

**As Reported by the House Transportation and Infrastructure  
Committee**

**128th General Assembly  
Regular Session  
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**Sub. H. B. No. 166**

**Representatives Carney, McGregor**

**Cosponsors: Representatives Ujvagi, Murray, Hackett, Slesnick, Domenick,  
Hagan, Mallory, Bolon, Foley, Yuko, Combs, Balderson, McClain, Ruhl**

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**A B I L L**

To amend sections 5501.03, 5501.311, 5531.09, and 1  
5531.18 and to enact sections 5539.01, 5539.02, 2  
5539.03, 5539.031, 5539.04, 5539.05, 5539.06, 3  
5539.07, 5539.08, 5539.09, 5539.10, 5539.11, and 4  
5539.12 of the Revised Code to authorize the 5  
creation of transportation innovation authorities 6  
by specified governmental entities, to establish 7  
the powers and duties of such authorities, and to 8  
make an appropriation. 9

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

**Section 1.** That sections 5501.03, 5501.311, 5531.09, and 10  
5531.18 be amended and sections 5539.01, 5539.02, 5539.03, 11  
5539.031, 5539.04, 5539.05, 5539.06, 5539.07, 5539.08, 5539.09, 12  
5539.10, 5539.11, and 5539.12 of the Revised Code be enacted to 13  
read as follows: 14

**Sec. 5501.03.** (A) The department of transportation shall: 15

(1) Exercise and perform such other duties, powers, and 16  
functions as are conferred by law on the director, the department, 17

the assistant directors, the deputy directors, or on the divisions 18  
of the department; 19

(2) Coordinate and develop, in cooperation with local, 20  
regional, state, and federal planning agencies and authorities, 21  
comprehensive and balanced state policy and planning to meet 22  
present and future needs for adequate transportation facilities in 23  
this state, including recommendations for adequate funding of the 24  
implementation of such planning; 25

(3) Coordinate its activities with those of other appropriate 26  
state departments, public agencies, and authorities, and enter 27  
into any contracts with such departments, agencies, and 28  
authorities as may be necessary to carry out its duties, powers, 29  
and functions; 30

(4) Cooperate with and assist the public utilities commission 31  
in the commission's administration of sections 4907.47 to 4907.476 32  
of the Revised Code, particularly with respect to the federal 33  
highway administration; 34

(5) Cooperate with and assist the Ohio power siting board in 35  
the board's administration of Chapter 4906. of the Revised Code; 36

(6) Give particular consideration to the development of 37  
policy and planning for public transportation facilities, and to 38  
the coordination of associated activities relating thereto, as 39  
prescribed under divisions (A)(2) and (3) of this section; 40

(7) Conduct, in cooperation with the Ohio legislative service 41  
commission, any studies or comparisons of state traffic laws and 42  
local traffic ordinances with model laws and ordinances that may 43  
be required to meet program standards adopted by the United States 44  
department of transportation pursuant to the "Highway Safety Act 45  
of 1966," 80 Stat. 731, U.S.C.A. 401; 46

(8) Prepare, print, distribute, and advertise books, maps, 47  
pamphlets, and other information that, in the judgment of the 48

director, will inform the public and other governmental 49  
departments, agencies, and authorities as to the duties, powers, 50  
and functions of the department; 51

(9) In its research and development program, consider 52  
technologies for improving roadways, including construction 53  
techniques and materials to prolong project life, being used or 54  
developed by other states that have geographic, geologic, or 55  
climatic features similar to this state's, and collaborate with 56  
those states in that development. 57

(B) Nothing contained in division (A)(1) of this section 58  
shall be held to in any manner affect, limit, restrict, or 59  
otherwise interfere with the exercise of powers relating to 60  
transportation facilities by appropriate agencies of the federal 61  
government, or by counties, municipal corporations, or other 62  
political subdivisions or special districts in this state 63  
authorized by law to exercise such powers. 64

(C) The department may use all appropriate sources of revenue 65  
to assist in the development and implementation of rail service as 66  
defined by division (C) of section 4981.01 of the Revised Code. 67

(D) The director of transportation may enter into contracts 68  
with public agencies including political subdivisions, other state 69  
agencies, boards, commissions, regional transit authorities, 70  
county transit boards, ~~and~~ port authorities, transportation 71  
innovation authorities, and any corporation organized under the 72  
laws of Ohio, to administer the design, qualification of bidders, 73  
competitive bid letting, construction inspection, and acceptance 74  
of any projects administered by the department, provided the 75  
administration of such projects is performed in accordance with 76  
all applicable state and federal laws and regulations with 77  
oversight by the department. 78

**Sec. 5501.311.** (A) Notwithstanding sections 123.01 and 127.16 79

of the Revised Code the director of transportation may lease or 80  
lease-purchase all or any part of a transportation facility to or 81  
from one or more persons, one or more governmental agencies, a 82  
transportation improvement district, transportation innovation 83  
authority, or any combination thereof, and may grant leases, 84  
easements, or licenses for lands under the control of the 85  
department of transportation. The director may adopt rules 86  
necessary to give effect to this section. 87

(B) Plans and specifications for the construction of a 88  
transportation facility under a lease or lease-purchase agreement 89  
are subject to approval of the director and must meet or exceed 90  
all applicable standards of the department. 91

