

AN ACT

To amend sections 149.311, 166.01, 166.02, 166.08, 166.11, 184.02, 1555.03, 3333.38, 3345.32, 3706.01, 5725.151, 5733.47, 5747.76, and 5747.98; to enact sections 164.28, 166.25, 166.26, 166.27, 166.30, 184.174, 184.23, 184.231, 184.24 to 184.26, 184.37, 3333.71 to 3333.81, and 3706.25 to 3706.30 of the Revised Code; and to amend Section 229.10 of Am. Sub. H.B. 67 of the 127th General Assembly, to establish the Ohio Bioproducts Development Program and Ohio Biomedical Development Program to be administered by the Third Frontier Commission, to establish advisory boards to the Third Frontier Commission, to expand the economic development programs administered by the Department of Development to include transportation logistics and distribution infrastructure projects, to provide additional money for capital improvement projects of local subdivisions, to modify the authority of the Ohio Coal Development Office, to provide for advanced energy projects administered by the Ohio Air Quality Development Authority, to establish the Choose Ohio First Co-op/Internship Program, to extend the historical building rehabilitation tax credit, limit credit amounts, and require regional distributive balance and economic effects to be considered, to modify the definition of an air quality facility, to create minority outreach requirements for loan and grant programs established under this bill, and to make an appropriation.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 149.311, 166.01, 166.02, 166.08, 166.11, 184.02, 1555.03, 3333.38, 3345.32, 3706.01, 5725.151, 5733.47, 5747.76, and 5747.98 be amended and that sections 164.28, 166.25, 166.26, 166.27, 166.30, 184.174, 184.23, 184.231, 184.24, 184.25, 184.26, 184.37, 3333.71, 3333.72, 3333.73, 3333.74, 3333.75, 3333.76, 3333.77, 3333.78, 3333.79, 3333.80, 3333.81, 3706.25, 3706.26, 3706.27, 3706.28, 3706.29, and 3706.30 of the Revised Code be enacted to read as follows:

Sec. 149.311. (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as a historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner of a historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging a historic building;

(b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;

(c) New building construction costs.

(3) "Owner" of a historic building means a person holding the fee simple interest in the building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Certificate owner" means the owner of a historic building to which a rehabilitation tax credit certificate was issued under this section.

(5) "Registered historic district" means a historic district listed in the national register of historic places under 16 U.S.C. 470a, a historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(6) "Rehabilitation" means the process of repairing or altering a historic

building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(7) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner not to exceed sixty months during which rehabilitation occurs.

(8) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(9) "Application period" means ~~either~~ any of the following time periods ~~during~~ for which an application for a rehabilitation tax credit certificate may be filed under this section:

(a) July 1, 2007, through June 30, 2008;

(b) ~~July 1, 2008, through June 30, 2009~~ July 1, 2009, through June 30, 2010;

(c) July 1, 2010, through June 30, 2011.

~~(B) On or after July 1, 2007, but before July 1, 2009~~ For any application period, the owner of a historic building may apply to the state historic preservation officer for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred after April 4, 2007, for rehabilitation of a historic building. The form and manner of filing such applications shall be prescribed by rule of the director of development, and, except as otherwise provided in division (D) of this section, applications expire at the end of each application period. ~~Before July 1, 2007, the~~ Each application shall state the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred. The director may require applicants to furnish documentation of such estimates.

The director, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Forms and procedures by which applicants may apply for rehabilitation tax credit certificates;

(2) Criteria for reviewing, evaluating, and approving applications for certificates within the ~~limitation on the number of applications that may be approved in an application period~~ limitations under division (D) of this section, criteria for assuring that the certificates issued encompass a mixture

of high and low qualified rehabilitation expenditures, and criteria for issuing certificates under division (C)(3)(b) of this section;

- (3) Eligibility requirements for obtaining a certificate under this section;
- (4) The form of rehabilitation tax credit certificates;
- (5) Reporting requirements and monitoring procedures;
- (6) Any other rules necessary to implement and administer this section.

(C) The state historic preservation officer shall accept applications ~~in the order in which they are filed. Within seven days after an application is filed, the officer shall~~ and forward ~~it~~ them to the director of development, who shall review the ~~application~~ applications and determine whether all of the following criteria are met:

(1) That the building that is the subject of the application is a historic building and the applicant is the owner of the building;

(2) That the rehabilitation will satisfy standards prescribed by the United States secretary of the interior under 16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to that section;

(3) That receiving a rehabilitation tax credit certificate under this section is a major factor in:

- (a) The applicant's decision to rehabilitate the historic building; or
- (b) To increase the level of investment in such rehabilitation.

An applicant shall demonstrate to the satisfaction of the state historic preservation officer and director of development that the rehabilitation will satisfy the standards described in division (C)(2) of this section before the applicant begins the physical rehabilitation of the historic building.

(D) ~~If the (1) The~~ the director of development may approve an application and issue a rehabilitation tax credit certificate to an applicant only if the director determines that the criteria in divisions (C)(1), (2), and (3) of this section are met, ~~the director, in conjunction with the tax commissioner, shall conduct a cost and benefit analysis for the historic building that is the subject of an application filed under this section to determine whether rehabilitation of the historic building, including activities during the construction phase of the rehabilitation, will result in a net revenue gain in state and local taxes. The director shall not approve an application and issue a rehabilitation tax credit certificate to an applicant unless the cost and benefit analysis of the historic building determines that there will be a net revenue gain in state and local taxes once the building is used. A. The~~ director shall consider the potential economic impact and the regional distributive balance of the credits throughout the state.

(2) A rehabilitation tax credit certificate shall not be issued before rehabilitation of a historic building is completed or for an amount greater

than the estimated amount furnished by the applicant on the application for such certificate and approved by the director. The director shall not approve more than ~~one hundred applications in~~ a total of sixty million dollars of rehabilitation tax credits for an application period.

(3) Of the sixty million dollars approved for application periods July 1, 2009, through June 30, 2010, and July 1, 2010, through June 30, 2011, forty-five million dollars shall be reserved in each application period for the award of rehabilitation tax credit certificates to applicants who, as of March 1, 2008, had filed completed applications that met the criteria described in divisions (C)(1), (2), and (3) of this section, who have not withdrawn the application, and who have not yet been approved to receive a certificate. If the total amount of credits awarded for such applications is less than forty-five million dollars in an application period, the remainder shall be made available for other qualifying applications for that application period.

(4) If an applicant whose application is approved for receipt of a rehabilitation tax credit certificate fails to provide to the director of development sufficient evidence of reviewable progress, including a viable financial plan, copies of final construction drawings, and evidence that the applicant has obtained all historic approvals within twelve months after the date the applicant received notification of approval, or if the applicant fails to provide evidence to the director of development that the applicant has secured and closed on financing for the rehabilitation within eighteen months after receiving notification of approval, the director shall notify the applicant that the approval has been rescinded. Credits that would have been available to an applicant whose approval was rescinded shall be available for other qualified applicants. Nothing in this division prohibits an applicant whose approval has been rescinded from submitting a new application for a rehabilitation tax credit certificate.

(E) Issuance of a certificate represents a finding by the director of development of the matters described in divisions (C)(1), (2), and (3) of this section only; issuance of a certificate does not represent a verification or certification by the director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed under section 5725.151, 5733.47, or 5747.76 of the Revised Code. The amount of qualified rehabilitation expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Upon the issuance of a certificate, the director shall certify to the tax commissioner, in the form and manner requested by the tax commissioner, the name of the applicant, the amount of qualified

rehabilitation expenditures shown on the certificate, and any other information required by the rules adopted under this section.

(F)(1) On or before the first day of December in 2007, 2008, ~~and 2009, 2010, and 2011~~, the director of development and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a report on the tax credit program established under this section and sections 5725.151, 5733.47, and 5747.76 of the Revised Code. The report shall present an overview of the program and shall include information on the number of rehabilitation tax credit certificates issued under this section during an application period, an update on the status of each historic building for which an application was approved under this section, the dollar amount of the tax credits granted under sections 5725.151, 5733.47, and 5747.76 of the Revised Code, and any other information the director and commissioner consider relevant to the topics addressed in the report.

(2) On or before December 1, ~~2010~~ 2012, the director of development and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a comprehensive report that includes the information required by division (F)(1) of this section and a detailed analysis of the effectiveness of issuing tax credits for rehabilitating historic buildings. The report shall be prepared with the assistance of an economic research organization jointly chosen by the director and commissioner.

Sec. 164.28. The local infrastructure development fund is hereby created in the state treasury. The fund shall consist of cash transferred from the jobs fund created in the state treasury by Section 4 of Sub. H.B. 544 of the 127th general assembly. Money in the fund shall be used to provide grants for local infrastructure development and for capital improvement projects. All investment earnings of the fund shall be credited to the fund.

Sec. 166.01. As used in this chapter:

(A) "Allowable costs" means all or part of the costs of project facilities, eligible projects, eligible innovation projects, ~~or~~ eligible research and development projects, eligible advanced energy projects, or eligible logistics and distribution projects, including costs of acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping, or furnishing project facilities, eligible projects, eligible innovation projects, ~~or~~ eligible research and development projects, eligible advanced energy projects, or eligible logistics and distribution projects, site clearance and preparation, supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies, and

estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project, an eligible innovation project, ~~or~~ an eligible research and development project, an eligible advanced energy project, or an eligible logistics and distribution project, or providing project facilities or facilities related to an eligible project, an eligible innovation project ~~or~~, an eligible research and development project, an eligible advanced energy project, or an eligible logistics and distribution project, architectural, engineering, and legal services fees and expenses, the costs of conducting any other activities as part of a voluntary action, and such other expenses as may be necessary or incidental to the establishment or development of an eligible project, an eligible innovation project, ~~or~~ an eligible research and development project, an eligible advanced energy project, or an eligible logistics and distribution project, and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs.

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

(C) "Eligible innovation project" includes an eligible project, including any project facilities associated with an eligible innovation project and, in addition, includes all tangible and intangible property related to a new product or process based on new technology or the creative application of existing technology, including research and development, product or process testing, quality control, market research, and related activities, that is to be acquired, established, expanded, remodeled, rehabilitated, or modernized for industry, commerce, distribution, or research, or any combination thereof, the operation of which, alone or in conjunction with other eligible projects, eligible innovation projects, or innovation property, will create new jobs or

preserve existing jobs and employment opportunities and improve the economic welfare of the people of the state.

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

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

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

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

(G) "Governmental action" means any action by a governmental agency relating to the establishment, development, or operation of an eligible project, eligible innovation project, or eligible research and development

project, eligible advanced energy project, or eligible logistics and distribution project, and project facilities that the governmental agency acting has authority to take or provide for the purpose under law, including, but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies.

