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Senators Wagoner, Cafaro

**Cosponsors: Senators Beagle, Lehner, Manning, Obhof, Widener, Oelslager,
Bacon, Balderson, Burke, Coley, Eklund, Faber, Hite, Jones, LaRose,
Niehaus, Patton, Peterson, Schaffer, Seitz**

**Representatives Adams, R., Amstutz, Antonio, Baker, Barnes, Beck, Blair,
Bubp, Buchy, Butler, Celeste, Damschroder, Derickson, Dovilla, Driehaus,
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Hall, Hayes, Henne, Hill, Hottinger, Huffman, Johnson, Kozlowski, Landis,
Letson, Lundy, McClain, McGregor, Milkovich, Newbold, Pelanda, Reece,
Rosenberger, Ruhl, Scherer, Schuring, Sears, Smith, Sprague, Stautberg,
Sykes, Szollosi, Terhar, Thompson, Uecker, Wachtmann, Winburn, Young**

Speaker Batchelder

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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, 149.311, 149.43, 164.05, 164.06,	7
164.08, 166.01, 166.04, 166.05, 166.11, 166.13,	8
166.14, 166.18, 166.19, 166.25, 166.30, 174.01,	9
184.01, 187.01, 187.03, 187.04, 187.05, 929.03,	10
1551.01, 3735.672, 3746.35, 5117.22, 5709.68,	11
5709.882, 6103.052, and 6117.062, to amend, for	12

the purpose of adopting new section numbers as 13
indicated in parentheses, sections 122.07 14
(122.073) and 122.071 (122.072), to enact new 15
sections 122.07 and 122.071 and sections 122.942, 16
122.97, 184.011, 187.061, 3735.01, and 5701.15, 17
and to repeal sections 122.40, 1525.11, 1525.12, 18
1525.13, and 6111.034 of the Revised Code to 19
rename the Department of Development the 20
"Development Services Agency"; to establish the 21
Office of TourismOhio within the Development 22
Services Agency, create the TourismOhio Advisory 23
Board, and establish a pilot program to test a new 24
funding mechanism for the state's travel and 25
tourism marketing; to modify the operation of 26
JobsOhio, including by requiring annual ethics 27
training, ethical conduct statements, and the 28
development of a gift policy; to makes changes to 29
the Capital Access Loan Program Fund and to allow 30
transfers to the Capital Access Loan Program Fund 31
from the Minority Business Enterprise Loan Fund; 32
to provide for projects that were started prior to 33
receiving a tax credit from the Ohio Tax Credit 34
Authority; to modify reporting requirements under 35
the Voluntary Action Program; to require the 36
Director of Development Services to administer 37
federal funds received for Brownfields 38
revitalization purposes; to terminate the Water 39
and Sewer Commission; to terminate the Development 40
Financing Advisory Council; to require the 41
Director of Development Services to make certain 42
information available to the public with respect 43
to each project for which state-funded financial 44
assistance is awarded by the Development Services 45

Agency; to expand eligibility for the historic 46
rehabilitation tax credit; to establish an annual 47
debt service limitation on project financing 48
obligations issued for certain economic 49
development programs; and to increase the 50
membership of the Third Frontier Commission. 51

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

Section 1. That sections 9.981, 102.03, 121.02, 121.03, 52
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 53
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 54
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 55
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 56
122.86, 149.311, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 57
166.05, 166.11, 166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 58
174.01, 184.01, 187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 59
3735.672, 3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 60
6117.062 be amended, sections 122.07 (122.073) and 122.071 61
(122.072) be amended for the purpose of adopting new section 62
numbers as indicated in parentheses, and new sections 122.07 and 63
122.071 and sections 122.942, 122.97, 184.011, 187.061, 3735.01, 64
and 5701.15 of the Revised Code be enacted to read as follows: 65

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code 66
are applicable to bonds: 67

(1) The payment of the debt service on which is to be 68
provided for directly or indirectly by payments contracted to be 69
made in the bond proceedings by the absolute obligors, being 70
persons other than the issuer; and 71

(2) Which are authorized to be issued under sections 122.39 72
and 122.41 to 122.62, Chapter 165., 902., 3377., 3706., division 73

(A)(4) of section 4582.06, division (A)(8) of section 4582.31, 74
section 4582.48, or Chapter 6121. or 6123. of the Revised Code, 75
notwithstanding other provisions therein. 76

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 77
to bonds issued under sections 306.37 and 6119.12 of the Revised 78
Code and Chapters 140., 152., 154., 175., and 349. of the Revised 79
Code, and to any bonds authorized under laws which expressly make 80
those sections applicable. 81

(C) Subject to division (A) of this section, the authority 82
provided in sections 9.98 to 9.983 of the Revised Code is 83
supplemental to and not in derogation of any similar authority 84
provided by, derived from, or implied by, any law, the Ohio 85
Constitution, or any charter, resolution, or ordinance, and no 86
inference shall be drawn to negate the authority thereunder by 87
reason of the express provisions of sections 9.98 to 9.983 of the 88
Revised Code. 89

(D) Sections 9.98 to 9.983 of the Revised Code shall be 90
liberally construed to permit flexibility in the arrangements 91
therein provided to enhance the issuance of such bonds and provide 92
for terms most beneficial and satisfactory to the persons which 93
undertake to provide for their payment, security, and liquidity. 94

Sec. 102.03. (A)(1) No present or former public official or 95
employee shall, during public employment or service or for twelve 96
months thereafter, represent a client or act in a representative 97
capacity for any person on any matter in which the public official 98
or employee personally participated as a public official or 99
employee through decision, approval, disapproval, recommendation, 100
the rendering of advice, investigation, or other substantial 101
exercise of administrative discretion. 102

(2) For twenty-four months after the conclusion of service, 103
no former commissioner or attorney examiner of the public 104

utilities commission shall represent a public utility, as defined 105
in section 4905.02 of the Revised Code, or act in a representative 106
capacity on behalf of such a utility before any state board, 107
commission, or agency. 108

(3) For twenty-four months after the conclusion of employment 109
or service, no former public official or employee who personally 110
participated as a public official or employee through decision, 111
approval, disapproval, recommendation, the rendering of advice, 112
the development or adoption of solid waste management plans, 113
investigation, inspection, or other substantial exercise of 114
administrative discretion under Chapter 343. or 3734. of the 115
Revised Code shall represent a person who is the owner or operator 116
of a facility, as defined in section 3734.01 of the Revised Code, 117
or who is an applicant for a permit or license for a facility 118
under that chapter, on any matter in which the public official or 119
employee personally participated as a public official or employee. 120

(4) For a period of one year after the conclusion of 121
employment or service as a member or employee of the general 122
assembly, no former member or employee of the general assembly 123
shall represent, or act in a representative capacity for, any 124
person on any matter before the general assembly, any committee of 125
the general assembly, or the controlling board. Division (A)(4) of 126
this section does not apply to or affect a person who separates 127
from service with the general assembly on or before December 31, 128
1995. As used in division (A)(4) of this section "person" does not 129
include any state agency or political subdivision of the state. 130

(5) As used in divisions (A)(1), (2), and (3) of this 131
section, "matter" includes any case, proceeding, application, 132
determination, issue, or question, but does not include the 133
proposal, consideration, or enactment of statutes, rules, 134
ordinances, resolutions, or charter or constitutional amendments. 135
As used in division (A)(4) of this section, "matter" includes the 136

proposal, consideration, or enactment of statutes, resolutions, or 137
constitutional amendments. As used in division (A) of this 138
section, "represent" includes any formal or informal appearance 139
before, or any written or oral communication with, any public 140
agency on behalf of any person. 141

(6) Nothing contained in division (A) of this section shall 142
prohibit, during such period, a former public official or employee 143
from being retained or employed to represent, assist, or act in a 144
representative capacity for the public agency by which the public 145
official or employee was employed or on which the public official 146
or employee served. 147

(7) Division (A) of this section shall not be construed to 148
prohibit the performance of ministerial functions, including, but 149
not limited to, the filing or amendment of tax returns, 150
applications for permits and licenses, incorporation papers, and 151
other similar documents. 152

(8) Division (A) of this section does not prohibit a 153
nonelected public official or employee of a state agency, as 154
defined in section 1.60 of the Revised Code, from becoming a 155
public official or employee of another state agency. Division (A) 156
of this section does not prohibit such an official or employee 157
from representing or acting in a representative capacity for the 158
official's or employee's new state agency on any matter in which 159
the public official or employee personally participated as a 160
public official or employee at the official's or employee's former 161
state agency. However, no public official or employee of a state 162
agency shall, during public employment or for twelve months 163
thereafter, represent or act in a representative capacity for the 164
official's or employee's new state agency on any audit or 165
investigation pertaining to the official's or employee's new state 166
agency in which the public official or employee personally 167
participated at the official's or employee's former state agency 168

through decision, approval, disapproval, recommendation, the 169
rendering of advice, investigation, or other substantial exercise 170
of administrative discretion. 171

(9) Division (A) of this section does not prohibit a 172
nonelected public official or employee of a political subdivision 173
from becoming a public official or employee of a different 174
department, division, agency, office, or unit of the same 175
political subdivision. Division (A) of this section does not 176
prohibit such an official or employee from representing or acting 177
in a representative capacity for the official's or employee's new 178
department, division, agency, office, or unit on any matter in 179
which the public official or employee personally participated as a 180
public official or employee at the official's or employee's former 181
department, division, agency, office, or unit of the same 182
political subdivision. As used in this division, "political 183
subdivision" means a county, township, municipal corporation, or 184
any other body corporate and politic that is responsible for 185
government activities in a geographic area smaller than that of 186
the state. 187

(10) No present or former Ohio casino control commission 188
official shall, during public service or for two years thereafter, 189
represent a client, be employed or compensated by a person 190
regulated by the commission, or act in a representative capacity 191
for any person on any matter before or concerning the commission. 192

No present or former commission employee shall, during public 193
employment or for two years thereafter, represent a client or act 194
in a representative capacity on any matter in which the employee 195
personally participated as a commission employee through decision, 196
approval, disapproval, recommendation, the rendering of advice, 197
investigation, or other substantial exercise of administrative 198
discretion. 199

(B) No present or former public official or employee shall 200

disclose or use, without appropriate authorization, any 201
information acquired by the public official or employee in the 202
course of the public official's or employee's official duties that 203
is confidential because of statutory provisions, or that has been 204
clearly designated to the public official or employee as 205
confidential when that confidential designation is warranted 206
because of the status of the proceedings or the circumstances 207
under which the information was received and preserving its 208
confidentiality is necessary to the proper conduct of government 209
business. 210

(C) No public official or employee shall participate within 211
the scope of duties as a public official or employee, except 212
through ministerial functions as defined in division (A) of this 213
section, in any license or rate-making proceeding that directly 214
affects the license or rates of any person, partnership, trust, 215
business trust, corporation, or association in which the public 216
official or employee or immediate family owns or controls more 217
than five per cent. No public official or employee shall 218
participate within the scope of duties as a public official or 219
employee, except through ministerial functions as defined in 220
division (A) of this section, in any license or rate-making 221
proceeding that directly affects the license or rates of any 222
person to whom the public official or employee or immediate 223
family, or a partnership, trust, business trust, corporation, or 224
association of which the public official or employee or the public 225
official's or employee's immediate family owns or controls more 226
than five per cent, has sold goods or services totaling more than 227
one thousand dollars during the preceding year, unless the public 228
official or employee has filed a written statement acknowledging 229
that sale with the clerk or secretary of the public agency and the 230
statement is entered in any public record of the agency's 231
proceedings. This division shall not be construed to require the 232
disclosure of clients of attorneys or persons licensed under 233

section 4732.12 or 4732.15 of the Revised Code, or patients of 234
persons certified under section 4731.14 of the Revised Code. 235

(D) No public official or employee shall use or authorize the 236
use of the authority or influence of office or employment to 237
secure anything of value or the promise or offer of anything of 238
value that is of such a character as to manifest a substantial and 239
improper influence upon the public official or employee with 240
respect to that person's duties. 241

(E) No public official or employee shall solicit or accept 242
anything of value that is of such a character as to manifest a 243
substantial and improper influence upon the public official or 244
employee with respect to that person's duties. 245

(F) No person shall promise or give to a public official or 246
employee anything of value that is of such a character as to 247
manifest a substantial and improper influence upon the public 248
official or employee with respect to that person's duties. 249

(G) In the absence of bribery or another offense under the 250
Revised Code or a purpose to defraud, contributions made to a 251
campaign committee, political party, legislative campaign fund, 252
political action committee, or political contributing entity on 253
behalf of an elected public officer or other public official or 254
employee who seeks elective office shall be considered to accrue 255
ordinarily to the public official or employee for the purposes of 256
divisions (D), (E), and (F) of this section. 257

As used in this division, "contributions," "campaign 258
committee," "political party," "legislative campaign fund," 259
"political action committee," and "political contributing entity" 260
have the same meanings as in section 3517.01 of the Revised Code. 261

(H)(1) No public official or employee, except for the 262
president or other chief administrative officer of or a member of 263
a board of trustees of a state institution of higher education as 264

defined in section 3345.011 of the Revised Code, who is required 265
to file a financial disclosure statement under section 102.02 of 266
the Revised Code shall solicit or accept, and no person shall give 267
to that public official or employee, an honorarium. Except as 268
provided in division (H)(2) of this section, this division and 269
divisions (D), (E), and (F) of this section do not prohibit a 270
public official or employee who is required to file a financial 271
disclosure statement under section 102.02 of the Revised Code from 272
accepting and do not prohibit a person from giving to that public 273
official or employee the payment of actual travel expenses, 274
including any expenses incurred in connection with the travel for 275
lodging, and meals, food, and beverages provided to the public 276
official or employee at a meeting at which the public official or 277
employee participates in a panel, seminar, or speaking engagement 278
or provided to the public official or employee at a meeting or 279
convention of a national organization to which any state agency, 280
including, but not limited to, any state legislative agency or 281
state institution of higher education as defined in section 282
3345.011 of the Revised Code, pays membership dues. Except as 283
provided in division (H)(2) of this section, this division and 284
divisions (D), (E), and (F) of this section do not prohibit a 285
public official or employee who is not required to file a 286
financial disclosure statement under section 102.02 of the Revised 287
Code from accepting and do not prohibit a person from promising or 288
giving to that public official or employee an honorarium or the 289
payment of travel, meal, and lodging expenses if the honorarium, 290
expenses, or both were paid in recognition of demonstrable 291
business, professional, or esthetic interests of the public 292
official or employee that exist apart from public office or 293
employment, including, but not limited to, such a demonstrable 294
interest in public speaking and were not paid by any person or 295
other entity, or by any representative or association of those 296
persons or entities, that is regulated by, doing business with, or 297

seeking to do business with the department, division, institution, 298
board, commission, authority, bureau, or other instrumentality of 299
the governmental entity with which the public official or employee 300
serves. 301

(2) No person who is a member of the board of a state 302
retirement system, a state retirement system investment officer, 303
or an employee of a state retirement system whose position 304
involves substantial and material exercise of discretion in the 305
investment of retirement system funds shall solicit or accept, and 306
no person shall give to that board member, officer, or employee, 307
payment of actual travel expenses, including expenses incurred 308
with the travel for lodging, meals, food, and beverages. 309

(I) A public official or employee may accept travel, meals, 310
and lodging or expenses or reimbursement of expenses for travel, 311
meals, and lodging in connection with conferences, seminars, and 312
similar events related to official duties if the travel, meals, 313
and lodging, expenses, or reimbursement is not of such a character 314
as to manifest a substantial and improper influence upon the 315
public official or employee with respect to that person's duties. 316
The house of representatives and senate, in their code of ethics, 317
and the Ohio ethics commission, under section 111.15 of the 318
Revised Code, may adopt rules setting standards and conditions for 319
the furnishing and acceptance of such travel, meals, and lodging, 320
expenses, or reimbursement. 321

A person who acts in compliance with this division and any 322
applicable rules adopted under it, or any applicable, similar 323
rules adopted by the supreme court governing judicial officers and 324
employees, does not violate division (D), (E), or (F) of this 325
section. This division does not preclude any person from seeking 326
an advisory opinion from the appropriate ethics commission under 327
section 102.08 of the Revised Code. 328

(J) For purposes of divisions (D), (E), and (F) of this 329

section, the membership of a public official or employee in an 330
organization shall not be considered, in and of itself, to be of 331
such a character as to manifest a substantial and improper 332
influence on the public official or employee with respect to that 333
person's duties. As used in this division, "organization" means a 334
church or a religious, benevolent, fraternal, or professional 335
organization that is tax exempt under subsection 501(a) and 336
described in subsection 501(c)(3), (4), (8), (10), or (19) of the 337
"Internal Revenue Code of 1986." This division does not apply to a 338
public official or employee who is an employee of an organization, 339
serves as a trustee, director, or officer of an organization, or 340
otherwise holds a fiduciary relationship with an organization. 341
This division does not allow a public official or employee who is 342
a member of an organization to participate, formally or 343
informally, in deliberations, discussions, or voting on a matter 344
or to use ~~his~~ the public official's or employee's official 345
position with regard to the interests of the organization on the 346
matter if the public official or employee has assumed a particular 347
responsibility in the organization with respect to the matter or 348
if the matter would affect that person's personal, pecuniary 349
interests. 350

(K) It is not a violation of this section for a prosecuting 351
attorney to appoint assistants and employees in accordance with 352
division (B) of section 309.06 and section 2921.421 of the Revised 353
Code, for a chief legal officer of a municipal corporation or an 354
official designated as prosecutor in a municipal corporation to 355
appoint assistants and employees in accordance with sections 356
733.621 and 2921.421 of the Revised Code, for a township law 357
director appointed under section 504.15 of the Revised Code to 358
appoint assistants and employees in accordance with sections 359
504.151 and 2921.421 of the Revised Code, or for a coroner to 360
appoint assistants and employees in accordance with division (B) 361
of section 313.05 of the Revised Code. 362

As used in this division, "chief legal officer" has the same 363
meaning as in section 733.621 of the Revised Code. 364

(L) No present public official or employee with a casino 365
gaming regulatory function shall indirectly invest, by way of an 366
entity the public official or employee has an ownership interest 367
or control in, or directly invest in a casino operator, management 368
company, holding company, casino facility, or gaming-related 369
vendor. No present public official or employee with a casino 370
gaming regulatory function shall directly or indirectly have a 371
financial interest in, have an ownership interest in, be the 372
creditor or hold a debt instrument issued by, or have an interest 373
in a contractual or service relationship with a casino operator, 374
management company, holding company, casino facility, or 375
gaming-related vendor. This section does not prohibit or limit 376
permitted passive investing by the public official or employee. 377

As used in this division, "passive investing" means 378
investment by the public official or employee by means of a mutual 379
fund in which the public official or employee has no control of 380
the investments or investment decisions. "Casino operator," 381
"holding company," "management company," "casino facility," and 382
"gaming-related vendor" have the same meanings as in section 383
3772.01 of the Revised Code. 384

(M) A member of the Ohio casino control commission, the 385
executive director of the commission, or an employee of the 386
commission shall not: 387

(1) Accept anything of value, including but not limited to a 388
gift, gratuity, emolument, or employment from a casino operator, 389
management company, or other person subject to the jurisdiction of 390
the commission, or from an officer, attorney, agent, or employee 391
of a casino operator, management company, or other person subject 392
to the jurisdiction of the commission; 393

(2) Solicit, suggest, request, or recommend, directly or 394
indirectly, to a casino operator, management company, or other 395
person subject to the jurisdiction of the commission, or to an 396
officer, attorney, agent, or employee of a casino operator, 397
management company, or other person subject to the jurisdiction of 398
the commission, the appointment of a person to an office, place, 399
position, or employment; 400

(3) Participate in casino gaming or any other amusement or 401
activity at a casino facility in this state or at an affiliate 402
gaming facility of a licensed casino operator, wherever located. 403

In addition to the penalty provided in section 102.99 of the 404
Revised Code, whoever violates division (M)(1), (2), or (3) of 405
this section forfeits the individual's office or employment. 406

Sec. 121.02. The following administrative departments and 407
their respective directors are hereby created: 408

(A) The office of budget and management, which shall be 409
administered by the director of budget and management; 410

(B) The department of commerce, which shall be administered 411
by the director of commerce; 412

(C) The department of administrative services, which shall be 413
administered by the director of administrative services; 414

(D) The department of transportation, which shall be 415
administered by the director of transportation; 416

(E) The department of agriculture, which shall be 417
administered by the director of agriculture; 418

(F) The department of natural resources, which shall be 419
administered by the director of natural resources; 420

(G) The department of health, which shall be administered by 421
the director of health; 422

(H) The department of job and family services, which shall be administered by the director of job and family services;	423 424
(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;	425 426
(J) The department of public safety, which shall be administered by the director of public safety;	427 428
(K) The department of mental health, which shall be administered by the director of mental health;	429 430
(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;	431 432
(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;	433 434
(N) The department of development <u>services agency</u> , which shall be administered by the director of development <u>services</u> ;	435 436
(O) The department of youth services, which shall be administered by the director of youth services;	437 438
(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;	439 440 441
(Q) The environmental protection agency, which shall be administered by the director of environmental protection;	442 443
(R) The department of aging, which shall be administered by the director of aging;	444 445
(S) The department of alcohol and drug addiction services, which shall be administered by the director of alcohol and drug addiction services;	446 447 448
(T) The department of veterans services, which shall be administered by the director of veterans services.	449 450
The director of each department shall exercise the powers and	451

perform the duties vested by law in such department. 452

Sec. 121.03. The following administrative department heads 453
shall be appointed by the governor, with the advice and consent of 454
the senate, and shall hold their offices during the term of the 455
appointing governor, and are subject to removal at the pleasure of 456
the governor. 457

(A) The director of budget and management; 458

(B) The director of commerce; 459

(C) The director of transportation; 460

(D) The director of agriculture; 461

(E) The director of job and family services; 462

(F) Until July 1, 1997, the director of liquor control; 463

(G) The director of public safety; 464

(H) The superintendent of insurance; 465

(I) The director of development services; 466

(J) The tax commissioner; 467

(K) The director of administrative services; 468

(L) The director of natural resources; 469

(M) The director of mental health; 470

(N) The director of developmental disabilities; 471

(O) The director of health; 472

(P) The director of youth services; 473

(Q) The director of rehabilitation and correction; 474

(R) The director of environmental protection; 475

(S) The director of aging; 476

(T) The director of alcohol and drug addiction services; 477

(U) The administrator of workers' compensation who meets the 478
qualifications required under division (A) of section 4121.121 of 479
the Revised Code; 480

(V) The director of veterans services who meets the 481
qualifications required under section 5902.01 of the Revised Code; 482

(W) The chancellor of the Ohio board of regents. 483

Sec. 121.22. (A) This section shall be liberally construed to 484
require public officials to take official action and to conduct 485
all deliberations upon official business only in open meetings 486
unless the subject matter is specifically excepted by law. 487

(B) As used in this section: 488

(1) "Public body" means any of the following: 489

(a) Any board, commission, committee, council, or similar 490
decision-making body of a state agency, institution, or authority, 491
and any legislative authority or board, commission, committee, 492
council, agency, authority, or similar decision-making body of any 493
county, township, municipal corporation, school district, or other 494
political subdivision or local public institution; 495

(b) Any committee or subcommittee of a body described in 496
division (B)(1)(a) of this section; 497

(c) A court of jurisdiction of a sanitary district organized 498
wholly for the purpose of providing a water supply for domestic, 499
municipal, and public use when meeting for the purpose of the 500
appointment, removal, or reappointment of a member of the board of 501
directors of such a district pursuant to section 6115.10 of the 502
Revised Code, if applicable, or for any other matter related to 503
such a district other than litigation involving the district. As 504
used in division (B)(1)(c) of this section, "court of 505
jurisdiction" has the same meaning as "court" in section 6115.01 506
of the Revised Code. 507

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.	508 509
(3) "Regulated individual" means either of the following:	510
(a) A student in a state or local public educational institution;	511 512
(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.	513 514 515 516
(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.	517 518
(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.	519 520 521 522 523
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.	524 525 526 527 528
(D) This section does not apply to any of the following:	529
(1) A grand jury;	530
(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;	531 532 533
(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;	534 535 536
(4) The organized crime investigations commission established	537

under section 177.01 of the Revised Code;	538
(5) Meetings of a child fatality review board established	539
under section 307.621 of the Revised Code and meetings conducted	540
pursuant to sections 5153.171 to 5153.173 of the Revised Code;	541
(6) The state medical board when determining whether to	542
suspend a certificate without a prior hearing pursuant to division	543
(G) of either section 4730.25 or 4731.22 of the Revised Code;	544
(7) The board of nursing when determining whether to suspend	545
a license or certificate without a prior hearing pursuant to	546
division (B) of section 4723.281 of the Revised Code;	547
(8) The state board of pharmacy when determining whether to	548
suspend a license without a prior hearing pursuant to division (D)	549
of section 4729.16 of the Revised Code;	550
(9) The state chiropractic board when determining whether to	551
suspend a license without a hearing pursuant to section 4734.37 of	552
the Revised Code;	553
(10) The executive committee of the emergency response	554
commission when determining whether to issue an enforcement order	555
or request that a civil action, civil penalty action, or criminal	556
action be brought to enforce Chapter 3750. of the Revised Code;	557
(11) The board of directors of the nonprofit corporation	558
formed under section 187.01 of the Revised Code or any committee	559
thereof, and the board of directors of any subsidiary of that	560
corporation or a committee thereof;	561
(12) An audit conference conducted by the audit staff of the	562
department of job and family services with officials of the public	563
office that is the subject of that audit under section 5101.37 of	564
the Revised Code.	565
(E) The controlling board, the development financing advisory	566
council , the industrial technology and enterprise advisory	567

council, the tax credit authority, or the minority development 568
financing advisory board, when meeting to consider granting 569
assistance pursuant to Chapter 122. or 166. of the Revised Code, 570
in order to protect the interest of the applicant or the possible 571
investment of public funds, by unanimous vote of all board, 572
council, or authority members present, may close the meeting 573
during consideration of the following information confidentially 574
received by the authority, council, or board from the applicant: 575

(1) Marketing plans; 576

(2) Specific business strategy; 577

(3) Production techniques and trade secrets; 578

(4) Financial projections; 579

(5) Personal financial statements of the applicant or members 580
of the applicant's immediate family, including, but not limited 581
to, tax records or other similar information not open to public 582
inspection. 583

The vote by the authority, council, or board to accept or 584
reject the application, as well as all proceedings of the 585
authority, council, or board not subject to this division, shall 586
be open to the public and governed by this section. 587

(F) Every public body, by rule, shall establish a reasonable 588
method whereby any person may determine the time and place of all 589
regularly scheduled meetings and the time, place, and purpose of 590
all special meetings. A public body shall not hold a special 591
meeting unless it gives at least twenty-four hours' advance notice 592
to the news media that have requested notification, except in the 593
event of an emergency requiring immediate official action. In the 594
event of an emergency, the member or members calling the meeting 595
shall notify the news media that have requested notification 596
immediately of the time, place, and purpose of the meeting. 597

The rule shall provide that any person, upon request and 598
payment of a reasonable fee, may obtain reasonable advance 599
notification of all meetings at which any specific type of public 600
business is to be discussed. Provisions for advance notification 601
may include, but are not limited to, mailing the agenda of 602
meetings to all subscribers on a mailing list or mailing notices 603
in self-addressed, stamped envelopes provided by the person. 604