(C) Any lease or lease-purchase agreement under which the 92  
department is the lessee shall be for a period not exceeding the 93  
then current two-year period for which appropriations have been 94  
made by the general assembly to the department, and such agreement 95  
may contain such other terms as the department and the other 96  
parties thereto agree, notwithstanding any other provision of law, 97  
including provisions that rental payments in amounts sufficient to 98  
pay bond service charges payable during the current two-year lease 99  
term shall be an absolute and unconditional obligation of the 100  
department independent of all other duties under the agreement 101  
without set-off or deduction or any other similar rights or 102  
defenses. Any such agreement may provide for renewal of the 103  
agreement at the end of each term for another term, not exceeding 104  
two years, provided that no renewal shall be effective until the 105  
effective date of an appropriation enacted by the general assembly 106  
from which the department may lawfully pay rentals under such 107  
agreement. Any such agreement may include, without limitation, any 108  
agreement by the department with respect to any costs of 109  
transportation facilities to be included prior to acquisition and 110  
construction of such transportation facilities. Any such agreement 111

shall not constitute a debt or pledge of the faith and credit of 112  
the state, or of any political subdivision of the state, and the 113  
lessor shall have no right to have taxes or excises levied by the 114  
general assembly, or the taxing authority of any political 115  
subdivision of the state, for the payment of rentals thereunder. 116  
Any such agreement shall contain a statement to that effect. 117

(D) A municipal corporation, township, or county may use 118  
service payments in lieu of taxes credited to special funds or 119  
accounts pursuant to sections 5709.43, 5709.75, and 5709.80 of the 120  
Revised Code to provide its contribution to the cost of a 121  
transportation facility, provided such facility was among the 122  
purposes for which such service payments were authorized. The 123  
contribution may be in the form of a lump sum or periodic 124  
payments. 125

(E) Pursuant to the "Telecommunications Act of 1996," 110 126  
Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, 127  
easement, or license in a transportation facility to a 128  
telecommunications service provider for construction, placement, 129  
or operation of a telecommunications facility. An interest granted 130  
under this division is subject to all of the following conditions: 131  
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(1) The transportation facility is owned in fee simple or 133  
easement by this state at the time the lease, easement, or license 134  
is granted to the telecommunications provider. 135

(2) The lease, easement, or license shall be granted on a 136  
competitive basis in accordance with policies and procedures to be 137  
determined by the director. The policies and procedures may 138  
include provisions for master leases for multiple sites. 139

(3) The telecommunications facility shall be designed to 140  
accommodate the state's multi-agency radio communication system, 141  
the intelligent transportation system, and the department's 142

communication system as the director may determine is necessary 143  
for highway or other departmental purposes. 144

(4) The telecommunications facility shall be designed to 145  
accommodate such additional telecommunications equipment as may 146  
feasibly be co-located thereon as determined in the discretion of 147  
the director. 148

(5) The telecommunications service providers awarded the 149  
lease, easement, or license, agree to permit other 150  
telecommunications service providers to co-locate on the 151  
telecommunications facility, and agree to the terms and conditions 152  
of the co-location as determined in the discretion of the 153  
director. 154

(6) The director shall require indemnity agreements in favor 155  
of the department as a condition of any lease, easement, or 156  
license granted under this division. Each indemnity agreement 157  
shall secure this state and its agents from liability for damages 158  
arising out of safety hazards, zoning, and any other matter of 159  
public interest the director considers necessary. 160

(7) The telecommunications service provider fully complies 161  
with any permit issued under section 5515.01 of the Revised Code 162  
pertaining to land that is the subject of the lease, easement, or 163  
license. 164

(8) All plans and specifications shall meet with the 165  
director's approval. 166

(9) Any other conditions the director determines necessary. 167

(F) In accordance with section 5501.031 of the Revised Code, 168  
to further efforts to promote energy conservation and energy 169  
efficiency, the director may grant a lease, easement, or license 170  
in a transportation facility to a utility service provider that 171  
has received its certificate from the Ohio power siting board or 172  
appropriate local entity for construction, placement, or operation 173

of an alternative energy generating facility service provider as 174  
defined in section 4928.64 of the Revised Code. An interest 175  
granted under this division is subject to all of the following 176  
conditions: 177

(1) The transportation facility is owned in fee simple or in 178  
easement by this state at the time the lease, easement, or license 179  
is granted to the utility service provider. 180

(2) The lease, easement, or license shall be granted on a 181  
competitive basis in accordance with policies and procedures to be 182  
determined by the director. The policies and procedures may 183  
include provisions for master leases for multiple sites. 184

(3) The alternative energy generating facility shall be 185  
designed to provide energy for the department's transportation 186  
facilities with the potential for selling excess power on the 187  
power grid, as the director may determine is necessary for highway 188  
or other departmental purposes. 189

(4) The director shall require indemnity agreements in favor 190  
of the department as a condition of any lease, easement, or 191  
license granted under this division. Each indemnity agreement 192  
shall secure this state from liability for damages arising out of 193  
safety hazards, zoning, and any other matter of public interest 194  
the director considers necessary. 195

(5) The alternative energy service provider fully complies 196  
with any permit issued by the Ohio power siting board under 197  
Chapter 4906. of the Revised Code and complies with section 198  
5515.01 of the Revised Code pertaining to land that is the subject 199  
of the lease, easement, or license. 200

(6) All plans and specifications shall meet with the 201  
director's approval. 202