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

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

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

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

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

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

(N) "Project facilities" means buildings, structures, and other improvements, and equipment and other property, excluding small tools, supplies, and inventory, and any one, part of, or combination of the above, comprising all or part of, or serving or being incidental to, an eligible project, an eligible innovation project, ~~or~~ an eligible research and development project, an eligible advanced energy project, or an eligible logistics and distribution project, including, but not limited to, public capital improvements.

(O) "Property" means real and personal property and interests therein.

(P) "Public capital improvements" means capital improvements or facilities that any governmental agency has authority to acquire, pay the costs of, own, maintain, or operate, or to contract with other persons to have the same done, including, but not limited to, highways, roads, streets, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities. For purposes of this division, "air pollution control facilities" includes, without limitation, solar, geothermal, biofuel, biomass, wind, hydro, wave, and other advanced energy projects as defined in section 3706.25 of the Revised Code.

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

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

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

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

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

(V) "Advanced energy research and development fund" means the

advanced energy research and development fund created in section 3706.27 of the Revised Code.

(W) "Advanced energy research and development taxable fund" means the advanced energy research and development taxable fund created in section 3706.27 of the Revised Code.

(X) "Eligible advanced energy project" means an eligible project that is an "advanced energy project" as defined in section 3706.25 of the Revised Code.

(Y) "Eligible logistics and distribution project" means an eligible project, including project facilities, to be acquired, established, expanded, remodeled, rehabilitated, or modernized for transportation logistics and distribution infrastructure purposes. As used in this division, "transportation logistics and distribution infrastructure purposes" means promoting, providing for, and enabling improvements to the ground, air, and water transportation infrastructure comprising the transportation system in this state, including, without limitation, highways, streets, roads, bridges, railroads carrying freight, and air and water ports and port facilities, and all related supporting facilities.

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development ~~program~~ programs provided for in ~~sections 166.01 to 166.11 of the Revised Code~~ this chapter will constitute a deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of the state, through the operations ~~under sections 166.01 to 166.11 of the Revised Code~~ this chapter and other applicable laws adopted pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

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

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

general assembly or the controlling board and subject to applicable local government laws and regulations;

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

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

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

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

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

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

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of ~~Chapter 166. of the Revised Code~~ this chapter;

(9) Adopt rules to implement any of the provisions of ~~Chapter 166. of the Revised Code~~ this chapter applicable to the director.

(C) The determinations by the director that facilities constitute eligible projects, that facilities are project facilities, that costs of such facilities are

allowable costs, and all other determinations relevant thereto or to an action taken or agreement entered into shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under this chapter.

(D) Except as otherwise prescribed in ~~Chapter 166. of the Revised Code~~ this chapter, all expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under ~~Chapter 166. of the Revised Code~~ this chapter, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, the logistics and distribution infrastructure fund, or moneys appropriated for such purpose by the general assembly. ~~Chapter 166. of the Revised Code~~ This chapter does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded indebtedness of the state or any political subdivision thereof, or to obligate or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to ~~Chapter 166. of the Revised Code~~ this chapter.

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

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

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

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

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

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

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

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

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

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

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

(B) Subject to the limitations provided in section 166.11 of the Revised Code, the issuing authority, upon the certification by the director of development or, with respect to eligible advanced energy projects, the Ohio air quality development authority to the issuing authority of the amount of moneys or additional moneys needed in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan fund, the innovation Ohio loan guarantee fund, ~~or~~ the research and development loan fund, the logistics and distribution infrastructure fund, the advanced energy research and development fund, or the advanced energy research and development taxable fund, as applicable, for the purpose of paying, or making loans for, allowable costs from the facilities establishment fund, allowable innovation costs from the innovation Ohio loan fund, ~~or~~ allowable costs from the research and development loan fund, allowable costs from the logistics and distribution infrastructure fund, allowable costs from the advanced energy research and development fund, or allowable costs from the advanced energy research and development taxable fund, as applicable, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing moneys for the loan guarantee fund or the innovation Ohio loan guarantee fund, as provided in this chapter or needed for the purposes of funds established in accordance with or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, and 122.80 of the Revised Code which are within the authorization of Section 13 of Article VIII, Ohio Constitution, or, with respect to certain eligible advanced energy projects, Section 2p of Article VIII, Ohio Constitution, shall issue obligations of the state under this section in the required amount; provided that such obligations may be issued to satisfy the covenants in contracts of guarantee made under section 166.06 or 166.15 of the Revised

Code, notwithstanding limitations otherwise applicable to the issuance of obligations under this section. The proceeds of such obligations, except for the portion to be deposited in special funds, including reserve funds, as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited by the director of development to the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, ~~or~~ the research and development loan fund, or the logistics and distribution infrastructure fund, or be deposited by the Ohio air quality development authority to the advanced energy research and development fund or the advanced energy research and development taxable fund. Bond proceedings for project financing obligations may provide that the proceeds derived from the issuance of such obligations shall be deposited into such fund or funds provided for in the bond proceedings and, to the extent provided for in the bond proceedings, such proceeds shall be deemed to have been deposited into the facilities establishment fund and transferred to such fund or funds. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are allowable costs payable from the facilities establishment fund or the research and development loan fund ~~or~~, allowable innovation costs payable from the innovation Ohio loan fund, or allowable costs payable from the logistics and distribution infrastructure fund, the advanced energy research and development fund, or the advanced energy research and development taxable fund, as applicable.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation obligated or pledged, and moneys raised by taxation shall not be obligated or pledged, for the payment of bond service charges. Such holders or owners shall have no rights to payment of bond service charges from any moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, or from payment of the principal of or interest on loans made, or fees charged for guarantees made, or from any money or property received by the director, treasurer of state, or the state under Chapter 122. of the Revised Code, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the

sale of the obligations and except as otherwise expressly provided in the applicable bond proceedings pursuant to written directions by the director. The right of such holders and owners to payment of bond service charges is limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by resolution or order of the issuing authority and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code are applicable to obligations issued under this section, subject to any applicable limitation under section 166.11 of the Revised Code. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings also shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the issuing authority may determine, of the pledged receipts and the applicable special fund or funds to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts and special funds so pledged and thereafter received by the state are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement or other document with respect thereto; and the pledge of such pledged receipts and special funds is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with

respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

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

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

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

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

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

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

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

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

(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. If the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the former issuing

authority had remained the issuing authority until such delivery; and if the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

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

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

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

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

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

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

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

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

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

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

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

Each duty of the issuing authority and the issuing authority's officers and employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or lease, lease-purchase agreement, or loan made under authority of this chapter, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station

within the meaning of section 2731.01 of the Revised Code.

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

(L) The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued by the issuing authority. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and any allowable costs including expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section; provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to this section with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this division to refund, fund, advance refund or retire such prior obligations.

(M) The authority to issue obligations under this section includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such bonds or renewal notes, or both, as the issuing authority provides in the resolution or order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and apply the proceeds thereof to

the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such resolution or order. For such purpose, the issuing authority may issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay when required the principal of and interest on such notes, notwithstanding any limitations prescribed by or for purposes of this section. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

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

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

(O) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuing authority only in notes, bonds, or other obligations of the United States, or of any agency or instrumentality of the United States, obligations guaranteed as to principal and interest by the United States, obligations of this state or any political subdivision of this state, and certificates of deposit of any national bank

located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of banks. If the law or the instrument creating a trust pursuant to division (J) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in common trust funds established in accordance with section 1111.20 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(4) of that section. The income from such investments shall be credited to such funds as the issuing authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

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

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

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

(1) Maintain statutory authority for and cause to be charged and collected wholesale and retail prices for spirituous liquor sold by the state or its agents so that the pledged receipts are sufficient in amount to meet bond

service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in contracts of guarantee made under section 166.06 of the Revised Code;

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

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

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

Sec. 166.11. (A) The aggregate principal amount of project financing obligations that may be issued under section 166.08 of the Revised Code is three hundred million dollars, plus the principal amount of such project financing obligations retired by payments. The aggregate principal amount

of obligations, exclusive of project financing obligations, that may be issued under section 166.08 of the Revised Code is ~~five~~ six hundred ~~thirty~~ million dollars, plus the principal amount of any such obligations retired by payment, the amounts held or obligations pledged for the payment of the principal amount of any such obligations outstanding, amounts in special funds held as reserves to meet bond service charges, and amounts of obligations issued to provide moneys required to meet payments from the loan guarantee fund created in section 166.06 of the Revised Code and the innovation Ohio loan guarantee fund created in section 166.15 of the Revised Code. Of that six hundred thirty million dollars, not more than eighty-four million principal amount of obligations may be issued for eligible advanced energy projects and not more than one hundred million principal amount of obligations may be issued for eligible logistics and distribution projects. The terms of the obligations issued under section 166.08 of the Revised Code, other than obligations issued to meet guarantees that cannot be satisfied from amounts then held in the loan guarantee fund or the innovation Ohio loan guarantee fund, shall be such that the aggregate amount of moneys used from profit from the sale of spirituous liquor, and not from other sources, in any fiscal year shall not exceed ~~forty-five~~ sixty-three million dollars. For purposes of the preceding sentence, "other sources" include the annual investment income on special funds to the extent it will be available for payment of any bond service charges in lieu of use of profit from the sale of spirituous liquor, and shall be estimated on the basis of the expected funding of those special funds and assumed investment earnings thereon at a rate equal to the weighted average yield on investments of those special funds determined as of any date within sixty days immediately preceding the date of issuance of the bonds in respect of which the determination is being made. The determinations required by this division shall be made by the treasurer of state at the time of issuance of an issue of obligations and shall be conclusive for purposes of such issue of obligations from and after their issuance and delivery.

(B) The aggregate amount of the guaranteed portion of the unpaid principal of loans guaranteed under sections 166.06 and 166.15 of the Revised Code and the unpaid principal of loans made under sections 166.07, 166.16, and 166.21 of the Revised Code may not at any time exceed eight hundred million dollars. Of that eight hundred million dollars, the aggregate amount of the guaranteed portion of the unpaid principal of loans guaranteed under sections 166.06 and 166.15 of the Revised Code shall not at any time exceed two hundred million dollars. However, the limitations established under this division do not apply to loans made with proceeds from the

issuance and sale of project financing obligations.

Sec. 166.25. (A) The director of development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend money in the logistics and distribution infrastructure fund to persons for the purpose of paying allowable costs of eligible logistics and distribution projects.

(B) In determining the eligible logistics and distribution projects to be assisted and the nature, amount, and terms of assistance to be provided for an eligible logistics and distribution project, the director shall consult with appropriate governmental agencies, including the department of transportation and the Ohio rail development commission.