(G) Except as provided in division (J) of this section, the 605
members of a public body may hold an executive session only after 606
a majority of a quorum of the public body determines, by a roll 607
call vote, to hold an executive session and only at a regular or 608
special meeting for the sole purpose of the consideration of any 609
of the following matters: 610

(1) To consider the appointment, employment, dismissal, 611
discipline, promotion, demotion, or compensation of a public 612
employee or official, or the investigation of charges or 613
complaints against a public employee, official, licensee, or 614
regulated individual, unless the public employee, official, 615
licensee, or regulated individual requests a public hearing. 616
Except as otherwise provided by law, no public body shall hold an 617
executive session for the discipline of an elected official for 618
conduct related to the performance of the elected official's 619
official duties or for the elected official's removal from office. 620
If a public body holds an executive session pursuant to division 621
(G)(1) of this section, the motion and vote to hold that executive 622
session shall state which one or more of the approved purposes 623
listed in division (G)(1) of this section are the purposes for 624
which the executive session is to be held, but need not include 625
the name of any person to be considered at the meeting. 626

(2) To consider the purchase of property for public purposes, 627
or for the sale of property at competitive bidding, if premature 628
disclosure of information would give an unfair competitive or 629

bargaining advantage to a person whose personal, private interest 630
is adverse to the general public interest. No member of a public 631
body shall use division (G)(2) of this section as a subterfuge for 632
providing covert information to prospective buyers or sellers. A 633
purchase or sale of public property is void if the seller or buyer 634
of the public property has received covert information from a 635
member of a public body that has not been disclosed to the general 636
public in sufficient time for other prospective buyers and sellers 637
to prepare and submit offers. 638

If the minutes of the public body show that all meetings and 639
deliberations of the public body have been conducted in compliance 640
with this section, any instrument executed by the public body 641
purporting to convey, lease, or otherwise dispose of any right, 642
title, or interest in any public property shall be conclusively 643
presumed to have been executed in compliance with this section 644
insofar as title or other interest of any bona fide purchasers, 645
lessees, or transferees of the property is concerned. 646

(3) Conferences with an attorney for the public body 647
concerning disputes involving the public body that are the subject 648
of pending or imminent court action; 649

(4) Preparing for, conducting, or reviewing negotiations or 650
bargaining sessions with public employees concerning their 651
compensation or other terms and conditions of their employment; 652

(5) Matters required to be kept confidential by federal law 653
or regulations or state statutes; 654

(6) Details relative to the security arrangements and 655
emergency response protocols for a public body or a public office, 656
if disclosure of the matters discussed could reasonably be 657
expected to jeopardize the security of the public body or public 658
office; 659

(7) In the case of a county hospital operated pursuant to 660

Chapter 339. of the Revised Code, a joint township hospital 661
operated pursuant to Chapter 513. of the Revised Code, or a 662
municipal hospital operated pursuant to Chapter 749. of the 663
Revised Code, to consider trade secrets, as defined in section 664
1333.61 of the Revised Code. 665

If a public body holds an executive session to consider any 666
of the matters listed in divisions (G)(2) to (7) of this section, 667
the motion and vote to hold that executive session shall state 668
which one or more of the approved matters listed in those 669
divisions are to be considered at the executive session. 670

A public body specified in division (B)(1)(c) of this section 671
shall not hold an executive session when meeting for the purposes 672
specified in that division. 673

(H) A resolution, rule, or formal action of any kind is 674
invalid unless adopted in an open meeting of the public body. A 675
resolution, rule, or formal action adopted in an open meeting that 676
results from deliberations in a meeting not open to the public is 677
invalid unless the deliberations were for a purpose specifically 678
authorized in division (G) or (J) of this section and conducted at 679
an executive session held in compliance with this section. A 680
resolution, rule, or formal action adopted in an open meeting is 681
invalid if the public body that adopted the resolution, rule, or 682
formal action violated division (F) of this section. 683

(I)(1) Any person may bring an action to enforce this 684
section. An action under division (I)(1) of this section shall be 685
brought within two years after the date of the alleged violation 686
or threatened violation. Upon proof of a violation or threatened 687
violation of this section in an action brought by any person, the 688
court of common pleas shall issue an injunction to compel the 689
members of the public body to comply with its provisions. 690

(2)(a) If the court of common pleas issues an injunction 691

pursuant to division (I)(1) of this section, the court shall order 692
the public body that it enjoins to pay a civil forfeiture of five 693
hundred dollars to the party that sought the injunction and shall 694
award to that party all court costs and, subject to reduction as 695
described in division (I)(2) of this section, reasonable 696
attorney's fees. The court, in its discretion, may reduce an award 697
of attorney's fees to the party that sought the injunction or not 698
award attorney's fees to that party if the court determines both 699
of the following: 700

(i) That, based on the ordinary application of statutory law 701
and case law as it existed at the time of violation or threatened 702
violation that was the basis of the injunction, a well-informed 703
public body reasonably would believe that the public body was not 704
violating or threatening to violate this section; 705

(ii) That a well-informed public body reasonably would 706
believe that the conduct or threatened conduct that was the basis 707
of the injunction would serve the public policy that underlies the 708
authority that is asserted as permitting that conduct or 709
threatened conduct. 710

(b) If the court of common pleas does not issue an injunction 711
pursuant to division (I)(1) of this section and the court 712
determines at that time that the bringing of the action was 713
frivolous conduct, as defined in division (A) of section 2323.51 714
of the Revised Code, the court shall award to the public body all 715
court costs and reasonable attorney's fees, as determined by the 716
court. 717

(3) Irreparable harm and prejudice to the party that sought 718
the injunction shall be conclusively and irrebuttably presumed 719
upon proof of a violation or threatened violation of this section. 720

(4) A member of a public body who knowingly violates an 721
injunction issued pursuant to division (I)(1) of this section may 722

be removed from office by an action brought in the court of common 723
pleas for that purpose by the prosecuting attorney or the attorney 724
general. 725

(J)(1) Pursuant to division (C) of section 5901.09 of the 726
Revised Code, a veterans service commission shall hold an 727
executive session for one or more of the following purposes unless 728
an applicant requests a public hearing: 729

(a) Interviewing an applicant for financial assistance under 730
sections 5901.01 to 5901.15 of the Revised Code; 731

(b) Discussing applications, statements, and other documents 732
described in division (B) of section 5901.09 of the Revised Code; 733

(c) Reviewing matters relating to an applicant's request for 734
financial assistance under sections 5901.01 to 5901.15 of the 735
Revised Code. 736

(2) A veterans service commission shall not exclude an 737
applicant for, recipient of, or former recipient of financial 738
assistance under sections 5901.01 to 5901.15 of the Revised Code, 739
and shall not exclude representatives selected by the applicant, 740
recipient, or former recipient, from a meeting that the commission 741
conducts as an executive session that pertains to the applicant's, 742
recipient's, or former recipient's application for financial 743
assistance. 744

(3) A veterans service commission shall vote on the grant or 745
denial of financial assistance under sections 5901.01 to 5901.15 746
of the Revised Code only in an open meeting of the commission. The 747
minutes of the meeting shall indicate the name, address, and 748
occupation of the applicant, whether the assistance was granted or 749
denied, the amount of the assistance if assistance is granted, and 750
the votes for and against the granting of assistance. 751

Sec. 122.01. (A) As used in the Revised Code, the "department 752

of development" means the development services agency and the 753
"director of development" means the director of development 754
services. Whenever the department or director of development is 755
referred to or designated in any statute, rule, contract, grant, 756
or other document, the reference or designation shall be deemed to 757
refer to the development services agency or director of 758
development services, as the case may be. 759

(B) As used in this chapter: 760

~~(A)~~(1) "Community problems" includes, but is not limited to, 761
taxation, fiscal administration, governmental structure and 762
organization, intergovernmental cooperation, education and 763
training, employment needs, community planning and development, 764
air and water pollution, public safety and the administration of 765
justice, housing, mass transportation, community facilities and 766
services, health, welfare, recreation, open space, and the 767
development of human resources. 768

~~(B)~~(2) "Professional personnel" means either of the 769
following: 770

~~(1)~~(a) Personnel who have earned a bachelor's degree from a 771
college or university; 772

~~(2)~~(b) Personnel who serve as or have the working title of 773
director, assistant director, deputy director, assistant deputy 774
director, manager, office chief, assistant office chief, or 775
program director. 776

~~(C)~~(3) "Technical personnel" means any of the following: 777

~~(1)~~(a) Personnel who provide technical assistance according 778
to their job description or in accordance with the Revised Code; 779

~~(2)~~(b) Personnel employed in the director of ~~development's~~ 780
development services' office or the legal office, communications 781
office, finance office, legislative affairs office, or human 782

resources office of the ~~department of~~ development services agency; 783

~~(3)(c)~~ Personnel employed in the technology division of the 784
~~department~~ agency. 785

Sec. 122.011. (A) The ~~department of~~ development services 786
agency shall develop and promote plans and programs designed to 787
assure that state resources are efficiently used, economic growth 788
is properly balanced, community growth is developed in an orderly 789
manner, and local governments are coordinated with each other and 790
the state, and for such purposes may do all of the following: 791

(1) Serve as a clearinghouse for information, data, and other 792
materials that may be helpful or necessary to persons or local 793
governments, as provided in section ~~122.07~~ 122.073 of the Revised 794
Code; 795

(2) Prepare and activate plans for the retention, 796
development, expansion, and use of the resources and commerce of 797
the state, as provided in section 122.04 of the Revised Code; 798

(3) Assist and cooperate with federal, state, and local 799
governments and agencies of federal, state, and local governments 800
in the coordination of programs to carry out the functions and 801
duties of the ~~department~~ agency; 802

(4) Encourage and foster research and development activities, 803
conduct studies related to the solution of community problems, and 804
develop recommendations for administrative or legislative actions, 805
as provided in section 122.03 of the Revised Code; 806

(5) Serve as the economic and community development planning 807
agency, which shall prepare and recommend plans and programs for 808
the orderly growth and development of this state and which shall 809
provide planning assistance, as provided in section 122.06 of the 810
Revised Code; 811

(6) Cooperate with and provide technical assistance to state 812

departments, political subdivisions, regional and local planning 813
commissions, tourist associations, councils of government, 814
community development groups, community action agencies, and other 815
appropriate organizations for carrying out the functions and 816
duties of the ~~department~~ development services agency or for the 817
solution of community problems; 818

(7) Coordinate the activities of state agencies that have an 819
impact on carrying out the functions and duties of the ~~department~~ 820
development services agency; 821

(8) Encourage and assist the efforts of and cooperate with 822
local governments to develop mutual and cooperative solutions to 823
their common problems that relate to carrying out the purposes of 824
this section; 825

(9) Study existing structure, operations, and financing of 826
regional or local government and those state activities that 827
involve significant relations with regional or local governmental 828
units, recommend to the governor and to the general assembly such 829
changes in these provisions and activities as will improve the 830
operations of regional or local government, and conduct other 831
studies of legal provisions that affect problems related to 832
carrying out the purposes of this section; 833

(10) Create and operate a division of community development 834
to develop and administer programs and activities that are 835
authorized by federal statute or the Revised Code; 836

(11) Until October 15, 2007, establish fees and charges, in 837
consultation with the director of agriculture, for purchasing 838
loans from financial institutions and providing loan guarantees 839
under the family farm loan program created under sections 901.80 840
to 901.83 of the Revised Code; 841

(12) Provide loan servicing for the loans purchased and loan 842
guarantees provided under section 901.80 of the Revised Code as 843

that section existed prior to October 15, 2007; 844

(13) Until October 15, 2007, and upon approval by the 845
controlling board under division (A)(3) of section 901.82 of the 846
Revised Code of the release of money to be used for purchasing a 847
loan or providing a loan guarantee, request the release of that 848
money in accordance with division (B) of section 166.03 of the 849
Revised Code for use for the purposes of the fund created by 850
section 166.031 of the Revised Code. 851

(14) Allocate that portion of the national recovery zone 852
economic development bond limitation and that portion of the 853
national recovery zone facility bond limitation that has been 854
allocated to the state under section 1400U-1 of the Internal 855
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 856
corporation waives any portion of an allocation it receives under 857
division (A)(14) of this section, the ~~department~~ agency may 858
reallocate that amount. Any allocation or reallocation shall be 859
made in accordance with this section and section 1400U-1 of the 860
Internal Revenue Code. 861

(B) The director of development services may request the 862
attorney general to, and the attorney general, in accordance with 863
section 109.02 of the Revised Code, shall bring a civil action in 864
any court of competent jurisdiction. The director may be sued in 865
the director's official capacity, in connection with this chapter, 866
in accordance with Chapter 2743. of the Revised Code. 867

(C) The director ~~of development~~ shall execute a contract 868
pursuant to section 187.04 of the Revised Code with the nonprofit 869
corporation formed under section 187.01 of the Revised Code, and 870
may execute any additional contracts with the corporation 871
providing for the corporation to assist the director or ~~department~~ 872
agency in carrying out any duties of the director or ~~department~~ 873
agency under this chapter, under any other provision of the 874
Revised Code dealing with economic development, or under a 875

contract with the director, subject to section 187.04 of the Revised Code.

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

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

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

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

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

(B)(1) The governor shall, within sixty days after the effective date of this section, appoint to the TourismOhio

advisory board one individual who is a representative of 906
convention and visitors' bureaus, one individual who is a 907
representative of the lodging industry, one individual who is a 908
representative of the restaurant industry, one individual who is a 909
representative of attractions, one individual who is a 910
representative of special events and festivals, one individual who 911
is a representative of agritourism, and three individuals who are 912
representatives of the tourism industry. Of the initial 913
appointments, two individuals shall serve a term of one year, 914
three individuals shall serve a term of two years, and the 915
remainder shall serve a term of three years. Thereafter, terms of 916
office shall be for three years. Each individual appointed to the 917
board shall be a United States citizen. 918

(2) For purposes of division (B)(1) of this section, an 919
individual is a "representative of the tourism industry" if the 920
individual possesses five years or more executive-level experience 921
in the attractions, lodging, restaurant, transportation, or retail 922
industry or five years or more executive-level experience with a 923
destination marketing organization. 924

(C)(1) Each member of the TourismOhio advisory board shall 925
hold office from the date of the member's appointment until the 926
end of the term for which the member is appointed. Vacancies that 927
occur on the board shall be filled in the manner prescribed for 928
regular appointments to the board. A member appointed to fill a 929
vacancy occurring prior to the expiration of the term for which 930
the member's predecessor was appointed shall hold office for the 931
remainder of that predecessor's term. A member shall continue in 932
office subsequent to the expiration date of the member's term 933
until the member's successor takes office or until sixty days have 934
elapsed, whichever occurs first. Any member appointed to the board 935
is eligible for reappointment. 936

(2) The governor shall designate one member of the board as 937

chairperson. 938

(3) Members appointed to the board may be reimbursed for 939
actual and necessary expenses incurred in connection with their 940
official duties. 941

Sec. ~~122.071~~ 122.072. There is hereby created in the state 942
treasury the ~~travel and tourism cooperative projects~~ fund 943
consisting of ~~all~~ money credited or transferred to it and grants, 944
gifts, and contributions made directly to the director of 945
~~development for marketing and promotion of travel and tourism~~ 946
within it. Money in the fund shall be used to defray costs 947
incurred by the office of TourismOhio in promoting this state 948
~~pursuant to division (F) of section 122.04 and section 122.07 of~~ 949
~~the Revised Code as a travel destination.~~ 950

Sec. ~~122.07~~ 122.073. (A) The ~~department of~~ development 951
services agency may do ~~either~~ any of the following: 952

(1) Disseminate information concerning the industrial, 953
commercial, governmental, educational, cultural, recreational, 954
agricultural, and other advantages and attractions of the state; 955

(2) Provide technical assistance to public and private 956
agencies in the preparation of promotional programs designed to 957
attract business, industry, and tourists to the state; 958

(3) Enter into cooperative or contractual agreements, through 959
the director of development services, with any individual, 960
organization, or business to create, administer, or otherwise be 961
involved with Ohio tourism-related promotional programs. 962
Compensation under such agreements shall be determined by the 963
director and may include deferred compensation. This compensation 964
is payable from the tourism fund created in section 122.072 of the 965
Revised Code. Any excess revenue generated under such a 966
cooperative or contractual agreement shall be remitted to the fund 967

to be reinvested in ongoing tourism marketing initiatives as 968
authorized by law. 969

(B) Records related to tourism market research submitted to 970
or generated by the ~~research~~ office of ~~the division of travel and~~ 971
~~tourism of the department of development~~ TourismOhio, and any 972
information taken for any purpose from such research, are not 973
public records for the purposes of section 149.43 of the Revised 974
Code. The ~~department~~ agency may use, however, such tourism market 975
research in a public report if the director ~~of the department~~ 976
determines that issuing and distributing the report would promote 977
or market the state's travel and tourism industry or otherwise 978
advance the purposes of this section. 979

Sec. 122.17. (A) As used in this section: 980

(1) "Income tax revenue" means the total amount withheld 981
under section 5747.06 of the Revised Code by the taxpayer during 982
the taxable year, or during the calendar year that includes the 983
tax period, from the compensation of each employee employed in the 984
project to the extent the employee's withholdings are not used to 985
determine the credit under section 122.171 of the Revised Code. 986
"Income tax revenue" excludes amounts withheld before the day the 987
taxpayer becomes eligible for the credit. 988

(2) "Baseline income tax revenue" means income tax revenue 989
except that the applicable withholding period is the twelve months 990
immediately preceding the date the tax credit authority approves 991
the taxpayer's application or the date the tax credit authority 992
receives the recommendation described in division (C)(2)(a) of 993
this section, whichever occurs first, multiplied by the sum of one 994
plus an annual pay increase factor to be determined by the tax 995
credit authority. If the taxpayer becomes eligible for the credit 996
after the first day of the taxpayer's taxable year or after the 997
first day of the calendar year that includes the tax period, the 998

taxpayer's baseline income tax revenue for the first such taxable 999
or calendar year of credit eligibility shall be reduced in 1000
proportion to the number of days during the taxable or calendar 1001
year for which the taxpayer was not eligible for the credit. For 1002
subsequent taxable or calendar years, "baseline income tax 1003
revenue" equals the unreduced baseline income tax revenue for the 1004
preceding taxable or calendar year multiplied by the sum of one 1005
plus the pay increase factor. 1006

(3) "Excess income tax revenue" means income tax revenue 1007
minus baseline income tax revenue. 1008

(B) The tax credit authority may make grants under this 1009
section to foster job creation in this state. Such a grant shall 1010
take the form of a refundable credit allowed against the tax 1011
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 1012
under Chapter 5751. of the Revised Code. The credit shall be 1013
claimed for the taxable years or tax periods specified in the 1014
taxpayer's agreement with the tax credit authority under division 1015
(D) of this section. With respect to taxes imposed under section 1016
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 1017
credit shall be claimed in the order required under section 1018
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 1019
the credit available for a taxable year or for a calendar year 1020
that includes a tax period equals the excess income tax revenue 1021
for that year multiplied by the percentage specified in the 1022
agreement with the tax credit authority. Any credit granted under 1023
this section against the tax imposed by section 5733.06 or 5747.02 1024
of the Revised Code, to the extent not fully utilized against such 1025
tax for taxable years ending prior to 2008, shall automatically be 1026
converted without any action taken by the tax credit authority to 1027
a credit against the tax levied under Chapter 5751. of the Revised 1028
Code for tax periods beginning on or after July 1, 2008, provided 1029
that the person to whom the credit was granted is subject to such 1030

tax. The converted credit shall apply to those calendar years in 1031
which the remaining taxable years specified in the agreement end. 1032

(C)(1) A taxpayer or potential taxpayer who proposes a 1033
project to create new jobs in this state may apply to the tax 1034
credit authority to enter into an agreement for a tax credit under 1035
this section. The director of development services shall prescribe 1036
the form of the application. After receipt of an application, the 1037
authority may enter into an agreement with the taxpayer for a 1038
credit under this section if it determines all of the following: 1039

~~(1)~~(a) The taxpayer's project will increase payroll and 1040
income tax revenue; 1041

~~(2)~~(b) The taxpayer's project is economically sound and will 1042
benefit the people of this state by increasing opportunities for 1043
employment and strengthening the economy of this state; 1044

~~(3)~~(c) Receiving the tax credit is a major factor in the 1045
taxpayer's decision to go forward with the project. 1046

(2)(a) A taxpayer that chooses to begin the project prior to 1047
receiving the determination of the authority may, upon submitting 1048
the taxpayer's application to the authority, request that the 1049
chief investment officer of the nonprofit corporation formed under 1050
section 187.01 of the Revised Code and the director review the 1051
taxpayer's application and recommend to the authority that the 1052
taxpayer's application be considered. As soon as possible after 1053
receiving such a request, the chief investment officer and the 1054
director shall review the taxpayer's application and, if they 1055
determine that the application warrants consideration by the 1056
authority, make that recommendation to the authority not later 1057
than six months after the application is received by the 1058
authority. 1059

(b) The authority shall consider any taxpayer's application 1060
for which it receives a recommendation under division (C)(2)(a) of 1061

this section. If the authority determines that the taxpayer does 1062
not meet all of the criteria set forth in division (C)(1) of this 1063
section, the authority and the development services agency shall 1064
proceed in accordance with rules adopted by the director pursuant 1065
to division (I) of this section. 1066

(D) An agreement under this section shall include all of the 1067
following: 1068

(1) A detailed description of the project that is the subject 1069
of the agreement; 1070

(2) The term of the tax credit, which shall not exceed 1071
fifteen years, and the first taxable year, or first calendar year 1072
that includes a tax period, for which the credit may be claimed; 1073

(3) A requirement that the taxpayer shall maintain operations 1074
at the project location for at least the greater of seven years or 1075
the term of the credit plus three years; 1076

(4) The percentage, as determined by the tax credit 1077
authority, of excess income tax revenue that will be allowed as 1078
the amount of the credit for each taxable year or for each 1079
calendar year that includes a tax period; 1080

(5) The pay increase factor to be applied to the taxpayer's 1081
baseline income tax revenue; 1082

(6) A requirement that the taxpayer annually shall report to 1083
the director of development services employment, tax withholding, 1084
investment, and other information the director needs to perform 1085
the director's duties under this section; 1086

(7) A requirement that the director of development services 1087
annually review the information reported under division (D)(6) of 1088
this section and verify compliance with the agreement; if the 1089
taxpayer is in compliance, a requirement that the director issue a 1090
certificate to the taxpayer stating that the information has been 1091

verified and identifying the amount of the credit that may be 1092
claimed for the taxable or calendar year; 1093

(8) A provision providing that the taxpayer may not relocate 1094
a substantial number of employment positions from elsewhere in 1095
this state to the project location unless the director of 1096
development services determines that the legislative authority of 1097
the county, township, or municipal corporation from which the 1098
employment positions would be relocated has been notified by the 1099
taxpayer of the relocation. 1100

For purposes of this section, the movement of an employment 1101
position from one political subdivision to another political 1102
subdivision shall be considered a relocation of an employment 1103
position unless the employment position in the first political 1104
subdivision is replaced. 1105

(E) If a taxpayer fails to meet or comply with any condition 1106
or requirement set forth in a tax credit agreement, the tax credit 1107
authority may amend the agreement to reduce the percentage or term 1108
of the tax credit. The reduction of the percentage or term may 1109
take effect in the current taxable or calendar year. 1110

(F) Projects that consist solely of point-of-final-purchase 1111
retail facilities are not eligible for a tax credit under this 1112
section. If a project consists of both point-of-final-purchase 1113
retail facilities and nonretail facilities, only the portion of 1114
the project consisting of the nonretail facilities is eligible for 1115
a tax credit and only the excess income tax revenue from the 1116
nonretail facilities shall be considered when computing the amount 1117
of the tax credit. If a warehouse facility is part of a 1118
point-of-final-purchase retail facility and supplies only that 1119
facility, the warehouse facility is not eligible for a tax credit. 1120
Catalog distribution centers are not considered 1121
point-of-final-purchase retail facilities for the purposes of this 1122
division, and are eligible for tax credits under this section. 1123

(G) Financial statements and other information submitted to 1124
the ~~department of~~ development services agency or the tax credit 1125
authority by an applicant or recipient of a tax credit under this 1126
section, and any information taken for any purpose from such 1127
statements or information, are not public records subject to 1128
section 149.43 of the Revised Code. However, the chairperson of 1129
the authority may make use of the statements and other information 1130
for purposes of issuing public reports or in connection with court 1131
proceedings concerning tax credit agreements under this section. 1132
Upon the request of the tax commissioner or, if the applicant or 1133
recipient is an insurance company, upon the request of the 1134
superintendent of insurance, the chairperson of the authority 1135
shall provide to the commissioner or superintendent any statement 1136
or information submitted by an applicant or recipient of a tax 1137
credit in connection with the credit. The commissioner or 1138
superintendent shall preserve the confidentiality of the statement 1139
or information. 1140

(H) A taxpayer claiming a credit under this section shall 1141
submit to the tax commissioner or, if the taxpayer is an insurance 1142
company, to the superintendent of insurance, a copy of the 1143
director of ~~development's~~ development services' certificate of 1144
verification under division (D)(7) of this section with the 1145
taxpayer's tax report or return for the taxable year or for the 1146
calendar year that includes the tax period. Failure to submit a 1147
copy of the certificate with the report or return does not 1148
invalidate a claim for a credit if the taxpayer submits a copy of 1149
the certificate to the commissioner or superintendent within sixty 1150
days after the commissioner or superintendent requests it. 1151

(I) The director of development services, after consultation 1152
with the tax commissioner and the superintendent of insurance and 1153
in accordance with Chapter 119. of the Revised Code, shall adopt 1154
rules necessary to implement this section, including rules that 1155

establish a procedure to be followed by the tax credit authority 1156
and the development services agency in the event the authority 1157
considers a taxpayer's application for which it receives a 1158
recommendation under division (C)(2)(a) of this section but does 1159
not approve it. The rules may provide for recipients of tax 1160
credits under this section to be charged fees to cover 1161
administrative costs of the tax credit program. The fees collected 1162
shall be credited to the ~~tax incentive programs operating~~ business 1163
assistance fund created in section 122.174 of the Revised Code. At 1164
the time the director gives public notice under division (A) of 1165
section 119.03 of the Revised Code of the adoption of the rules, 1166
the director shall submit copies of the proposed rules to the 1167
chairpersons of the standing committees on economic development in 1168
the senate and the house of representatives. 1169

(J) For the purposes of this section, a taxpayer may include 1170
a partnership, a corporation that has made an election under 1171
subchapter S of chapter one of subtitle A of the Internal Revenue 1172
Code, or any other business entity through which income flows as a 1173
distributive share to its owners. A partnership, S-corporation, or 1174
other such business entity may elect to pass the credit received 1175
under this section through to the persons to whom the income or 1176
profit of the partnership, S-corporation, or other entity is 1177
distributed. The election shall be made on the annual report 1178
required under division (D)(6) of this section. The election 1179
applies to and is irrevocable for the credit for which the report 1180
is submitted. If the election is made, the credit shall be 1181
apportioned among those persons in the same proportions as those 1182
in which the income or profit is distributed. 1183

(K) If the director of development services determines that a 1184
taxpayer who has received a credit under this section is not 1185
complying with the requirement under division (D)(3) of this 1186
section, the director shall notify the tax credit authority of the 1187

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 1220
house of representatives on the tax credit program under this 1221
section. The report shall include information on the number of 1222
agreements that were entered into under this section during the 1223
preceding calendar year, a description of the project that is the 1224
subject of each such agreement, and an update on the status of 1225
projects under agreements entered into before the preceding 1226
calendar year. 1227

