

**As Introduced
Corrected Version**

**129th General Assembly
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S. B. No. 314

Senators Wagoner, Cafaro

Cosponsors: Senators Beagle, Lehner, Manning, Obhof, Widener

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A B I L L

To amend sections 9.981, 102.03, 121.02, 121.03,	1
121.22, 122.01, 122.011, 122.07, 122.071, 122.17,	2
122.171, 122.174, 122.175, 122.39, 122.41, 122.42,	3
122.43, 122.44, 122.48, 122.49, 122.50, 122.51,	4
122.52, 122.53, 122.561, 122.57, 122.60, 122.601,	5
122.602, 122.603, 122.61, 122.62, 122.64, 122.76,	6
122.80, 122.86, 149.43, 164.05, 164.06, 164.08,	7
166.01, 166.04, 166.05, 166.13, 166.14, 166.18,	8
166.19, 166.25, 166.30, 174.01, 184.01, 184.02,	9
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01,	10
3735.672, 3746.35, 5117.22, 5709.68, 6103.052, and	11
6117.062, to amend, for the purpose of adopting	12
new section numbers as indicated in parentheses,	13
sections 122.07 (122.073) and 122.071 (122.072),	14
to enact new sections 122.07 and 122.071 and	15
sections 122.97, 184.011, 3735.01, and 5701.15,	16
and to repeal sections 1525.11, 1525.12, 1525.13,	17
and 6111.034 of the Revised Code; to repeal	18
section 122.40 of the Revised Code on July 1,	19
2012; to amend Sections 261.10.40, 261.10.70,	20
261.20.40, 261.20.50, 261.20.60, 261.20.80,	21
261.20.90, 261.30.10, 261.30.20, 261.30.30,	22

261.30.40, 261.30.60, 261.30.70, 261.30.80, 23
261.30.90, and 261.40.10 of Am. Sub. H.B. 153 of 24
the 129th General Assembly; to amend Sections 25
261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 26
129th General Assembly, as subsequently amended by 27
Sub. H.B. 371 of the 129th General Assembly; and 28
to repeal Sections 261.10.10, 261.10.20, 29
261.10.30, 261.10.50, 261.10.60, 261.10.80, 30
261.10.90, 261.20.10, 261.20.20, 261.20.70, and 31
261.30.50 of Am. Sub. H.B. 153 of the 129th 32
General Assembly to rename the Department of 33
Development the "Development Services Agency"; to 34
establish the Office of TourismOhio within the 35
Development Services Agency, create the 36
TourismOhio Advisory Board, and establish a pilot 37
program to test a new funding mechanism for the 38
state's travel and tourism marketing; to modify 39
the operation of JobsOhio; to makes changes to the 40
Capital Access Loan Program Fund and to allow 41
transfers to the Capital Access Loan Program Fund 42
from the Minority Business Enterprise Loan Fund; 43
to increase the membership of the Ohio Tax Credit 44
Authority and provide for projects that were 45
started prior to receiving a tax credit; to modify 46
reporting requirements under the Voluntary Action 47
Program; to require the Director of Development 48
Services to administer federal funds received for 49
Brownfields revitalization purposes; to terminate 50
the Water and Sewer Commission; to terminate the 51
Development Financing Advisory Council as of July 52
1, 2012; to increase the membership of the Third 53
Frontier Commission; and to make an appropriation. 54

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

Section 1. That sections 9.981, 102.03, 121.02, 121.03, 55
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 56
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 57
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 58
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 59
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 60
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 61
184.02, 187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 62
3746.35, 5117.22, 5709.68, 6103.052, and 6117.062 be amended, 63
sections 122.07 (122.073) and 122.071 (122.072) be amended for the 64
purpose of adopting new section numbers as indicated in 65
parentheses, and new sections 122.07 and 122.071 and sections 66
122.97, 184.011, 3735.01, and 5701.15 of the Revised Code be 67
enacted to read as follows: 68

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code 69
are applicable to bonds: 70

(1) The payment of the debt service on which is to be 71
provided for directly or indirectly by payments contracted to be 72
made in the bond proceedings by the absolute obligors, being 73
persons other than the issuer; and 74

(2) Which are authorized to be issued under sections 122.39 75
and 122.41 to 122.62, Chapter 165., 902., 3377., 3706., division 76
(A)(4) of section 4582.06, division (A)(8) of section 4582.31, 77
section 4582.48, or Chapter 6121. or 6123. of the Revised Code, 78
notwithstanding other provisions therein. 79

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 80
to bonds issued under sections 306.37 and 6119.12 of the Revised 81
Code and Chapters 140., 152., 154., 175., and 349. of the Revised 82

Code, and to any bonds authorized under laws which expressly make 83
those sections applicable. 84

(C) Subject to division (A) of this section, the authority 85
provided in sections 9.98 to 9.983 of the Revised Code is 86
supplemental to and not in derogation of any similar authority 87
provided by, derived from, or implied by, any law, the Ohio 88
Constitution, or any charter, resolution, or ordinance, and no 89
inference shall be drawn to negate the authority thereunder by 90
reason of the express provisions of sections 9.98 to 9.983 of the 91
Revised Code. 92

(D) Sections 9.98 to 9.983 of the Revised Code shall be 93
liberally construed to permit flexibility in the arrangements 94
therein provided to enhance the issuance of such bonds and provide 95
for terms most beneficial and satisfactory to the persons which 96
undertake to provide for their payment, security, and liquidity. 97

Sec. 102.03. (A)(1) No present or former public official or 98
employee shall, during public employment or service or for twelve 99
months thereafter, represent a client or act in a representative 100
capacity for any person on any matter in which the public official 101
or employee personally participated as a public official or 102
employee through decision, approval, disapproval, recommendation, 103
the rendering of advice, investigation, or other substantial 104
exercise of administrative discretion. 105

(2) For twenty-four months after the conclusion of service, 106
no former commissioner or attorney examiner of the public 107
utilities commission shall represent a public utility, as defined 108
in section 4905.02 of the Revised Code, or act in a representative 109
capacity on behalf of such a utility before any state board, 110
commission, or agency. 111

(3) For twenty-four months after the conclusion of employment 112
or service, no former public official or employee who personally 113

participated as a public official or employee through decision, 114
approval, disapproval, recommendation, the rendering of advice, 115
the development or adoption of solid waste management plans, 116
investigation, inspection, or other substantial exercise of 117
administrative discretion under Chapter 343. or 3734. of the 118
Revised Code shall represent a person who is the owner or operator 119
of a facility, as defined in section 3734.01 of the Revised Code, 120
or who is an applicant for a permit or license for a facility 121
under that chapter, on any matter in which the public official or 122
employee personally participated as a public official or employee. 123

(4) For a period of one year after the conclusion of 124
employment or service as a member or employee of the general 125
assembly, no former member or employee of the general assembly 126
shall represent, or act in a representative capacity for, any 127
person on any matter before the general assembly, any committee of 128
the general assembly, or the controlling board. Division (A)(4) of 129
this section does not apply to or affect a person who separates 130
from service with the general assembly on or before December 31, 131
1995. As used in division (A)(4) of this section "person" does not 132
include any state agency or political subdivision of the state. 133

(5) As used in divisions (A)(1), (2), and (3) of this 134
section, "matter" includes any case, proceeding, application, 135
determination, issue, or question, but does not include the 136
proposal, consideration, or enactment of statutes, rules, 137
ordinances, resolutions, or charter or constitutional amendments. 138
As used in division (A)(4) of this section, "matter" includes the 139
proposal, consideration, or enactment of statutes, resolutions, or 140
constitutional amendments. As used in division (A) of this 141
section, "represent" includes any formal or informal appearance 142
before, or any written or oral communication with, any public 143
agency on behalf of any person. 144

(6) Nothing contained in division (A) of this section shall 145

prohibit, during such period, a former public official or employee 146
from being retained or employed to represent, assist, or act in a 147
representative capacity for the public agency by which the public 148
official or employee was employed or on which the public official 149
or employee served. 150

(7) Division (A) of this section shall not be construed to 151
prohibit the performance of ministerial functions, including, but 152
not limited to, the filing or amendment of tax returns, 153
applications for permits and licenses, incorporation papers, and 154
other similar documents. 155

(8) Division (A) of this section does not prohibit a 156
nonelected public official or employee of a state agency, as 157
defined in section 1.60 of the Revised Code, from becoming a 158
public official or employee of another state agency. Division (A) 159
of this section does not prohibit such an official or employee 160
from representing or acting in a representative capacity for the 161
official's or employee's new state agency on any matter in which 162
the public official or employee personally participated as a 163
public official or employee at the official's or employee's former 164
state agency. However, no public official or employee of a state 165
agency shall, during public employment or for twelve months 166
thereafter, represent or act in a representative capacity for the 167
official's or employee's new state agency on any audit or 168
investigation pertaining to the official's or employee's new state 169
agency in which the public official or employee personally 170
participated at the official's or employee's former state agency 171
through decision, approval, disapproval, recommendation, the 172
rendering of advice, investigation, or other substantial exercise 173
of administrative discretion. 174

(9) Division (A) of this section does not prohibit a 175
nonelected public official or employee of a political subdivision 176
from becoming a public official or employee of a different 177

department, division, agency, office, or unit of the same 178
political subdivision. Division (A) of this section does not 179
prohibit such an official or employee from representing or acting 180
in a representative capacity for the official's or employee's new 181
department, division, agency, office, or unit on any matter in 182
which the public official or employee personally participated as a 183
public official or employee at the official's or employee's former 184
department, division, agency, office, or unit of the same 185
political subdivision. As used in this division, "political 186
subdivision" means a county, township, municipal corporation, or 187
any other body corporate and politic that is responsible for 188
government activities in a geographic area smaller than that of 189
the state. 190

(10) No present or former Ohio casino control commission 191
official shall, during public service or for two years thereafter, 192
represent a client, be employed or compensated by a person 193
regulated by the commission, or act in a representative capacity 194
for any person on any matter before or concerning the commission. 195

No present or former commission employee shall, during public 196
employment or for two years thereafter, represent a client or act 197
in a representative capacity on any matter in which the employee 198
personally participated as a commission employee through decision, 199
approval, disapproval, recommendation, the rendering of advice, 200
investigation, or other substantial exercise of administrative 201
discretion. 202

(B) No present or former public official or employee shall 203
disclose or use, without appropriate authorization, any 204
information acquired by the public official or employee in the 205
course of the public official's or employee's official duties that 206
is confidential because of statutory provisions, or that has been 207
clearly designated to the public official or employee as 208
confidential when that confidential designation is warranted 209

because of the status of the proceedings or the circumstances 210
under which the information was received and preserving its 211
confidentiality is necessary to the proper conduct of government 212
business. 213

(C) No public official or employee shall participate within 214
the scope of duties as a public official or employee, except 215
through ministerial functions as defined in division (A) of this 216
section, in any license or rate-making proceeding that directly 217
affects the license or rates of any person, partnership, trust, 218
business trust, corporation, or association in which the public 219
official or employee or immediate family owns or controls more 220
than five per cent. No public official or employee shall 221
participate within the scope of duties as a public official or 222
employee, except through ministerial functions as defined in 223
division (A) of this section, in any license or rate-making 224
proceeding that directly affects the license or rates of any 225
person to whom the public official or employee or immediate 226
family, or a partnership, trust, business trust, corporation, or 227
association of which the public official or employee or the public 228
official's or employee's immediate family owns or controls more 229
than five per cent, has sold goods or services totaling more than 230
one thousand dollars during the preceding year, unless the public 231
official or employee has filed a written statement acknowledging 232
that sale with the clerk or secretary of the public agency and the 233
statement is entered in any public record of the agency's 234
proceedings. This division shall not be construed to require the 235
disclosure of clients of attorneys or persons licensed under 236
section 4732.12 or 4732.15 of the Revised Code, or patients of 237
persons certified under section 4731.14 of the Revised Code. 238

(D) No public official or employee shall use or authorize the 239
use of the authority or influence of office or employment to 240
secure anything of value or the promise or offer of anything of 241

value that is of such a character as to manifest a substantial and 242
improper influence upon the public official or employee with 243
respect to that person's duties. 244

(E) No public official or employee shall solicit or accept 245
anything of value that is of such a character as to manifest a 246
substantial and improper influence upon the public official or 247
employee with respect to that person's duties. 248

(F) No person shall promise or give to a public official or 249
employee anything of value that is of such a character as to 250
manifest a substantial and improper influence upon the public 251
official or employee with respect to that person's duties. 252

(G) In the absence of bribery or another offense under the 253
Revised Code or a purpose to defraud, contributions made to a 254
campaign committee, political party, legislative campaign fund, 255
political action committee, or political contributing entity on 256
behalf of an elected public officer or other public official or 257
employee who seeks elective office shall be considered to accrue 258
ordinarily to the public official or employee for the purposes of 259
divisions (D), (E), and (F) of this section. 260

As used in this division, "contributions," "campaign 261
committee," "political party," "legislative campaign fund," 262
"political action committee," and "political contributing entity" 263
have the same meanings as in section 3517.01 of the Revised Code. 264

(H)(1) No public official or employee, except for the 265
president or other chief administrative officer of or a member of 266
a board of trustees of a state institution of higher education as 267
defined in section 3345.011 of the Revised Code, who is required 268
to file a financial disclosure statement under section 102.02 of 269
the Revised Code shall solicit or accept, and no person shall give 270
to that public official or employee, an honorarium. Except as 271
provided in division (H)(2) of this section, this division and 272

divisions (D), (E), and (F) of this section do not prohibit a 273
public official or employee who is required to file a financial 274
disclosure statement under section 102.02 of the Revised Code from 275
accepting and do not prohibit a person from giving to that public 276
official or employee the payment of actual travel expenses, 277
including any expenses incurred in connection with the travel for 278
lodging, and meals, food, and beverages provided to the public 279
official or employee at a meeting at which the public official or 280
employee participates in a panel, seminar, or speaking engagement 281
or provided to the public official or employee at a meeting or 282
convention of a national organization to which any state agency, 283
including, but not limited to, any state legislative agency or 284
state institution of higher education as defined in section 285
3345.011 of the Revised Code, pays membership dues. Except as 286
provided in division (H)(2) of this section, this division and 287
divisions (D), (E), and (F) of this section do not prohibit a 288
public official or employee who is not required to file a 289
financial disclosure statement under section 102.02 of the Revised 290
Code from accepting and do not prohibit a person from promising or 291
giving to that public official or employee an honorarium or the 292
payment of travel, meal, and lodging expenses if the honorarium, 293
expenses, or both were paid in recognition of demonstrable 294
business, professional, or esthetic interests of the public 295
official or employee that exist apart from public office or 296
employment, including, but not limited to, such a demonstrable 297
interest in public speaking and were not paid by any person or 298
other entity, or by any representative or association of those 299
persons or entities, that is regulated by, doing business with, or 300
seeking to do business with the department, division, institution, 301
board, commission, authority, bureau, or other instrumentality of 302
the governmental entity with which the public official or employee 303
serves. 304

(2) No person who is a member of the board of a state 305

retirement system, a state retirement system investment officer, 306
or an employee of a state retirement system whose position 307
involves substantial and material exercise of discretion in the 308
investment of retirement system funds shall solicit or accept, and 309
no person shall give to that board member, officer, or employee, 310
payment of actual travel expenses, including expenses incurred 311
with the travel for lodging, meals, food, and beverages. 312

(I) A public official or employee may accept travel, meals, 313
and lodging or expenses or reimbursement of expenses for travel, 314
meals, and lodging in connection with conferences, seminars, and 315
similar events related to official duties if the travel, meals, 316
and lodging, expenses, or reimbursement is not of such a character 317
as to manifest a substantial and improper influence upon the 318
public official or employee with respect to that person's duties. 319
The house of representatives and senate, in their code of ethics, 320
and the Ohio ethics commission, under section 111.15 of the 321
Revised Code, may adopt rules setting standards and conditions for 322
the furnishing and acceptance of such travel, meals, and lodging, 323
expenses, or reimbursement. 324

A person who acts in compliance with this division and any 325
applicable rules adopted under it, or any applicable, similar 326
rules adopted by the supreme court governing judicial officers and 327
employees, does not violate division (D), (E), or (F) of this 328
section. This division does not preclude any person from seeking 329
an advisory opinion from the appropriate ethics commission under 330
section 102.08 of the Revised Code. 331

(J) For purposes of divisions (D), (E), and (F) of this 332
section, the membership of a public official or employee in an 333
organization shall not be considered, in and of itself, to be of 334
such a character as to manifest a substantial and improper 335
influence on the public official or employee with respect to that 336
person's duties. As used in this division, "organization" means a 337

church or a religious, benevolent, fraternal, or professional 338
organization that is tax exempt under subsection 501(a) and 339
described in subsection 501(c)(3), (4), (8), (10), or (19) of the 340
"Internal Revenue Code of 1986." This division does not apply to a 341
public official or employee who is an employee of an organization, 342
serves as a trustee, director, or officer of an organization, or 343
otherwise holds a fiduciary relationship with an organization. 344
This division does not allow a public official or employee who is 345
a member of an organization to participate, formally or 346
informally, in deliberations, discussions, or voting on a matter 347
or to use ~~his~~ the public official's or employee's official 348
position with regard to the interests of the organization on the 349
matter if the public official or employee has assumed a particular 350
responsibility in the organization with respect to the matter or 351
if the matter would affect that person's personal, pecuniary 352
interests. 353

(K) It is not a violation of this section for a prosecuting 354
attorney to appoint assistants and employees in accordance with 355
division (B) of section 309.06 and section 2921.421 of the Revised 356
Code, for a chief legal officer of a municipal corporation or an 357
official designated as prosecutor in a municipal corporation to 358
appoint assistants and employees in accordance with sections 359
733.621 and 2921.421 of the Revised Code, for a township law 360
director appointed under section 504.15 of the Revised Code to 361
appoint assistants and employees in accordance with sections 362
504.151 and 2921.421 of the Revised Code, or for a coroner to 363
appoint assistants and employees in accordance with division (B) 364
of section 313.05 of the Revised Code. 365

As used in this division, "chief legal officer" has the same 366
meaning as in section 733.621 of the Revised Code. 367

(L) No present public official or employee with a casino 368
gaming regulatory function shall indirectly invest, by way of an 369

entity the public official or employee has an ownership interest 370
or control in, or directly invest in a casino operator, management 371
company, holding company, casino facility, or gaming-related 372
vendor. No present public official or employee with a casino 373
gaming regulatory function shall directly or indirectly have a 374
financial interest in, have an ownership interest in, be the 375
creditor or hold a debt instrument issued by, or have an interest 376
in a contractual or service relationship with a casino operator, 377
management company, holding company, casino facility, or 378
gaming-related vendor. This section does not prohibit or limit 379
permitted passive investing by the public official or employee. 380

As used in this division, "passive investing" means 381
investment by the public official or employee by means of a mutual 382
fund in which the public official or employee has no control of 383
the investments or investment decisions. "Casino operator," 384
"holding company," "management company," "casino facility," and 385
"gaming-related vendor" have the same meanings as in section 386
3772.01 of the Revised Code. 387

(M) A member of the Ohio casino control commission, the 388
executive director of the commission, or an employee of the 389
commission shall not: 390

(1) Accept anything of value, including but not limited to a 391
gift, gratuity, emolument, or employment from a casino operator, 392
management company, or other person subject to the jurisdiction of 393
the commission, or from an officer, attorney, agent, or employee 394
of a casino operator, management company, or other person subject 395
to the jurisdiction of the commission; 396

(2) Solicit, suggest, request, or recommend, directly or 397
indirectly, to a casino operator, management company, or other 398
person subject to the jurisdiction of the commission, or to an 399
officer, attorney, agent, or employee of a casino operator, 400
management company, or other person subject to the jurisdiction of 401

the commission, the appointment of a person to an office, place, 402
position, or employment; 403

(3) Participate in casino gaming or any other amusement or 404
activity at a casino facility in this state or at an affiliate 405
gaming facility of a licensed casino operator, wherever located. 406

In addition to the penalty provided in section 102.99 of the 407
Revised Code, whoever violates division (M)(1), (2), or (3) of 408
this section forfeits the individual's office or employment. 409

Sec. 121.02. The following administrative departments and 410
their respective directors are hereby created: 411

(A) The office of budget and management, which shall be 412
administered by the director of budget and management; 413

(B) The department of commerce, which shall be administered 414
by the director of commerce; 415

(C) The department of administrative services, which shall be 416
administered by the director of administrative services; 417

(D) The department of transportation, which shall be 418
administered by the director of transportation; 419

(E) The department of agriculture, which shall be 420
administered by the director of agriculture; 421

(F) The department of natural resources, which shall be 422
administered by the director of natural resources; 423

(G) The department of health, which shall be administered by 424
the director of health; 425

(H) The department of job and family services, which shall be 426
administered by the director of job and family services; 427

(I) Until July 1, 1997, the department of liquor control, 428
which shall be administered by the director of liquor control; 429

(J) The department of public safety, which shall be 430
administered by the director of public safety; 431

(K) The department of mental health, which shall be 432
administered by the director of mental health; 433

(L) The department of developmental disabilities, which shall 434
be administered by the director of developmental disabilities; 435

(M) The department of insurance, which shall be administered 436
by the superintendent of insurance as director thereof; 437

(N) The ~~department of development~~ services agency, which 438
shall be administered by the director of development services; 439

(O) The department of youth services, which shall be 440
administered by the director of youth services; 441

(P) The department of rehabilitation and correction, which 442
shall be administered by the director of rehabilitation and 443
correction; 444

(Q) The environmental protection agency, which shall be 445
administered by the director of environmental protection; 446

(R) The department of aging, which shall be administered by 447
the director of aging; 448

(S) The department of alcohol and drug addiction services, 449
which shall be administered by the director of alcohol and drug 450
addiction services; 451

(T) The department of veterans services, which shall be 452
administered by the director of veterans services. 453

The director of each department shall exercise the powers and 454
perform the duties vested by law in such department. 455

Sec. 121.03. The following administrative department heads 456
shall be appointed by the governor, with the advice and consent of 457
the senate, and shall hold their offices during the term of the 458

appointing governor, and are subject to removal at the pleasure of	459
the governor.	460
(A) The director of budget and management;	461
(B) The director of commerce;	462
(C) The director of transportation;	463
(D) The director of agriculture;	464
(E) The director of job and family services;	465
(F) Until July 1, 1997, the director of liquor control;	466
(G) The director of public safety;	467
(H) The superintendent of insurance;	468
(I) The director of development <u>services</u> ;	469
(J) The tax commissioner;	470
(K) The director of administrative services;	471
(L) The director of natural resources;	472
(M) The director of mental health;	473
(N) The director of developmental disabilities;	474
(O) The director of health;	475
(P) The director of youth services;	476
(Q) The director of rehabilitation and correction;	477
(R) The director of environmental protection;	478
(S) The director of aging;	479
(T) The director of alcohol and drug addiction services;	480
(U) The administrator of workers' compensation who meets the	481
qualifications required under division (A) of section 4121.121 of	482
the Revised Code;	483
(V) The director of veterans services who meets the	484

qualifications required under section 5902.01 of the Revised Code; 485

(W) The chancellor of the Ohio board of regents. 486

Sec. 121.22. (A) This section shall be liberally construed to 487
require public officials to take official action and to conduct 488
all deliberations upon official business only in open meetings 489
unless the subject matter is specifically excepted by law. 490

(B) As used in this section: 491

(1) "Public body" means any of the following: 492

(a) Any board, commission, committee, council, or similar 493
decision-making body of a state agency, institution, or authority, 494
and any legislative authority or board, commission, committee, 495
council, agency, authority, or similar decision-making body of any 496
county, township, municipal corporation, school district, or other 497
political subdivision or local public institution; 498

(b) Any committee or subcommittee of a body described in 499
division (B)(1)(a) of this section; 500

(c) A court of jurisdiction of a sanitary district organized 501
wholly for the purpose of providing a water supply for domestic, 502
municipal, and public use when meeting for the purpose of the 503
appointment, removal, or reappointment of a member of the board of 504
directors of such a district pursuant to section 6115.10 of the 505
Revised Code, if applicable, or for any other matter related to 506
such a district other than litigation involving the district. As 507
used in division (B)(1)(c) of this section, "court of 508
jurisdiction" has the same meaning as "court" in section 6115.01 509
of the Revised Code. 510

(2) "Meeting" means any prearranged discussion of the public 511
business of the public body by a majority of its members. 512

(3) "Regulated individual" means either of the following: 513

(a) A student in a state or local public educational institution;	514 515
(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.	516 517 518 519
(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.	520 521
(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.	522 523 524 525 526
The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.	527 528 529 530 531
(D) This section does not apply to any of the following:	532
(1) A grand jury;	533
(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;	534 535 536
(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;	537 538 539
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	540 541
(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted	542 543

pursuant to sections 5153.171 to 5153.173 of the Revised Code;	544
(6) The state medical board when determining whether to	545
suspend a certificate without a prior hearing pursuant to division	546
(G) of either section 4730.25 or 4731.22 of the Revised Code;	547
(7) The board of nursing when determining whether to suspend	548
a license or certificate without a prior hearing pursuant to	549
division (B) of section 4723.281 of the Revised Code;	550
(8) The state board of pharmacy when determining whether to	551
suspend a license without a prior hearing pursuant to division (D)	552
of section 4729.16 of the Revised Code;	553
(9) The state chiropractic board when determining whether to	554
suspend a license without a hearing pursuant to section 4734.37 of	555
the Revised Code;	556
(10) The executive committee of the emergency response	557
commission when determining whether to issue an enforcement order	558
or request that a civil action, civil penalty action, or criminal	559
action be brought to enforce Chapter 3750. of the Revised Code;	560
(11) The board of directors of the nonprofit corporation	561
formed under section 187.01 of the Revised Code or any committee	562
thereof, and the board of directors of any subsidiary of that	563
corporation or a committee thereof;	564
(12) An audit conference conducted by the audit staff of the	565
department of job and family services with officials of the public	566
office that is the subject of that audit under section 5101.37 of	567
the Revised Code.	568
(E) The controlling board, the development financing advisory	569
council , the industrial technology and enterprise advisory	570
council, the tax credit authority, or the minority development	571
financing advisory board, when meeting to consider granting	572
assistance pursuant to Chapter 122. or 166. of the Revised Code,	573

in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

(1) Marketing plans;

(2) Specific business strategy;

(3) Production techniques and trade secrets;

(4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public

business is to be discussed. Provisions for advance notification 604
may include, but are not limited to, mailing the agenda of 605
meetings to all subscribers on a mailing list or mailing notices 606
in self-addressed, stamped envelopes provided by the person. 607

(G) Except as provided in division (J) of this section, the 608
members of a public body may hold an executive session only after 609
a majority of a quorum of the public body determines, by a roll 610
call vote, to hold an executive session and only at a regular or 611
special meeting for the sole purpose of the consideration of any 612
of the following matters: 613

(1) To consider the appointment, employment, dismissal, 614
discipline, promotion, demotion, or compensation of a public 615
employee or official, or the investigation of charges or 616
complaints against a public employee, official, licensee, or 617
regulated individual, unless the public employee, official, 618
licensee, or regulated individual requests a public hearing. 619
Except as otherwise provided by law, no public body shall hold an 620
executive session for the discipline of an elected official for 621
conduct related to the performance of the elected official's 622
official duties or for the elected official's removal from office. 623
If a public body holds an executive session pursuant to division 624
(G)(1) of this section, the motion and vote to hold that executive 625
session shall state which one or more of the approved purposes 626
listed in division (G)(1) of this section are the purposes for 627
which the executive session is to be held, but need not include 628
the name of any person to be considered at the meeting. 629

(2) To consider the purchase of property for public purposes, 630
or for the sale of property at competitive bidding, if premature 631
disclosure of information would give an unfair competitive or 632
bargaining advantage to a person whose personal, private interest 633
is adverse to the general public interest. No member of a public 634
body shall use division (G)(2) of this section as a subterfuge for 635

providing covert information to prospective buyers or sellers. A 636
purchase or sale of public property is void if the seller or buyer 637
of the public property has received covert information from a 638
member of a public body that has not been disclosed to the general 639
public in sufficient time for other prospective buyers and sellers 640
to prepare and submit offers. 641

If the minutes of the public body show that all meetings and 642
deliberations of the public body have been conducted in compliance 643
with this section, any instrument executed by the public body 644
purporting to convey, lease, or otherwise dispose of any right, 645
title, or interest in any public property shall be conclusively 646
presumed to have been executed in compliance with this section 647
insofar as title or other interest of any bona fide purchasers, 648
lessees, or transferees of the property is concerned. 649

(3) Conferences with an attorney for the public body 650
concerning disputes involving the public body that are the subject 651
of pending or imminent court action; 652

(4) Preparing for, conducting, or reviewing negotiations or 653
bargaining sessions with public employees concerning their 654
compensation or other terms and conditions of their employment; 655

(5) Matters required to be kept confidential by federal law 656
or regulations or state statutes; 657

(6) Details relative to the security arrangements and 658
emergency response protocols for a public body or a public office, 659
if disclosure of the matters discussed could reasonably be 660
expected to jeopardize the security of the public body or public 661
office; 662

(7) In the case of a county hospital operated pursuant to 663
Chapter 339. of the Revised Code, a joint township hospital 664
operated pursuant to Chapter 513. of the Revised Code, or a 665
municipal hospital operated pursuant to Chapter 749. of the 666

Revised Code, to consider trade secrets, as defined in section 667
1333.61 of the Revised Code. 668

If a public body holds an executive session to consider any 669
of the matters listed in divisions (G)(2) to (7) of this section, 670
the motion and vote to hold that executive session shall state 671
which one or more of the approved matters listed in those 672
divisions are to be considered at the executive session. 673

A public body specified in division (B)(1)(c) of this section 674
shall not hold an executive session when meeting for the purposes 675
specified in that division. 676

(H) A resolution, rule, or formal action of any kind is 677
invalid unless adopted in an open meeting of the public body. A 678
resolution, rule, or formal action adopted in an open meeting that 679
results from deliberations in a meeting not open to the public is 680
invalid unless the deliberations were for a purpose specifically 681
authorized in division (G) or (J) of this section and conducted at 682
an executive session held in compliance with this section. A 683
resolution, rule, or formal action adopted in an open meeting is 684
invalid if the public body that adopted the resolution, rule, or 685
formal action violated division (F) of this section. 686

(I)(1) Any person may bring an action to enforce this 687
section. An action under division (I)(1) of this section shall be 688
brought within two years after the date of the alleged violation 689
or threatened violation. Upon proof of a violation or threatened 690
violation of this section in an action brought by any person, the 691
court of common pleas shall issue an injunction to compel the 692
members of the public body to comply with its provisions. 693

(2)(a) If the court of common pleas issues an injunction 694
pursuant to division (I)(1) of this section, the court shall order 695
the public body that it enjoins to pay a civil forfeiture of five 696
hundred dollars to the party that sought the injunction and shall 697

award to that party all court costs and, subject to reduction as 698
described in division (I)(2) of this section, reasonable 699
attorney's fees. The court, in its discretion, may reduce an award 700
of attorney's fees to the party that sought the injunction or not 701
award attorney's fees to that party if the court determines both 702
of the following: 703

(i) That, based on the ordinary application of statutory law 704
and case law as it existed at the time of violation or threatened 705
violation that was the basis of the injunction, a well-informed 706
public body reasonably would believe that the public body was not 707
violating or threatening to violate this section; 708

(ii) That a well-informed public body reasonably would 709
believe that the conduct or threatened conduct that was the basis 710
of the injunction would serve the public policy that underlies the 711
authority that is asserted as permitting that conduct or 712
threatened conduct. 713

(b) If the court of common pleas does not issue an injunction 714
pursuant to division (I)(1) of this section and the court 715
determines at that time that the bringing of the action was 716
frivolous conduct, as defined in division (A) of section 2323.51 717
of the Revised Code, the court shall award to the public body all 718
court costs and reasonable attorney's fees, as determined by the 719
court. 720

(3) Irreparable harm and prejudice to the party that sought 721
the injunction shall be conclusively and irrebuttably presumed 722
upon proof of a violation or threatened violation of this section. 723

(4) A member of a public body who knowingly violates an 724
injunction issued pursuant to division (I)(1) of this section may 725
be removed from office by an action brought in the court of common 726
pleas for that purpose by the prosecuting attorney or the attorney 727
general. 728

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

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

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

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

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

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

Sec. 122.01. (A) As used in the Revised Code, the "department of development" means the development services agency and the "director of development" means the director of development services. Whenever the department or director of development is

referred to or designated in any statute, rule, contract, grant, 759
or other document, the reference or designation shall be deemed to 760
refer to the development services agency or director of 761
development services, as the case may be. 762

(B) As used in this chapter: 763

~~(A)~~(1) "Community problems" includes, but is not limited to, 764
taxation, fiscal administration, governmental structure and 765
organization, intergovernmental cooperation, education and 766
training, employment needs, community planning and development, 767
air and water pollution, public safety and the administration of 768
justice, housing, mass transportation, community facilities and 769
services, health, welfare, recreation, open space, and the 770
development of human resources. 771

~~(B)~~(2) "Professional personnel" means either of the 772
following: 773

~~(1)~~(a) Personnel who have earned a bachelor's degree from a 774
college or university; 775

~~(2)~~(b) Personnel who serve as or have the working title of 776
director, assistant director, deputy director, assistant deputy 777
director, manager, office chief, assistant office chief, or 778
program director. 779

~~(C)~~(3) "Technical personnel" means any of the following: 780

~~(1)~~(a) Personnel who provide technical assistance according 781
to their job description or in accordance with the Revised Code; 782

~~(2)~~(b) Personnel employed in the director of ~~development's~~ 783
development services' office or the legal office, communications 784
office, finance office, legislative affairs office, or human 785
resources office of the ~~department of~~ development services agency; 786

~~(3)~~(c) Personnel employed in the technology division of the 787
~~department~~ agency. 788

Sec. 122.011. (A) The ~~department~~ of development services 789
agency shall develop and promote plans and programs designed to 790
assure that state resources are efficiently used, economic growth 791
is properly balanced, community growth is developed in an orderly 792
manner, and local governments are coordinated with each other and 793
the state, and for such purposes may do all of the following: 794

(1) Serve as a clearinghouse for information, data, and other 795
materials that may be helpful or necessary to persons or local 796
governments, as provided in section ~~122.07~~ 122.073 of the Revised 797
Code; 798

(2) Prepare and activate plans for the retention, 799
development, expansion, and use of the resources and commerce of 800
the state, as provided in section 122.04 of the Revised Code; 801

(3) Assist and cooperate with federal, state, and local 802
governments and agencies of federal, state, and local governments 803
in the coordination of programs to carry out the functions and 804
duties of the ~~department~~ agency; 805

(4) Encourage and foster research and development activities, 806
conduct studies related to the solution of community problems, and 807
develop recommendations for administrative or legislative actions, 808
as provided in section 122.03 of the Revised Code; 809

(5) Serve as the economic and community development planning 810
agency, which shall prepare and recommend plans and programs for 811
the orderly growth and development of this state and which shall 812
provide planning assistance, as provided in section 122.06 of the 813
Revised Code; 814

(6) Cooperate with and provide technical assistance to state 815
departments, political subdivisions, regional and local planning 816
commissions, tourist associations, councils of government, 817
community development groups, community action agencies, and other 818

appropriate organizations for carrying out the functions and 819
duties of the ~~department~~ development services agency or for the 820
solution of community problems; 821

(7) Coordinate the activities of state agencies that have an 822
impact on carrying out the functions and duties of the ~~department~~ 823
development services agency; 824

(8) Encourage and assist the efforts of and cooperate with 825
local governments to develop mutual and cooperative solutions to 826
their common problems that relate to carrying out the purposes of 827
this section; 828

(9) Study existing structure, operations, and financing of 829
regional or local government and those state activities that 830
involve significant relations with regional or local governmental 831
units, recommend to the governor and to the general assembly such 832
changes in these provisions and activities as will improve the 833
operations of regional or local government, and conduct other 834
studies of legal provisions that affect problems related to 835
carrying out the purposes of this section; 836

(10) Create and operate a division of community development 837
to develop and administer programs and activities that are 838
authorized by federal statute or the Revised Code; 839

(11) Until October 15, 2007, establish fees and charges, in 840
consultation with the director of agriculture, for purchasing 841
loans from financial institutions and providing loan guarantees 842
under the family farm loan program created under sections 901.80 843
to 901.83 of the Revised Code; 844

(12) Provide loan servicing for the loans purchased and loan 845
guarantees provided under section 901.80 of the Revised Code as 846
that section existed prior to October 15, 2007; 847

(13) Until October 15, 2007, and upon approval by the 848
controlling board under division (A)(3) of section 901.82 of the 849

Revised Code of the release of money to be used for purchasing a 850
loan or providing a loan guarantee, request the release of that 851
money in accordance with division (B) of section 166.03 of the 852
Revised Code for use for the purposes of the fund created by 853
section 166.031 of the Revised Code. 854

(14) Allocate that portion of the national recovery zone 855
economic development bond limitation and that portion of the 856
national recovery zone facility bond limitation that has been 857
allocated to the state under section 1400U-1 of the Internal 858
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 859
corporation waives any portion of an allocation it receives under 860
division (A)(14) of this section, the ~~department~~ agency may 861
reallocate that amount. Any allocation or reallocation shall be 862
made in accordance with this section and section 1400U-1 of the 863
Internal Revenue Code. 864

(B) The director of development services may request the 865
attorney general to, and the attorney general, in accordance with 866
section 109.02 of the Revised Code, shall bring a civil action in 867
any court of competent jurisdiction. The director may be sued in 868
the director's official capacity, in connection with this chapter, 869
in accordance with Chapter 2743. of the Revised Code. 870

(C) The director ~~of development~~ shall execute a contract 871
pursuant to section 187.04 of the Revised Code with the nonprofit 872
corporation formed under section 187.01 of the Revised Code, and 873
may execute any additional contracts with the corporation 874
providing for the corporation to assist the director or ~~department~~ 875
agency in carrying out any duties of the director or ~~department~~ 876
agency under this chapter, under any other provision of the 877
Revised Code dealing with economic development, or under a 878
contract with the director, subject to section 187.04 of the 879
Revised Code. 880

Sec. 122.07. (A) There is hereby created within the 881
development services agency an office to be known as the office of 882
TourismOhio. The office shall be under the supervision of a 883
director who shall be of equivalent rank of deputy director of the 884
agency and shall serve at the pleasure of the director of 885
development services. 886

(B) The office shall do both of the following: 887

(1) Promote the state as a travel destination and provide 888
related services or otherwise carry out the promotional functions 889
or duties of the agency, as necessary; 890

(2) Perform an annual return-on-investment study analyzing 891
the office's success in promoting Ohio tourism. A report 892
containing the findings of the study shall be submitted to the 893
governor, the speaker of the house of representatives, and the 894
president of the senate. The report shall also be made available 895
to the public. 896

Sec. 122.071. (A) The TourismOhio advisory board is hereby 897
established to advise the director of development services and the 898
director of the office of TourismOhio on strategies for promoting 899
tourism in this state. The board shall consist of the chief 900
investment officer of the nonprofit corporation formed under 901
section 187.01 of the Revised Code, the director of the office of 902
TourismOhio, and eight members to be appointed by the governor as 903
provided in division (B) of this section. All members of the 904
board, except the director of the office of TourismOhio, shall be 905
voting members. 906

(B)(1) The governor shall, within sixty days after the 907
effective date of this section, appoint to the TourismOhio 908
advisory board one individual who is a representative of 909
convention and visitors' bureaus, one individual who is a 910

representative of the lodging industry, one individual who is a 911
representative of the restaurant industry, one individual who is a 912
representative of attractions, one individual who is a 913
representative of special events and festivals, and three 914
individuals who are representatives of the tourism industry. Of 915
the initial appointments, two individuals shall serve a term of 916
one year, two individuals shall serve a term of two years, and the 917
remainder shall serve a term of three years. Each individual 918
appointed to the board shall be a United States citizen. 919

(2) For purposes of division (B)(1) of this section, an 920
individual is a "representative of the tourism industry" if the 921
individual possesses five years or more executive-level experience 922
in the attractions, lodging, restaurant, transportation, or retail 923
industry or five years or more executive-level experience with a 924
destination marketing organization. 925

(C)(1) Each member of the TourismOhio advisory board shall 926
hold office from the date of the member's appointment until the 927
end of the term for which the member is appointed. Vacancies that 928
occur on the board shall be filled in the manner prescribed for 929
regular appointments to the board. A member appointed to fill a 930
vacancy occurring prior to the expiration of the term for which 931
the member's predecessor was appointed shall hold office for the 932
remainder of that predecessor's term. A member shall continue in 933
office subsequent to the expiration date of the member's term 934
until the member's successor takes office or until sixty days have 935
elapsed, whichever occurs first. Any member appointed to the board 936
is eligible for reappointment. 937

(2) The governor shall designate one member of the board as 938
chairperson. 939

(3) Members appointed to the board may be reimbursed for 940
actual and necessary expenses incurred in connection with their 941
official duties. 942