(C)(1) The director shall submit to the development financing advisory council the terms of the proposed assistance to be provided for an eligible logistics and distribution project and such other relevant information as the council may request.

(2) The council, on the basis of such information, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance the director may submit to the council.

(3) The director shall submit the terms of the proposed assistance to be provided, along with the recommendations, as amended, of the council as to the appropriateness of the proposed assistance, to the controlling board.

(D) Any loan made pursuant to this section shall be evidenced by a loan agreement, which shall contain such terms as the director determines necessary or appropriate, including performance measures and reporting requirements. The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section, including requiring a loan recipient to repay the amount of the loan plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the director.

Sec. 166.26. (A) There is hereby created in the state treasury the logistics and distribution infrastructure fund. The fund shall consist of grants, gifts, and contributions of money or rights to money lawfully designated for or deposited into the fund, all money and rights to money lawfully appropriated and transferred to the fund, including money received from the issuance of obligations under section 166.08 of the Revised Code and subject to section 166.11 of the Revised Code for purposes of allowable costs of eligible logistics and distribution projects, and money credited to the fund pursuant to division (B) of this section. All investment earnings on the cash balance in the fund shall be credited to the fund. The fund shall not

be comprised, in any part, of money raised by taxation.

(B) There shall be credited to the logistics and distribution infrastructure fund the money received by the state from the repayment of loans and recovery on loan guarantees, including interest thereon, made from the fund.

Sec. 166.27. (A) As used in this section, "minority" has the same meaning as in section 184.17 of the Revised Code, except that the individual must be a resident of this state. The term also includes an economically disadvantaged individual who is a resident of this state.

(B) The director of development shall conduct outreach activities in Ohio that seek to include minorities in the loan program for logistics and distribution projects established under section 166.25 of the Revised Code. The outreach activities shall include the following, when appropriate:

(1) Identifying and partnering with historically black colleges and universities;

(2) Working with all institutions of higher education in the state to support minority faculty and students involved in logistics and distribution fields;

(3) Developing a plan to contact by telephone minority-owned businesses and entrepreneurs and other economically disadvantaged businesses to notify them of opportunities to participate in the loan program for logistics and distribution projects;

(4) Identifying minority professional and technical trade associations and economic development assistance organizations and notifying them of the loan program for logistics and distribution projects;

(5) Partnering with regional councils to foster local efforts to support minority-owned businesses or otherwise identify networks of minority-owned businesses, entrepreneurs, and individuals operating locally;

(6) Identifying minority firms and notifying them of the opportunities that exist within the investment community, including the Ohio venture capital authority created under section 150.02 of the Revised Code.

(C) The director shall publish an annual report that includes all of the following:

(1) Details of loans awarded for logistics and distribution projects;

(2) The status of loan recipients' projects funded in previous years;

(3) The amount of loans awarded for projects in economically distressed areas, and if possible to ascertain, the impact of the loans to those areas.

(D) To the extent possible, outreach activities described in this section shall be conducted in conjunction with the EDGE program created in section 123.152 of the Revised Code.

Sec. 166.30. (A) The Ohio air quality development authority, with the approval of the controlling board and subject to sections 3706.25 to 3706.30 of the Revised Code, may provide grants from money in the advanced energy research and development fund and may lend money in the advanced energy research and development taxable fund to persons for the purposes of paying allowable costs of eligible advanced energy projects.

(B) In determining the eligible advanced energy projects to be assisted and the nature, amount, and terms of assistance to be provided for an eligible advanced energy project, the authority shall consult with appropriate governmental agencies.

(C)(1) The authority shall submit to the development financing advisory council the terms of the proposed assistance to be provided for an eligible advanced energy project and such other relevant information as the council may request.

(2) The council, on the basis of such information, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance the authority may submit to the council.

(3) The authority shall submit the terms of the proposed assistance to be provided, along with the recommendations, as amended, of the council as to the appropriateness of the proposed assistance, to the controlling board.

(D) Any grant or loan made pursuant to this section shall be evidenced by an agreement, which shall contain such terms as the authority determines necessary or appropriate, including performance measures and reporting requirements. The authority may take actions necessary or appropriate to collect or otherwise deal with any assistance provided under this section, including requiring a loan or grant recipient to repay the amount of the loan or grant plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the authority.

Sec. 184.02. (A) In addition to the powers and duties under sections 184.10 to 184.20, 184.25, 184.26, and 184.37 of the Revised Code, the third frontier commission may perform any act to ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, sections 184.01 and 184.02 of the Revised Code. In addition, the commission may do any of the following:

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

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

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

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

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

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

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

(B) In addition to the powers and duties under sections 184.10 to 184.20, 184.25, 184.26, and 184.37 of the Revised Code, the commission shall do all of the following:

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

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

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

Sec. 184.174. The third frontier commission shall publish an annual report that includes all of the following:

(A) Details of grants, loans, and loan guarantees awarded or provided under the bioproduct development program established in section 184.25 of the Revised Code and the biomedical development program established in section 184.26 of the Revised Code.

(B) The status of the recipients' projects funded in previous years.

(C) The amount of grants or loans awarded and loan guarantees

provided for projects in economically distressed areas, and if possible to ascertain, the impact of the grants, loans, and loan guarantees to those areas.

Sec. 184.23. (A) There is hereby created the third frontier biomedical advisory board. The advisory board shall provide general advice to the commission regarding biomedical issues.

(B) The board shall consist of seven members selected for their biomedical knowledge and experience. The governor shall appoint two members. The speaker of the house of representatives shall appoint two members, one of whom may be recommended by the minority leader of the house of representatives. The president of the senate shall appoint two members, one of whom may be recommended by the minority leader of the senate. The director of development or the director's designee shall serve as a member. Membership on the advisory board created under section 184.03 of the Revised Code does not prohibit membership on the advisory board created under this section. The designee of the director of development may also serve on the advisory board created in section 184.231 of the Revised Code. The remaining members of the board created under this section may not serve on that other board. All members of the board shall serve at the pleasure of their appointing authorities.

(C) The board shall select from among its members a chairperson. A majority of board members constitutes a quorum, and no action shall be taken without the affirmative vote of a majority of the members.

(D) A vacancy shall be filled in the same manner as the original appointment. The governor may remove any member of the board for malfeasance, misfeasance, or nonfeasance after a hearing in accordance with Chapter 119. of the Revised Code.

(E) Members of the board shall not act as representatives of any specific disciplinary, regional, or organizational interest. Members shall represent a wide variety of experience valuable in technology research and development, product process innovation and commercialization, and creating and managing high-growth technology-based companies.

(F) Members of the board shall file financial disclosure statements described in division (B) of section 102.02 of the Revised Code.

(G) Members of the board shall serve without compensation, but shall receive their reasonable and necessary expenses incurred in the conduct of board business.

(H) The department of development shall provide office space and facilities for the board.

Sec. 184.231. (A) There is hereby created the third frontier bioproducts advisory board. The advisory board shall, in consideration of the

recommendations of the Ohio agriculture to chemicals, polymers, and advanced materials taskforce, provide general advice to the commission regarding bioproduct issues.

(B) The board shall consist of seven members selected for their bioproducts knowledge and experience. The governor shall appoint one member. The speaker of the house of representatives shall appoint two members, one of whom may be recommended by the minority leader of the house of representatives. The president of the senate shall appoint two members, one of whom may be recommended by the minority leader of the senate. The director of development or the director's designee shall serve as a member. The director of agriculture or the director's designee shall serve as a member. Membership on the advisory board created under section 184.03 of the Revised Code does not prohibit membership on the advisory board created under this section. All members of the board shall serve at the pleasure of their appointing authorities.

(C) The board shall select from among its members a chairperson. A majority of board members constitutes a quorum, and no action shall be taken without the affirmative vote of a majority of the members.

(D) A vacancy shall be filled in the same manner as the original appointment. The governor may remove any member of the board for malfeasance, misfeasance, or nonfeasance after a hearing in accordance with Chapter 119. of the Revised Code.

(E) Members of the board shall not act as representatives of any specific disciplinary, regional, or organizational interest. Members shall represent a wide variety of experience valuable in technology research and development, product process innovation and commercialization, and creating and managing high-growth technology-based companies.

(F) Members of the board shall file financial disclosure statements described in division (B) of section 102.02 of the Revised Code.

(G) Members of the board shall serve without compensation, but shall receive their reasonable and necessary expenses incurred in the conduct of board business.

(H) The department of development shall provide office space and facilities for the board.

Sec. 184.24. Money in the jobs fund created in the state treasury by Section 4 of Sub. H.B. 544 of the 127th general assembly shall be used in accordance with sections 184.25 and 184.26 of the Revised Code and may be used to provide cash transfers to the local infrastructure development fund created in section 164.28 of the Revised Code.

Sec. 184.25. There is hereby created the Ohio bioproducts development

program to be administered by the third frontier commission. The commission shall provide loans, loan guarantees, or grants to for-profit or not-for-profit entities to promote, provide for and enable innovation, development and commercialization of bioproducts, including biopolymers, chemicals, and advanced materials that use biomaterials and renewable agriculture resources, through efforts including, but not limited to, agribusiness and the agricultural industry in Ohio, state and local government entities and agencies, educational institutions, or research organizations and institutions.

Any assistance made pursuant to this section shall be evidenced by an agreement, which shall contain such terms as the commission determines necessary or appropriate, including performance measures and reporting requirements. The commission may take actions necessary or appropriate to collect or otherwise deal with any assistance made under this section, including requiring a recipient of assistance to repay the amount of the assistance plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the commission.

Sec. 184.26. (A) There is hereby created the Ohio biomedical development program to be administered by the third frontier commission. The commission shall provide loans, loan guarantees, or grants to for-profit or not-for-profit entities to promote, provide for and enable innovation, development and commercialization of biomedical and biotechnological products, processes and applications, including medical devices, diagnostics, informatics, therapies, and drugs, through efforts by and collaboration among and including business and industry in Ohio, state and local governmental entities and agencies, educational institutions, or research organizations and institutions.

Any assistance made pursuant to this section shall be evidenced by an agreement, which shall contain such terms as the commission determines necessary or appropriate, including performance measures and reporting requirements. The commission may take actions necessary or appropriate to collect or otherwise deal with any assistance made under this section, including requiring a recipient of assistance to repay the amount of the assistance plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the commission.

(B)(1) As used in this section:

(a) "Human blastocyst" means an early stage human embryo that is five to seven days after conception. A blastocyst has an outer layer of cells known as a trophoblast, and an interior group of cells that is the inner cell mass.

(b) "Human cloning" means the creation of a human zygote, human blastocyst, or human embryo by any means other than the fertilization of a human egg by a human sperm.