(M) There is hereby created the tax credit authority, which 1228
consists of the director of development services and four other 1229
members appointed as follows: the governor, the president of the 1230
senate, and the speaker of the house of representatives each shall 1231
appoint one member who shall be a specialist in economic 1232
development; the governor also shall appoint a member who is a 1233
specialist in taxation. Of the initial appointees, the members 1234
appointed by the governor shall serve a term of two years; the 1235
members appointed by the president of the senate and the speaker 1236
of the house of representatives shall serve a term of four years. 1237
Thereafter, terms of office shall be for four years. Initial 1238
appointments to the authority shall be made within thirty days 1239
after January 13, 1993. Each member shall serve on the authority 1240
until the end of the term for which the member was appointed. 1241
Vacancies shall be filled in the same manner provided for original 1242
appointments. Any member appointed to fill a vacancy occurring 1243
prior to the expiration of the term for which the member's 1244
predecessor was appointed shall hold office for the remainder of 1245
that term. Members may be reappointed to the authority. Members of 1246
the authority shall receive their necessary and actual expenses 1247
while engaged in the business of the authority. The director of 1248
development services shall serve as chairperson of the authority, 1249
and the members annually shall elect a vice-chairperson from among 1250
themselves. Three members of the authority constitute a quorum to 1251
transact and vote on the business of the authority. The majority 1252

vote of the membership of the authority is necessary to approve 1253
any such business, including the election of the vice-chairperson. 1254

The director of development services may appoint a 1255
professional employee of the ~~department of~~ development services 1256
agency to serve as the director's substitute at a meeting of the 1257
authority. The director shall make the appointment in writing. In 1258
the absence of the director from a meeting of the authority, the 1259
appointed substitute shall serve as chairperson. In the absence of 1260
both the director and the director's substitute from a meeting, 1261
the vice-chairperson shall serve as chairperson. 1262

(N) For purposes of the credits granted by this section 1263
against the taxes imposed under sections 5725.18 and 5729.03 of 1264
the Revised Code, "taxable year" means the period covered by the 1265
taxpayer's annual statement to the superintendent of insurance. 1266

Sec. 122.171. (A) As used in this section: 1267

(1) "Capital investment project" means a plan of investment 1268
at a project site for the acquisition, construction, renovation, 1269
or repair of buildings, machinery, or equipment, or for 1270
capitalized costs of basic research and new product development 1271
determined in accordance with generally accepted accounting 1272
principles, but does not include any of the following: 1273

(a) Payments made for the acquisition of personal property 1274
through operating leases; 1275

(b) Project costs paid before January 1, 2002; 1276

(c) Payments made to a related member as defined in section 1277
5733.042 of the Revised Code or to a consolidated elected taxpayer 1278
or a combined taxpayer as defined in section 5751.01 of the 1279
Revised Code. 1280

(2) "Eligible business" means a taxpayer and its related 1281
members with Ohio operations satisfying all of the following: 1282

(a) The taxpayer employs at least five hundred full-time 1283
equivalent employees or has an annual payroll of at least 1284
thirty-five million dollars at the time the tax credit authority 1285
grants the tax credit under this section; 1286

(b) The taxpayer makes or causes to be made payments for the 1287
capital investment project of one of the following: 1288

(i) If the taxpayer is engaged at the project site primarily 1289
as a manufacturer, at least fifty million dollars in the aggregate 1290
at the project site during a period of three consecutive calendar 1291
years, including the calendar year that includes a day of the 1292
taxpayer's taxable year or tax period with respect to which the 1293
credit is granted; 1294

(ii) If the taxpayer is engaged at the project site primarily 1295
in significant corporate administrative functions, as defined by 1296
the director of development services by rule, at least twenty 1297
million dollars in the aggregate at the project site during a 1298
period of three consecutive calendar years including the calendar 1299
year that includes a day of the taxpayer's taxable year or tax 1300
period with respect to which the credit is granted; 1301

(iii) If the taxpayer is applying to enter into an agreement 1302
for a tax credit authorized under division (B)(3) of this section, 1303
at least five million dollars in the aggregate at the project site 1304
during a period of three consecutive calendar years, including the 1305
calendar year that includes a day of the taxpayer's taxable year 1306
or tax period with respect to which the credit is granted. 1307

(c) The taxpayer had a capital investment project reviewed 1308
and approved by the tax credit authority as provided in divisions 1309
(C), (D), and (E) of this section. 1310

(3) "Full-time equivalent employees" means the quotient 1311
obtained by dividing the total number of hours for which employees 1312
were compensated for employment in the project by two thousand 1313

eighty. "Full-time equivalent employees" shall exclude hours that 1314
are counted for a credit under section 122.17 of the Revised Code. 1315

(4) "Income tax revenue" means the total amount withheld 1316
under section 5747.06 of the Revised Code by the taxpayer during 1317
the taxable year, or during the calendar year that includes the 1318
tax period, from the compensation of all employees employed in the 1319
project whose hours of compensation are included in calculating 1320
the number of full-time equivalent employees. 1321

(5) "Manufacturer" has the same meaning as in section 1322
5739.011 of the Revised Code. 1323

(6) "Project site" means an integrated complex of facilities 1324
in this state, as specified by the tax credit authority under this 1325
section, within a fifteen-mile radius where a taxpayer is 1326
primarily operating as an eligible business. 1327

(7) "Related member" has the same meaning as in section 1328
5733.042 of the Revised Code as that section existed on the 1329
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 1330
general assembly, September 29, 1997. 1331

(8) "Taxable year" includes, in the case of a domestic or 1332
foreign insurance company, the calendar year ending on the 1333
thirty-first day of December preceding the day the superintendent 1334
of insurance is required to certify to the treasurer of state 1335
under section 5725.20 or 5729.05 of the Revised Code the amount of 1336
taxes due from insurance companies. 1337

(B) The tax credit authority created under section 122.17 of 1338
the Revised Code may grant tax credits under this section for the 1339
purpose of fostering job retention in this state. Upon application 1340
by an eligible business and upon consideration of the 1341
recommendation of the director of budget and management, tax 1342
commissioner, the superintendent of insurance in the case of an 1343
insurance company, and director of development services under 1344

division (C) of this section, the tax credit authority may grant 1345
the following credits against the tax imposed by section 5725.18, 1346
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code: 1347

(1) A nonrefundable credit to an eligible business; 1348

(2) A refundable credit to an eligible business meeting the 1349
following conditions, provided that the director of budget and 1350
management, tax commissioner, superintendent of insurance in the 1351
case of an insurance company, and director of development services 1352
have recommended the granting of the credit to the tax credit 1353
authority before July 1, 2011: 1354

(a) The business retains at least one thousand full-time 1355
equivalent employees at the project site. 1356

(b) The business makes or causes to be made payments for a 1357
capital investment project of at least twenty-five million dollars 1358
in the aggregate at the project site during a period of three 1359
consecutive calendar years, including the calendar year that 1360
includes a day of the business' taxable year or tax period with 1361
respect to which the credit is granted. 1362

(c) In 2010, the business received a written offer of 1363
financial incentives from another state of the United States that 1364
the director determines to be sufficient inducement for the 1365
business to relocate the business' operations from this state to 1366
that state. 1367

(3) A refundable credit to an eligible business with a total 1368
annual payroll of at least twenty million dollars, provided that 1369
the tax credit authority grants the tax credit on or after July 1, 1370
2011, and before January 1, 2014. 1371

The credits authorized in divisions (B)(1), (2), and (3) of 1372
this section may be granted for a period up to fifteen taxable 1373
years or, in the case of the tax levied by section 5751.02 of the 1374
Revised Code, for a period of up to fifteen calendar years. The 1375

credit amount for a taxable year or a calendar year that includes 1376
the tax period for which a credit may be claimed equals the income 1377
tax revenue for that year multiplied by the percentage specified 1378
in the agreement with the tax credit authority. The percentage may 1379
not exceed seventy-five per cent. The credit shall be claimed in 1380
the order required under section 5725.98, 5729.98, 5733.98, 1381
5747.98, or 5751.98 of the Revised Code. In determining the 1382
percentage and term of the credit, the tax credit authority shall 1383
consider both the number of full-time equivalent employees and the 1384
value of the capital investment project. The credit amount may not 1385
be based on the income tax revenue for a calendar year before the 1386
calendar year in which the tax credit authority specifies the tax 1387
credit is to begin, and the credit shall be claimed only for the 1388
taxable years or tax periods specified in the eligible business' 1389
agreement with the tax credit authority. In no event shall the 1390
credit be claimed for a taxable year or tax period terminating 1391
before the date specified in the agreement. Any credit granted 1392
under this section against the tax imposed by section 5733.06 or 1393
5747.02 of the Revised Code, to the extent not fully utilized 1394
against such tax for taxable years ending prior to 2008, shall 1395
automatically be converted without any action taken by the tax 1396
credit authority to a credit against the tax levied under Chapter 1397
5751. of the Revised Code for tax periods beginning on or after 1398
July 1, 2008, provided that the person to whom the credit was 1399
granted is subject to such tax. The converted credit shall apply 1400
to those calendar years in which the remaining taxable years 1401
specified in the agreement end. 1402

If a nonrefundable credit allowed under division (B)(1) of 1403
this section for a taxable year or tax period exceeds the 1404
taxpayer's tax liability for that year or period, the excess may 1405
be carried forward for the three succeeding taxable or calendar 1406
years, but the amount of any excess credit allowed in any taxable 1407
year or tax period shall be deducted from the balance carried 1408

forward to the succeeding year or period. 1409

(C) A taxpayer that proposes a capital investment project to 1410
retain jobs in this state may apply to the tax credit authority to 1411
enter into an agreement for a tax credit under this section. The 1412
director of development services shall prescribe the form of the 1413
application. After receipt of an application, the authority shall 1414
forward copies of the application to the director of budget and 1415
management, the tax commissioner, the superintendent of insurance 1416
in the case of an insurance company, and the director of 1417
development services, each of whom shall review the application to 1418
determine the economic impact the proposed project would have on 1419
the state and the affected political subdivisions and shall submit 1420
a summary of their determinations and recommendations to the 1421
authority. 1422

(D) Upon review and consideration of the determinations and 1423
recommendations described in division (C) of this section, the tax 1424
credit authority may enter into an agreement with the taxpayer for 1425
a credit under this section if the authority determines all of the 1426
following: 1427

(1) The taxpayer's capital investment project will result in 1428
the retention of employment in this state. 1429

(2) The taxpayer is economically sound and has the ability to 1430
complete the proposed capital investment project. 1431

(3) The taxpayer intends to and has the ability to maintain 1432
operations at the project site for at least the greater of (a) the 1433
term of the credit plus three years, or (b) seven years. 1434

(4) Receiving the credit is a major factor in the taxpayer's 1435
decision to begin, continue with, or complete the project. 1436

(5) If the taxpayer is applying to enter into an agreement 1437
for a tax credit authorized under division (B)(3) of this section, 1438
the taxpayer's capital investment project will be located in the 1439

political subdivision in which the taxpayer maintains its 1440
principal place of business. 1441

(E) An agreement under this section shall include all of the 1442
following: 1443

(1) A detailed description of the project that is the subject 1444
of the agreement, including the amount of the investment, the 1445
period over which the investment has been or is being made, the 1446
number of full-time equivalent employees at the project site, and 1447
the anticipated income tax revenue to be generated. 1448

(2) The term of the credit, the percentage of the tax credit, 1449
the maximum annual value of tax credits that may be allowed each 1450
year, and the first year for which the credit may be claimed. 1451

(3) A requirement that the taxpayer maintain operations at 1452
the project site for at least the greater of (a) the term of the 1453
credit plus three years, or (b) seven years. 1454

(4)(a) In the case of a credit granted under division (B)(1) 1455
of this section, a requirement that the taxpayer retain at least 1456
five hundred full-time equivalent employees at the project site 1457
and within this state for the entire term of the credit, or a 1458
requirement that the taxpayer maintain an annual payroll of at 1459
least thirty-five million dollars for the entire term of the 1460
credit; 1461

(b) In the case of a credit granted under division (B)(2) of 1462
this section, a requirement that the taxpayer retain at least one 1463
thousand full-time equivalent employees at the project site and 1464
within this state for the entire term of the credit; 1465

(c) In the case of a credit granted under division (B)(3) of 1466
this section, either of the following: 1467

(i) A requirement that the taxpayer retain at least five 1468
hundred full-time equivalent employees at the project site and 1469

within this state for the entire term of the credit and a 1470
requirement that the taxpayer maintain an annual payroll of at 1471
least twenty million dollars for the entire term of the credit; 1472

(ii) A requirement that the taxpayer maintain an annual 1473
payroll of at least thirty-five million dollars for the entire 1474
term of the credit. 1475

(5) A requirement that the taxpayer annually report to the 1476
director of development services employment, tax withholding, 1477
capital investment, and other information the director needs to 1478
perform the director's duties under this section. 1479

(6) A requirement that the director of development services 1480
annually review the annual reports of the taxpayer to verify the 1481
information reported under division (E)(5) of this section and 1482
compliance with the agreement. Upon verification, the director 1483
shall issue a certificate to the taxpayer stating that the 1484
information has been verified and identifying the amount of the 1485
credit for the taxable year or calendar year that includes the tax 1486
period. In determining the number of full-time equivalent 1487
employees, no position shall be counted that is filled by an 1488
employee who is included in the calculation of a tax credit under 1489
section 122.17 of the Revised Code. 1490

(7) A provision providing that the taxpayer may not relocate 1491
a substantial number of employment positions from elsewhere in 1492
this state to the project site unless the director of development 1493
services determines that the taxpayer notified the legislative 1494
authority of the county, township, or municipal corporation from 1495
which the employment positions would be relocated. 1496

For purposes of this section, the movement of an employment 1497
position from one political subdivision to another political 1498
subdivision shall be considered a relocation of an employment 1499
position unless the movement is confined to the project site. The 1500

transfer of an employment position from one political subdivision 1501
to another political subdivision shall not be considered a 1502
relocation of an employment position if the employment position in 1503
the first political subdivision is replaced by another employment 1504
position. 1505

(8) A waiver by the taxpayer of any limitations periods 1506
relating to assessments or adjustments resulting from the 1507
taxpayer's failure to comply with the agreement. 1508

(F) If a taxpayer fails to meet or comply with any condition 1509
or requirement set forth in a tax credit agreement, the tax credit 1510
authority may amend the agreement to reduce the percentage or term 1511
of the credit. The reduction of the percentage or term may take 1512
effect in the current taxable or calendar year. 1513

(G) Financial statements and other information submitted to 1514
the department of development services or the tax credit authority 1515
by an applicant for or recipient of a tax credit under this 1516
section, and any information taken for any purpose from such 1517
statements or information, are not public records subject to 1518
section 149.43 of the Revised Code. However, the chairperson of 1519
the authority may make use of the statements and other information 1520
for purposes of issuing public reports or in connection with court 1521
proceedings concerning tax credit agreements under this section. 1522
Upon the request of the tax commissioner, or the superintendent of 1523
insurance in the case of an insurance company, the chairperson of 1524
the authority shall provide to the commissioner or superintendent 1525
any statement or other information submitted by an applicant for 1526
or recipient of a tax credit in connection with the credit. The 1527
commissioner or superintendent shall preserve the confidentiality 1528
of the statement or other information. 1529

(H) A taxpayer claiming a tax credit under this section shall 1530
submit to the tax commissioner or, in the case of an insurance 1531
company, to the superintendent of insurance, a copy of the 1532

director of ~~development's~~ development services' certificate of 1533
verification under division (E)(6) of this section with the 1534
taxpayer's tax report or return for the taxable year or for the 1535
calendar year that includes the tax period. Failure to submit a 1536
copy of the certificate with the report or return does not 1537
invalidate a claim for a credit if the taxpayer submits a copy of 1538
the certificate to the commissioner or superintendent within sixty 1539
days after the commissioner or superintendent requests it. 1540

(I) For the purposes of this section, a taxpayer may include 1541
a partnership, a corporation that has made an election under 1542
subchapter S of chapter one of subtitle A of the Internal Revenue 1543
Code, or any other business entity through which income flows as a 1544
distributive share to its owners. A partnership, S-corporation, or 1545
other such business entity may elect to pass the credit received 1546
under this section through to the persons to whom the income or 1547
profit of the partnership, S-corporation, or other entity is 1548
distributed. The election shall be made on the annual report 1549
required under division (E)(5) of this section. The election 1550
applies to and is irrevocable for the credit for which the report 1551
is submitted. If the election is made, the credit shall be 1552
apportioned among those persons in the same proportions as those 1553
in which the income or profit is distributed. 1554

(J) If the director of development services determines that a 1555
taxpayer that received a tax credit under this section is not 1556
complying with the requirement under division (E)(3) of this 1557
section, the director shall notify the tax credit authority of the 1558
noncompliance. After receiving such a notice, and after giving the 1559
taxpayer an opportunity to explain the noncompliance, the 1560
authority may terminate the agreement and require the taxpayer to 1561
refund to the state all or a portion of the credit claimed in 1562
previous years, as follows: 1563

(1) If the taxpayer maintained operations at the project site 1564

for less than or equal to the term of the credit, an amount not to 1565
exceed one hundred per cent of the sum of any tax credits allowed 1566
and received under this section. 1567

(2) If the taxpayer maintained operations at the project site 1568
longer than the term of the credit, but less than the greater of 1569
(a) the term of the credit plus three years, or (b) seven years, 1570
the amount required to be refunded shall not exceed seventy-five 1571
per cent of the sum of any tax credits allowed and received under 1572
this section. 1573

In determining the portion of the credit to be refunded to 1574
this state, the authority shall consider the effect of market 1575
conditions on the taxpayer's project and whether the taxpayer 1576
continues to maintain other operations in this state. After making 1577
the determination, the authority shall certify the amount to be 1578
refunded to the tax commissioner or the superintendent of 1579
insurance. If the taxpayer is not an insurance company, the 1580
commissioner shall make an assessment for that amount against the 1581
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 1582
If the taxpayer is an insurance company, the superintendent of 1583
insurance shall make an assessment under section 5725.222 or 1584
5729.102 of the Revised Code. The time limitations on assessments 1585
under those chapters and sections do not apply to an assessment 1586
under this division, but the commissioner or superintendent shall 1587
make the assessment within one year after the date the authority 1588
certifies to the commissioner or superintendent the amount to be 1589
refunded. 1590

(K) The director of development services, after consultation 1591
with the tax commissioner and the superintendent of insurance and 1592
in accordance with Chapter 119. of the Revised Code, shall adopt 1593
rules necessary to implement this section. The rules may provide 1594
for recipients of tax credits under this section to be charged 1595
fees to cover administrative costs of the tax credit program. The 1596

fees collected shall be credited to the ~~tax incentive programs~~ 1597
~~operating business assistance~~ fund created in section 122.174 of 1598
the Revised Code. At the time the director gives public notice 1599
under division (A) of section 119.03 of the Revised Code of the 1600
adoption of the rules, the director shall submit copies of the 1601
proposed rules to the chairpersons of the standing committees on 1602
economic development in the senate and the house of 1603
representatives. 1604

(L) On or before the first day of August of each year, the 1605
director of development services shall submit a report to the 1606
governor, the president of the senate, and the speaker of the 1607
house of representatives on the tax credit program under this 1608
section. The report shall include information on the number of 1609
agreements that were entered into under this section during the 1610
preceding calendar year, a description of the project that is the 1611
subject of each such agreement, and an update on the status of 1612
projects under agreements entered into before the preceding 1613
calendar year. 1614

(M)(1) The aggregate amount of tax credits issued under 1615
division (B)(1) of this section during any calendar year for 1616
capital investment projects reviewed and approved by the tax 1617
credit authority may not exceed the following amounts: 1618

(a) For 2010, thirteen million dollars; 1619

(b) For 2011 through 2023, the amount of the limit for the 1620
preceding calendar year plus thirteen million dollars; 1621

(c) For 2024 and each year thereafter, one hundred 1622
ninety-five million dollars. 1623

(2) The aggregate amount of tax credits authorized under 1624
divisions (B)(2) and (3) of this section and allowed to be claimed 1625
by taxpayers in any calendar year for capital improvement projects 1626
reviewed and approved by the tax credit authority in 2011, 2012, 1627

and 2013 combined shall not exceed twenty-five million dollars. An 1628
amount equal to the aggregate amount of credits first authorized 1629
in calendar year 2011, 2012, and 2013 may be claimed over the 1630
ensuing period up to fifteen years, subject to the terms of 1631
individual tax credit agreements. 1632

The limitations in division (M) of this section do not apply 1633
to credits for capital investment projects approved by the tax 1634
credit authority before July 1, 2009. 1635

Sec. 122.174. There is hereby created in the state treasury 1636
the ~~tax incentive programs operating~~ business assistance fund. 1637
~~Money collected~~ The fund shall consist of any amounts appropriated 1638
to it and money credited to the fund pursuant to division (I) of 1639
section 121.17, division (K) of section 122.171, division (K) of 1640
section 122.175, division (C) of section 3735.672, and division 1641
(C) of section 5709.68 of the Revised Code ~~shall be credited to~~ 1642
~~the fund.~~ The director of development services shall use money in 1643
the fund to pay expenses related to the administration of the ~~tax~~ 1644
~~credit programs authorized by sections 122.17, 122.171, 3735.672,~~ 1645
~~and 5709.68 of the Revised Code~~ business services division of the 1646
development services agency. 1647

Sec. 122.175. (A) As used in this section: 1648

(1) "Capital investment project" means a plan of investment 1649
at a project site for the acquisition, construction, renovation, 1650
expansion, replacement, or repair of a computer data center or of 1651
computer data center equipment, but does not include any of the 1652
following: 1653

(a) Project costs paid before a date determined by the tax 1654
credit authority for each capital investment project; 1655

(b) Payments made to a related member as defined in section 1656
5733.042 of the Revised Code or to a consolidated elected taxpayer 1657

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

(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.

(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.

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

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

(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;

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

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

(a) The taxpayer will make payments for a capital investment project of at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years;

(b) The taxpayer will pay annual compensation that is subject

to the withholding obligation imposed under section 5747.06 of the Revised Code of at least five million dollars to employees employed at the project site for the term of the agreement.

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

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

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

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

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at the eligible computer data center. The director of development services shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development services, each of whom shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and any affected political subdivisions and submit to the authority a summary of

their determinations and recommendations. 1719

(D) Upon review and consideration of such determinations and 1720
recommendations, the tax credit authority may enter into an 1721
agreement with the taxpayer for a complete or partial exemption 1722
from the taxes imposed under Chapters 5739. and 5741. of the 1723
Revised Code on computer data center equipment used or to be used 1724
at an eligible computer data center if the authority determines 1725
all of the following: 1726

(1) The taxpayer's capital investment project for the 1727
eligible computer data center will increase payroll and the amount 1728
of income taxes to be withheld from employee compensation pursuant 1729
to section 5747.06 of the Revised Code. 1730

(2) The taxpayer is economically sound and has the ability to 1731
complete the proposed capital investment project. 1732

(3) The taxpayer intends to and has the ability to maintain 1733
operations at the project site for the term of the agreement. 1734

(4) Receiving the exemption is a major factor in the 1735
taxpayer's decision to begin, continue with, or complete the 1736
capital investment project. 1737

(E) An agreement entered into under this section shall 1738
include all of the following: 1739

(1) A detailed description of the capital investment project 1740
that is the subject of the agreement, including the amount of the 1741
investment, the period over which the investment has been or is 1742
being made, the annual compensation to be paid by the taxpayer to 1743
its employees at the project site, and the anticipated amount of 1744
income taxes to be withheld from employee compensation pursuant to 1745
section 5747.06 of the Revised Code. 1746

(2) The percentage of the exemption from the taxes imposed 1747
under Chapters 5739. and 5741. of the Revised Code for the 1748

computer data center equipment used or to be used at the eligible 1749
computer data center, the length of time the computer data center 1750
equipment will be exempted, and the first date on which the 1751
exemption applies. 1752

(3) A requirement that the taxpayer maintain the computer 1753
data center as an eligible computer data center during the term of 1754
the agreement and that the taxpayer maintain operations at the 1755
eligible computer data center during that term. 1756

(4) A requirement that during each year of the term of the 1757
agreement the taxpayer pay annual compensation that is subject to 1758
the withholding obligation imposed under section 5747.06 of the 1759
Revised Code of at least five million dollars to its employees at 1760
the eligible computer data center. 1761

(5) A requirement that the taxpayer annually report to the 1762
director of development services employment, tax withholding, 1763
capital investment, and other information required by the director 1764
to perform the director's duties under this section. 1765

(6) A requirement that the director of development services 1766
annually review the annual reports of the taxpayer to verify the 1767
information reported under division (E)(5) of this section and 1768
compliance with the agreement. Upon verification, the director 1769
shall issue a certificate to the taxpayer stating that the 1770
information has been verified and that the taxpayer remains 1771
eligible for the exemption specified in the agreement. 1772

(7) A provision providing that the taxpayer may not relocate 1773
a substantial number of employment positions from elsewhere in 1774
this state to the project site unless the director of development 1775
services determines that the taxpayer notified the legislative 1776
authority of the county, township, or municipal corporation from 1777
which the employment positions would be relocated. For purposes of 1778
this paragraph, the movement of an employment position from one 1779

political subdivision to another political subdivision shall be 1780
considered a relocation of an employment position unless the 1781
movement is confined to the project site. The transfer of an 1782
employment position from one political subdivision to another 1783
political subdivision shall not be considered a relocation of an 1784
employment position if the employment position in the first 1785
political subdivision is replaced by another employment position. 1786

(8) A waiver by the taxpayer of any limitations periods 1787
relating to assessments or adjustments resulting from the 1788
taxpayer's failure to comply with the agreement. 1789

(F) The term of an agreement under this section shall be 1790
determined by the tax credit authority, and the amount of the 1791
exemption shall not exceed one hundred per cent of such taxes that 1792
would otherwise be owed in respect to the exempted computer data 1793
center equipment. 1794

(G) If a taxpayer fails to meet or comply with any condition 1795
or requirement set forth in an agreement under this section, the 1796
tax credit authority may amend the agreement to reduce the 1797
percentage of the exemption or term during which the exemption 1798
applies to the computer data center equipment used or to be used 1799
at an eligible computer data center. The reduction of the 1800
percentage or term may take effect in the current calendar year. 1801

(H) Financial statements and other information submitted to 1802
the department of development services or the tax credit authority 1803
by an applicant for or recipient of an exemption under this 1804
section, and any information taken for any purpose from such 1805
statements or information, are not public records subject to 1806
section 149.43 of the Revised Code. However, the chairperson of 1807
the authority may make use of the statements and other information 1808
for purposes of issuing public reports or in connection with court 1809
proceedings concerning tax exemption agreements under this 1810
section. Upon the request of the tax commissioner, the chairperson 1811

of the authority shall provide to the tax commissioner any 1812
statement or other information submitted by an applicant for or 1813
recipient of an exemption under this section. The tax commissioner 1814
shall preserve the confidentiality of the statement or other 1815
information. 1816

(I) The tax commissioner shall issue a direct payment permit 1817
under section 5739.031 of the Revised Code to a taxpayer that 1818
enters into an agreement under this section. Such direct payment 1819
permit shall authorize the taxpayer to pay any sales and use taxes 1820
due on purchases of computer data center equipment used or to be 1821
used in an eligible computer data center and to pay any sales and 1822
use taxes due on purchases of tangible personal property or 1823
taxable services other than computer data center equipment used or 1824
to be used in an eligible computer data center directly to the tax 1825
commissioner. Each taxpayer shall pay pursuant to such direct 1826
payment permit all sales tax levied on such purchases under 1827
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 1828
Code and all use tax levied on such purchases under sections 1829
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 1830
consistent with the terms of the agreement entered into under this 1831
section. 1832