Sec. ~~122.071~~ 122.072. There is hereby created in the state 943
treasury the ~~travel and tourism cooperative projects~~ fund 944
consisting of ~~all~~ money credited or transferred to it and grants, 945
gifts, and contributions made directly to ~~the director of~~ 946
~~development for marketing and promotion of travel and tourism~~ 947
within it. Money in the fund shall be used to defray costs 948
incurred by the office of TourismOhio in promoting this state 949
~~pursuant to division (F) of section 122.04 and section 122.07 of~~ 950
~~the Revised Code as a travel destination.~~ 951

Sec. ~~122.07~~ 122.073. (A) The ~~department of~~ development 952
services agency may do either of the following: 953

(1) Disseminate information concerning the industrial, 954
commercial, governmental, educational, cultural, recreational, 955
agricultural, and other advantages and attractions of the state; 956

(2) Provide technical assistance to public and private 957
agencies in the preparation of promotional programs designed to 958
attract business, industry, and tourists to the state. 959

(B) Records related to tourism market research submitted to 960
or generated by the ~~research~~ office of ~~the division of travel and~~ 961
~~tourism of the department of development~~ TourismOhio, and any 962
information taken for any purpose from such research, are not 963
public records for the purposes of section 149.43 of the Revised 964
Code. The ~~department~~ agency may use, however, such tourism market 965
research in a public report if the director of ~~the department~~ 966
development services determines that issuing and distributing the 967
report would promote or market the state's travel and tourism 968
industry or otherwise advance the purposes of this section. 969

Sec. 122.17. (A) As used in this section: 970

(1) "Income tax revenue" means the total amount withheld 971

under section 5747.06 of the Revised Code by the taxpayer during 972
the taxable year, or during the calendar year that includes the 973
tax period, from the compensation of each employee employed in the 974
project to the extent the employee's withholdings are not used to 975
determine the credit under section 122.171 of the Revised Code. 976
"Income tax revenue" excludes amounts withheld before the day the 977
taxpayer becomes eligible for the credit. 978

(2) "Baseline income tax revenue" means income tax revenue 979
except that the applicable withholding period is the twelve months 980
immediately preceding the date the tax credit authority approves 981
the taxpayer's application or the date the tax credit authority 982
receives the recommendation described in division (C)(3) of this 983
section, whichever occurs first, multiplied by the sum of one plus 984
an annual pay increase factor to be determined by the tax credit 985
authority. If the taxpayer becomes eligible for the credit after 986
the first day of the taxpayer's taxable year or after the first 987
day of the calendar year that includes the tax period, the 988
taxpayer's baseline income tax revenue for the first such taxable 989
or calendar year of credit eligibility shall be reduced in 990
proportion to the number of days during the taxable or calendar 991
year for which the taxpayer was not eligible for the credit. For 992
subsequent taxable or calendar years, "baseline income tax 993
revenue" equals the unreduced baseline income tax revenue for the 994
preceding taxable or calendar year multiplied by the sum of one 995
plus the pay increase factor. 996

(3) "Excess income tax revenue" means income tax revenue 997
minus baseline income tax revenue. 998

(B) The tax credit authority may make grants under this 999
section to foster job creation in this state. Such a grant shall 1000
take the form of a refundable credit allowed against the tax 1001
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 1002
under Chapter 5751. of the Revised Code. The credit shall be 1003

claimed for the taxable years or tax periods specified in the 1004
taxpayer's agreement with the tax credit authority under division 1005
(D) of this section. With respect to taxes imposed under section 1006
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 1007
credit shall be claimed in the order required under section 1008
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 1009
the credit available for a taxable year or for a calendar year 1010
that includes a tax period equals the excess income tax revenue 1011
for that year multiplied by the percentage specified in the 1012
agreement with the tax credit authority. Any credit granted under 1013
this section against the tax imposed by section 5733.06 or 5747.02 1014
of the Revised Code, to the extent not fully utilized against such 1015
tax for taxable years ending prior to 2008, shall automatically be 1016
converted without any action taken by the tax credit authority to 1017
a credit against the tax levied under Chapter 5751. of the Revised 1018
Code for tax periods beginning on or after July 1, 2008, provided 1019
that the person to whom the credit was granted is subject to such 1020
tax. The converted credit shall apply to those calendar years in 1021
which the remaining taxable years specified in the agreement end. 1022

(C) A taxpayer or potential taxpayer who proposes a project 1023
to create new jobs in this state may apply to the tax credit 1024
authority to enter into an agreement for a tax credit under this 1025
section. The director of development services shall prescribe the 1026
form of the application. After receipt of an application, the 1027
authority may enter into an agreement with the taxpayer for a 1028
credit under this section if it determines all of the following: 1029

(1) The taxpayer's project will increase payroll and income 1030
tax revenue; 1031

(2) The taxpayer's project is economically sound and will 1032
benefit the people of this state by increasing opportunities for 1033
employment and strengthening the economy of this state; 1034

(3) Receiving the tax credit is a major factor in the 1035

taxpayer's decision to go forward with the project, as recommended 1036
to the tax credit authority by the chief investment officer of the 1037
nonprofit corporation formed under section 187.01 of the Revised 1038
Code and the director of development services, or, if the taxpayer 1039
has already begun the project, receiving the tax credit is a major 1040
factor in the taxpayer's decision to do so and the chief 1041
investment officer and director make a recommendation to the 1042
authority, within six months after the application was received by 1043
the authority, that the taxpayer's application be considered. 1044

(D) An agreement under this section shall include all of the 1045
following: 1046

(1) A detailed description of the project that is the subject 1047
of the agreement; 1048

(2) The term of the tax credit, which shall not exceed 1049
fifteen years, and the first taxable year, or first calendar year 1050
that includes a tax period, for which the credit may be claimed; 1051

(3) A requirement that the taxpayer shall maintain operations 1052
at the project location for at least the greater of seven years or 1053
the term of the credit plus three years; 1054

(4) The percentage, as determined by the tax credit 1055
authority, of excess income tax revenue that will be allowed as 1056
the amount of the credit for each taxable year or for each 1057
calendar year that includes a tax period; 1058

(5) The pay increase factor to be applied to the taxpayer's 1059
baseline income tax revenue; 1060

(6) A requirement that the taxpayer annually shall report to 1061
the director of development services employment, tax withholding, 1062
investment, and other information the director needs to perform 1063
the director's duties under this section; 1064

(7) A requirement that the director of development services 1065

annually review the information reported under division (D)(6) of 1066
this section and verify compliance with the agreement; if the 1067
taxpayer is in compliance, a requirement that the director issue a 1068
certificate to the taxpayer stating that the information has been 1069
verified and identifying the amount of the credit that may be 1070
claimed for the taxable or calendar year; 1071

(8) A provision providing that the taxpayer may not relocate 1072
a substantial number of employment positions from elsewhere in 1073
this state to the project location unless the director of 1074
development services determines that the legislative authority of 1075
the county, township, or municipal corporation from which the 1076
employment positions would be relocated has been notified by the 1077
taxpayer of the relocation. 1078

For purposes of this section, the movement of an employment 1079
position from one political subdivision to another political 1080
subdivision shall be considered a relocation of an employment 1081
position unless the employment position in the first political 1082
subdivision is replaced. 1083

(E) If a taxpayer fails to meet or comply with any condition 1084
or requirement set forth in a tax credit agreement, the tax credit 1085
authority may amend the agreement to reduce the percentage or term 1086
of the tax credit. The reduction of the percentage or term may 1087
take effect in the current taxable or calendar year. 1088

(F) Projects that consist solely of point-of-final-purchase 1089
retail facilities are not eligible for a tax credit under this 1090
section. If a project consists of both point-of-final-purchase 1091
retail facilities and nonretail facilities, only the portion of 1092
the project consisting of the nonretail facilities is eligible for 1093
a tax credit and only the excess income tax revenue from the 1094
nonretail facilities shall be considered when computing the amount 1095
of the tax credit. If a warehouse facility is part of a 1096
point-of-final-purchase retail facility and supplies only that 1097

facility, the warehouse facility is not eligible for a tax credit. 1098
Catalog distribution centers are not considered 1099
point-of-final-purchase retail facilities for the purposes of this 1100
division, and are eligible for tax credits under this section. 1101

(G) Financial statements and other information submitted to 1102
the ~~department of~~ development services agency or the tax credit 1103
authority by an applicant or recipient of a tax credit under this 1104
section, and any information taken for any purpose from such 1105
statements or information, are not public records subject to 1106
section 149.43 of the Revised Code. However, the chairperson of 1107
the authority may make use of the statements and other information 1108
for purposes of issuing public reports or in connection with court 1109
proceedings concerning tax credit agreements under this section. 1110
Upon the request of the tax commissioner or, if the applicant or 1111
recipient is an insurance company, upon the request of the 1112
superintendent of insurance, the chairperson of the authority 1113
shall provide to the commissioner or superintendent any statement 1114
or information submitted by an applicant or recipient of a tax 1115
credit in connection with the credit. The commissioner or 1116
superintendent shall preserve the confidentiality of the statement 1117
or information. 1118

(H) A taxpayer claiming a credit under this section shall 1119
submit to the tax commissioner or, if the taxpayer is an insurance 1120
company, to the superintendent of insurance, a copy of the 1121
director of ~~development's~~ development services' certificate of 1122
verification under division (D)(7) of this section with the 1123
taxpayer's tax report or return for the taxable year or for the 1124
calendar year that includes the tax period. Failure to submit a 1125
copy of the certificate with the report or return does not 1126
invalidate a claim for a credit if the taxpayer submits a copy of 1127
the certificate to the commissioner or superintendent within sixty 1128
days after the commissioner or superintendent requests it. 1129

(I) The director of development services, after consultation 1130
with the tax commissioner and the superintendent of insurance and 1131
in accordance with Chapter 119. of the Revised Code, shall adopt 1132
rules necessary to implement this section. The rules may provide 1133
for recipients of tax credits under this section to be charged 1134
fees to cover administrative costs of the tax credit program. The 1135
fees collected shall be credited to the ~~tax incentive programs~~ 1136
~~operating~~ business assistance fund created in section 122.174 of 1137
the Revised Code. At the time the director gives public notice 1138
under division (A) of section 119.03 of the Revised Code of the 1139
adoption of the rules, the director shall submit copies of the 1140
proposed rules to the chairpersons of the standing committees on 1141
economic development in the senate and the house of 1142
representatives. 1143

(J) For the purposes of this section, a taxpayer may include 1144
a partnership, a corporation that has made an election under 1145
subchapter S of chapter one of subtitle A of the Internal Revenue 1146
Code, or any other business entity through which income flows as a 1147
distributive share to its owners. A partnership, S-corporation, or 1148
other such business entity may elect to pass the credit received 1149
under this section through to the persons to whom the income or 1150
profit of the partnership, S-corporation, or other entity is 1151
distributed. The election shall be made on the annual report 1152
required under division (D)(6) of this section. The election 1153
applies to and is irrevocable for the credit for which the report 1154
is submitted. If the election is made, the credit shall be 1155
apportioned among those persons in the same proportions as those 1156
in which the income or profit is distributed. 1157

(K) If the director of development services determines that a 1158
taxpayer who has received a credit under this section is not 1159
complying with the requirement under division (D)(3) of this 1160
section, the director shall notify the tax credit authority of the 1161

noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the tax credit authority may require the taxpayer to refund to this state a portion of the credit in accordance with the following:

(1) If the taxpayer maintained operations at the project location for a period less than or equal to the term of the credit, an amount not exceeding one hundred per cent of the sum of any credits allowed and received under this section;

(2) If the taxpayer maintained operations at the project location for a period longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, an amount not exceeding seventy-five per cent of the sum of any credits allowed and received under this section.

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or 5729. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(L) On or before the first day of August each year, the director of development services shall submit a report to the

governor, the president of the senate, and the speaker of the 1194
house of representatives on the tax credit program under this 1195
section. The report shall include information on the number of 1196
agreements that were entered into under this section during the 1197
preceding calendar year, a description of the project that is the 1198
subject of each such agreement, and an update on the status of 1199
projects under agreements entered into before the preceding 1200
calendar year. 1201

(M) There is hereby created the tax credit authority, which 1202
consists of the director of development services, the chief 1203
investment officer of the nonprofit corporation formed under 1204
section 187.01 of the Revised Code, and ~~four~~ five other members 1205
appointed as follows: the governor, the president of the senate, 1206
and the speaker of the house of representatives each shall appoint 1207
one member who shall be a specialist in economic development; the 1208
governor also shall appoint a member who is a specialist in 1209
taxation and a member who is a specialist in the development of 1210
new technology. Of the initial appointees, the members appointed 1211
by the governor shall serve a term of two years; the members 1212
appointed by the president of the senate and the speaker of the 1213
house of representatives shall serve a term of four years. 1214
Thereafter, terms of office shall be for four years. Initial 1215
appointments to the authority shall be made within thirty days 1216
after January 13, 1993. Each member shall serve on the authority 1217
until the end of the term for which the member was appointed. 1218
Vacancies shall be filled in the same manner provided for original 1219
appointments. Any member appointed to fill a vacancy occurring 1220
prior to the expiration of the term for which the member's 1221
predecessor was appointed shall hold office for the remainder of 1222
that term. Members may be reappointed to the authority. Members of 1223
the authority shall receive their necessary and actual expenses 1224
while engaged in the business of the authority. The director of 1225
development services shall serve as chairperson of the authority, 1226

and the members annually shall elect a vice-chairperson from among 1227
themselves. ~~Three~~ Four members of the authority constitute a 1228
quorum to transact and vote on the business of the authority. The 1229
majority vote of the membership of the authority is necessary to 1230
approve any such business, including the election of the 1231
vice-chairperson. 1232

The director of development services may appoint a 1233
professional employee of the ~~department of development~~ services 1234
agency to serve as the director's substitute at a meeting of the 1235
authority. The director shall make the appointment in writing. In 1236
the absence of the director from a meeting of the authority, the 1237
appointed substitute shall serve as chairperson. In the absence of 1238
both the director and the director's substitute from a meeting, 1239
the vice-chairperson shall serve as chairperson. 1240

(N) For purposes of the credits granted by this section 1241
against the taxes imposed under sections 5725.18 and 5729.03 of 1242
the Revised Code, "taxable year" means the period covered by the 1243
taxpayer's annual statement to the superintendent of insurance. 1244

Sec. 122.171. (A) As used in this section: 1245

(1) "Capital investment project" means a plan of investment 1246
at a project site for the acquisition, construction, renovation, 1247
or repair of buildings, machinery, or equipment, or for 1248
capitalized costs of basic research and new product development 1249
determined in accordance with generally accepted accounting 1250
principles, but does not include any of the following: 1251

(a) Payments made for the acquisition of personal property 1252
through operating leases; 1253

(b) Project costs paid before January 1, 2002; 1254

(c) Payments made to a related member as defined in section 1255
5733.042 of the Revised Code or to a consolidated elected taxpayer 1256

or a combined taxpayer as defined in section 5751.01 of the Revised Code.

(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:

(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(b) The taxpayer makes or causes to be made payments for the capital investment project of one of the following:

(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development services by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(iii) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, at least five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

(c) The taxpayer had a capital investment project reviewed and approved by the tax credit authority as provided in divisions

(C), (D), and (E) of this section.	1288
(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.	1289 1290 1291 1292 1293
(4) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of all employees employed in the project whose hours of compensation are included in calculating the number of full-time equivalent employees.	1294 1295 1296 1297 1298 1299
(5) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.	1300 1301
(6) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.	1302 1303 1304 1305
(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.	1306 1307 1308 1309
(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.	1310 1311 1312 1313 1314 1315
(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application	1316 1317 1318

by an eligible business and upon consideration of the 1319
recommendation of the director of budget and management, tax 1320
commissioner, the superintendent of insurance in the case of an 1321
insurance company, and director of development services under 1322
division (C) of this section, the tax credit authority may grant 1323
the following credits against the tax imposed by section 5725.18, 1324
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code: 1325

(1) A nonrefundable credit to an eligible business; 1326

(2) A refundable credit to an eligible business meeting the 1327
following conditions, provided that the director of budget and 1328
management, tax commissioner, superintendent of insurance in the 1329
case of an insurance company, and director of development services 1330
have recommended the granting of the credit to the tax credit 1331
authority before July 1, 2011: 1332

(a) The business retains at least one thousand full-time 1333
equivalent employees at the project site. 1334

(b) The business makes or causes to be made payments for a 1335
capital investment project of at least twenty-five million dollars 1336
in the aggregate at the project site during a period of three 1337
consecutive calendar years, including the calendar year that 1338
includes a day of the business' taxable year or tax period with 1339
respect to which the credit is granted. 1340

(c) In 2010, the business received a written offer of 1341
financial incentives from another state of the United States that 1342
the director determines to be sufficient inducement for the 1343
business to relocate the business' operations from this state to 1344
that state. 1345

(3) A refundable credit to an eligible business with a total 1346
annual payroll of at least twenty million dollars, provided that 1347
the tax credit authority grants the tax credit on or after July 1, 1348
2011, and before January 1, 2014. 1349

The credits authorized in divisions (B)(1), (2), and (3) of 1350
this section may be granted for a period up to fifteen taxable 1351
years or, in the case of the tax levied by section 5751.02 of the 1352
Revised Code, for a period of up to fifteen calendar years. The 1353
credit amount for a taxable year or a calendar year that includes 1354
the tax period for which a credit may be claimed equals the income 1355
tax revenue for that year multiplied by the percentage specified 1356
in the agreement with the tax credit authority. The percentage may 1357
not exceed seventy-five per cent. The credit shall be claimed in 1358
the order required under section 5725.98, 5729.98, 5733.98, 1359
5747.98, or 5751.98 of the Revised Code. In determining the 1360
percentage and term of the credit, the tax credit authority shall 1361
consider both the number of full-time equivalent employees and the 1362
value of the capital investment project. The credit amount may not 1363
be based on the income tax revenue for a calendar year before the 1364
calendar year in which the tax credit authority specifies the tax 1365
credit is to begin, and the credit shall be claimed only for the 1366
taxable years or tax periods specified in the eligible business' 1367
agreement with the tax credit authority. In no event shall the 1368
credit be claimed for a taxable year or tax period terminating 1369
before the date specified in the agreement. Any credit granted 1370
under this section against the tax imposed by section 5733.06 or 1371
5747.02 of the Revised Code, to the extent not fully utilized 1372
against such tax for taxable years ending prior to 2008, shall 1373
automatically be converted without any action taken by the tax 1374
credit authority to a credit against the tax levied under Chapter 1375
5751. of the Revised Code for tax periods beginning on or after 1376
July 1, 2008, provided that the person to whom the credit was 1377
granted is subject to such tax. The converted credit shall apply 1378
to those calendar years in which the remaining taxable years 1379
specified in the agreement end. 1380

If a nonrefundable credit allowed under division (B)(1) of 1381
this section for a taxable year or tax period exceeds the 1382

taxpayer's tax liability for that year or period, the excess may 1383
be carried forward for the three succeeding taxable or calendar 1384
years, but the amount of any excess credit allowed in any taxable 1385
year or tax period shall be deducted from the balance carried 1386
forward to the succeeding year or period. 1387

(C) A taxpayer that proposes a capital investment project to 1388
retain jobs in this state may apply to the tax credit authority to 1389
enter into an agreement for a tax credit under this section. The 1390
director of development services shall prescribe the form of the 1391
application. After receipt of an application, the authority shall 1392
forward copies of the application to the director of budget and 1393
management, the tax commissioner, the superintendent of insurance 1394
in the case of an insurance company, and the director of 1395
development services, each of whom shall review the application to 1396
determine the economic impact the proposed project would have on 1397
the state and the affected political subdivisions and shall submit 1398
a summary of their determinations and recommendations to the 1399
authority. 1400

(D) Upon review and consideration of the determinations and 1401
recommendations described in division (C) of this section, the tax 1402
credit authority may enter into an agreement with the taxpayer for 1403
a credit under this section if the authority determines all of the 1404
following: 1405

(1) The taxpayer's capital investment project will result in 1406
the retention of employment in this state. 1407

(2) The taxpayer is economically sound and has the ability to 1408
complete the proposed capital investment project. 1409

(3) The taxpayer intends to and has the ability to maintain 1410
operations at the project site for at least the greater of (a) the 1411
term of the credit plus three years, or (b) seven years. 1412

(4) Receiving the credit is a major factor in the taxpayer's 1413

decision to begin, continue with, or complete the project. 1414

(5) If the taxpayer is applying to enter into an agreement 1415
for a tax credit authorized under division (B)(3) of this section, 1416
the taxpayer's capital investment project will be located in the 1417
political subdivision in which the taxpayer maintains its 1418
principal place of business. 1419

(E) An agreement under this section shall include all of the 1420
following: 1421

(1) A detailed description of the project that is the subject 1422
of the agreement, including the amount of the investment, the 1423
period over which the investment has been or is being made, the 1424
number of full-time equivalent employees at the project site, and 1425
the anticipated income tax revenue to be generated. 1426

(2) The term of the credit, the percentage of the tax credit, 1427
the maximum annual value of tax credits that may be allowed each 1428
year, and the first year for which the credit may be claimed. 1429

(3) A requirement that the taxpayer maintain operations at 1430
the project site for at least the greater of (a) the term of the 1431
credit plus three years, or (b) seven years. 1432

(4)(a) In the case of a credit granted under division (B)(1) 1433
of this section, a requirement that the taxpayer retain at least 1434
five hundred full-time equivalent employees at the project site 1435
and within this state for the entire term of the credit, or a 1436
requirement that the taxpayer maintain an annual payroll of at 1437
least thirty-five million dollars for the entire term of the 1438
credit; 1439

(b) In the case of a credit granted under division (B)(2) of 1440
this section, a requirement that the taxpayer retain at least one 1441
thousand full-time equivalent employees at the project site and 1442
within this state for the entire term of the credit; 1443

(c) In the case of a credit granted under division (B)(3) of 1444
this section, either of the following: 1445

(i) A requirement that the taxpayer retain at least five 1446
hundred full-time equivalent employees at the project site and 1447
within this state for the entire term of the credit and a 1448
requirement that the taxpayer maintain an annual payroll of at 1449
least twenty million dollars for the entire term of the credit; 1450

(ii) A requirement that the taxpayer maintain an annual 1451
payroll of at least thirty-five million dollars for the entire 1452
term of the credit. 1453

(5) A requirement that the taxpayer annually report to the 1454
director of development services employment, tax withholding, 1455
capital investment, and other information the director needs to 1456
perform the director's duties under this section. 1457

(6) A requirement that the director of development services 1458
annually review the annual reports of the taxpayer to verify the 1459
information reported under division (E)(5) of this section and 1460
compliance with the agreement. Upon verification, the director 1461
shall issue a certificate to the taxpayer stating that the 1462
information has been verified and identifying the amount of the 1463
credit for the taxable year or calendar year that includes the tax 1464
period. In determining the number of full-time equivalent 1465
employees, no position shall be counted that is filled by an 1466
employee who is included in the calculation of a tax credit under 1467
section 122.17 of the Revised Code. 1468

(7) A provision providing that the taxpayer may not relocate 1469
a substantial number of employment positions from elsewhere in 1470
this state to the project site unless the director of development 1471
services determines that the taxpayer notified the legislative 1472
authority of the county, township, or municipal corporation from 1473
which the employment positions would be relocated. 1474

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

(8) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(G) Financial statements and other information submitted to the department of development services or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, or the superintendent of insurance in the case of an insurance company, the chairperson of the authority shall provide to the commissioner or superintendent any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality

of the statement or other information. 1507

(H) A taxpayer claiming a tax credit under this section shall 1508
submit to the tax commissioner or, in the case of an insurance 1509
company, to the superintendent of insurance, a copy of the 1510
director of ~~development's~~ development services' certificate of 1511
verification under division (E)(6) of this section with the 1512
taxpayer's tax report or return for the taxable year or for the 1513
calendar year that includes the tax period. Failure to submit a 1514
copy of the certificate with the report or return does not 1515
invalidate a claim for a credit if the taxpayer submits a copy of 1516
the certificate to the commissioner or superintendent within sixty 1517
days after the commissioner or superintendent requests it. 1518

(I) For the purposes of this section, a taxpayer may include 1519
a partnership, a corporation that has made an election under 1520
subchapter S of chapter one of subtitle A of the Internal Revenue 1521
Code, or any other business entity through which income flows as a 1522
distributive share to its owners. A partnership, S-corporation, or 1523
other such business entity may elect to pass the credit received 1524
under this section through to the persons to whom the income or 1525
profit of the partnership, S-corporation, or other entity is 1526
distributed. The election shall be made on the annual report 1527
required under division (E)(5) of this section. The election 1528
applies to and is irrevocable for the credit for which the report 1529
is submitted. If the election is made, the credit shall be 1530
apportioned among those persons in the same proportions as those 1531
in which the income or profit is distributed. 1532

(J) If the director of development services determines that a 1533
taxpayer that received a tax credit under this section is not 1534
complying with the requirement under division (E)(3) of this 1535
section, the director shall notify the tax credit authority of the 1536
noncompliance. After receiving such a notice, and after giving the 1537
taxpayer an opportunity to explain the noncompliance, the 1538

authority may terminate the agreement and require the taxpayer to 1539
refund to the state all or a portion of the credit claimed in 1540
previous years, as follows: 1541

(1) If the taxpayer maintained operations at the project site 1542
for less than or equal to the term of the credit, an amount not to 1543
exceed one hundred per cent of the sum of any tax credits allowed 1544
and received under this section. 1545

(2) If the taxpayer maintained operations at the project site 1546
longer than the term of the credit, but less than the greater of 1547
(a) the term of the credit plus three years, or (b) seven years, 1548
the amount required to be refunded shall not exceed seventy-five 1549
per cent of the sum of any tax credits allowed and received under 1550
this section. 1551

In determining the portion of the credit to be refunded to 1552
this state, the authority shall consider the effect of market 1553
conditions on the taxpayer's project and whether the taxpayer 1554
continues to maintain other operations in this state. After making 1555
the determination, the authority shall certify the amount to be 1556
refunded to the tax commissioner or the superintendent of 1557
insurance. If the taxpayer is not an insurance company, the 1558
commissioner shall make an assessment for that amount against the 1559
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 1560
If the taxpayer is an insurance company, the superintendent of 1561
insurance shall make an assessment under section 5725.222 or 1562
5729.102 of the Revised Code. The time limitations on assessments 1563
under those chapters and sections do not apply to an assessment 1564
under this division, but the commissioner or superintendent shall 1565
make the assessment within one year after the date the authority 1566
certifies to the commissioner or superintendent the amount to be 1567
refunded. 1568

(K) The director of development services, after consultation 1569
with the tax commissioner and the superintendent of insurance and 1570

in accordance with Chapter 119. of the Revised Code, shall adopt 1571
rules necessary to implement this section. The rules may provide 1572
for recipients of tax credits under this section to be charged 1573
fees to cover administrative costs of the tax credit program. The 1574
fees collected shall be credited to the ~~tax incentive programs~~ 1575
~~operating~~ business assistance fund created in section 122.174 of 1576
the Revised Code. At the time the director gives public notice 1577
under division (A) of section 119.03 of the Revised Code of the 1578
adoption of the rules, the director shall submit copies of the 1579
proposed rules to the chairpersons of the standing committees on 1580
economic development in the senate and the house of 1581
representatives. 1582

(L) On or before the first day of August of each year, the 1583
director of development services shall submit a report to the 1584
governor, the president of the senate, and the speaker of the 1585
house of representatives on the tax credit program under this 1586
section. The report shall include information on the number of 1587
agreements that were entered into under this section during the 1588
preceding calendar year, a description of the project that is the 1589
subject of each such agreement, and an update on the status of 1590
projects under agreements entered into before the preceding 1591
calendar year. 1592

(M)(1) The aggregate amount of tax credits issued under 1593
division (B)(1) of this section during any calendar year for 1594
capital investment projects reviewed and approved by the tax 1595
credit authority may not exceed the following amounts: 1596

(a) For 2010, thirteen million dollars; 1597

(b) For 2011 through 2023, the amount of the limit for the 1598
preceding calendar year plus thirteen million dollars; 1599

(c) For 2024 and each year thereafter, one hundred 1600
ninety-five million dollars. 1601

(2) The aggregate amount of tax credits authorized under 1602
divisions (B)(2) and (3) of this section and allowed to be claimed 1603
by taxpayers in any calendar year for capital improvement projects 1604
reviewed and approved by the tax credit authority in 2011, 2012, 1605
and 2013 combined shall not exceed twenty-five million dollars. An 1606
amount equal to the aggregate amount of credits first authorized 1607
in calendar year 2011, 2012, and 2013 may be claimed over the 1608
ensuing period up to fifteen years, subject to the terms of 1609
individual tax credit agreements. 1610

The limitations in division (M) of this section do not apply 1611
to credits for capital investment projects approved by the tax 1612
credit authority before July 1, 2009. 1613

Sec. 122.174. There is hereby created in the state treasury 1614
the ~~tax incentive programs operating~~ business assistance fund. 1615
~~Money collected~~ The fund shall consist of any amounts appropriated 1616
to it and money credited to the fund pursuant to division (I) of 1617
section 121.17, division (K) of section 122.171, division (K) of 1618
section 122.175, division (C) of section 3735.672, and division 1619
(C) of section 5709.68 of the Revised Code ~~shall be credited to~~ 1620
~~the fund.~~ The director of development services shall use money in 1621
the fund to pay expenses related to the administration of the ~~tax~~ 1622
~~credit programs authorized by sections 122.17, 122.171, 3735.672,~~ 1623
~~and 5709.68 of the Revised Code~~ business services division of the 1624
development services agency. 1625

Sec. 122.175. (A) As used in this section: 1626

(1) "Capital investment project" means a plan of investment 1627
at a project site for the acquisition, construction, renovation, 1628
expansion, replacement, or repair of a computer data center or of 1629
computer data center equipment, but does not include any of the 1630
following: 1631

(a) Project costs paid before a date determined by the tax credit authority for each capital investment project; 1632
1633

(b) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code. 1634
1635
1636
1637

(2) "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting a computer data center business, as determined by the tax credit authority. 1638
1639
1640
1641

(3) "Computer data center business" means, as may be further determined by the tax credit authority, a business that provides electronic information services as defined in division (Y)(1)(c) of section 5739.01 of the Revised Code. "Computer data center business" does not include providing electronic publishing as defined in division (LLL) of that section. 1642
1643
1644
1645
1646
1647

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following: 1648
1649

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment; 1650
1651
1652

(b) To generate, transform, transmit, distribute, or manage electricity necessary to operate the tangible personal property used or to be used in conducting a computer data center business; 1653
1654
1655

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center. 1656
1657
1658

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements: 1659
1660

(a) The taxpayer will make payments for a capital investment 1661

project of at least one hundred million dollars in the aggregate 1662
at the project site during a period of three consecutive calendar 1663
years; 1664

(b) The taxpayer will pay annual compensation that is subject 1665
to the withholding obligation imposed under section 5747.06 of the 1666
Revised Code of at least five million dollars to employees 1667
employed at the project site for the term of the agreement. 1668

(6) "Person" has the same meaning as in section 5701.01 of 1669
the Revised Code. 1670

(7) "Project site," "related member," and "tax credit 1671
authority" have the same meanings as in sections 122.17 and 1672
122.171 of the Revised Code. 1673

(8) "Taxpayer" means any person subject to the taxes imposed 1674
under Chapters 5739. and 5741. of the Revised Code. 1675

(B) The tax credit authority may completely or partially 1676
exempt from the taxes levied under Chapters 5739. and 5741. of the 1677
Revised Code the sale, storage, use, or other consumption of 1678
computer data center equipment used or to be used at an eligible 1679
computer data center. Any such exemption shall extend to charges 1680
for the delivery, installation, or repair of the computer data 1681
center equipment subject to the exemption under this section. 1682

(C) A taxpayer that proposes a capital improvement project 1683
for an eligible computer data center in this state may apply to 1684
the tax credit authority to enter into an agreement under this 1685
section for a complete or partial exemption from the taxes imposed 1686
under Chapters 5739. and 5741. of the Revised Code on computer 1687
data center equipment used or to be used at the eligible computer 1688
data center. The director of development services shall prescribe 1689
the form of the application. After receipt of an application, the 1690
authority shall forward copies of the application to the director 1691
of budget and management, the tax commissioner, and the director 1692

of development services, each of whom shall review the application 1693
to determine the economic impact that the proposed eligible 1694
computer data center would have on the state and any affected 1695
political subdivisions and submit to the authority a summary of 1696
their determinations and recommendations. 1697

(D) Upon review and consideration of such determinations and 1698
recommendations, the tax credit authority may enter into an 1699
agreement with the taxpayer for a complete or partial exemption 1700
from the taxes imposed under Chapters 5739. and 5741. of the 1701
Revised Code on computer data center equipment used or to be used 1702
at an eligible computer data center if the authority determines 1703
all of the following: 1704

(1) The taxpayer's capital investment project for the 1705
eligible computer data center will increase payroll and the amount 1706
of income taxes to be withheld from employee compensation pursuant 1707
to section 5747.06 of the Revised Code. 1708

(2) The taxpayer is economically sound and has the ability to 1709
complete the proposed capital investment project. 1710

(3) The taxpayer intends to and has the ability to maintain 1711
operations at the project site for the term of the agreement. 1712

(4) Receiving the exemption is a major factor in the 1713
taxpayer's decision to begin, continue with, or complete the 1714
capital investment project. 1715

(E) An agreement entered into under this section shall 1716
include all of the following: 1717

(1) A detailed description of the capital investment project 1718
that is the subject of the agreement, including the amount of the 1719
investment, the period over which the investment has been or is 1720
being made, the annual compensation to be paid by the taxpayer to 1721
its employees at the project site, and the anticipated amount of 1722
income taxes to be withheld from employee compensation pursuant to 1723

section 5747.06 of the Revised Code. 1724

(2) The percentage of the exemption from the taxes imposed 1725
under Chapters 5739. and 5741. of the Revised Code for the 1726
computer data center equipment used or to be used at the eligible 1727
computer data center, the length of time the computer data center 1728
equipment will be exempted, and the first date on which the 1729
exemption applies. 1730

(3) A requirement that the taxpayer maintain the computer 1731
data center as an eligible computer data center during the term of 1732
the agreement and that the taxpayer maintain operations at the 1733
eligible computer data center during that term. 1734

(4) A requirement that during each year of the term of the 1735
agreement the taxpayer pay annual compensation that is subject to 1736
the withholding obligation imposed under section 5747.06 of the 1737
Revised Code of at least five million dollars to its employees at 1738
the eligible computer data center. 1739

(5) A requirement that the taxpayer annually report to the 1740
director of development services employment, tax withholding, 1741
capital investment, and other information required by the director 1742
to perform the director's duties under this section. 1743

(6) A requirement that the director of development services 1744
annually review the annual reports of the taxpayer to verify the 1745
information reported under division (E)(5) of this section and 1746
compliance with the agreement. Upon verification, the director 1747
shall issue a certificate to the taxpayer stating that the 1748
information has been verified and that the taxpayer remains 1749
eligible for the exemption specified in the agreement. 1750

(7) A provision providing that the taxpayer may not relocate 1751
a substantial number of employment positions from elsewhere in 1752
this state to the project site unless the director of development 1753
services determines that the taxpayer notified the legislative 1754

authority of the county, township, or municipal corporation from 1755
which the employment positions would be relocated. For purposes of 1756
this paragraph, the movement of an employment position from one 1757
political subdivision to another political subdivision shall be 1758
considered a relocation of an employment position unless the 1759
movement is confined to the project site. The transfer of an 1760
employment position from one political subdivision to another 1761
political subdivision shall not be considered a relocation of an 1762
employment position if the employment position in the first 1763
political subdivision is replaced by another employment position. 1764

(8) A waiver by the taxpayer of any limitations periods 1765
relating to assessments or adjustments resulting from the 1766
taxpayer's failure to comply with the agreement. 1767

(F) The term of an agreement under this section shall be 1768
determined by the tax credit authority, and the amount of the 1769
exemption shall not exceed one hundred per cent of such taxes that 1770
would otherwise be owed in respect to the exempted computer data 1771
center equipment. 1772

(G) If a taxpayer fails to meet or comply with any condition 1773
or requirement set forth in an agreement under this section, the 1774
tax credit authority may amend the agreement to reduce the 1775
percentage of the exemption or term during which the exemption 1776
applies to the computer data center equipment used or to be used 1777
at an eligible computer data center. The reduction of the 1778
percentage or term may take effect in the current calendar year. 1779

(H) Financial statements and other information submitted to 1780
the department of development services or the tax credit authority 1781
by an applicant for or recipient of an exemption under this 1782
section, and any information taken for any purpose from such 1783
statements or information, are not public records subject to 1784
section 149.43 of the Revised Code. However, the chairperson of 1785
the authority may make use of the statements and other information 1786

for purposes of issuing public reports or in connection with court 1787
proceedings concerning tax exemption agreements under this 1788
section. Upon the request of the tax commissioner, the chairperson 1789
of the authority shall provide to the tax commissioner any 1790
statement or other information submitted by an applicant for or 1791
recipient of an exemption under this section. The tax commissioner 1792
shall preserve the confidentiality of the statement or other 1793
information. 1794

(I) The tax commissioner shall issue a direct payment permit 1795
under section 5739.031 of the Revised Code to a taxpayer that 1796
enters into an agreement under this section. Such direct payment 1797
permit shall authorize the taxpayer to pay any sales and use taxes 1798
due on purchases of computer data center equipment used or to be 1799
used in an eligible computer data center and to pay any sales and 1800
use taxes due on purchases of tangible personal property or 1801
taxable services other than computer data center equipment used or 1802
to be used in an eligible computer data center directly to the tax 1803
commissioner. Each taxpayer shall pay pursuant to such direct 1804
payment permit all sales tax levied on such purchases under 1805
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 1806
Code and all use tax levied on such purchases under sections 1807
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 1808
consistent with the terms of the agreement entered into under this 1809
section. 1810

During the term of an agreement under this section the 1811
taxpayer shall submit to the tax commissioner a return that shows 1812
the amount of computer data center equipment purchased for use at 1813
the eligible computer data center, the amount of tangible personal 1814
property and taxable services other than computer data center 1815
equipment purchased for use at the eligible computer data center, 1816
the amount of tax under Chapter 5739. or 5741. of the Revised Code 1817
that would be due in the absence of the agreement under this 1818

section, the exemption percentage for computer data center 1819
equipment specified in the agreement, and the amount of tax due 1820
under Chapter 5739. or 5741. of the Revised Code as a result of 1821
the agreement under this section. The taxpayer shall pay the tax 1822
shown on the return to be due in the manner and at the times as 1823
may be further prescribed by the tax commissioner. The taxpayer 1824
shall include a copy of the director of ~~development's~~ development 1825
services' certificate of verification issued under division (E)(6) 1826
of this section. Failure to submit a copy of the certificate with 1827
the return does not invalidate the claim for exemption if the 1828
taxpayer submits a copy of the certificate to the tax commissioner 1829
within sixty days after the tax commissioner requests it. 1830

(J) If the director of development services determines that a 1831
taxpayer that received an exemption under this section is not 1832
complying with the requirement under division (E)(3) of this 1833
section, the director shall notify the tax credit authority of the 1834
noncompliance. After receiving such a notice, and after giving the 1835
taxpayer an opportunity to explain the noncompliance, the 1836
authority may terminate the agreement and require the taxpayer to 1837
pay to the state all or a portion of the taxes that would have 1838
been owed in regards to the exempt equipment in previous years, 1839
all as determined under rules adopted pursuant to division (K) of 1840
this section. In determining the portion of the taxes that would 1841
have been owed on the previously exempted equipment to be paid to 1842
this state by the taxpayer, the authority shall consider the 1843
effect of market conditions on the taxpayer's eligible computer 1844
data center and whether the taxpayer continues to maintain other 1845
operations in this state. After making the determination, the 1846
authority shall certify to the tax commissioner the amount to be 1847
paid by the taxpayer. The tax commissioner shall make an 1848
assessment for that amount against the taxpayer under Chapter 1849
5739. or 5741. of the Revised Code. The time limitations on 1850
assessments under those chapters do not apply to an assessment 1851

under this division, but the tax commissioner shall make the 1852
assessment within one year after the date the authority certifies 1853
to the tax commissioner the amount to be paid by the taxpayer. 1854

(K) The director of development services, after consultation 1855
with the tax commissioner and in accordance with Chapter 119. of 1856
the Revised Code, shall adopt rules necessary to implement this 1857
section. The rules may provide for recipients of tax exemptions 1858
under this section to be charged fees to cover administrative 1859
costs incurred in the administration of this section. The fees 1860
collected shall be credited to the ~~tax incentive programs~~ 1861
~~operating~~ business assistance fund created in section 122.174 of 1862
the Revised Code. At the time the director gives public notice 1863
under division (A) of section 119.03 of the Revised Code of the 1864
adoption of the rules, the director shall submit copies of the 1865
proposed rules to the chairpersons of the standing committees on 1866
economic development in the senate and the house of 1867
representatives. 1868