(7) Any other conditions the director determines necessary. 203

(G) Money the department receives under divisions (E) and (F) 204  
of this section shall be deposited into the state treasury to the 205  
credit of the highway operating fund. 206

(H) A lease, easement, or license granted under division (E) 207  
or (F) of this section, and any telecommunications facility or 208  
alternative energy generating facility relating to such interest 209  
in a transportation facility, is hereby deemed to further the 210  
essential highway purpose of building and maintaining a safe, 211  
energy-efficient, and accessible transportation system. 212

**Sec. 5531.09.** (A) The state infrastructure bank shall consist 213  
of the highway and transit infrastructure bank fund, the aviation 214  
infrastructure bank fund, the rail infrastructure bank fund, ~~and~~ 215  
the infrastructure bank obligations fund, and the new generation 216  
infrastructure bank funds, which are hereby created as funds of 217  
the state treasury, to be administered by the director of 218  
transportation and used for the purposes described in division (B) 219  
of this section. The highway and transit infrastructure bank fund, 220  
the aviation infrastructure bank fund, and the rail infrastructure 221  
bank fund shall consist of federal grants and awards or other 222  
assistance received by the state and eligible for deposit therein 223  
under applicable federal law, payments received by the department 224  
in connection with providing financial assistance for qualifying 225  
projects under division (B) of this section, and such other 226  
amounts as may be provided by law. The infrastructure bank 227  
obligations fund shall consist of such amounts of the proceeds of 228  
obligations issued under section 5531.10 of the Revised Code as 229  
the director of transportation determines with the advice of the 230  
director of budget and management; and such other amounts as may 231  
be provided by law. The new generation infrastructure bank funds 232  
shall consist of such other assistance received by the state as 233  
may be provided by law. The director of budget and management, 234  
upon the request of the director of transportation, may transfer 235



amounts between the funds created in this division, except the  
infrastructure bank obligations fund. The investment earnings of  
each fund created by this division shall be credited to such fund.

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(B)(1) The director of transportation shall use the state  
infrastructure bank, except the new generation infrastructure bank  
funds, to encourage public and private investment in  
transportation facilities that contribute to the multi-modal and  
intermodal transportation capabilities of the state, develop a  
variety of financing techniques designed to expand the  
availability of funding resources and to reduce direct state  
costs, maximize private and local participation in financing  
projects, and improve the efficiency of the state transportation  
system by using and developing the particular advantages of each  
transportation mode to the fullest extent. In furtherance of these  
purposes, the director shall use the state infrastructure bank to  
provide financial assistance to public or private entities for  
qualified projects. Such assistance shall be in the form of loans,  
loan guarantees, letters of credit, leases, lease-purchase  
agreements, interest rate subsidies, debt service reserves, and  
such other forms as the director determines to be appropriate. All  
fees, charges, rates of interest, payment schedules, security for,  
and other terms and conditions relating to such assistance shall  
be determined by the director.

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(2) The director shall use the new generation infrastructure  
bank funds to encourage transportation innovation authorities  
created under Chapter 5539. of the Revised Code to invest in  
transportation facilities that contribute to the multi-modal and  
intermodal transportation capabilities of the state, develop a  
variety of financing techniques designed to expand the  
availability of funding resources and to reduce direct state  
costs, maximize transportation innovation authorities'

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participation in financing projects, and improve the efficiency of 268  
the state transportation system by using and developing the 269  
particular advantages of each transportation mode to the fullest 270  
extent. In furtherance of these purposes, the director shall use 271  
the new generation infrastructure bank funds to provide financial 272  
assistance to transportation innovation authorities for qualified 273  
projects. Such assistance shall be in the form of loans, loan 274  
guarantees, letters of credit, leases, lease-purchase agreements, 275  
interest rate subsidies, debt service reserves, and such other 276  
forms of assistance as the director determines to be appropriate. 277  
All fees, charges, rates of interest, payment schedules, security 278  
for, and other terms and conditions relating to such assistance 279  
shall be determined by the director. 280

(C) The director of transportation shall adopt rules 281  
establishing guidelines necessary for the implementation and 282  
exercise of the authority granted by this section, including rules 283  
for receiving, reviewing, evaluating, and selecting projects for 284  
which financial assistance may be approved. 285

(D) As used in this section and in section 5531.10 of the 286  
Revised Code, "qualified project" means any public or private 287  
transportation project as determined by the director of 288  
transportation, including, without limitation, planning, 289  
environmental impact studies, engineering, construction, 290  
reconstruction, resurfacing, restoring, rehabilitation, or 291  
replacement of public or private transportation facilities within 292  
the state, studying the feasibility thereof, and the acquisition 293  
of real or personal property or interests therein; any highway, 294  
public transit, aviation, rail, or other transportation project 295  
eligible for financing or aid under any federal or state program; 296  
and any project involving the maintaining, repairing, improving, 297  
or construction of any public or private highway, road, street, 298  
parkway, public transit, aviation, or rail project, and any 299

related rights-of-way, bridges, tunnels, railroad-highway 300  
crossings, drainage structures, signs, guardrails, or protective 301  
structures. 302