During the term of an agreement under this section the 1833
taxpayer shall submit to the tax commissioner a return that shows 1834
the amount of computer data center equipment purchased for use at 1835
the eligible computer data center, the amount of tangible personal 1836
property and taxable services other than computer data center 1837
equipment purchased for use at the eligible computer data center, 1838
the amount of tax under Chapter 5739. or 5741. of the Revised Code 1839
that would be due in the absence of the agreement under this 1840
section, the exemption percentage for computer data center 1841
equipment specified in the agreement, and the amount of tax due 1842
under Chapter 5739. or 5741. of the Revised Code as a result of 1843

the agreement under this section. The taxpayer shall pay the tax 1844
shown on the return to be due in the manner and at the times as 1845
may be further prescribed by the tax commissioner. The taxpayer 1846
shall include a copy of the director of ~~development's~~ development 1847
services' certificate of verification issued under division (E)(6) 1848
of this section. Failure to submit a copy of the certificate with 1849
the return does not invalidate the claim for exemption if the 1850
taxpayer submits a copy of the certificate to the tax commissioner 1851
within sixty days after the tax commissioner requests it. 1852

(J) If the director of development services determines that a 1853
taxpayer that received an exemption under this section is not 1854
complying with the requirement under division (E)(3) of this 1855
section, the director shall notify the tax credit authority of the 1856
noncompliance. After receiving such a notice, and after giving the 1857
taxpayer an opportunity to explain the noncompliance, the 1858
authority may terminate the agreement and require the taxpayer to 1859
pay to the state all or a portion of the taxes that would have 1860
been owed in regards to the exempt equipment in previous years, 1861
all as determined under rules adopted pursuant to division (K) of 1862
this section. In determining the portion of the taxes that would 1863
have been owed on the previously exempted equipment to be paid to 1864
this state by the taxpayer, the authority shall consider the 1865
effect of market conditions on the taxpayer's eligible computer 1866
data center and whether the taxpayer continues to maintain other 1867
operations in this state. After making the determination, the 1868
authority shall certify to the tax commissioner the amount to be 1869
paid by the taxpayer. The tax commissioner shall make an 1870
assessment for that amount against the taxpayer under Chapter 1871
5739. or 5741. of the Revised Code. The time limitations on 1872
assessments under those chapters do not apply to an assessment 1873
under this division, but the tax commissioner shall make the 1874
assessment within one year after the date the authority certifies 1875
to the tax commissioner the amount to be paid by the taxpayer. 1876

(K) The director of development services, after consultation 1877
with the tax commissioner and in accordance with Chapter 119. of 1878
the Revised Code, shall adopt rules necessary to implement this 1879
section. The rules may provide for recipients of tax exemptions 1880
under this section to be charged fees to cover administrative 1881
costs incurred in the administration of this section. The fees 1882
collected shall be credited to the ~~tax incentive programs~~ 1883
~~operating~~ business assistance fund created in section 122.174 of 1884
the Revised Code. At the time the director gives public notice 1885
under division (A) of section 119.03 of the Revised Code of the 1886
adoption of the rules, the director shall submit copies of the 1887
proposed rules to the chairpersons of the standing committees on 1888
economic development in the senate and the house of 1889
representatives. 1890

(L) On or before the first day of August of each year, the 1891
director of development services shall submit a report to the 1892
governor, the president of the senate, and the speaker of the 1893
house of representatives on the tax exemption authorized under 1894
this section. The report shall include information on the number 1895
of agreements that were entered into under this section during the 1896
preceding calendar year, a description of the eligible computer 1897
data center that is the subject of each such agreement, and an 1898
update on the status of eligible computer data centers under 1899
agreements entered into before the preceding calendar year. 1900

Sec. 122.39. As used in sections 122.39 and 122.41 to 122.62 1901
of the Revised Code: 1902

(A) "Financial institution" means any banking corporation, 1903
trust company, insurance company, savings and loan association, 1904
building and loan association, or corporation, partnership, 1905
federal lending agency, foundation, or other institution engaged 1906
in lending or investing funds for industrial or business purposes. 1907

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

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

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

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

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

Sec. 122.41. ~~(A) The development financing advisory council and the director of development are~~ services is invested with the powers and duties provided in Chapter 122. of the Revised Code, in order to promote the welfare of the people of the state, to stabilize the economy, to provide employment, to assist in the development within the state of industrial, commercial, distribution, and research activities required for the people of the state, and for their gainful employment, or otherwise to create or preserve jobs and employment opportunities, or improve the economic welfare of the people of the state, and also to assist in the financing of air, water, or thermal pollution

control facilities and solid waste disposal facilities by mortgage 1939
insurance as provided in section 122.451 of the Revised Code. It 1940
is hereby determined that the accomplishment of such purposes is 1941
essential so that the people of the state may maintain their 1942
present high standards in comparison with the people of other 1943
states and so that opportunities for employment and for favorable 1944
markets for the products of the state's natural resources, 1945
agriculture, and manufacturing shall be improved and that it is 1946
necessary for the state to establish the programs authorized 1947
pursuant to Chapter 122. of the Revised Code, ~~to establish the~~ 1948
~~development financing advisory council,~~ and ~~to invest it and the~~ 1949
director of development services with the powers and duties 1950
provided in Chapter 122. of the Revised Code. The powers granted 1951
to the director ~~of development~~ by Chapter 165. of the Revised Code 1952
are independent of and in addition and alternate to, and are not 1953
limited or restricted by, Chapter 122. of the Revised Code. 1954

~~(B) The development financing advisory council shall:~~ 1955

~~(1) Make recommendations to the director of development as to 1956
applications for assistance pursuant to sections 122.39 to 122.62 1957
or Chapter 166. of the Revised Code. The council may revise its 1958
recommendations to reflect any changes in the proposed assistance 1959
made by the director. 1960~~

~~(2) Advise the director in the administration of sections 1961
122.39 to 122.62 and Chapter 166. of the Revised Code; 1962~~

~~(3) Adopt bylaws to govern the conduct of the council's 1963
business. 1964~~

Sec. 122.42. (A) The director of development services shall 1965
do all of the following: 1966

(1) Receive applications for assistance under sections 122.39 1967
and 122.41 to 122.62 of the Revised Code, ~~and, after processing,~~ 1968

forward them to the development financing advisory board together	1969
with necessary supporting information;	1970
(2) Receive the recommendations of the board and make <u>Make</u> a	1971
final determination whether to approve the application for	1972
assistance;	1973
(3) Transmit determinations to approve assistance to the	1974
controlling board together with any information the controlling	1975
board requires for the board's review and decision as to whether	1976
to approve the assistance;	1977
(4) Issue revenue bonds of the state through the treasurer of	1978
state, as necessary, payable solely from revenues and other	1979
sources as provided in sections 122.39 <u>and 122.41</u> to 122.62 of the	1980
Revised Code.	1981
(B) The director may do all of the following:	1982
(1) Fix the rate of interest and charges to be made upon or	1983
with respect to moneys loaned by the director and the terms upon	1984
which mortgages and lease rentals may be guaranteed and the rates	1985
of charges to be made for the loans and guarantees and to make	1986
provisions for the operation of the funds established by the	1987
director in accordance with this section and sections 122.54,	1988
122.55, 122.56, and 122.57 of the Revised Code;	1989
(2) Loan moneys from the fund established in accordance with	1990
section 122.54 of the Revised Code pursuant to and in compliance	1991
with sections 122.39 <u>and 122.41</u> to 122.62 of the Revised Code;	1992
(3) Acquire in the name of the director any property of any	1993
kind or character in accordance with sections 122.39 <u>and 122.41</u> to	1994
122.62 of the Revised Code, by purchase, purchase at foreclosure,	1995
or exchange on such terms and in such manner as the director	1996
considers proper;	1997
(4) Make and enter into all contracts and agreements	1998

necessary or incidental to the performance of the director's 1999
duties and the exercise of the director's powers under sections 2000
122.39 and 122.41 to 122.62 of the Revised Code; 2001

(5) Maintain, protect, repair, improve, and insure any 2002
property which the director has acquired and dispose of the same 2003
by sale, exchange, or lease for the consideration and on the terms 2004
and in the manner as the director considers proper, but is not 2005
authorized to operate any such property as a business except as 2006
the lessor of the property; 2007

(6)(a) When the cost of any contract for the maintenance, 2008
protection, repair, or improvement of any property held by the 2009
director other than compensation for personal services involves an 2010
expenditure of more than one thousand dollars, the director shall 2011
make a written contract with the lowest responsive and responsible 2012
bidder in accordance with section 9.312 of the Revised Code after 2013
advertisement for not less than two consecutive weeks in a 2014
newspaper of general circulation in the county where such 2015
contract, or some substantial part of it, is to be performed, and 2016
in such other publications as the director determines, which 2017
notice shall state the general character of the work and the 2018
general character of the materials to be furnished, the place 2019
where plans and specifications may be examined, and the time and 2020
place of receiving bids. 2021

(b) Each bid for a contract for the construction, demolition, 2022
alteration, repair, or reconstruction of an improvement shall 2023
contain the full name of every person interested in it and meet 2024
the requirements of section 153.54 of the Revised Code. 2025

(c) Each bid for a contract, except as provided in division 2026
(B)(6)(b) of this section, shall contain the full name of every 2027
person interested in it and shall be accompanied by bond or 2028
certified check on a solvent bank, in such amount as the director 2029
considers sufficient, that if the bid is accepted a contract will 2030

be entered into and the performance of the proposal secured. 2031

(d) The director may reject any and all bids. 2032

(e) A bond with good and sufficient surety, approved by the 2033
director, shall be required of every contractor awarded a contract 2034
except as provided in division (B)(6)(b) of this section, in an 2035
amount equal to at least fifty per cent of the contract price, 2036
conditioned upon faithful performance of the contract. 2037

(7) Employ financial consultants, appraisers, consulting 2038
engineers, superintendents, managers, construction and accounting 2039
experts, attorneys, and other employees and agents as are 2040
necessary in the director's judgment and fix their compensation; 2041

(8) Assist qualified persons in the coordination and 2042
formation of a small business development company, having a 2043
statewide area of operation, conditional upon the company's 2044
agreeing to seek to obtain certification from the federal small 2045
business administration as a certified statewide development 2046
company and participation in the guaranteed loan program 2047
administered by the small business administration pursuant to the 2048
Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the 2049
initial period of formation of the statewide small business 2050
development company, the director shall provide technical and 2051
financial expertise, legal and managerial assistance, and other 2052
services as are necessary and proper to enable the company to 2053
obtain and maintain federal certification and participation in the 2054
federal guaranteed loan program. The director may charge a fee, in 2055
such amount and on such terms and conditions as the director 2056
determines necessary and proper, for assistance and services 2057
provided pursuant to division (B)(8) of this section. 2058

Persons chosen by the director to receive assistance in the 2059
formation of a statewide small business development company 2060
pursuant to division (B)(8) of this section shall make a special 2061

effort to use their participation in the federal guaranteed loan 2062
program to assist small businesses which are minority business 2063
enterprises as defined in division (E) of section 122.71 of the 2064
Revised Code. The director, with the assistance of the minority 2065
business development division of the department of development, 2066
shall provide technical and financial expertise, legal and 2067
managerial assistance, and other services in such a manner to 2068
enable the development company to provide assistance to small 2069
businesses which are minority business enterprises, and shall make 2070
available to the development company information pertaining to 2071
assistance available to minority business enterprises under 2072
programs established pursuant to sections 122.71 to 122.83, 122.87 2073
to 122.89, 122.92 to 122.94, 123.151, and 125.081 of the Revised 2074
Code. 2075

(9) Receive and accept grants, gifts, and contributions of 2076
money, property, labor, and other things of value to be held, 2077
used, and applied only for the purpose for which such grants, 2078
gifts, and contributions are made, from individuals, private and 2079
public corporations, from the United States or any agency of the 2080
United States, from the state or any agency of the state, and from 2081
any political subdivision of the state, and may agree to repay any 2082
contribution of money or to return any property contributed or the 2083
value of the property at such times, in such amounts, and on such 2084
terms and conditions, excluding the payment of interest, as the 2085
director determines at the time such contribution is made, and may 2086
evidence such obligations by notes, bonds, or other written 2087
instruments; 2088

(10) Establish with the treasurer of state the funds provided 2089
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 2090
Code, in addition to such funds as the director determines are 2091
necessary or proper; 2092

(11) Do all acts and things necessary or proper to carry out 2093

the powers expressly granted and the duties imposed in sections 2094
122.39 and 122.41 to 122.62 and Chapter 163. of the Revised Code. 2095

(C) All expenses and obligations incurred by the director in 2096
carrying out the director's powers and in exercising the 2097
director's duties under sections 122.39 and 122.41 to 122.62 of 2098
the Revised Code, shall be payable solely from the proceeds of 2099
revenue bonds issued pursuant to those sections, from revenues or 2100
other receipts or income of the director, from grants, gifts, and 2101
contributions, or funds established in accordance with those 2102
sections. Those sections do not authorize the director to incur 2103
indebtedness or to impose liability on the state or any political 2104
subdivision of the state. 2105

(D) Financial statements and financial data submitted to the 2106
director by any corporation, partnership, or person in connection 2107
with a loan application, or any information taken from such 2108
statements or data for any purpose, shall not be open to public 2109
inspection. 2110

Sec. 122.43. The director of development services, with 2111
controlling board approval, may lend funds which are obtained from 2112
the sale of revenue bonds issued by the treasurer of state 2113
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2114
Code, from revenues or other receipts or income of the director, 2115
or funds established in accordance with sections 122.39 and 122.41 2116
to 122.62 of the Revised Code, and from grants, gifts, and 2117
contributions subject to any provisions of resolutions authorizing 2118
the revenue bonds or of trust agreements securing such bonds, to 2119
community improvement corporations and Ohio development 2120
corporations and other corporations, partnerships, and persons for 2121
the purpose of procuring or improving real or personal property, 2122
or both, for the establishment, location, or expansion of 2123
industrial, distribution, commercial, or research facilities in 2124

the state, and to community improvement corporations and Ohio 2125
development corporations for the purpose of loaning funds to other 2126
corporations, partnerships, and persons for the purpose of 2127
procuring or improving real or personal property, or both, for the 2128
establishment, location, or expansion of industrial, distribution, 2129
commercial, or research facilities in the state, if the director 2130
finds that: 2131

(A) The project is economically sound and will benefit the 2132
people of the state by increasing opportunities for employment and 2133
strengthening the economy of the state; 2134

(B) The proposed borrower, if other than a community 2135
improvement corporation or an Ohio development corporation, is 2136
unable to finance the proposed project through ordinary financial 2137
channels upon reasonable terms and at comparable interest rates, 2138
or the borrower, if a community improvement corporation or an Ohio 2139
development corporation, should not, in the opinion of the 2140
director, be required to finance the proposed project without a 2141
loan from the director; 2142

(C) The value of the project is, or upon completion thereof 2143
will be, at least equal to the total amount of the money expended 2144
in such procurement or improvement of which amount one or more 2145
financial institutions have loaned or invested not less than forty 2146
per cent; 2147

(D) The amount to be loaned by the director will not exceed 2148
fifty per cent of the total amount expended in the procurement or 2149
improvement of the project; 2150

(E) The amount to be loaned by the director will be 2151
adequately secured by a first or second mortgage upon the project, 2152
and by mortgages, leases, liens, assignments, or pledges on or of 2153
such other property or contracts as the director shall require and 2154
that such mortgage will not be subordinate to any other liens or 2155

mortgages except the liens securing loans or investments made by 2156
financial institutions referred to in division (C) of this 2157
section, and the liens securing loans previously made by any 2158
financial institution in connection with the procurement or 2159
expansion of all or part of a project. 2160

In no event may the ~~director~~ DIRECTOR director lend funds 2161
under the authority of this section for the purpose of procuring 2162
or improving motor vehicles, power driven vehicles, office 2163
equipment, raw materials, small tools, supplies, inventories, or 2164
accounts receivable. 2165

Sec. 122.44. Fees, charges, rates of interest, times of 2166
payment of interest and principal, and other terms, conditions, 2167
and provisions of the loans made by the director of development 2168
services pursuant to sections 122.39 and 122.41 to 122.62 of the 2169
Revised Code shall be such as the director determines to be 2170
appropriate and in furtherance of the purpose for which the loans 2171
are made, but the mortgage lien securing any money loaned by the 2172
director may be subordinate to the mortgage lien securing any 2173
money loaned or invested by a financial institution, but shall be 2174
superior to that securing any money loaned or expended by any 2175
other corporation or person. The funds used in making such loans 2176
shall be disbursed upon order of the director. 2177

Sec. 122.48. Each issue of revenue bonds issued by the 2178
treasurer of state pursuant to sections 122.39 and 122.41 to 2179
122.62 of the Revised Code, shall be dated, shall bear interest at 2180
a rate or rates or at a variable rate, as provided in or 2181
authorized by the proceedings authorizing or providing for the 2182
terms and conditions of the revenue bonds, shall mature at such 2183
time or times, not to exceed forty years from date, as determined 2184
by the director of development services and may be made redeemable 2185
before maturity at the option of the director at such price or 2186

prices and under such terms and conditions as are fixed by the 2187
director prior to the issuance of the bonds. The director shall 2188
determine the form of the bonds, including any interest coupons to 2189
be attached thereto, and the denomination or denominations of the 2190
bonds and the place or places of payment of principal and 2191
interest, which may be at any bank or trust company within or 2192
without the state. 2193

The bonds shall be executed by the signature or facsimile 2194
signature of the treasurer of state, the official seal or a 2195
facsimile thereof of the state shall be affixed thereto and 2196
attested by the treasurer of state or designated treasurer of 2197
state, and any coupons attached thereto shall bear the facsimile 2198
signature of the treasurer of state. In case the person whose 2199
signature, or a facsimile of whose signature, appears on any bonds 2200
or coupons ceases to be such officer before delivery of bonds or 2201
in case such person was not at the date of such bonds or coupons 2202
such officer but at the actual date of execution of such bonds or 2203
coupons was the proper officer, such signature or facsimile shall 2204
nevertheless be valid and sufficient for all purposes the same as 2205
if ~~he~~ the person had remained in office until such delivery. 2206

All revenue bonds issued under sections 122.39 and 122.41 to 2207
122.62 of the Revised Code, shall be negotiable instruments. The 2208
bonds may be issued in coupon or in registered form or both, as 2209
the treasurer determines. Provision may be made for the 2210
registration of any coupon bonds as to the principal alone and 2211
also as to both principal and interest, and for the reconversion 2212
into coupon bonds of any bonds registered as to both principal and 2213
interest. The treasurer of state may sell such bonds in the manner 2214
and for the price ~~he~~ the treasurer of state determines to be for 2215
the best interest of the state. 2216

Prior to the preparation of definitive bonds, the treasurer 2217
of state may, under like restrictions, issue interim receipts or 2218

temporary bonds, with or without coupons, exchangeable for 2219
definitive bonds when such bonds have been executed and are 2220
available for delivery. The treasurer of state may also provide 2221
for the replacement of any bonds which become mutilated or are 2222
destroyed, stolen, or lost. Bonds may be issued under sections 2223
122.39 to 122.62 of the Revised Code, without obtaining the 2224
consent of any department, division, commission, board, bureau, or 2225
agency of the state, and without any other proceeding or the 2226
happening of any other conditions or things than those 2227
proceedings, conditions, or things which are specifically required 2228
by such sections. 2229

Sec. 122.49. The proceeds of each issue of revenue bonds 2230
issued pursuant to sections 122.39 and 122.41 to 122.62 of the 2231
Revised Code shall be used for the making of loans authorized in 2232
sections 122.43 and 122.45 of the Revised Code, for the purchase 2233
and improvement of property authorized in section 122.46 of the 2234
Revised Code, for insuring mortgage payments authorized in section 2235
122.451 of the Revised Code, and for the crediting into and among 2236
the funds established in accordance with sections 122.35, 122.54, 2237
122.55, 122.56, 122.561, and 122.57 of the Revised Code, but 2238
subject to such conditions, limitations, and covenants with the 2239
purchasers and holders of the bonds as shall be provided for in 2240
the bond authorization proceedings and in the trust agreement 2241
securing the same. 2242

Provision shall be made by the director of development 2243
services for the payment of the expenses of the director in 2244
operating the assistance programs authorized under this chapter in 2245
such manner and to such extent as shall be determined by the 2246
director. 2247

Sec. 122.50. Revenue bonds issued under sections 122.39 and 2248
122.41 to 122.62, inclusive, of the Revised Code, do not 2249

constitute a debt, or a pledge of the faith and credit, of the 2250
state or of any political subdivision thereof, but such bonds 2251
shall be payable solely from the funds pledged for their payment 2252
as authorized by such sections, or by funds derived from the 2253
issuance of refunding bonds as authorized in section 122.52 of the 2254
Revised Code, which refunding bonds shall be payable solely from 2255
funds pledged for their payment as authorized by such section. All 2256
such revenue bonds shall contain on the face thereof a statement 2257
to the effect that the bonds, as to both principal and interest, 2258
are not an obligation of the state or of any political subdivision 2259
thereof, but are payable solely from revenues pledged for their 2260
payment. 2261

Sec. 122.51. All revenue bonds issued under sections 122.39 2262
and 122.41 to 122.62, inclusive, of the Revised Code, are lawful 2263
investments of banks, building and loan and savings and loan 2264
associations, deposit guarantee associations, trust companies, 2265
trustees, fiduciaries, trustees or other officers having charge of 2266
sinking or bond retirement funds of municipal corporations and 2267
other subdivisions of this state, and of domestic insurance 2268
companies notwithstanding sections 3907.14 and 3925.08 of the 2269
Revised Code, and are acceptable as security for the deposit of 2270
public moneys. 2271

Sec. 122.52. The director of development services may provide 2272
for the issuance of revenue refunding bonds of the state by the 2273
treasurer of state, payable solely from the sinking funds 2274
established in accordance with section 122.51 of the Revised Code 2275
at the times and in the order and manner provided by the director 2276
and in any trust agreement securing such bonds and shall also be 2277
secured by moneys in the other funds established pursuant to 2278
sections 122.39 and 122.41 to 122.62 of the Revised Code to the 2279
extent and on the terms specified by the director, for the purpose 2280

of refunding any revenue bonds then outstanding which have been 2281
issued under sections 122.39 and 122.41 to 122.62 of the Revised 2282
Code, including the payment of any redemption premium thereon and 2283
any interest accrued or to accrue to the date of redemption of 2284
such bonds. The issuance of such bonds, the maturities and other 2285
details thereof, the rights of the holders thereof, and the 2286
rights, duties, and obligations of the director and treasurer of 2287
state in respect to such bonds shall be governed by such sections 2288
insofar as they are applicable. 2289

Sec. 122.53. In the discretion of the treasurer of state, any 2290
bonds issued under sections 122.39 and 122.41 to 122.62 of the 2291
Revised Code, may be secured by a trust agreement between the 2292
treasurer of state and a corporate trustee, which trustee may be 2293
any trust company or bank having the powers of a trust company 2294
within or without the state. 2295

Any such trust agreement may pledge or assign payments of 2296
principal of and interest on loans, charges, fees, and other 2297
revenue to be received by the director of development services, 2298
all rentals received under leases made by the director, and all 2299
proceeds of the sale or other disposition of property held by the 2300
director, and may provide for the holding in trust by the trustee 2301
to the extent provided for in the proceedings authorizing such 2302
bonds, of all such moneys and moneys otherwise payable into the 2303
mortgage guarantee fund created by section 122.56 of the Revised 2304
Code, and all moneys otherwise payable into the mortgage insurance 2305
fund created by section 122.561 of the Revised Code, and of moneys 2306
payable into the sinking fund or funds referred to in section 2307
122.57 of the Revised Code, but shall not convey or mortgage any 2308
of the real or personal property held by the director or any part 2309
thereof. Any such trust agreement, or any proceedings providing 2310
for the issuance of such bonds, may contain such provisions for 2311
protecting and enforcing the rights and remedies of the 2312

bondholders as are reasonable and proper and not in violation of 2313
law, including covenants setting forth the duties of the director 2314
in relation to the acquisition of property, and the construction, 2315
improvement, maintenance, repair, operation, and insurance of 2316
facilities, the making of loans and leases and the terms and 2317
provisions thereof, and the custody, safeguarding, investment, and 2318
application of all moneys, and provisions for the employment of 2319
consulting engineers or other consultants in connection with the 2320
making of loans and leases and the construction or operation of 2321
any facility. Any bank or trust company incorporated under the 2322
laws of this state which may act as trustee or as depository of 2323
the proceeds of bonds or of revenue may furnish such indemnifying 2324
bonds or may pledge such securities as are required by the 2325
treasurer of state. Any such trust agreement may set forth the 2326
rights and remedies of the bondholders and of the trustee, and may 2327
restrict the individual right of action by bondholders as is 2328
customary in trust agreements or trust indentures securing bonds 2329
or debentures of corporations. Such trust agreement may contain 2330
such other provisions as the treasurer of state deems reasonable 2331
and proper for the security of the bondholders. All expenses 2332
incurred by the treasurer of state in carrying out the provisions 2333
of any such trust agreement shall be treated as a part of the cost 2334
of the operation of the assistance programs authorized pursuant to 2335
Chapter 122. of the Revised Code. Any such trust agreement may 2336
provide the method whereby general administrative overhead expense 2337
of the director with respect to those assistance programs shall be 2338
allocated among the funds established pursuant to Chapter 122. of 2339
the Revised Code with respect to the operating expenses of the 2340
director payable out of the income of the assistance programs. 2341

Sec. 122.561. The mortgage insurance fund of the director of 2342
development services is hereby created to consist of all money 2343
allocated by the director from the proceeds of the sale of any 2344

issue of revenue bonds, to the extent and subject to the 2345
conditions provided in the proceedings authorizing such bonds or 2346
in the trust agreements securing such bonds, for the purpose of 2347
insuring mortgage payments pursuant to section 122.451 of the 2348
Revised Code, all grants and contributions made to the director 2349
for such purpose, all moneys deposited or credited to the mortgage 2350
insurance fund pursuant to section 169.05 of the Revised Code, all 2351
other moneys and property designated by the director and by law 2352
for such purpose, all mortgage insurance premiums charged and 2353
collected as provided in this section, and all receipts and 2354
proceeds from the sale, disposal, lease, or rental of real or 2355
personal property which the director may hold as a result of a 2356
default in an insured mortgage. The director shall fix mortgage 2357
insurance premiums for the insurance of mortgage payments pursuant 2358
to section 122.451 of the Revised Code, to be computed as a 2359
percentage of the principal obligation of the mortgage outstanding 2360
at the beginning of each mortgage year. Such insurance premiums 2361
shall not be more than three per cent per annum of the outstanding 2362
principal obligation, and shall be calculated on the basis of all 2363
pertinent available data. Such premiums shall be payable by the 2364
mortgagors or the mortgagees in such manner as is prescribed by 2365
the director. The amount of premium need not be uniform among the 2366
various mortgages insured. The director may provide for the 2367
custody, investment, and use of the unclaimed funds trust fund 2368
created by section 169.05 of the Revised Code and all mortgage 2369
insurance premiums, including the payment therefrom of the 2370
expenses and costs of the director in insuring mortgage payments 2371
pursuant to section 122.451 of the Revised Code. Any financial 2372
statements or financial data submitted to the director, ~~the~~ 2373
~~development financing advisory council,~~ or the controlling board 2374
in connection with any application for the insurance of mortgage 2375
payments, or any information taken from such statements or data, 2376
is not open to public inspection. 2377