(L) On or before the first day of August of each year, the 1869
director of development services shall submit a report to the 1870
governor, the president of the senate, and the speaker of the 1871
house of representatives on the tax exemption authorized under 1872
this section. The report shall include information on the number 1873
of agreements that were entered into under this section during the 1874
preceding calendar year, a description of the eligible computer 1875
data center that is the subject of each such agreement, and an 1876
update on the status of eligible computer data centers under 1877
agreements entered into before the preceding calendar year. 1878

Sec. 122.39. As used in sections 122.39 and 122.41 to 122.62 1879
of the Revised Code: 1880

(A) "Financial institution" means any banking corporation, 1881
trust company, insurance company, savings and loan association, 1882

building and loan association, or corporation, partnership, 1883
federal lending agency, foundation, or other institution engaged 1884
in lending or investing funds for industrial or business purposes. 1885

(B) "Project" means any real or personal property connected 1886
with or being a part of an industrial, distribution, commercial, 1887
or research facility to be acquired, constructed, reconstructed, 1888
enlarged, improved, furnished, or equipped, or any combination 1889
thereof, with aid furnished pursuant to Chapter 122. of the 1890
Revised Code, for industrial, commercial, distribution, and 1891
research development of the state. 1892

(C) "Community improvement corporation" means a corporation 1893
organized under Chapter 1724. of the Revised Code. 1894

(D) "Ohio development corporation" means a corporation 1895
organized under Chapter 1726. of the Revised Code. 1896

(E) "Mortgage" means the lien imposed on a project by a 1897
mortgage on real property, or by financing statements on personal 1898
property, or by a combination of a mortgage and financing 1899
statements when a project consists of both real and personal 1900
property. 1901

(F) "Mortgagor" means the principal user of a project or the 1902
person, corporation, partnership, or association unconditionally 1903
guaranteeing performance by such principal user of its obligations 1904
under the mortgage. 1905

Sec. 122.41. ~~(A) The development financing advisory council~~ 1906
~~and the director of development are~~ services is invested with the 1907
powers and duties provided in Chapter 122. of the Revised Code, in 1908
order to promote the welfare of the people of the state, to 1909
stabilize the economy, to provide employment, to assist in the 1910
development within the state of industrial, commercial, 1911
distribution, and research activities required for the people of 1912

the state, and for their gainful employment, or otherwise to 1913
create or preserve jobs and employment opportunities, or improve 1914
the economic welfare of the people of the state, and also to 1915
assist in the financing of air, water, or thermal pollution 1916
control facilities and solid waste disposal facilities by mortgage 1917
insurance as provided in section 122.451 of the Revised Code. It 1918
is hereby determined that the accomplishment of such purposes is 1919
essential so that the people of the state may maintain their 1920
present high standards in comparison with the people of other 1921
states and so that opportunities for employment and for favorable 1922
markets for the products of the state's natural resources, 1923
agriculture, and manufacturing shall be improved and that it is 1924
necessary for the state to establish the programs authorized 1925
pursuant to Chapter 122. of the Revised Code, ~~to establish the~~ 1926
~~development financing advisory council,~~ and to invest it and the 1927
director of development services with the powers and duties 1928
provided in Chapter 122. of the Revised Code. The powers granted 1929
to the director ~~of development~~ by Chapter 165. of the Revised Code 1930
are independent of and in addition and alternate to, and are not 1931
limited or restricted by, Chapter 122. of the Revised Code. 1932

~~(B) The development financing advisory council shall:~~ 1933

~~(1) Make recommendations to the director of development as to 1934
applications for assistance pursuant to sections 122.39 to 122.62 1935
or Chapter 166. of the Revised Code. The council may revise its 1936
recommendations to reflect any changes in the proposed assistance 1937
made by the director. 1938~~

~~(2) Advise the director in the administration of sections 1939
122.39 to 122.62 and Chapter 166. of the Revised Code; 1940~~

~~(3) Adopt bylaws to govern the conduct of the council's 1941
business. 1942~~

Sec. 122.42. (A) The director of development services shall 1943

do all of the following:	1944
(1) Receive applications for assistance under sections 122.39	1945
and 122.41 to 122.62 of the Revised Code, and, after processing,	1946
forward them to the development financing advisory board together	1947
with necessary supporting information;	1948
(2) Receive the recommendations of the board and make <u>Make</u> a	1949
final determination whether to approve the application for	1950
assistance;	1951
(3) Transmit determinations to approve assistance to the	1952
controlling board together with any information the controlling	1953
board requires for the board's review and decision as to whether	1954
to approve the assistance;	1955
(4) Issue revenue bonds of the state through the treasurer of	1956
state, as necessary, payable solely from revenues and other	1957
sources as provided in sections 122.39 <u>and 122.41</u> to 122.62 of the	1958
Revised Code.	1959
(B) The director may do all of the following:	1960
(1) Fix the rate of interest and charges to be made upon or	1961
with respect to moneys loaned by the director and the terms upon	1962
which mortgages and lease rentals may be guaranteed and the rates	1963
of charges to be made for the loans and guarantees and to make	1964
provisions for the operation of the funds established by the	1965
director in accordance with this section and sections 122.54,	1966
122.55, 122.56, and 122.57 of the Revised Code;	1967
(2) Loan moneys from the fund established in accordance with	1968
section 122.54 of the Revised Code pursuant to and in compliance	1969
with sections 122.39 <u>and 122.41</u> to 122.62 of the Revised Code;	1970
(3) Acquire in the name of the director any property of any	1971
kind or character in accordance with sections 122.39 <u>and 122.41</u> to	1972
122.62 of the Revised Code, by purchase, purchase at foreclosure,	1973

or exchange on such terms and in such manner as the director 1974
considers proper; 1975

(4) Make and enter into all contracts and agreements 1976
necessary or incidental to the performance of the director's 1977
duties and the exercise of the director's powers under sections 1978
122.39 and 122.41 to 122.62 of the Revised Code; 1979

(5) Maintain, protect, repair, improve, and insure any 1980
property which the director has acquired and dispose of the same 1981
by sale, exchange, or lease for the consideration and on the terms 1982
and in the manner as the director considers proper, but is not 1983
authorized to operate any such property as a business except as 1984
the lessor of the property; 1985

(6)(a) When the cost of any contract for the maintenance, 1986
protection, repair, or improvement of any property held by the 1987
director other than compensation for personal services involves an 1988
expenditure of more than one thousand dollars, the director shall 1989
make a written contract with the lowest responsive and responsible 1990
bidder in accordance with section 9.312 of the Revised Code after 1991
advertisement for not less than two consecutive weeks in a 1992
newspaper of general circulation in the county where such 1993
contract, or some substantial part of it, is to be performed, and 1994
in such other publications as the director determines, which 1995
notice shall state the general character of the work and the 1996
general character of the materials to be furnished, the place 1997
where plans and specifications may be examined, and the time and 1998
place of receiving bids. 1999

(b) Each bid for a contract for the construction, demolition, 2000
alteration, repair, or reconstruction of an improvement shall 2001
contain the full name of every person interested in it and meet 2002
the requirements of section 153.54 of the Revised Code. 2003

(c) Each bid for a contract, except as provided in division 2004

(B)(6)(b) of this section, shall contain the full name of every person interested in it and shall be accompanied by bond or certified check on a solvent bank, in such amount as the director considers sufficient, that if the bid is accepted a contract will be entered into and the performance of the proposal secured.

(d) The director may reject any and all bids.

(e) A bond with good and sufficient surety, approved by the director, shall be required of every contractor awarded a contract except as provided in division (B)(6)(b) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon faithful performance of the contract.

(7) Employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and other employees and agents as are necessary in the director's judgment and fix their compensation;

(8) Assist qualified persons in the coordination and formation of a small business development company, having a statewide area of operation, conditional upon the company's agreeing to seek to obtain certification from the federal small business administration as a certified statewide development company and participation in the guaranteed loan program administered by the small business administration pursuant to the Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the initial period of formation of the statewide small business development company, the director shall provide technical and financial expertise, legal and managerial assistance, and other services as are necessary and proper to enable the company to obtain and maintain federal certification and participation in the federal guaranteed loan program. The director may charge a fee, in such amount and on such terms and conditions as the director determines necessary and proper, for assistance and services provided pursuant to division (B)(8) of this section.

Persons chosen by the director to receive assistance in the 2037
formation of a statewide small business development company 2038
pursuant to division (B)(8) of this section shall make a special 2039
effort to use their participation in the federal guaranteed loan 2040
program to assist small businesses which are minority business 2041
enterprises as defined in division (E) of section 122.71 of the 2042
Revised Code. The director, with the assistance of the minority 2043
business development division of the department of development, 2044
shall provide technical and financial expertise, legal and 2045
managerial assistance, and other services in such a manner to 2046
enable the development company to provide assistance to small 2047
businesses which are minority business enterprises, and shall make 2048
available to the development company information pertaining to 2049
assistance available to minority business enterprises under 2050
programs established pursuant to sections 122.71 to 122.83, 122.87 2051
to 122.89, 122.92 to 122.94, 123.151, and 125.081 of the Revised 2052
Code. 2053

(9) Receive and accept grants, gifts, and contributions of 2054
money, property, labor, and other things of value to be held, 2055
used, and applied only for the purpose for which such grants, 2056
gifts, and contributions are made, from individuals, private and 2057
public corporations, from the United States or any agency of the 2058
United States, from the state or any agency of the state, and from 2059
any political subdivision of the state, and may agree to repay any 2060
contribution of money or to return any property contributed or the 2061
value of the property at such times, in such amounts, and on such 2062
terms and conditions, excluding the payment of interest, as the 2063
director determines at the time such contribution is made, and may 2064
evidence such obligations by notes, bonds, or other written 2065
instruments; 2066

(10) Establish with the treasurer of state the funds provided 2067
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 2068

Code, in addition to such funds as the director determines are 2069
necessary or proper; 2070

(11) Do all acts and things necessary or proper to carry out 2071
the powers expressly granted and the duties imposed in sections 2072
122.39 and 122.41 to 122.62 and Chapter 163. of the Revised Code. 2073

(C) All expenses and obligations incurred by the director in 2074
carrying out the director's powers and in exercising the 2075
director's duties under sections 122.39 and 122.41 to 122.62 of 2076
the Revised Code, shall be payable solely from the proceeds of 2077
revenue bonds issued pursuant to those sections, from revenues or 2078
other receipts or income of the director, from grants, gifts, and 2079
contributions, or funds established in accordance with those 2080
sections. Those sections do not authorize the director to incur 2081
indebtedness or to impose liability on the state or any political 2082
subdivision of the state. 2083

(D) Financial statements and financial data submitted to the 2084
director by any corporation, partnership, or person in connection 2085
with a loan application, or any information taken from such 2086
statements or data for any purpose, shall not be open to public 2087
inspection. 2088

Sec. 122.43. The director of development services, with 2089
controlling board approval, may lend funds which are obtained from 2090
the sale of revenue bonds issued by the treasurer of state 2091
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2092
Code, from revenues or other receipts or income of the director, 2093
or funds established in accordance with sections 122.39 and 122.41 2094
to 122.62 of the Revised Code, and from grants, gifts, and 2095
contributions subject to any provisions of resolutions authorizing 2096
the revenue bonds or of trust agreements securing such bonds, to 2097
community improvement corporations and Ohio development 2098
corporations and other corporations, partnerships, and persons for 2099

the purpose of procuring or improving real or personal property, 2100
or both, for the establishment, location, or expansion of 2101
industrial, distribution, commercial, or research facilities in 2102
the state, and to community improvement corporations and Ohio 2103
development corporations for the purpose of loaning funds to other 2104
corporations, partnerships, and persons for the purpose of 2105
procuring or improving real or personal property, or both, for the 2106
establishment, location, or expansion of industrial, distribution, 2107
commercial, or research facilities in the state, if the director 2108
finds that: 2109

(A) The project is economically sound and will benefit the 2110
people of the state by increasing opportunities for employment and 2111
strengthening the economy of the state; 2112

(B) The proposed borrower, if other than a community 2113
improvement corporation or an Ohio development corporation, is 2114
unable to finance the proposed project through ordinary financial 2115
channels upon reasonable terms and at comparable interest rates, 2116
or the borrower, if a community improvement corporation or an Ohio 2117
development corporation, should not, in the opinion of the 2118
director, be required to finance the proposed project without a 2119
loan from the director; 2120

(C) The value of the project is, or upon completion thereof 2121
will be, at least equal to the total amount of the money expended 2122
in such procurement or improvement of which amount one or more 2123
financial institutions have loaned or invested not less than forty 2124
per cent; 2125

(D) The amount to be loaned by the director will not exceed 2126
fifty per cent of the total amount expended in the procurement or 2127
improvement of the project; 2128

(E) The amount to be loaned by the director will be 2129
adequately secured by a first or second mortgage upon the project, 2130

and by mortgages, leases, liens, assignments, or pledges on or of 2131
such other property or contracts as the director shall require and 2132
that such mortgage will not be subordinate to any other liens or 2133
mortgages except the liens securing loans or investments made by 2134
financial institutions referred to in division (C) of this 2135
section, and the liens securing loans previously made by any 2136
financial institution in connection with the procurement or 2137
expansion of all or part of a project. 2138

In no event may the ~~director~~ DIRECTOR director lend funds 2139
under the authority of this section for the purpose of procuring 2140
or improving motor vehicles, power driven vehicles, office 2141
equipment, raw materials, small tools, supplies, inventories, or 2142
accounts receivable. 2143

Sec. 122.44. Fees, charges, rates of interest, times of 2144
payment of interest and principal, and other terms, conditions, 2145
and provisions of the loans made by the director of development 2146
services pursuant to sections 122.39 and 122.41 to 122.62 of the 2147
Revised Code shall be such as the director determines to be 2148
appropriate and in furtherance of the purpose for which the loans 2149
are made, but the mortgage lien securing any money loaned by the 2150
director may be subordinate to the mortgage lien securing any 2151
money loaned or invested by a financial institution, but shall be 2152
superior to that securing any money loaned or expended by any 2153
other corporation or person. The funds used in making such loans 2154
shall be disbursed upon order of the director. 2155

Sec. 122.48. Each issue of revenue bonds issued by the 2156
treasurer of state pursuant to sections 122.39 and 122.41 to 2157
122.62 of the Revised Code, shall be dated, shall bear interest at 2158
a rate or rates or at a variable rate, as provided in or 2159
authorized by the proceedings authorizing or providing for the 2160
terms and conditions of the revenue bonds, shall mature at such 2161

time or times, not to exceed forty years from date, as determined 2162
by the director of development services and may be made redeemable 2163
before maturity at the option of the director at such price or 2164
prices and under such terms and conditions as are fixed by the 2165
director prior to the issuance of the bonds. The director shall 2166
determine the form of the bonds, including any interest coupons to 2167
be attached thereto, and the denomination or denominations of the 2168
bonds and the place or places of payment of principal and 2169
interest, which may be at any bank or trust company within or 2170
without the state. 2171

The bonds shall be executed by the signature or facsimile 2172
signature of the treasurer of state, the official seal or a 2173
facsimile thereof of the state shall be affixed thereto and 2174
attested by the treasurer of state or designated treasurer of 2175
state, and any coupons attached thereto shall bear the facsimile 2176
signature of the treasurer of state. In case the person whose 2177
signature, or a facsimile of whose signature, appears on any bonds 2178
or coupons ceases to be such officer before delivery of bonds or 2179
in case such person was not at the date of such bonds or coupons 2180
such officer but at the actual date of execution of such bonds or 2181
coupons was the proper officer, such signature or facsimile shall 2182
nevertheless be valid and sufficient for all purposes the same as 2183
if ~~he~~ the person had remained in office until such delivery. 2184

All revenue bonds issued under sections 122.39 and 122.41 to 2185
122.62 of the Revised Code, shall be negotiable instruments. The 2186
bonds may be issued in coupon or in registered form or both, as 2187
the treasurer determines. Provision may be made for the 2188
registration of any coupon bonds as to the principal alone and 2189
also as to both principal and interest, and for the reconversion 2190
into coupon bonds of any bonds registered as to both principal and 2191
interest. The treasurer of state may sell such bonds in the manner 2192
and for the price ~~he~~ the treasurer of state determines to be for 2193

the best interest of the state. 2194

Prior to the preparation of definitive bonds, the treasurer 2195
of state may, under like restrictions, issue interim receipts or 2196
temporary bonds, with or without coupons, exchangeable for 2197
definitive bonds when such bonds have been executed and are 2198
available for delivery. The treasurer of state may also provide 2199
for the replacement of any bonds which become mutilated or are 2200
destroyed, stolen, or lost. Bonds may be issued under sections 2201
122.39 to 122.62 of the Revised Code, without obtaining the 2202
consent of any department, division, commission, board, bureau, or 2203
agency of the state, and without any other proceeding or the 2204
happening of any other conditions or things than those 2205
proceedings, conditions, or things which are specifically required 2206
by such sections. 2207

Sec. 122.49. The proceeds of each issue of revenue bonds 2208
issued pursuant to sections 122.39 and 122.41 to 122.62 of the 2209
Revised Code shall be used for the making of loans authorized in 2210
sections 122.43 and 122.45 of the Revised Code, for the purchase 2211
and improvement of property authorized in section 122.46 of the 2212
Revised Code, for insuring mortgage payments authorized in section 2213
122.451 of the Revised Code, and for the crediting into and among 2214
the funds established in accordance with sections 122.35, 122.54, 2215
122.55, 122.56, 122.561, and 122.57 of the Revised Code, but 2216
subject to such conditions, limitations, and covenants with the 2217
purchasers and holders of the bonds as shall be provided for in 2218
the bond authorization proceedings and in the trust agreement 2219
securing the same. 2220

Provision shall be made by the director of development 2221
services for the payment of the expenses of the director in 2222
operating the assistance programs authorized under this chapter in 2223
such manner and to such extent as shall be determined by the 2224

director. 2225

Sec. 122.50. Revenue bonds issued under sections 122.39 and 2226
122.41 to 122.62, inclusive, of the Revised Code, do not 2227
constitute a debt, or a pledge of the faith and credit, of the 2228
state or of any political subdivision thereof, but such bonds 2229
shall be payable solely from the funds pledged for their payment 2230
as authorized by such sections, or by funds derived from the 2231
issuance of refunding bonds as authorized in section 122.52 of the 2232
Revised Code, which refunding bonds shall be payable solely from 2233
funds pledged for their payment as authorized by such section. All 2234
such revenue bonds shall contain on the face thereof a statement 2235
to the effect that the bonds, as to both principal and interest, 2236
are not an obligation of the state or of any political subdivision 2237
thereof, but are payable solely from revenues pledged for their 2238
payment. 2239

Sec. 122.51. All revenue bonds issued under sections 122.39 2240
and 122.41 to 122.62, inclusive, of the Revised Code, are lawful 2241
investments of banks, building and loan and savings and loan 2242
associations, deposit guarantee associations, trust companies, 2243
trustees, fiduciaries, trustees or other officers having charge of 2244
sinking or bond retirement funds of municipal corporations and 2245
other subdivisions of this state, and of domestic insurance 2246
companies notwithstanding sections 3907.14 and 3925.08 of the 2247
Revised Code, and are acceptable as security for the deposit of 2248
public moneys. 2249

Sec. 122.52. The director of development services may provide 2250
for the issuance of revenue refunding bonds of the state by the 2251
treasurer of state, payable solely from the sinking funds 2252
established in accordance with section 122.51 of the Revised Code 2253
at the times and in the order and manner provided by the director 2254

and in any trust agreement securing such bonds and shall also be 2255
secured by moneys in the other funds established pursuant to 2256
sections 122.39 and 122.41 to 122.62 of the Revised Code to the 2257
extent and on the terms specified by the director, for the purpose 2258
of refunding any revenue bonds then outstanding which have been 2259
issued under sections 122.39 and 122.41 to 122.62 of the Revised 2260
Code, including the payment of any redemption premium thereon and 2261
any interest accrued or to accrue to the date of redemption of 2262
such bonds. The issuance of such bonds, the maturities and other 2263
details thereof, the rights of the holders thereof, and the 2264
rights, duties, and obligations of the director and treasurer of 2265
state in respect to such bonds shall be governed by such sections 2266
insofar as they are applicable. 2267

Sec. 122.53. In the discretion of the treasurer of state, any 2268
bonds issued under sections 122.39 and 122.41 to 122.62 of the 2269
Revised Code, may be secured by a trust agreement between the 2270
treasurer of state and a corporate trustee, which trustee may be 2271
any trust company or bank having the powers of a trust company 2272
within or without the state. 2273

Any such trust agreement may pledge or assign payments of 2274
principal of and interest on loans, charges, fees, and other 2275
revenue to be received by the director of development services, 2276
all rentals received under leases made by the director, and all 2277
proceeds of the sale or other disposition of property held by the 2278
director, and may provide for the holding in trust by the trustee 2279
to the extent provided for in the proceedings authorizing such 2280
bonds, of all such moneys and moneys otherwise payable into the 2281
mortgage guarantee fund created by section 122.56 of the Revised 2282
Code, and all moneys otherwise payable into the mortgage insurance 2283
fund created by section 122.561 of the Revised Code, and of moneys 2284
payable into the sinking fund or funds referred to in section 2285
122.57 of the Revised Code, but shall not convey or mortgage any 2286

of the real or personal property held by the director or any part 2287
thereof. Any such trust agreement, or any proceedings providing 2288
for the issuance of such bonds, may contain such provisions for 2289
protecting and enforcing the rights and remedies of the 2290
bondholders as are reasonable and proper and not in violation of 2291
law, including covenants setting forth the duties of the director 2292
in relation to the acquisition of property, and the construction, 2293
improvement, maintenance, repair, operation, and insurance of 2294
facilities, the making of loans and leases and the terms and 2295
provisions thereof, and the custody, safeguarding, investment, and 2296
application of all moneys, and provisions for the employment of 2297
consulting engineers or other consultants in connection with the 2298
making of loans and leases and the construction or operation of 2299
any facility. Any bank or trust company incorporated under the 2300
laws of this state which may act as trustee or as depository of 2301
the proceeds of bonds or of revenue may furnish such indemnifying 2302
bonds or may pledge such securities as are required by the 2303
treasurer of state. Any such trust agreement may set forth the 2304
rights and remedies of the bondholders and of the trustee, and may 2305
restrict the individual right of action by bondholders as is 2306
customary in trust agreements or trust indentures securing bonds 2307
or debentures of corporations. Such trust agreement may contain 2308
such other provisions as the treasurer of state deems reasonable 2309
and proper for the security of the bondholders. All expenses 2310
incurred by the treasurer of state in carrying out the provisions 2311
of any such trust agreement shall be treated as a part of the cost 2312
of the operation of the assistance programs authorized pursuant to 2313
Chapter 122. of the Revised Code. Any such trust agreement may 2314
provide the method whereby general administrative overhead expense 2315
of the director with respect to those assistance programs shall be 2316
allocated among the funds established pursuant to Chapter 122. of 2317
the Revised Code with respect to the operating expenses of the 2318
director payable out of the income of the assistance programs. 2319

Sec. 122.561. The mortgage insurance fund of the director of 2320
development services is hereby created to consist of all money 2321
allocated by the director from the proceeds of the sale of any 2322
issue of revenue bonds, to the extent and subject to the 2323
conditions provided in the proceedings authorizing such bonds or 2324
in the trust agreements securing such bonds, for the purpose of 2325
insuring mortgage payments pursuant to section 122.451 of the 2326
Revised Code, all grants and contributions made to the director 2327
for such purpose, all moneys deposited or credited to the mortgage 2328
insurance fund pursuant to section 169.05 of the Revised Code, all 2329
other moneys and property designated by the director and by law 2330
for such purpose, all mortgage insurance premiums charged and 2331
collected as provided in this section, and all receipts and 2332
proceeds from the sale, disposal, lease, or rental of real or 2333
personal property which the director may hold as a result of a 2334
default in an insured mortgage. The director shall fix mortgage 2335
insurance premiums for the insurance of mortgage payments pursuant 2336
to section 122.451 of the Revised Code, to be computed as a 2337
percentage of the principal obligation of the mortgage outstanding 2338
at the beginning of each mortgage year. Such insurance premiums 2339
shall not be more than three per cent per annum of the outstanding 2340
principal obligation, and shall be calculated on the basis of all 2341
pertinent available data. Such premiums shall be payable by the 2342
mortgagors or the mortgagees in such manner as is prescribed by 2343
the director. The amount of premium need not be uniform among the 2344
various mortgages insured. The director may provide for the 2345
custody, investment, and use of the unclaimed funds trust fund 2346
created by section 169.05 of the Revised Code and all mortgage 2347
insurance premiums, including the payment therefrom of the 2348
expenses and costs of the director in insuring mortgage payments 2349
pursuant to section 122.451 of the Revised Code. Any financial 2350
statements or financial data submitted to the director, ~~the~~ 2351

~~development financing advisory council~~, or the controlling board 2352
in connection with any application for the insurance of mortgage 2353
payments, or any information taken from such statements or data, 2354
is not open to public inspection. 2355

Sec. 122.57. All payments of principal of and interest on the 2356
loans made by the director of development services, all rentals 2357
received under leases made by ~~him~~ the director, and all proceeds 2358
of the sale or other disposition of property held by ~~him~~ the 2359
director shall be placed in separate sinking funds to the extent 2360
provided in the proceedings authorizing revenue bonds which are 2361
hereby pledged to and charged with the payment of interest on, 2362
principal of and redemption premium on, the revenue bonds issued 2363
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2364
Code to the extent provided in the proceedings authorizing and the 2365
trust agreements securing such bonds. The moneys therein in excess 2366
of the amounts required by the bond proceedings and trust 2367
agreements and all payments not so required to be paid into such 2368
sinking funds shall be retained or placed in such fund or in the 2369
other funds provided for by sections 122.35, 122.54, 122.42, 2370
122.55, 122.56, 122.561, and 122.57 of the Revised Code as the 2371
director shall determine, and shall be available for the uses for 2372
which such funds are established. 2373

Sec. 122.60. As used in sections 122.60 to 122.605 of the 2374
Revised Code: 2375

(A) "Capital access loan" means a loan made by a 2376
participating financial institution to an eligible business that 2377
may be secured by a deposit of money from the fund into the 2378
participating financial institution's program reserve account. 2379

(B) "Department of development" means the ~~department of~~ 2380
development services agency. 2381

(C) "Eligible business" means a for-profit business entity, 2382
or a nonprofit entity, that had total annual sales in its most 2383
recently completed fiscal year of less than ten million dollars 2384
and that has a principal place of for-profit business or nonprofit 2385
entity activity within the state, the operation of which, alone or 2386
in conjunction with other facilities, will create new jobs or 2387
preserve existing jobs and employment opportunities and will 2388
improve the economic welfare of the people of the state. As used 2389
in this division, "new jobs" does not include existing jobs 2390
transferred from another facility within the state, and "existing 2391
jobs" means only existing jobs at facilities within the same 2392
municipal corporation or township in which the project, activity, 2393
or enterprise that is the subject of a capital access loan is 2394
located. 2395

(D) "Financial institution" means any bank, trust company, 2396
savings bank, or savings and loan association that is chartered by 2397
and has a significant presence in the state, or any national bank, 2398
federal savings and loan association, or federal savings bank that 2399
has a significant presence in the state. 2400

(E) "Fund" means the capital access loan program fund. 2401

(F) "Minority business supplier development council" has the 2402
same meaning as in section 122.71 of the Revised Code. 2403

(G) "Participating financial institution" means a financial 2404
institution that has a valid, current participation agreement with 2405
the ~~department~~ development services agency. 2406

~~(G)~~(H) "Participation agreement" means the agreement between 2407
a financial institution and the ~~department~~ agency under which a 2408
financial institution may participate in the program. 2409

~~(H)~~(I) "Passive real estate ownership" means the ownership of 2410
real estate for the sole purpose of deriving income from it by 2411
speculation, trade, or rental. 2412

~~(I)~~(J) "Program" means the capital access loan program 2413
created under section 122.602 of the Revised Code. 2414

~~(J)~~(K) "Program reserve account" means a dedicated account at 2415
each participating financial institution that is the property of 2416
the state and may be used by the participating financial 2417
institution only for the purpose of recovering a claim under 2418
section 122.604 of the Revised Code arising from a default on a 2419
loan made by the participating financial institution under the 2420
program. 2421

Sec. 122.601. There is hereby created in the state treasury 2422
the capital access loan program fund. The fund shall consist of 2423
money deposited into it from the minority business enterprise loan 2424
fund pursuant to section 122.80 of the Revised Code and the 2425
facilities establishment fund pursuant to section 166.03 of the 2426
Revised Code and all money deposited into it pursuant to section 2427
122.602 of the Revised Code. The total amount of money deposited 2428
into the fund from the minority business enterprise loan fund or 2429
the facilities establishment fund shall not exceed three million 2430
dollars during any particular fiscal year of the ~~department~~ 2431
development services agency. 2432

The ~~department~~ agency shall disburse money from the fund only 2433
to pay the operating costs of the program, including the 2434
administrative costs incurred by the ~~department~~ agency in 2435
connection with the program, and only in keeping with the purposes 2436
specified in sections 122.60 to 122.605 of the Revised Code. 2437

Sec. 122.602. (A) There is hereby created in the department 2438
of development the capital access loan program to assist 2439
participating financial institutions in making program loans to 2440
eligible businesses that face barriers in accessing working 2441
capital and obtaining fixed asset financing. In administering the 2442

program, the director of development may do any of the following: 2443

(1) Receive and accept grants, gifts, and contributions of 2444
money, property, labor, and other things of value to be held, 2445
used, and applied only for the purpose for which the grants, 2446
gifts, and contributions are made, from individuals, private and 2447
public corporations, the United States or any agency of the United 2448
States, the state or any agency of the state, or any political 2449
subdivision of the state; 2450

(2) Agree to repay any contribution of money or return any 2451
property contributed or the value of that property at the times, 2452
in the amounts, and on the terms and conditions, excluding the 2453
payment of interest, that the director consents to at the time a 2454
contribution is made; and evidence obligations by notes, bonds, or 2455
other written instruments; 2456

(3) Adopt rules under Chapter 119. of the Revised Code to 2457
carry out the purposes of the program specified in sections 122.60 2458
to 122.605 of the Revised Code; 2459

(4) Engage in all other acts, and enter into contracts and 2460
execute all instruments, necessary or appropriate to carry out the 2461
purposes specified in sections 122.60 to 122.605 of the Revised 2462
Code. 2463

(B) The director shall determine the eligibility of a 2464
financial institution to participate in the program and may set a 2465
limit on the number of financial institutions that may participate 2466
in the program. 2467

(C) To be considered eligible by the director to participate 2468
in the program, a financial institution shall enter into a 2469
participation agreement with the department that sets out the 2470
terms and conditions under which the department will deposit 2471
moneys from the fund into the financial institution's program 2472
reserve account, specifies the criteria for loan qualification 2473

under the program, and contains any additional terms the director 2474
considers necessary. 2475

(D) After receiving the certification required under division 2476
(C) of section 122.603 of the Revised Code, the director may 2477
disburse moneys from the fund to a participating financial 2478
institution for deposit in its program reserve account if the 2479
director determines that the capital access loan involved meets 2480
all of the following criteria: 2481

(1) It will be made to an eligible business. 2482

(2) It will be used by the eligible business for a project, 2483
activity, or enterprise that fosters economic development. 2484

(3) It will not be made in order to enroll in the program 2485
prior debt that is not covered under the program and that is owed 2486
or was previously owed by an eligible business to the financial 2487
institution. 2488

(4) It will not be utilized for a project or development 2489
related to the on-site construction or purchase of residential 2490
housing. 2491

(5) It will not be used to finance passive real estate 2492
ownership. 2493

(6) It conforms to the requirements of divisions (E), (F), 2494
(G), (H), and (I) of this section, and to the rules adopted by the 2495
director under division (A)(3) of this section. 2496

(E) The director shall not approve a deposit amount from the 2497
fund for a capital access loan to an eligible business that 2498
exceeds two hundred fifty thousand dollars for working capital or 2499
five hundred thousand dollars for the purchase of fixed assets. An 2500
eligible business may apply for the maximum deposit amount ~~of~~ for 2501
both working capital and the purchase of fixed assets in the same 2502
capital access loan enrollment. 2503

(F) A financial institution may apply to the director for the approval of a capital access loan to any business that is owned or operated by a person that has previously defaulted under any state financial assistance program.

(G) Eligible businesses that apply for a capital access loan shall comply with section 9.66 of the Revised Code.

(H) A financial institution may apply to the director for the approval of a capital access loan that refinances a nonprogram loan made by another financial institution.

(I) The director shall not approve a capital access loan that refinances a nonprogram loan made by the same financial institution, unless the amount of the refinanced loan exceeds the existing debt, in which case only the amount exceeding the existing debt is eligible for a loan under the program.

Sec. 122.603. (A)(1) Upon approval by the director of development services and after entering into a participation agreement with the ~~department of~~ development services agency, a participating financial institution making a capital access loan shall establish a program reserve account. The account shall be an interest-bearing account and shall contain only moneys deposited into it under the program and the interest payable on the moneys in the account.

(2) All interest payable on the moneys in the program reserve account shall be added to the moneys and held as an additional loss reserve. The director may require that a portion or all of the accrued interest so held in the account be released to the ~~department~~ agency. If the director causes a release of accrued interest, the director shall deposit the released amount into the capital access loan program fund created in section 122.601 of the Revised Code. The director shall not require the release of that accrued interest more than twice in a fiscal year.

(B) When a participating financial institution makes a capital access loan, it shall require the eligible business to pay to the participating financial institution a fee in an amount that is not less than one and one-half per cent, and not more than three per cent, of the principal amount of the loan. The participating financial institution shall deposit the fee into its program reserve account, and it also shall deposit into the account an amount of its own funds equal to the amount of the fee. The participating financial institution may recover from the eligible business all or part of the amount that the participating financial institution is required to deposit into the account under this division in any manner agreed to by the participating financial institution and the eligible business.

(C) For each capital access loan made by a participating financial institution, the participating financial institution shall certify to the director, within a period specified by the director, that the participating financial institution has made the loan. The certification shall include the amount of the loan, the amount of the fee received from the eligible business, the amount of its own funds that the participating financial institution deposited into its program reserve account to reflect that fee, and any other information specified by the director. The certification also shall indicate if the eligible business receiving the capital access loan is a minority business enterprise as defined in section 122.71 of the Revised Code or certified by the minority business supplier development council.

(D)(1)(a) Upon receipt of each of the first three certifications from a participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount ~~equal~~ not to exceed fifty per cent of the

principal amount of the particular capital access loan for deposit 2567
into the participating financial institution's program reserve 2568
account. Thereafter, upon receipt of a certification from that 2569
participating financial institution made under division (C) of 2570
this section and subject to section 122.602 of the Revised Code, 2571
the director shall disburse to the participating financial 2572
institution from the capital access loan program fund an amount 2573
equal to ten per cent of the principal amount of the particular 2574
capital access loan for deposit into the participating financial 2575
institution's program reserve account. 2576

(b) Notwithstanding division (D)(1)(a) of this section, and 2577
subject to section 122.602 of the Revised Code, upon receipt of 2578
any certification from a participating financial institution made 2579
under division (C) of this section with respect to a capital 2580
access loan made to an eligible business that is a minority 2581
business enterprise, the director shall disburse to the 2582
participating financial institution from the capital access loan 2583
program fund an amount ~~equal~~ not to exceed eighty per cent of the 2584
principal amount of the particular capital access loan for deposit 2585
into the participating financial institution's program reserve 2586
account. 2587

(2) The disbursement of moneys from the fund to a 2588
participating financial institution does not require approval from 2589
the controlling board. 2590

(E) If the amount in a program reserve account exceeds an 2591
amount equal to thirty-three per cent of a participating financial 2592
institution's outstanding capital access loans, the ~~department~~ 2593
agency may cause the withdrawal of the excess amount and the 2594
deposit of the withdrawn amount into the capital access loan 2595
program fund. 2596

(F)(1) The ~~department~~ agency may cause the withdrawal of the 2597
total amount in a participating financial institution's program 2598

reserve account if any of the following applies: 2599

(a) The financial institution is no longer eligible to 2600
participate in the program. 2601

(b) The participation agreement expires without renewal by 2602
the ~~department~~ agency or the financial institution. 2603

(c) The financial institution has no outstanding capital 2604
access loans. 2605

(d) The financial institution has not made a capital access 2606
loan within the preceding twenty-four months. 2607

(2) If the ~~department~~ agency causes a withdrawal under 2608
division (F)(1) of this section, the ~~department~~ agency shall 2609
deposit the withdrawn amount into the capital access loan program 2610
fund. 2611

Sec. 122.61. The exercise of the powers granted by sections 2612
122.39 and 122.41 to 122.62 of the Revised Code, will be in all 2613
respects for the benefit of the people of the state, for the 2614
increase of their commerce and prosperity, and for the improvement 2615
of conditions of employment, and will constitute the performance 2616
of essential governmental functions; therefore the director of 2617
development services shall not be required to pay any taxes upon 2618
any ~~of~~ property or assets held by ~~him~~ the director, or upon any 2619
property acquired or used by ~~him~~ the director under sections 2620
122.39 and 122.41 to 122.62 of the Revised Code, or upon the 2621
income therefrom, provided, such exemption shall not apply to any 2622
property held by the director while it is in the possession of a 2623
private person, partnership, or corporation and used for private 2624
purposes for profit. The bonds, notes, or other obligations issued 2625
under such sections, their transfer, and the income therefrom, 2626
including any profit made on the sale thereof, shall at all times 2627
be free from taxation within the state. 2628

Sec. 122.62. All moneys received under sections 122.39 and 2629
122.41 to 122.62 of the Revised Code as proceeds from the sale of 2630
bonds are trust funds. All moneys received under those sections 2631
shall be held and applied solely as provided in such sections and 2632
section 166.03 of the Revised Code. All such moneys, except as 2633
otherwise provided in any proceedings authorizing revenue bonds or 2634
in any trust agreement securing such bonds or except when 2635
deposited with the treasurer of state, or except as they may be 2636
invested pursuant to section 122.58 of the Revised Code, shall be 2637
kept in depositories as selected by the director of development 2638
services in the manner provided in sections 135.01 to 135.21 of 2639
the Revised Code, insofar as such sections are applicable, and the 2640
deposits shall be secured as provided in sections 135.01 to 135.21 2641
of the Revised Code. The proceedings authorizing the issuance of 2642
bonds of any issue or the trust agreement securing such bonds 2643
shall provide that any official to whom, or any bank or trust 2644
company to which, such moneys are paid, shall act as trustee of 2645
such moneys and hold and apply them for the purposes of sections 2646
122.39 and 122.41 to 122.62 of the Revised Code, subject to such 2647
rules as such sections and such bond issuance proceedings or trust 2648
agreement provide. 2649

Sec. 122.64. (A) There is hereby established in the 2650
~~department of development~~ services agency a business services 2651
~~division of economic development~~. The division shall be supervised 2652
by a deputy director appointed by the director of development 2653
services. 2654

The division is responsible for the administration of the 2655
state economic development financing programs established pursuant 2656
to sections 122.17 and 122.18, sections 122.39 and 122.41 to 2657
122.62, and Chapter 166. of the Revised Code ~~and for coordinating~~ 2658
~~the activities of the development financing advisory council so as~~ 2659

~~to ensure the efficient administration of the programs.~~ 2660

(B) The director of development services shall: 2661

(1) ~~Appoint an individual to serve as director of the development financing advisory council;~~ 2662
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~~(2) Receive applications for assistance pursuant to sections 122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. The director shall process the applications and, ~~except as provided in division (C)(2) of section 166.05 of the Revised Code, forward them to the development financing advisory council. As appropriate, the director shall receive the recommendations of the council as to applications for assistance.~~~~ 2664
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~~(3)(2) With the approval of the director of administrative services, establish salary schedules for employees of the various positions of employment with the division and assign the various positions to those salary schedules;~~ 2671
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~~(4) Furnish and pay for, out of funds appropriated to the department of development for that purpose, office space and associated utilities service, for the development financing advisory council;~~ 2675
2676
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2678

~~(5)(3) Employ and fix the compensation of financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and other agents for the assistance programs authorized pursuant to sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, and Chapter 166. of the Revised Code as are necessary;~~ 2679
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~~(6)(4) Supervise the administrative operations of the division;~~ 2685
2686

~~(7)(5) On or before the first day of October in each year, make an annual report of the activities and operations under assistance programs authorized pursuant to sections 122.39 and~~ 2687
2688
2689

122.41 to 122.62 and Chapter 166. of the Revised Code for the 2690
preceding fiscal year to the governor and the general assembly. 2691
Each such report shall set forth a complete operating and 2692
financial statement covering such activities and operations during 2693
the year in accordance with generally accepted accounting 2694
principles and shall be audited by a certified public accountant. 2695
The director of development services shall transmit a copy of the 2696
audited financial report to the office of budget and management. 2697