(E) The general assembly finds that state infrastructure 303  
projects, as defined in division (A)(8) of section 5531.10 of the 304  
Revised Code, and the state infrastructure bank, will materially 305  
contribute to the economic revitalization of areas of the state 306  
and result in improving the economic welfare of all the people of 307  
the state. Accordingly, it is declared to be the public purpose of 308  
the state, through operations under sections 5531.09 and 5531.10 309  
of the Revised Code, and other applicable laws adopted pursuant to 310  
Section 13 of Article VIII, Ohio Constitution, and other authority 311  
vested in the general assembly, to assist in and facilitate the 312  
purposes set forth in division (B) of section 5531.10 of the 313  
Revised Code, and to assist and cooperate with any governmental 314  
agency in achieving such purposes. 315

**Sec. 5531.18.** The director of transportation shall establish 316  
a procedure whereby a political subdivision or other governmental 317  
agency or agencies may submit a written application to the 318  
director in accordance with Chapter 5539. of the Revised Code 319  
requesting the department of transportation to construct and 320  
operate a toll project within the boundaries of the subdivision, 321  
agency, or agencies making the request. The procedure shall 322  
include a requirement that the director send a written reply to 323  
the subdivision, agency, or agencies explaining the disposition of 324  
the request. The procedure established pursuant to this section 325  
shall not become effective unless it is approved by the Ohio 326  
transportation finance commission created under section 5531.12 of 327  
the Revised Code. 328

**Sec. 5539.01.** As used in this chapter: 329

<u>"Governmental agency" means a county, township, or municipal</u>	330
<u>corporation, and any agency thereof; any other political</u>	331
<u>subdivision; any county transit system, regional transit</u>	332
<u>authority, or regional transit commission created under Chapter</u>	333
<u>306. of the Revised Code; any new community authority organized</u>	334
<u>under Chapter 349. of the Revised Code; one or more municipal</u>	335
<u>corporations and one or more townships acting pursuant to a</u>	336
<u>cooperative economic development agreement entered into under</u>	337
<u>section 701.07 of the Revised Code; any joint economic development</u>	338
<u>zone or joint economic development district organized under</u>	339
<u>Chapter 715. of the Revised Code; any metropolitan planning</u>	340
<u>organization; any port authority created under Chapter 4582. of</u>	341
<u>the Revised Code; any transportation improvement district created</u>	342
<u>under Chapter 5540. of the Revised Code; the Ohio rail development</u>	343
<u>commission created under Chapter 4981. of the Revised Code; any</u>	344
<u>other public corporation, agency, or commission established</u>	345
<u>pursuant to state law; and any combination of the above.</u>	346
<u>"Multimodal and intermodal transportation system" means a</u>	347
<u>system of roads and highways, rail lines, water ports, airports,</u>	348
<u>bicycle paths, pedestrian walkways, or public transit systems,</u>	349
<u>including connections between them, and related facilities.</u>	350
<u>"Passenger rail service" means passenger railroad service</u>	351
<u>that connects two or more urbanized areas.</u>	352
<u>"Public transportation" has the same meaning as in section</u>	353
<u>5501.01 of the Revised Code.</u>	354
<u>"Transportation innovation authority" means a body corporate</u>	355
<u>and politic created pursuant to section 5539.03 of the Revised</u>	356
<u>Code.</u>	357
<u>"Transportation project" means a project constructed,</u>	358
<u>improved, operated, or managed under this chapter, including the</u>	359
<u>construction, reconstruction, alteration, repair, improvement,</u>	360

operation, or management of any road, highway, bridge, or other 361  
transportation facility as defined in section 5501.01 of the 362  
Revised Code; any multimodal and intermodal systems; any public 363  
transit system; and any freight or intercity passenger rail 364  
system. 365

Sec. 5539.02. (A) The director of transportation is hereby 366  
authorized to establish a transportation innovation authority 367  
pilot project and shall approve not more than two transportation 368  
innovation authorities per district of the department of 369  
transportation pursuant to division (B) of section 5539.03 of the 370  
Revised Code and shall report to the general assembly pursuant to 371  
division (C) of section 5539.07 of the Revised Code. 372

(B) The purpose of a transportation innovation authority 373  
established under this chapter is to foster and encourage the 374  
investment of public and private resources in the planning and 375  
implementation of innovative transportation projects to enhance 376  
the efficiency of the state's transportation system, enhance 377  
intermodal and multimodal systems to streamline the transportation 378  
of goods and persons, and encourage the improvement and 379  
development of public transit systems and intercity passenger rail 380  
service throughout the state. A transportation innovation 381  
authority shall assist governmental agencies in the identification 382  
of transportation needs that will foster growth and economic 383  
development in the region conducive to the transportation projects 384  
and shall assist in funding priority projects through cooperative 385  
arrangements involving public and private partnerships. 386

(C) In determining which transportation innovation 387  
authorities to approve, the director shall give greater weight and 388  
consideration to transportation projects of potential authorities 389  
where transportation, water, sewer, and other utility 390  
infrastructure already is in existence, and shall adopt rules to 391

reflect these weights and preferences. 392

Sec. 5539.03. (A) Subject to approval by the director of 393  
transportation under division (B) of this section, any 394  
governmental agency, by resolution, ordinance, or other formal 395  
action by the appropriate legislative authority of such 396  
governmental agency, as applicable, may enter into an agreement 397  
with one or more other governmental agencies proposing to form a 398  
transportation innovation authority. The agreement between all 399  
participating governmental agencies, at a minimum, shall do all of 400  
the following: 401

(1) Identify all members of the authority; 402

(2) Designate the geographical area to be included in the 403  
jurisdiction of the authority; 404

(3) Specify the role and voting rights of the authority's 405  
board of directors from among the governmental agencies that are 406  
not counties, townships, or municipal corporations; 407