Sec. 122.57. All payments of principal of and interest on the 2378
loans made by the director of development services, all rentals 2379
received under leases made by ~~him~~ the director, and all proceeds 2380
of the sale or other disposition of property held by ~~him~~ the 2381
director shall be placed in separate sinking funds to the extent 2382
provided in the proceedings authorizing revenue bonds which are 2383
hereby pledged to and charged with the payment of interest on, 2384
principal of and redemption premium on, the revenue bonds issued 2385
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2386
Code to the extent provided in the proceedings authorizing and the 2387
trust agreements securing such bonds. The moneys therein in excess 2388
of the amounts required by the bond proceedings and trust 2389
agreements and all payments not so required to be paid into such 2390
sinking funds shall be retained or placed in such fund or in the 2391
other funds provided for by sections 122.35, 122.54, 122.42, 2392
122.55, 122.56, 122.561, and 122.57 of the Revised Code as the 2393
director shall determine, and shall be available for the uses for 2394
which such funds are established. 2395

Sec. 122.60. As used in sections 122.60 to 122.605 of the 2396
Revised Code: 2397

(A) "Capital access loan" means a loan made by a 2398
participating financial institution to an eligible business that 2399
may be secured by a deposit of money from the fund into the 2400
participating financial institution's program reserve account. 2401

(B) "Department of development" means the ~~department of~~ 2402
development services agency. 2403

(C) "Eligible business" means a for-profit business entity, 2404
or a nonprofit entity, that had total annual sales in its most 2405
recently completed fiscal year of less than ten million dollars 2406
and that has a principal place of for-profit business or nonprofit 2407

entity activity within the state, the operation of which, alone or 2408
in conjunction with other facilities, will create new jobs or 2409
preserve existing jobs and employment opportunities and will 2410
improve the economic welfare of the people of the state. As used 2411
in this division, "new jobs" does not include existing jobs 2412
transferred from another facility within the state, and "existing 2413
jobs" means only existing jobs at facilities within the same 2414
municipal corporation or township in which the project, activity, 2415
or enterprise that is the subject of a capital access loan is 2416
located. 2417

(D) "Financial institution" means any bank, trust company, 2418
savings bank, or savings and loan association that is chartered by 2419
and has a significant presence in the state, or any national bank, 2420
federal savings and loan association, or federal savings bank that 2421
has a significant presence in the state. 2422

(E) "Fund" means the capital access loan program fund. 2423

(F) "Minority business supplier development council" has the 2424
same meaning as in section 122.71 of the Revised Code. 2425

(G) "Participating financial institution" means a financial 2426
institution that has a valid, current participation agreement with 2427
the ~~department~~ development services agency. 2428

~~(G)~~(H) "Participation agreement" means the agreement between 2429
a financial institution and the ~~department~~ agency under which a 2430
financial institution may participate in the program. 2431

~~(H)~~(I) "Passive real estate ownership" means the ownership of 2432
real estate for the sole purpose of deriving income from it by 2433
speculation, trade, or rental. 2434

~~(I)~~(J) "Program" means the capital access loan program 2435
created under section 122.602 of the Revised Code. 2436

~~(J)~~(K) "Program reserve account" means a dedicated account at 2437

each participating financial institution that is the property of 2438
the state and may be used by the participating financial 2439
institution only for the purpose of recovering a claim under 2440
section 122.604 of the Revised Code arising from a default on a 2441
loan made by the participating financial institution under the 2442
program. 2443

Sec. 122.601. There is hereby created in the state treasury 2444
the capital access loan program fund. The fund shall consist of 2445
money deposited into it from the minority business enterprise loan 2446
fund pursuant to section 122.80 of the Revised Code and the 2447
facilities establishment fund pursuant to section 166.03 of the 2448
Revised Code and all money deposited into it pursuant to section 2449
122.602 of the Revised Code. The total amount of money deposited 2450
into the fund from the minority business enterprise loan fund or 2451
the facilities establishment fund shall not exceed three million 2452
dollars during any particular fiscal year of the ~~department~~ 2453
development services agency. 2454

The ~~department~~ agency shall disburse money from the fund only 2455
to pay the operating costs of the program, including the 2456
administrative costs incurred by the ~~department~~ agency in 2457
connection with the program, and only in keeping with the purposes 2458
specified in sections 122.60 to 122.605 of the Revised Code. 2459

Sec. 122.602. (A) There is hereby created in the department 2460
of development the capital access loan program to assist 2461
participating financial institutions in making program loans to 2462
eligible businesses that face barriers in accessing working 2463
capital and obtaining fixed asset financing. In administering the 2464
program, the director of development may do any of the following: 2465

(1) Receive and accept grants, gifts, and contributions of 2466
money, property, labor, and other things of value to be held, 2467

used, and applied only for the purpose for which the grants, 2468
gifts, and contributions are made, from individuals, private and 2469
public corporations, the United States or any agency of the United 2470
States, the state or any agency of the state, or any political 2471
subdivision of the state; 2472

(2) Agree to repay any contribution of money or return any 2473
property contributed or the value of that property at the times, 2474
in the amounts, and on the terms and conditions, excluding the 2475
payment of interest, that the director consents to at the time a 2476
contribution is made; and evidence obligations by notes, bonds, or 2477
other written instruments; 2478

(3) Adopt rules under Chapter 119. of the Revised Code to 2479
carry out the purposes of the program specified in sections 122.60 2480
to 122.605 of the Revised Code; 2481

(4) Engage in all other acts, and enter into contracts and 2482
execute all instruments, necessary or appropriate to carry out the 2483
purposes specified in sections 122.60 to 122.605 of the Revised 2484
Code. 2485

(B) The director shall determine the eligibility of a 2486
financial institution to participate in the program and may set a 2487
limit on the number of financial institutions that may participate 2488
in the program. 2489

(C) To be considered eligible by the director to participate 2490
in the program, a financial institution shall enter into a 2491
participation agreement with the department that sets out the 2492
terms and conditions under which the department will deposit 2493
moneys from the fund into the financial institution's program 2494
reserve account, specifies the criteria for loan qualification 2495
under the program, and contains any additional terms the director 2496
considers necessary. 2497

(D) After receiving the certification required under division 2498

(C) of section 122.603 of the Revised Code, the director may 2499
disburse moneys from the fund to a participating financial 2500
institution for deposit in its program reserve account if the 2501
director determines that the capital access loan involved meets 2502
all of the following criteria: 2503

(1) It will be made to an eligible business. 2504

(2) It will be used by the eligible business for a project, 2505
activity, or enterprise that fosters economic development. 2506

(3) It will not be made in order to enroll in the program 2507
prior debt that is not covered under the program and that is owed 2508
or was previously owed by an eligible business to the financial 2509
institution. 2510

(4) It will not be utilized for a project or development 2511
related to the on-site construction or purchase of residential 2512
housing. 2513

(5) It will not be used to finance passive real estate 2514
ownership. 2515

(6) It conforms to the requirements of divisions (E), (F), 2516
(G), (H), and (I) of this section, and to the rules adopted by the 2517
director under division (A)(3) of this section. 2518

(E) The director shall not approve a deposit amount from the 2519
fund for a capital access loan to an eligible business that 2520
exceeds two hundred fifty thousand dollars for working capital or 2521
five hundred thousand dollars for the purchase of fixed assets. An 2522
eligible business may apply for the maximum deposit amount ~~of~~ for 2523
both working capital and the purchase of fixed assets in the same 2524
capital access loan enrollment. 2525

(F) A financial institution may apply to the director for the 2526
approval of a capital access loan to any business that is owned or 2527
operated by a person that has previously defaulted under any state 2528

financial assistance program.	2529
(G) Eligible businesses that apply for a capital access loan shall comply with section 9.66 of the Revised Code.	2530 2531
(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.	2532 2533 2534
(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.	2535 2536 2537 2538 2539
Sec. 122.603. (A)(1) Upon approval by the director of development <u>services</u> and after entering into a participation agreement with the department of development <u>services agency</u> , 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.	2540 2541 2542 2543 2544 2545 2546 2547
(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 <u>agency</u> . 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.	2548 2549 2550 2551 2552 2553 2554 2555 2556
(B) When a participating financial institution makes a capital access loan, it shall require the eligible business to pay	2557 2558

to the participating financial institution a fee in an amount that 2559
is not less than one and one-half per cent, and not more than 2560
three per cent, of the principal amount of the loan. The 2561
participating financial institution shall deposit the fee into its 2562
program reserve account, and it also shall deposit into the 2563
account an amount of its own funds equal to the amount of the fee. 2564
The participating financial institution may recover from the 2565
eligible business all or part of the amount that the participating 2566
financial institution is required to deposit into the account 2567
under this division in any manner agreed to by the participating 2568
financial institution and the eligible business. 2569

(C) For each capital access loan made by a participating 2570
financial institution, the participating financial institution 2571
shall certify to the director, within a period specified by the 2572
director, that the participating financial institution has made 2573
the loan. The certification shall include the amount of the loan, 2574
the amount of the fee received from the eligible business, the 2575
amount of its own funds that the participating financial 2576
institution deposited into its program reserve account to reflect 2577
that fee, and any other information specified by the director. The 2578
certification also shall indicate if the eligible business 2579
receiving the capital access loan is a minority business 2580
enterprise as defined in section 122.71 of the Revised Code or 2581
certified by the minority business supplier development council. 2582

(D)(1)(a) Upon receipt of each of the first three 2583
certifications from a participating financial institution made 2584
under division (C) of this section and subject to section 122.602 2585
of the Revised Code, the director shall disburse to the 2586
participating financial institution from the capital access loan 2587
program fund an amount ~~equal~~ not to exceed fifty per cent of the 2588
principal amount of the particular capital access loan for deposit 2589
into the participating financial institution's program reserve 2590

account. Thereafter, upon receipt of a certification from that 2591
participating financial institution made under division (C) of 2592
this section and subject to section 122.602 of the Revised Code, 2593
the director shall disburse to the participating financial 2594
institution from the capital access loan program fund an amount 2595
equal to ten per cent of the principal amount of the particular 2596
capital access loan for deposit into the participating financial 2597
institution's program reserve account. 2598

(b) Notwithstanding division (D)(1)(a) of this section, and 2599
subject to section 122.602 of the Revised Code, upon receipt of 2600
any certification from a participating financial institution made 2601
under division (C) of this section with respect to a capital 2602
access loan made to an eligible business that is a minority 2603
business enterprise, the director shall disburse to the 2604
participating financial institution from the capital access loan 2605
program fund an amount ~~equal~~ not to exceed eighty per cent of the 2606
principal amount of the particular capital access loan for deposit 2607
into the participating financial institution's program reserve 2608
account. 2609

(2) The disbursement of moneys from the fund to a 2610
participating financial institution does not require approval from 2611
the controlling board. 2612

(E) If the amount in a program reserve account exceeds an 2613
amount equal to thirty-three per cent of a participating financial 2614
institution's outstanding capital access loans, the ~~department~~ 2615
agency may cause the withdrawal of the excess amount and the 2616
deposit of the withdrawn amount into the capital access loan 2617
program fund. 2618

(F)(1) The ~~department~~ agency may cause the withdrawal of the 2619
total amount in a participating financial institution's program 2620
reserve account if any of the following applies: 2621

(a) The financial institution is no longer eligible to participate in the program. 2622
2623

(b) The participation agreement expires without renewal by the ~~department~~ agency or the financial institution. 2624
2625

(c) The financial institution has no outstanding capital access loans. 2626
2627

(d) The financial institution has not made a capital access loan within the preceding twenty-four months. 2628
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(2) If the ~~department~~ agency causes a withdrawal under division (F)(1) of this section, the ~~department~~ agency shall deposit the withdrawn amount into the capital access loan program fund. 2630
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Sec. 122.61. The exercise of the powers granted by sections 122.39 and 122.41 to 122.62 of the Revised Code, will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of conditions of employment, and will constitute the performance of essential governmental functions; therefore the director of development services shall not be required to pay any taxes upon any ~~of~~ property or assets held by ~~him~~ the director, or upon any property acquired or used by ~~him~~ the director under sections 122.39 and 122.41 to 122.62 of the Revised Code, or upon the income therefrom, provided, such exemption shall not apply to any property held by the director while it is in the possession of a private person, partnership, or corporation and used for private purposes for profit. The bonds, notes, or other obligations issued under such sections, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state. 2634
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Sec. 122.62. All moneys received under sections 122.39 and 2651

122.41 to 122.62 of the Revised Code as proceeds from the sale of 2652
bonds are trust funds. All moneys received under those sections 2653
shall be held and applied solely as provided in such sections and 2654
section 166.03 of the Revised Code. All such moneys, except as 2655
otherwise provided in any proceedings authorizing revenue bonds or 2656
in any trust agreement securing such bonds or except when 2657
deposited with the treasurer of state, or except as they may be 2658
invested pursuant to section 122.58 of the Revised Code, shall be 2659
kept in depositories as selected by the director of development 2660
services in the manner provided in sections 135.01 to 135.21 of 2661
the Revised Code, insofar as such sections are applicable, and the 2662
deposits shall be secured as provided in sections 135.01 to 135.21 2663
of the Revised Code. The proceedings authorizing the issuance of 2664
bonds of any issue or the trust agreement securing such bonds 2665
shall provide that any official to whom, or any bank or trust 2666
company to which, such moneys are paid, shall act as trustee of 2667
such moneys and hold and apply them for the purposes of sections 2668
122.39 and 122.41 to 122.62 of the Revised Code, subject to such 2669
rules as such sections and such bond issuance proceedings or trust 2670
agreement provide. 2671

Sec. 122.64. (A) There is hereby established in the 2672
~~department of development~~ services agency a business services 2673
~~division of economic development~~. The division shall be supervised 2674
by a deputy director appointed by the director of development 2675
services. 2676

The division is responsible for the administration of the 2677
state economic development financing programs established pursuant 2678
to sections 122.17 and 122.18, sections 122.39 and 122.41 to 2679
122.62, and Chapter 166. of the Revised Code ~~and for coordinating~~ 2680
~~the activities of the development financing advisory council so as~~ 2681
~~to ensure the efficient administration of the programs.~~ 2682

(B) The director of development services shall: 2683

(1) ~~Appoint an individual to serve as director of the~~ 2684
~~development financing advisory council;~~ 2685

~~(2)~~ Receive applications for assistance pursuant to sections 2686
122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. 2687
The director shall process the applications ~~and, except as~~ 2688
~~provided in division (C)(2) of section 166.05 of the Revised Code,~~ 2689
~~forward them to the development financing advisory council. As~~ 2690
~~appropriate, the director shall receive the recommendations of the~~ 2691
~~council as to applications for assistance.~~ 2692

~~(3)~~(2) With the approval of the director of administrative 2693
services, establish salary schedules for employees of the various 2694
positions of employment with the division and assign the various 2695
positions to those salary schedules; 2696

~~(4)~~ ~~Furnish and pay for, out of funds appropriated to the~~ 2697
~~department of development for that purpose, office space and~~ 2698
~~associated utilities service, for the development financing~~ 2699
~~advisory council;~~ 2700

~~(5)~~(3) Employ and fix the compensation of financial 2701
consultants, appraisers, consulting engineers, superintendents, 2702
managers, construction and accounting experts, attorneys, and 2703
other agents for the assistance programs authorized pursuant to 2704
sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, 2705
and Chapter 166. of the Revised Code as are necessary; 2706

~~(6)~~(4) Supervise the administrative operations of the 2707
division; 2708

~~(7)~~(5) On or before the first day of October in each year, 2709
make an annual report of the activities and operations under 2710
assistance programs authorized pursuant to sections 122.39 and 2711
122.41 to 122.62 and Chapter 166. of the Revised Code for the 2712
preceding fiscal year to the governor and the general assembly. 2713

Each such report shall set forth a complete operating and 2714
financial statement covering such activities and operations during 2715
the year in accordance with generally accepted accounting 2716
principles and shall be audited by a certified public accountant. 2717
The director of development services shall transmit a copy of the 2718
audited financial report to the office of budget and management. 2719

Sec. 122.76. (A) The director of development services, with 2720
controlling board approval, may lend funds to minority business 2721
enterprises and to community improvement corporations, Ohio 2722
development corporations, minority contractors business assistance 2723
organizations, and minority business supplier development councils 2724
for the purpose of loaning funds to minority business enterprises 2725
and for the purpose of procuring or improving real or personal 2726
property, or both, for the establishment, location, or expansion 2727
of industrial, distribution, commercial, or research facilities in 2728
the state, and to community development corporations that 2729
predominantly benefit minority business enterprises or are located 2730
in a census tract that has a population that is sixty per cent or 2731
more minority if the director determines, in the director's sole 2732
discretion, that all of the following apply: 2733

(1) The project is economically sound and will benefit the 2734
people of the state by increasing opportunities for employment, by 2735
strengthening the economy of the state, or expanding minority 2736
business enterprises. 2737

(2) The proposed minority business enterprise borrower is 2738
unable to finance the proposed project through ordinary financial 2739
channels at comparable terms. 2740

(3) The value of the project is or, upon completion, will be 2741
at least equal to the total amount of the money expended in the 2742
procurement or improvement of the project. 2743

(4) The amount to be loaned by the director will not exceed 2744

~~sixty~~ seventy-five per cent of the total amount expended in the 2745
procurement or improvement of the project. 2746

(5) The amount to be loaned by the director will be 2747
adequately secured by a first or second mortgage upon the project 2748
or by mortgages, leases, liens, assignments, or pledges on or of 2749
other property or contracts as the director requires, and such 2750
mortgage will not be subordinate to any other liens or mortgages 2751
except the liens securing loans or investments made by financial 2752
institutions referred to in division (A)(3) of this section, and 2753
the liens securing loans previously made by any financial 2754
institution in connection with the procurement or expansion of all 2755
or part of a project. 2756

(B) Any proposed minority business enterprise borrower 2757
submitting an application for assistance under this section shall 2758
not have defaulted on a previous loan from the director, and no 2759
full or limited partner, major shareholder, or holder of an equity 2760
interest of the proposed minority business enterprise borrower 2761
shall have defaulted on a loan from the director. 2762

(C) The proposed minority business enterprise borrower shall 2763
demonstrate to the satisfaction of the director that it is able to 2764
successfully compete in the private sector if it obtains the 2765
necessary financial, technical, or managerial support and that 2766
support is available through the director, the minority business 2767
development office of the department of development, or other 2768
identified and acceptable sources. In determining whether a 2769
minority business enterprise borrower will be able to successfully 2770
compete, the director may give consideration to such factors as 2771
the successful completion of or participation in courses of study, 2772
recognized by the board of regents as providing financial, 2773
technical, or managerial skills related to the operation of the 2774
business, by the economically disadvantaged individual, owner, or 2775
partner, and the prior success of the individual, owner, or 2776

partner in personal, career, or business activities, as well as to 2777
other factors identified by the director. 2778

(D) The director shall not lend funds for the purpose of 2779
procuring or improving motor vehicles or accounts receivable. 2780

Sec. 122.80. There is hereby created in the state treasury 2781
the minority business enterprise loan fund. The fund shall consist 2782
of money deposited into the fund from the facilities establishment 2783
fund pursuant to section 166.03 of the Revised Code and all money 2784
deposited into the fund pursuant to section 122.81 of the Revised 2785
Code. The director of development shall use the fund to pay 2786
operating costs of the minority development financing advisory 2787
board, make loans to minority business enterprises as authorized 2788
in division (A) of section 122.76 of the Revised Code and, loan 2789
guarantees to small businesses as authorized in division (A) of 2790
section 122.77 of the Revised Code, and for transfer to the 2791
capital access loan program fund established in section 122.601 of 2792
the Revised Code to be used solely for minority business 2793
enterprises or minority businesses certified by the minority 2794
business supplier development council for deposits specified by 2795
division (D)(1)(b) of section 122.603 of the Revised Code. 2796

Sec. 122.86. (A) As used in this section and section 5747.81 2797
of the Revised Code: 2798

(1) "Small business enterprise" means a corporation, 2799
pass-through entity, or other person satisfying all of the 2800
following: 2801

(a) At the time of a qualifying investment, the enterprise 2802
meets all of the following requirements: 2803

(i) Has no outstanding tax or other liabilities owed to the 2804
state; 2805

(ii) Is in good standing with the secretary of state, if the 2806

enterprise is required to be registered with the secretary; 2807

(iii) Is current with any court-ordered payments; 2808

(iv) Is not engaged in any illegal activity. 2809

(b) At the time of a qualifying investment, the enterprise's 2810
assets according to generally accepted accounting principles do 2811
not exceed fifty million dollars, or its annual sales do not 2812
exceed ten million dollars~~+~~. When making this determination, the 2813
assets and annual sales of all of the enterprise's related or 2814
affiliated entities shall be included in the calculation. 2815

~~(b)~~(c) The enterprise employs at least fifty full-time 2816
equivalent employees in this state for whom the enterprise is 2817
required to withhold income tax under section 5747.06 of the 2818
Revised Code, or more than one-half the enterprise's total number 2819
of full-time equivalent employees employed anywhere in the United 2820
States are employed in this state and are subject to that 2821
withholding requirement. 2822

~~(e)~~(d) The enterprise, within six months after an eligible 2823
investor's qualifying investment is made, invests in or incurs 2824
cost for one or more of the following in an amount at least equal 2825
to the amount of the qualifying investment: 2826

(i) Tangible personal property, other than motor vehicles 2827
operated on public roads and highways, used in business and 2828
physically located in this state from the time of its acquisition 2829
by the enterprise until the end of the investor's holding period; 2830

(ii) Motor vehicles operated on public roads and highways if, 2831
from the time of acquisition by the enterprise until the end of 2832
the investor's holding period, the motor vehicles are purchased in 2833
this state, registered in this state under Chapter 4503. of the 2834
Revised Code, are used primarily for business purposes, and are 2835
necessary for the operation of the enterprise's business; 2836

(iii) Real property located in this state that is used in 2837
business from the time of its acquisition by the enterprise until 2838
the end of the holding period; 2839

(iv) Intangible personal property, including patents, 2840
copyrights, trademarks, service marks, or licenses used in 2841
business primarily in this state from the time of its acquisition 2842
by the enterprise until the end of the holding period; 2843

(v) Compensation for new employees of the enterprise for whom 2844
the enterprise is required to withhold income tax under section 2845
5747.06 of the Revised Code, not including increased compensation 2846
for owners, officers, or managers of the enterprise. For this 2847
purpose compensation for new employees includes compensation for 2848
newly hired or retained employees. 2849

(2) "Qualifying investment" means an investment of money made 2850
on or after July 1, 2011, to acquire capital stock or other equity 2851
interest in a small business enterprise. "Qualifying investment" 2852
does not include ~~any~~ either of the following: 2853

(a) Any investment of money an eligible investor derives, 2854
directly or indirectly, from a grant or loan from the federal 2855
government or the state or a political subdivision, including the 2856
third frontier program under Chapter 184. of the Revised Code; 2857

(b) Any investment of money which is the basis of a tax 2858
credit granted under any other section of the Revised Code. 2859

(3) "Eligible investor" means an individual, estate, or trust 2860
subject to the tax imposed by section 5747.02 of the Revised Code, 2861
or a pass-through entity in which such an individual, estate, or 2862
trust holds a direct or indirect ownership or other equity 2863
interest. To qualify as an eligible investor, the individual, 2864
estate, trust, or pass-through entity shall not owe any 2865
outstanding tax or other liability to the state at the time of a 2866
qualifying investment. 2867

(4) "Holding period" means: 2868

(a) For qualifying investments made on or after July 1, 2011, 2869
but before July 1, 2013, the two-year period beginning on the day 2870
the investment was made; 2871

(b) For qualifying investments made on or after July 1, 2013, 2872
the five-year period beginning on the day the investment was made. 2873

(5) "Pass-through entity" has the same meaning as in section 2874
5733.04 of the Revised Code. 2875

(B) Any eligible investor that makes a qualifying investment 2876
in a small business enterprise on or after July 1, 2011, may apply 2877
to the director of development services to obtain a small business 2878
investment certificate from the director. Alternatively, a small 2879
business enterprise may apply on behalf of eligible investors to 2880
obtain the certificates for those investors. The director, in 2881
consultation with the tax commissioner, shall prescribe the form 2882
or manner in which an applicant shall apply for the certificate, 2883
devise the form of the certificate, and prescribe any records or 2884
other information an applicant shall furnish with the application 2885
to evidence the qualifying investment. The applicant shall state 2886
the amount of the intended investment. The applicant shall pay an 2887
application fee equal to the greater of one-tenth of one per cent 2888
of the amount of the intended investment or one hundred dollars. 2889

A small business investment certificate entitles the 2890
certificate holder to receive a tax credit under section 5747.81 2891
of the Revised Code if the certificate holder qualifies for the 2892
credit as otherwise provided in this section. If the certificate 2893
holder is a pass-through entity, the certificate entitles the 2894
entity's equity owners to receive their distributive or 2895
proportionate shares of the credit. In any fiscal biennium, an 2896
eligible investor may not apply for small business investment 2897
certificates representing intended investment amounts in excess of 2898

ten million dollars. Such certificates are not transferable. 2899

The director of development ~~shall issue~~ services may reserve 2900
small business investment certificates to qualifying applicants in 2901
the order in which the director receives applications, but may 2902
issue the certificates as the applications are completed. An 2903
application is completed when the director has validated that an 2904
eligible investor has made a qualified investment and the small 2905
business enterprise has made the appropriate reinvestment of the 2906
qualified investment pursuant to the requirements of division 2907
(A)(1)(d) of this section. To qualify for a certificate, an 2908
eligible investor must satisfy both of the following, subject to 2909
the limitation on the amount of qualifying investments for which 2910
certificates may be issued under division (C) of this section: 2911

(1) The eligible investor makes a qualifying investment on or 2912
after July 1, 2011. 2913

(2) The eligible investor pledges not to sell or otherwise 2914
dispose of the qualifying investment before the conclusion of the 2915
applicable holding period. 2916

(C)(1) The amount of any eligible investor's qualifying 2917
investments for which small business investment certificates may 2918
be issued for a fiscal biennium shall not exceed ten million 2919
dollars. 2920

(2) The director of development services shall not issue a 2921
small business investment certificate to an eligible investor 2922
representing an amount of qualifying investment in excess of the 2923
amount of the intended investment indicated on the investor's 2924
application for the certificate. 2925

(3) The director of development services shall not issue 2926
small business investment certificates in a total amount that 2927
would cause the tax credits claimed in any fiscal biennium to 2928
exceed one hundred million dollars. 2929

(4) The director of development services may issue a small business investment certificate only if both of the following apply at the time of issuance: 2930
2931
2932

(a) The small business enterprise meets all the requirements listed in divisions (A)(1)(a)(i) to (iv) of this section; 2933
2934

(b) The eligible investor does not owe any outstanding tax or other liability to the state. 2935
2936