Sec. 122.76. (A) The director of development services, with 2698
controlling board approval, may lend funds to minority business 2699
enterprises and to community improvement corporations, Ohio 2700
development corporations, minority contractors business assistance 2701
organizations, and minority business supplier development councils 2702
for the purpose of loaning funds to minority business enterprises 2703
and for the purpose of procuring or improving real or personal 2704
property, or both, for the establishment, location, or expansion 2705
of industrial, distribution, commercial, or research facilities in 2706
the state, and to community development corporations that 2707
predominantly benefit minority business enterprises or are located 2708
in a census tract that has a population that is sixty per cent or 2709
more minority if the director determines, in the director's sole 2710
discretion, that all of the following apply: 2711

(1) The project is economically sound and will benefit the 2712
people of the state by increasing opportunities for employment, by 2713
strengthening the economy of the state, or expanding minority 2714
business enterprises. 2715

(2) The proposed minority business enterprise borrower is 2716
unable to finance the proposed project through ordinary financial 2717
channels at comparable terms. 2718

(3) The value of the project is or, upon completion, will be 2719
at least equal to the total amount of the money expended in the 2720

procurement or improvement of the project. 2721

(4) The amount to be loaned by the director will not exceed 2722
~~sixty~~ seventy-five per cent of the total amount expended in the 2723
procurement or improvement of the project. 2724

(5) The amount to be loaned by the director will be 2725
adequately secured by a first or second mortgage upon the project 2726
or by mortgages, leases, liens, assignments, or pledges on or of 2727
other property or contracts as the director requires, and such 2728
mortgage will not be subordinate to any other liens or mortgages 2729
except the liens securing loans or investments made by financial 2730
institutions referred to in division (A)(3) of this section, and 2731
the liens securing loans previously made by any financial 2732
institution in connection with the procurement or expansion of all 2733
or part of a project. 2734

(B) Any proposed minority business enterprise borrower 2735
submitting an application for assistance under this section shall 2736
not have defaulted on a previous loan from the director, and no 2737
full or limited partner, major shareholder, or holder of an equity 2738
interest of the proposed minority business enterprise borrower 2739
shall have defaulted on a loan from the director. 2740

(C) The proposed minority business enterprise borrower shall 2741
demonstrate to the satisfaction of the director that it is able to 2742
successfully compete in the private sector if it obtains the 2743
necessary financial, technical, or managerial support and that 2744
support is available through the director, the minority business 2745
development office of the department of development, or other 2746
identified and acceptable sources. In determining whether a 2747
minority business enterprise borrower will be able to successfully 2748
compete, the director may give consideration to such factors as 2749
the successful completion of or participation in courses of study, 2750
recognized by the board of regents as providing financial, 2751
technical, or managerial skills related to the operation of the 2752

business, by the economically disadvantaged individual, owner, or 2753
partner, and the prior success of the individual, owner, or 2754
partner in personal, career, or business activities, as well as to 2755
other factors identified by the director. 2756

(D) The director shall not lend funds for the purpose of 2757
procuring or improving motor vehicles or accounts receivable. 2758

Sec. 122.80. There is hereby created in the state treasury 2759
the minority business enterprise loan fund. The fund shall consist 2760
of money deposited into the fund from the facilities establishment 2761
fund pursuant to section 166.03 of the Revised Code and all money 2762
deposited into the fund pursuant to section 122.81 of the Revised 2763
Code. The director of development shall use the fund to pay 2764
operating costs of the minority development financing advisory 2765
board, make loans to minority business enterprises as authorized 2766
in division (A) of section 122.76 of the Revised Code ~~and~~, loan 2767
guarantees to small businesses as authorized in division (A) of 2768
section 122.77 of the Revised Code, and for transfer to the 2769
capital access loan program fund established in section 122.601 of 2770
the Revised Code. 2771

Sec. 122.86. (A) As used in this section and section 5747.81 2772
of the Revised Code: 2773

(1) "Small business enterprise" means a corporation, 2774
pass-through entity, or other person satisfying all of the 2775
following: 2776

(a) At the time of a qualifying investment, the enterprise 2777
meets all of the following requirements: 2778

(i) Has no outstanding tax or other liabilities owed to the 2779
state; 2780

(ii) Is in good standing with the secretary of state, if the 2781
enterprise is required to be registered with the secretary; 2782

<u>(iii) Is current with any court-ordered payments;</u>	2783
<u>(iv) Is not engaged in any illegal activity.</u>	2784
<u>(b) At the time of a qualifying investment, the enterprise's assets according to generally accepted accounting principles do not exceed fifty million dollars, or its annual sales do not exceed ten million dollars. When making this determination, the assets and annual sales of all of the enterprise's related or affiliated entities shall be included in the calculation.</u>	2785 2786 2787 2788 2789 2790
(b) (c) The enterprise employs at least fifty full-time equivalent employees in this state for whom the enterprise is required to withhold income tax under section 5747.06 of the Revised Code, or more than one-half the enterprise's total number of full-time equivalent employees employed anywhere in the United States are employed in this state and are subject to that withholding requirement.	2791 2792 2793 2794 2795 2796 2797
(e) (d) The enterprise, within six months after an eligible investor's qualifying investment is made, invests in or incurs cost for one or more of the following in an amount at least equal to the amount of the qualifying investment:	2798 2799 2800 2801
(i) Tangible personal property, other than motor vehicles operated on public roads and highways, used in business and physically located in this state from the time of its acquisition by the enterprise until the end of the investor's holding period;	2802 2803 2804 2805
(ii) Motor vehicles operated on public roads and highways if, from the time of acquisition by the enterprise until the end of the investor's holding period, the motor vehicles are purchased in this state, registered in this state under Chapter 4503. of the Revised Code, are used primarily for business purposes, and are necessary for the operation of the enterprise's business;	2806 2807 2808 2809 2810 2811
(iii) Real property located in this state that is used in business from the time of its acquisition by the enterprise until	2812 2813

the end of the holding period; 2814

(iv) Intangible personal property, including patents, 2815
copyrights, trademarks, service marks, or licenses used in 2816
business primarily in this state from the time of its acquisition 2817
by the enterprise until the end of the holding period; 2818

(v) Compensation for new employees of the enterprise for whom 2819
the enterprise is required to withhold income tax under section 2820
5747.06 of the Revised Code, not including increased compensation 2821
for owners, officers, or managers of the enterprise. For this 2822
purpose compensation for new employees includes compensation for 2823
newly hired or retained employees. 2824

(2) "Qualifying investment" means an investment of money made 2825
on or after July 1, 2011, to acquire capital stock or other equity 2826
interest in a small business enterprise. "Qualifying investment" 2827
does not include any either of the following: 2828

(a) Any investment of money an eligible investor derives, 2829
directly or indirectly, from a grant or loan from the federal 2830
government or the state or a political subdivision, including the 2831
third frontier program under Chapter 184. of the Revised Code; 2832

(b) Any investment of money which is the basis of a tax 2833
credit granted under any other section of the Revised Code. 2834

(3) "Eligible investor" means an individual, estate, or trust 2835
subject to the tax imposed by section 5747.02 of the Revised Code, 2836
or a pass-through entity in which such an individual, estate, or 2837
trust holds a direct or indirect ownership or other equity 2838
interest. To qualify as an eligible investor, the individual, 2839
estate, trust, or pass-through entity shall not owe any 2840
outstanding tax or other liability to the state at the time of a 2841
qualifying investment. 2842

(4) "Holding period" means: 2843

(a) For qualifying investments made on or after July 1, 2011, 2844
but before July 1, 2013, the two-year period beginning on the day 2845
the investment was made; 2846

(b) For qualifying investments made on or after July 1, 2013, 2847
the five-year period beginning on the day the investment was made. 2848

(5) "Pass-through entity" has the same meaning as in section 2849
5733.04 of the Revised Code. 2850

(B) Any eligible investor that makes a qualifying investment 2851
in a small business enterprise on or after July 1, 2011, may apply 2852
to the director of development services to obtain a small business 2853
investment certificate from the director. Alternatively, a small 2854
business enterprise may apply on behalf of eligible investors to 2855
obtain the certificates for those investors. The director, in 2856
consultation with the tax commissioner, shall prescribe the form 2857
or manner in which an applicant shall apply for the certificate, 2858
devise the form of the certificate, and prescribe any records or 2859
other information an applicant shall furnish with the application 2860
to evidence the qualifying investment. The applicant shall state 2861
the amount of the intended investment. The applicant shall pay an 2862
application fee equal to the greater of one-tenth of one per cent 2863
of the amount of the intended investment or one hundred dollars. 2864

A small business investment certificate entitles the 2865
certificate holder to receive a tax credit under section 5747.81 2866
of the Revised Code if the certificate holder qualifies for the 2867
credit as otherwise provided in this section. If the certificate 2868
holder is a pass-through entity, the certificate entitles the 2869
entity's equity owners to receive their distributive or 2870
proportionate shares of the credit. In any fiscal biennium, an 2871
eligible investor may not apply for small business investment 2872
certificates representing intended investment amounts in excess of 2873
ten million dollars. Such certificates are not transferable. 2874

The director of development ~~shall issue~~ services may reserve 2875
small business investment certificates to qualifying applicants in 2876
the order in which the director receives applications, but may 2877
issue the certificates as the applications are completed. An 2878
application is completed when the director has validated that an 2879
eligible investor has made a qualified investment and the small 2880
business enterprise has made the appropriate reinvestment of the 2881
qualified investment pursuant to the requirements of division 2882
(A)(1)(d) of this section. To qualify for a certificate, an 2883
eligible investor must satisfy both of the following, subject to 2884
the limitation on the amount of qualifying investments for which 2885
certificates may be issued under division (C) of this section: 2886

(1) The eligible investor makes a qualifying investment on or 2887
after July 1, 2011. 2888

(2) The eligible investor pledges not to sell or otherwise 2889
dispose of the qualifying investment before the conclusion of the 2890
applicable holding period. 2891

(C)(1) The amount of any eligible investor's qualifying 2892
investments for which small business investment certificates may 2893
be issued for a fiscal biennium shall not exceed ten million 2894
dollars. 2895

(2) The director of development services shall not issue a 2896
small business investment certificate to an eligible investor 2897
representing an amount of qualifying investment in excess of the 2898
amount of the intended investment indicated on the investor's 2899
application for the certificate. 2900

(3) The director of development services shall not issue 2901
small business investment certificates in a total amount that 2902
would cause the tax credits claimed in any fiscal biennium to 2903
exceed one hundred million dollars. 2904

(4) The director of development services may issue a small 2905

business investment certificate only if both of the following 2906
apply at the time of issuance: 2907

(a) The small business enterprise meets all the requirements 2908
listed in divisions (A)(1)(a)(i) to (iv) of this section; 2909

(b) The eligible investor does not owe any outstanding tax or 2910
other liability to the state. 2911

(D) Before the end of the applicable holding period of a 2912
qualifying investment, each enterprise in which a qualifying 2913
investment was made for which a small business investment 2914
certificate has been issued, upon the request of the director of 2915
development services, shall provide to the director records or 2916
other evidence satisfactory to the director that the enterprise is 2917
a small business enterprise for the purposes of this section. Each 2918
enterprise shall also provide to the director records or evidence 2919
regarding the number of jobs created or retained in the state. No 2920
credit may be claimed under this section and section 5747.81 of 2921
the Revised Code if the director finds that an enterprise is not a 2922
small business enterprise for the purposes of this section. The 2923
director shall compile and maintain a register of small business 2924
enterprises qualifying under this section and shall certify the 2925
register to the tax commissioner. The director shall also compile 2926
and maintain a record of the number of jobs created or retained as 2927
a result of qualifying investments made pursuant to this section. 2928

(E) After the conclusion of the applicable holding period for 2929
a qualifying investment, a person to whom a small business 2930
investment certificate has been issued under this section may 2931
claim a credit as provided under section 5747.81 of the Revised 2932
Code. 2933

(F) The director of development services, in consultation 2934
with the tax commissioner, may adopt rules for the administration 2935
of this section, including rules governing the following: 2936

(1) Documents, records, or other information eligible 2937
investors shall provide to the director; 2938

(2) Any information a small business enterprise shall provide 2939
for the purposes of this section and section 5747.81 of the 2940
Revised Code; 2941

(3) Determination of the number of full-time equivalent 2942
employees of a small business enterprise; 2943

(4) Verification of a small business enterprise's investment 2944
in tangible personal property and intangible personal property 2945
under division (A)(1)~~(e)~~(d) of this section, including when such 2946
investments have been made and where the property is used in 2947
business; 2948

(5) Circumstances under which small business enterprises or 2949
eligible investors may be subverting the purposes of this section 2950
and section 5747.81 of the Revised Code. 2951

There is hereby created in the state treasury the InvestOhio 2952
support fund. The fund shall consist of the fees paid under 2953
division (B) of this section and shall be used by the development 2954
services agency to pay the costs of administering the small 2955
business investment certificate program established under this 2956
section. 2957

Sec. 122.97. (A) The business development and assistance fund 2958
is hereby created in the state treasury. Investment earnings on 2959
moneys in the fund shall be credited to the fund. The development 2960
services agency shall deposit any money it receives for business 2961
development services and business assistance services to the 2962
credit of the fund, including: 2963

(1) Reimbursements for services provided for business 2964
development and business assistance services; 2965

(2) Contract or grant payments from private entities; 2966

<u>(3) Donations or sponsorship payments from private entities;</u>	2967
<u>(4) Contract or grant payments from public agencies or political subdivisions.</u>	2968 2969
<u>(B) The agency shall use money in the fund for any agency operating purposes or programs providing business support or business assistance, including grants, loans, or administrative expenses.</u>	2970 2971 2972 2973
Sec. 149.43. (A) As used in this section:	2974
(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:	2975 2976 2977 2978 2979 2980 2981
(a) Medical records;	2982
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	2983 2984 2985
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	2986 2987 2988
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;	2989 2990 2991
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a	2992 2993 2994 2995 2996

child support enforcement agency;	2997
(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	2998 2999 3000
(g) Trial preparation records;	3001
(h) Confidential law enforcement investigatory records;	3002
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	3003 3004
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	3005 3006
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	3007 3008 3009 3010
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	3011 3012 3013 3014
(m) Intellectual property records;	3015
(n) Donor profile records;	3016
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	3017 3018
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	3019 3020 3021 3022 3023
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated	3024 3025

pursuant to Chapter 749. of the Revised Code, information that 3026
constitutes a trade secret, as defined in section 1333.61 of the 3027
Revised Code; 3028

(r) Information pertaining to the recreational activities of 3029
a person under the age of eighteen; 3030

(s) Records provided to, statements made by review board 3031
members during meetings of, and all work products of a child 3032
fatality review board acting under sections 307.621 to 307.629 of 3033
the Revised Code, and child fatality review data submitted by the 3034
child fatality review board to the department of health or a 3035
national child death review database, other than the report 3036
prepared pursuant to division (A) of section 307.626 of the 3037
Revised Code; 3038

(t) Records provided to and statements made by the executive 3039
director of a public children services agency or a prosecuting 3040
attorney acting pursuant to section 5153.171 of the Revised Code 3041
other than the information released under that section; 3042

(u) Test materials, examinations, or evaluation tools used in 3043
an examination for licensure as a nursing home administrator that 3044
the board of examiners of nursing home administrators administers 3045
under section 4751.04 of the Revised Code or contracts under that 3046
section with a private or government entity to administer; 3047

(v) Records the release of which is prohibited by state or 3048
federal law; 3049

(w) Proprietary information of or relating to any person that 3050
is submitted to or compiled by the Ohio venture capital authority 3051
created under section 150.01 of the Revised Code; 3052

(x) Information reported and evaluations conducted pursuant 3053
to section 3701.072 of the Revised Code; 3054

(y) Financial statements and data any person submits for any 3055

purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(z) Records listed in section 5101.29 of the Revised Code;

(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(cc) Records created or received by the nonprofit corporation formed under section 187.01 of the Revised Code that are not designated to be made available to the public under division (B)(2) of section 187.04 of the Revised Code, regardless of who may have custody of the records, notwithstanding section 149.431 of the Revised Code.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or 3087
procedures or specific investigatory work product; 3088

(d) Information that would endanger the life or physical 3089
safety of law enforcement personnel, a crime victim, a witness, or 3090
a confidential information source. 3091

(3) "Medical record" means any document or combination of 3092
documents, except births, deaths, and the fact of admission to or 3093
discharge from a hospital, that pertains to the medical history, 3094
diagnosis, prognosis, or medical condition of a patient and that 3095
is generated and maintained in the process of medical treatment. 3096

(4) "Trial preparation record" means any record that contains 3097
information that is specifically compiled in reasonable 3098
anticipation of, or in defense of, a civil or criminal action or 3099
proceeding, including the independent thought processes and 3100
personal trial preparation of an attorney. 3101

(5) "Intellectual property record" means a record, other than 3102
a financial or administrative record, that is produced or 3103
collected by or for faculty or staff of a state institution of 3104
higher learning in the conduct of or as a result of study or 3105
research on an educational, commercial, scientific, artistic, 3106
technical, or scholarly issue, regardless of whether the study or 3107
research was sponsored by the institution alone or in conjunction 3108
with a governmental body or private concern, and that has not been 3109
publicly released, published, or patented. 3110

(6) "Donor profile record" means all records about donors or 3111
potential donors to a public institution of higher education 3112
except the names and reported addresses of the actual donors and 3113
the date, amount, and conditions of the actual donation. 3114

(7) "Peace officer, parole officer, probation officer, 3115
bailiff, prosecuting attorney, assistant prosecuting attorney, 3116
correctional employee, youth services employee, firefighter, EMT, 3117

or investigator of the bureau of criminal identification and 3118
investigation residential and familial information" means any 3119
information that discloses any of the following about a peace 3120
officer, parole officer, probation officer, bailiff, prosecuting 3121
attorney, assistant prosecuting attorney, correctional employee, 3122
youth services employee, firefighter, EMT, or investigator of the 3123
bureau of criminal identification and investigation: 3124

(a) The address of the actual personal residence of a peace 3125
officer, parole officer, probation officer, bailiff, assistant 3126
prosecuting attorney, correctional employee, youth services 3127
employee, firefighter, EMT, or an investigator of the bureau of 3128
criminal identification and investigation, except for the state or 3129
political subdivision in which the peace officer, parole officer, 3130
probation officer, bailiff, assistant prosecuting attorney, 3131
correctional employee, youth services employee, firefighter, EMT, 3132
or investigator of the bureau of criminal identification and 3133
investigation resides; 3134

(b) Information compiled from referral to or participation in 3135
an employee assistance program; 3136

(c) The social security number, the residential telephone 3137
number, any bank account, debit card, charge card, or credit card 3138
number, or the emergency telephone number of, or any medical 3139
information pertaining to, a peace officer, parole officer, 3140
probation officer, bailiff, prosecuting attorney, assistant 3141
prosecuting attorney, correctional employee, youth services 3142
employee, firefighter, EMT, or investigator of the bureau of 3143
criminal identification and investigation; 3144

(d) The name of any beneficiary of employment benefits, 3145
including, but not limited to, life insurance benefits, provided 3146
to a peace officer, parole officer, probation officer, bailiff, 3147
prosecuting attorney, assistant prosecuting attorney, correctional 3148
employee, youth services employee, firefighter, EMT, or 3149

investigator of the bureau of criminal identification and 3150
investigation by the peace officer's, parole officer's, probation 3151
officer's, bailiff's, prosecuting attorney's, assistant 3152
prosecuting attorney's, correctional employee's, youth services 3153
employee's, firefighter's, EMT's, or investigator of the bureau of 3154
criminal identification and investigation's employer; 3155

(e) The identity and amount of any charitable or employment 3156
benefit deduction made by the peace officer's, parole officer's, 3157
probation officer's, bailiff's, prosecuting attorney's, assistant 3158
prosecuting attorney's, correctional employee's, youth services 3159
employee's, firefighter's, EMT's, or investigator of the bureau of 3160
criminal identification and investigation's employer from the 3161
peace officer's, parole officer's, probation officer's, bailiff's, 3162
prosecuting attorney's, assistant prosecuting attorney's, 3163
correctional employee's, youth services employee's, firefighter's, 3164
EMT's, or investigator of the bureau of criminal identification 3165
and investigation's compensation unless the amount of the 3166
deduction is required by state or federal law; 3167

(f) The name, the residential address, the name of the 3168
employer, the address of the employer, the social security number, 3169
the residential telephone number, any bank account, debit card, 3170
charge card, or credit card number, or the emergency telephone 3171
number of the spouse, a former spouse, or any child of a peace 3172
officer, parole officer, probation officer, bailiff, prosecuting 3173
attorney, assistant prosecuting attorney, correctional employee, 3174
youth services employee, firefighter, EMT, or investigator of the 3175
bureau of criminal identification and investigation; 3176

(g) A photograph of a peace officer who holds a position or 3177
has an assignment that may include undercover or plain clothes 3178
positions or assignments as determined by the peace officer's 3179
appointing authority. 3180

As used in divisions (A)(7) and (B)(9) of this section, 3181

"peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of

a person under the age of eighteen" means information that is kept 3213
in the ordinary course of business by a public office, that 3214
pertains to the recreational activities of a person under the age 3215
of eighteen years, and that discloses any of the following: 3216

(a) The address or telephone number of a person under the age 3217
of eighteen or the address or telephone number of that person's 3218
parent, guardian, custodian, or emergency contact person; 3219

(b) The social security number, birth date, or photographic 3220
image of a person under the age of eighteen; 3221

(c) Any medical record, history, or information pertaining to 3222
a person under the age of eighteen; 3223

(d) Any additional information sought or required about a 3224
person under the age of eighteen for the purpose of allowing that 3225
person to participate in any recreational activity conducted or 3226
sponsored by a public office or to use or obtain admission 3227
privileges to any recreational facility owned or operated by a 3228
public office. 3229

(9) "Community control sanction" has the same meaning as in 3230
section 2929.01 of the Revised Code. 3231

(10) "Post-release control sanction" has the same meaning as 3232
in section 2967.01 of the Revised Code. 3233

(11) "Redaction" means obscuring or deleting any information 3234
that is exempt from the duty to permit public inspection or 3235
copying from an item that otherwise meets the definition of a 3236
"record" in section 149.011 of the Revised Code. 3237

(12) "Designee" and "elected official" have the same meanings 3238
as in section 109.43 of the Revised Code. 3239

(B)(1) Upon request and subject to division (B)(8) of this 3240
section, all public records responsive to the request shall be 3241
promptly prepared and made available for inspection to any person 3242

at all reasonable times during regular business hours. Subject to 3243
division (B)(8) of this section, upon request, a public office or 3244
person responsible for public records shall make copies of the 3245
requested public record available at cost and within a reasonable 3246
period of time. If a public record contains information that is 3247
exempt from the duty to permit public inspection or to copy the 3248
public record, the public office or the person responsible for the 3249
public record shall make available all of the information within 3250
the public record that is not exempt. When making that public 3251
record available for public inspection or copying that public 3252
record, the public office or the person responsible for the public 3253
record shall notify the requester of any redaction or make the 3254
redaction plainly visible. A redaction shall be deemed a denial of 3255
a request to inspect or copy the redacted information, except if 3256
federal or state law authorizes or requires a public office to 3257
make the redaction. 3258

(2) To facilitate broader access to public records, a public 3259
office or the person responsible for public records shall organize 3260
and maintain public records in a manner that they can be made 3261
available for inspection or copying in accordance with division 3262
(B) of this section. A public office also shall have available a 3263
copy of its current records retention schedule at a location 3264
readily available to the public. If a requester makes an ambiguous 3265
or overly broad request or has difficulty in making a request for 3266
copies or inspection of public records under this section such 3267
that the public office or the person responsible for the requested 3268
public record cannot reasonably identify what public records are 3269
being requested, the public office or the person responsible for 3270
the requested public record may deny the request but shall provide 3271
the requester with an opportunity to revise the request by 3272
informing the requester of the manner in which records are 3273
maintained by the public office and accessed in the ordinary 3274
course of the public office's or person's duties. 3275

(3) If a request is ultimately denied, in part or in whole, 3276
the public office or the person responsible for the requested 3277
public record shall provide the requester with an explanation, 3278
including legal authority, setting forth why the request was 3279
denied. If the initial request was provided in writing, the 3280
explanation also shall be provided to the requester in writing. 3281
The explanation shall not preclude the public office or the person 3282
responsible for the requested public record from relying upon 3283
additional reasons or legal authority in defending an action 3284
commenced under division (C) of this section. 3285

(4) Unless specifically required or authorized by state or 3286
federal law or in accordance with division (B) of this section, no 3287
public office or person responsible for public records may limit 3288
or condition the availability of public records by requiring 3289
disclosure of the requester's identity or the intended use of the 3290
requested public record. Any requirement that the requester 3291
disclose the requestor's identity or the intended use of the 3292
requested public record constitutes a denial of the request. 3293

(5) A public office or person responsible for public records 3294
may ask a requester to make the request in writing, may ask for 3295
the requester's identity, and may inquire about the intended use 3296
of the information requested, but may do so only after disclosing 3297
to the requester that a written request is not mandatory and that 3298
the requester may decline to reveal the requester's identity or 3299
the intended use and when a written request or disclosure of the 3300
identity or intended use would benefit the requester by enhancing 3301
the ability of the public office or person responsible for public 3302
records to identify, locate, or deliver the public records sought 3303
by the requester. 3304

(6) If any person chooses to obtain a copy of a public record 3305
in accordance with division (B) of this section, the public office 3306
or person responsible for the public record may require that 3307

person to pay in advance the cost involved in providing the copy 3308
of the public record in accordance with the choice made by the 3309
person seeking the copy under this division. The public office or 3310
the person responsible for the public record shall permit that 3311
person to choose to have the public record duplicated upon paper, 3312
upon the same medium upon which the public office or person 3313
responsible for the public record keeps it, or upon any other 3314
medium upon which the public office or person responsible for the 3315
public record determines that it reasonably can be duplicated as 3316
an integral part of the normal operations of the public office or 3317
person responsible for the public record. When the person seeking 3318
the copy makes a choice under this division, the public office or 3319
person responsible for the public record shall provide a copy of 3320
it in accordance with the choice made by the person seeking the 3321
copy. Nothing in this section requires a public office or person 3322
responsible for the public record to allow the person seeking a 3323
copy of the public record to make the copies of the public record. 3324

(7) Upon a request made in accordance with division (B) of 3325
this section and subject to division (B)(6) of this section, a 3326
public office or person responsible for public records shall 3327
transmit a copy of a public record to any person by United States 3328
mail or by any other means of delivery or transmission within a 3329
reasonable period of time after receiving the request for the 3330
copy. The public office or person responsible for the public 3331
record may require the person making the request to pay in advance 3332
the cost of postage if the copy is transmitted by United States 3333
mail or the cost of delivery if the copy is transmitted other than 3334
by United States mail, and to pay in advance the costs incurred 3335
for other supplies used in the mailing, delivery, or transmission. 3336

Any public office may adopt a policy and procedures that it 3337
will follow in transmitting, within a reasonable period of time 3338
after receiving a request, copies of public records by United 3339

States mail or by any other means of delivery or transmission 3340
pursuant to this division. A public office that adopts a policy 3341
and procedures under this division shall comply with them in 3342
performing its duties under this division. 3343

In any policy and procedures adopted under this division, a 3344
public office may limit the number of records requested by a 3345
person that the office will transmit by United States mail to ten 3346
per month, unless the person certifies to the office in writing 3347
that the person does not intend to use or forward the requested 3348
records, or the information contained in them, for commercial 3349
purposes. For purposes of this division, "commercial" shall be 3350
narrowly construed and does not include reporting or gathering 3351
news, reporting or gathering information to assist citizen 3352
oversight or understanding of the operation or activities of 3353
government, or nonprofit educational research. 3354

(8) A public office or person responsible for public records 3355
is not required to permit a person who is incarcerated pursuant to 3356
a criminal conviction or a juvenile adjudication to inspect or to 3357
obtain a copy of any public record concerning a criminal 3358
investigation or prosecution or concerning what would be a 3359
criminal investigation or prosecution if the subject of the 3360
investigation or prosecution were an adult, unless the request to 3361
inspect or to obtain a copy of the record is for the purpose of 3362
acquiring information that is subject to release as a public 3363
record under this section and the judge who imposed the sentence 3364
or made the adjudication with respect to the person, or the 3365
judge's successor in office, finds that the information sought in 3366
the public record is necessary to support what appears to be a 3367
justiciable claim of the person. 3368

(9)(a) Upon written request made and signed by a journalist 3369
on or after December 16, 1999, a public office, or person 3370
responsible for public records, having custody of the records of 3371

the agency employing a specified peace officer, parole officer, 3372
probation officer, bailiff, prosecuting attorney, assistant 3373
prosecuting attorney, correctional employee, youth services 3374
employee, firefighter, EMT, or investigator of the bureau of 3375
criminal identification and investigation shall disclose to the 3376
journalist the address of the actual personal residence of the 3377
peace officer, parole officer, probation officer, bailiff, 3378
prosecuting attorney, assistant prosecuting attorney, correctional 3379
employee, youth services employee, firefighter, EMT, or 3380
investigator of the bureau of criminal identification and 3381
investigation and, if the peace officer's, parole officer's, 3382
probation officer's, bailiff's, prosecuting attorney's, assistant 3383
prosecuting attorney's, correctional employee's, youth services 3384
employee's, firefighter's, EMT's, or investigator of the bureau of 3385
criminal identification and investigation's spouse, former spouse, 3386
or child is employed by a public office, the name and address of 3387
the employer of the peace officer's, parole officer's, probation 3388
officer's, bailiff's, prosecuting attorney's, assistant 3389
prosecuting attorney's, correctional employee's, youth services 3390
employee's, firefighter's, EMT's, or investigator of the bureau of 3391
criminal identification and investigation's spouse, former spouse, 3392
or child. The request shall include the journalist's name and 3393
title and the name and address of the journalist's employer and 3394
shall state that disclosure of the information sought would be in 3395
the public interest. 3396

(b) Division (B)(9)(a) of this section also applies to 3397
journalist requests for customer information maintained by a 3398
municipally owned or operated public utility, other than social 3399
security numbers and any private financial information such as 3400
credit reports, payment methods, credit card numbers, and bank 3401
account information. 3402

(c) As used in division (B)(9) of this section, "journalist" 3403

means a person engaged in, connected with, or employed by any news 3404
medium, including a newspaper, magazine, press association, news 3405
agency, or wire service, a radio or television station, or a 3406
similar medium, for the purpose of gathering, processing, 3407
transmitting, compiling, editing, or disseminating information for 3408
the general public. 3409

(C)(1) If a person allegedly is aggrieved by the failure of a 3410
public office or the person responsible for public records to 3411
promptly prepare a public record and to make it available to the 3412
person for inspection in accordance with division (B) of this 3413
section or by any other failure of a public office or the person 3414
responsible for public records to comply with an obligation in 3415
accordance with division (B) of this section, the person allegedly 3416
aggrieved may commence a mandamus action to obtain a judgment that 3417
orders the public office or the person responsible for the public 3418
record to comply with division (B) of this section, that awards 3419
court costs and reasonable attorney's fees to the person that 3420
instituted the mandamus action, and, if applicable, that includes 3421
an order fixing statutory damages under division (C)(1) of this 3422
section. The mandamus action may be commenced in the court of 3423
common pleas of the county in which division (B) of this section 3424
allegedly was not complied with, in the supreme court pursuant to 3425
its original jurisdiction under Section 2 of Article IV, Ohio 3426
Constitution, or in the court of appeals for the appellate 3427
district in which division (B) of this section allegedly was not 3428
complied with pursuant to its original jurisdiction under Section 3429
3 of Article IV, Ohio Constitution. 3430

If a requestor transmits a written request by hand delivery 3431
or certified mail to inspect or receive copies of any public 3432
record in a manner that fairly describes the public record or 3433
class of public records to the public office or person responsible 3434
for the requested public records, except as otherwise provided in 3435

this section, the requestor shall be entitled to recover the 3436
amount of statutory damages set forth in this division if a court 3437
determines that the public office or the person responsible for 3438
public records failed to comply with an obligation in accordance 3439
with division (B) of this section. 3440

The amount of statutory damages shall be fixed at one hundred 3441
dollars for each business day during which the public office or 3442
person responsible for the requested public records failed to 3443
comply with an obligation in accordance with division (B) of this 3444
section, beginning with the day on which the requester files a 3445
mandamus action to recover statutory damages, up to a maximum of 3446
one thousand dollars. The award of statutory damages shall not be 3447
construed as a penalty, but as compensation for injury arising 3448
from lost use of the requested information. The existence of this 3449
injury shall be conclusively presumed. The award of statutory 3450
damages shall be in addition to all other remedies authorized by 3451
this section. 3452

The court may reduce an award of statutory damages or not 3453
award statutory damages if the court determines both of the 3454
following: 3455

(a) That, based on the ordinary application of statutory law 3456
and case law as it existed at the time of the conduct or 3457
threatened conduct of the public office or person responsible for 3458
the requested public records that allegedly constitutes a failure 3459
to comply with an obligation in accordance with division (B) of 3460
this section and that was the basis of the mandamus action, a 3461
well-informed public office or person responsible for the 3462
requested public records reasonably would believe that the conduct 3463
or threatened conduct of the public office or person responsible 3464
for the requested public records did not constitute a failure to 3465
comply with an obligation in accordance with division (B) of this 3466
section; 3467

(b) That a well-informed public office or person responsible 3468
for the requested public records reasonably would believe that the 3469
conduct or threatened conduct of the public office or person 3470
responsible for the requested public records would serve the 3471
public policy that underlies the authority that is asserted as 3472
permitting that conduct or threatened conduct. 3473

(2)(a) If the court issues a writ of mandamus that orders the 3474
public office or the person responsible for the public record to 3475
comply with division (B) of this section and determines that the 3476
circumstances described in division (C)(1) of this section exist, 3477
the court shall determine and award to the relator all court 3478
costs. 3479

(b) If the court renders a judgment that orders the public 3480
office or the person responsible for the public record to comply 3481
with division (B) of this section, the court may award reasonable 3482
attorney's fees subject to reduction as described in division 3483
(C)(2)(c) of this section. The court shall award reasonable 3484
attorney's fees, subject to reduction as described in division 3485
(C)(2)(c) of this section when either of the following applies: 3486

(i) The public office or the person responsible for the 3487
public records failed to respond affirmatively or negatively to 3488
the public records request in accordance with the time allowed 3489
under division (B) of this section. 3490

(ii) The public office or the person responsible for the 3491
public records promised to permit the relator to inspect or 3492
receive copies of the public records requested within a specified 3493
period of time but failed to fulfill that promise within that 3494
specified period of time. 3495

(c) Court costs and reasonable attorney's fees awarded under 3496
this section shall be construed as remedial and not punitive. 3497
Reasonable attorney's fees shall include reasonable fees incurred 3498

to produce proof of the reasonableness and amount of the fees and 3499
to otherwise litigate entitlement to the fees. The court may 3500
reduce an award of attorney's fees to the relator or not award 3501
attorney's fees to the relator if the court determines both of the 3502
following: 3503

(i) That, based on the ordinary application of statutory law 3504
and case law as it existed at the time of the conduct or 3505
threatened conduct of the public office or person responsible for 3506
the requested public records that allegedly constitutes a failure 3507
to comply with an obligation in accordance with division (B) of 3508
this section and that was the basis of the mandamus action, a 3509
well-informed public office or person responsible for the 3510
requested public records reasonably would believe that the conduct 3511
or threatened conduct of the public office or person responsible 3512
for the requested public records did not constitute a failure to 3513
comply with an obligation in accordance with division (B) of this 3514
section; 3515

(ii) That a well-informed public office or person responsible 3516
for the requested public records reasonably would believe that the 3517
conduct or threatened conduct of the public office or person 3518
responsible for the requested public records as described in 3519
division (C)(2)(c)(i) of this section would serve the public 3520
policy that underlies the authority that is asserted as permitting 3521
that conduct or threatened conduct. 3522

(D) Chapter 1347. of the Revised Code does not limit the 3523
provisions of this section. 3524

(E)(1) To ensure that all employees of public offices are 3525
appropriately educated about a public office's obligations under 3526
division (B) of this section, all elected officials or their 3527
appropriate designees shall attend training approved by the 3528
attorney general as provided in section 109.43 of the Revised 3529
Code. In addition, all public offices shall adopt a public records 3530

policy in compliance with this section for responding to public 3531
records requests. In adopting a public records policy under this 3532
division, a public office may obtain guidance from the model 3533
public records policy developed and provided to the public office 3534
by the attorney general under section 109.43 of the Revised Code. 3535
Except as otherwise provided in this section, the policy may not 3536
limit the number of public records that the public office will 3537
make available to a single person, may not limit the number of 3538
public records that it will make available during a fixed period 3539
of time, and may not establish a fixed period of time before it 3540
will respond to a request for inspection or copying of public 3541
records, unless that period is less than eight hours. 3542

(2) The public office shall distribute the public records 3543
policy adopted by the public office under division (E)(1) of this 3544
section to the employee of the public office who is the records 3545
custodian or records manager or otherwise has custody of the 3546
records of that office. The public office shall require that 3547
employee to acknowledge receipt of the copy of the public records 3548
policy. The public office shall create a poster that describes its 3549
public records policy and shall post the poster in a conspicuous 3550
place in the public office and in all locations where the public 3551
office has branch offices. The public office may post its public 3552
records policy on the internet web site of the public office if 3553
the public office maintains an internet web site. A public office 3554
that has established a manual or handbook of its general policies 3555
and procedures for all employees of the public office shall 3556
include the public records policy of the public office in the 3557
manual or handbook. 3558

(F)(1) The bureau of motor vehicles may adopt rules pursuant 3559
to Chapter 119. of the Revised Code to reasonably limit the number 3560
of bulk commercial special extraction requests made by a person 3561
for the same records or for updated records during a calendar 3562

year. The rules may include provisions for charges to be made for 3563
bulk commercial special extraction requests for the actual cost of 3564
the bureau, plus special extraction costs, plus ten per cent. The 3565
bureau may charge for expenses for redacting information, the 3566
release of which is prohibited by law. 3567

(2) As used in division (F)(1) of this section: 3568

(a) "Actual cost" means the cost of depleted supplies, 3569
records storage media costs, actual mailing and alternative 3570
delivery costs, or other transmitting costs, and any direct 3571
equipment operating and maintenance costs, including actual costs 3572
paid to private contractors for copying services. 3573

(b) "Bulk commercial special extraction request" means a 3574
request for copies of a record for information in a format other 3575
than the format already available, or information that cannot be 3576
extracted without examination of all items in a records series, 3577
class of records, or data base by a person who intends to use or 3578
forward the copies for surveys, marketing, solicitation, or resale 3579
for commercial purposes. "Bulk commercial special extraction 3580
request" does not include a request by a person who gives 3581
assurance to the bureau that the person making the request does 3582
not intend to use or forward the requested copies for surveys, 3583
marketing, solicitation, or resale for commercial purposes. 3584

(c) "Commercial" means profit-seeking production, buying, or 3585
selling of any good, service, or other product. 3586

(d) "Special extraction costs" means the cost of the time 3587
spent by the lowest paid employee competent to perform the task, 3588
the actual amount paid to outside private contractors employed by 3589
the bureau, or the actual cost incurred to create computer 3590
programs to make the special extraction. "Special extraction 3591
costs" include any charges paid to a public agency for computer or 3592
records services. 3593

(3) For purposes of divisions (F)(1) and (2) of this section, 3594
"surveys, marketing, solicitation, or resale for commercial 3595
purposes" shall be narrowly construed and does not include 3596
reporting or gathering news, reporting or gathering information to 3597
assist citizen oversight or understanding of the operation or 3598
activities of government, or nonprofit educational research. 3599

Sec. 164.05. (A) The director of the Ohio public works 3600
commission shall do all of the following: 3601

(1) Approve requests for financial assistance from district 3602
public works integrating committees and enter into agreements with 3603
one or more local subdivisions to provide loans, grants, and local 3604
debt support and credit enhancements for a capital improvement 3605
project if the director determines that: 3606

(a) The project is an eligible project pursuant to this 3607
chapter; 3608

(b) The financial assistance for the project has been 3609
properly approved and requested by the district committee of the 3610
district which includes the recipient of the loan or grant; 3611

(c) The amount of the financial assistance, when added to all 3612
other financial assistance provided during the fiscal year for 3613
projects within the district, does not exceed that district's 3614
allocation of money from the state capital improvements fund for 3615
that fiscal year; 3616

(d) The district committee has provided such documentation 3617
and other evidence as the director may require that the district 3618
committee has satisfied the requirements of section 164.06 or 3619
164.14 of the Revised Code; 3620

(e) The portion of a district's annual allocation which the 3621
director approves in the form of loans and local debt support and 3622
credit enhancements for eligible projects is consistent with 3623

divisions (E) and (F) of this section. 3624

(2) Authorize payments to local subdivisions or their 3625
contractors for costs incurred for capital improvement projects 3626
which have been approved pursuant to this chapter. All requests 3627
for payments shall be submitted to the director on forms and in 3628
accordance with procedures specified in rules adopted by the 3629
director pursuant to division (A)(4) of this section. 3630

(3) Retain the services of or employ financial consultants, 3631
engineers, accountants, attorneys, and such other employees as the 3632
director determines are necessary to carry out the director's 3633
duties under this chapter and fix the compensation for their 3634
services; 3635