(4) Identify the transportation needs of the geographical 408  
area covered by the authority and define the transportation 409  
projects necessary to meet such needs; 410

(5) Provide for the planning, construction, operation, and 411  
maintenance of transportation projects proposed to be undertaken 412  
by the authority; 413

(6) Establish the dates for the existence and operation of 414  
the authority, which shall include a date of creation, the means 415  
for determining when the authority shall cease to exist, how the 416  
authority may expand its membership, and how a member may end its 417  
membership; 418

(7) Allow for and establish the terms of funding arrangements 419  
for the identified projects through any combination of funding 420  
sources authorized by this chapter or otherwise authorized by law; 421

(8) Subject to section 5539.031 of the Revised Code, require all political subdivisions participating as members of the authority to agree, in a time and manner specified in the agreement, to adopt zoning and land use policies and laws that are consistent with and that complement the transportation innovation authority priorities, objectives, and identified projects;

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(9) Designate how its members shall provide the authority with any clerical, legal, and other staff assistance necessary to implement the agreement and pay for copying, mailing, and any other such expenses incurred by the authority in meeting the requirements imposed by sections 5539.01 to 5539.11 of the Revised Code;

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(10) Specify the process by which the boards or legislative authorities of member governmental agencies may ratify a transportation project and the funding thereof as recommended by the authority. The ratification process may specify the adoption by all governmental agencies, a majority of governmental agencies, the governmental agencies of the most populous jurisdictions participating in the authority, or other acceptable process.

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(11) Specify the types of funding mechanisms that the members of the transportation innovation authority agree to use for the transportation project and the implementation procedures, including notification, as may be provided in the Revised Code or appropriate local law, for such mechanisms.

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(B) Upon entering into an agreement, a proposed transportation innovation authority shall provide a copy of the agreement to the director of transportation, who shall approve or disapprove the agreement or suggest modifications to ensure consistency with the purposes of this chapter. Each member shall be notified of the director's approval, disapproval, or suggested modifications, with a deadline for any action that is required to

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be taken. If the authority has not adopted an agreement on or 454  
before the deadline, the authority shall cease to exist. 455

(C) A transportation innovation authority is deemed to be 456  
created upon the adoption by each participating governmental 457  
agency, acting by resolution, ordinance, or other formal action, 458  
as applicable, of an agreement approved by the director. 459

(D) A governmental agency that is a member of a 460  
transportation innovation authority may exercise any powers 461  
granted to such authority members by this chapter, but no other 462  
power is granted to such a governmental agency solely by virtue of 463  
its participation as a member of an authority. A governmental 464  
agency that is a member of an authority retains all powers granted 465  
to it by law, subject to any limitations imposed on authority 466  
members by this chapter and by any agreements entered into by the 467  
governmental agency pursuant to this chapter as a member of an 468  
authority. 469

**Sec. 5539.031.** (A) As soon as practicable after approval of 470  
an agreement under division (C) of section 5539.03 of the Revised 471  
Code and before engaging in any transportation project 472  
development, a transportation innovation authority shall develop a 473  
proposed land use plan for the area within the authority that 474  
includes recommended changes to current land use and zoning 475  
policies and other measures that promote land use consistent with 476  
the authority's proposed transportation projects. The proposed 477  
land use plan shall be submitted to each member governmental 478  
agency and the department of transportation. The plan shall 479  
include a document that specifically details the changes required 480  
of each such governmental agency to that agency's current land use 481  
and zoning policies. Upon receipt of the proposed land use plan, 482  
the appropriate legislative authority of the governmental agency, 483  
in the time and manner specified in the agreement adopted under 484



section 5539.03 of the Revised Code, shall express its intent to 485  
take action to change its land use policies and regulations. 486

(B) Upon approval of a proposed land use plan, the authority 487  
shall develop a transportation project, including proposed funding 488  
sources for the project. The authority shall submit a draft of its 489  
proposed plan to the board of directors for approval. If approved, 490  
the members of the authority shall submit the proposed plan to 491  
their respective boards or legislative authorities, which shall 492  
take appropriate action to ratify or disapprove the proposed plan. 493  
Each such board or legislative authority shall notify the 494  
transportation innovation authority in writing of its ratification 495  
or disapproval of the proposed plan. 496

**Sec. 5539.04.** (A) A transportation innovation authority shall 497  
be governed by a board of directors, the membership of which shall 498  
be established by the governmental agencies comprising the 499  
authority; provided, that there shall be an equal number of board 500  
members representing each governmental agency comprising the 501  
authority. Each member of the board serves at the pleasure of the 502  
member's appointing authority, and the appointing authority may 503  
remove an appointee the appointing authority has appointed at any 504  
time and for any reason. Members of the board shall receive no 505  
compensation but may be reimbursed for their necessary and actual 506  
expenses incurred in the course of duties as board members. The 507  
affirmative vote of a majority of the board is necessary to 508  
transact business. 509

(B) An authority shall adopt bylaws for the regulation of its 510  
affairs and the conduct of its business and shall provide for 511  
public notice and opportunity for public comment on the 512  
identification of transportation projects and plans for funding 513  
the construction, operation, and maintenance of such projects. 514

(C) A transportation innovation authority is a body both 515  
corporate and politic. The exercise by it of the powers conferred 516  
by this chapter are considered to be essential governmental 517  
functions and shall be governed by all applicable state and 518  
federal laws in the planning, construction, operation, and 519  
maintenance of transportation projects proposed to be undertaken 520  
by the authority. 521