(c) "Human embryo" means an organism of the species homo sapiens during the earliest stages of development from one cell up to eight weeks.

(d) "Human zygote" means a one-cell human embryo.

(2) Money received by an entity pursuant to the Ohio biomedical development program shall not be used, directly or indirectly, to pay costs of, or otherwise support any activities involving, human cloning.

Sec. 184.37. The third frontier commission, in consultation with the third frontier economic stimulus advisory board, shall establish competitive processes for the purpose of awarding all of the following:

(A) Loans, loan guarantees, and grants under the Ohio bioproducts development program pursuant to section 184.25 of the Revised Code;

(B) Loans, loan guarantees, and grants under the Ohio biomedical development program pursuant to section 184.26 of the Revised Code.

Sec. 1555.03. For the purposes of this chapter, the director of the Ohio coal development office may:

(A) With the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the affirmative vote of a majority of the members of the Ohio air quality development authority, make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by any such person or educational or scientific institution and adopt rules under Chapter 119. of the Revised Code for making such loans, guarantees, and grants.

(B) In making loans, loan guarantees, and grants under division (A) of this section and section 1555.04 of the Revised Code, the director of the office shall ensure that an adequate portion of the total amount of those loans, loan guarantees, and grants, as determined by the director with the advice of the technical advisory committee, is used for conducting research on fundamental scientific problems related to the utilization of Ohio coal and shall ensure, to the maximum feasible extent, joint financial participation by the federal government or other investors or interested parties in conjunction with any such loan, loan guarantee, or grant. The director, in each grant agreement or contract under division (A) of this section, loan contract or agreement under this division or section 1555.04 of the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific

institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee and the affirmative vote of a majority of the members of the Ohio air quality development authority, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15, Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents or copyrights, that result in whole or in part from coal research and development projects conducted under any such contract or agreement, in such amounts and for such period of years as may be negotiated and provided by the contract or agreement in advance of the making of the grant, loan, or loan guarantee. Moneys ~~so~~ received by the director of the office shall under this section may be credited to the coal research and development bond service fund or used to make additional loans, loan guarantees, grants, or agreements under this section.

(E) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, and such other consultants and independent contractors as are necessary in the judgment of the director of the office to carry out this chapter, and fix the compensation thereof.

(F) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction or operation of any coal research and development project or for coal research and development, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made.

(G) Purchase fire and extended coverage and liability insurance for any coal research and development project, insurance protecting the office and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the director of the office determines necessary or proper under this chapter.

Any moneys received by the director from the proceeds of any such insurance with respect to a coal research and development project and any moneys received by the director from the proceeds of any settlement, judgment, foreclosure, or other insurance with respect to a coal research and development project or facility shall be credited to the coal research and development bond service fund.

(H) In the exercise of the powers of the director of the office under this chapter, call to the director's assistance, temporarily, from time to time, any engineers, technical experts, financial experts, and other employees in any state department, agency, or commission, or in the Ohio state university, or other educational institutions financed wholly or partially by this state for purposes of assisting the director of the office with reviewing and evaluating applications for financial assistance under this chapter, monitoring performance of coal research and development projects receiving financial assistance under this chapter, and reviewing and evaluating the progress and findings of those projects. Such engineers, experts, and employees shall not receive any additional compensation over that which they receive from the department, agency, commission, or educational institution by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the director.

(I) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 3333.38. (A) As used in this section:

(1) "Institution of higher education" includes all of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A nonprofit institution issued a certificate of authorization under Chapter 1713. of the Revised Code;

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;

(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.122, 3333.21, 3333.26, 3333.27, 3333.28, 3333.372, 5910.03, 5910.032, and 5919.34 of the Revised Code ~~or~~, financed by an award under the choose Ohio first scholarship program established under section 3333.61 of the Revised Code, or financed by an award under the choose Ohio first co-op/internship program established under section 3333.72 of the Revised Code, and any

other post-secondary student financial assistance supported by state funds.

(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the individual applies for assistance of that nature:

(1) A violation of section 2917.02 or 2917.03 of the Revised Code;

(2) A violation of section 2917.04 of the Revised Code that is a misdemeanor of the fourth degree;

(3) A violation of section 2917.13 of the Revised Code that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code.

(C) If an individual is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of section 2917.02 or 2917.03 of the Revised Code, and if the individual is enrolled in a state-supported institution of higher education, the institution in which the individual is enrolled shall immediately dismiss the individual. No state-supported institution of higher education shall admit an individual of that nature for one academic year after the individual applies for admission to a state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students.

Sec. 3333.71. As used in sections 3333.71 to 3333.81 of the Revised Code:

(A) "Cooperative education program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work experience in cooperating employer organizations and that meets all of the following conditions:

(1) Alternates or combines periods of academic study and work experience in appropriate fields as an integral part of student education;

(2) Provides students with compensation from the cooperative employer in the form of wages or salaries for work performed;

(3) Evaluates each participating student's performance in the cooperative position, both from the perspective of the student's institution of higher education and the student's cooperative employer;

(4) Provides participating students with academic credit from the institution of higher education upon successful completion of their cooperative education;

(5) Is part of an overall degree or certificate program for which a

percentage of the total program acceptable to the chancellor of the Ohio board of regents involves cooperative education.

(B) "Internship program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work or community service experience and that does both of the following:

(1) Offers internships of specified and definite duration;

(2) Evaluates each participating student's performance in the internship position, both from the perspective of the student's institution of higher education and the student's internship employer.

An internship program may provide participating students with academic credit upon successful completion of the internship, and may provide students with compensation in the form of wages or salaries, stipends, or scholarships.

(C) "Nonpublic university or college" means a nonprofit institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code.

(D) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3333.72. The chancellor of the Ohio board of regents shall establish and administer the choose Ohio first co-op/internship program to promote and encourage cooperative education programs or internship programs at Ohio institutions of higher education for the purpose of recruiting Ohio students to stay in the state, and recruiting Ohio residents who left Ohio to attend out-of-state institutions of higher education back to Ohio institutions of higher education, to participate in high quality academic programs that use cooperative education programs or significant internship programs, in order to support the growth of Ohio's businesses by providing businesses with Ohio's most talented students and providing Ohio graduates with job opportunities with Ohio's growing companies.

The chancellor, subject to approval by the controlling board, shall make awards to state institutions of higher education for new or existing programs and initiatives meeting the goals of the choose Ohio first co-op/internship program. Awards may be granted for programs and initiatives to be implemented by a state institution of higher education alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state institution of higher education in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may

provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the choose Ohio first co-op/internship program.

The choose Ohio first co-op/internship program shall support the creation and maintenance of high quality academic programs that utilize an intensive cooperative education or internship program for students at state institutions of higher education, or assign a number of scholarships to institutions to recruit Ohio residents as students in a high quality academic program, or both. If scholarships are included in an award to an institution of higher education, the scholarships shall be awarded to each participating eligible student as a grant to the state institution of higher education the student is attending and shall be reflected on the student's tuition bill.

Notwithstanding any other provision of this section or sections 3333.73 to 3333.81 of the Revised Code, an Ohio four-year nonpublic university or college may submit a proposal as lead applicant or co-lead applicant for an award under the choose Ohio first co-op/internship program if the proposal is to be implemented in collaboration with a state institution of higher education. If the chancellor grants a nonpublic university or college an award, the nonpublic university or college shall comply with all requirements of this section, sections 3333.73 to 3333.81 of the Revised Code, and the rules adopted under this section that apply to state institutions of higher education that receive awards under the program.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the choose Ohio first co-op/internship program.

Sec. 3333.73. The chancellor of the Ohio board of regents shall establish a competitive process for making awards under the choose Ohio first co-op/internship program. The chancellor, on completion of that process, shall make a recommendation to the controlling board asking for approval of each award selected by the chancellor.

The state institution of higher education shall submit a proposal and other documentation required by the chancellor, in the form and manner prescribed by the chancellor, for each award it seeks. A proposal may propose an initiative to be implemented solely by the state institution of higher education or in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges.

The chancellor shall determine which proposals will receive awards each fiscal year, and the amount of each award, on the basis of the merit of each proposal, which the chancellor, subject to approval by the controlling board, shall determine based on one or more of the following criteria:

(A) The extent to which the proposal will keep Ohio students in Ohio

institutions of higher education:

(B) The extent to which the proposal will attract Ohio residents who left Ohio to attend out-of-state institutions of higher education to return to Ohio institutions of higher education:

(C) The extent to which the proposal will increase the number of Ohio graduates who remain in Ohio and enter Ohio's workforce:

(D) The quality of the program that is the subject of the proposal and the extent to which additional resources will enhance its quality:

(E) The extent to which the proposal is integrated with the strengths of the regional economy:

(F) The extent to which the proposal is aligned with the report submitted by the chancellor pursuant to Section 4 of Sub. H.B. 2 of the 127th general assembly, as amended:

(G) The extent to which the proposal facilitates the development of high quality academic programs with a cooperative education program or a significant internship program at state institutions of higher education:

(H) The extent to which the proposal is integrated with supporting private companies to fill potential job growth:

(I) The amount of other institutional, public, or private resources, whether monetary or nonmonetary, the proposal pledges to leverage that are in addition to the monetary cost-sharing requirement prescribed in section 3333.74 of the Revised Code:

(J) The extent to which the proposal is collaborative with other Ohio institutions of higher education:

(K) The extent to which the proposal is integrated with the institution's mission:

(L) The extent to which the proposal meets a statewide educational need at the undergraduate or graduate level:

(M) The demonstrated productivity or future capacity of the students to be recruited:

(N) The extent to which the proposal will create additional capacity in a high quality academic program with a cooperative education program or significant internship program:

(O) The extent to which the proposal will encourage students who received degrees from two-year institutions to pursue baccalaureate degrees:

(P) The extent to which the proposal facilitates the completion of a baccalaureate degree in a cost-effective manner:

(Q) The extent to which other institutional, public, or private resources that are pledged to the proposal, in addition to the monetary cost-sharing requirement prescribed in section 3333.74 of the Revised Code, will be

deployed to assist in sustaining the academic program of excellence:

(R) The extent to which the proposal increases the likelihood that students will successfully complete their degree programs or certificate programs;

(S) The extent to which the proposal ensures that a student participating in the high quality academic program funded by the choose Ohio first co-op/internship program is appropriately qualified and prepared to successfully transition into professions in Ohio's growing companies and industries.

Sec. 3333.74. (A) Except as provided in division (B) of this section, each award under the choose Ohio first co-op/internship program shall require a pledge of private funds equal to the following:

(1) In the case of a program, initiative, or scholarships for undergraduate students, at least one hundred per cent of the money awarded;

(2) In the case of a program, initiative, or scholarships for graduate students, at least one hundred fifty per cent of the money awarded.