(4) Adopt rules establishing the procedures for making 3636
applications, reviewing, approving, and rejecting projects for 3637
which assistance is authorized under this chapter, and any other 3638
rules needed to implement the provisions of this chapter. Such 3639
rules shall be adopted under Chapter 119. of the Revised Code. 3640

(5) Provide information and other assistance to local 3641
subdivisions and district public works integrating committees in 3642
developing their requests for financial assistance for capital 3643
improvements under this chapter and encourage cooperation and 3644
coordination of requests and the development of multisubdivision 3645
and multidistrict projects in order to maximize the benefits that 3646
may be derived by districts from each year's allocation; 3647

(6) Require local subdivisions, to the extent practicable, to 3648
use Ohio products, materials, services, and labor in connection 3649
with any capital improvement project financed in whole or in part 3650
under this chapter; 3651

(7) Notify the director of budget and management of all 3652
approved projects, and supply all information necessary to track 3653
approved projects through the state accounting system; 3654

(8) Appoint the administrator of the Ohio small government capital improvements commission; 3655
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(9) Do all other acts, enter into contracts, and execute all instruments necessary or appropriate to carry out this chapter; 3657
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(10) Develop a standardized methodology for evaluating capital improvement needs which will be used by local subdivisions in preparing the plans required by division (C) of section 164.06 of the Revised Code. The director shall develop this methodology not later than July 1, 1991. 3659
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(11) Establish a program to provide local subdivisions with technical assistance in preparing project applications. The program shall be designed to assist local subdivisions that lack the financial or technical resources to prepare project applications on their own. 3664
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(B) When the director of the Ohio public works commission decides to conditionally approve or disapprove projects, the director's decisions and the reasons for which they are made shall be made in writing. These written decisions shall be conclusive for the purposes of the validity and enforceability of such determinations. 3669
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(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for financial assistance provided pursuant to the provisions of this chapter shall be such as the director determines to be appropriate. If any payments required by a loan agreement entered into pursuant to this chapter are not paid, the funds which would otherwise be apportioned to the local subdivision from the county undivided local government fund, pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, at the direction of the director of the Ohio public works commission, be reduced by the amount payable. The county treasurer 3675
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shall, at the direction of the director, pay the amount of such 3686
reductions to the state capital improvements revolving loan fund. 3687
The director may renegotiate a loan repayment schedule with a 3688
local subdivision whose payments from the county undivided local 3689
government fund could be reduced pursuant to this division, but 3690
such a renegotiation may occur only one time with respect to any 3691
particular loan agreement. 3692

(D) Grants approved for the repair and replacement of 3693
existing infrastructure pursuant to this chapter shall not exceed 3694
ninety per cent of the estimated total cost of the capital 3695
improvement project. Grants approved for new or expanded 3696
infrastructure shall not exceed fifty per cent of the estimated 3697
cost of the new or expansion elements of the capital improvement 3698
project. A local subdivision share of the estimated cost of a 3699
capital improvement may consist of any of the following: 3700

(1) The reasonable value, as determined by the director or 3701
the administrator, of labor, materials, and equipment that will be 3702
contributed by the local subdivision in performing the capital 3703
improvement project; 3704

(2) Moneys received by the local subdivision in any form from 3705
an authority, commission, or agency of the United States for use 3706
in performing the capital improvement project; 3707

(3) Loans made to the local subdivision under this chapter; 3708

(4) Engineering costs incurred by the local subdivision in 3709
performing engineering activities related to the project. 3710

A local subdivision share of the cost of a capital 3711
improvement shall not include any amounts awarded to it from the 3712
local transportation improvement program fund created in section 3713
164.14 of the Revised Code. 3714

(E) The following portion of a district public works 3715
integrating committee's annual allocation share pursuant to 3716

section 164.08 of the Revised Code may be awarded to subdivisions 3717
only in the form of interest-free, low-interest, market rate of 3718
interest, or blended-rate loans: 3719

YEAR IN WHICH MONEYS ARE ALLOCATED	PORTION USED FOR LOANS	3720 3721
Year 1	0%	3722
Year 2	0%	3723
Year 3	10%	3724
Year 4	12%	3725
Year 5	15%	3726
Year 6	20%	3727
Year 7, 8, 9, and 10	22%	3728

(F) The following portion of a district public works 3729
integrating committee's annual allocation pursuant to section 3730
164.08 of the Revised Code shall be awarded to subdivisions in the 3731
form of local debt supported and credit enhancements: 3732

YEAR IN WHICH MONEYS ARE ALLOCATED	PORTIONS USED FOR LOCAL DEBT SUPPORT AND CREDIT ENHANCEMENTS	3733 3734 3735
Year 1	0%	3736
Year 2	0%	3737
Year 3	3%	3738
Year 4	5%	3739
Year 5	5%	3740
Year 6	7%	3741
Year 7	7%	3742
Year 8	8%	3743
Year 9	8%	3744
Year 10	8%	3745

(G) For the period commencing on March 29, 1988 and ending on 3746
June 30, 1993, for the period commencing July 1, 1993, and ending 3747
June 30, 1999, and for each five-year period thereafter, the total 3748

amount of financial assistance awarded under sections 164.01 to 3749
 164.08 of the Revised Code for capital improvement projects 3750
 located wholly or partially within a county shall be equal to at 3751
 least thirty per cent of the amount of what the county would have 3752
 been allocated from the obligations authorized to be sold under 3753
 this chapter during each period, if such amounts had been 3754
 allocable to each county on a per capita basis. 3755

(H) The amount of the annual allocations made pursuant to 3756
 divisions (B)(1) and ~~(6)~~(5) of section 164.08 of the Revised Code 3757
 which can be used for new or expanded infrastructure is limited as 3758
 follows: 3759

YEAR IN WHICH	PORTION WHICH MAY	
MONEYS ARE ALLOCATED	BE USED FOR NEW OR	
	EXPANSION INFRASTRUCTURE	
Year 1	5%	3763
Year 2	5%	3764
Year 3	10%	3765
Year 4	10%	3766
Year 5	10%	3767
Year 6	15%	3768
Year 7	15%	3769
Year 8	20%	3770
Year 9	20%	3771
Year 10 and each year		3772
thereafter	20%	3773

(I) The following portion of a district public works 3774
 integrating committee's annual allocation share pursuant to 3775
 section 164.08 of the Revised Code shall be awarded to 3776
 subdivisions in the form of interest-free, low-interest, market 3777
 rate of interest, or blended-rate loans, or local debt support and 3778
 credit enhancements: 3779

PORTION USED FOR LOANS 3780

YEAR IN WHICH	OR LOCAL DEBT SUPPORT	3781
MONEYS ARE ALLOCATED	AND CREDIT ENHANCEMENTS	3782
Year 11 and each year		3783
thereafter	20%	3784

(J) No project shall be approved under this section unless 3785
the project is designed to have a useful life of at least seven 3786
years. In addition, the average useful life of all projects for 3787
which grants or loans are awarded in each district during a 3788
program year shall not be less than twenty years. 3789

Sec. 164.06. (A) Each district public works integrating 3790
committee shall evaluate materials submitted to it by the local 3791
subdivisions located in the district concerning capital 3792
improvements for which assistance is sought from the state capital 3793
improvements fund and shall, pursuant to division (B) of this 3794
section, select the requests for financial assistance that will be 3795
formally submitted by the district to the director of the Ohio 3796
public works commission. In order to provide for the efficient use 3797
of the district's state capital improvements fund allocation each 3798
year, a district committee shall assist its subdivisions in the 3799
preparation and coordination of project plans. 3800

(B) In selecting the requests for assistance for capital 3801
improvement projects which will be submitted to the director, and 3802
in determining the nature, amount, and terms of the assistance 3803
that will be requested, a district public works integrating 3804
committee shall give priority to capital improvement projects for 3805
the repair or replacement of existing infrastructure and which 3806
would be unlikely to be undertaken without assistance under this 3807
chapter, and shall specifically consider all of the following 3808
factors: 3809

(1) The infrastructure repair and replacement needs of the 3810
district; 3811

(2) The age and condition of the system to be repaired or replaced;	3812 3813
(3) Whether the project would generate revenue in the form of user fees or assessments;	3814 3815
(4) The importance of the project to the health and safety of the citizens of the district;	3816 3817
(5) The cost of the project and whether it is consistent with division (G) of section 164.05 of the Revised Code and the district's allocation for grants, loans, and local debt support and credit enhancements for that year;	3818 3819 3820 3821
(6) The effort and ability of the benefited local subdivisions to assist in financing the project;	3822 3823
(7) The availability of federal or other funds for the project;	3824 3825
(8) The overall economic health of the particular local subdivision;	3826 3827
(9) The adequacy of the planning for the project and the readiness of the applicant to proceed should the project be approved;	3828 3829 3830
(10) Any other factors relevant to a particular project.	3831
(C) Prior to filing an application with its district public works integrating committee for assistance in financing a capital improvement project under this section, a local subdivision shall conduct a study of its existing capital improvements, the condition of those improvements, and the projected capital improvement needs of the subdivision in the ensuing five-year period. After completing this study, the subdivision shall compile a report that includes an inventory of its existing capital improvements, a plan detailing the capital improvement needs of the subdivision in the ensuing five-year period, and a list of the	3832 3833 3834 3835 3836 3837 3838 3839 3840 3841

subdivision's priorities with respect to addressing those needs. 3842
Each year, the report shall be reviewed and updated by the 3843
subdivision to reflect capital improvement projects undertaken or 3844
completed in the past year and any changes in the subdivision's 3845
plan or priorities. The report and annual updates shall be made 3846
available upon request to the Ohio public works commission, the 3847
Ohio small government capital improvements commission, and the 3848
district public works integrating committee of the district of 3849
which the subdivision is a part. 3850

(D) In addition to reviewing and selecting the projects for 3851
which approval will be sought from the director of the Ohio public 3852
works commission for financial assistance from the state capital 3853
improvements fund, each district public works integrating 3854
committee shall appoint a subcommittee of its members that will 3855
represent the interests of villages and townships and that will 3856
review and select the capital improvement projects which will be 3857
submitted by the subcommittee to the administrator of the Ohio 3858
small government capital improvements commission for consideration 3859
of assistance from the portion of the net proceeds of obligations 3860
issued and sold by the treasurer of state which is allocated 3861
pursuant to division (B)(1) of section 164.08 of the Revised Code. 3862
In reviewing and approving the projects selected by its 3863
subcommittee, the administrator, and the Ohio small government 3864
capital improvements commission shall be guided by the provisions 3865
of division (B) of this section, and shall also take into account 3866
the fact that villages and townships may have different public 3867
infrastructure needs than larger subdivisions. 3868

(E) The district public works integrating committee for each 3869
district that includes at least one county with a population of 3870
less than eighty-five thousand according to the most recent 3871
decennial census shall appoint a subcommittee of its members for 3872
the purposes of the small counties capital improvement program 3873

created under division (F) of section 164.02 of the Revised Code. 3874
The subcommittee shall select and submit to the director the 3875
projects that will be considered for assistance from the money 3876
allocated to the program under division (B)~~(4)~~(3) of section 3877
164.08 of the Revised Code. 3878

Sec. 164.08. (A) Except as provided in sections 151.01 and 3879
151.08 or section 164.09 of the Revised Code, the net proceeds of 3880
obligations issued and sold by the treasurer of state pursuant to 3881
section 164.09 of the Revised Code before September 30, 2000, or 3882
pursuant to sections 151.01 and 151.08 of the Revised Code, for 3883
the purpose of financing or assisting in the financing of the cost 3884
of public infrastructure capital improvement projects of local 3885
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 3886
VIII, Ohio Constitution, and this chapter, shall be paid into the 3887
state capital improvements fund, which is hereby created in the 3888
state treasury. Investment earnings on moneys in the fund shall be 3889
credited to the fund. 3890

(B) Beginning July 1, 2011, each program year the amount of 3891
obligations authorized by the general assembly in accordance with 3892
sections 151.01 and 151.08 or section 164.09 of the Revised Code, 3893
excluding the proceeds of refunding or renewal obligations, shall 3894
be allocated by the director of the Ohio public works commission 3895
as follows: 3896

(1) First, fifteen million dollars of the amount of 3897
obligations authorized shall be allocated to provide financial 3898
assistance to villages and to townships with populations in the 3899
unincorporated areas of the township of less than five thousand 3900
persons, for capital improvements in accordance with section 3901
164.051 and division (D) of section 164.06 of the Revised Code. As 3902
used in division (B)(1) of this section, "capital improvements" 3903
includes resurfacing and improving roads. 3904

(2) Following the allocation required by division (B)(1) of this section, the director may allocate three million dollars of the authorized obligations to provide financial assistance to local subdivisions for capital improvement projects which in the judgment of the director of the Ohio public works commission are necessary for the immediate preservation of the health, safety, and welfare of the citizens of the local subdivision requesting assistance.

~~(3) For the second, third, fourth, and fifth years that obligations are authorized and are available for allocation under this chapter, one million dollars shall be allocated to the sewer and water fund created in section 1525.11 of the Revised Code. Money from this allocation shall be transferred to that fund when needed to support specific payments from that fund.~~

~~(4)~~ For program years twelve and fourteen that obligations are authorized and available for allocation under this chapter, two million dollars each program year shall be allocated to the small county capital improvement program for use in providing financial assistance under division (F) of section 164.02 of the Revised Code.

~~(5)~~ After the allocation required by division (B)(3) of this section is made, (4) The director shall determine the amount of the remaining obligations authorized to be issued and sold that each county would receive if such amounts were allocated on a per capita basis each year. If a county's per capita share for the year would be less than three hundred thousand dollars, the director shall allocate to the district in which that county is located an amount equal to the difference between three hundred thousand dollars and the county's per capita share.

~~(6)~~(5) After making the allocation required by division (B)~~(5)~~(4) of this section, the director shall allocate the remaining amount to each district on a per capita basis.

(C)(1) There is hereby created in the state treasury the 3937
state capital improvements revolving loan fund, into which shall 3938
be deposited all repayments of loans made to local subdivisions 3939
for capital improvements pursuant to this chapter. Investment 3940
earnings on moneys in the fund shall be credited to the fund. 3941

(2) There may also be deposited in the state capital 3942
improvements revolving loan fund moneys obtained from federal or 3943
private grants, or from other sources, which are to be used for 3944
any of the purposes authorized by this chapter. Such moneys shall 3945
be allocated each year in accordance with division (B)~~(6)~~(5) of 3946
this section. 3947

(3) Moneys deposited into the state capital improvements 3948
revolving loan fund shall be used to make loans for the purpose of 3949
financing or assisting in the financing of the cost of capital 3950
improvement projects of local subdivisions. 3951

(4) Investment earnings credited to the state capital 3952
improvements revolving loan fund that exceed the amounts required 3953
to meet estimated federal arbitrage rebate requirements shall be 3954
used to pay costs incurred by the public works commission in 3955
administering this section. Investment earnings credited to the 3956
state capital improvements revolving loan fund that exceed the 3957
amounts required to pay for the administrative costs and estimated 3958
rebate requirements shall be allocated to each district on a per 3959
capita basis. 3960

(5) Each program year, loan repayments received and on 3961
deposit in the state capital improvements revolving loan fund 3962
shall be allocated as follows: 3963

(a) Each district public works integrating committee shall be 3964
allocated an amount equal to the sum of all loan repayments made 3965
to the state capital improvements revolving loan fund by local 3966
subdivisions that are part of the district. Moneys not used in a 3967

program year may be used in the next program year in the same 3968
manner and for the same purpose as originally allocated. 3969

(b) Loan repayments made pursuant to projects approved under 3970
division (B)(1) of this section shall be used to make loans in 3971
accordance with section 164.051 and division (D) of section 164.06 3972
of the Revised Code. Allocations for this purpose made pursuant to 3973
division (C)(5) of this section shall be in addition to the 3974
allocation provided in division (B)(1) of this section. 3975

(c) Loan repayments made pursuant to projects approved under 3976
division (B)(2) of this section shall be used to make loans in 3977
accordance with division (B)(2) of this section. Allocations for 3978
this purpose made pursuant to division (C)(5) of this section 3979
shall be in addition to the allocation provided in division (B)(2) 3980
of this section. 3981

(d) Loans made from the state capital improvements revolving 3982
loan fund shall not be limited in their usage by divisions (E), 3983
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 3984

(D) Investment earnings credited to the state capital 3985
improvements fund that exceed the amounts required to meet 3986
estimated federal arbitrage rebate requirements shall be used to 3987
pay costs incurred by the public works commission in administering 3988
sections 164.01 to 164.12 of the Revised Code. 3989

(E) The director of the Ohio public works commission shall 3990
notify the director of budget and management of the amounts 3991
allocated pursuant to this section and such information shall be 3992
entered into the state accounting system. The director of budget 3993
and management shall establish appropriation line items as needed 3994
to track these allocations. 3995

(F) If the amount of a district's allocation in a program 3996
year exceeds the amount of financial assistance approved for the 3997
district by the commission for that year, the remaining portion of 3998

the district's allocation shall be added to the district's 3999
allocation pursuant to division (B) of this section for the next 4000
succeeding year for use in the same manner and for the same 4001
purposes as it was originally allocated, except that any portion 4002
of a district's allocation which was available for use on new or 4003
expanded infrastructure pursuant to division (H) of section 164.05 4004
of the Revised Code shall be available in succeeding years only 4005
for the repair and replacement of existing infrastructure. 4006

(G) When an allocation based on population is made by the 4007
director pursuant to division (B) of this section, the director 4008
shall use the most recent decennial census statistics, and shall 4009
not make any reallocations based upon a change in a district's 4010
population. 4011

Sec. 166.01. As used in this chapter: 4012

(A) "Allowable costs" means all or part of the costs of 4013
project facilities, eligible projects, eligible innovation 4014
projects, eligible research and development projects, eligible 4015
advanced energy projects, or eligible logistics and distribution 4016
projects, including costs of acquiring, constructing, 4017
reconstructing, rehabilitating, renovating, enlarging, improving, 4018
equipping, or furnishing project facilities, eligible projects, 4019
eligible innovation projects, eligible research and development 4020
projects, eligible advanced energy projects, or eligible logistics 4021
and distribution projects, site clearance and preparation, 4022
supplementing and relocating public capital improvements or 4023
utility facilities, designs, plans, specifications, surveys, 4024
studies, and estimates of costs, expenses necessary or incident to 4025
determining the feasibility or practicability of assisting an 4026
eligible project, an eligible innovation project, an eligible 4027
research and development project, an eligible advanced energy 4028
project, or an eligible logistics and distribution project, or 4029

providing project facilities or facilities related to an eligible 4030
project, an eligible innovation project, an eligible research and 4031
development project, an eligible advanced energy project, or an 4032
eligible logistics and distribution project, architectural, 4033
engineering, and legal services fees and expenses, the costs of 4034
conducting any other activities as part of a voluntary action, and 4035
such other expenses as may be necessary or incidental to the 4036
establishment or development of an eligible project, an eligible 4037
innovation project, an eligible research and development project, 4038
an eligible advanced energy project, or an eligible logistics and 4039
distribution project, and reimbursement of moneys advanced or 4040
applied by any governmental agency or other person for allowable 4041
costs. 4042

(B) "Allowable innovation costs" includes allowable costs of 4043
eligible innovation projects and, in addition, includes the costs 4044
of research and development of eligible innovation projects; 4045
obtaining or creating any requisite software or computer hardware 4046
related to an eligible innovation project or the products or 4047
services associated therewith; testing (including, without 4048
limitation, quality control activities necessary for initial 4049
production), perfecting, and marketing of such products and 4050
services; creating and protecting intellectual property related to 4051
an eligible innovation project or any products or services related 4052
thereto, including costs of securing appropriate patent, 4053
trademark, trade secret, trade dress, copyright, or other form of 4054
intellectual property protection for an eligible innovation 4055
project or related products and services; all to the extent that 4056
such expenditures could be capitalized under then-applicable 4057
generally accepted accounting principles; and the reimbursement of 4058
moneys advanced or applied by any governmental agency or other 4059
person for allowable innovation costs. 4060

(C) "Eligible innovation project" includes an eligible 4061

project, including any project facilities associated with an 4062
eligible innovation project and, in addition, includes all 4063
tangible and intangible property related to a new product or 4064
process based on new technology or the creative application of 4065
existing technology, including research and development, product 4066
or process testing, quality control, market research, and related 4067
activities, that is to be acquired, established, expanded, 4068
remodeled, rehabilitated, or modernized for industry, commerce, 4069
distribution, or research, or any combination thereof, the 4070
operation of which, alone or in conjunction with other eligible 4071
projects, eligible innovation projects, or innovation property, 4072
will create new jobs or preserve existing jobs and employment 4073
opportunities and improve the economic welfare of the people of 4074
the state. 4075

(D) "Eligible project" means project facilities to be 4076
acquired, established, expanded, remodeled, rehabilitated, or 4077
modernized for industry, commerce, distribution, or research, or 4078
any combination thereof, the operation of which, alone or in 4079
conjunction with other facilities, will create new jobs or 4080
preserve existing jobs and employment opportunities and improve 4081
the economic welfare of the people of the state. "Eligible 4082
project" includes, without limitation, a voluntary action. For 4083
purposes of this division, "new jobs" does not include existing 4084
jobs transferred from another facility within the state, and 4085
"existing jobs" includes only those existing jobs with work places 4086
within the municipal corporation or unincorporated area of the 4087
county in which the eligible project is located. 4088

"Eligible project" does not include project facilities to be 4089
acquired, established, expanded, remodeled, rehabilitated, or 4090
modernized for industry, commerce, distribution, or research, or 4091
any combination of industry, commerce, distribution, or research, 4092
if the project facilities consist solely of 4093

point-of-final-purchase retail facilities. If the project 4094
facilities consist of both point-of-final-purchase retail 4095
facilities and nonretail facilities, only the portion of the 4096
project facilities consisting of nonretail facilities is an 4097
eligible project. If a warehouse facility is part of a 4098
point-of-final-purchase retail facility and supplies only that 4099
facility, the warehouse facility is not an eligible project. 4100
Catalog distribution facilities are not considered 4101
point-of-final-purchase retail facilities for purposes of this 4102
paragraph, and are eligible projects. 4103

(E) "Eligible research and development project" means an 4104
eligible project, including project facilities, comprising, 4105
within, or related to, a facility or portion of a facility at 4106
which research is undertaken for the purpose of discovering 4107
information that is technological in nature and the application of 4108
which is intended to be useful in the development of a new or 4109
improved product, process, technique, formula, or invention, a new 4110
product or process based on new technology, or the creative 4111
application of existing technology. 4112

(F) "Financial assistance" means inducements under division 4113
(B) of section 166.02 of the Revised Code, loan guarantees under 4114
section 166.06 of the Revised Code, and direct loans under section 4115
166.07 of the Revised Code. 4116

(G) "Governmental action" means any action by a governmental 4117
agency relating to the establishment, development, or operation of 4118
an eligible project, eligible innovation project, eligible 4119
research and development project, eligible advanced energy 4120
project, or eligible logistics and distribution project, and 4121
project facilities that the governmental agency acting has 4122
authority to take or provide for the purpose under law, including, 4123
but not limited to, actions relating to contracts and agreements, 4124
zoning, building, permits, acquisition and disposition of 4125

property, public capital improvements, utility and transportation 4126
service, taxation, employee recruitment and training, and liaison 4127
and coordination with and among governmental agencies. 4128

(H) "Governmental agency" means the state and any state 4129
department, division, commission, institution or authority; a 4130
municipal corporation, county, or township, and any agency 4131
thereof, and any other political subdivision or public corporation 4132
or the United States or any agency thereof; any agency, 4133
commission, or authority established pursuant to an interstate 4134
compact or agreement; and any combination of the above. 4135

(I) "Innovation financial assistance" means inducements under 4136
division (B) of section 166.12 of the Revised Code, innovation 4137
Ohio loan guarantees under section 166.15 of the Revised Code, and 4138
innovation Ohio loans under section 166.16 of the Revised Code. 4139

(J) "Innovation Ohio loan guarantee reserve requirement" 4140
means, at any time, with respect to innovation loan guarantees 4141
made under section 166.15 of the Revised Code, a balance in the 4142
innovation Ohio loan guarantee fund equal to the greater of twenty 4143
per cent of the then-outstanding principal amount of all 4144
outstanding innovation loan guarantees made pursuant to section 4145
166.15 of the Revised Code or fifty per cent of the principal 4146
amount of the largest outstanding guarantee made pursuant to 4147
section 166.15 of the Revised Code. 4148

(K) "Innovation property" includes property and also includes 4149
software, inventory, licenses, contract rights, goodwill, 4150
intellectual property, including without limitation, patents, 4151
patent applications, trademarks and service marks, and trade 4152
secrets, and other tangible and intangible property, and any 4153
rights and interests in or connected to the foregoing. 4154

(L) "Loan guarantee reserve requirement" means, at any time, 4155
with respect to loan guarantees made under section 166.06 of the 4156

Revised Code, a balance in the loan guarantee fund equal to the 4157
greater of twenty per cent of the then-outstanding principal 4158
amount of all outstanding guarantees made pursuant to section 4159
166.06 of the Revised Code or fifty per cent of the principal 4160
amount of the largest outstanding guarantee made pursuant to 4161
section 166.06 of the Revised Code. 4162

(M) "Person" means any individual, firm, partnership, 4163
association, corporation, or governmental agency, and any 4164
combination thereof. 4165

(N) "Project facilities" means buildings, structures, and 4166
other improvements, and equipment and other property, excluding 4167
small tools, supplies, and inventory, and any one, part of, or 4168
combination of the above, comprising all or part of, or serving or 4169
being incidental to, an eligible project, an eligible innovation 4170
project, an eligible research and development project, an eligible 4171
advanced energy project, or an eligible logistics and distribution 4172
project, including, but not limited to, public capital 4173
improvements. 4174

(O) "Property" means real and personal property and interests 4175
therein. 4176

(P) "Public capital improvements" means capital improvements 4177
or facilities that any governmental agency has authority to 4178
acquire, pay the costs of, own, maintain, or operate, or to 4179
contract with other persons to have the same done, including, but 4180
not limited to, highways, roads, streets, water and sewer 4181
facilities, railroad and other transportation facilities, and air 4182
and water pollution control and solid waste disposal facilities. 4183
For purposes of this division, "air pollution control facilities" 4184
includes, without limitation, solar, geothermal, biofuel, biomass, 4185
wind, hydro, wave, and other advanced energy projects as defined 4186
in section 3706.25 of the Revised Code. 4187

(Q) "Research and development financial assistance" means 4188
inducements under section 166.17 of the Revised Code, research and 4189
development loans under section 166.21 of the Revised Code, and 4190
research and development tax credits under sections 5733.352 and 4191
5747.331 of the Revised Code. 4192

(R) "Targeted innovation industry sectors" means industry 4193
sectors involving the production or use of advanced materials, 4194
instruments, controls and electronics, power and propulsion, 4195
biosciences, and information technology, or such other sectors as 4196
may be designated by the director of development services. 4197

(S) "Voluntary action" means a voluntary action, as defined 4198
in section 3746.01 of the Revised Code, that is conducted under 4199
the voluntary action program established in Chapter 3746. of the 4200
Revised Code. 4201

(T) "Project financing obligations" means obligations issued 4202
pursuant to section 166.08 of the Revised Code other than 4203
obligations for which the bond proceedings provide that bond 4204
service charges shall be paid from receipts of the state 4205
representing gross profit on the sale of spirituous liquor as 4206
referred to in division (B)(4) of section 4310.10 of the Revised 4207
Code. 4208

(U) "Regional economic development entity" means an entity 4209
that is under contract with the director ~~of development~~ to 4210
administer a loan program under this chapter in a particular area 4211
of this state. 4212

(V) "Advanced energy research and development fund" means the 4213
advanced energy research and development fund created in section 4214
3706.27 of the Revised Code. 4215

(W) "Advanced energy research and development taxable fund" 4216
means the advanced energy research and development taxable fund 4217
created in section 3706.27 of the Revised Code. 4218

(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.

(Z) "Department of development" means the development services agency and "director of development" means the director of development services.

Sec. 166.04. (A) Prior to entering into each agreement to provide assistance under sections 166.02, 166.06, and 166.07 of the Revised Code, the director of development services shall determine whether the assistance will conform to the requirements of sections 166.01 to 166.11 of the Revised Code. Such determination, and the facts upon which it is based, shall be set forth, where required, by the director in submissions made to the controlling board ~~for purposes of section 166.03 and, unless provision of the assistance has been recommended to the director by a regional economic development entity, to the development financing advisory council under section 166.05~~ when the director seeks a release of moneys under section 166.02 of the Revised Code. An agreement to provide assistance under sections 166.02, 166.06, and 166.07 of the Revised Code shall set forth such

determination, which shall be conclusive for purposes of the 4250
validity and enforceability of such agreement and any loan 4251
guarantees, loans, or other agreements entered into pursuant to 4252
such agreement to provide assistance. 4253

(B) Whenever a person applies for financial assistance under 4254
sections 166.02, 166.06, and 166.07 of the Revised Code and the 4255
project for which assistance is requested is to relocate 4256
facilities that are currently being operated by the person and 4257
that are located in another county, municipal corporation, or 4258
township, the director shall provide written notification to the 4259
appropriate local governmental bodies and state officials. The 4260
notification shall contain the following information: 4261

(1) The name of the person applying for financial assistance; 4262

(2) The county, and the municipal corporation or township, in 4263
which the project for which assistance is requested is located; 4264
and 4265

(3) The county, and the municipal corporation or township, in 4266
which the facility to be replaced is located. 4267

~~The director shall provide the written notification to the 4268
appropriate local governmental bodies and state officials so that 4269
they receive the notification at least five days before the 4270
development financing advisory council meeting at which the 4271
council considers the request for financial assistance pursuant to 4272
section 166.05 of the Revised Code. 4273~~

(C) As used in division (B) of this section: 4274

(1) "Appropriate local governmental bodies" means: 4275

(a) The boards of county commissioners or legislative 4276
authorities of the county in which the project for which 4277
assistance is requested is located and of the county in which the 4278
facility to be replaced is located; 4279

(b) The legislative authority of the municipal corporation or 4280
the board of township trustees of the township in which the 4281
project for which assistance is requested is located; and 4282

(c) The legislative authority of the municipal corporation or 4283
the board of township trustees of the township in which the 4284
facility to be replaced is located. 4285

(2) "State officials" means: 4286

(a) The state representative and state senator in whose 4287
districts the project for which assistance is requested is 4288
located; 4289

(b) The state representative and state senator in whose 4290
districts the facility to be replaced is located. 4291

Sec. 166.05. (A) In determining the projects to be assisted 4292
and the nature, amount, and terms of assistance to be provided for 4293
an eligible project under sections 166.02, 166.06, and 166.07 of 4294
the Revised Code: 4295

(1) ~~Except as otherwise provided in division (A)(3) of this~~ 4296
~~section, the~~ The director of development services shall take into 4297
consideration all of the following: 4298

(a) The number of jobs to be created or preserved, directly 4299
or indirectly; 4300

(b) Payrolls, and the taxes generated, at both state and 4301
local levels, by the eligible project and by the employment 4302
created or preserved by the eligible project; 4303

(c) The size, nature, and cost of the eligible project, 4304
including the prospect of the project for providing long-term jobs 4305
in enterprises consistent with the changing economics of the state 4306
and the nation; 4307

(d) The needs, and degree of needs, of the area in which the 4308

eligible project is to be located;	4309
(e) The needs of any private sector enterprise to be assisted;	4310 4311
(f) The competitive effect of the assistance on other enterprises providing jobs for people of the state;	4312 4313
(g) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible project;	4314 4315 4316 4317 4318
(h) The impact of the eligible project and its operations on local government services, including school services, and on public facilities;	4319 4320 4321
(i) The effect of the assistance on the loss of or damage to or destruction of prime farmland, or the removal from agricultural production of prime farmland. As used in this section, "prime farmland" means agricultural land that meets the criteria for this classification as defined by the United States soil conservation service.	4322 4323 4324 4325 4326 4327
(j) The length of time the operator of the project has been operating facilities within the state.	4328 4329
(2) The benefits to the local area, including taxes, jobs, and reduced unemployment and reduced welfare costs, among others, may be accorded value in the leasing or sales of project facilities and in loan and guarantee arrangements.	4330 4331 4332 4333
(B) Prior to granting final approval of the assistance to be provided, the director shall determine that the benefits to be derived by the state and local area from the establishment or development, and operation, of the eligible project will exceed the cost of providing such assistance and, except as provided in	4334 4335 4336 4337 4338

~~division (C)(2) of this section, shall submit to the development 4339
financing advisory council and to the controlling board a copy of 4340
that determination including the basis for the determination. 4341~~

~~(C)(1) Except as provided in division (C)(2) of this section, 4342
prior to the submission provided for in division (B) of this 4343
section to the controlling board, the director shall submit to the 4344
development financing advisory council data pertinent to the 4345
considerations set forth in division (A) of this section, the 4346
terms of the proposed assistance, and such other relevant 4347
information as the development financing advisory council may 4348
request. 4349~~

~~(2) The director is not required to submit any determination, 4350
data, terms, or other application materials or information to the 4351
development financing advisory council when provision of the 4352
assistance has been recommended to the director by a regional 4353
economic development entity. 4354~~

~~(D) The development financing advisory council, on the basis 4355
of such data, shall make recommendations as to the appropriateness 4356
of the assistance to be provided. The recommendations may be 4357
revised to reflect any changes in the proposed assistance as the 4358
director may submit to the council. The recommendations, as 4359
amended, of the council as to the appropriateness of the proposed 4360
assistance shall be submitted to the controlling board. 4361~~

~~(E) Financial statements and other data submitted to the 4362
director of development, the development financing advisory 4363
council, services or the controlling board by any private sector 4364
person in connection with financial assistance under sections 4365
166.02, 166.06, and 166.07 of the Revised Code, or any information 4366
taken from such statements or data for any purpose, shall not be 4367
open to public inspection. The development financing advisory 4368
council in considering confidential information in connection with 4369
financial assistance under sections 166.02, 166.06, and 166.07 of 4370~~

~~the Revised Code may, only for consideration of the confidential 4371
information referred to, and in the manner provided in division 4372
(E) of section 121.22 of the Revised Code, close the meeting 4373
during such consideration. 4374~~

Sec. 166.13. (A) Prior to entering into each agreement to 4375
provide innovation financial assistance under sections 166.12, 4376
166.15, and 166.16 of the Revised Code, the director of 4377
development services shall determine whether the assistance will 4378
conform to the requirements of sections 166.12 to 166.16 of the 4379
Revised Code. Such determination, and the facts upon which it is 4380
based, shall be set forth by the director in submissions made to 4381
the controlling board ~~for purposes of section 166.16 of the 4382
Revised Code and to the development financing advisory council 4383
under section 166.14~~ when the director seeks a release of moneys 4384
under section 166.12 of the Revised Code. An agreement to provide 4385
assistance under sections 166.12, 166.15, and 166.16 of the 4386
Revised Code shall set forth the determination, which shall be 4387
conclusive for purposes of the validity and enforceability of the 4388
agreement and any innovation loan guarantees, innovation loans, or 4389
other agreements entered into pursuant to the agreement to provide 4390
innovation financial assistance. 4391

(B) Whenever a person applies for innovation financial 4392
assistance under sections 166.12, 166.15, and 166.16 of the 4393
Revised Code and the eligible innovation project for which 4394
innovation financial assistance is requested is to relocate an 4395
eligible innovation project that is currently being operated by 4396
the person and that is located in another county, municipal 4397
corporation, or township, the director shall provide written 4398
notification to the appropriate local governmental bodies and 4399
state officials. The notification shall contain the following 4400
information: 4401

(1) The name of the person applying for innovation financial assistance; 4402
4403

(2) The county, and the municipal corporation or township, in which the eligible innovation project for which innovation financial assistance is requested is located; and 4404
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4406

(3) The county, and the municipal corporation or township, in which the eligible innovation project to be replaced is located. 4407
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~~The director shall provide the written notification to the appropriate local governmental bodies and state officials so that they receive the notification at least five days before the development financing advisory council meeting at which the council considers the request for innovation financial assistance pursuant to sections 166.12, 166.15, and 166.16 of the Revised Code.~~ 4409
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(C) As used in division (B) of this section: 4416

(1) "Appropriate local governmental bodies" means: 4417

(a) The boards of county commissioners or legislative authorities of the county in which the project for which innovation financial assistance is requested is located and of the county in which the eligible innovation project to be replaced is located; 4418
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(b) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible innovation project for which innovation financial assistance is requested is located; and 4423
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(c) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible innovation project to be replaced is located. 4427
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(2) "State officials" means: 4430

(a) The state representative and state senator in whose 4431

districts the project for which innovation financial assistance is requested is located; 4432
4433

(b) The state representative and state senator in whose districts the innovation project to be replaced is located. 4434
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Sec. 166.14. (A) In determining the eligible innovation projects to be assisted and the nature, amount, and terms of innovation financial assistance to be provided for an eligible innovation project under sections 166.12 to 166.16 of the Revised Code: 4436
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(1) The director of development services shall take into consideration all of the following: 4441
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(a) The number of jobs to be created or preserved by the eligible innovation project, directly or indirectly; 4443
4444

(b) Payrolls, and the taxes generated, at both state and local levels, by or in connection with the eligible innovation project and by the employment created or preserved by or in connection with the eligible innovation project; 4445
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(c) The size, nature, and cost of the eligible innovation project, including the prospect of the eligible innovation project for providing long-term jobs in enterprises consistent with the changing economics of the state and the nation; 4449
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(d) The needs of any private sector enterprise to be assisted; 4453
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(e) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible innovation project or with respect to any providers of innovation property to be included as part of the eligible innovation project; 4455
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(f) The likelihood of the successful implementation of the 4462
proposed eligible innovation project; 4463

(g) Whether the eligible innovation project involves the use 4464
of technology in a targeted innovation industry sector. 4465

(2) The benefits to the local area, including taxes, jobs, 4466
and reduced unemployment and reduced welfare costs, among others, 4467
may be accorded value in the leasing or sales of innovation 4468
project facilities and in loan and guarantee arrangements. 4469

(3) In making determinations under division (A)(1) of this 4470
section, the director may consider the effect of an eligible 4471
innovation project upon any entity engaged to provide innovation 4472
property to be acquired, leased, or licensed in connection with 4473
such assistance. 4474

~~(B) The director shall submit to the development financing 4475
advisory council data pertinent to the considerations set forth in 4476
division (A) of this section, the terms of the proposed innovation 4477
financial assistance, and such other relevant information as the 4478
council may request. 4479~~

~~(C) The development financing advisory council, on the basis 4480
of such data, shall make recommendations as to the appropriateness 4481
of the innovation financial assistance to be provided. The 4482
recommendations may be revised to reflect any changes in the 4483
proposed innovation financial assistance as the director may 4484
submit to the council. The recommendations, as amended, of the 4485
council as to the appropriateness of the proposed innovation 4486
financial assistance shall be submitted to the controlling board. 4487~~

~~(D) Financial statements and other data submitted to the 4488
director of development, the development financing advisory 4489
council, services or the controlling board by any private sector 4490
person in connection with innovation financial assistance under 4491
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 4492~~

information taken from such statements or data for any purpose, 4493
shall not be open to public inspection. ~~The development financing 4494~~
~~advisory council in considering confidential information in 4495~~
~~connection with innovation financial assistance under this chapter 4496~~
~~may, only for consideration of the confidential information 4497~~
~~referred to, and in the manner provided in division (E) of section 4498~~
~~121.22 of the Revised Code, close the meeting during such 4499~~
~~consideration. 4500~~

Sec. 166.18. (A) Prior to entering into each agreement to 4501
provide research and development financial assistance, the 4502
director of development services shall determine whether the 4503
assistance will conform to the requirements of sections 166.17 to 4504
166.21, 5733.352, and 5747.331 of the Revised Code. Such 4505
determination, and the facts upon which it is based, shall be set 4506
forth by the director in submissions made to the controlling board 4507
~~for purposes of section 166.17 of the Revised Code and to the 4508~~
~~development financing advisory council under section 166.19 when 4509~~
~~the director seeks a release of moneys under section 166.17 of the 4510~~
Revised Code. An agreement to provide research and development 4511
financial assistance under section 166.17 or 166.21 of the Revised 4512
Code shall set forth the determination, which shall be conclusive 4513
for purposes of the validity and enforceability of the agreement, 4514
and any loans or other agreements entered into pursuant to the 4515
agreement, to provide research and development financial 4516
assistance. 4517

(B) Whenever a person applies for research and development 4518
financial assistance, and the eligible research and development 4519
project for which that assistance is requested is to relocate an 4520
eligible research and development project that is currently being 4521
operated by the person and that is located in another county, 4522
municipal corporation, or township within the state, the director 4523
shall provide written notification to the appropriate local 4524

governmental bodies and state officials. The notification shall 4525
state all of the following: 4526

(1) The name of the person applying for research and 4527
development financial assistance; 4528

(2) The county, and the municipal corporation or township, in 4529
which the project for which research and development financial 4530
assistance is requested will be located; 4531

(3) The county, and the municipal corporation or township, in 4532
which the eligible research and development project is located at 4533
the time such financial assistance is requested. 4534