(D) Membership on the board of directors of a transportation 522  
innovation authority is not the holding of a public office or 523  
employment within the meaning of any section of the Revised Code 524  
or any municipal charter provision prohibiting the holding of 525  
other public office or employment. Membership on such a board is 526  
not a direct or indirect interest in an agreement or expenditure 527  
of money by a governmental agency with which a member may be 528  
affiliated. Notwithstanding any provision of law or a municipal 529  
charter to the contrary, no member of a board of directors of a 530  
transportation innovation authority shall forfeit or be 531  
disqualified from holding any public office or employment by 532  
reason of membership on the board. 533

(E) The board of directors of a transportation innovation 534  
authority is a public body for the purposes of section 121.22 of 535  
the Revised Code. Chapter 2744. of the Revised Code applies to 536  
such a board and the transportation innovation authority. 537

**Sec. 5539.05.** A transportation innovation authority may: 538

(A) Sue and be sued in its own name, plead, and be impleaded; 539  
provided, any actions against the authority shall be brought in 540  
the court of common pleas in the county in which the authority is 541  
headquartered or in the court of common pleas of the county in 542  
which the cause of action arose, and all summonses and notices of 543  
any kind shall be served on the authority by leaving a copy 544  
thereof at its headquarters; 545

(B) Purchase, construct, maintain, repair, sell, exchange, secure, operate, or lease a project as defined by this chapter; 546  
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(C) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions in designing, planning, and implementing a project and the execution of its powers under this chapter; 548  
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(D) Employ, retain, or contract for the services of local governments, including councils of governments, regional planning commissions, community improvement corporations, and other forms of cooperative local governments, consultants, engineers, construction and accounting experts, financial advisers, trustees, attorneys, or other employees, independent contractors, or agents as are necessary in its judgment for the exercise of its powers and performance of its duties under this chapter; 552  
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(E) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter; 560  
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(F) Direct its agents or employees, when properly identified in writing and after reasonable notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the authority, without liability of the authority or its agents or employees except for actual damages arising solely out of such entry; 562  
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(G) Enter into contracts, agreements, or any other partnerships with private entities, where appropriate, to streamline and enhance the planning and implementation and funding of identified projects; 568  
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(H) Do all acts necessary and proper to carry out the powers expressly granted in this chapter. 572  
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Sec. 5539.06. The board and members of a transportation innovation authority shall invite the participation of any new 574  
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community authority, county transit system, regional transit authority, regional transit commission, joint economic development zone or joint economic development district, transportation improvement district, port authority, or metropolitan planning organization whose jurisdiction is within or substantially within the geographical area as agreed to by the authority. 576  
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**Sec. 5539.07.** (A) The director of transportation may provide grants for planning and project development, funding from the state infrastructure bank under section 5531.09 of the Revised Code, and support for the priority transportation projects identified by a transportation innovation authority. 582  
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(B) In accordance with Chapter 119. of the Revised Code, the director may adopt rules to assist in the creation and operation of transportation innovation authorities consistent with the purposes of this chapter. 587  
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(C) The director shall issue an annual report to the general assembly summarizing the effectiveness of the authorities created under this chapter in identifying and funding the transportation needs of the state. 591  
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**Sec. 5539.08.** (A) A transportation innovation authority shall hold and apply such funds as it considers necessary to carry out the powers and duties conferred by this chapter and as set forth in the agreement adopted by the authority. 595  
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(B) An authority shall adopt an operating budget to hire employees, contract for services, and conduct normal business functions. All funding for such operating budget shall be paid from contributions from each governmental agency constituting the authority. No state funds shall be used for the operating budget of an authority. 599  
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(C) An authority shall submit an annual audited financial report to the general assembly and the director of transportation setting forth all sources and uses of funds obtained or otherwise generated by the authority and a detailed breakdown of the different classes of expenditures made by the authority during each calendar year of operation. Such report also shall contain two-year budget projections for the operating expenses for the authority and specific transportation project funding. 605  
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**Sec. 5539.09.** (A) A transportation innovation authority may acquire by purchase, lease, lease-purchase, lease with option to purchase, or otherwise, and in such manner and for such consideration as it considers proper, any public or private property necessary, convenient, or proper for the construction, maintenance, repair, or operation of a transportation project. Title to real and personal property shall be held in the name of the authority. Except as otherwise agreed to by the owner, full compensation shall be paid for public property taken. 613  
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(B) A governmental agency may exercise the power of eminent domain to acquire property necessary for or in connection with a transportation project, but only to the extent such power is granted to the governmental agency individually. In any proceedings for appropriation, the procedure to be followed shall be in accordance with that provided in sections 163.01 to 163.22 of the Revised Code or as otherwise provided by law for the governmental agency. Nothing in this chapter shall be construed as permitting a transportation innovation authority to exercise the power of eminent domain as a collective entity to acquire property necessary for or in connection with a transportation project. 622  
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(C) This section does not authorize an authority to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce or to a cable 633  
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operator as defined in section 4939.01 of the Revised Code if the 636  
property or facilities are required for the proper and convenient 637  
operation of the public utility or common carrier or cable 638  
operator unless provision is made for the restoration, relocation, 639  
replication, or duplication of the property or facilities 640  
elsewhere at the sole cost of the authority. 641