(B) The chancellor of the Ohio board of regents may waive the requirement of division (A) of this section if the chancellor finds that exceptional circumstances exist to do so, provided that the chancellor reviews the proposal with the advisory committee established under section 3333.81 of the Revised Code and provides an explanation for the waiver to the controlling board.

(C) The chancellor shall endeavor to distribute awards in such a way that a wide range of disciplines is supported and that all regions of the state benefit from the economic development impact of the program.

Sec. 3333.75. The chancellor of the Ohio board of regents shall require each state institution of higher education that the controlling board approves to receive an award under the choose Ohio first co-op/internship program to enter into an agreement governing the use of the award. The agreement shall contain terms the chancellor determines to be necessary, which shall include performance measures, reporting requirements, and an obligation to fulfill pledges of other institutional, public, or nonpublic resources for the proposal.

The chancellor may require a state institution of higher education that violates the terms of its agreement to repay the award plus interest at the rate required by section 5703.47 of the Revised Code to the chancellor.

If the chancellor makes an award to a program or initiative that is intended to be implemented by a state institution of higher education in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may enter into an agreement

with the collaborating universities or colleges that permits awards to be received directly by the collaborating universities or colleges consistent with the terms of the program or initiative. In that case, the chancellor shall incorporate into the agreement terms consistent with the requirements of this section.

Sec. 3333.76. The chancellor of the Ohio board of regents shall encourage state institutions of higher education, alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges, to submit proposals under the choose Ohio first co-op/internship program for initiatives that recruit Ohio residents enrolled in colleges and universities in other states or other countries to return to Ohio and enroll in state institutions of higher education or nonpublic Ohio universities and colleges as graduate students in a high quality academic program that uses a cooperative education program, a significant internship program in a private industry or institutional laboratory, or a similar model involving a variation of cooperative education or internship programs common to graduate education, and is in an educational area, industry, or industry sector of need.

The chancellor may encourage state institutions of higher education, alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges, to submit proposals for initiatives that recruit Ohio residents who have received baccalaureate degrees to remain in Ohio and enroll in state institutions of higher education or nonpublic Ohio universities and colleges as graduate students in a high quality academic program of the type described in the preceding paragraph.

Sec. 3333.77. When making an award under the choose Ohio first co-op/internship program, the chancellor of the Ohio board of regents, subject to approval by the controlling board, may commit to giving a state institution of higher education's proposal preference for future awards after the current fiscal year or fiscal biennium. A proposal's eligibility for future awards remains conditional on all of the following:

(A) Future appropriations of the general assembly;

(B) The institution's adherence to the agreement entered into under section 3333.75 of the Revised Code, including its fulfillment of pledges of other institutional, public, or nonpublic resources;

(C) A demonstration that the students participating in the programs and initiatives or receiving scholarships financed by the awards are satisfied with the institutions selected by the chancellor to offer the programs, initiatives, or scholarships financed by the awards.

The chancellor and the controlling board shall not commit to awarding

any proposal after June 30, 2014.

Sec. 3333.78. The chancellor of the Ohio board of regents shall monitor each initiative for which an award is granted under the choose Ohio first co-op/internship program to ensure the following:

(A) Fiscal accountability, so that the award is used in accordance with the agreement entered into under section 3333.75 of the Revised Code;

(B) Operating progress, so that the initiative is managed to achieve the goals stated in the proposal and in the agreement, and so that problems may be promptly identified and remedied;

(C) Desired outcomes, so that the initiative contributes to the program's goal of retaining Ohio's students after graduation.

Sec. 3333.79. (A) As used in this section, "minority" has the same meaning as in section 184.17 of the Revised Code. The term also includes an individual who is economically disadvantaged.

(B) The chancellor of the board of regents shall conduct outreach activities in Ohio that seek to include minorities in the co-op/internship program established under section 3333.72 of the Revised Code. The outreach activities shall include the following, when appropriate:

(1) Identifying and partnering with historically black colleges and universities;

(2) Working with all institutions of higher education in the state to support minority faculty and students involved in cooperative and intern programs;

(3) Developing a plan to contact by telephone minorities and other economically disadvantaged individuals to notify them of opportunities to participate in the co-op/internship program;

(4) Identifying minority professional and trade associations and economic development assistance organizations and notifying them of the co-op/internship program;

(5) Partnering with regional technology councils to foster local efforts to support minority participation in the co-op/internship program.

(C) To the extent possible, outreach activities described in this section shall be conducted in conjunction with the EDGE program created in section 123.152 of the Revised Code.

Sec. 3333.80. Not later than December 31, 2010, and the thirty-first day of December of each year thereafter, the chancellor of the Ohio board of regents shall submit to the general assembly in accordance with section 101.68 of the Revised Code a report on the academic and economic impact of the choose Ohio first co-op/internship program. At a minimum, the report shall include the following:

(A) Progress and performance metrics for each initiative that received an award in the previous fiscal year;

(B) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;

(C) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy.

Sec. 3333.81. (A) The co-op/internship program advisory committee is hereby created. The committee shall consist of the following members:

(1) Five members appointed by the governor, two of whom shall represent academia, two of whom shall be representatives of private industry, and one of whom shall be a member of the public;

(2) The director of development, or the director's designee;

(3) Five members appointed by the president of the senate, three of whom shall be members of the senate, but not more than two from the same political party, one of whom shall represent academia, and one of whom shall be a member of the public;

(4) Five members appointed by the speaker of the house of representatives, three of whom shall be members of the house of representatives, but not more than two from the same political party, one of whom shall represent private industry, and one of whom shall be a member of the public.

(B) Members of the committee who are members of the general assembly shall serve for terms of four years or until their legislative terms end, whichever is sooner. The director of development or the director's designee shall serve as an ex-officio, voting member. Otherwise, initial members shall serve the following terms:

(1) Of the initial members appointed by the governor, the member representing the public and one member representing academia shall serve for terms of one year; one member representing private industry shall serve for a term of two years; and one member representing private industry and one member representing academia shall serve for terms of three years.

(2) The member representing academia and the representative of the public initially appointed by the president of the senate shall serve for terms of two years.

(3) The member representing private industry initially appointed by the speaker of the house of representatives shall serve for a term of one year.

(4) The representative of the public initially appointed by the speaker of the house of representatives shall serve for a term of three years.

Thereafter, terms shall be for three years, with each term ending on the

same day of the same month as did the term that it succeeds. Each member shall serve from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue to serve after the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. The appointing authority may remove a member from the committee for failure to attend two consecutive meetings without showing good cause for the absences.

(C) The committee annually shall select a chairperson and a vice-chairperson. Only the members who represent academia and private industry may serve as chairperson and vice-chairperson. For this purpose, any committee member appointed as a member of the public who is a trustee, officer, employee, or student of an institution of higher education shall be included among the representatives of academia who may serve as chairperson or vice-chairperson, and any committee member appointed as a member of the public who is a director, officer, or employee of a private business shall be included among the representatives of private industry who may serve as chairperson or vice-chairperson. The committee annually shall rotate the selection of the chairperson between these two groups and shall select a member of the other group to serve as vice-chairperson.

The committee annually shall select one of its members to serve as secretary to keep a record of the committee's proceedings.

(D) A majority vote of the members of the full committee is necessary to take action on any matter. The committee may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings.

(E) Members of the committee shall serve without compensation.

(F) A member of the committee shall not participate in discussions or votes concerning a proposed initiative or an actual award under the choose Ohio first co-op/internship program that involves an institution of higher education of which the member is a trustee, officer, employee, or student; an organization of which the member is a trustee, director, officer, or employee; or a business of which the member is a director, officer, or employee or a shareholder of more than five per cent of the business' stock.

(G) The committee shall advise the chancellor of the Ohio board of regents on growing industries well-suited for awards under the choose Ohio first co-op/internship program. The chancellor shall consult with the

committee and request the committee's advice at each of the following times:

- (1) Prior to issuing each request for applications under the program;
- (2) While the chancellor is reviewing applications and before deciding on awards to submit for the controlling board's approval;
- (3) After deciding on awards to submit for the controlling board's approval and prior to submitting them.

The committee shall advise the chancellor on other matters the chancellor considers appropriate.

(H) The chancellor shall provide meeting space for the committee. The committee shall be assisted in its duties by the chancellor's staff.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the committee.

Sec. 3345.32. (A) As used in this section:

(1) "State university or college" means the institutions described in section 3345.27 of the Revised Code and the northeastern Ohio universities college of medicine.

(2) "Resident" has the meaning specified by rule of the chancellor of the Ohio board of regents.

(3) "Statement of selective service status" means a statement certifying one of the following:

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:

(i) The individual is under eighteen or over twenty-six years of age.

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit.

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended.

(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The chancellor shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The chancellor may require that such statements be accompanied by documentation specified by rule of the chancellor.

(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who has not filed a statement of selective service status with the university or college shall, regardless of the student's residency, charge the student any tuition surcharge charged students who are not residents of this state.

(D) No male born after December 31, 1959, shall be eligible to receive any loan, grant, scholarship, or other financial assistance for educational expenses granted under section 3315.33, 3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code, ~~or~~ financed by an award under the choose Ohio first scholarship program established under section 3333.61 of the Revised Code, or financed by an award under the choose Ohio first co-op/internship program established under section 3333.72 of the Revised Code, unless that person has filed a statement of selective service status with that person's institution of higher education.

(E) If an institution of higher education receives a statement from an individual certifying that the individual has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended or that the individual is exempt from registration for a reason other than that the individual is under eighteen years of age, the institution shall not require the individual to file any further statements. If it receives a statement certifying that the individual is not required to register because the individual is under eighteen years of age, the institution shall require the individual to file a new statement of selective service status each time the individual seeks to enroll for a new academic term or makes application for a new loan or loan guarantee or for any form of financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system

or is exempt from registration for a reason other than that the individual is under eighteen years of age.

Sec. 3706.01. As used in this chapter:

(A) "Governmental agency" means a department, division, or other unit of state government, a municipal corporation, county, township, and other political subdivision, or any other public corporation or agency having the power to acquire, construct, or operate air quality facilities, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(B) "Person" means any individual, firm, partnership, association, or corporation, or any combination thereof.

(C) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, noise, vapor, heat, radioactivity, radiation, or odorous substance, or any combination thereof.

(D) "Air pollution" means the presence in the ambient air of one or more air contaminants in sufficient quantity and of such characteristics and duration as to injure human health or welfare, plant or animal life, or property, or that unreasonably interferes with the comfortable enjoyment of life or property.

(E) "Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks, or ducts that surrounds human, plant, or animal life, or property.

(F) "Emission" means the release into the outdoor atmosphere of an air contaminant.