~~The director shall provide the written notification to the 4535
appropriate local governmental bodies and state officials so that 4536
they receive the notification at least five days before the 4537
development financing advisory council meeting at which the 4538
council considers the request for research and development 4539
financial assistance. 4540~~

(C) As used in division (B) of this section: 4541

(1) "Appropriate local governmental bodies" means all of the 4542
following: 4543

(a) The board of county commissioners of or legislative 4544
authorities of special districts in the county in which the 4545
eligible research and development project for which research and 4546
development financial assistance is requested is located and of 4547
the county in which the project will be located; 4548

(b) The legislative authority of the municipal corporation or 4549
the board of township trustees of the township in which the 4550
eligible research and development project for which research and 4551
development financial assistance is requested is located and of 4552
the municipal corporation or township in which the project will be 4553
located. 4554

(2) "State officials" means both of the following: 4555

(a) The state representative and state senator in whose 4556
district the eligible research and development project for which 4557
research and development financial assistance is requested is 4558
located; 4559

(b) The state representative and state senator in whose 4560
district the eligible research and development project will be 4561
located. 4562

Sec. 166.19. (A)(1) In determining the eligible research and 4563
development projects to be assisted and the nature, amount, and 4564
terms of the research and development financial assistance to be 4565
provided, the director of development services shall consider all 4566
of the following: 4567

(a) The number of jobs to be created or preserved, directly 4568
or indirectly, by or in connection with the eligible research and 4569
development project; 4570

(b) Payrolls, and the taxes generated at both state and local 4571
levels, by the eligible research and development project and by 4572
the employment created or preserved by or in connection with the 4573
project; 4574

(c) The size, nature, and cost of the eligible research and 4575
development project; 4576

(d) The likelihood that the eligible research and development 4577
project will create long-term jobs in enterprises consistent with 4578
the changing economy of the state and nation; 4579

(e) The needs of any private sector enterprise to be 4580
assisted, taking into consideration the amount and kind of 4581
assistance, if any, to be provided to the private sector 4582
enterprise by other governmental agencies through tax exemption or 4583
abatment, financing assistance with industrial development bonds, 4584

and otherwise, with respect to the eligible research and 4585
development project or with respect to any providers of research 4586
and development property to be included as part of the project; 4587

(f) The likelihood that the eligible research and development 4588
project will be successfully implemented. 4589

(2) The director may consider the benefits to the local area, 4590
including taxes, jobs, and reduced unemployment and reduced 4591
welfare costs, in the leasing or sale of eligible research and 4592
development project facilities and in loan arrangements. 4593

(3) The director may consider the effect of an eligible 4594
research and development project upon any entity engaged to 4595
provide research and development property to be acquired, leased, 4596
or licensed in connection with research and development financial 4597
assistance. 4598

~~(B) The director shall submit to the development financing 4599
advisory council data pertinent to the considerations set forth in 4600
division (A) of this section, the terms of the proposed research 4601
and development assistance, and such other relevant information as 4602
the council may request. 4603~~

~~(C) The development financing advisory council, on the basis 4604
of the data submitted under division (B) of this section, shall 4605
make recommendations as to the appropriateness of the research and 4606
development financial assistance to be provided. The 4607
recommendations may be revised to reflect any changes in the 4608
proposed research and development financial assistance that the 4609
director may submit to the council. The recommendations of the 4610
council as to the appropriateness of the proposed research and 4611
development financial assistance shall be submitted to the 4612
controlling board. 4613~~

~~(D) Financial statements and other data submitted to the 4614
director of development, the development financing advisory 4615~~

~~council, services or the controlling board by any private sector 4616
person in connection with research and development financial 4617
assistance, or any information taken from such statements or data 4618
for any purpose, shall not be open to public inspection. The 4619
development financing advisory council, in considering 4620
confidential information in connection with research and 4621
development financial assistance may, only for consideration of 4622
the confidential information referred to and in the manner 4623
provided in division (E) of section 121.22 of the Revised Code, 4624
close the meeting during such consideration. 4625~~

Sec. 166.25. (A) The director of development services, with 4626
the approval of the controlling board and subject to the other 4627
applicable provisions of this chapter, may lend money in the 4628
logistics and distribution infrastructure fund and the logistics 4629
and distribution infrastructure taxable bond fund to persons for 4630
the purpose of paying allowable costs of eligible logistics and 4631
distribution projects. 4632

(B) In determining the eligible logistics and distribution 4633
projects to be assisted and the nature, amount, and terms of 4634
assistance to be provided for an eligible logistics and 4635
distribution project, the director shall consult with appropriate 4636
governmental agencies, including the department of transportation 4637
and the Ohio rail development commission. 4638

~~(C)(1) The director shall submit to the development financing 4639
advisory council the terms of the proposed assistance to be 4640
provided for an eligible logistics and distribution project and 4641
such other relevant information as the council may request. 4642~~

~~(2) The council, on the basis of such information, shall make 4643
recommendations as to the appropriateness of the assistance to be 4644
provided. The recommendations may be revised to reflect any 4645
changes in the proposed assistance the director may submit to the 4646~~

~~council.~~ 4647

~~(3) The director shall submit the terms of the proposed 4648
assistance to be provided, along with the recommendations, as 4649
amended, of the council as to the appropriateness of the proposed 4650
assistance, to the controlling board.~~ 4651

~~(D)~~ Any loan made pursuant to this section shall be evidenced 4652
by a loan agreement, which shall contain such terms as the 4653
director determines necessary or appropriate, including 4654
performance measures and reporting requirements. The director may 4655
take actions necessary or appropriate to collect or otherwise deal 4656
with any loan made under this section, including requiring a loan 4657
recipient to repay the amount of the loan plus interest at a rate 4658
of three per cent above the federal short term interest rate or 4659
any other rate determined by the director. 4660

Sec. 166.30. (A) The Ohio air quality development authority, 4661
with the approval of the controlling board and subject to sections 4662
3706.25 to 3706.30 of the Revised Code, may provide grants from 4663
money in the advanced energy research and development fund and may 4664
lend money in the advanced energy research and development taxable 4665
fund to persons for the purposes of paying allowable costs of 4666
eligible advanced energy projects. 4667

(B) In determining the eligible advanced energy projects to 4668
be assisted and the nature, amount, and terms of assistance to be 4669
provided for an eligible advanced energy project, the authority 4670
shall consult with appropriate governmental agencies. 4671

~~(C)(1) The authority shall submit to the development 4672
financing advisory council the terms of the proposed assistance to 4673
be provided for an eligible advanced energy project and such other 4674
relevant information as the council may request.~~ 4675

~~(2) The council, on the basis of such information, shall make 4676~~

~~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. 174.01. As used in this chapter:

(A) "Financial assistance" means grants, loans, loan guarantees, an equity position in a project, or loan subsidies.

(B) "Grant" means funding the ~~department of~~ development services agency or the Ohio housing finance agency provides for which the ~~department or the~~ relevant agency does not require repayment.

(C) "Housing" means housing for owner-occupancy and multifamily rental housing.

(D) "Housing for owner-occupancy" means housing that is intended for occupancy by an owner as a principal residence. "Housing for owner-occupancy" may be any type of structure and may

be owned in any type of ownership. 4707

(E) "Housing trust fund" means the low- and moderate-income 4708
housing trust fund created and administered pursuant to Chapter 4709
174. of the Revised Code. 4710

(F) "Lending institution" means any financial institution 4711
qualified to conduct business in this state, a subsidiary 4712
corporation that is wholly owned by a financial institution 4713
qualified to conduct business in this state, and a mortgage lender 4714
whose regular business is originating, servicing, or brokering 4715
real estate loans and who is qualified to do business in this 4716
state. 4717

(G) "Loan" means any extension of credit or other form of 4718
financing or indebtedness directly or indirectly to a borrower 4719
with the expectation that it will be repaid in accordance with the 4720
terms of the underlying loan agreement or other pertinent 4721
document. "Loan" includes financing extended to lending 4722
institutions and indebtedness purchased from lending institutions. 4723

(H) "Loan guarantee" means any agreement in favor of a 4724
lending institution or other lender in which the credit and 4725
resources of the housing trust fund are pledged to secure the 4726
payment or collection of financing extended to a borrower for the 4727
acquisition, construction, improvement, rehabilitation or 4728
preservation of housing, or to refinance any financing previously 4729
extended for those purposes by any lender. 4730

(I) "Loan subsidy" means any deposit of funds into a lending 4731
institution with the authorization or direction that the income or 4732
revenues the deposit earns, or could have earned at competitive 4733
rates, be applied directly or indirectly to the benefit of housing 4734
assistance or financial assistance. 4735

(J) "Low_ and moderate_income persons" means individuals and 4736
families who qualify as low- and moderate-income persons pursuant 4737

to guidelines the ~~department of~~ development services agency 4738
establishes. 4739

(K) "Multifamily rental housing" means multiple unit housing 4740
intended for rental occupancy. 4741

(L) "Nonprofit organization" means a nonprofit organization 4742
in good standing and qualified to conduct business in this state 4743
including any corporation whose members are members of a 4744
metropolitan housing authority. 4745

(M) "Department of development" means the development 4746
services agency and "director of development" means the director 4747
of development services. 4748

Sec. 184.01. (A) There is hereby created the third frontier 4749
commission in the ~~department of~~ development services agency. The 4750
purpose of the commission is to coordinate and administer science 4751
and technology programs to promote the welfare of the people of 4752
the state and to maximize the economic growth of the state through 4753
expansion of both of the following: 4754

(1) The state's high technology research and development 4755
capabilities; 4756

(2) The state's product and process innovation and 4757
commercialization. 4758

(B)(1) The commission shall consist of ~~nine~~ eleven members: 4759
the director of development services, the chancellor of the Ohio 4760
board of regents, the governor's science and technology advisor, 4761
the chief investment officer of the nonprofit corporation formed 4762
under section 187.01 of the Revised Code, and ~~six~~ seven persons 4763
appointed by the governor with the advice and consent of the 4764
senate. 4765

(2) Of the ~~six~~ seven persons appointed by the governor, one 4766
shall represent the central region, which is composed of the 4767

counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, 4768
Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, 4769
and Union; one shall represent the west central region, which is 4770
composed of the counties of Champaign, Clark, Darke, Greene, 4771
Miami, Montgomery, Preble, and Shelby; one shall represent the 4772
northeast region, which is composed of the counties of Ashland, 4773
Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, 4774
Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, 4775
Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall 4776
represent the northwest region, which is composed of the counties 4777
of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, 4778
Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van 4779
Wert, Williams, Wood, and Wyandot; one shall represent the 4780
southeast region, which shall represent the counties of Adams, 4781
Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, 4782
Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, 4783
Pike, Scioto, Vinton, and Washington; ~~and~~ one shall represent the 4784
southwest region, which is composed of the counties of Butler, 4785
Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one 4786
shall represent the public at large. Of the initial appointments, 4787
two shall be for one year, two shall be for two years, and two 4788
shall be for three years as assigned by the governor. Thereafter, 4789
appointments shall be for three-year terms. Members may be 4790
reappointed and vacancies shall be filled in the same manner as 4791
appointments. A person must have a background in business or 4792
research in order to be eligible for appointment to the 4793
commission. 4794

(3) The governor shall select a chairperson from among the 4795
members, who shall serve in that role at the pleasure of the 4796
governor. Sections 101.82 to 101.87 of the Revised Code do not 4797
apply to the commission. 4798

(C) The commission shall meet at least once during each 4799

quarter of the calendar year or at the call of the chairperson. A 4800
majority of all members of the commission constitutes a quorum, 4801
and no action shall be taken without the concurrence of a majority 4802
of the members. 4803

(D) The commission shall administer any money that may be 4804
appropriated to it by the general assembly. The commission may use 4805
such money for research and commercialization and for any other 4806
purposes that may be designated by the commission. 4807

(E) The ~~department of development~~ services agency shall 4808
provide office space and facilities for the commission. 4809
Administrative costs associated with the operation of the 4810
commission or with any program or activity administered by the 4811
commission shall be paid from amounts appropriated to the 4812
commission or to the ~~department of development~~ agency for such 4813
purposes. 4814

(F) The attorney general shall serve as the legal 4815
representative for the commission and may appoint other counsel as 4816
necessary for that purpose in accordance with section 109.07 of 4817
the Revised Code. 4818

(G) Members of the commission shall serve without 4819
compensation, but shall receive their reasonable and necessary 4820
expenses incurred in the conduct of commission business. 4821

(H) Members of the commission shall file financial disclosure 4822
statements described in division (B) of section 102.02 of the 4823
Revised Code. 4824

Sec. 184.011. As used in this chapter, "department of 4825
development" means the development services agency and "director 4826
of development" means the director of development services. 4827

Sec. 184.02. (A) In addition to the powers and duties under 4828
sections 121.22, 122.15 to 122.154, 122.28, 122.30 to 122.36, 4829

184.10 to 184.20 and 184.37 of the Revised Code, the third 4830
frontier commission may perform any act to ensure the performance 4831
of any function necessary or appropriate to carry out the purposes 4832
of, and exercise the powers granted under, sections 184.01 and 4833
184.02 of the Revised Code. In addition, the commission may do any 4834
of the following: 4835

(1) Adopt, amend, and rescind rules under section 111.15 of 4836
the Revised Code for the administration of any aspect of its 4837
operations; 4838

(2) Adopt bylaws governing its operations, including bylaws 4839
that establish procedures and set policies as may be necessary to 4840
assist with the furtherance of its purposes; 4841

(3) Appoint and set the compensation of employees needed to 4842
carry out its duties; 4843

(4) Contract with, retain the services of, or designate, and 4844
fix the compensation of, such financial consultants, accountants, 4845
other consultants and advisors, and other independent contractors 4846
as may be necessary or desirable to carry out its duties; 4847

(5) Solicit input and comments from the third frontier 4848
advisory board, and specialized industry, professional, and other 4849
relevant interest groups concerning its purposes; 4850

(6) Facilitate alignment of the state's science and 4851
technology programs and activities; 4852

(7) Make grants and loans to individuals, public agencies, 4853
private companies or organizations, or joint ventures for any of 4854
the broad range of activities related to its purposes. 4855

(B) In addition to the powers and duties under sections 4856
184.10 to 184.20 and 184.37 of the Revised Code, the commission 4857
shall do all of the following: 4858

(1) Establish a competitive process for the award of grants 4859

and loans that is designed to fund the most meritorious proposals 4860
and, when appropriate, provide for peer review of proposals; 4861

(2) Within ninety days after the end of each fiscal year, 4862
submit to the governor and the general assembly a report of the 4863
activities of the commission during the preceding fiscal year; 4864

(3) With specific application to the biomedical research and 4865
technology transfer trust fund, periodically make strategic 4866
assessments of the types of state investments in biomedical 4867
research and biotechnology in the state that would likely create 4868
jobs and business opportunities in the state and produce the most 4869
beneficial long-term improvements to the public health of Ohioans, 4870
including, but not limited to, biomedical research and 4871
biotechnology initiatives that address tobacco-related illnesses 4872
as may be outlined in any master agreement. The commission shall 4873
award grants and loans from the fund pursuant to a process 4874
established under division (B)(1) of this section. 4875

Sec. 187.01. As used in this chapter, "JobsOhio" means the 4876
nonprofit corporation formed under this section, and includes any 4877
subsidiary of that corporation. In any section of law that refers 4878
to the nonprofit corporation formed under this section, reference 4879
to the corporation includes reference to any such subsidiary 4880
unless otherwise specified or clearly appearing from the context. 4881

The governor is hereby authorized to form a nonprofit 4882
corporation, to be named "JobsOhio," with the purposes of 4883
promoting economic development, job creation, job retention, job 4884
training, and the recruitment of business to this state. Except as 4885
otherwise provided in this chapter, the corporation shall be 4886
organized and operated in accordance with Chapter 1702. of the 4887
Revised Code. The governor shall sign and file articles of 4888
incorporation for the corporation with the secretary of state. The 4889
legal existence of the corporation shall begin upon the filing of 4890

the articles. 4891

In addition to meeting the requirements for articles of 4892
incorporation in Chapter 1702. of the Revised Code, the articles 4893
of incorporation for the nonprofit corporation shall set forth the 4894
following: 4895

(A) The designation of the name of the corporation as 4896
JobsOhio; 4897

(B) The creation of a board of directors consisting of nine 4898
directors, to be appointed by the governor, who satisfy the 4899
qualifications prescribed by section 187.02 of the Revised Code; 4900

(C) A requirement that the governor make initial appointments 4901
to the board within sixty days after the filing of the articles of 4902
incorporation. Of the initial appointments made to the board, two 4903
shall be for a term ending one year after the date the articles 4904
were filed, two shall be for a term ending two years after the 4905
date the articles were filed, and five shall be for a term ending 4906
four years after the date the articles were filed. The articles 4907
shall state that, following the initial appointments, the governor 4908
shall appoint directors to terms of office of four years, with 4909
each term of office ending on the same day of the same month as 4910
did the term that it succeeds. If any director dies, resigns, or 4911
the director's status changes such that any of the requirements of 4912
division (C) of section 187.02 of the Revised Code are no longer 4913
met, that director's seat on the board shall become immediately 4914
vacant. The governor shall forthwith fill the vacancy by 4915
appointment for the remainder of the term of office of the vacated 4916
seat. 4917

(D) A requirement that the governor appoint one director to 4918
be chairperson of the board and procedures for electing directors 4919
to serve as officers of the corporation and members of an 4920
executive committee; 4921

(E) A provision for the appointment of a chief investment officer of the corporation by the recommendation of the board and approval of the governor. The chief investment officer shall serve at the pleasure of the board and shall have the power to execute contracts, spend corporation funds, and hire employees on behalf of the corporation. If the position of chief investment officer becomes vacant for any reason, the vacancy shall be filled in the same manner as provided in this division.

(F) Provisions requiring the board to do all of the following:

(1) Adopt one or more resolutions providing for compensation of the chief investment officer;

(2) Approve an employee compensation plan recommended by the chief investment officer;

(3) Approve a contract with the director of development services for the corporation to assist the director and the ~~department of development~~ services agency with providing services or otherwise carrying out the functions or duties of the ~~department~~ agency, including the operation and management of programs, offices, divisions, or boards, as may be determined by the director of development services in consultation with the governor;

(4) Approve all major contracts for services recommended by the chief investment officer;

(5) Establish an annual strategic plan and standards of measure to be used in evaluating the corporation's success in executing the plan;

(6) Establish a conflicts of interest policy that, at a minimum, complies with section 187.06 of the Revised Code;

(7) Hold a minimum of four board of directors meetings per

year at which a quorum of the board is physically present, and 4952
such other meetings, at which directors' physical presence is not 4953
required, as may be necessary. Meetings at which a quorum of the 4954
board is required to be physically present are subject to 4955
divisions (C), (D), and (E) of section 187.03 of the Revised Code. 4956

(8) Establish a records retention policy and present the 4957
policy, and any subsequent changes to the policy, at a meeting of 4958
the board of directors at which a quorum of the board is required 4959
to be physically present pursuant to division (F)(7) of this 4960
section; 4961

(9) Adopt standards of conduct for the directors. 4962

(G) A statement that directors shall not receive any 4963
compensation from the corporation, except that directors may be 4964
reimbursed for actual and necessary expenses incurred in 4965
connection with services performed for the corporation; 4966

(H) A provision authorizing the board to amend provisions of 4967
the corporation's articles of incorporation or regulations, except 4968
provisions required by this chapter; 4969

(I) Procedures by which the corporation would be dissolved 4970
and by which all corporation rights and assets would be 4971
distributed to the state or to another corporation organized under 4972
this chapter. These procedures shall incorporate any separate 4973
procedures subsequently set forth in this chapter for the 4974
dissolution of the corporation. The articles shall state that no 4975
dissolution shall take effect until the corporation has made 4976
adequate provision for the payment of any outstanding bonds, 4977
notes, or other obligations. 4978

(J) A provision establishing an audit committee to be 4979
comprised of directors. The articles shall require that the audit 4980
committee hire an independent certified public accountant to 4981
perform a financial audit of the corporation at least once every 4982

year. 4983

(K) A provision authorizing a majority of the disinterested 4984
directors to remove a director for misconduct, as that term may be 4985
defined in the articles or regulations of the corporation. The 4986
removal of a director under this division creates a vacancy on the 4987
board that the governor shall fill by appointment for the 4988
remainder of the term of office of the vacated seat. 4989

Sec. 187.03. (A) JobsOhio may perform such functions as 4990
permitted and shall perform such duties as prescribed by law and 4991
as set forth in any contract entered into under section 187.04 of 4992
the Revised Code, but shall not be considered a state or public 4993
department, agency, office, body, institution, or instrumentality 4994
for purposes of section 1.60 or Chapter 102., 121., 125., or 149. 4995
of the Revised Code. JobsOhio and its board of directors are not 4996
subject to the following sections of Chapter 1702. of the Revised 4997
Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 4998
1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 4999
1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 5000
1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this 5001
division shall be construed to impair the powers and duties of the 5002
Ohio ethics commission described in section 102.06 of the Revised 5003
Code to investigate and enforce section 102.02 of the Revised Code 5004
with regard to individuals required to file statements under 5005
division (B)(2) of this section. 5006

(B)(1) Directors and employees of JobsOhio are not employees 5007
or officials of the state and, except as provided in division 5008
(B)(2) of this section, are not subject to Chapter 102., 124., 5009
145., or 4117. of the Revised Code. 5010

(2) The chief investment officer, any other officer or 5011
employee with significant administrative, supervisory, 5012
contracting, or investment authority, and any director of JobsOhio 5013

shall file, with the Ohio ethics commission, a financial 5014
disclosure statement pursuant to section 102.02 of the Revised 5015
Code that includes, in place of the information required by 5016
divisions (A)(2), (7), (8), and (9) of that section, the 5017
information required by divisions (A) and (B) of section 102.022 5018
of the Revised Code. The governor shall comply with all applicable 5019
requirements of section 102.02 of the Revised Code. 5020

(3) Actual or in-kind expenditures for the travel, meals, or 5021
lodging of the governor or of any public official or employee 5022
designated by the governor for the purpose of this division shall 5023
not be considered a violation of section 102.03 of the Revised 5024
Code if the expenditures are made by the corporation, or on behalf 5025
of the corporation by any person, in connection with the 5026
governor's performance of official duties related to JobsOhio. The 5027
governor may designate any person, including a person who is a 5028
public official or employee as defined in section 102.01 of the 5029
Revised Code, for the purpose of this division if such 5030
expenditures are made on behalf of the person in connection with 5031
the governor's performance of official duties related to JobsOhio. 5032
A public official or employee so designated by the governor shall 5033
comply with all applicable requirements of section 102.02 of the 5034
Revised Code. 5035

At the times and frequency agreed to under division (B)(2)(b) 5036
of section 187.04 of the Revised Code, beginning in 2012, the 5037
corporation shall file with the ~~department of~~ development services 5038
agency a written report of all such expenditures paid or incurred 5039
during the preceding calendar year. The report shall state the 5040
dollar value and purpose of each expenditure, the date of each 5041
expenditure, the name of the person that paid or incurred each 5042
expenditure, and the location, if any, where services or benefits 5043
of an expenditure were received, provided that any such 5044
information that may disclose proprietary information as defined 5045

in division (C) of this section shall not be included in the 5046
report. 5047

(4) The prohibition applicable to former public officials or 5048
employees in division (A)(1) of section 102.03 of the Revised Code 5049
does not apply to any person appointed to be a director or hired 5050
as an employee of JobsOhio. 5051

(5) Notwithstanding division (A)(2) of section 145.01 of the 5052
Revised Code, any person who is a former state employee shall no 5053
longer be considered a public employee for purposes of Chapter 5054
145. of the Revised Code upon commencement of employment with 5055
JobsOhio. 5056

(6) Any director, officer, or employee of JobsOhio may 5057
request an advisory opinion from the Ohio ethics commission with 5058
regard to questions concerning the provisions of sections 102.02 5059
and 102.022 of the Revised Code to which the person is subject. 5060

(C) Meetings of the board of directors at which a quorum of 5061
the board is required to be physically present pursuant to 5062
division (F) of section 187.01 of the Revised Code shall be open 5063
to the public except, by a majority vote of the directors present 5064
at the meeting, such a meeting may be closed to the public only 5065
for one or more of the following purposes: 5066

(1) To consider business strategy of the corporation; 5067

(2) To consider proprietary information belonging to 5068
potential applicants or potential recipients of business 5069
recruitment, retention, or creation incentives. For the purposes 5070
of this division, "proprietary information" means marketing plans, 5071
specific business strategy, production techniques and trade 5072
secrets, financial projections, or personal financial statements 5073
of applicants or members of the applicants' immediate family, 5074
including, but not limited to, tax records or other similar 5075
information not open to the public inspection. 5076

(3) To consider legal matters, including litigation, in which the corporation is or may be involved;	5077 5078
(4) To consider personnel matters related to an individual employee of the corporation.	5079 5080
(D) The board of directors shall establish a reasonable method whereby any person may obtain the time and place of all public meetings described in division (C) of this section. The method shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all such meetings.	5081 5082 5083 5084 5085 5086
(E) The board of directors shall promptly prepare, file, and maintain minutes of all public meetings described in division (C) of this section.	5087 5088 5089
(F) Not later than March 1, 2012, and the first day of March of each year thereafter, the chief investment officer of JobsOhio shall prepare and submit a report of the corporation's activities for the preceding year to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The annual report shall include the following:	5090 5091 5092 5093 5094 5095 5096
(1) An analysis of the state's economy;	5097
(2) A description of the structure, operation, and financial status of the corporation;	5098 5099
(3) A description of the corporation's strategy to improve the state economy and the standards of measure used to evaluate its progress;	5100 5101 5102
(4) An evaluation of the performance of current strategies and major initiatives;	5103 5104
(5) An analysis of any statutory or administrative barriers to successful economic development, business recruitment, and job	5105 5106

growth in the state identified by JobsOhio during the preceding 5107
year. 5108

Sec. 187.04. (A) The As used in this chapter, "public money" 5109
means all moneys in the treasury of the state or moneys lawfully 5110
due and payable to the possession or custody of the treasurer of 5111
state. 5112

The director of development services, as soon as practical 5113
after the effective date of this section February 18, 2011, shall 5114
execute a contract with JobsOhio for the corporation to assist the 5115
director and the ~~department of~~ development services agency with 5116
providing services or otherwise carrying out the functions or 5117
duties of the ~~department~~ agency, including the operation and 5118
management of programs, offices, divisions, or boards, as may be 5119
determined by the director in consultation with the governor. The 5120
approval or disapproval of awards involving public money shall 5121
remain functions of the ~~department~~ agency. All contracts for 5122
grants, loans, and tax incentives involving public money shall be 5123
between the ~~department~~ agency and the recipient and shall be 5124
enforced by the ~~department~~ agency. JobsOhio may not execute 5125
contracts obligating the ~~department~~ agency for loans, grants, tax 5126
credits, or incentive awards recommended by JobsOhio to the 5127
~~department~~ agency. Prior to execution, all contracts between the 5128
director and JobsOhio entered into under this section that 5129
obligate the agency to pay JobsOhio for services rendered are 5130
subject to controlling board approval. 5131

The term of a an initial contract entered into under this 5132
section shall not extend beyond June 30, 2013. Thereafter, the 5133
director and JobsOhio may renew the contract for subsequent fiscal 5134
biennia, but at no time shall a particular contract be effective 5135
for longer than a fiscal biennium of the general assembly, ~~but may~~ 5136
~~be renewed or amended by the parties.~~ 5137

JobsOhio's provision of services to the agency as described 5138
in this section shall be pursuant to a contract entered into under 5139
this section. If at any time the director determines that the 5140
contract with JobsOhio may not be renewed for the subsequent 5141
fiscal biennium, the director shall notify JobsOhio of the 5142
director's decision not later than one hundred twenty days prior 5143
to the end of the current fiscal biennium. If the director does 5144
not provide such written notice to JobsOhio prior to one hundred 5145
days before the end of the current fiscal biennium, the contract 5146
shall be renewed upon such terms as the parties may agree, subject 5147
to the requirements of this section. 5148

(B) A contract entered into under this section shall include 5149
all of the following: 5150

(1) Terms assigning to the corporation the duties of advising 5151
and assisting the director ~~of development~~ in the director's 5152
evaluation of the ~~department~~ agency and the formulation of 5153
recommendations under section 187.05 of the Revised Code; 5154

(2) Terms designating records created or received by JobsOhio 5155
that shall be made available to the public under the same 5156
conditions as are public records under section 149.43 of the 5157
Revised Code. Documents designated to be made available to the 5158
public pursuant to the contract shall be kept on file with the 5159
~~department of development~~ agency. 5160

Among records to be designated under this division shall be 5161
the following: 5162

(a) The corporation's federal income tax returns; 5163

(b) The report of expenditures described in division (B)(3) 5164
of section 187.03 of the Revised Code. The records shall be filed 5165
with the ~~department~~ agency at such times and frequency as agreed 5166
to by the corporation and the ~~department~~ agency, which shall not 5167
be less frequently than quarterly. 5168

(c) The annual total compensation paid to each officer and employee of the corporation;	5169 5170
(d) A copy of the audit report for each financial audit of the corporation performed by an independent certified public accountant pursuant to division (J) of section 187.01 of the Revised Code.	5171 5172 5173 5174
(e) Records of any fully executed incentive proposals, to be filed annually;	5175 5176
(f) Records pertaining to the monitoring of commitments made by incentive recipients, to be filed annually;	5177 5178
(g) A copy of the minutes of all public meetings described in division (C) of section 187.03 of the Revised Code not otherwise closed to the public.	5179 5180 5181
(3) The following statement acknowledging that JobsOhio is not acting as an agent of the state:	5182 5183
"JobsOhio shall have no power or authority to bind the state or to assume or create an obligation or responsibility, expressed or implied, on behalf of the state or in its name, nor shall JobsOhio represent to any person that it has any such power or authority, except as expressly provided in this contract."	5184 5185 5186 5187 5188
(C) Records created or received by JobsOhio are not public records for the purposes of section 149.43 of the Revised Code, regardless of who may have custody of the records, unless the record is designated to be available to the public by the contract under division (B)(2) of this section.	5189 5190 5191 5192 5193
(D) Any contract executed under authority of this section shall not negate, impair, or otherwise adversely affect the obligation of this state to pay debt charges on securities executed by the director of development or issued by the treasurer of state, Ohio public facilities commission, or any other issuing	5194 5195 5196 5197 5198

authority under Chapter 122., 151., 165., or 166. of the Revised Code to fund economic development programs of the state, or to abide by any pledge or covenant relating to the payment of those debt charges made in any related proceedings. As used in this division, "debt charges," "proceedings," and "securities" have the same meanings as in section 133.01 of the Revised Code.

(E) Nothing in this section, other than the requirement of controlling board approval, shall prohibit the ~~department~~ agency from contracting with JobsOhio to perform any of the following functions:

(1) Promoting and advocating for the state;

(2) Making recommendations to the ~~department~~ agency;

(3) Performing research for the ~~department~~ agency;

(4) Establishing and managing programs or offices on behalf of the ~~department~~ agency, by contract;

(5) Negotiating on behalf of the state.

(F) Nothing in this section, other than the requirement of controlling board approval, shall prohibit the ~~department~~ agency from compensating JobsOhio from funds currently appropriated to the ~~department~~ agency to perform the functions described in division (E) of this section.

Sec. 187.05. The director of development services, as soon as practical after ~~the effective date of this section~~ February 18, 2011, shall, in consultation with the governor, evaluate all powers, functions, and duties of the ~~department~~ development services agency. Within six months after ~~that effective date~~ February 18, 2011, the director shall submit a report to the general assembly recommending statutory changes necessary to improve the functioning and efficiency of the ~~department~~ agency and to transfer specified powers, functions, and duties of the

~~department~~ agency to other existing agencies of the state or to 5229
JobsOhio, or eliminate specified powers, functions, or duties. The 5230
recommendations shall be submitted in writing to the speaker and 5231
minority leader of the house of representatives and the president 5232
and minority leader of the senate. 5233

After submitting the report, the director, in consultation 5234
with the governor, shall continue to evaluate the ~~department~~ 5235
agency and make additional recommendations on such matters to the 5236
general assembly. 5237

Sec. 929.03. (A)(1) No public entity with authority to levy 5238
special assessments on real property shall collect an assessment 5239
for purposes of sewer, water, or electrical service on real 5240
property that is within an agricultural district as described in 5241
division (A)(2) of this section without the permission of the 5242
owner, except that any assessment may be collected on a lot 5243
surrounding a dwelling or other structure not used in agricultural 5244
production that does not exceed one acre or the minimum area 5245
required by local zoning or subdivision rules, whichever is the 5246
greater area. 5247

(2) For purposes of division (A)(1) of this section, an 5248
agricultural district is such a district that is established: 5249

(a) In the case of counties, prior to the adoption of a 5250
resolution of necessity by a board of county commissioners, 5251
pursuant to section 6103.05 or 6117.06 of the Revised Code; 5252

(b) In the case of municipal corporations, prior to whichever 5253
of the following occurs first: 5254

(i) The adoption of the resolution of necessity by the 5255
municipal legislative authority, pursuant to section 727.12 or 5256
729.02 of the Revised Code; 5257

(ii) The service of notice on all or some of the owners to be 5258

assessed pursuant to section 729.06 of the Revised Code; 5259

(iii) The adoption of the resolution or ordinance by the 5260
municipal legislative authority declaring the necessity for the 5261
improvement, the costs of which are to be assessed under 5262
procedures authorized by a municipal charter adopted pursuant to 5263
Section 7 of Article XVIII, Ohio Constitution, or, if no such 5264
ordinance or resolution is required under the charter, the service 5265
of the first notice on all or some of the owners of lands to be 5266
assessed, or the adoption of the first ordinance or resolution by 5267
the municipal legislative authority pertaining to the assessment 5268
proceedings under the charter. 5269

(c) In the case of a regional water and sewer district 5270
established pursuant to Chapter 6119. of the Revised Code, prior 5271
to the adoption of a resolution of necessity by the board of 5272
trustees of the district under section 6119.25 of the Revised 5273
Code. 5274

(B) For each special assessment levied by a public entity on 5275
real property within an agricultural district for purposes of 5276
sewer, water, or electrical service, the county auditor shall make 5277
and maintain a list showing: 5278

(1) The name of the owner of each lot, tract, or parcel of 5279
land that is exempt from the collection of the special assessment 5280
under this section; 5281

(2) A description of the exempt land; 5282

(3) The purpose of the special assessment; 5283

(4) The amount of the uncollected assessment on the exempt 5284
land. 5285

In the case of a county project constructed under Chapter 5286
6103. or 6117. of the Revised Code, the county auditor may use a 5287
list provided for in those chapters in lieu of the list required 5288

by division (B) of this section. The auditor shall also record in 5289
the water works record required by section 6103.16 of the Revised 5290
Code or the sewer improvement record required by section 6117.33 5291
of the Revised Code those assessments not collected under this 5292
section. The recording of the assessments does not permit the 5293
collection of the assessments until such time as exempt lands are 5294
withdrawn from agricultural districts or converted to 5295
nonagricultural use. 5296

(C) If at any time any of the owner's exempt land, other than 5297
a lot sold or transferred to a son, daughter, brother, sister, 5298
mother, or father for the purpose of constructing a dwelling in 5299
which the relative will reside for at least three years, is 5300
withdrawn from an agricultural district or if the owner of the 5301
exempt land uses on that land the service for which the special 5302
assessment was assessed, the public entity may collect the entire 5303
uncollected assessment, except as otherwise provided in this 5304
division, in addition to an amount equal to the rate of interest 5305
that any bonds or notes issued for the project for which the 5306
assessment was made did bear for the number of years the land was 5307
exempted, not to exceed twenty-five or the number of years for 5308
which the bonds or notes were issued, whichever is the lesser 5309
number. The owner shall notify the county auditor of any 5310
withdrawal from a district or use of the service within ninety 5311
days following the withdrawal or use of the service. The charge 5312
shall constitute a lien of the public entity upon the land and 5313
shall continue until discharged. All liens shall be recorded in 5314
the appropriate county recorder's office. Moneys collected as a 5315
result of the charge shall be deposited in the appropriate fund of 5316
the public entity that levied the special assessment. 5317

If the owner of exempt land sells or transfers a lot to ~~his~~ 5318
the owner's son, daughter, brother, sister, mother, or father for 5319
the purpose of constructing a dwelling in which the relative will 5320

reside for at least three years, and if the owner or the buyer of 5321
the lot uses the service for which the special assessment was 5322
assessed only to provide service to that lot, the owner of the lot 5323
shall pay only that portion of the uncollected assessment and 5324
interest that applies to the lot. 5325

If at any time any part of an owner's exempt land is 5326
appropriated, the owner shall pay only that portion of the 5327
uncollected assessment and interest that applies to the 5328
appropriated parcel of land. 5329

In lieu of immediate payment of the uncollected assessment 5330
and interest, the board of county commissioners, legislative 5331
authority of a municipal corporation, or other governing board of 5332
any other public entity may, upon the request of the owner, 5333
establish an extended repayment schedule for the owner. If the 5334
board, legislative authority, or other governing board establishes 5335
such a schedule, it shall notify the county auditor of the 5336
schedule. 5337

~~(D) A board of county commissioners, legislative authority of 5338
a municipal corporation, or other governing board of any other 5339
public entity may apply to the water and sewer commission, created 5340
by division (C) of section 1525.11 of the Revised Code, for an 5341
advance of moneys from the water and sewer fund, created by 5342
division (A) of section 1525.11 of the Revised Code, in an amount 5343
equal to that portion of the costs of a water or sewer improvement 5344
authorized by law that is to be financed by assessments whose 5345
collection is prohibited under division (A) of this section. The 5346
application for such an advance of moneys shall be made in the 5347
manner prescribed by rules of the commission. Upon collection of 5348
any assessment whose collection was prohibited under division (A) 5349
of this section, the board of county commissioners, legislative 5350
authority, or other governing board shall repay the commission the 5351
amount of any moneys advanced by it in regard to the assessments. 5352~~

Sec. 1551.01. As used in this chapter: 5353

(A) "Governmental agency" means the United States government 5354
or any department, agency, or instrumentality thereof; any 5355
department, agency, or instrumentality of a state government; any 5356
municipal corporation, county, township, board of education, or 5357
other political subdivision or any other body corporate and 5358
politic of a state; or any agency, commission, or authority 5359
established under an interstate compact or agreement. 5360

(B) "Energy resource development facility" means any energy 5361
resource development, research, or conservation facility, 5362
including pilot as well as demonstration facilities, and including 5363
undivided or other interests therein, acquired or to be acquired, 5364
or constructed or to be constructed under this chapter or Chapter 5365
6121. or 6123. of the Revised Code, or acquired or to be acquired, 5366
or constructed or to be constructed by a governmental agency or 5367
person with all or a part of the cost thereof being paid from a 5368
loan or grant under such chapters, including all buildings and 5369
facilities that the director of development services determines 5370
necessary for the operation of the facility, together with all 5371
property, rights, easements, and interests that may be required 5372
for the operation of the facility, which facilities may include: 5373

(1) Any building, testing facility, testing device, or 5374
support facilities which would provide experimental, 5375
demonstration, or testing capabilities or services not otherwise 5376
available in this state and which are necessary for the 5377
accomplishment of the purposes of this chapter; 5378

(2) Any method, process, structure, or equipment that is used 5379
to store coal, oil, natural gas, fuel for nuclear reactors, or any 5380
other form of energy; 5381

(3) Any method, process, structure, or equipment that is used 5382
to recover or convert coal, oil, natural gas, steam, or other form 5383

of energy from property located within the state for the purpose 5384
of supplying energy for utilization; 5385

(4) Any method, process, structure, or equipment that is 5386
designed to result in more efficient recovery, conversion, or 5387
utilization of energy resources within the state, including any 5388
scrap tire recovery facility for which a registration certificate 5389
or permit has been issued under section 3734.78 of the Revised 5390
Code; 5391

(5) Any improvement that is designed to improve the thermal 5392
efficiency of a building or structure or reduce the fuel or power 5393
needed to heat, cool, light, ventilate, or provide hot water in a 5394
building or structure; 5395

(6) Any improvement designed to enable the substitution of 5396
coal or alternate fuel, other than natural gas, for natural gas or 5397
a petroleum fuel, or the conversion of coal to other fuels; 5398

(7) Any improvement designed to enable the combustion of high 5399
sulfur coal in compliance with air or water pollution control or 5400
solid waste disposal laws, including, but not limited to, any 5401
facility for processing coal to remove sulfur before combustion of 5402
the coal, for fluidized bed combustion, or for removal of the 5403
sulfur before the products of combustion are emitted or 5404
discharged. 5405