(D) Except as otherwise provided in this chapter, disposition 642  
of real property shall be by sale, lease-purchase agreement, lease 643  
with option to purchase, or otherwise in such manner and for such 644  
consideration as the authority determines if to a governmental 645  
agency or to a private entity involved in the transportation 646  
project funding, and otherwise in the manner provided in section 647  
5501.45 of the Revised Code for the disposition of property by the 648  
director of transportation. Disposition of personal property shall 649  
be in such manner and for such consideration as the authority 650  
determines. 651

Sec. 5539.10. The board of directors of a transportation 652  
innovation authority may acquire real property in fee simple in 653  
the name of the authority in connection with, but in excess of 654  
that needed for, a project, by any method other than appropriation 655  
and hold the property for such period of time as the board 656  
determines. All right, title, and interest of the authority in the 657  
property may be sold at public auction or otherwise, as the board 658  
considers in the best interests of the authority, but in no event 659  
shall the property be sold for less than two-thirds of its 660  
appraised value. Sale at public auction shall be undertaken only 661  
after the board advertises the sale in a newspaper of general 662  
circulation in the area of the jurisdiction of the authority for 663  
at least two weeks prior to the date set for the sale. 664

Sec. 5539.11. (A) A governmental agency may fund or assist in 665  
funding a transportation project as set forth in this chapter 666

using the authority granted to any governmental agency 667  
participating as a member of a transportation innovation 668  
authority, but only to the extent such power is granted to the 669  
governmental agency individually. Nothing in this section shall be 670  
construed as permitting a transportation innovation authority or 671  
granting such authority the right to levy any fee, assessment, 672  
payment, or tax as a collective entity. 673

(B) Projects identified by a transportation innovation 674  
authority under this chapter may be funded through any combination 675  
of revenue generated under the authority granted by this chapter 676  
or under the authority granted to any governmental agency 677  
participating as a member of an authority. Subject to the 678  
following limitations, such funding sources may include special 679  
fees and assessments levied by a governmental agency, fair share 680  
payments, payments in lieu of property tax on improvements, cash 681  
payments by private participants, dedicated portions of local 682  
sales tax and local income tax receipts, loans or grants from 683  
local, state, or federal sources, implementation of tolling 684  
arrangements or other charges as authorized and governed by 685  
section 5531.12 of the Revised Code, or any other revenue raising 686  
or tax incentive authority available to an authority or any 687  
governmental agency acting as a member of an authority: 688

(1) A transportation innovation authority may participate in 689  
the levy of special assessments by a governmental agency to assist 690  
in the payment of costs for the construction, reconstruction, 691  
alteration, repair, improvement, operation, or management of an 692  
identified transportation project if the authority determines that 693  
the project will benefit the geographical area as agreed to by the 694  
authority. 695

(2) When it is determined that a project will benefit both a 696  
single political subdivision and the geographical area as agreed 697

to by the authority, any governmental agency participating as a 698  
member of a transportation innovation authority may exercise its 699  
taxing authority on income, sales, or property under Title LVII of 700  
the Revised Code, or provide for payments in lieu of property tax 701  
on improvements, to benefit the geographical area as agreed to by 702  
the authority. 703

(3) A transportation innovation authority may obtain loans or 704  
grants from local, state, or federal sources. Loans or grants from 705  
federal or state sources may be used for funding transportation 706  
projects and may not be applied to the operating expenses of an 707  
authority; provided, that an authority may use such loans or 708  
grants to pay the expenses it incurs in planning a transportation 709  
project even if such planning costs normally are categorized as 710  
operating expenses by the authority. 711

(4) An authority may issue bonds to pay for all or part of 712  
the cost of an identified project. 713

(5) When it is determined that a project will benefit both a 714  
single political subdivision and the geographical area as agreed 715  
to by the authority, each governmental agency participating as a 716  
member of the authority may issue bonds for a portion of the cost 717  
of any project if Chapter 133. of the Revised Code would authorize 718  
the issuance of those bonds as if the governmental agency alone 719  
were undertaking the project, subject to the same conditions and 720  
restrictions. 721

(6) Any governmental agency participating as a member of an 722  
authority may appropriate money available to the agency to pay 723  
costs incurred by the authority in the exercise of its powers and 724  
duties. 725

(7) An authority may enter into agreements with private 726  
entities to assist with the construction, improvement, operation, 727  
or management of transportation projects. Such agreements may 728



include fair share payments to be made by the private entities to 729  
fund the projects. 730

(8)(a) An authority may charge tolls or fees for the use of 731  
its transportation projects or facilities pursuant to section 732  
5531.12 of the Revised Code. The authority may retain a portion of 733  
the fees charged as its administrative fee, provided the amount of 734  
the fee is reviewed and approved by the director of transportation 735  
on an annual basis. Subject to division (B)(8)(b) of this section, 736  
all other revenues shall be utilized to support construction, 737  
improvement, repair, maintenance, administration, and operation 738  
costs for transportation projects within the geographical area as 739  
agreed to by the authority. All projects for which a toll or fee 740  
is proposed to be charged shall be subject to the review and 741  
approval of the transportation review advisory council in 742  
accordance with Chapter 5512. of the Revised Code. 743

(b)(i) If an authority charges tolls or fees for the use of a 744  
transportation project or facility, the authority shall expend 745  
those tolls or fees only on that project or facility and on no 746  
other project or facility. 747