(G) "Air quality facility" means any of the following:

(1) Any method, modification or replacement of property, process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants or substances containing air contaminants, or that renders less noxious or reduces the concentration of air contaminants in the ambient air, including, without limitation, facilities and expenditures that qualify as air pollution control facilities under section 103 (C)(4)(F) of the Internal Revenue Code of 1954, as amended, and regulations adopted thereunder;

(2) Motor vehicle inspection stations operated in accordance with, and any equipment used for motor vehicle inspections conducted under, section 3704.14 of the Revised Code and rules adopted under it;

(3) Ethanol or other biofuel facilities, including any equipment used at the ethanol or other biofuel facility for the production of ethanol or other biofuels;

(4) Any property or portion thereof used for the collection, storage,

treatment, utilization, processing, or final disposal of a by-product or solid waste resulting from any method, process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants, or that renders less noxious or reduces the concentration of air contaminants in the ambient air;

(5) Any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through improvements in the efficiency of energy utilization or energy conservation;

(6) Any coal research and development project conducted under Chapter 1555. of the Revised Code;

(7) As determined by the director of the Ohio coal development office, any property or portion thereof that is used for the collection, storage, treatment, utilization, processing, or final disposal of a by-product resulting from a coal research and development project as defined in section 1555.01 of the Revised Code or from the use of clean coal technology, excluding any property or portion thereof that is used primarily for other subsequent commercial purposes;

(8) Any property or portion thereof that is part of the FutureGen project of the United States department of energy or related to the siting of the FutureGen project.

(9) Any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through the generation of clean, renewable energy with renewable energy resources or advanced energy resources as defined in section 3706.25 of the Revised Code.

(10) Any property, device, structure or equipment necessary for the manufacture and production of equipment described as an air quality facility under this chapter.

"Air quality facility" further includes any property or system to be used in whole or in part for any of the purposes in divisions (G)(1) to ~~(8)~~(10) of this section, whether another purpose is also served, and any property or system incidental to or that has to do with, or the end purpose of which is, any of the foregoing. Air quality facilities that are defined in this division for industry, commerce, distribution, or research, including public utility companies, are hereby determined to be those that qualify as facilities for the control of air pollution and thermal pollution related to air under Section 13 of Article VIII, Ohio Constitution.

(H) "Project" or "air quality project" means any air quality facility, including undivided or other interests therein, acquired or to be acquired or constructed or to be constructed by the Ohio air quality development authority under this chapter, or acquired or to be acquired or constructed or

to be constructed by a governmental agency or person with all or a part of the cost thereof being paid from a loan or grant from the authority under this chapter or otherwise paid from the proceeds of air quality revenue bonds, including all buildings and facilities that the authority determines necessary for the operation of the project, together with all property, rights, easements, and interests that may be required for the operation of the project.

(I) "Cost" as applied to an air quality project means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the authority, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements for such access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to air quality facilities, the cost of any commodity contract, including fees and expenses related thereto, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of air quality revenue bonds to be paid into any special funds from the proceeds of such bonds, and the financing of the placing of such project in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a project may be regarded as a part of the cost of that project and may be reimbursed out of the proceeds of air quality revenue bonds as authorized by this chapter.

(J) "Owner" includes an individual, copartnership, association, or corporation having any title or interest in any property, rights, easements, or interests authorized to be acquired by this chapter.

(K) "Revenues" means all rentals and other charges received by the authority for the use or services of any air quality project, any gift or grant received with respect to any air quality project, any moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of an air quality project, moneys received in repayment of and for interest on any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise, proceeds of such bonds to the extent that use thereof for payment of principal of, premium, if any, or interest on the bonds is authorized by the authority, amounts received or otherwise derived from a commodity contract or from the sale of the related commodity under such a contract, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of the project, and income and profit from the investment of the proceeds of air quality revenue bonds or of any revenues.

(L) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(M) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(N) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(O) "Air quality revenue bonds," unless the context indicates a different meaning or intent, includes air quality revenue notes, air quality revenue renewal notes, and air quality revenue refunding bonds, except that notes issued in anticipation of the issuance of bonds shall have a maximum maturity of five years as provided in section 3706.05 of the Revised Code and notes or renewal notes issued as the definitive obligation may be issued maturing at such time or times with a maximum maturity of forty years from the date of issuance of the original note.

(P) "Solid waste" means any garbage; refuse; sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but not including solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are

point sources subject to permits under section 402 of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 880, 33 U.S.C.A. 1342, as amended, or source, special nuclear, or byproduct material as defined by the "Atomic Energy Act of 1954," 68 Stat. 921, 42 U.S.C.A. 2011, as amended.

(Q) "Sludge" means any solid, semisolid, or liquid waste, other than a recyclable by-product, generated from a municipal, commercial, or industrial waste water treatment plant, water supply plant, or air pollution control facility or any other such wastes having similar characteristics and effects.

(R) "Ethanol or other biofuel facility" means a plant at which ethanol or other biofuel is produced.

(S) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable or biomass resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable or biomass resources, that meets all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.

(T) "Biofuel" means any fuel that is made from cellulosic biomass resources, including renewable organic matter, crop waste residue, wood, aquatic plants and other crops, animal waste, solid waste, or sludge, and that is used for the production of energy for transportation or other purposes.

(U) "FutureGen project" means the buildings, equipment, and real property and functionally related buildings, equipment, and real property, including related research projects that support the development and operation of the buildings, equipment, and real property, designated by the United States department of energy and the FutureGen industrial alliance, inc., as the coal-fueled, zero-emissions power plant designed to prove the technical and economic feasibility of producing electricity and hydrogen from coal and nearly eliminating carbon dioxide emissions through capture and permanent storage.

(V) "Commodity contract" means a contract or series of contracts entered into in connection with the acquisition or construction of air quality facilities for the purchase or sale of a commodity that is eligible for prepayment with the proceeds of federally tax exempt bonds under sections 103, 141, and 148 of the Internal Revenue Code of 1986, as amended, and regulations adopted under it.

Sec. 3706.25. As used in sections 3706.25 to 3706.30 of the Revised Code:

(A) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users including, but not limited to, advanced energy resources and renewable energy resources. "Advanced energy project" includes any project described in division (A), (B), or (C) of section 4928.621 of the Revised Code.

(B) "Advanced energy resource" means any of the following:

(1) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(2) Any distributed generation system consisting of customer cogeneration of electricity and thermal output simultaneously, primarily to meet the energy needs of the customer's facilities;

(3) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;

(4) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(5) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM).

(C) "Renewable energy resource" means solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility, geothermal energy, fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion, biomass energy, biologically derived methane gas, or energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors. "Renewable energy resource" includes, but is not

limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; wind turbine located in the state's territorial waters of Lake Erie; storage facility that will promote the better utilization of a renewable energy resource that primarily generates off peak; or distributed generation system used by a customer to generate electricity from any such energy. As used in this division, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state and meets all of the following standards:

(1) The facility provides for river flows that are not detrimental for fish, wildlife, and water quality, including seasonal flow fluctuations as defined by the applicable licensing agency for the facility.

(2) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

(3) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromus fish.

(4) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.

(5) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.

(6) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility is not regulated by that commission, through development of a plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

(7) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities or, if the facility is not regulated by that commission, the facility complies with similar requirements as are

recommended by resource agencies, to the extent they have jurisdiction over the facility; and the facility provides access to water to the public without fee or charge.

(8) The facility is not recommended for removal by any federal agency or agency of any state, to the extent the particular agency has jurisdiction over the facility.

Sec. 3706.26. (A) The Ohio air quality development authority may, with the approval of its executive director and the affirmative vote of a majority of its members, request the issuance of bonds under section 166.08 of the Revised Code for the purpose of providing loans and grants for acquiring, manufacturing, constructing, reconstructing, expanding, improving, or equipping facilities or facility components by business and industry in this state, entities and agencies of state and local government, educational institutions, research organizations and institutions, or any combination thereof, for energy production, delivery, storage, conservation, and efficiency through advanced energy projects. The authority may, with the approval of its executive director and the affirmative vote of a majority of its members, make such loans and provide such grants in the manner provided for in section 166.30 of the Revised Code.

(B) The issuance of bonds for the purpose described in this section is subject to the limitation established in division (A) of section 166.11 of the Revised Code.

Sec. 3706.27. (A) There is hereby created in the state treasury the advanced energy research and development fund to provide grants for advanced energy projects. There is hereby created in the state treasury the advanced energy research and development taxable fund to provide loans for advanced energy projects.

(B)(1) The advanced energy research and development fund and the advanced energy research and development taxable fund shall consist of the proceeds of obligations issued under section 166.08 of the Revised Code. Money shall be credited to the respective funds in the proportion that the executive director of the Ohio air quality development authority, with the affirmative vote of a majority of the members of the authority, determines appropriate.

(2) Any investment earnings from the money in the advanced energy research and development fund and in the advanced energy research and development taxable fund shall be credited to those funds, respectively. Any repayment of loans made from money in the advanced energy research and development taxable fund shall be credited to the facilities establishment fund created in section 166.03 of the Revised Code.

(C) The director of budget and management shall establish and maintain records or accounts for or within these funds in such a manner as to show the amount credited to the funds pursuant to section 166.08 of the Revised Code and that the amounts so credited have been expended for the purposes set forth in Section 2p or 13 of Article VIII, Ohio Constitution, and sections 166.08, 166.30, and 3706.26 of the Revised Code.

Sec. 3706.28. (A) Determinations made by the executive director of the Ohio air quality development authority, with the affirmative vote of a majority of the members of the authority, that a particular project is an advanced energy project and is consistent with Chapter 166. of the Revised Code and Section 2p or 13 of Article VIII, Ohio Constitution, shall be conclusive as to the validity and enforceability of the obligations issued to finance such a project and of the authorizations, trust agreements or indentures, loan agreements, or grant agreements, and other agreements made in connection therewith, all in accordance with their terms.

(B) Advanced energy facilities for industry, commerce, distribution, or research are hereby deemed to qualify as facilities for the control of air pollution and thermal pollution related to air under Section 2p or 13 of Article VIII, Ohio Constitution.

Sec. 3706.29. The Ohio air quality development authority shall, in accordance with Chapter 119. of the Revised Code, adopt any rules necessary to implement section 166.30 and sections 3706.25 to 3706.28 of the Revised Code.

Sec. 3706.30. (A) As used in this section, "minority" has the same meaning as in section 184.17 of the Revised Code, except that the individual must be a resident of this state. The term also includes an economically disadvantaged individual who is a resident of this state.