(D) Before the end of the applicable holding period of a 2937
qualifying investment, each enterprise in which a qualifying 2938
investment was made for which a small business investment 2939
certificate has been issued, upon the request of the director of 2940
development services, shall provide to the director records or 2941
other evidence satisfactory to the director that the enterprise is 2942
a small business enterprise for the purposes of this section. Each 2943
enterprise shall also provide annually to the director records or 2944
evidence regarding the number of jobs created or retained in the 2945
state. No credit may be claimed under this section and section 2946
5747.81 of the Revised Code if the director finds that an 2947
enterprise is not a small business enterprise for the purposes of 2948
this section. The director shall compile and maintain a register 2949
of small business enterprises qualifying under this section and 2950
shall certify the register to the tax commissioner. The director 2951
shall also compile and maintain a record of the number of jobs 2952
created or retained as a result of qualifying investments made 2953
pursuant to this section. 2954

(E) After the conclusion of the applicable holding period for 2955
a qualifying investment, a person to whom a small business 2956
investment certificate has been issued under this section may 2957
claim a credit as provided under section 5747.81 of the Revised 2958
Code. 2959

(F) The director of development services, in consultation 2960

with the tax commissioner, may adopt rules for the administration 2961
of this section, including rules governing the following: 2962

(1) Documents, records, or other information eligible 2963
investors shall provide to the director; 2964

(2) Any information a small business enterprise shall provide 2965
for the purposes of this section and section 5747.81 of the 2966
Revised Code; 2967

(3) Determination of the number of full-time equivalent 2968
employees of a small business enterprise; 2969

(4) Verification of a small business enterprise's investment 2970
in tangible personal property and intangible personal property 2971
under division (A)(1)~~(e)~~(d) of this section, including when such 2972
investments have been made and where the property is used in 2973
business; 2974

(5) Circumstances under which small business enterprises or 2975
eligible investors may be subverting the purposes of this section 2976
and section 5747.81 of the Revised Code. 2977

There is hereby created in the state treasury the InvestOhio 2978
support fund. The fund shall consist of the fees paid under 2979
division (B) of this section and shall be used by the development 2980
services agency to pay the costs of administering the small 2981
business investment certificate program established under this 2982
section. 2983

Sec. 122.942. The director of development services shall, 2984
with respect to each project for which a loan, grant, tax credit, 2985
or other state-funded financial assistance is awarded by the 2986
development services agency, make all of the following information 2987
available to the public within thirty days after the agency enters 2988
into a contract with the recipient: 2989

(A) A summary of the project that includes all of the 2990

<u>following:</u>	2991
<u>(1) A breakdown of the sources of the funds for each aspect</u>	2992
<u>of the project, such as state or federal programs, the operating</u>	2993
<u>company or entity itself, or any private financing, and a complete</u>	2994
<u>description of how each type of funds is to be used;</u>	2995
<u>(2) The total amount of assistance awarded;</u>	2996
<u>(3) A brief description of the project;</u>	2997
<u>(4) The following information regarding the project:</u>	2998
<u>(a) The operating company or entity that is awarded the</u>	2999
<u>assistance;</u>	3000
<u>(b) The products or services provided by the operating</u>	3001
<u>company or entity;</u>	3002
<u>(c) The number of new jobs, at-risk jobs, and retained jobs</u>	3003
<u>anticipated; the hourly wages and hourly benefits of those jobs;</u>	3004
<u>and the dollar amount of assistance per job affected.</u>	3005
<u>(5) The strengths and weaknesses of the project;</u>	3006
<u>(6) The location of the project, the location of the</u>	3007
<u>operating company or entity, and whether relocation is involved;</u>	3008
<u>(7) The Ohio house district and Ohio senate district in which</u>	3009
<u>the project is located;</u>	3010
<u>(8) The payment terms and conditions of the assistance</u>	3011
<u>awarded;</u>	3012
<u>(9) The collateral or security required;</u>	3013
<u>(10) The recommendation of the staff assigned to the project.</u>	3014
<u>(B) A comprehensive report that provides a description of the</u>	3015
<u>operating company or entity; all relevant information regarding</u>	3016
<u>the project; an analysis of the operating company or entity and</u>	3017
<u>the goods or services it provides; the explicit terms of any</u>	3018
<u>collateral or security required; and the reasoning behind the</u>	3019

staffs' recommendation. 3020

(C) Any other relevant information the controlling board may request, or the director may consider necessary to more fully describe the details of the assistance or the operating company or entity, that is provided before the controlling board approves the assistance. 3021
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Nothing in this section shall be construed as requiring the disclosure of information that is not a public record under section 149.43 of the Revised Code. 3026
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Sec. 122.97. (A) The business development and assistance fund is hereby created in the state treasury. Investment earnings on moneys in the fund shall be credited to the fund. The development services agency shall deposit any money it receives for business development services and business assistance services to the credit of the fund, including: 3029
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(1) Reimbursements for services provided for business development and business assistance services; 3035
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(2) Contract or grant payments from private entities; 3037

(3) Donations or sponsorship payments from private entities; 3038

(4) Contract or grant payments from public agencies or political subdivisions. 3039
3040

(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. 3041
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Sec. 149.311. (A) As used in this section: 3045

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic 3046
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3048

places under 16 U.S.C. 470a, located in a registered historic 3049
district, and certified by the state historic preservation officer 3050
as being of historic significance to the district, or is 3051
individually listed as a historic landmark designated by a local 3052
government certified under 16 U.S.C. 470a(c). 3053

(2) "Qualified rehabilitation expenditures" means 3054
expenditures paid or incurred during the rehabilitation period, 3055
and before and after that period as determined under 26 U.S.C. 47, 3056
by an owner or qualified lessee of a historic building to 3057
rehabilitate the building. "Qualified rehabilitation expenditures" 3058
includes architectural or engineering fees paid or incurred in 3059
connection with the rehabilitation, and expenses incurred in the 3060
preparation of nomination forms for listing on the national 3061
register of historic places. "Qualified rehabilitation 3062
expenditures" does not include any of the following: 3063

(a) The cost of acquiring, expanding, or enlarging a historic 3064
building; 3065

(b) Expenditures attributable to work done to facilities 3066
related to the building, such as parking lots, sidewalks, and 3067
landscaping; 3068

(c) New building construction costs. 3069

(3) "Owner" of a historic building means a person holding the 3070
fee simple interest in the building. "Owner" does not include the 3071
state or a state agency, or any political subdivision as defined 3072
in section 9.23 of the Revised Code. 3073

(4) "Qualified lessee" means a person subject to a lease 3074
agreement for a historic building and eligible for the federal 3075
rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" 3076
does not include the state or a state agency or political 3077
subdivision as defined in section 9.23 of the Revised Code. 3078

(5) "Certificate owner" means the owner or qualified lessee 3079

of a historic building to which a rehabilitation tax credit 3080
certificate was issued under this section. 3081

~~(5)~~(6) "Registered historic district" means a historic 3082
district listed in the national register of historic places under 3083
16 U.S.C. 470a, a historic district designated by a local 3084
government certified under 16 U.S.C. 470a(c), or a local historic 3085
district certified under 36 C.F.R. 67.8 and 67.9. 3086

~~(6)~~(7) "Rehabilitation" means the process of repairing or 3087
altering a historic building or buildings, making possible an 3088
efficient use while preserving those portions and features of the 3089
building and its site and environment that are significant to its 3090
historic, architectural, and cultural values. 3091

~~(7)~~(8) "Rehabilitation period" means one of the following: 3092

(a) If the rehabilitation initially was not planned to be 3093
completed in stages, a period chosen by the owner or qualified 3094
lessee not to exceed twenty-four months during which 3095
rehabilitation occurs; 3096

(b) If the rehabilitation initially was planned to be 3097
completed in stages, a period chosen by the owner or qualified 3098
lessee not to exceed sixty months during which rehabilitation 3099
occurs. Each stage shall be reviewed as a phase of a 3100
rehabilitation as determined under 26 C.F.R. 1.48-12 or a 3101
successor to that section. 3102

~~(8)~~(9) "State historic preservation officer" or "officer" 3103
means the state historic preservation officer appointed by the 3104
governor under 16 U.S.C. 470a. 3105

(B) The owner or qualified lessee of a historic building may 3106
apply to the director of development for a rehabilitation tax 3107
credit certificate for qualified rehabilitation expenditures paid 3108
or incurred by such owner or qualified lessee after April 4, 2007, 3109
for rehabilitation of a historic building. ~~The~~ If the owner of a 3110

historic building enters a pass-through agreement with a qualified 3111
lessee for the purposes of the federal rehabilitation tax credit 3112
under 26 U.S.C. 47, the qualified rehabilitation expenditures paid 3113
or incurred by the owner after April 4, 2007, shall be attributed 3114
to the qualified lessee. 3115

The form and manner of filing such applications shall be 3116
prescribed by rule of the director of development. Each 3117
application shall state the amount of qualified rehabilitation 3118
expenditures the applicant estimates will be paid or incurred. The 3119
director may require applicants to furnish documentation of such 3120
estimates. 3121

The director, after consultation with the tax commissioner 3122
and in accordance with Chapter 119. of the Revised Code, shall 3123
adopt rules that establish all of the following: 3124

(1) Forms and procedures by which applicants may apply for 3125
rehabilitation tax credit certificates; 3126

(2) Criteria for reviewing, evaluating, and approving 3127
applications for certificates within the limitations under 3128
division (D) of this section, criteria for assuring that the 3129
certificates issued encompass a mixture of high and low qualified 3130
rehabilitation expenditures, and criteria for issuing certificates 3131
under division (C)(3)(b) of this section; 3132

(3) Eligibility requirements for obtaining a certificate 3133
under this section; 3134

(4) The form of rehabilitation tax credit certificates; 3135

(5) Reporting requirements and monitoring procedures; 3136

(6) Procedures and criteria for conducting cost-benefit 3137
analyses of historic buildings that are the subjects of 3138
applications filed under this section. The purpose of a 3139
cost-benefit analysis shall be to determine whether rehabilitation 3140

of the historic building will result in a net revenue gain in 3141
state and local taxes once the building is used. 3142

(7) Any other rules necessary to implement and administer 3143
this section. 3144

(C) The director of development shall review the applications 3145
with the assistance of the state historic preservation officer and 3146
determine whether all of the following criteria are met: 3147

(1) That the building that is the subject of the application 3148
is a historic building and the applicant is the owner or qualified 3149
lessee of the building; 3150

(2) That the rehabilitation will satisfy standards prescribed 3151
by the United States secretary of the interior under 16 U.S.C. 3152
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 3153
that section; 3154

(3) That receiving a rehabilitation tax credit certificate 3155
under this section is a major factor in: 3156

(a) The applicant's decision to rehabilitate the historic 3157
building; or 3158

(b) To increase the level of investment in such 3159
rehabilitation. 3160

An applicant shall demonstrate to the satisfaction of the 3161
state historic preservation officer and director of development 3162
that the rehabilitation will satisfy the standards described in 3163
division (C)(2) of this section before the applicant begins the 3164
physical rehabilitation of the historic building. 3165

(D)(1) If the director of development determines that an 3166
application meets the criteria in divisions (C)(1), (2), and (3) 3167
of this section, the director shall conduct a cost-benefit 3168
analysis for the historic building that is the subject of the 3169
application to determine whether rehabilitation of the historic 3170

building will result in a net revenue gain in state and local 3171
taxes once the building is used. The director shall consider the 3172
results of the cost-benefit analysis in determining whether to 3173
approve the application. The director shall also consider the 3174
potential economic impact and the regional distributive balance of 3175
the credits throughout the state. The director may approve an 3176
application only after completion of the cost-benefit analysis. 3177

(2) A rehabilitation tax credit certificate shall not be 3178
issued for an amount greater than the estimated amount furnished 3179
by the applicant on the application for such certificate and 3180
approved by the director. The director shall not approve more than 3181
a total of sixty million dollars of rehabilitation tax credits per 3182
fiscal year but the director may reallocate unused tax credits 3183
from a prior fiscal year for new applicants and such reallocated 3184
credits shall not apply toward the dollar limit of this division. 3185

(3) For rehabilitations with a rehabilitation period not 3186
exceeding twenty-four months as provided in division (A)(7)(a) of 3187
this section, a rehabilitation tax credit certificate shall not be 3188
issued before the rehabilitation of the historic building is 3189
completed. 3190

(4) For rehabilitations with a rehabilitation period not 3191
exceeding sixty months as provided in division (A)(7)(b) of this 3192
section, a rehabilitation tax credit certificate shall not be 3193
issued before a stage of rehabilitation is completed. After all 3194
stages of rehabilitation are completed, if the director cannot 3195
determine that the criteria in division (C) of this section are 3196
satisfied for all stages of rehabilitations, the director shall 3197
certify this finding to the tax commissioner, and any 3198
rehabilitation tax credits received by the applicant shall be 3199
repaid by the applicant and may be collected by assessment as 3200
unpaid tax by the commissioner. 3201

(5) The director of development shall require the applicant 3202

to provide a third-party cost certification by a certified public 3203
accountant of the actual costs attributed to the rehabilitation of 3204
the historic building when qualified rehabilitation expenditures 3205
exceed two hundred thousand dollars. 3206

If an applicant whose application is approved for receipt of 3207
a rehabilitation tax credit certificate fails to provide to the 3208
director of development sufficient evidence of reviewable 3209
progress, including a viable financial plan, copies of final 3210
construction drawings, and evidence that the applicant has 3211
obtained all historic approvals within twelve months after the 3212
date the applicant received notification of approval, and if the 3213
applicant fails to provide evidence to the director of development 3214
that the applicant has secured and closed on financing for the 3215
rehabilitation within eighteen months after receiving notification 3216
of approval, the director may rescind the approval of the 3217
application. The director shall notify the applicant if the 3218
approval has been rescinded. Credits that would have been 3219
available to an applicant whose approval was rescinded shall be 3220
available for other qualified applicants. Nothing in this division 3221
prohibits an applicant whose approval has been rescinded from 3222
submitting a new application for a rehabilitation tax credit 3223
certificate. 3224

(E) Issuance of a certificate represents a finding by the 3225
director of development of the matters described in divisions 3226
(C)(1), (2), and (3) of this section only; issuance of a 3227
certificate does not represent a verification or certification by 3228
the director of the amount of qualified rehabilitation 3229
expenditures for which a tax credit may be claimed under section 3230
5725.151, 5725.34, 5729.17, 5733.47, or 5747.76 of the Revised 3231
Code. The amount of qualified rehabilitation expenditures for 3232
which a tax credit may be claimed is subject to inspection and 3233
examination by the tax commissioner or employees of the 3234

commissioner under section 5703.19 of the Revised Code and any 3235
other applicable law. Upon the issuance of a certificate, the 3236
director shall certify to the tax commissioner, in the form and 3237
manner requested by the tax commissioner, the name of the 3238
applicant, the amount of qualified rehabilitation expenditures 3239
shown on the certificate, and any other information required by 3240
the rules adopted under this section. 3241

(F)(1) On or before the first day of April each year, the 3242
director of development and tax commissioner jointly shall submit 3243
to the president of the senate and the speaker of the house of 3244
representatives a report on the tax credit program established 3245
under this section and sections 5725.151, 5725.34, 5729.17, 3246
5733.47, and 5747.76 of the Revised Code. The report shall present 3247
an overview of the program and shall include information on the 3248
number of rehabilitation tax credit certificates issued under this 3249
section during the preceding fiscal year, an update on the status 3250
of each historic building for which an application was approved 3251
under this section, the dollar amount of the tax credits granted 3252
under sections 5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of 3253
the Revised Code, and any other information the director and 3254
commissioner consider relevant to the topics addressed in the 3255
report. 3256

(2) On or before December 1, 2015, the director of 3257
development and tax commissioner jointly shall submit to the 3258
president of the senate and the speaker of the house of 3259
representatives a comprehensive report that includes the 3260
information required by division (F)(1) of this section and a 3261
detailed analysis of the effectiveness of issuing tax credits for 3262
rehabilitating historic buildings. The report shall be prepared 3263
with the assistance of an economic research organization jointly 3264
chosen by the director and commissioner. 3265

(G) There is hereby created in the state treasury the 3266

historic rehabilitation tax credit operating fund. The director of 3267
development is authorized to charge reasonable application and 3268
other fees in connection with the administration of tax credits 3269
authorized by this section and sections 5725.151, 5725.34, 3270
5729.17, 5733.44, and 5747.76 of the Revised Code. Any such fees 3271
collected shall be credited to the fund and used to pay reasonable 3272
costs incurred by the department of development in administering 3273
this section and sections 5725.151, 5725.34, 5729.17, 5733.44, and 3274
5747.76 of the Revised Code. 3275

The Ohio historic preservation office is authorized to charge 3276
reasonable fees in connection with its review and approval of 3277
applications under this section. Any such fees collected shall be 3278
credited to the fund and used to pay administrative costs incurred 3279
by the Ohio historic preservation office pursuant to this section. 3280

Sec. 149.43. (A) As used in this section: 3281

(1) "Public record" means records kept by any public office, 3282
including, but not limited to, state, county, city, village, 3283
township, and school district units, and records pertaining to the 3284
delivery of educational services by an alternative school in this 3285
state kept by the nonprofit or for-profit entity operating the 3286
alternative school pursuant to section 3313.533 of the Revised 3287
Code. "Public record" does not mean any of the following: 3288

(a) Medical records; 3289

(b) Records pertaining to probation and parole proceedings or 3290
to proceedings related to the imposition of community control 3291
sanctions and post-release control sanctions; 3292

(c) Records pertaining to actions under section 2151.85 and 3293
division (C) of section 2919.121 of the Revised Code and to 3294
appeals of actions arising under those sections; 3295

(d) Records pertaining to adoption proceedings, including the 3296

contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;	3297 3298
(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 child support enforcement agency;	3299 3300 3301 3302 3303 3304
(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;	3305 3306 3307
(g) Trial preparation records;	3308
(h) Confidential law enforcement investigatory records;	3309
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	3310 3311
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	3312 3313
(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;	3314 3315 3316 3317
(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;	3318 3319 3320 3321
(m) Intellectual property records;	3322
(n) Donor profile records;	3323
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	3324 3325

(p) Peace officer, parole officer, probation officer, 3326
bailiff, prosecuting attorney, assistant prosecuting attorney, 3327
correctional employee, youth services employee, firefighter, EMT, 3328
or investigator of the bureau of criminal identification and 3329
investigation residential and familial information; 3330

(q) In the case of a county hospital operated pursuant to 3331
Chapter 339. of the Revised Code or a municipal hospital operated 3332
pursuant to Chapter 749. of the Revised Code, information that 3333
constitutes a trade secret, as defined in section 1333.61 of the 3334
Revised Code; 3335

(r) Information pertaining to the recreational activities of 3336
a person under the age of eighteen; 3337

(s) Records provided to, statements made by review board 3338
members during meetings of, and all work products of a child 3339
fatality review board acting under sections 307.621 to 307.629 of 3340
the Revised Code, and child fatality review data submitted by the 3341
child fatality review board to the department of health or a 3342
national child death review database, other than the report 3343
prepared pursuant to division (A) of section 307.626 of the 3344
Revised Code; 3345

(t) Records provided to and statements made by the executive 3346
director of a public children services agency or a prosecuting 3347
attorney acting pursuant to section 5153.171 of the Revised Code 3348
other than the information released under that section; 3349

(u) Test materials, examinations, or evaluation tools used in 3350
an examination for licensure as a nursing home administrator that 3351
the board of examiners of nursing home administrators administers 3352
under section 4751.04 of the Revised Code or contracts under that 3353
section with a private or government entity to administer; 3354

(v) Records the release of which is prohibited by state or 3355
federal law; 3356

(w) Proprietary information of or relating to any person that 3357
is submitted to or compiled by the Ohio venture capital authority 3358
created under section 150.01 of the Revised Code; 3359

(x) Information reported and evaluations conducted pursuant 3360
to section 3701.072 of the Revised Code; 3361

(y) Financial statements and data any person submits for any 3362
purpose to the Ohio housing finance agency or the controlling 3363
board in connection with applying for, receiving, or accounting 3364
for financial assistance from the agency, and information that 3365
identifies any individual who benefits directly or indirectly from 3366
financial assistance from the agency; 3367

(z) Records listed in section 5101.29 of the Revised Code; 3368

(aa) Discharges recorded with a county recorder under section 3369
317.24 of the Revised Code, as specified in division (B)(2) of 3370
that section; 3371

(bb) Usage information including names and addresses of 3372
specific residential and commercial customers of a municipally 3373
owned or operated public utility; 3374

(cc) Records described in division (C) of section 187.04 of 3375
the Revised Code that are not designated to be made available to 3376
the public as provided in that division. 3377

(2) "Confidential law enforcement investigatory record" means 3378
any record that pertains to a law enforcement matter of a 3379
criminal, quasi-criminal, civil, or administrative nature, but 3380
only to the extent that the release of the record would create a 3381
high probability of disclosure of any of the following: 3382

(a) The identity of a suspect who has not been charged with 3383
the offense to which the record pertains, or of an information 3384
source or witness to whom confidentiality has been reasonably 3385
promised; 3386

(b) Information provided by an information source or witness 3387
to whom confidentiality has been reasonably promised, which 3388
information would reasonably tend to disclose the source's or 3389
witness's identity; 3390

(c) Specific confidential investigatory techniques or 3391
procedures or specific investigatory work product; 3392

(d) Information that would endanger the life or physical 3393
safety of law enforcement personnel, a crime victim, a witness, or 3394
a confidential information source. 3395

(3) "Medical record" means any document or combination of 3396
documents, except births, deaths, and the fact of admission to or 3397
discharge from a hospital, that pertains to the medical history, 3398
diagnosis, prognosis, or medical condition of a patient and that 3399
is generated and maintained in the process of medical treatment. 3400

(4) "Trial preparation record" means any record that contains 3401
information that is specifically compiled in reasonable 3402
anticipation of, or in defense of, a civil or criminal action or 3403
proceeding, including the independent thought processes and 3404
personal trial preparation of an attorney. 3405

(5) "Intellectual property record" means a record, other than 3406
a financial or administrative record, that is produced or 3407
collected by or for faculty or staff of a state institution of 3408
higher learning in the conduct of or as a result of study or 3409
research on an educational, commercial, scientific, artistic, 3410
technical, or scholarly issue, regardless of whether the study or 3411
research was sponsored by the institution alone or in conjunction 3412
with a governmental body or private concern, and that has not been 3413
publicly released, published, or patented. 3414

(6) "Donor profile record" means all records about donors or 3415
potential donors to a public institution of higher education 3416
except the names and reported addresses of the actual donors and 3417

the date, amount, and conditions of the actual donation. 3418

(7) "Peace officer, parole officer, probation officer, 3419
bailiff, prosecuting attorney, assistant prosecuting attorney, 3420
correctional employee, youth services employee, firefighter, EMT, 3421
or investigator of the bureau of criminal identification and 3422
investigation residential and familial information" means any 3423
information that discloses any of the following about a peace 3424
officer, parole officer, probation officer, bailiff, prosecuting 3425
attorney, assistant prosecuting attorney, correctional employee, 3426
youth services employee, firefighter, EMT, or investigator of the 3427
bureau of criminal identification and investigation: 3428

(a) The address of the actual personal residence of a peace 3429
officer, parole officer, probation officer, bailiff, assistant 3430
prosecuting attorney, correctional employee, youth services 3431
employee, firefighter, EMT, or an investigator of the bureau of 3432
criminal identification and investigation, except for the state or 3433
political subdivision in which the peace officer, parole officer, 3434
probation officer, bailiff, assistant prosecuting attorney, 3435
correctional employee, youth services employee, firefighter, EMT, 3436
or investigator of the bureau of criminal identification and 3437
investigation resides; 3438

(b) Information compiled from referral to or participation in 3439
an employee assistance program; 3440

(c) The social security number, the residential telephone 3441
number, any bank account, debit card, charge card, or credit card 3442
number, or the emergency telephone number of, or any medical 3443
information pertaining to, a peace officer, parole officer, 3444
probation officer, bailiff, prosecuting attorney, assistant 3445
prosecuting attorney, correctional employee, youth services 3446
employee, firefighter, EMT, or investigator of the bureau of 3447
criminal identification and investigation; 3448

(d) The name of any beneficiary of employment benefits, 3449
including, but not limited to, life insurance benefits, provided 3450
to a peace officer, parole officer, probation officer, bailiff, 3451
prosecuting attorney, assistant prosecuting attorney, correctional 3452
employee, youth services employee, firefighter, EMT, or 3453
investigator of the bureau of criminal identification and 3454
investigation by the peace officer's, parole officer's, probation 3455
officer's, bailiff's, prosecuting attorney's, assistant 3456
prosecuting attorney's, correctional employee's, youth services 3457
employee's, firefighter's, EMT's, or investigator of the bureau of 3458
criminal identification and investigation's employer; 3459

(e) The identity and amount of any charitable or employment 3460
benefit deduction made by the peace officer's, parole officer's, 3461
probation officer's, bailiff's, prosecuting attorney's, assistant 3462
prosecuting attorney's, correctional employee's, youth services 3463
employee's, firefighter's, EMT's, or investigator of the bureau of 3464
criminal identification and investigation's employer from the 3465
peace officer's, parole officer's, probation officer's, bailiff's, 3466
prosecuting attorney's, assistant prosecuting attorney's, 3467
correctional employee's, youth services employee's, firefighter's, 3468
EMT's, or investigator of the bureau of criminal identification 3469
and investigation's compensation unless the amount of the 3470
deduction is required by state or federal law; 3471

(f) The name, the residential address, the name of the 3472
employer, the address of the employer, the social security number, 3473
the residential telephone number, any bank account, debit card, 3474
charge card, or credit card number, or the emergency telephone 3475
number of the spouse, a former spouse, or any child of a peace 3476
officer, parole officer, probation officer, bailiff, prosecuting 3477
attorney, assistant prosecuting attorney, correctional employee, 3478
youth services employee, firefighter, EMT, or investigator of the 3479
bureau of criminal identification and investigation; 3480

(g) A photograph of a peace officer who holds a position or 3481
has an assignment that may include undercover or plain clothes 3482
positions or assignments as determined by the peace officer's 3483
appointing authority. 3484

As used in divisions (A)(7) and (B)(9) of this section, 3485
"peace officer" has the same meaning as in section 109.71 of the 3486
Revised Code and also includes the superintendent and troopers of 3487
the state highway patrol; it does not include the sheriff of a 3488
county or a supervisory employee who, in the absence of the 3489
sheriff, is authorized to stand in for, exercise the authority of, 3490
and perform the duties of the sheriff. 3491

As used in divisions (A)(7) and (B)(5) of this section, 3492
"correctional employee" means any employee of the department of 3493
rehabilitation and correction who in the course of performing the 3494
employee's job duties has or has had contact with inmates and 3495
persons under supervision. 3496

As used in divisions (A)(7) and (B)(5) of this section, 3497
"youth services employee" means any employee of the department of 3498
youth services who in the course of performing the employee's job 3499
duties has or has had contact with children committed to the 3500
custody of the department of youth services. 3501

As used in divisions (A)(7) and (B)(9) of this section, 3502
"firefighter" means any regular, paid or volunteer, member of a 3503
lawfully constituted fire department of a municipal corporation, 3504
township, fire district, or village. 3505

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 3506
means EMTs-basic, EMTs-I, and paramedics that provide emergency 3507
medical services for a public emergency medical service 3508
organization. "Emergency medical service organization," 3509
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 3510
section 4765.01 of the Revised Code. 3511

As used in divisions (A)(7) and (B)(9) of this section, 3512
"investigator of the bureau of criminal identification and 3513
investigation" has the meaning defined in section 2903.11 of the 3514
Revised Code. 3515

(8) "Information pertaining to the recreational activities of 3516
a person under the age of eighteen" means information that is kept 3517
in the ordinary course of business by a public office, that 3518
pertains to the recreational activities of a person under the age 3519
of eighteen years, and that discloses any of the following: 3520