(ii) If a transportation project or facility is composed of 748  
more than one transportation mode and the authority charges tolls 749  
or fees for any of the different transportation modes that 750  
comprise the project or facility, the authority shall expend those 751  
tolls or fees that are collected for the use of a particular 752  
transportation mode only on that project or facility, only on that 753  
particular transportation mode of that project or facility, and on 754  
no other project or facility. 755

(C) The exercise of the powers granted by this chapter is in 756  
all respects for the benefit of the people of the state, for the 757  
improvement of their safety, convenience, and welfare, and for the 758  
enhancement of their residential, agricultural, recreational, 759  
economic, commercial, and industrial opportunities and is a public 760

purpose. As the operation and maintenance of transportation projects constitute the performance of essential governmental functions, a transportation innovation authority shall not be required to pay any taxes or assessments upon any transportation project, or upon any property acquired or used by the authority under this chapter, or upon the income therefrom. The transfer to or from the transportation innovation authority of title or possession of any transportation project, part thereof, or item included or to be included in any such project, is not subject to the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code, and any bonds and notes, their transfer, and the income therefrom, including any gain made on the sale thereof, shall at all times be free from taxation within the state.

**Sec. 5539.12.** (A) Prior to taking formal action to adopt or enter into any instrument granting a tax exemption that provides for payments in lieu of property tax on improvements located within a township to fund a transportation project pursuant to section 5539.11 of the Revised Code, the board of township trustees of that township shall notify the board of county commissioners of the county in which the proposed tax-exempted property is located. The notice shall include a copy of the instrument or application. The notice shall be delivered not later than forty-five days prior to the day the board of township trustees takes formal action to adopt or enter into the instrument. If the board of county commissioners comments on the instrument or application to the board of township trustees not later than thirty days from the date of delivery of the notice, the board of township trustees shall consider the comments.

(B) Prior to taking formal action to adopt or enter into any instrument granting a tax exemption that provides for payments in lieu of property tax on improvements located within a county to fund a transportation project pursuant to section 5539.11 of the

Revised Code, the board of county commissioners of that county 793  
shall notify the board of township trustees of each township 794  
within that county in which the proposed tax-exempted property is 795  
located. The notice shall include a copy of the instrument or 796  
application. The notice shall be delivered not later than 797  
forty-five days prior to the day the board of county commissioners 798  
takes formal action to adopt or enter into the instrument. If a 799  
board of township trustees comments on the instrument or 800  
application to the board of county commissioners not later than 801  
thirty days from the date of delivery of the notice, the board of 802  
county commissioners shall consider the comments. 803

(C) Prior to taking formal action to adopt or enter into any 804  
instrument granting a tax exemption that provides for payments in 805  
lieu of property tax on improvements located within a municipal 806  
corporation to fund a transportation project pursuant to section 807  
5539.11 of the Revised Code, the legislative authority of that 808  
municipal corporation shall notify the board of county 809  
commissioners of the county in which the proposed tax-exempted 810  
property is located and the board of township trustees of any 811  
township of which the municipal corporation is a part in which the 812  
proposed tax-exempted property is located. The notice shall 813  
include a copy of the instrument or application. The notice shall 814  
be delivered not later than forty-five days prior to the day the 815  
legislative authority of the municipal corporation takes formal 816  
action to adopt or enter into the instrument. If a board of county 817  
commissioners or board of township trustees comments on the 818  
instrument or application to the legislative authority of the 819  
municipal corporation not later than thirty days from the date of 820  
delivery of the notice, the legislative authority of the municipal 821  
corporation shall consider the comments. 822

**Section 2.** That existing sections 5501.03, 5501.311, 5531.09, 823  
and 5531.18 of the Revised Code are hereby repealed. 824

**Section 3.** All items in this section are hereby appropriated 825  
as designated out of any moneys in the state treasury to the 826  
credit of the New Generation Infrastructure Bank funds created in 827  
section 5531.09 of the Revised Code. For all appropriations made 828  
in this act, those in the first column are for fiscal year 2010 829  
and those in the second column are for fiscal year 2011. The 830  
appropriations made in this act are in addition to any other 831  
appropriations made for the FY 2010-2011 biennium. 832

Appropriations

DOT Department of Transportation	833
Highway Operating Fund Group	834
2160 772439 New Generation                   \$    50,000,000 \$                   0	835
Highway Loan	
2160 772440 New Generation                   \$    50,000,000 \$                   0	836
Highway Bond	
2180 775461 New Generation Multi           \$  120,000,000 \$                   0	837
Modal Loan	
2180 775462 New Generation Multi           \$  120,000,000 \$                   0	838
Modal Bond	
	839
TOTAL HOF Highway Operating Fund       \$  340,000,000 \$                   0	840
Group	
TOTAL ALL BUDGET FUND GROUPS           \$  340,000,000 \$                   0	841

Within the limits set forth in this act, the Director of 842  
Budget and Management shall establish accounts indicating the 843  
source and amount of funds for each appropriation made in this 844  
act, and shall determine the form and manner in which 845  
appropriation accounts shall be maintained. Expenditures from 846  
appropriations contained in this act shall be accounted for as 847  
though made in Am. Sub. H.B. 2 of the 128th General Assembly. 848

The appropriations made in this act are subject to all 849

provisions of Am. Sub. H.B. 2 of the 128th General Assembly that 850  
are generally applicable to such appropriations. 851