(B) The Ohio air quality development authority shall conduct outreach activities in Ohio that seek to include minorities in the grant and loan program for advanced energy projects established under section 166.30 of the Revised Code. The outreach activities shall include the following, when appropriate:

(1) Identifying and partnering with historically black colleges and universities;

(2) Working with all institutions of higher education in the state to support minority faculty and students involved in science and engineering fields that address advanced energy projects;

(3) Developing a plan to contact by telephone minority-owned businesses and entrepreneurs and other economically disadvantaged businesses to notify them of opportunities to participate in the grant and loan

program for advanced energy projects:

(4) Identifying minority professional and technical trade associations and economic development assistance organizations and notifying them of the grant and loan program for advanced energy projects;

(5) Partnering with regional technology councils to foster local efforts to support minority-owned technology businesses or otherwise identify networks of minority-owned technology businesses, entrepreneurs, and individuals operating locally;

(6) Identifying minority technology firms and notifying them of the opportunities that exist within the investment community, including the Ohio venture capital authority created under section 150.02 of the Revised Code.

(C) The authority shall publish an annual report that includes all of the following:

(1) Details of grants and loans awarded for advanced energy projects;

(2) The status of grant or loan recipients' projects funded in previous years;

(3) The amount of grants and loans awarded for projects in economically distressed areas, and if possible to ascertain, the impact of the grants or loans to those areas.

(D) To the extent possible, outreach activities described in this section shall be conducted in conjunction with the EDGE program created in section 123.152 of the Revised Code.

Sec. 5725.151. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a ~~refundable~~ credit against the tax imposed by section 5707.03 and assessed under section 5725.15 of the Revised Code for a dealer in intangibles subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any dealer for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the dealer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The dealer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.

Sec. 5733.47. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a refundable credit against the tax imposed under section 5733.06 of the Revised Code for a taxpayer that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but shall not exceed five million dollars. The credit shall be claimed for the tax year specified in the certificate and in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to the state on the first day of the tax year.

(C) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the tax year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

(D) If, pursuant to division (G) of section 5733.01 of the Revised Code, a taxpayer no longer pays a tax under this chapter, the taxpayer may nonetheless file an annual report under section 5733.02 of the Revised Code and claim the refundable credit authorized by this section. Nothing in this division allows a taxpayer to claim the credit under this section more than once.

Sec. 5747.76. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a ~~refundable~~ credit against the tax imposed under section 5747.02 of the Revised Code for a taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar

amount indicated on the certificate, but the amount of credit allowed for any taxpayer shall not exceed five million dollars. The credit shall be claimed for the taxable year specified in the certificate and in the order required under section 5747.98 of the Revised Code. ~~For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to the state on the first day of the taxable year.~~

(C) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity. If the certificate owner is a pass-through entity, the amount of the credit allowed for the pass-through entity shall not exceed five million dollars.

(D) If the credit allowed for any taxable year exceeds the tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits preceding the credit in the order prescribed by section 5747.98 of the Revised Code, the excess shall be refunded to the taxpayer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due for that year shall not exceed three million dollars or, if the certificate owner is a pass-through entity, shall not exceed the taxpayer's distributive or proportionate share of three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed for that year for not more than five ensuing taxable years, and shall deduct any amount claimed for any such year from the amount claimed in an ensuing year.

(E) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the taxable year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

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

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

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

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

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

- (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;
- (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;
- (8) The low-income credit under section 5747.056 of the Revised Code;
- (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- (10) The campaign contribution credit under section 5747.29 of the Revised Code;
- (11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- (12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;
- (13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;
- (14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;
- (15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;
- (16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;
- (17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;
- (18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;
- (19) The job retention credit under division (B) of section 5747.058 of the Revised Code;
- (20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;
- (21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;
- (22) The job training credit under section 5747.39 of the Revised Code;
- (23) The enterprise zone credit under section 5709.66 of the Revised Code;
- (24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;
- (25) The credit for employers that establish on-site child day-care

centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(28) The export sales credit under section 5747.057 of the Revised Code;

(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

(30) The enterprise zone credits under section 5709.65 of the Revised Code;

(31) The research and development credit under section 5747.331 of the Revised Code;

(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

~~(33)~~ (33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

~~(33)~~(34) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;

~~(34)~~(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

~~(35)~~(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

~~(36)~~(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

~~(37)~~(38) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit, except the credits enumerated in divisions (A)~~(32)~~(33) to ~~(37)~~(38) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

SECTION 2. That existing sections 149.311, 166.01, 166.02, 166.08,

166.11, 184.02, 1555.03, 3333.38, 3345.32, 3706.01, 5725.151, 5733.47, 5747.76, and 5747.98 of the Revised Code are hereby repealed.

SECTION 3. (A) Except as provided in division (B) of this section, the amendment by this act of sections 149.311, 5725.151, 5733.47, 5747.76, and 5747.98 of the Revised Code applies only to the application periods beginning July 1, 2009, and July 1, 2010, and to tax credits allowed under rehabilitation tax credit certificates issued for applications filed for those application periods. Those sections as they existed before their amendment by this act apply to the application period beginning July 1, 2007, and ending June 30, 2008, and to tax credits allowed under rehabilitation tax credit certificates issued for applications filed for that application period.

(B) The amendment by this act of division (A)(9) of section 149.311 of the Revised Code, eliminating the application period beginning July 1, 2008, and ending June 30, 2009, takes effect when this act becomes law. The State Historic Preservation Officer shall not accept applications for that period, and the Director of Development shall not issue any rehabilitation tax credit certificates for that period.

(C) Nothing in this section precludes the approval of those applications for tax credit certificates described in division (D)(3) of section 149.311 of the Revised Code, as amended by this act, from among the \$45 million reserved for that purpose from the \$60 million in credits allowed for each of the application periods July 1, 2009, through June 30, 2010, and July 1, 2010, through June 30, 2011. The Director of Development shall approve such applications and issue tax credit certificates subject to the requirements of division (D)(1) of section 149.311 of the Revised Code as amended by this act, and of sections 5725.151, 5733.47, 5747.76, and 5747.98 of the Revised Code as amended by this act, may accept from such applicants the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred if such estimates have not yet been provided to the Director, may notify such applicants whether the application was approved or denied on or after the effective date of this section, and may adopt any rules necessary to administer such applications.

SECTION 4. The amendment by this act of sections 149.311, 5725.151, 5733.47, 5747.76, and 5747.98 of the Revised Code and the enactment of Section 3 of this act provide for or are essential to the implementation of a

tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment and enactment are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 5. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this section, those in the first column are for fiscal year 2008 and those in the second column are for fiscal year 2009. The appropriations made in this section are in addition to any other appropriations made for the FY 2008-FY 2009 biennium.

AIR AIR QUALITY DEVELOPMENT AUTHORITY

				Appropriations
Coal Research/Development Fund Group				
7046	898604	Coal Research/Development Fund	\$	0 \$ 66,000,000
TOTAL 7046 Coal Research/Development Fund Group				\$ 0 \$ 66,000,000
TOTAL ALL BUDGET FUND GROUPS				\$ 0 \$ 66,000,000

DEV DEPARTMENT OF DEVELOPMENT

				Appropriations
State Special Revenue Fund Group				
5Z30	195694	JF Bioproducts	\$	0 \$ 20,000,000
5Z30	195695	JF Biomedical	\$	0 \$ 40,000,000
TOTAL SSR State Special Revenue Fund Group				\$ 0 \$ 60,000,000
Logistics and Distribution Infrastructure Fund Group				
7008	195698	Logistics and Distribution Infrastructure	\$	0 \$ 50,000,000
TOTAL 7008 Logistics and Distribution Infrastructure Fund Group				\$ 0 \$ 50,000,000
TOTAL ALL BUDGET FUND GROUPS				\$ 0 \$ 110,000,000

JF BIOPRODUCTS

The foregoing appropriation item 195694, JF Bioproducts, shall be used for the Ohio Bioproducts Development Program established in section 184.25 of the Revised Code.

JF BIOMEDICAL

The foregoing appropriation item 195695, JF Biomedical, shall be used for the Ohio Biomedical Development Program established in section 184.26 of the Revised Code.

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE

The foregoing appropriation item 195698, Logistics and Distribution Infrastructure, shall be used for eligible logistics and distribution projects as defined in section 166.01 of the Revised Code.

Within the limits set forth in this section, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this section, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this section shall be accounted for as though made in Am. Sub. H.B. 119 of the 127th General Assembly.

The appropriations made in this section are subject to all provisions of Am. Sub. H.B. 119 of the 127th General Assembly that are generally applicable to such appropriations.

SECTION 6. The Governor has informed the General Assembly of the Governor's intent to propose appropriations, and it is the intent of the General Assembly to appropriate \$20,000,000 in fiscal year 2010 and \$10,000,000 in fiscal year 2011 for the purposes of the Ohio Bioproducts Development Program established in section 184.25 of the Revised Code.

SECTION 7. The Governor has informed the General Assembly of the Governor's intent to propose appropriations, and it is the intent of the General Assembly to appropriate \$40,000,000 in fiscal year 2010 and \$20,000,000 in fiscal year 2011 for the purposes of the Ohio Biomedical Development Program established in section 184.26 of the Revised Code.

SECTION 8. On June 30, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Jobs Fund (Fund 5Z30) to the General Revenue Fund. Upon completion of the transfer, the Jobs Fund (Fund 5Z30) is abolished.

SECTION 9. The Governor has informed the General Assembly of the Governor's intent to propose appropriations, and it is the intent of the General Assembly to appropriate \$25,000,000 for fiscal year 2010 and \$25,000,000 for fiscal year 2011 for eligible logistics and distribution infrastructure projects as defined in section 166.01 of the Revised Code.

SECTION 10. The Ohio Public Facilities Commission, upon the request of the Director of the Ohio Coal Development Office of the Ohio Air Quality Development Authority with the advice of the Technical Advisory

Committee created in section 1551.35 of the Revised Code and the affirmative vote of a majority of the members of the Ohio Air Quality Development Authority is hereby authorized to issue and sell, in accordance with Section 15 of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.07 of the Revised Code, bonds and other obligations of the State of Ohio in an aggregate principal amount not to exceed \$66,000,000 in addition to the issuance of obligations heretofore authorized by prior acts of the General Assembly. The obligations shall be dated, issued, and sold from time to time in such amounts as may be necessary to provide sufficient moneys to the credit of the Coal Research and Development Fund created in section 1555.15 of the Revised Code to pay costs charged to the fund when due.