(C) "Cost" as applied to an energy resource development 5406
facility means the cost of acquisition and construction, the cost 5407
of acquisition of all land, rights-of-way, property rights, 5408
easements, franchise rights, and interests required for such 5409
acquisition and construction, the cost of demolishing or removing 5410
any buildings or structures on land so acquired, including the 5411
cost of acquiring any lands to which such buildings or structures 5412
may be moved, the cost of acquiring or constructing and equipping 5413
a principal office and sub-offices of the department of 5414

development, the cost of diverting highways, interchange of 5415
highways, access roads to private property, including the cost of 5416
land or easements for such access roads, the cost of public 5417
utility and common carrier relocation or duplication, the cost of 5418
all machinery, furnishings, and equipment, financing charges, 5419
interest prior to and during construction and for no more than 5420
eighteen months after completion of construction, engineering, 5421
expenses of research and development with respect to the facility, 5422
legal expenses, plans, specifications, surveys, studies, estimates 5423
of cost and revenues, working capital, other expenses necessary or 5424
incident to determining the feasibility or practicability of 5425
acquiring or constructing such facility, administrative expense, 5426
and such other expense as may be necessary or incident to the 5427
acquisition or construction of the facility, the financing of such 5428
acquisition or construction, including the amount authorized in 5429
the resolution of the Ohio water development authority providing 5430
for the issuance of energy resource development revenue bonds to 5431
be paid into any special funds from the proceeds of such bonds, 5432
and the financing of the placing of such facility in operation. 5433
Any obligation, cost, or expense incurred after August 26, 1975, 5434
by any governmental agency or person for surveys, borings, 5435
preparation of plans and specifications, and other engineering 5436
services, or any other cost described above, in connection with 5437
the acquisition or construction of a facility may be regarded as a 5438
part of the cost of such facility and may be reimbursed out of the 5439
proceeds of energy resource development revenue bonds. 5440

(D) "Revenues" means all rentals and other charges received 5441
by the Ohio water development authority for the use or services of 5442
any energy resource development facility, any contract, gift, or 5443
grant received with respect to any energy resource development 5444
facility, and moneys received with respect to the lease, sublease, 5445
sale, including installment sale or conditional sale, or other 5446
disposition of an energy resource development facility, moneys 5447

received in repayment of and for interest on any loans made by the 5448
authority to a person or governmental agency, whether from the 5449
United States or any department, administration, or agency 5450
thereof, or otherwise, proceeds of energy resource development 5451
revenue bonds to the extent that the use thereof for payment of 5452
principal of, premium, if any, or interest on the bonds is 5453
authorized by the authority, proceeds from any insurance, 5454
condemnation, or guaranty pertaining to a facility or property 5455
mortgaged to secure bonds or pertaining to the financing of a 5456
facility, and income and profit from the investment of the 5457
proceeds of energy resource development revenue bonds or of any 5458
revenues. 5459

(E) "Construction," unless the context indicates a different 5460
meaning or intent, includes construction, reconstruction, 5461
enlargement, improvement, or providing furnishings or equipment. 5462

(F) "Energy resource development revenue bonds," unless the 5463
context indicates a different meaning or intent, includes energy 5464
resource development revenue bonds, energy resource development 5465
revenue notes, and energy resource development revenue refunding 5466
bonds. 5467

(G) "Energy" means work or heat that is, or can be, produced 5468
from any fuel or source whatsoever. 5469

(H) "Energy audit" means any process by which energy usage or 5470
costs of heating, cooling, lighting, and climate control in a 5471
building or structure are determined. 5472

(I) "Energy conservation" means preservation of energy 5473
resources by efficient utilization, and reduction of waste. 5474

(J) "Energy conservation measure" means any modification of a 5475
building, structure, machine, appliance, vehicle, improvement, or 5476
process in order to improve its efficiency of energy use or energy 5477
costs. 5478

(K) "Fuel" means petroleum, crude oil, petroleum product, 5479
coal, natural gas, synthetic natural or artificial gas, nuclear, 5480
or other substance used primarily for its energy content. 5481

(L) "Net energy analysis" means the determination of the 5482
amount of energy remaining after all energy outputs have been 5483
subtracted from the energy inputs of a given system. 5484

(M) "Department of development" means the development 5485
services agency and "director of development" means the director 5486
of development services. 5487

Sec. 3735.01. As used in this chapter, "department of 5488
development" means the development services agency and "director 5489
of development" means the director of development services. 5490

Sec. 3735.672. (A) On or before the thirty-first day of March 5491
each year, a legislative authority that has entered into an 5492
agreement with a party under section 3735.671 of the Revised Code 5493
shall submit to the director of development services and the board 5494
of education of each school district of which a municipal 5495
corporation or township to which such an agreement applies is a 5496
part a report on all such agreements in effect during the 5497
preceding calendar year. The report shall include the following 5498
information: 5499

(1) The designation, assigned by the director of development 5500
services, of each community reinvestment area within the municipal 5501
corporation or county, and the total population of each area 5502
according to the most recent data available; 5503

(2) The number of agreements and the number of full-time 5504
employees subject to those agreements within each area, each 5505
according to the most recent data available and identified and 5506
categorized by the appropriate standard industrial code, and the 5507
rate of unemployment in the municipal corporation or county in 5508

which the area is located for each year since the area was 5509
certified; 5510

(3) The number of agreements approved and executed during the 5511
calendar year for which the report is submitted, the total number 5512
of agreements in effect on the thirty-first day of December of the 5513
preceding calendar year, the number of agreements that expired 5514
during the calendar year for which the report is submitted, and 5515
the number of agreements scheduled to expire during the calendar 5516
year in which the report is submitted. For each agreement that 5517
expired during the calendar year for which the report is 5518
submitted, the legislative authority shall include the amount of 5519
taxes exempted under the agreement. 5520

(4) The number of agreements receiving compliance reviews by 5521
the tax incentive review council in the municipal corporation or 5522
county during the calendar year for which the report is submitted, 5523
including all of the following information: 5524

(a) The number of agreements the terms of which the party has 5525
complied with, indicating separately for each such agreement the 5526
value of the real property exempted pursuant to the agreement and 5527
a comparison of the stipulated and actual schedules for hiring new 5528
employees, for retaining existing employees, and for the amount of 5529
payroll of the party attributable to these employees; 5530

(b) The number of agreements the terms of which a party has 5531
failed to comply with, indicating separately for each such 5532
agreement the value of the real and personal property exempted 5533
pursuant to the agreement and a comparison of the stipulated and 5534
actual schedules for hiring new employees, for retaining existing 5535
employees, and for the amount of payroll of the enterprise 5536
attributable to these employees; 5537

(c) The number of agreements about which the tax incentive 5538
review council made recommendations to the legislative authority, 5539

and the number of such recommendations that have not been 5540
followed; 5541

(d) The number of agreements rescinded during the calendar 5542
year for which the report is submitted. 5543

(5) The number of parties subject to agreements that expanded 5544
within each area, including the number of new employees hired and 5545
existing employees retained by that party, and the number of new 5546
parties subject to agreements that established within each area, 5547
including the number of new employees hired by each party; 5548

(6) For each agreement in effect during any part of the 5549
preceding year, the number of employees employed by the party at 5550
the property that is the subject of the agreement immediately 5551
prior to formal approval of the agreement, the number of employees 5552
employed by the party at that property on the thirty-first day of 5553
December of the preceding year, the payroll of the party for the 5554
preceding year, the amount of taxes paid on real property that was 5555
exempted under the agreement, and the amount of such taxes that 5556
were not paid because of the exemption. 5557

(B) Upon the failure of a municipal corporation or county to 5558
comply with division (A) of this section: 5559

(1) Beginning on the first day of April of the calendar year 5560
in which the municipal corporation or county fails to comply with 5561
that division, the municipal corporation or county shall not enter 5562
into any agreements under section 3735.671 of the Revised Code 5563
until the municipal corporation or county has complied with 5564
division (A) of this section. 5565

(2) On the first day of each ensuing calendar month until the 5566
municipal corporation or county complies with that division, the 5567
director of development services shall either order the proper 5568
county auditor to deduct from the next succeeding payment of taxes 5569
to the municipal corporation or county under section 321.31, 5570

321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5571
five hundred dollars for each calendar month the municipal 5572
corporation or county fails to comply with that division, or order 5573
the county auditor to deduct such an amount from the next 5574
succeeding payment to the municipal corporation or county from the 5575
undivided local government fund under section 5747.51 of the 5576
Revised Code. At the time such a payment is made, the county 5577
auditor shall comply with the director's order by issuing a 5578
warrant, drawn on the fund from which such money would have been 5579
paid, to the director of development services, who shall deposit 5580
the warrant into the state community reinvestment area program 5581
administration fund created in division (C) of this section. 5582

(C) The director, by rule, shall establish the state's 5583
application fee for applications submitted to a municipal 5584
corporation or county to enter into an agreement under section 5585
3735.671 of the Revised Code. In establishing the amount of the 5586
fee, the director shall consider the state's cost of administering 5587
the community reinvestment area program, including the cost of 5588
reviewing the reports required under division (A) of this section. 5589
The director may change the amount of the fee at such times and in 5590
such increments as the director considers necessary. Any municipal 5591
corporation or county that receives an application shall collect 5592
the application fee and remit the fee for deposit in the state 5593
treasury to the credit of the ~~tax incentive programs operating~~ 5594
business assistance fund created in section 122.174 of the Revised 5595
Code. 5596

Sec. 3746.35. (A) Not later than September 1, 1996, and not 5597
later than the first day of September of each subsequent year, the 5598
director of environmental protection shall prepare and submit to 5599
the chairpersons of the respective standing committees of the 5600
senate and house of representatives primarily responsible for 5601
considering environmental and taxation matters a report regarding 5602

the voluntary action program established under this chapter and 5603
rules adopted under it and the tax abatements granted pursuant to 5604
sections 5709.87 and 5709.88 of the Revised Code for properties 5605
where voluntary actions were conducted. Each annual report shall 5606
include, without limitation, all of the following: 5607

(1) Both of the following for each property for which a 5608
covenant not to sue was issued under section 3746.12 of the 5609
Revised Code during the preceding calendar year: 5610

(a) The address of the property and name of the person who 5611
undertook the voluntary action at the property; 5612

(b) Whether the applicable standards governing the voluntary 5613
action were the interim standards established in section 3746.07 5614
of the Revised Code or the generic numerical clean-up standards 5615
established in rules adopted under division (B)(1) of section 5616
3746.04 of the Revised Code, were established through the 5617
performance of a risk assessment pursuant to rules adopted under 5618
division (B)(2) of section 3746.04 of the Revised Code, or were 5619
set forth in a variance issued under section 3746.09 of the 5620
Revised Code. 5621

(2) All of the following for each property for which a 5622
variance was issued under section 3746.09 of the Revised Code 5623
during the preceding calendar year: 5624

(a) The address of the property and the name of the person to 5625
whom the variance was issued; 5626

(b) A summary of the alternative standards and terms and 5627
conditions of the variance and brief description of the 5628
improvement in environmental conditions at the property that is 5629
anticipated to result from compliance with the alternative 5630
standards and terms and conditions set forth in the variance; 5631

(c) A brief description of the economic benefits to the 5632
person to whom the variance was issued and the community in which 5633

the property is located that are anticipated to result from the 5634
undertaking of the voluntary action in compliance with the 5635
alternative standards and terms and conditions set forth in the 5636
variance. 5637

(3) The number of audits performed under section 3746.17 of 5638
the Revised Code during the preceding calendar year and, in 5639
connection with each of them, at least the following information: 5640

(a) The address of the property in connection with which the 5641
audit was performed and the name of the person who undertook the 5642
voluntary action at the property; 5643

(b) An indication as to whether the audit was a random audit 5644
or was conducted in accordance with the priorities established in 5645
rules adopted under divisions (A)(9)(a) to (f) of section 3746.04 5646
of the Revised Code and, if the audit was conducted in accordance 5647
with those priorities, an indication as to which of them resulted 5648
in the selection of the voluntary action for an audit; 5649

(c) A brief summary of the findings of the audit and any 5650
action taken by the environmental protection agency as a result of 5651
those findings. 5652

(4) The number of covenants not to sue revoked during the 5653
preceding calendar year through the operation of divisions 5654
(A)(2)(c) and (B) of section 3746.12, division (B)(2) of section 5655
3746.18, and division (B) of section 3746.19 of the Revised Code 5656
and for each property for which a covenant was revoked, at least 5657
both of the following: 5658

(a) The address of the property affected by the revocation 5659
and name of the person who undertook the voluntary action at the 5660
property; 5661

(b) The reason for the revocation. 5662

(5) The amount of money credited to the voluntary action 5663

administration fund created in section 3746.16 of the Revised Code 5664
during the preceding fiscal year from the fees established in 5665
divisions (D) and (H) of section 3746.07 and division (C) of 5666
section 3746.13 of the Revised Code and from civil penalties 5667
imposed under section 3746.22 of the Revised Code. The report 5668
shall indicate the amount of money that arose from each of the 5669
fees and from the civil penalties. The report also shall include 5670
the amount of money expended from the fund during the preceding 5671
fiscal year by program category, including, without limitation, 5672
the amount expended for conducting audits under section 3746.17 of 5673
the Revised Code during the preceding fiscal year. 5674

(6) For each property that is receiving a tax abatement under 5675
section 5709.87 of the Revised Code for the preceding tax year, 5676
the amount of the valuation exempted from real property taxation 5677
for that tax year under that section. In order to comply with 5678
division (A)(6) of this section, the director shall include in the 5679
annual report the report required ~~to be provided to the director~~ 5680
~~by the director of development~~ under division (B)(2) of this 5681
section. ~~The sole responsibility of the director of environmental~~ 5682
~~protection regarding the report provided to the director under~~ 5683
~~that division is to include it in the annual report prepared under~~ 5684
~~division (A) of this section.~~ 5685

(7) For each property that is receiving a tax abatement 5686
pursuant to an agreement with a municipal corporation or county 5687
entered into under section 5709.88 of the Revised Code, the amount 5688
of the valuation exempted from real or personal property taxation. 5689
In order to comply with division (A)(7) of this section, the 5690
director shall include in the annual report the report required ~~to~~ 5691
~~be provided to the director by the director of development~~ under 5692
division (C) of this section. ~~The sole responsibility of the~~ 5693
~~director of environmental protection regarding the report provided~~ 5694
~~to the director under that division is to include it in the annual~~ 5695

~~report prepared under division (A) of this section.~~ 5696

(B)(1) Not later than March 31, 1996, the county auditor of 5697
each county in which is located any property that is receiving a 5698
tax abatement under section 5709.87 of the Revised Code shall 5699
report to the director of ~~development~~ environmental protection for 5700
each such property both of the following as applicable to tax year 5701
1995: 5702

(a) The address of the property and the name of the owner as 5703
stated in the records of the county auditor of the county in which 5704
the property is located; 5705

(b) The amount of the valuation of the property that was 5706
exempted from real property taxation under that section. 5707

Not later than the thirty-first day of March of each 5708
subsequent year, each such county auditor shall report the 5709
information described in those divisions to the director of 5710
~~development~~ environmental protection for each property within the 5711
county that is receiving a tax abatement under that section for 5712
the preceding tax year. 5713

(2) Not later than July 1, 1996, and not later than the first 5714
day of July of each subsequent year, the director of ~~development~~ 5715
environmental protection shall compile the information provided to 5716
the director under division (B)(1) of this section applicable to 5717
the preceding tax year into a report covering all of the counties 5718
in the state in which are located properties receiving a tax 5719
abatement under section 5709.87 of the Revised Code for the 5720
preceding tax year ~~and shall forward the report to the director of~~ 5721
~~environmental protection. The sole responsibility of the director~~ 5722
~~of development in preparing the report is to compile the~~ 5723
~~information submitted to the director by the county auditors under~~ 5724
~~division (B)(1) of this section.~~ 5725

(C) Not later than July 1, 1996, and not later than the first 5726

day of July of each subsequent year, the director of ~~development~~ 5727
environmental protection shall compile the information provided to 5728
the director by municipal corporations and counties under division 5729
(A) of section 5709.882 of the Revised Code applicable to the 5730
preceding calendar year into a report covering, by county, all of 5731
the municipal corporations and counties in this state in which are 5732
located properties receiving a tax abatement pursuant to an 5733
agreement entered into under section 5709.88 of the Revised Code 5734
~~and shall forward the report to the director of environmental~~ 5735
~~protection. The sole responsibility of the director of development~~ 5736
~~in preparing the report is to compile the information submitted to~~ 5737
~~him by municipal corporations and counties under division (A) of~~ 5738
~~section 5709.882 of the Revised Code.~~ 5739

Sec. 5117.22. All petroleum violation escrow funds received 5740
by this state from the federal government shall be deposited in 5741
the state treasury to the credit of the energy oil overcharge 5742
fund, which is hereby created. The fund shall be used by the 5743
~~department of development~~ services agency for energy conservation 5744
and assistance programs approved by the United States department 5745
of energy. All investment earnings of the fund shall be credited 5746
to the fund. 5747

Sec. 5701.15. As used in Title LVII of the Revised Code, 5748
"department of development" means the development services agency 5749
and "director of development" means the director of development 5750
services. 5751

Sec. 5709.68. (A) On or before the thirty-first day of March 5752
each year, a municipal corporation or county that has entered into 5753
an agreement with an enterprise under section 5709.62, 5709.63, or 5754
5709.632 of the Revised Code shall submit to the director of 5755
development services and the board of education of each school 5756

district of which a municipal corporation or township to which 5757
such an agreement applies is a part a report on all of those 5758
agreements in effect during the preceding calendar year. The 5759
report shall include all of the following information: 5760

(1) The designation, assigned by the director of development 5761
services, of each urban jobs and enterprise zone within the 5762
municipal corporation or county, the date each zone was certified, 5763
the name of each municipal corporation or township within each 5764
zone, and the total population of each zone according to the most 5765
recent data available; 5766

(2) The number of enterprises that are subject to those 5767
agreements and the number of full-time employees subject to those 5768
agreements within each zone, each according to the most recent 5769
data available and identified and categorized by the appropriate 5770
standard industrial code, and the rate of unemployment in the 5771
municipal corporation or county in which the zone is located for 5772
each year since each zone was certified; 5773

(3) The number of agreements approved and executed during the 5774
calendar year for which the report is submitted, the total number 5775
of agreements in effect on the thirty-first day of December of the 5776
preceding calendar year, the number of agreements that expired 5777
during the calendar year for which the report is submitted, and 5778
the number of agreements scheduled to expire during the calendar 5779
year in which the report is submitted. For each agreement that 5780
expired during the calendar year for which the report is 5781
submitted, the municipal corporation or county shall include the 5782
amount of taxes exempted and the estimated dollar value of any 5783
other incentives provided under the agreement. 5784

(4) The number of agreements receiving compliance reviews by 5785
the tax incentive review council in the municipal corporation or 5786
county during the calendar year for which the report is submitted, 5787
including all of the following information: 5788

(a) The number of agreements the terms of which an enterprise 5789
has complied with, indicating separately for each agreement the 5790
value of the real and personal property exempted pursuant to the 5791
agreement and a comparison of the stipulated and actual schedules 5792
for hiring new employees, for retaining existing employees, for 5793
the amount of payroll of the enterprise attributable to these 5794
employees, and for investing in establishing, expanding, 5795
renovating, or occupying a facility; 5796

(b) The number of agreements the terms of which an enterprise 5797
has failed to comply with, indicating separately for each 5798
agreement the value of the real and personal property exempted 5799
pursuant to the agreement and a comparison of the stipulated and 5800
actual schedules for hiring new employees, for retaining existing 5801
employees, for the amount of payroll of the enterprise 5802
attributable to these employees, and for investing in 5803
establishing, expanding, renovating, or occupying a facility; 5804

(c) The number of agreements about which the tax incentive 5805
review council made recommendations to the legislative authority 5806
of the municipal corporation or county, and the number of those 5807
recommendations that have not been followed; 5808

(d) The number of agreements rescinded during the calendar 5809
year for which the report is submitted. 5810

(5) The number of enterprises that are subject to agreements 5811
that expanded within each zone, including the number of new 5812
employees hired and existing employees retained by each 5813
enterprise, and the number of new enterprises that are subject to 5814
agreements and that established within each zone, including the 5815
number of new employees hired by each enterprise; 5816

(6)(a) The number of enterprises that are subject to 5817
agreements and that closed or reduced employment at any place of 5818
business within the state for the primary purpose of establishing, 5819

expanding, renovating, or occupying a facility, indicating 5820
separately for each enterprise the political subdivision in which 5821
the enterprise closed or reduced employment at a place of business 5822
and the number of full-time employees transferred and retained by 5823
each such place of business; 5824

(b) The number of enterprises that are subject to agreements 5825
and that closed or reduced employment at any place of business 5826
outside the state for the primary purpose of establishing, 5827
expanding, renovating, or occupying a facility. 5828

(7) For each agreement in effect during any part of the 5829
preceding year, the number of employees employed by the enterprise 5830
at the project site immediately prior to formal approval of the 5831
agreement, the number of employees employed by the enterprise at 5832
the project site on the thirty-first day of December of the 5833
preceding year, the payroll of the enterprise for the preceding 5834
year, the amount of taxes paid on tangible personal property 5835
situated at the project site and the amount of those taxes that 5836
were not paid because of the exemption granted under the 5837
agreement, and the amount of taxes paid on real property 5838
constituting the project site and the amount of those taxes that 5839
were not paid because of the exemption granted under the 5840
agreement. If an agreement was entered into under section 5709.632 5841
of the Revised Code with an enterprise described in division 5842
(B)(2) of that section, the report shall include the number of 5843
employee positions at all of the enterprise's locations in this 5844
state. If an agreement is conditioned on a waiver issued under 5845
division (B) of section 5709.633 of the Revised Code on the basis 5846
of the circumstance described in division (B)(3)(a) or (b) of that 5847
section, the report shall include the number of employees at the 5848
facilities referred to in division (B)(3)(a)(i) or (b)(i) of that 5849
section, respectively. 5850

(B) Upon the failure of a municipal corporation or county to 5851

comply with division (A) of this section: 5852

(1) Beginning on the first day of April of the calendar year 5853
in which the municipal corporation or county fails to comply with 5854
that division, the municipal corporation or county shall not enter 5855
into any agreements with an enterprise under section 5709.62, 5856
5709.63, or 5709.632 of the Revised Code until the municipal 5857
corporation or county has complied with division (A) of this 5858
section. 5859

(2) On the first day of each ensuing calendar month until the 5860
municipal corporation or county complies with division (A) of this 5861
section, the director of development services shall either order 5862
the proper county auditor to deduct from the next succeeding 5863
payment of taxes to the municipal corporation or county under 5864
section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an 5865
amount equal to one thousand dollars for each calendar month the 5866
municipal corporation or county fails to comply with that 5867
division, or order the county auditor to deduct that amount from 5868
the next succeeding payment to the municipal corporation or county 5869
from the undivided local government fund under section 5747.51 of 5870
the Revised Code. At the time such a payment is made, the county 5871
auditor shall comply with the director's order by issuing a 5872
warrant, drawn on the fund from which the money would have been 5873
paid, to the director of development services, who shall deposit 5874
the warrant into the state enterprise zone program administration 5875
fund created in division (C) of this section. 5876

(C) The director, by rule, shall establish the state's 5877
application fee for applications submitted to a municipal 5878
corporation or county to enter into an agreement under section 5879
5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing 5880
the amount of the fee, the director shall consider the state's 5881
cost of administering the enterprise zone program, including the 5882
cost of reviewing the reports required under division (A) of this 5883

section. The director may change the amount of the fee at the 5884
times and in the increments the director considers necessary. Any 5885
municipal corporation or county that receives an application shall 5886
collect the application fee and remit the fee for deposit in the 5887
state treasury to the credit of the ~~tax incentive programs~~ 5888
~~operating~~ business assistance fund created in section 122.174 of 5889
the Revised Code. 5890

(D) On or before the thirtieth day of June each year, the 5891
director of development services shall certify to the tax 5892
commissioner the information described under division (A)(7) of 5893
this section, derived from the reports submitted to the director 5894
under this section. 5895

On the basis of the information certified under this 5896
division, the tax commissioner annually shall submit a report to 5897
the governor, the speaker of the house of representatives, the 5898
president of the senate, and the chairpersons of the ways and 5899
means committees of the respective houses of the general assembly, 5900
indicating for each enterprise zone the amount of state and local 5901
taxes that were not required to be paid because of exemptions 5902
granted under agreements entered into under section 5709.62, 5903
5709.63, or 5709.632 of the Revised Code and the amount of 5904
additional taxes paid from the payroll of new employees. 5905

Sec. 6103.052. (A) ~~A board of county commissioners may apply 5906
to the water and sewer commission, created by division (C) of 5907
section 1525.11 of the Revised Code, for an advance of moneys from 5908
the water and sewer fund, created by division (A) of section 5909
1525.11 of the Revised Code, in an amount equal to that portion of 5910
the costs of an improvement authorized under sections 6103.02 to 5911
6103.30 of the Revised Code which is to be financed by assessments 5912
whose collection is deferred pursuant to division (B) of this 5913
section. The application for such an advance of moneys shall be 5914~~

~~made in the manner prescribed by rules of the commission.~~ 5915

(B) At any time prior to the expiration of the five-day 5916
period provided by section 6103.05 of the Revised Code for the 5917
filing of written objections, any owner of property which is 5918
classified on the general tax list of the county auditor as 5919
agricultural land and has been assessed for the extension of a 5920
main water line over or along such property under sections 6103.02 5921
to 6103.30 of the Revised Code may file with the board of county 5922
commissioners a request in writing for deferment of the collection 5923
of ~~his~~ the owner's assessment if the main water line ~~serves a~~ 5924
~~purpose set forth in section 1525.13 of the Revised Code for which~~ 5925
~~the water and sewer fund may be used~~ provides water facilities to 5926
aid in the establishment of new industrial plants, the expansion 5927
of existing industrial plants, or such other industrial 5928
development, or provides water facilities to aid in the 5929
establishment of commercial and residential developments. Such 5930
request shall identify the property in connection with which the 5931
request for deferment is made, shall describe its present use and 5932
present classification on the general tax list of the county 5933
auditor, shall state its estimated market value, showing 5934
separately the value of the land and the value of the buildings 5935
thereon, shall state the reasons, if any, why a portion of the 5936
benefit of the improvement will not be realized until the use of 5937
the land is changed, and shall state the amount to be deferred. 5938
The board shall promptly consider such request and may order the 5939
deferment of the collection of that portion of the assessment 5940
representing a benefit from the improvement that will not be 5941
realized until the use of the land is changed. The board may, upon 5942
request of an owner whose property has been assessed for the 5943
extension of a main water line over or along such property under 5944
sections 6103.02 to 6103.31 of the Revised Code, defer all or any 5945
part of the assessment on property which is classified on the 5946
general tax list of the county auditor as agricultural land, by 5947

attributing the amount of such assessment or part thereof as 5948
tap-in charges, if the main water line serves a purpose set forth 5949
~~in section 1525.13 of the Revised Code for which the water and~~ 5950
~~sewer fund may be used. A deferment under this section may be~~ 5951
~~conditioned upon the approval of the advance of moneys applied for~~ 5952
~~pursuant to division (A) of this section, and a maximum length of~~ 5953
~~the deferment may be fixed to coincide with the maximum time~~ 5954
~~within which the advance must be repaid. The decision on the~~ 5955
~~request for deferment of collection of assessments shall be made~~ 5956
~~pursuant to standards established by rules of the commission~~ 5957
provides water facilities to aid in the establishment of new 5958
industrial plants, the expansion of existing industrial plants, or 5959
such other industrial development, or provides water facilities to 5960
aid in the establishment of commercial and residential 5961
developments. Upon determination and approval of final 5962
assessments, the board of county commissioners shall certify all 5963
deferred assessments and a fee equal to ~~any fee paid by the board~~ 5964
~~to the commission pursuant to division (C) of section 1525.12 of~~ 5965
~~the Revised Code attributable to the~~ two per cent of the amount of 5966
the deferred assessments to the county auditor. For purposes of 5967
this section, "assessment," "deferred assessment," or "assessment 5968
deferred under this section" mean the fee and the deferred 5969
assessment certified to the county auditor. The county auditor 5970
shall record an assessment deferred under this section in the 5971
water works record. Such record shall be kept until such time as 5972
the assessments are paid in full or certified for collection in 5973
installments as provided in this section. During the time when the 5974
assessment is deferred there shall be a lien on the property 5975
assessed, which lien shall arise at the time of recordation by the 5976
county auditor and shall be in force until the assessments are 5977
paid in full or certified for collection in installments. 5978

~~(C)~~(B) The board of county commissioners shall defer the 5979
collection of an assessment, except the amount of such assessment 5980

or part thereof attributable as tap-in charges, which has been 5981
deferred pursuant to division ~~(B)~~(A) of this section on or before 5982
January 1, 1987, beyond the expiration of the maximum time for the 5983
original deferment if the property owner requests in writing, no 5984
later than six months prior to the expiration of the original 5985
deferment, that the assessment be further deferred and as long as 5986
the property owner's land could qualify for placement in an 5987
agricultural district pursuant to section 929.02 of the Revised 5988
Code. 5989

The board shall regularly review the use and ownership of the 5990
property for which the collection of assessments has been deferred 5991
pursuant to this division, and upon finding that the land could no 5992
longer qualify for placement in an agricultural district pursuant 5993
to section 929.02 of the Revised Code, the board shall immediately 5994
collect, without interest, the full amount of the assessment 5995
~~deferred and repay the commission the amount of any moneys~~ 5996
~~advanced by it in regard to such assessment. The board shall pay~~ 5997
~~all such amounts to the commission in one annual payment or longer~~ 5998
~~period as approved by the commission. The board shall pay, from~~ 5999
~~the general funds of the county, interest annually at the interest~~ 6000
~~rate per annum equal to that rate of interest published as the~~ 6001
~~20-bond index rate in "The Bond Buyer" minus four per cent per~~ 6002
~~annum or at five per cent per annum, whichever is greater, for any~~ 6003
~~moneys not repaid to the commission pursuant to this division~~ 6004
~~within one year of the date of the disqualification of the~~ 6005
~~property for the continual deferment which requires such~~ 6006
~~repayment. The interest rate for any moneys not repaid to the~~ 6007
~~commission shall be calculated one year from the date of the~~ 6008
~~disqualification of the property for the continual deferment which~~ 6009
~~requires such repayment, and annually thereafter.~~ 6010

~~(D)~~(C) The board of county commissioners shall send a notice 6011
by regular or certified mail to all owners of property on which 6012

assessments have been deferred pursuant to division ~~(B)~~(A) of this 6013
section, which lists the expiration of the deferment, not later 6014
than two hundred ten days prior to the expiration of the deferment 6015
of those assessments. 6016

~~(E)~~(D) The board shall collect the assessments, without 6017
interest, which have been deferred pursuant to division ~~(B)~~(A) of 6018
this section upon expiration of the maximum time for which 6019
deferments were made ~~and repay the commission the amount of any~~ 6020
~~moneys advanced by it in regard to such assessments;~~ provided, 6021
that for a property owner who requests in writing, no later than 6022
six months prior to the expiration of the deferment period, that 6023
payment of ~~his~~ the owner's deferred assessments be in 6024
installments, the board of county commissioners upon expiration of 6025
the deferment period may by resolution further certify for 6026
collection pursuant to section 6103.16 of the Revised Code, such 6027
deferred assessments in installments over not more than twenty 6028
years, as determined by the board, together with interest thereon 6029
each year on the unpaid balance at the same rate borne by bonds of 6030
the county which shall be issued in anticipation thereof as 6031
provided in Chapter 133. of the Revised Code, ~~and the proceeds of~~ 6032
~~the bond issue used to repay such deferred assessments to the~~ 6033
~~commission.~~ 6034

Assessments which have been deferred by attribution as tap-in 6035
charges under division ~~(B)~~(A) of this section shall be collected 6036
as deferred assessments at that time. ~~As the board collects tap-in~~ 6037
~~charges which are deferred assessments under division (B) of this~~ 6038
~~section, it shall repay the commission the amount thereof which~~ 6039
~~was advanced by it in regard to such assessments.~~ An owner of 6040
property for which assessments have been deferred under division 6041
~~(B)~~(A) of this section, in requesting a tap-in may, subject to the 6042
approval of the board, designate a part of an entire assessed 6043
tract as the part which the tap-in is to serve, and the board 6044

shall collect the deferred assessment on that tract in the 6045
proportion that the part bears to the entire tract, on a front 6046
foot or other basis approved by the commission, but if in the 6047
judgment of the board the tap-in is reasonably intended to serve 6048
the entire tract or substantially all of the tract, it shall 6049
collect the deferred assessment for the entire tract. 6050

Prior to the expiration of the maximum time of deferment, the 6051
board shall regularly review the use of the property for which the 6052
collection of assessments has been deferred and upon finding, 6053
~~pursuant to the rules of the commission,~~ that the use of the land 6054
has changed from the use at the time of the deferment so that the 6055
benefit of the improvement can then be realized, the board shall 6056
immediately collect the full amount of the assessment for the 6057
portion of the property for which the use has so changed, without 6058
interest, ~~and repay the commission the amount of any moneys~~ 6059
~~advanced by it in regard to such assessment. The board shall pay~~ 6060
~~all such amounts to the commission in one annual payment or longer~~ 6061
~~period as approved by the commission. The board of county~~ 6062
~~commissioners shall pay, from the general funds of the county,~~ 6063
~~interest annually at the interest rate per annum equal to that~~ 6064
~~rate of interest published as the 20 bond index rate in "The Bond~~ 6065
~~Buyer" minus four per cent per annum or at five per cent per~~ 6066
~~annum, whichever is greater, for any moneys not repaid to the~~ 6067
~~commission pursuant to this division within one year of the date~~ 6068
~~of the change in the use of property requiring such repayment, or~~ 6069
~~of the date upon which payment of a tap in charge is required by~~ 6070
~~law to be made, whichever date is applicable. The interest rate~~ 6071
~~for any moneys not repaid to the commission shall be calculated~~ 6072
~~one year from the date of the change in the use of property~~ 6073
~~requiring such repayment or from the date upon which payment of a~~ 6074
~~tap in charge is required by law to be made, whichever date is~~ 6075
~~applicable, and annually thereafter.~~ 6076

~~Sec. 6117.062. (A) A board of county commissioners may apply to the water and sewer commission, created by division (C) of section 1525.11 of the Revised Code, for an advance of moneys from the water and sewer fund, created by division (A) of section 1525.11 of the Revised Code, in an amount equal to that portion of the costs of an improvement authorized under sections 6117.01 to 6117.45 of the Revised Code which is to be financed by assessments whose collection is deferred pursuant to division (B) of this section. The application for such an advance of moneys shall be made in the manner prescribed by rules of the commission.~~

~~(B) At any time prior to the expiration of the five-day period provided by section 6117.06 of the Revised Code for the filing of written objections, any owner of property which is classified on the general tax list of the county auditor as agricultural land and has been assessed for the extension of a trunk sewer line over or along such property under sections 6117.01 to 6117.45 of the Revised Code may file with the board of county commissioners a request in writing for deferment of the collection of his the assessment if the trunk sewer line ~~serves a purpose, as set forth in section 1525.13 of the Revised Code, for which the fund may be used~~ provides sewer facilities to aid in the establishment of new industrial plants, the expansion of existing industrial plants, or such other industrial development, or provides sewer facilities to aid in the establishment of commercial and residential developments. Such request shall identify the property in connection with which the request for deferment is made, shall describe its present use and present classification on the general tax list of the county auditor, shall state its estimated market value, showing separately the value of the land and the value of the buildings thereon, shall state the reasons, if any, why a portion of the benefit of the improvement will not be realized until the use of the land is~~

changed, and shall state the amount to be deferred. The board 6109
shall promptly consider such request and may order the deferment 6110
of the collection of that portion of the assessment representing a 6111
benefit from the improvement which will not be realized until the 6112
use of the land is changed. The board may, upon request of an 6113
owner whose property has been assessed for the extension of a 6114
trunk sewer line over or along such property under sections 6115
6117.01 to 6117.45 of the Revised Code, defer all or any part of 6116
the assessment on property which is classified on the general tax 6117
list as agricultural land, by attributing the amount of such 6118
assessment or part thereof as tap-in charges, if the trunk sewer 6119
line ~~serves a purpose set forth in section 1525.13 of the Revised~~ 6120
~~Code for which the fund may be used. A deferment under this~~ 6121
~~section may be conditioned upon the approval of the advance of~~ 6122
~~moneys applied for pursuant to division (A) of this section, and a~~ 6123
~~maximum length of the deferment may be fixed to coincide with the~~ 6124
~~maximum time within which the advance must be repaid. The decision~~ 6125
~~on the request for deferment of collection of assessments shall be~~ 6126
~~made pursuant to standards established by rules of the commission~~ 6127
provides sewer facilities to aid in the establishment of new 6128
industrial plants, the expansion of existing industrial plants, or 6129
such other industrial development, or provides sewer facilities to 6130
aid in the establishment of commercial and residential 6131
developments. Upon determination and approval of final 6132
assessments, the board of county commissioners shall certify all 6133
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6134
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6135
~~the Revised Code attributable to the deferred payments~~ two per 6136
cent of the amount of the deferred assessments to the county 6137
auditor. For purposes of this section, "assessment," "deferred 6138
assessment," or "assessment deferred under this section" mean the 6139
fee and the deferred assessment certified to the county auditor. 6140
The county auditor shall record an assessment deferred under this 6141

section in the sewer improvement record. Such record shall be kept 6142
until such time as the assessments are paid in full or certified 6143
for collection in installments as provided in this section. During 6144
the time when the assessment is deferred there shall be a lien on 6145
the property assessed, which lien shall arise at the time of 6146
recordation by the county auditor and which shall be in force 6147
until the assessments are paid in full or certified for collection 6148
in installments. 6149

~~(C)~~(B) The board of county commissioners shall defer the 6150
collection of an assessment, except the amount of such assessment 6151
or part thereof attributable as tap-in charges, which has been 6152
deferred pursuant to division ~~(B)~~(A) of this section on or before 6153
January 1, 1987, beyond the expiration of the maximum time for the 6154
original deferment if the property owner requests in writing, no 6155
later than six months prior to the expiration of the original 6156
deferment, that the assessment be further deferred and as long as 6157
the property owner's land could qualify for placement in an 6158
agricultural district pursuant to section 929.02 of the Revised 6159
Code. 6160

The board shall regularly review the use and ownership of the 6161
property for which the collection of assessments has been deferred 6162
pursuant to this division, and upon finding that the land could no 6163
longer qualify for placement in an agricultural district pursuant 6164
to section 929.02 of the Revised Code, the board shall immediately 6165
collect, without interest, the full amount of the assessment 6166
~~deferred and repay the commission the amount of any moneys~~ 6167
~~advanced by it in regard to such assessment. The board shall pay~~ 6168
~~all such amounts to the commission in one annual payment or longer~~ 6169
~~period as approved by the commission. The board shall pay, from~~ 6170
~~the general funds of the county, interest annually at the interest~~ 6171
~~rate per annum equal to that rate of interest published as the~~ 6172
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6173

~~annum or at five per cent per annum, whichever rate is greater, 6174
for any moneys not repaid to the commission pursuant to this 6175
division within one year of the date of the disqualification of 6176
the property for the continual deferment which requires such 6177
repayment. The interest rate for any moneys not repaid to the 6178
commission shall be calculated one year from the date of the 6179
disqualification of the property for the continual deferment which 6180
requires such repayment, and annually thereafter. 6181~~

~~(D)~~(C) The board of county commissioners shall send a notice 6182
by regular or certified mail to all owners of property on which 6183
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6184
section, which lists the expiration of the deferment, not later 6185
than two hundred ten days prior to the expiration of the deferment 6186
of those assessments. 6187

~~(E)~~(D) The board shall collect assessments, without interest, 6188
which have been deferred pursuant to division ~~(B)~~(A) of this 6189
section upon expiration of the maximum time for which deferments 6190
were made ~~and repay the commission the amount of any moneys 6191
advanced by it in regard to such assessments;~~ provided that for a 6192
property owner who requests in writing, no later than six months 6193
prior to the expiration of the deferment period, that payment of 6194
~~his~~ the deferred assessments be in installments, the board of 6195
county commissioners upon expiration of the deferment period may 6196
by resolution further certify for collection pursuant to section 6197
6117.33 of the Revised Code, such deferred assessments in 6198
installments over not more than twenty years, as determined by the 6199
board, together with interest thereon each year on the unpaid 6200
balance at the same rate borne by bonds of the county which shall 6201
be issued in anticipation thereof as provided in Chapter 133. of 6202
the Revised Code, ~~and the proceeds of the bond issue used to repay 6203
such deferred assessments to the commission.~~ Prior to the 6204
expiration of the maximum time of deferment, the board shall 6205

regularly review the use of the property for which the collection 6206
of assessments has been deferred and upon finding, ~~pursuant to the~~ 6207
~~rules of the commission,~~ that the use of the land has changed from 6208
the use at the time of the deferment so that the benefit of the 6209
improvement can then be realized, the board shall immediately 6210
collect the full amount of the assessment for the portion of the 6211
property for which the use has so changed, without interest, ~~and~~ 6212
~~repay the commission the amount of any moneys advanced by it in~~ 6213
~~regard to such assessment. The board shall pay all such amounts to~~ 6214
~~the commission in one annual payment or longer period as approved~~ 6215
~~by the commission. The board shall pay, from the general funds of~~ 6216
~~the county, interest annually at the interest rate per annum equal~~ 6217
~~to that rate of interest published as the 20 bond index rate in~~ 6218
~~"The Bond Buyer" minus four per cent per annum or at five per cent~~ 6219
~~per annum, whichever is greater, for any moneys not repaid to the~~ 6220
~~commission pursuant to this division within one year of the date~~ 6221
~~of the change in the use of property requiring such repayment, or~~ 6222
~~of the date upon which payment of a tap in charge is required by~~ 6223
~~law to be made, whichever date is applicable. The interest rate~~ 6224
~~for any moneys not repaid to the commission shall be calculated~~ 6225
~~one year from the date of the change in the use of property~~ 6226
~~requiring such repayment or from the date upon which payment of a~~ 6227
~~tap in charge is required by law to be made, whichever date is~~ 6228
~~applicable, and annually thereafter.~~ 6229

Section 2. That existing sections 9.981, 102.03, 121.02, 6230
121.03, 121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 6231
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 6232
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 6233
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 6234
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 6235
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 6236
184.02, 187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 6237

3746.35, 5117.22, 5709.68, 6103.052, and 6117.062 and sections 6238
1525.11, 1525.12, 1525.13, and 6111.034 of the Revised Code are 6239
hereby repealed. 6240

Section 3. Section 122.40 of the Revised Code is hereby 6241
repealed, effective July 1, 2012. 6242

Section 4. In enacting this act, it is the intent of the 6243
General Assembly that changing the name of the "Department of 6244
Development" to the Development Services Agency and the name of 6245
the "Director of Development" to the Director of Development 6246
Services does not do either of the following: 6247

(A) Make substantive changes in statutory law; 6248

(B) Cause unnecessary expense. The letterhead, forms, printed 6249
materials, and signage displaying the former name of the 6250
Department may be used until they are replaced. 6251

Section 5. Upon the effective date of this act, all 6252
references to the Department of Development or Director of 6253
Development in other uncodified sections of law in Am. Sub. H.B. 6254
153 of the 129th General Assembly and Am. Sub. H.B. 114 of the 6255
129th General Assembly, shall be deemed to refer to the 6256
Development Services Agency or the Director of Development 6257
Services, respectively. 6258

Section 6. (A) There is hereby established a five-year pilot 6259
program to test a new funding mechanism for the state's travel and 6260
tourism marketing. The funding mechanism shall begin operation in 6261
fiscal year 2014 and be calculated as follows: 6262

(1)(a) Not later than the twentieth day of October of each 6263
year, starting in 2013 and ending in 2017, the Tax Commissioner 6264
shall calculate the growth in fiscal year sales tax revenue from 6265

certain defined categories that are related to tourism and certify 6266
that amount to the Director of Budget and Management. 6267

(b) Not later than the twentieth day of October of each year, 6268
starting in 2013 and ending in 2017, the Commissioner shall 6269
calculate and certify to the Director the difference, if greater 6270
than zero, between the revenue collected from the tax imposed 6271
under section 5739.02 of the Revised Code during the twelve-month 6272
period ending on the last day of the preceding June and the 6273
revenue collected during the same twelve-month period one year 6274
earlier, for all vendors classified under the industry codes 6275
identified in division (A)(2) of this section. On or before the 6276
last day of October of each year, starting in 2013 and ending in 6277
2017, the Director of Budget and Management shall transfer from 6278
the General Revenue Fund to the Tourism Fund created in section 6279
122.072 of the Revised Code the amount certified by the 6280
Commissioner under this division, except that the transfer shall 6281
not exceed ten million dollars for any fiscal year. 6282

(c) Each fiscal year, beginning in fiscal year 2015, the Tax 6283
Commissioner shall adjust the ten million annual dollar limit on 6284
transfers to the Tourism Fund. The adjustment shall be made by 6285
adding to the annual limit the product of multiplying the limit 6286
for the preceding fiscal year by the sum of one plus the 6287
percentage increase in the Consumer Price Index for all urban 6288
consumers for the Midwest region, as determined by the United 6289
States Bureau of Labor Statistics, for the twelve-month period 6290
corresponding to the preceding fiscal year. The result shall be 6291
rounded to the nearest one thousand dollars. The calculation of 6292
the percentage increase in the Consumer Price Index shall be done 6293
by taking the average index value over the twelve months of the 6294
last completed fiscal year and comparing that to the average index 6295
value over the twelve months of the immediately preceding fiscal 6296
year. 6297

(2) The following industries included in the industrial classification system used by the Tax Commissioner shall be used in the computations under division (A)(1) of this section: air transportation; water transportation; interurban and rural bus transportation; taxi service; limousine service; other transit and ground passenger transportation; scenic and sightseeing transportation; support activities for air transportation; automotive equipment rental and leasing; travel arrangement and reservation services; performing arts companies; spectator sports; independent artists, writers, and performers; museums, historical sites, and similar institutions; amusement parks and arcades; gambling industries; hotels and motels; casino hotels; bed-and-breakfast inns; other travel accommodations; recreational vehicle parks and recreational camps; full-service restaurants; limited-service eating places; drinking places (alcoholic beverages).