(a) The address or telephone number of a person under the age 3521
of eighteen or the address or telephone number of that person's 3522
parent, guardian, custodian, or emergency contact person; 3523

(b) The social security number, birth date, or photographic 3524
image of a person under the age of eighteen; 3525

(c) Any medical record, history, or information pertaining to 3526
a person under the age of eighteen; 3527

(d) Any additional information sought or required about a 3528
person under the age of eighteen for the purpose of allowing that 3529
person to participate in any recreational activity conducted or 3530
sponsored by a public office or to use or obtain admission 3531
privileges to any recreational facility owned or operated by a 3532
public office. 3533

(9) "Community control sanction" has the same meaning as in 3534
section 2929.01 of the Revised Code. 3535

(10) "Post-release control sanction" has the same meaning as 3536
in section 2967.01 of the Revised Code. 3537

(11) "Redaction" means obscuring or deleting any information 3538
that is exempt from the duty to permit public inspection or 3539
copying from an item that otherwise meets the definition of a 3540
"record" in section 149.011 of the Revised Code. 3541

(12) "Designee" and "elected official" have the same meanings 3542
as in section 109.43 of the Revised Code. 3543

(B)(1) Upon request and subject to division (B)(8) of this 3544
section, all public records responsive to the request shall be 3545
promptly prepared and made available for inspection to any person 3546
at all reasonable times during regular business hours. Subject to 3547
division (B)(8) of this section, upon request, a public office or 3548
person responsible for public records shall make copies of the 3549
requested public record available at cost and within a reasonable 3550
period of time. If a public record contains information that is 3551
exempt from the duty to permit public inspection or to copy the 3552
public record, the public office or the person responsible for the 3553
public record shall make available all of the information within 3554
the public record that is not exempt. When making that public 3555
record available for public inspection or copying that public 3556
record, the public office or the person responsible for the public 3557
record shall notify the requester of any redaction or make the 3558
redaction plainly visible. A redaction shall be deemed a denial of 3559
a request to inspect or copy the redacted information, except if 3560
federal or state law authorizes or requires a public office to 3561
make the redaction. 3562

(2) To facilitate broader access to public records, a public 3563
office or the person responsible for public records shall organize 3564
and maintain public records in a manner that they can be made 3565
available for inspection or copying in accordance with division 3566
(B) of this section. A public office also shall have available a 3567
copy of its current records retention schedule at a location 3568
readily available to the public. If a requester makes an ambiguous 3569
or overly broad request or has difficulty in making a request for 3570
copies or inspection of public records under this section such 3571
that the public office or the person responsible for the requested 3572
public record cannot reasonably identify what public records are 3573

being requested, the public office or the person responsible for 3574
the requested public record may deny the request but shall provide 3575
the requester with an opportunity to revise the request by 3576
informing the requester of the manner in which records are 3577
maintained by the public office and accessed in the ordinary 3578
course of the public office's or person's duties. 3579

(3) If a request is ultimately denied, in part or in whole, 3580
the public office or the person responsible for the requested 3581
public record shall provide the requester with an explanation, 3582
including legal authority, setting forth why the request was 3583
denied. If the initial request was provided in writing, the 3584
explanation also shall be provided to the requester in writing. 3585
The explanation shall not preclude the public office or the person 3586
responsible for the requested public record from relying upon 3587
additional reasons or legal authority in defending an action 3588
commenced under division (C) of this section. 3589

(4) Unless specifically required or authorized by state or 3590
federal law or in accordance with division (B) of this section, no 3591
public office or person responsible for public records may limit 3592
or condition the availability of public records by requiring 3593
disclosure of the requester's identity or the intended use of the 3594
requested public record. Any requirement that the requester 3595
disclose the requestor's identity or the intended use of the 3596
requested public record constitutes a denial of the request. 3597

(5) A public office or person responsible for public records 3598
may ask a requester to make the request in writing, may ask for 3599
the requester's identity, and may inquire about the intended use 3600
of the information requested, but may do so only after disclosing 3601
to the requester that a written request is not mandatory and that 3602
the requester may decline to reveal the requester's identity or 3603
the intended use and when a written request or disclosure of the 3604
identity or intended use would benefit the requester by enhancing 3605

the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States

mail or the cost of delivery if the copy is transmitted other than 3638
by United States mail, and to pay in advance the costs incurred 3639
for other supplies used in the mailing, delivery, or transmission. 3640

Any public office may adopt a policy and procedures that it 3641
will follow in transmitting, within a reasonable period of time 3642
after receiving a request, copies of public records by United 3643
States mail or by any other means of delivery or transmission 3644
pursuant to this division. A public office that adopts a policy 3645
and procedures under this division shall comply with them in 3646
performing its duties under this division. 3647

In any policy and procedures adopted under this division, a 3648
public office may limit the number of records requested by a 3649
person that the office will transmit by United States mail to ten 3650
per month, unless the person certifies to the office in writing 3651
that the person does not intend to use or forward the requested 3652
records, or the information contained in them, for commercial 3653
purposes. For purposes of this division, "commercial" shall be 3654
narrowly construed and does not include reporting or gathering 3655
news, reporting or gathering information to assist citizen 3656
oversight or understanding of the operation or activities of 3657
government, or nonprofit educational research. 3658

(8) A public office or person responsible for public records 3659
is not required to permit a person who is incarcerated pursuant to 3660
a criminal conviction or a juvenile adjudication to inspect or to 3661
obtain a copy of any public record concerning a criminal 3662
investigation or prosecution or concerning what would be a 3663
criminal investigation or prosecution if the subject of the 3664
investigation or prosecution were an adult, unless the request to 3665
inspect or to obtain a copy of the record is for the purpose of 3666
acquiring information that is subject to release as a public 3667
record under this section and the judge who imposed the sentence 3668
or made the adjudication with respect to the person, or the 3669

judge's successor in office, finds that the information sought in 3670
the public record is necessary to support what appears to be a 3671
justiciable claim of the person. 3672

(9)(a) Upon written request made and signed by a journalist 3673
on or after December 16, 1999, a public office, or person 3674
responsible for public records, having custody of the records of 3675
the agency employing a specified peace officer, parole officer, 3676
probation officer, bailiff, prosecuting attorney, assistant 3677
prosecuting attorney, correctional employee, youth services 3678
employee, firefighter, EMT, or investigator of the bureau of 3679
criminal identification and investigation shall disclose to the 3680
journalist the address of the actual personal residence of the 3681
peace officer, parole officer, probation officer, bailiff, 3682
prosecuting attorney, assistant prosecuting attorney, correctional 3683
employee, youth services employee, firefighter, EMT, or 3684
investigator of the bureau of criminal identification and 3685
investigation and, if the peace officer's, parole officer's, 3686
probation officer's, bailiff's, prosecuting attorney's, assistant 3687
prosecuting attorney's, correctional employee's, youth services 3688
employee's, firefighter's, EMT's, or investigator of the bureau of 3689
criminal identification and investigation's spouse, former spouse, 3690
or child is employed by a public office, the name and address of 3691
the employer of the peace officer's, parole officer's, probation 3692
officer's, bailiff's, prosecuting attorney's, assistant 3693
prosecuting attorney's, correctional employee's, youth services 3694
employee's, firefighter's, EMT's, or investigator of the bureau of 3695
criminal identification and investigation's spouse, former spouse, 3696
or child. The request shall include the journalist's name and 3697
title and the name and address of the journalist's employer and 3698
shall state that disclosure of the information sought would be in 3699
the public interest. 3700

(b) Division (B)(9)(a) of this section also applies to 3701

journalist requests for customer information maintained by a 3702
municipally owned or operated public utility, other than social 3703
security numbers and any private financial information such as 3704
credit reports, payment methods, credit card numbers, and bank 3705
account information. 3706

(c) As used in division (B)(9) of this section, "journalist" 3707
means a person engaged in, connected with, or employed by any news 3708
medium, including a newspaper, magazine, press association, news 3709
agency, or wire service, a radio or television station, or a 3710
similar medium, for the purpose of gathering, processing, 3711
transmitting, compiling, editing, or disseminating information for 3712
the general public. 3713

(C)(1) If a person allegedly is aggrieved by the failure of a 3714
public office or the person responsible for public records to 3715
promptly prepare a public record and to make it available to the 3716
person for inspection in accordance with division (B) of this 3717
section or by any other failure of a public office or the person 3718
responsible for public records to comply with an obligation in 3719
accordance with division (B) of this section, the person allegedly 3720
aggrieved may commence a mandamus action to obtain a judgment that 3721
orders the public office or the person responsible for the public 3722
record to comply with division (B) of this section, that awards 3723
court costs and reasonable attorney's fees to the person that 3724
instituted the mandamus action, and, if applicable, that includes 3725
an order fixing statutory damages under division (C)(1) of this 3726
section. The mandamus action may be commenced in the court of 3727
common pleas of the county in which division (B) of this section 3728
allegedly was not complied with, in the supreme court pursuant to 3729
its original jurisdiction under Section 2 of Article IV, Ohio 3730
Constitution, or in the court of appeals for the appellate 3731
district in which division (B) of this section allegedly was not 3732
complied with pursuant to its original jurisdiction under Section 3733

3 of Article IV, Ohio Constitution. 3734

If a requestor transmits a written request by hand delivery 3735
or certified mail to inspect or receive copies of any public 3736
record in a manner that fairly describes the public record or 3737
class of public records to the public office or person responsible 3738
for the requested public records, except as otherwise provided in 3739
this section, the requestor shall be entitled to recover the 3740
amount of statutory damages set forth in this division if a court 3741
determines that the public office or the person responsible for 3742
public records failed to comply with an obligation in accordance 3743
with division (B) of this section. 3744

The amount of statutory damages shall be fixed at one hundred 3745
dollars for each business day during which the public office or 3746
person responsible for the requested public records failed to 3747
comply with an obligation in accordance with division (B) of this 3748
section, beginning with the day on which the requester files a 3749
mandamus action to recover statutory damages, up to a maximum of 3750
one thousand dollars. The award of statutory damages shall not be 3751
construed as a penalty, but as compensation for injury arising 3752
from lost use of the requested information. The existence of this 3753
injury shall be conclusively presumed. The award of statutory 3754
damages shall be in addition to all other remedies authorized by 3755
this section. 3756

The court may reduce an award of statutory damages or not 3757
award statutory damages if the court determines both of the 3758
following: 3759

(a) That, based on the ordinary application of statutory law 3760
and case law as it existed at the time of the conduct or 3761
threatened conduct of the public office or person responsible for 3762
the requested public records that allegedly constitutes a failure 3763
to comply with an obligation in accordance with division (B) of 3764
this section and that was the basis of the mandamus action, a 3765

well-informed public office or person responsible for the 3766
requested public records reasonably would believe that the conduct 3767
or threatened conduct of the public office or person responsible 3768
for the requested public records did not constitute a failure to 3769
comply with an obligation in accordance with division (B) of this 3770
section; 3771

(b) That a well-informed public office or person responsible 3772
for the requested public records reasonably would believe that the 3773
conduct or threatened conduct of the public office or person 3774
responsible for the requested public records would serve the 3775
public policy that underlies the authority that is asserted as 3776
permitting that conduct or threatened conduct. 3777

(2)(a) If the court issues a writ of mandamus that orders the 3778
public office or the person responsible for the public record to 3779
comply with division (B) of this section and determines that the 3780
circumstances described in division (C)(1) of this section exist, 3781
the court shall determine and award to the relator all court 3782
costs. 3783

(b) If the court renders a judgment that orders the public 3784
office or the person responsible for the public record to comply 3785
with division (B) of this section, the court may award reasonable 3786
attorney's fees subject to reduction as described in division 3787
(C)(2)(c) of this section. The court shall award reasonable 3788
attorney's fees, subject to reduction as described in division 3789
(C)(2)(c) of this section when either of the following applies: 3790

(i) The public office or the person responsible for the 3791
public records failed to respond affirmatively or negatively to 3792
the public records request in accordance with the time allowed 3793
under division (B) of this section. 3794

(ii) The public office or the person responsible for the 3795
public records promised to permit the relator to inspect or 3796

receive copies of the public records requested within a specified 3797
period of time but failed to fulfill that promise within that 3798
specified period of time. 3799

(c) Court costs and reasonable attorney's fees awarded under 3800
this section shall be construed as remedial and not punitive. 3801
Reasonable attorney's fees shall include reasonable fees incurred 3802
to produce proof of the reasonableness and amount of the fees and 3803
to otherwise litigate entitlement to the fees. The court may 3804
reduce an award of attorney's fees to the relator or not award 3805
attorney's fees to the relator if the court determines both of the 3806
following: 3807

(i) That, based on the ordinary application of statutory law 3808
and case law as it existed at the time of the conduct or 3809
threatened conduct of the public office or person responsible for 3810
the requested public records that allegedly constitutes a failure 3811
to comply with an obligation in accordance with division (B) of 3812
this section and that was the basis of the mandamus action, a 3813
well-informed public office or person responsible for the 3814
requested public records reasonably would believe that the conduct 3815
or threatened conduct of the public office or person responsible 3816
for the requested public records did not constitute a failure to 3817
comply with an obligation in accordance with division (B) of this 3818
section; 3819

(ii) That a well-informed public office or person responsible 3820
for the requested public records reasonably would believe that the 3821
conduct or threatened conduct of the public office or person 3822
responsible for the requested public records as described in 3823
division (C)(2)(c)(i) of this section would serve the public 3824
policy that underlies the authority that is asserted as permitting 3825
that conduct or threatened conduct. 3826

(D) Chapter 1347. of the Revised Code does not limit the 3827
provisions of this section. 3828

(E)(1) To ensure that all employees of public offices are 3829
appropriately educated about a public office's obligations under 3830
division (B) of this section, all elected officials or their 3831
appropriate designees shall attend training approved by the 3832
attorney general as provided in section 109.43 of the Revised 3833
Code. In addition, all public offices shall adopt a public records 3834
policy in compliance with this section for responding to public 3835
records requests. In adopting a public records policy under this 3836
division, a public office may obtain guidance from the model 3837
public records policy developed and provided to the public office 3838
by the attorney general under section 109.43 of the Revised Code. 3839
Except as otherwise provided in this section, the policy may not 3840
limit the number of public records that the public office will 3841
make available to a single person, may not limit the number of 3842
public records that it will make available during a fixed period 3843
of time, and may not establish a fixed period of time before it 3844
will respond to a request for inspection or copying of public 3845
records, unless that period is less than eight hours. 3846

(2) The public office shall distribute the public records 3847
policy adopted by the public office under division (E)(1) of this 3848
section to the employee of the public office who is the records 3849
custodian or records manager or otherwise has custody of the 3850
records of that office. The public office shall require that 3851
employee to acknowledge receipt of the copy of the public records 3852
policy. The public office shall create a poster that describes its 3853
public records policy and shall post the poster in a conspicuous 3854
place in the public office and in all locations where the public 3855
office has branch offices. The public office may post its public 3856
records policy on the internet web site of the public office if 3857
the public office maintains an internet web site. A public office 3858
that has established a manual or handbook of its general policies 3859
and procedures for all employees of the public office shall 3860
include the public records policy of the public office in the 3861

manual or handbook. 3862

(F)(1) The bureau of motor vehicles may adopt rules pursuant 3863
to Chapter 119. of the Revised Code to reasonably limit the number 3864
of bulk commercial special extraction requests made by a person 3865
for the same records or for updated records during a calendar 3866
year. The rules may include provisions for charges to be made for 3867
bulk commercial special extraction requests for the actual cost of 3868
the bureau, plus special extraction costs, plus ten per cent. The 3869
bureau may charge for expenses for redacting information, the 3870
release of which is prohibited by law. 3871

(2) As used in division (F)(1) of this section: 3872

(a) "Actual cost" means the cost of depleted supplies, 3873
records storage media costs, actual mailing and alternative 3874
delivery costs, or other transmitting costs, and any direct 3875
equipment operating and maintenance costs, including actual costs 3876
paid to private contractors for copying services. 3877

(b) "Bulk commercial special extraction request" means a 3878
request for copies of a record for information in a format other 3879
than the format already available, or information that cannot be 3880
extracted without examination of all items in a records series, 3881
class of records, or data base by a person who intends to use or 3882
forward the copies for surveys, marketing, solicitation, or resale 3883
for commercial purposes. "Bulk commercial special extraction 3884
request" does not include a request by a person who gives 3885
assurance to the bureau that the person making the request does 3886
not intend to use or forward the requested copies for surveys, 3887
marketing, solicitation, or resale for commercial purposes. 3888

(c) "Commercial" means profit-seeking production, buying, or 3889
selling of any good, service, or other product. 3890

(d) "Special extraction costs" means the cost of the time 3891
spent by the lowest paid employee competent to perform the task, 3892

the actual amount paid to outside private contractors employed by 3893
the bureau, or the actual cost incurred to create computer 3894
programs to make the special extraction. "Special extraction 3895
costs" include any charges paid to a public agency for computer or 3896
records services. 3897

(3) For purposes of divisions (F)(1) and (2) of this section, 3898
"surveys, marketing, solicitation, or resale for commercial 3899
purposes" shall be narrowly construed and does not include 3900
reporting or gathering news, reporting or gathering information to 3901
assist citizen oversight or understanding of the operation or 3902
activities of government, or nonprofit educational research. 3903

Sec. 164.05. (A) The director of the Ohio public works 3904
commission shall do all of the following: 3905

(1) Approve requests for financial assistance from district 3906
public works integrating committees and enter into agreements with 3907
one or more local subdivisions to provide loans, grants, and local 3908
debt support and credit enhancements for a capital improvement 3909
project if the director determines that: 3910

(a) The project is an eligible project pursuant to this 3911
chapter; 3912

(b) The financial assistance for the project has been 3913
properly approved and requested by the district committee of the 3914
district which includes the recipient of the loan or grant; 3915

(c) The amount of the financial assistance, when added to all 3916
other financial assistance provided during the fiscal year for 3917
projects within the district, does not exceed that district's 3918
allocation of money from the state capital improvements fund for 3919
that fiscal year; 3920

(d) The district committee has provided such documentation 3921
and other evidence as the director may require that the district 3922

committee has satisfied the requirements of section 164.06 or 3923
164.14 of the Revised Code; 3924

(e) The portion of a district's annual allocation which the 3925
director approves in the form of loans and local debt support and 3926
credit enhancements for eligible projects is consistent with 3927
divisions (E) and (F) of this section. 3928

(2) Authorize payments to local subdivisions or their 3929
contractors for costs incurred for capital improvement projects 3930
which have been approved pursuant to this chapter. All requests 3931
for payments shall be submitted to the director on forms and in 3932
accordance with procedures specified in rules adopted by the 3933
director pursuant to division (A)(4) of this section. 3934

(3) Retain the services of or employ financial consultants, 3935
engineers, accountants, attorneys, and such other employees as the 3936
director determines are necessary to carry out the director's 3937
duties under this chapter and fix the compensation for their 3938
services; 3939

(4) Adopt rules establishing the procedures for making 3940
applications, reviewing, approving, and rejecting projects for 3941
which assistance is authorized under this chapter, and any other 3942
rules needed to implement the provisions of this chapter. Such 3943
rules shall be adopted under Chapter 119. of the Revised Code. 3944

(5) Provide information and other assistance to local 3945
subdivisions and district public works integrating committees in 3946
developing their requests for financial assistance for capital 3947
improvements under this chapter and encourage cooperation and 3948
coordination of requests and the development of multisubdivision 3949
and multidistrict projects in order to maximize the benefits that 3950
may be derived by districts from each year's allocation; 3951

(6) Require local subdivisions, to the extent practicable, to 3952
use Ohio products, materials, services, and labor in connection 3953

with any capital improvement project financed in whole or in part 3954
under this chapter; 3955

(7) Notify the director of budget and management of all 3956
approved projects, and supply all information necessary to track 3957
approved projects through the state accounting system; 3958

(8) Appoint the administrator of the Ohio small government 3959
capital improvements commission; 3960

(9) Do all other acts, enter into contracts, and execute all 3961
instruments necessary or appropriate to carry out this chapter; 3962

(10) Develop a standardized methodology for evaluating 3963
capital improvement needs which will be used by local subdivisions 3964
in preparing the plans required by division (C) of section 164.06 3965
of the Revised Code. The director shall develop this methodology 3966
not later than July 1, 1991. 3967

(11) Establish a program to provide local subdivisions with 3968
technical assistance in preparing project applications. The 3969
program shall be designed to assist local subdivisions that lack 3970
the financial or technical resources to prepare project 3971
applications on their own. 3972

(B) When the director of the Ohio public works commission 3973
decides to conditionally approve or disapprove projects, the 3974
director's decisions and the reasons for which they are made shall 3975
be made in writing. These written decisions shall be conclusive 3976
for the purposes of the validity and enforceability of such 3977
determinations. 3978

(C) Fees, charges, rates of interest, times of payment of 3979
interest and principal, and other terms, conditions, and 3980
provisions of and security for financial assistance provided 3981
pursuant to the provisions of this chapter shall be such as the 3982
director determines to be appropriate. If any payments required by 3983
a loan agreement entered into pursuant to this chapter are not 3984

paid, the funds which would otherwise be apportioned to the local 3985
subdivision from the county undivided local government fund, 3986
pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, 3987
at the direction of the director of the Ohio public works 3988
commission, be reduced by the amount payable. The county treasurer 3989
shall, at the direction of the director, pay the amount of such 3990
reductions to the state capital improvements revolving loan fund. 3991
The director may renegotiate a loan repayment schedule with a 3992
local subdivision whose payments from the county undivided local 3993
government fund could be reduced pursuant to this division, but 3994
such a renegotiation may occur only one time with respect to any 3995
particular loan agreement. 3996

(D) Grants approved for the repair and replacement of 3997
existing infrastructure pursuant to this chapter shall not exceed 3998
ninety per cent of the estimated total cost of the capital 3999
improvement project. Grants approved for new or expanded 4000
infrastructure shall not exceed fifty per cent of the estimated 4001
cost of the new or expansion elements of the capital improvement 4002
project. A local subdivision share of the estimated cost of a 4003
capital improvement may consist of any of the following: 4004

(1) The reasonable value, as determined by the director or 4005
the administrator, of labor, materials, and equipment that will be 4006
contributed by the local subdivision in performing the capital 4007
improvement project; 4008

(2) Moneys received by the local subdivision in any form from 4009
an authority, commission, or agency of the United States for use 4010
in performing the capital improvement project; 4011

(3) Loans made to the local subdivision under this chapter; 4012

(4) Engineering costs incurred by the local subdivision in 4013
performing engineering activities related to the project. 4014

A local subdivision share of the cost of a capital 4015

improvement shall not include any amounts awarded to it from the 4016
local transportation improvement program fund created in section 4017
164.14 of the Revised Code. 4018

(E) The following portion of a district public works 4019
integrating committee's annual allocation share pursuant to 4020
section 164.08 of the Revised Code may be awarded to subdivisions 4021
only in the form of interest-free, low-interest, market rate of 4022
interest, or blended-rate loans: 4023

YEAR IN WHICH	PORTION USED FOR	
MONEYS ARE ALLOCATED	LOANS	
Year 1	0%	4026
Year 2	0%	4027
Year 3	10%	4028
Year 4	12%	4029
Year 5	15%	4030
Year 6	20%	4031
Year 7, 8, 9, and 10	22%	4032

(F) The following portion of a district public works 4033
integrating committee's annual allocation pursuant to section 4034
164.08 of the Revised Code shall be awarded to subdivisions in the 4035
form of local debt supported and credit enhancements: 4036

YEAR IN WHICH	PORTIONS USED FOR	
MONEYS ARE ALLOCATED	LOCAL DEBT SUPPORT	
	AND CREDIT ENHANCEMENTS	
Year 1	0%	4040
Year 2	0%	4041
Year 3	3%	4042
Year 4	5%	4043
Year 5	5%	4044
Year 6	7%	4045
Year 7	7%	4046
Year 8	8%	4047

Year 9	8%	4048
Year 10	8%	4049

(G) For the period commencing on March 29, 1988 and ending on 4050
 June 30, 1993, for the period commencing July 1, 1993, and ending 4051
 June 30, 1999, and for each five-year period thereafter, the total 4052
 amount of financial assistance awarded under sections 164.01 to 4053
 164.08 of the Revised Code for capital improvement projects 4054
 located wholly or partially within a county shall be equal to at 4055
 least thirty per cent of the amount of what the county would have 4056
 been allocated from the obligations authorized to be sold under 4057
 this chapter during each period, if such amounts had been 4058
 allocable to each county on a per capita basis. 4059

(H) The amount of the annual allocations made pursuant to 4060
 divisions (B)(1) and ~~(6)~~(5) of section 164.08 of the Revised Code 4061
 which can be used for new or expanded infrastructure is limited as 4062
 follows: 4063

YEAR IN WHICH	PORTION WHICH MAY	
MONEYS ARE ALLOCATED	BE USED FOR NEW OR	
	EXPANSION INFRASTRUCTURE	
Year 1	5%	4067
Year 2	5%	4068
Year 3	10%	4069
Year 4	10%	4070
Year 5	10%	4071
Year 6	15%	4072
Year 7	15%	4073
Year 8	20%	4074
Year 9	20%	4075
Year 10 and each year		4076
thereafter	20%	4077

(I) The following portion of a district public works 4078
 integrating committee's annual allocation share pursuant to 4079

section 164.08 of the Revised Code shall be awarded to 4080
subdivisions in the form of interest-free, low-interest, market 4081
rate of interest, or blended-rate loans, or local debt support and 4082
credit enhancements: 4083

YEAR IN WHICH	PORTION USED FOR LOANS	
MONEYS ARE ALLOCATED	OR LOCAL DEBT SUPPORT	
	AND CREDIT ENHANCEMENTS	
Year 11 and each year		4087
thereafter	20%	4088

(J) No project shall be approved under this section unless 4089
the project is designed to have a useful life of at least seven 4090
years. In addition, the average useful life of all projects for 4091
which grants or loans are awarded in each district during a 4092
program year shall not be less than twenty years. 4093

Sec. 164.06. (A) Each district public works integrating 4094
committee shall evaluate materials submitted to it by the local 4095
subdivisions located in the district concerning capital 4096
improvements for which assistance is sought from the state capital 4097
improvements fund and shall, pursuant to division (B) of this 4098
section, select the requests for financial assistance that will be 4099
formally submitted by the district to the director of the Ohio 4100
public works commission. In order to provide for the efficient use 4101
of the district's state capital improvements fund allocation each 4102
year, a district committee shall assist its subdivisions in the 4103
preparation and coordination of project plans. 4104

(B) In selecting the requests for assistance for capital 4105
improvement projects which will be submitted to the director, and 4106
in determining the nature, amount, and terms of the assistance 4107
that will be requested, a district public works integrating 4108
committee shall give priority to capital improvement projects for 4109
the repair or replacement of existing infrastructure and which 4110

would be unlikely to be undertaken without assistance under this 4111
chapter, and shall specifically consider all of the following 4112
factors: 4113

(1) The infrastructure repair and replacement needs of the 4114
district; 4115

(2) The age and condition of the system to be repaired or 4116
replaced; 4117

(3) Whether the project would generate revenue in the form of 4118
user fees or assessments; 4119

(4) The importance of the project to the health and safety of 4120
the citizens of the district; 4121

(5) The cost of the project and whether it is consistent with 4122
division (G) of section 164.05 of the Revised Code and the 4123
district's allocation for grants, loans, and local debt support 4124
and credit enhancements for that year; 4125