SECTION 11. (A) All items set forth in this division are hereby appropriated out of any moneys in the state treasury, for the biennium ending on June 30, 2010, to the credit of the Advanced Energy Research and Development Taxable Fund (Fund 7004) that are not otherwise appropriated:

AIR AIR QUALITY DEVELOPMENT AUTHORITY

C89800	Advanced Energy R&D Taxable	\$	9,000,000
	Total Air Quality Development Authority	\$	9,000,000
	TOTAL Advanced Energy Research and Development Taxable Fund	\$	9,000,000

(B) All items set forth in this division are hereby appropriated out of any moneys in the state treasury, for the biennium ending on June 30, 2010, to the credit of the Advanced Energy Research and Development Fund (Fund 7005) that are not otherwise appropriated:

AIR AIR QUALITY DEVELOPMENT AUTHORITY

C89801	Advanced Energy R&D	\$	19,000,000
	Total Air Quality Development Authority	\$	19,000,000
	TOTAL Advanced Energy Research and Development Fund	\$	19,000,000

(C) The foregoing appropriation items C89800, Advanced Energy R&D Taxable, and C89801, Advanced Energy R&D, shall be used for advanced energy projects in the manner provided in sections 3706.25 to 3706.30 of the Revised Code. The Executive Director of the Air Quality Development Authority may certify to the Director of Budget and Management that a need exists to appropriate investment earnings of funds 7004 and 7005 to be so used. If the Director of Budget and Management, pursuant to sections 3706.25 to 3706.30 of the Revised Code, determines that investment

earnings are available to support additional appropriations, such amounts are hereby appropriated.

(D) Upon the request of the Executive Director of the Air Quality Development Authority, the Director of Budget and Management may transfer cash between funds 7004 and 7005. Amounts transferred are hereby appropriated.

(E) Expenditures from appropriations contained in this section may be accounted as though made in the main capital appropriations act of the FY 2009-FY 2010 biennium of the 127th General Assembly. The appropriations made in this section are subject to all provisions of the FY 2009-FY 2010 biennial capital appropriations act of the 127th General Assembly that are generally applicable to such appropriations.

SECTION 12. The Governor has informed the General Assembly of the Governor's intent to propose appropriations, and it is the intent of the General Assembly to appropriate amounts not to exceed \$56 million for the biennium ending on June 30, 2012, from bond proceeds deposited in the state treasury to the credit of the Advanced Energy Research and Development Taxable Fund (Fund 7004) and the Advanced Energy Research and Development Fund (Fund 7005) for advanced energy projects as provided in sections 3706.25 to 3706.30 of the Revised Code.

SECTION 13. All items set forth in this section are hereby appropriated out of any moneys in the state treasury, for the biennium ending on June 30, 2010, to the credit of the Local Infrastructure Development Fund (Fund 7039) that are not otherwise appropriated:

		Appropriations
PWC PUBLIC WORKS COMMISSION		
C15061	Local Infrastructure Development	\$ 80,000,000
Total Public Works Commission		\$ 80,000,000
TOTAL Local Infrastructure Development Fund		\$ 80,000,000

(A) On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$80,000,000 in cash from the Jobs Fund created in the state treasury by Section 4 of Sub. H.B. 544 of the 127th General Assembly to the Local Infrastructure Development Fund (Fund 7039) created in section 164.28 of the Revised Code.

(B) The foregoing appropriation item C15061, Local Infrastructure Development, shall be used by the Public Works Commission for capital improvement projects under Chapter 164. of the Revised Code. The Director of the Public Works Commission may certify to the Director of Budget and

Management that a need exists to appropriate investment earnings of the Local Infrastructure Development Fund (Fund 7039) to be so used. If the Director of Budget and Management determines pursuant to division (D) of section 164.08 and section 164.12 of the Revised Code that investment earnings are available to support additional appropriations, such amounts are hereby appropriated.

Expenditures from appropriations contained in this section may be accounted as though made in the main capital appropriations act of the FY 2009-FY 2010 biennium of the 127th General Assembly. Subject to division (C) of this section, the appropriations made in this section are subject to all provisions of the FY 2009-FY 2010 biennial capital appropriations act of the 127th General Assembly that are generally applicable to such appropriations.

(C) Notwithstanding any applicable limitations in the main capital appropriations act of the 127th General Assembly on the use of capital appropriations, the foregoing appropriation item C15061, Local Infrastructure Development, may also be used for broadband initiatives.

(D) It is the intent of the General Assembly not to compete with the private sector in providing broadband access in this state. Notwithstanding any other law to the contrary, the Public Works Commission, in conjunction with the public-private partnership known as Connect Ohio, shall adopt rules that prescribe the manner in which the moneys specified in division (C) of this section shall be distributed to the district public works integrating committees as those districts are defined in section 164.03 of the Revised Code.

(E) On or before June 30, 2011, or as soon as possible thereafter, the Director of the Public Works Commission shall notify the Director of Budget and Management that all projects funded by the Local Infrastructure Development Fund (Fund 7039) created in section 164.28 of the Revised Code have been completed and the Director of Budget and Management shall transfer the cash balance remaining in the Local Infrastructure Development Fund (Fund 7039) to the General Revenue Fund. Upon completion of the transfer, the Local Infrastructure Development Fund (Fund 7039) is abolished.

SECTION 14. All items set forth in this section are hereby appropriated out of any moneys in the state treasury, for the biennium ending on June 30, 2010, to the credit of the State Capital Improvements Fund (Fund 7038) that are not otherwise appropriated.

Appropriations

PWC PUBLIC WORKS COMMISSION

C15000	Local Public Infrastructure	\$	120,000,000
	Total Public Works Commission	\$	120,000,000
	TOTAL State Capital Improvements Fund	\$	120,000,000

The foregoing appropriation item C15000, Local Public Infrastructure, shall be used in accordance with sections 164.01 to 164.12 of the Revised Code. The Director of the Public Works Commission may certify to the Director of Budget and Management that a need exists to appropriate investment earnings of Fund 7038 to be used in accordance with sections 164.01 to 164.12 of the Revised Code. If the Director of Budget and Management, pursuant to division (D) of section 164.08 and section 164.12 of the Revised Code, determines that investment earnings are available to support additional appropriations, such amounts are hereby appropriated.

Expenditures from appropriations contained in this section may be accounted as though made in the main capital appropriations act of the FY 2009-FY 2010 biennium of the 127th General Assembly. The appropriations made in this section are subject to all provisions of the FY 2009-FY 2010 biennial capital appropriations act of the 127th General Assembly that are generally applicable to such appropriations.

SECTION 15. The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2p of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.08 of the Revised Code, original obligations of the state, in an aggregate principal amount not to exceed \$120,000,000, in addition to the original obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the State Capital Improvements Fund (Fund 7038) to pay costs of the state in financing or assisting in the financing of local subdivision capital improvement projects.

SECTION 16. Notwithstanding section 126.14 of the Revised Code, appropriations from the State Capital Improvement Fund (Fund 7038) shall be released upon presentation of a request to release the funds by the Director of the Public Works Commission to the Director of Budget and Management.

SECTION 17. The Governor has informed the General Assembly of the

Governor's intent to propose appropriations, and it is the intent of the General Assembly to appropriate, for the Choose Ohio First Co-op/Internship Program established under section 3333.72 of the Revised Code a minimum of \$50,000,000 each fiscal year from fiscal year 2010 through fiscal year 2014.

SECTION 18. That Section 229.10 of Am. Sub. H.B. 67 of the 127th General Assembly be amended to read as follows:

Sec. 229.10. PWC PUBLIC WORKS COMMISSION

Local Transportation Improvements Fund Group

052	150-402	Local Transportation Improvement Program - Operating	\$	291,537	\$	306,178
052	150-701	Local Transportation Improvement Program	\$	67,500,000	\$	67,500,000 267,500,000
TOTAL 052 Local Transportation Improvements Fund Group			\$	67,791,537	\$	67,806,178 267,806,178

Local Infrastructure Improvements Fund Group

038	150-321	State Capital Improvements Program - Operating Expenses	\$	879,237	\$	918,912
TOTAL LIF Local Infrastructure Improvements Fund Group			\$	879,237	\$	918,912
TOTAL ALL BUDGET FUND GROUPS			\$	68,670,774	\$	68,725,090 268,725,090

CASH TRANSFER FROM THE BUDGET STABILIZATION FUND

Notwithstanding any other law to the contrary, on July 1, 2008, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$200,000,000 in cash from the Budget Stabilization Fund to the Local Transportation Improvement Program Fund created in section 164.14 of the Revised Code.

DISTRICT ADMINISTRATION COSTS

The Director of the Public Works Commission is authorized to create a District Administration Costs Program from interest earnings of the Capital Improvements Fund and Local Transportation Improvement Program Fund proceeds. The program shall be used to provide for the direct costs of district administration of the nineteen public works districts. Districts choosing to participate in the program shall only expend Capital Improvements Fund moneys for Capital Improvements Fund costs and Local Transportation Improvement Program Fund moneys for Local Transportation Improvement Program Fund costs. The account shall not exceed \$1,235,000 per fiscal year. Each public works district may be eligible for up to \$65,000 per fiscal year from its district allocation as

provided in sections 164.08 and 164.14 of the Revised Code.

The Director, by rule, shall define allowable and nonallowable costs for the purpose of the District Administration Costs Program. Nonallowable costs include indirect costs, elected official salaries and benefits, and project-specific costs. No district public works committee may participate in the District Administration Costs Program without the approval of those costs by the district public works committee under section 164.04 of the Revised Code.

REAPPROPRIATIONS

All capital appropriations from the Local Transportation Improvement Program Fund (Fund 052) in Am. Sub. H.B. 68 of the 126th General Assembly remaining unencumbered as of June 30, 2007, are reappropriated for use during the period July 1, 2007, through June 30, 2008, for the same purpose.

Notwithstanding division (B) of section 127.14 of the Revised Code, all capital appropriations and reappropriations from the Local Transportation Improvement Program Fund (Fund 052) in this act remaining unencumbered as of June 30, 2008, are reappropriated for use during the period July 1, 2008, through June 30, 2009, for the same purposes, subject to the availability of revenue as determined by the Director of the Public Works Commission.

SECTION 19. That existing Section 229.10 of Am. Sub. H.B. 67 of the 127th General Assembly is hereby repealed.

SECTION 20. The amendments to section 184.02 that add the cross references to sections 184.25 and 184.26 and enactments of sections 184.23, 184.231, 184.24, 184.25, and 184.26 of the Revised Code are hereby repealed, effective June 30, 2011.

SECTION 21. The enactment of section 164.28 of the Revised Code is hereby repealed, effective June 30, 2013.

SECTION 22. The amendment or enactment by this act of a codified or uncodified section listed below is exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and takes effect immediately when this act becomes law:

Sec. 164.28, 166.01, 166.02, 166.08, 166.11, 166.25, 166.26, 166.27,

166.30, 184.02, 184.174, 184.23, 184.231, 184.24, 184.25, 184.26, 184.37,
1555.03, 3706.01

Sections 5, 18, and 19.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 554

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____