(B) The pilot program shall terminate when the last transfer of funds made in accordance with division (A)(1)(b) of this section occurs in fiscal year 2018, specifically in October 2017. At that time, the Director of Development Services, the Director of Budget and Management, and the Tax Commissioner shall jointly review the pilot program and make recommendations to the Governor and the General Assembly on whether to make the funding mechanism permanent and, if so, whether any changes should be made to it. If the recommendation is to make the funding mechanism permanent, the Director of Development Services, the Director of Budget and Management, and the Tax Commissioner shall also study and make recommendations to the Governor and the General Assembly as to whether the Office of TourismOhio and its functions should be removed from the Development Services Agency and established as a private nonprofit corporation or a subsidiary corporation of JobsOhio.

Section 7. (A) As used in this section, "federal act" means 6330
the "Small Business Liability Relief and Brownfields 6331
Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and 6332
9604. 6333

(B) There is hereby created in the state treasury the 6334
Brownfields Revolving Loan Fund. The Fund shall consist of all 6335
moneys received by the state from the United States Department of 6336
Environmental Protection under the federal act. The Fund shall be 6337
used to make grants and loans by the Director of Development 6338
Services. 6339

(C) The Director shall administer moneys received into the 6340
Fund and comply with all requirements imposed by the federal act 6341
in its application for, and administration of, the funds as grants 6342
and loans. 6343

(D) The Director shall establish a schedule of fees and 6344
charges payable by grant and loan recipients to the Director for 6345
the administration of this section. 6346

Section 8. That Sections 261.10.40, 261.10.70, 261.20.40, 6347
261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 6348
261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 6349
and 261.40.10 of Am. Sub. H.B. 153 of the 129th General Assembly 6350
be amended to read as follows: 6351

Sec. 261.10.40. ~~STRATEGIC BUSINESS INVESTMENT DIVISION AND~~ 6352
~~REGIONAL OFFICES DEVELOPMENT SERVICES~~ 6353

The foregoing appropriation item 195415, ~~Strategic Business~~ 6354
~~Investment Division and Regional Offices Development Services,~~ 6355
shall be used for the operating expenses of the ~~Strategic Business~~ 6356
~~Investment Services~~ Division and the regional economic development 6357
offices and for grants for cooperative economic development 6358

ventures. 6359

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION 6360

The foregoing appropriation item 195426, Clean Ohio 6361
Implementation, shall be used to fund the costs of administering 6362
the Clean Ohio Revitalization program and other urban 6363
revitalization programs that may be implemented by the ~~Department~~ 6364
~~of Development~~ Services Agency. 6365

Sec. 261.20.40. ~~SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS~~ 6366

The Director of Development Services may assess ~~divisions~~ 6367
offices of the ~~department~~ agency for the cost of central service 6368
operations. An assessment shall contain the characteristics of 6369
administrative ease and uniform application. A division's payments 6370
shall be credited to the Supportive Services Fund (Fund 1350) 6371
using an intrastate transfer voucher. 6372

~~ECONOMIC DEVELOPMENT CONTINGENCY~~ 6373

~~The foregoing appropriation item 195677, Economic Development~~ 6374
~~Contingency, may be used to award funds directly to either (1)~~ 6375
~~business entities considering Ohio for expansion or new site~~ 6376
~~location opportunities or (2) political subdivisions to assist~~ 6377
~~with necessary costs involved in attracting a business entity. In~~ 6378
~~addition, the Director of Development may award funds for~~ 6379
~~alternative purposes when appropriate to satisfy an economic~~ 6380
~~development opportunity or need deemed extraordinary in nature by~~ 6381
~~the Director.~~ 6382

~~DIRECT COST RECOVERY DEVELOPMENT SERVICES REIMBURSABLE~~ 6383
~~EXPENDITURES~~ 6384

The foregoing appropriation item 195636, ~~Direct Cost Recovery~~ 6385
Development Services Reimbursable Expenditures, shall be used for 6386
reimbursable costs incurred by the agency. Revenues to the General 6387

Reimbursement Fund (Fund 6850) shall consist of moneys charged for 6388
administrative costs that are not central service costs. 6389

Sec. 261.20.50. HEAP WEATHERIZATION 6390

Up to fifteen per cent of the federal funds deposited to the 6391
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 6392
may be expended from appropriation item 195614, HEAP 6393
Weatherization, to provide home weatherization services in the 6394
state as determined by the Director of Development Services. Any 6395
transfers or increases in appropriation for the foregoing 6396
appropriation items 195614, HEAP Weatherization, or 195611, Home 6397
Energy Assistance Block Grant, shall be subject to approval by the 6398
Controlling Board. 6399

Sec. 261.20.60. STATE SPECIAL PROJECTS 6400

The State Special Projects Fund (Fund 4F20), may be used for 6401
the deposit of private-sector funds from utility companies and for 6402
the deposit of other miscellaneous state funds. State moneys so 6403
deposited ~~shall~~ may also be used to match federal housing grants 6404
for the homeless ~~and to market economic development opportunities~~ 6405
~~in the state~~. Private-sector moneys shall be deposited for use in 6406
appropriation item 195699, Utility ~~Provided Funds~~ Community 6407
Assistance, and shall be used to (1) pay the expenses of verifying 6408
the income-eligibility of HEAP applicants, (2) leverage additional 6409
federal funds, (3) fund special projects to assist ~~homeless~~ 6410
~~individuals~~ income-eligible veterans and families with services 6411
and energy assistance programs, (4) fund special projects to 6412
assist with the energy efficiency of households eligible to 6413
participate in the Percentage of Income Payment Plan, and (5) 6414
assist with training programs for agencies that administer 6415
low-income customer assistance programs. 6416

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 6417

All repayments from the Minority Development Financing 6418
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 6419
Program shall be deposited in the State Treasury to the credit of 6420
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 6421
costs of administering the Minority Business Enterprise Loan Fund 6422
may be paid from the Minority Business Enterprise Loan Fund (Fund 6423
4W10). 6424

MINORITY BUSINESS BONDING FUND 6425

Notwithstanding Chapters 122., 169., and 175. of the Revised 6426
Code, the Director of Development Services may, upon the 6427
recommendation of the Minority Development Financing Advisory 6428
Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal 6429
year 2013 biennium of unclaimed funds administered by the Director 6430
of Commerce and allocated to the Minority Business Bonding Program 6431
under section 169.05 of the Revised Code. The transfer of any cash 6432
by the Director of Budget and Management from the ~~Department of~~ 6433
~~Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department 6434
of Commerce to the ~~Department of Development's~~ Minority Business 6435
Bonding Fund (Fund 4490) used by the Development Services Agency 6436
shall occur, if requested by the Director of Development Services, 6437
only if such funds are needed for payment of losses arising from 6438
the Minority Business Bonding Program, and only after proceeds of 6439
the initial transfer of \$2,700,000 by the Controlling Board to the 6440
Minority Business Bonding Program has been used for that purpose. 6441
Moneys transferred by the Director of Budget and Management from 6442
the Department of Commerce for this purpose may be moneys in 6443
custodial funds held by the Treasurer of State. If expenditures 6444
are required for payment of losses arising from the Minority 6445
Business Bonding Program, such expenditures shall be made from 6446
appropriation item 195623, Minority Business Bonding Contingency 6447
in the Minority Business Bonding Fund, and such amounts are hereby 6448
appropriated. 6449

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS 6450

(A) On July 1, 2011, or as soon as possible thereafter, the 6451
Director of Budget and Management shall transfer up to \$20,000,000 6452
cash from the Economic Development Programs Fund (Fund 5JC0) used 6453
by the Board of Regents to the Ohio Incumbent Workforce Job 6454
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 6455
Services Agency. 6456

On July 1, 2012, or as soon as possible thereafter, the 6457
Director of Budget and Management shall transfer up to \$30,000,000 6458
cash from the Economic Development Programs Fund (Fund 5JC0) used 6459
by the Board of Regents to the Ohio Incumbent Workforce Job 6460
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 6461
Services Agency. 6462

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 6463
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 6464
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 6465
be used to support the Ohio Incumbent Workforce Training Voucher 6466
Program. The Director of Development Services and the Chief 6467
Investment Officer of JobsOhio may enter into an agreement to 6468
operate the program pursuant to the contract between the 6469
~~Department of~~ Development Services Agency and JobsOhio under 6470
section 187.04 of the Revised Code. The agreement may include a 6471
provision for granting, loaning, or transferring funds from 6472
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 6473
Vouchers, to JobsOhio to provide training for incumbent workers. 6474

(C) Regardless of any agreement between the Director and the 6475
Chief Investment Officer under division (B) of this section, the 6476
Ohio Incumbent Workforce Training Voucher Program shall conform to 6477
guidelines for the operation of the program, including, but not 6478
limited to, the following: 6479

(1) A requirement that a training voucher under the program 6480

shall not exceed \$6,000 per worker per year; 6481

(2) A provision for an employer of an eligible employee to 6482
apply for a voucher on behalf of the eligible employee; 6483

(3) A provision for an eligible employee to apply directly 6484
for a training voucher with the pre-approval of the employee's 6485
employer; and 6486

(4) A requirement that an employee participating in the 6487
program, or the employee's employer, shall pay for not less than 6488
thirty-three per cent of the training costs under the program. 6489

DEFENSE DEVELOPMENT ASSISTANCE 6490

On July 1 of each fiscal year, or as soon as possible 6491
thereafter, the Director of Budget and Management shall transfer 6492
\$5,000,000 in cash from the Economic Development Projects Fund 6493
(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 6494
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 6495
Development Services Agency. The transferred funds are hereby 6496
appropriated in appropriation item 195622, Defense Development 6497
Assistance. 6498

The foregoing appropriation item 195622, Defense Development 6499
Assistance, shall be used for economic development programs and 6500
the creation of new jobs to leverage and support mission gains at 6501
Department of Defense facilities in Ohio by working with future 6502
base realignment and closure activities and ongoing Department of 6503
Defense efficiency initiatives, assisting efforts to secure 6504
Department of Defense support contracts for Ohio companies, 6505
assessing and supporting regional job training and workforce 6506
development needs generated by the Department of Defense and the 6507
Ohio aerospace industry, and for expanding job training and 6508
economic development programs in human performance related 6509
initiatives. These funds shall be matched by private industry 6510
partners or the Department of Defense in an aggregate amount of 6511

\$6,000,000 over the FY 2012-FY 2013 biennium. 6512

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS 6513

The foregoing appropriation item 195660, Advanced Energy Loan 6514
Programs, shall be used to provide financial assistance to 6515
customers for eligible advanced energy projects for residential, 6516
commercial, and industrial business, local government, educational 6517
institution, nonprofit, and agriculture customers, and to pay for 6518
the program's administrative costs as provided in sections 4928.61 6519
to 4928.63 of the Revised Code and rules adopted by the Director 6520
of Development Services. 6521

On July 1 of each fiscal year, or as soon as possible 6522
thereafter, the Director of Budget and Management shall transfer 6523
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 6524
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 6525

VOLUME CAP ADMINISTRATION 6526

The foregoing appropriation item 195654, Volume Cap 6527
Administration, shall be used for expenses related to the 6528
administration of the Volume Cap Program. Revenues received by the 6529
Volume Cap Administration Fund (Fund 6170) shall consist of 6530
application fees, forfeited deposits, and interest earned from the 6531
custodial account held by the Treasurer of State. 6532

Sec. 261.30.20. INNOVATION OHIO LOAN FUND 6533

The foregoing appropriation item 195664, Innovation Ohio, 6534
shall be used to provide for innovation Ohio purposes, including 6535
loan guarantees and loans under Chapter 166. and particularly 6536
sections 166.12 to 166.16 of the Revised Code. 6537

RESEARCH AND DEVELOPMENT 6538

The foregoing appropriation item 195665, Research and 6539
Development, shall be used to provide for research and development 6540

purposes, including loans, under Chapter 166. and particularly 6541
sections 166.17 to 166.21 of the Revised Code. 6542

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 6543

Appropriation item 195698, Logistics and Distribution 6544
Infrastructure, shall be used for eligible logistics and 6545
distribution infrastructure projects as defined in section 166.01 6546
of the Revised Code. Any unexpended and unencumbered portion of 6547
the appropriation item at the end of fiscal year 2011 is hereby 6548
reappropriated for the same purpose in fiscal year 2012, and any 6549
unexpended and unencumbered portion of the appropriation item at 6550
the end of fiscal year 2012 is hereby reappropriated for the same 6551
purpose in fiscal year 2013. 6552

After all encumbrances have been paid, the Director of Budget 6553
and Management shall transfer the remaining cash balance in the 6554
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 6555
Facilities Establishment Fund (Fund 7037). 6556

FACILITIES ESTABLISHMENT ~~FUND~~ 6557

The foregoing appropriation item 195615, Facilities 6558
Establishment (Fund 7037), shall be used for the purposes of the 6559
Facilities Establishment Fund under Chapter 166. of the Revised 6560
Code. 6561

Notwithstanding Chapter 166. of the Revised Code, an amount 6562
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 6563
transferred from the Facilities Establishment Fund (Fund 7037) to 6564
the ~~Economic Development Financing Operating~~ Business Assistance 6565
Fund (Fund 4510). The transfer is subject to Controlling Board 6566
approval under division (B) of section 166.03 of the Revised Code. 6567

Notwithstanding Chapter 166. of the Revised Code, the 6568
Director of Budget and Management may transfer an amount not to 6569
exceed \$2,500,000 in cash in each fiscal year from the Facilities 6570
Establishment Fund (Fund 7037) to the Minority Business Enterprise 6571

Loan Fund (Fund 4W10). 6572

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 6573
Director of Budget and Management shall transfer the unexpended 6574
and unencumbered cash balance in the Urban Development Loans Fund 6575
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 6576

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 6577
Director of Budget and Management shall transfer the unexpended 6578
and unencumbered cash balance in the Rural Industrial Park Loan 6579
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 6580

CAPITAL ACCESS LOAN PROGRAM 6581

The foregoing appropriation item 195628, Capital Access Loan 6582
Program, shall be used for operating, program, and administrative 6583
expenses of the program. Funds of the Capital Access Loan Program 6584
shall be used to assist participating financial institutions in 6585
making program loans to eligible businesses that face barriers in 6586
accessing working capital and obtaining fixed-asset financing. 6587

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES 6588

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ 6589
Program, shall be used by the ~~Department of~~ Development Services 6590
Agency in administering Clean Ohio Revitalization Fund (Fund 7003) 6591
projects pursuant to sections 122.65 to 122.658 of the Revised 6592
Code. 6593

Sec. 261.30.40. THIRD FRONTIER OPERATING 6594

The foregoing appropriation items 195686, Third Frontier 6595
Operating, and 195620, Third Frontier Operating - Tax, shall be 6596
used for operating expenses incurred by the ~~Department of~~ 6597
Development Services Agency in administering projects pursuant to 6598
sections 184.10 to 184.20 of the Revised Code. Operating expenses 6599
paid from item 195686 shall be limited to the administration of 6600

projects funded from the Third Frontier Research & Development 6601
Fund (Fund 7011) and operating expenses paid from item 195620 6602
shall be limited to the administration of projects funded from the 6603
Third Frontier Research & Development Taxable Bond Project Fund 6604
(Fund 7014). 6605

Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM 6606

The foregoing appropriation item 195688, Job Ready Site 6607
~~Operating Program~~, shall be used for operating expenses incurred 6608
by the ~~Department of~~ Development Services Agency in administering 6609
Job Ready Site Development Fund (Fund 7012) projects pursuant to 6610
sections 122.085 to 122.0820 of the Revised Code. Operating 6611
expenses include, but are not limited to, certain qualified 6612
expenses of the District Public Works Integrating Committees, as 6613
applicable, engineering review of submitted applications by the 6614
State Architect or a third-party engineering firm, audit and 6615
accountability activities, and costs associated with formal 6616
certifications verifying that site infrastructure is in place and 6617
is functional. 6618

Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE 6619

On July 1, 2011, or as soon as possible thereafter, the 6620
Director of Budget and Management shall transfer any unexpended 6621
and unencumbered portion of appropriation item 898604, Coal 6622
Research and Development Fund, used by the Ohio Air Quality 6623
Development Authority, to a new capital appropriation item in the 6624
~~Department of~~ Development Services Agency, to be determined by the 6625
Director. The Director also shall cancel all outstanding 6626
encumbrances against appropriation item 898604, Coal Research and 6627
Development Fund, and reestablish them against the foregoing new 6628
capital appropriation item. The amounts of the transfer and the 6629
reestablished encumbrances, plus \$2,283,264, are hereby 6630

appropriated for fiscal year 2012 in the foregoing new 6631
appropriation item and shall be used to provide funding for coal 6632
research and development purposes. 6633

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 6634
COMMERCIALIZATION SUPPORT 6635

The General Assembly and the Governor recognize the role that 6636
the biomedical industry has in job creation, innovation, and 6637
economic development throughout Ohio. It is the intent of the 6638
General Assembly, the Governor, the Director of Development 6639
Services, and the Director of Budget and Management to work 6640
together in continuing to provide comprehensive state support for 6641
the biomedical industry. 6642

Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER 6643

(A) Notwithstanding division (A) of section 169.05 of the 6644
Revised Code, upon the request of the Director of Budget and 6645
Management, the Director of Commerce, before June 30, 2012, shall 6646
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 6647
amount not to exceed \$25,000,000 in cash of the unclaimed funds 6648
that have been reported by the holders of unclaimed funds under 6649
section 169.05 of the Revised Code, regardless of the allocation 6650
of the unclaimed funds described under that section. 6651

Notwithstanding division (A) of section 169.05 of the Revised 6652
Code, upon the request of the Director of Budget and Management, 6653
the Director of Commerce, before June 30, 2013, shall transfer to 6654
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 6655
exceed ~~\$15,000,000~~ 18,600,000 in cash of the unclaimed funds that 6656
have been reported by the holders of unclaimed funds under section 6657
169.05 of the Revised Code, regardless of the allocation of the 6658
unclaimed funds described under that section. 6659

(B) Notwithstanding division (A) of section 169.05 of the 6660

Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed \$5,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Sec. 261.40.10. WORKFORCE DEVELOPMENT

The Director of Development Services and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the ~~Department of Development~~ Services Agency and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

Section 9. That existing Sections 261.10.40, 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, and 261.40.10 of Am. Sub. H.B. 153 of the 129th General Assembly are hereby repealed.

Section 10. That Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B.

371 of the 129th General Assembly, be amended to read as follows: 6691

Sec. 261.10. ~~DEV DEPARTMENT OF~~ DEVELOPMENT SERVICES AGENCY 6692

General Revenue Fund 6693

GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0 6694

GRF 195402 Coal Development \$ 260,983 \$ 261,205 6695

~~Office Research~~

Operating

GRF 195404 Small Business \$ 1,565,770 \$ 0 6696

Development

GRF 195405 Minority Business \$ 1,118,528 \$ 0 6697

Enterprise Division

GRF 195407 Travel and Tourism \$ 5,000,000 \$ ~~0~~ 5,000,000 6698

GRF 195412 Rapid Outreach Grants \$ 9,000,000 \$ 0 6699

GRF 195415 ~~Strategic~~ Business \$ 4,500,000 \$ ~~0~~ 2,413,387 6700

~~Investment Division~~

~~and Regional Offices~~

Development Services

GRF 195416 Governor's Office of \$ 3,700,000 \$ ~~3,700,000~~ 0 6701

Appalachia

GRF 195422 Technology Action \$ 547,341 \$ 0 6702

GRF 195426 Clean Ohio \$ 468,365 \$ ~~0~~ 468,365 6703

Implementation

GRF 195432 Global Markets \$ 3,500,000 \$ 0 6704

GRF 195434 Industrial Training \$ 10,000,000 \$ 0 6705

Grants

GRF 195497 CDBG Operating Match \$ 1,015,000 \$ ~~0~~ 1,015,000 6706

GRF 195501 Appalachian Local \$ 391,482 \$ ~~391,482~~ 0 6707

Development Districts

GRF 195502 Appalachian Regional \$ 195,000 \$ ~~195,000~~ 0 6708

Commission Dues

GRF ~~195528~~ ~~Economic Development~~ \$ ~~0~~ \$ ~~26,943,518~~ 6709

		<u>Projects</u>					
GRF	<u>195532</u>	<u>Technology Programs</u>	\$	<u>0</u>	\$	<u>13,547,341</u>	6710
		<u>and Grants</u>					
GRF	<u>195533</u>	<u>Business Assistance</u>	\$	<u>0</u>	\$	<u>5,899,465</u>	6711
GRF	<u>195535</u>	<u>Appalachia Assistance</u>	\$	<u>0</u>	\$	<u>4,286,482</u>	6712
GRF	195901	Coal Research & Development General Obligation Debt Service	\$	7,861,100	\$	5,577,700	6713
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	29,323,300	\$	63,640,300	6714
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	9,859,200	\$	15,680,500	6715
TOTAL GRF	General Revenue Fund		\$	103,126,423	\$	116,389,705 <u>117,789,745</u>	6716
General Services Fund Group							6717
1350	195684	Supportive <u>Development Services</u> <u>Operations</u>	\$	11,700,000	\$	11,700,000	6718
4W10	195646	Minority Business Enterprise Loan	\$	2,500,000	\$	2,500,000	6719
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000 <u>18,600,000</u>	6720
5AD0	195677	Economic Development Contingency	\$	10,000,000	\$	0	6721
5W50	195690	Travel and Tourism Cooperative Projects	\$	50,000	\$	50,000	6722
6850	195636	Direct Cost Recovery	\$	750,000	\$	750,000	6723

<u>Development Services</u>			
<u>Reimbursable</u>			
Expenditures			
TOTAL GSF General Services Fund			6724
Group	\$ 40,000,000	\$ 30,000,000 <u>33,600,000</u>	6725
Federal Special Revenue Fund Group			6726
3080 195602 Appalachian Regional Commission	\$ 475,000	\$ 475,000	6727
3080 195603 Housing and Urban <u>Development Assistance Programs</u>	\$ 6,000,000	\$ 6,000,000	6728
3080 195605 Federal Projects	\$ 85,028,606	\$ 85,470,106 <u>0</u>	6729
3080 195609 Small Business Administration Grants	\$ 6,438,143	\$ 5,511,381	6730
3080 195618 Energy Federal Grants	\$ 38,000,000	\$ 3,400,000	6731
<u>3080 195670 Home Weatherization Program</u>	<u>\$ 0</u>	<u>\$ 72,670,106</u>	6732
<u>3080 195671 Brownfield Redevelopment</u>	<u>\$ 0</u>	<u>\$ 6,800,000</u>	6733
<u>3080 195672 Manufacturing Extension Partnership</u>	<u>\$ 0</u>	<u>\$ 6,000,000</u>	6734
3350 195610 Energy Conservation and Emerging <u>Technology Programs</u>	\$ 1,100,000	\$ 1,100,000	6735
3AE0 195643 Workforce Development Initiatives	\$ 16,300,000	\$ 16,300,000	6736
3DB0 195642 Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$ 3,000,000	\$ 42,485	6737
3EG0 195608 Federal Energy <u>Sector Training Grants</u>	\$ 5,000,000	\$ 1,344,056	6738

3K80	195613	Community Development Block Grant	\$ 76,795,818	\$ 65,210,000	6739
3K90	195611	Home Energy Assistance Block Grant	\$ 115,743,608	\$ 115,743,608	6740
3K90	195614	HEAP Weatherization	\$ 22,000,000	\$ 22,000,000	6741
3L00	195612	Community Services Block Grant	\$ 27,240,217	\$ 27,240,217	6742
3V10	195601	HOME Program	\$ 40,000,000	\$ 40,000,000	6743
TOTAL FED Federal Special Revenue					6744
Fund Group			\$ 443,121,392	\$ 389,836,853	6745
State Special Revenue Fund Group					6746
4500	195624	Minority Business Bonding Program Administration	\$ 160,110	\$ 159,069	6747
4510	195625	Economic Development Financing Operating	\$ 3,000,000	\$ 3,000,000 0	6748
<u>4510</u>	<u>195649</u>	<u>Business Assistance Programs</u>	\$ 0	\$ <u>3,700,800</u>	6749
4F20	195639	State Special Projects	\$ 180,437	\$ 180,436	6750
4F20	195676	Marketing Initiatives	\$ 5,000,000	\$ 0	6751
4F20	195699	Utility Provided Funds <u>Community Assistance</u>	\$ 500,000	\$ 500,000	6752
4S00	195630	Tax Incentive Programs	\$ 650,800	\$ 650,800 0	6753
5CG0	195679	Alternative Fuel Transportation	\$ 750,000	\$ 750,000	6754
5HJ0	195604	Motion Picture Tax Credit Program	\$ 50,000	\$ 50,000 0	6755
5HR0	195526	Ohio Incumbent Workforce Job Training <u>Vouchers</u>	\$ 20,000,000	\$ 30,000,000	6756
5HR0	195622	Defense Development Assistance	\$ 5,000,000	\$ 5,000,000	6757

5JR0	195635	<u>Redevelopment Program Support</u>	\$	0	\$	<u>100,000</u>	6758
5JR0	195656	New Market Tax Credit Program	\$	50,000	\$	50,000 0	6759
5KD0	195621	Brownfield Stormwater Loan	\$	50,000	\$	50,000 0	6760
5KN0	195640	Local Government Innovation	\$	175,000	\$	44,825,000	6761
5LK0	195655	<u>Workforce Development Programs</u>	\$	0	\$	<u>10,000,000</u>	6762
5M40	195659	Low Income Energy Assistance (USF)	\$	245,000,000	\$	245,000,000	6763
5M50	195660	Advanced Energy <u>Loan</u> Programs	\$	8,000,000	\$	0	6764
5W60	195691	International Trade Cooperative Projects	\$	160,000	\$	160,000	6765
6170	195654	Volume Cap Administration	\$	94,397	\$	92,768	6766
6460	195638	Low- and Moderate-Income Housing Trust Fund	\$	53,000,000	\$	53,000,000	6767
TOTAL SSR State Special Revenue							6768
Fund Group							6769
							\$ 341,820,744
							\$ 383,468,073
							<u>393,468,073</u>
Facilities Establishment Fund Group							6770
5S90	195628	Capital Access Loan Program	\$	1,500,000	\$	1,500,000	6771
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000	6772
7010	195665	Research and Development	\$	22,000,000	\$	22,000,000	6773
7037	195615	Facilities Establishment	\$	50,000,000	\$	50,000,000	6774
TOTAL 037 Facilities							6775

Establishment Fund Group		\$	88,500,000	\$	88,500,000	6776
Clean Ohio Revitalization Fund						6777
7003 195663 Clean Ohio Operating		\$	950,000	\$	950,000	6778
	<u>Program</u>					
TOTAL 7003 Clean Ohio		\$	950,000	\$	950,000	6779
Revitalization Fund						
Third Frontier Research & Development Fund Group						6780
7011 195686 Third Frontier		\$	1,149,750	\$	1,149,750	6781
	Operating					
7011 195687 Third Frontier		\$	183,850,250	\$	133,850,250	6782
	Research & Development Projects					
7014 195620 Third Frontier		\$	1,700,000	\$	1,700,000	6783
	Operating - Tax					
7014 195692 Research &		\$	38,300,000	\$	38,300,000	6784
	Development Taxable Bond Projects					
TOTAL 011 Third Frontier Research &		\$	225,000,000	\$	175,000,000	6785
Development Fund Group						
Job Ready Site Development Fund Group						6786
7012 195688 Job Ready Site		\$	800,000	\$	800,000	6787
	Operating Program					
TOTAL 012 Job Ready Site		\$	800,000	\$	800,000	6788
Development Fund Group						
Tobacco Master Settlement Agreement Fund Group						6789
M087 195435 Biomedical Research		\$	1,999,224	\$	1,999,224	6790
	and Technology Transfer					
TOTAL TSF Tobacco Master Settlement		\$	1,999,224	\$	1,999,224	6791
Agreement Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	1,245,317,783	\$	1,186,943,855	6792
					<u>1,201,943,895</u>	

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 6794

The foregoing appropriation item 195640, Local Government 6795
Innovation, shall be used for the purposes of making loans and 6796
grants to political subdivisions under the Local Government 6797
Innovation Program in accordance with sections 189.01 to 189.10 of 6798
the Revised Code. Of the foregoing appropriation item 195640, 6799
Local Government Innovation, up to \$175,000 in fiscal year 2012 6800
and \$175,000 in fiscal year 2013 shall be used for administrative 6801
costs incurred by the ~~Department of Development~~ Services Agency. 6802

On the effective date of this amendment, or as soon as 6803
possible thereafter, the Director of Budget and Management shall 6804
transfer \$175,000 in cash from the General Revenue Fund to the 6805
Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 6806
as soon as possible thereafter, the Director of Budget and 6807
Management shall transfer \$44,825,000 in cash from the General 6808
Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 6809

Section 11. That existing Sections 261.10 and 261.20.93 of 6810
Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 6811
Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 6812

Section 12. TRAVEL AND TOURISM 6813

The foregoing appropriation item 195407, Travel and Tourism, 6814
shall be used for marketing the state of Ohio as a tourism 6815
destination and to support administrative expenses and contracts 6816
necessary to market Ohio. 6817

Section 13. CDBG OPERATING MATCH 6818

The foregoing appropriation item 195497, CDBG Operating 6819
Match, shall be used as matching funds for grants from the United 6820
States Department of Housing and Urban Development pursuant to the 6821

Housing and Community Development Act of 1974 and regulations and 6822
policy guidelines for the programs pursuant thereto. 6823

Section 14. TECHNOLOGY PROGRAMS AND GRANTS 6824

The foregoing appropriation item 195532, Technology Programs 6825
and Grants, shall be used for the same purposes as funding 6826
previously appropriated for appropriation items 195401, Thomas 6827
Edison Program, and 195422, Technology Action. Of the foregoing 6828
appropriation item 195532, Technology Programs and Grants, up to 6829
\$547,341 in fiscal year 2013 shall be used for operating expenses 6830
incurred in administering the Ohio Third Frontier pursuant to 6831
sections 184.10 to 184.20 of the Revised Code; and up to 6832
\$13,000,000 in fiscal year 2013 shall be used for the Thomas 6833
Edison Program pursuant to sections 122.28 to 122.38 of the 6834
Revised Code, of which not more than ten per cent shall be used 6835
for operating expenses incurred in administering the program. 6836

Section 15. BUSINESS ASSISTANCE 6837

The foregoing appropriation item 195533, Business Assistance, 6838
shall be used as matching funds for grants from the United States 6839
Small Business Administration and other federal agencies, pursuant 6840
to Public Law No. 96-302 as amended by Public Law No. 98-395, and 6841
regulations and policy guidelines for the programs pursuant 6842
thereto. This appropriation item also may be used to provide 6843
grants to local organizations to support economic development 6844
activities that promote minority business development, small 6845
business development, entrepreneurship, and exports of Ohio's 6846
goods and services. 6847

Section 16. APPALACHIA ASSISTANCE 6848

The foregoing appropriation item 195535, Appalachia 6849
Assistance, may be used for the administrative costs of planning 6850

and liaison activities for the Governor's Office of Appalachia, to 6851
provide financial assistance to projects in Ohio's Appalachian 6852
counties, to pay dues for the Appalachian Regional Commission, and 6853
to match federal funds from the Appalachian Regional Commission. 6854

Of the foregoing appropriation item 195535, Appalachia 6855
Assistance, up to \$440,000 in fiscal year 2013 shall be used to 6856
support four local development districts. Of that amount, up to 6857
\$135,000 shall be allocated to the Ohio Valley Regional 6858
Development Commission, up to \$135,000 shall be allocated to the 6859
Ohio Mid-Eastern Government Association, up to \$135,000 shall be 6860
allocated to the Buckeye Hills-Hocking Valley Regional Development 6861
District, and up to \$35,000 shall be allocated to the Eastgate 6862
Regional Council of Governments. Local development districts 6863
receiving funding under this section shall use the funds for the 6864
implementation and administration of programs and duties under 6865
section 107.21 of the Revised Code. 6866

Section 17. LEGACY PROJECTS 6867

The foregoing appropriation item 195633, Legacy Projects, 6868
shall be used to support existing grant commitments to companies 6869
incurred prior to fiscal year 2013. A portion of the appropriation 6870
item may also be used to support administrative expenses and other 6871
costs associated with these projects. 6872

Section 18. BUSINESS ASSISTANCE PROGRAMS 6873

The foregoing appropriation item 195649, Business Assistance 6874
Programs, shall be used for administrative expenses associated 6875
with the operation of tax credit programs, loan servicing, the 6876
Ohio Film Office, and the Office of Strategic Business 6877
Investments, and for payments to the JobsOhio corporation 6878
established in Chapter 187. of the Revised Code for services 6879
provided for the administration of the 166 Direct Loan Program, 6880

Ohio Enterprise Bond Fund, Research and Development Loan Program, 6881
and Innovation Ohio Loan Program. 6882

Section 19. WORKFORCE DEVELOPMENT PROGRAMS 6883

The foregoing appropriation item 195655, Workforce 6884
Development Programs, may be used for the Ohio Workforce Guarantee 6885
Program to promote training through grants to businesses and, in 6886
the case of a business consortium, to the consortium for training 6887
and education providers for the reimbursement of eligible training 6888
expenses. Not more than ten per cent of appropriation item 195655, 6889
Workforce Development Programs, shall be used for administrative 6890
expenses related to the Ohio Workforce Guarantee Program. 6891

Section 20. ASSORTED TRANSFERS FOR RESTRUCTURING 6892

On July 1, 2012, or as soon as possible thereafter, the 6893
Director of Budget and Management shall transfer the unexpended 6894
and unencumbered cash balance in the Water and Sewer Fund (Fund 6895
4440) to the General Reimbursement Fund (Fund 6850). 6896

On July 1, 2012, or as soon as possible thereafter, the 6897
Director of Budget and Management shall transfer the unexpended 6898
and unencumbered cash balance in the Water and Sewer 6899
Administration Fund (Fund 6110) to the General Reimbursement Fund 6900
(Fund 6850). 6901

On July 1, 2012, or as soon as possible thereafter, the 6902
Director of Budget and Management shall transfer the unexpended 6903
and unencumbered cash balance in the Tax Incentive Programs 6904
Operating Fund (Fund 4S00) to the Business Assistance Fund (Fund 6905
4510). 6906

On July 1, 2012, or as soon as possible thereafter, the 6907
Director of Budget and Management shall transfer the unexpended 6908
and unencumbered cash balance in the Brownfield Stormwater Loan 6909
Fund (Fund 5KD0) to the New Market Tax Credit Program Fund (Fund 6910

5JR0). 6911

Section 21. That Sections 261.10.10, 261.10.20, 261.10.30, 6912
261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 6913
261.20.70, and 261.30.50 of Am. Sub. H.B. 153 of the 129th General 6914
Assembly are hereby repealed. 6915

Section 22. The amendments by this act to sections 9.981, 6916
121.22, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 122.49, 6917
122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.61, 122.62, 6918
122.64, 166.04, 166.05, 166.13, 166.14, 166.18, 166.19, 166.25, 6919
166.30, and 184.02 of the Revised Code take effect July 1, 2012. 6920

Section 23. Sections 9 to 21 of this act are not subject to 6921
the referendum under Ohio Constitution, Article II, Section 1d, 6922
and section 1.471 of the Revised Code, and therefore those 6923
sections take effect immediately when this act becomes law. 6924

Section 24. Section 122.42 of the Revised Code is presented 6925
in this act as a composite of the section as amended by both Am. 6926
Sub. H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. 6927
The General Assembly, applying the principle stated in division 6928
(B) of section 1.52 of the Revised Code that amendments are to be 6929
harmonized if reasonably capable of simultaneous operation, finds 6930
that the composite is the resulting version of the section in 6931
effect prior to the effective date of the section as presented in 6932
this act. 6933

Section 25. Section 149.43 of the Revised Code is presented 6934
in this act as a composite of the section as amended by both Sub. 6935
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 6936
General Assembly, applying the principle stated in division (B) of 6937
section 1.52 of the Revised Code that amendments are to be 6938
harmonized if reasonably capable of simultaneous operation, finds 6939

that the composite is the resulting version of the section in	6940
effect prior to the effective date of the section as presented in	6941
this act.	6942