560  
calendar year period shall be zero. Only employees with an 561  
hourly wage rate of at least one hundred fifty per cent of the 562  
federal minimum wage may be considered in computing the number 563  
of new full-time equivalent employees for the purposes of this 564  
section. 565

(2) A fund may determine and include, for the purposes of 566  
this section and section 122.154 of the Revised Code, the number 567  
of new full-time equivalent employees produced at a rural 568  
business concern after the year in which the fund's growth 569  
investment is repaid or redeemed. The new full-time equivalent 570  
employees shall be computed in the same manner as in division 571  
(A) (1) of this section based on reporting information provided 572  
by the rural business concern to the fund. 573

(B) After a fund's application for decertification is 574  
approved under section 122.153 of the Revised Code, the fund 575  
shall determine the state reimbursement amount. The state 576

reimbursement amount for program one and program two shall equal 577  
the amount by which the fund's credit-eligible capital 578  
contributions exceed the product obtained by multiplying thirty 579  
thousand dollars by the aggregate number of new full-time 580  
equivalent employees for the fund. The state reimbursement 581  
amount for program three shall equal the amount by which the 582  
fund's credit-eligible capital contributions exceed the product 583  
obtained by multiplying thirty thousand dollars by the aggregate 584  
number of new full-time equivalent employees for the fund for 585  
investments located in tier one or tier two rural areas and by 586  
multiplying sixty thousand dollars by the aggregate number of 587  
new full-time equivalent employees for the fund for investments 588  
located in tier three or tier four rural areas. If that product 589  
is greater than the fund's credit-eligible capital 590  
contributions, the state reimbursement amount shall equal zero. 591  
In the absence of additional information provided by the fund or 592  
discovered by the agency, the number of new full-time equivalent 593  
employees for the purposes of this division equals the sum of 594  
all new full-time equivalent employees reported by the fund on 595  
the annual reports required under section 122.154 of the Revised 596  
Code. 597

(C) After the state reimbursement amount is computed under 598  
division (B) of this section, the fund shall not be permitted to 599  
make further distributions to equity holders of the fund, 600  
including investors that are equity holders of the funds without 601  
first remitting the state reimbursement amount to the agency. 602  
All amounts received by the agency under this division shall be 603  
credited to the general revenue fund. 604

(D) The director of development services, upon the request 605  
of a fund, may waive all or a portion of the remission required 606  
under division (C) of this section if the director determines, 607

based on an affidavit of the chief executive officer or 608  
president of a rural business concern, that the growth 609  
investments of the fund resulted in the retention of employment 610  
positions that would have otherwise been eliminated at rural 611  
business concerns in this state. The amount waived shall not 612  
exceed the product of thirty thousand dollars multiplied by the 613  
number of retained employment positions multiplied by the number 614  
of years in which the fund made or maintained a growth 615  
investment in the rural business concern that retained the 616  
employment positions. 617

**Section 2.** That existing sections 122.15, 122.151, 618  
122.153, 122.154, and 122.155 of the Revised Code are hereby 619  
repealed. 620