(6) The effort and ability of the benefited local 4126
subdivisions to assist in financing the project; 4127

(7) The availability of federal or other funds for the 4128
project; 4129

(8) The overall economic health of the particular local 4130
subdivision; 4131

(9) The adequacy of the planning for the project and the 4132
readiness of the applicant to proceed should the project be 4133
approved; 4134

(10) Any other factors relevant to a particular project. 4135

(C) Prior to filing an application with its district public 4136
works integrating committee for assistance in financing a capital 4137
improvement project under this section, a local subdivision shall 4138
conduct a study of its existing capital improvements, the 4139
condition of those improvements, and the projected capital 4140

improvement needs of the subdivision in the ensuing five-year 4141
period. After completing this study, the subdivision shall compile 4142
a report that includes an inventory of its existing capital 4143
improvements, a plan detailing the capital improvement needs of 4144
the subdivision in the ensuing five-year period, and a list of the 4145
subdivision's priorities with respect to addressing those needs. 4146
Each year, the report shall be reviewed and updated by the 4147
subdivision to reflect capital improvement projects undertaken or 4148
completed in the past year and any changes in the subdivision's 4149
plan or priorities. The report and annual updates shall be made 4150
available upon request to the Ohio public works commission, the 4151
Ohio small government capital improvements commission, and the 4152
district public works integrating committee of the district of 4153
which the subdivision is a part. 4154

(D) In addition to reviewing and selecting the projects for 4155
which approval will be sought from the director of the Ohio public 4156
works commission for financial assistance from the state capital 4157
improvements fund, each district public works integrating 4158
committee shall appoint a subcommittee of its members that will 4159
represent the interests of villages and townships and that will 4160
review and select the capital improvement projects which will be 4161
submitted by the subcommittee to the administrator of the Ohio 4162
small government capital improvements commission for consideration 4163
of assistance from the portion of the net proceeds of obligations 4164
issued and sold by the treasurer of state which is allocated 4165
pursuant to division (B)(1) of section 164.08 of the Revised Code. 4166
In reviewing and approving the projects selected by its 4167
subcommittee, the administrator, and the Ohio small government 4168
capital improvements commission shall be guided by the provisions 4169
of division (B) of this section, and shall also take into account 4170
the fact that villages and townships may have different public 4171
infrastructure needs than larger subdivisions. 4172

(E) The district public works integrating committee for each 4173
district that includes at least one county with a population of 4174
less than eighty-five thousand according to the most recent 4175
decennial census shall appoint a subcommittee of its members for 4176
the purposes of the small counties capital improvement program 4177
created under division (F) of section 164.02 of the Revised Code. 4178
The subcommittee shall select and submit to the director the 4179
projects that will be considered for assistance from the money 4180
allocated to the program under division (B)~~(4)~~(3) of section 4181
164.08 of the Revised Code. 4182

Sec. 164.08. (A) Except as provided in sections 151.01 and 4183
151.08 or section 164.09 of the Revised Code, the net proceeds of 4184
obligations issued and sold by the treasurer of state pursuant to 4185
section 164.09 of the Revised Code before September 30, 2000, or 4186
pursuant to sections 151.01 and 151.08 of the Revised Code, for 4187
the purpose of financing or assisting in the financing of the cost 4188
of public infrastructure capital improvement projects of local 4189
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 4190
VIII, Ohio Constitution, and this chapter, shall be paid into the 4191
state capital improvements fund, which is hereby created in the 4192
state treasury. Investment earnings on moneys in the fund shall be 4193
credited to the fund. 4194

(B) Beginning July 1, 2011, each program year the amount of 4195
obligations authorized by the general assembly in accordance with 4196
sections 151.01 and 151.08 or section 164.09 of the Revised Code, 4197
excluding the proceeds of refunding or renewal obligations, shall 4198
be allocated by the director of the Ohio public works commission 4199
as follows: 4200

(1) First, fifteen million dollars of the amount of 4201
obligations authorized shall be allocated to provide financial 4202
assistance to villages and to townships with populations in the 4203

unincorporated areas of the township of less than five thousand 4204
persons, for capital improvements in accordance with section 4205
164.051 and division (D) of section 164.06 of the Revised Code. As 4206
used in division (B)(1) of this section, "capital improvements" 4207
includes resurfacing and improving roads. 4208

(2) Following the allocation required by division (B)(1) of 4209
this section, the director may allocate three million dollars of 4210
the authorized obligations to provide financial assistance to 4211
local subdivisions for capital improvement projects which in the 4212
judgment of the director of the Ohio public works commission are 4213
necessary for the immediate preservation of the health, safety, 4214
and welfare of the citizens of the local subdivision requesting 4215
assistance. 4216

~~(3) For the second, third, fourth, and fifth years that 4217
obligations are authorized and are available for allocation under 4218
this chapter, one million dollars shall be allocated to the sewer 4219
and water fund created in section 1525.11 of the Revised Code. 4220
Money from this allocation shall be transferred to that fund when 4221
needed to support specific payments from that fund. 4222~~

~~(4) For program years twelve and fourteen that obligations 4223
are authorized and available for allocation under this chapter, 4224
two million dollars each program year shall be allocated to the 4225
small county capital improvement program for use in providing 4226
financial assistance under division (F) of section 164.02 of the 4227
Revised Code. 4228~~

~~(5) After the allocation required by division (B)(3) of this 4229
section is made, the (4) The director shall determine the amount 4230
of the remaining obligations authorized to be issued and sold that 4231
each county would receive if such amounts were allocated on a per 4232
capita basis each year. If a county's per capita share for the 4233
year would be less than three hundred thousand dollars, the 4234
director shall allocate to the district in which that county is 4235~~

located an amount equal to the difference between three hundred 4236
thousand dollars and the county's per capita share. 4237

~~(6)~~(5) After making the allocation required by division 4238
(B)~~(5)~~(4) of this section, the director shall allocate the 4239
remaining amount to each district on a per capita basis. 4240

(C)(1) There is hereby created in the state treasury the 4241
state capital improvements revolving loan fund, into which shall 4242
be deposited all repayments of loans made to local subdivisions 4243
for capital improvements pursuant to this chapter. Investment 4244
earnings on moneys in the fund shall be credited to the fund. 4245

(2) There may also be deposited in the state capital 4246
improvements revolving loan fund moneys obtained from federal or 4247
private grants, or from other sources, which are to be used for 4248
any of the purposes authorized by this chapter. Such moneys shall 4249
be allocated each year in accordance with division (B)~~(6)~~(5) of 4250
this section. 4251

(3) Moneys deposited into the state capital improvements 4252
revolving loan fund shall be used to make loans for the purpose of 4253
financing or assisting in the financing of the cost of capital 4254
improvement projects of local subdivisions. 4255

(4) Investment earnings credited to the state capital 4256
improvements revolving loan fund that exceed the amounts required 4257
to meet estimated federal arbitrage rebate requirements shall be 4258
used to pay costs incurred by the public works commission in 4259
administering this section. Investment earnings credited to the 4260
state capital improvements revolving loan fund that exceed the 4261
amounts required to pay for the administrative costs and estimated 4262
rebate requirements shall be allocated to each district on a per 4263
capita basis. 4264

(5) Each program year, loan repayments received and on 4265
deposit in the state capital improvements revolving loan fund 4266

shall be allocated as follows: 4267

(a) Each district public works integrating committee shall be 4268
allocated an amount equal to the sum of all loan repayments made 4269
to the state capital improvements revolving loan fund by local 4270
subdivisions that are part of the district. Moneys not used in a 4271
program year may be used in the next program year in the same 4272
manner and for the same purpose as originally allocated. 4273

(b) Loan repayments made pursuant to projects approved under 4274
division (B)(1) of this section shall be used to make loans in 4275
accordance with section 164.051 and division (D) of section 164.06 4276
of the Revised Code. Allocations for this purpose made pursuant to 4277
division (C)(5) of this section shall be in addition to the 4278
allocation provided in division (B)(1) of this section. 4279

(c) Loan repayments made pursuant to projects approved under 4280
division (B)(2) of this section shall be used to make loans in 4281
accordance with division (B)(2) of this section. Allocations for 4282
this purpose made pursuant to division (C)(5) of this section 4283
shall be in addition to the allocation provided in division (B)(2) 4284
of this section. 4285

(d) Loans made from the state capital improvements revolving 4286
loan fund shall not be limited in their usage by divisions (E), 4287
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 4288

(D) Investment earnings credited to the state capital 4289
improvements fund that exceed the amounts required to meet 4290
estimated federal arbitrage rebate requirements shall be used to 4291
pay costs incurred by the public works commission in administering 4292
sections 164.01 to 164.12 of the Revised Code. 4293

(E) The director of the Ohio public works commission shall 4294
notify the director of budget and management of the amounts 4295
allocated pursuant to this section and such information shall be 4296
entered into the state accounting system. The director of budget 4297

and management shall establish appropriation line items as needed 4298
to track these allocations. 4299

(F) If the amount of a district's allocation in a program 4300
year exceeds the amount of financial assistance approved for the 4301
district by the commission for that year, the remaining portion of 4302
the district's allocation shall be added to the district's 4303
allocation pursuant to division (B) of this section for the next 4304
succeeding year for use in the same manner and for the same 4305
purposes as it was originally allocated, except that any portion 4306
of a district's allocation which was available for use on new or 4307
expanded infrastructure pursuant to division (H) of section 164.05 4308
of the Revised Code shall be available in succeeding years only 4309
for the repair and replacement of existing infrastructure. 4310

(G) When an allocation based on population is made by the 4311
director pursuant to division (B) of this section, the director 4312
shall use the most recent decennial census statistics, and shall 4313
not make any reallocations based upon a change in a district's 4314
population. 4315

Sec. 166.01. As used in this chapter: 4316

(A) "Allowable costs" means all or part of the costs of 4317
project facilities, eligible projects, eligible innovation 4318
projects, eligible research and development projects, eligible 4319
advanced energy projects, or eligible logistics and distribution 4320
projects, including costs of acquiring, constructing, 4321
reconstructing, rehabilitating, renovating, enlarging, improving, 4322
equipping, or furnishing project facilities, eligible projects, 4323
eligible innovation projects, eligible research and development 4324
projects, eligible advanced energy projects, or eligible logistics 4325
and distribution projects, site clearance and preparation, 4326
supplementing and relocating public capital improvements or 4327
utility facilities, designs, plans, specifications, surveys, 4328

studies, and estimates of costs, expenses necessary or incident to 4329
determining the feasibility or practicability of assisting an 4330
eligible project, an eligible innovation project, an eligible 4331
research and development project, an eligible advanced energy 4332
project, or an eligible logistics and distribution project, or 4333
providing project facilities or facilities related to an eligible 4334
project, an eligible innovation project, an eligible research and 4335
development project, an eligible advanced energy project, or an 4336
eligible logistics and distribution project, architectural, 4337
engineering, and legal services fees and expenses, the costs of 4338
conducting any other activities as part of a voluntary action, and 4339
such other expenses as may be necessary or incidental to the 4340
establishment or development of an eligible project, an eligible 4341
innovation project, an eligible research and development project, 4342
an eligible advanced energy project, or an eligible logistics and 4343
distribution project, and reimbursement of moneys advanced or 4344
applied by any governmental agency or other person for allowable 4345
costs. 4346

(B) "Allowable innovation costs" includes allowable costs of 4347
eligible innovation projects and, in addition, includes the costs 4348
of research and development of eligible innovation projects; 4349
obtaining or creating any requisite software or computer hardware 4350
related to an eligible innovation project or the products or 4351
services associated therewith; testing (including, without 4352
limitation, quality control activities necessary for initial 4353
production), perfecting, and marketing of such products and 4354
services; creating and protecting intellectual property related to 4355
an eligible innovation project or any products or services related 4356
thereto, including costs of securing appropriate patent, 4357
trademark, trade secret, trade dress, copyright, or other form of 4358
intellectual property protection for an eligible innovation 4359
project or related products and services; all to the extent that 4360
such expenditures could be capitalized under then-applicable 4361

generally accepted accounting principles; and the reimbursement of 4362
moneys advanced or applied by any governmental agency or other 4363
person for allowable innovation costs. 4364

(C) "Eligible innovation project" includes an eligible 4365
project, including any project facilities associated with an 4366
eligible innovation project and, in addition, includes all 4367
tangible and intangible property related to a new product or 4368
process based on new technology or the creative application of 4369
existing technology, including research and development, product 4370
or process testing, quality control, market research, and related 4371
activities, that is to be acquired, established, expanded, 4372
remodeled, rehabilitated, or modernized for industry, commerce, 4373
distribution, or research, or any combination thereof, the 4374
operation of which, alone or in conjunction with other eligible 4375
projects, eligible innovation projects, or innovation property, 4376
will create new jobs or preserve existing jobs and employment 4377
opportunities and improve the economic welfare of the people of 4378
the state. 4379

(D) "Eligible project" means project facilities to be 4380
acquired, established, expanded, remodeled, rehabilitated, or 4381
modernized for industry, commerce, distribution, or research, or 4382
any combination thereof, the operation of which, alone or in 4383
conjunction with other facilities, will create new jobs or 4384
preserve existing jobs and employment opportunities and improve 4385
the economic welfare of the people of the state. "Eligible 4386
project" includes, without limitation, a voluntary action. For 4387
purposes of this division, "new jobs" does not include existing 4388
jobs transferred from another facility within the state, and 4389
"existing jobs" includes only those existing jobs with work places 4390
within the municipal corporation or unincorporated area of the 4391
county in which the eligible project is located. 4392

"Eligible project" does not include project facilities to be 4393

acquired, established, expanded, remodeled, rehabilitated, or 4394
modernized for industry, commerce, distribution, or research, or 4395
any combination of industry, commerce, distribution, or research, 4396
if the project facilities consist solely of 4397
point-of-final-purchase retail facilities. If the project 4398
facilities consist of both point-of-final-purchase retail 4399
facilities and nonretail facilities, only the portion of the 4400
project facilities consisting of nonretail facilities is an 4401
eligible project. If a warehouse facility is part of a 4402
point-of-final-purchase retail facility and supplies only that 4403
facility, the warehouse facility is not an eligible project. 4404
Catalog distribution facilities are not considered 4405
point-of-final-purchase retail facilities for purposes of this 4406
paragraph, and are eligible projects. 4407

(E) "Eligible research and development project" means an 4408
eligible project, including project facilities, comprising, 4409
within, or related to, a facility or portion of a facility at 4410
which research is undertaken for the purpose of discovering 4411
information that is technological in nature and the application of 4412
which is intended to be useful in the development of a new or 4413
improved product, process, technique, formula, or invention, a new 4414
product or process based on new technology, or the creative 4415
application of existing technology. 4416

(F) "Financial assistance" means inducements under division 4417
(B) of section 166.02 of the Revised Code, loan guarantees under 4418
section 166.06 of the Revised Code, and direct loans under section 4419
166.07 of the Revised Code. 4420

(G) "Governmental action" means any action by a governmental 4421
agency relating to the establishment, development, or operation of 4422
an eligible project, eligible innovation project, eligible 4423
research and development project, eligible advanced energy 4424
project, or eligible logistics and distribution project, and 4425

project facilities that the governmental agency acting has 4426
authority to take or provide for the purpose under law, including, 4427
but not limited to, actions relating to contracts and agreements, 4428
zoning, building, permits, acquisition and disposition of 4429
property, public capital improvements, utility and transportation 4430
service, taxation, employee recruitment and training, and liaison 4431
and coordination with and among governmental agencies. 4432

(H) "Governmental agency" means the state and any state 4433
department, division, commission, institution or authority; a 4434
municipal corporation, county, or township, and any agency 4435
thereof, and any other political subdivision or public corporation 4436
or the United States or any agency thereof; any agency, 4437
commission, or authority established pursuant to an interstate 4438
compact or agreement; and any combination of the above. 4439

(I) "Innovation financial assistance" means inducements under 4440
division (B) of section 166.12 of the Revised Code, innovation 4441
Ohio loan guarantees under section 166.15 of the Revised Code, and 4442
innovation Ohio loans under section 166.16 of the Revised Code. 4443

(J) "Innovation Ohio loan guarantee reserve requirement" 4444
means, at any time, with respect to innovation loan guarantees 4445
made under section 166.15 of the Revised Code, a balance in the 4446
innovation Ohio loan guarantee fund equal to the greater of twenty 4447
per cent of the then-outstanding principal amount of all 4448
outstanding innovation loan guarantees made pursuant to section 4449
166.15 of the Revised Code or fifty per cent of the principal 4450
amount of the largest outstanding guarantee made pursuant to 4451
section 166.15 of the Revised Code. 4452

(K) "Innovation property" includes property and also includes 4453
software, inventory, licenses, contract rights, goodwill, 4454
intellectual property, including without limitation, patents, 4455
patent applications, trademarks and service marks, and trade 4456
secrets, and other tangible and intangible property, and any 4457

rights and interests in or connected to the foregoing. 4458

(L) "Loan guarantee reserve requirement" means, at any time, 4459
with respect to loan guarantees made under section 166.06 of the 4460
Revised Code, a balance in the loan guarantee fund equal to the 4461
greater of twenty per cent of the then-outstanding principal 4462
amount of all outstanding guarantees made pursuant to section 4463
166.06 of the Revised Code or fifty per cent of the principal 4464
amount of the largest outstanding guarantee made pursuant to 4465
section 166.06 of the Revised Code. 4466

(M) "Person" means any individual, firm, partnership, 4467
association, corporation, or governmental agency, and any 4468
combination thereof. 4469

(N) "Project facilities" means buildings, structures, and 4470
other improvements, and equipment and other property, excluding 4471
small tools, supplies, and inventory, and any one, part of, or 4472
combination of the above, comprising all or part of, or serving or 4473
being incidental to, an eligible project, an eligible innovation 4474
project, an eligible research and development project, an eligible 4475
advanced energy project, or an eligible logistics and distribution 4476
project, including, but not limited to, public capital 4477
improvements. 4478

(O) "Property" means real and personal property and interests 4479
therein. 4480

(P) "Public capital improvements" means capital improvements 4481
or facilities that any governmental agency has authority to 4482
acquire, pay the costs of, own, maintain, or operate, or to 4483
contract with other persons to have the same done, including, but 4484
not limited to, highways, roads, streets, water and sewer 4485
facilities, railroad and other transportation facilities, and air 4486
and water pollution control and solid waste disposal facilities. 4487
For purposes of this division, "air pollution control facilities" 4488

includes, without limitation, solar, geothermal, biofuel, biomass, 4489
wind, hydro, wave, and other advanced energy projects as defined 4490
in section 3706.25 of the Revised Code. 4491

(Q) "Research and development financial assistance" means 4492
inducements under section 166.17 of the Revised Code, research and 4493
development loans under section 166.21 of the Revised Code, and 4494
research and development tax credits under sections 5733.352 and 4495
5747.331 of the Revised Code. 4496

(R) "Targeted innovation industry sectors" means industry 4497
sectors involving the production or use of advanced materials, 4498
instruments, controls and electronics, power and propulsion, 4499
biosciences, and information technology, or such other sectors as 4500
may be designated by the director of development services. 4501

(S) "Voluntary action" means a voluntary action, as defined 4502
in section 3746.01 of the Revised Code, that is conducted under 4503
the voluntary action program established in Chapter 3746. of the 4504
Revised Code. 4505

(T) "Project financing obligations" means obligations issued 4506
pursuant to section 166.08 of the Revised Code other than 4507
obligations for which the bond proceedings provide that bond 4508
service charges shall be paid from receipts of the state 4509
representing gross profit on the sale of spirituous liquor as 4510
referred to in division (B)(4) of section 4310.10 of the Revised 4511
Code. 4512

(U) "Regional economic development entity" means an entity 4513
that is under contract with the director ~~of development~~ to 4514
administer a loan program under this chapter in a particular area 4515
of this state. 4516

(V) "Advanced energy research and development fund" means the 4517
advanced energy research and development fund created in section 4518
3706.27 of the Revised Code. 4519

(W) "Advanced energy research and development taxable fund" 4520
means the advanced energy research and development taxable fund 4521
created in section 3706.27 of the Revised Code. 4522

(X) "Eligible advanced energy project" means an eligible 4523
project that is an "advanced energy project" as defined in section 4524
3706.25 of the Revised Code. 4525

(Y) "Eligible logistics and distribution project" means an 4526
eligible project, including project facilities, to be acquired, 4527
established, expanded, remodeled, rehabilitated, or modernized for 4528
transportation logistics and distribution infrastructure purposes. 4529
As used in this division, "transportation logistics and 4530
distribution infrastructure purposes" means promoting, providing 4531
for, and enabling improvements to the ground, air, and water 4532
transportation infrastructure comprising the transportation system 4533
in this state, including, without limitation, highways, streets, 4534
roads, bridges, railroads carrying freight, and air and water 4535
ports and port facilities, and all related supporting facilities. 4536

(Z) "Department of development" means the development 4537
services agency and "director of development" means the director 4538
of development services. 4539

Sec. 166.04. (A) Prior to entering into each agreement to 4540
provide assistance under sections 166.02, 166.06, and 166.07 of 4541
the Revised Code, the director of development services shall 4542
determine whether the assistance will conform to the requirements 4543
of sections 166.01 to 166.11 of the Revised Code. Such 4544
determination, and the facts upon which it is based, shall be set 4545
forth, where required, by the director in submissions made to the 4546
controlling board ~~for purposes of section 166.03 and, unless~~ 4547
~~provision of the assistance has been recommended to the director~~ 4548
~~by a regional economic development entity, to the development~~ 4549
~~financing advisory council under section 166.05~~ when the director 4550

seeks a release of moneys under section 166.02 of the Revised 4551
Code. An agreement to provide assistance under sections 166.02, 4552
166.06, and 166.07 of the Revised Code shall set forth such 4553
determination, which shall be conclusive for purposes of the 4554
validity and enforceability of such agreement and any loan 4555
guarantees, loans, or other agreements entered into pursuant to 4556
such agreement to provide assistance. 4557

(B) Whenever a person applies for financial assistance under 4558
sections 166.02, 166.06, and 166.07 of the Revised Code and the 4559
project for which assistance is requested is to relocate 4560
facilities that are currently being operated by the person and 4561
that are located in another county, municipal corporation, or 4562
township, the director shall provide written notification to the 4563
appropriate local governmental bodies and state officials. The 4564
notification shall contain the following information: 4565

(1) The name of the person applying for financial assistance; 4566

(2) The county, and the municipal corporation or township, in 4567
which the project for which assistance is requested is located; 4568
and 4569

(3) The county, and the municipal corporation or township, in 4570
which the facility to be replaced is located. 4571

~~The director shall provide the written notification to the 4572
appropriate local governmental bodies and state officials so that 4573
they receive the notification at least five days before the 4574
development financing advisory council meeting at which the 4575
council considers the request for financial assistance pursuant to 4576
section 166.05 of the Revised Code. 4577~~

(C) As used in division (B) of this section: 4578

(1) "Appropriate local governmental bodies" means: 4579

(a) The boards of county commissioners or legislative 4580

authorities of the county in which the project for which 4581
assistance is requested is located and of the county in which the 4582
facility to be replaced is located; 4583

(b) The legislative authority of the municipal corporation or 4584
the board of township trustees of the township in which the 4585
project for which assistance is requested is located; and 4586

(c) The legislative authority of the municipal corporation or 4587
the board of township trustees of the township in which the 4588
facility to be replaced is located. 4589

(2) "State officials" means: 4590

(a) The state representative and state senator in whose 4591
districts the project for which assistance is requested is 4592
located; 4593

(b) The state representative and state senator in whose 4594
districts the facility to be replaced is located. 4595

Sec. 166.05. (A) In determining the projects to be assisted 4596
and the nature, amount, and terms of assistance to be provided for 4597
an eligible project under sections 166.02, 166.06, and 166.07 of 4598
the Revised Code: 4599

(1) ~~Except as otherwise provided in division (A)(3) of this~~ 4600
~~section, the~~ The director of development services shall take into 4601
consideration all of the following: 4602

(a) The number of jobs to be created or preserved, directly 4603
or indirectly; 4604

(b) Payrolls, and the taxes generated, at both state and 4605
local levels, by the eligible project and by the employment 4606
created or preserved by the eligible project; 4607

(c) The size, nature, and cost of the eligible project, 4608
including the prospect of the project for providing long-term jobs 4609

in enterprises consistent with the changing economics of the state	4610
and the nation;	4611
(d) The needs, and degree of needs, of the area in which the	4612
eligible project is to be located;	4613
(e) The needs of any private sector enterprise to be	4614
assisted;	4615
(f) The competitive effect of the assistance on other	4616
enterprises providing jobs for people of the state;	4617
(g) The amount and kind of assistance, if any, to be provided	4618
to the private sector enterprise by other governmental agencies	4619
through tax exemption or abatement, financing assistance with	4620
industrial development bonds, and otherwise, with respect to the	4621
eligible project;	4622
(h) The impact of the eligible project and its operations on	4623
local government services, including school services, and on	4624
public facilities;	4625
(i) The effect of the assistance on the loss of or damage to	4626
or destruction of prime farmland, or the removal from agricultural	4627
production of prime farmland. As used in this section, "prime	4628
farmland" means agricultural land that meets the criteria for this	4629
classification as defined by the United States soil conservation	4630
service.	4631
(j) The length of time the operator of the project has been	4632
operating facilities within the state.	4633
(2) The benefits to the local area, including taxes, jobs,	4634
and reduced unemployment and reduced welfare costs, among others,	4635
may be accorded value in the leasing or sales of project	4636
facilities and in loan and guarantee arrangements.	4637
(B) Prior to granting final approval of the assistance to be	4638
provided, the director shall determine that the benefits to be	4639

derived by the state and local area from the establishment or 4640
development, and operation, of the eligible project will exceed 4641
the cost of providing such assistance and, ~~except as provided in~~ 4642
~~division (C)(2) of this section,~~ shall submit to the development 4643
~~financing advisory council and to the~~ controlling board a copy of 4644
that determination including the basis for the determination. 4645

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 4646
~~prior to the submission provided for in division (B) of this~~ 4647
~~section to the controlling board, the director shall submit to the~~ 4648
~~development financing advisory council data pertinent to the~~ 4649
~~considerations set forth in division (A) of this section, the~~ 4650
~~terms of the proposed assistance, and such other relevant~~ 4651
~~information as the development financing advisory council may~~ 4652
~~request.~~ 4653

~~(2) The director is not required to submit any determination,~~ 4654
~~data, terms, or other application materials or information to the~~ 4655
~~development financing advisory council when provision of the~~ 4656
~~assistance has been recommended to the director by a regional~~ 4657
~~economic development entity.~~ 4658

~~(D) The development financing advisory council, on the basis~~ 4659
~~of such data, shall make recommendations as to the appropriateness~~ 4660
~~of the assistance to be provided. The recommendations may be~~ 4661
~~revised to reflect any changes in the proposed assistance as the~~ 4662
~~director may submit to the council. The recommendations, as~~ 4663
~~amended, of the council as to the appropriateness of the proposed~~ 4664
~~assistance shall be submitted to the controlling board.~~ 4665

~~(E) Financial statements and other data submitted to the~~ 4666
~~director of development, the development financing advisory~~ 4667
~~council, services or the controlling board by any private sector~~ 4668
~~person in connection with financial assistance under sections~~ 4669
~~166.02, 166.06, and 166.07 of the Revised Code, or any information~~ 4670
~~taken from such statements or data for any purpose, shall not be~~ 4671

open to public inspection. ~~The development financing advisory 4672~~
~~council in considering confidential information in connection with 4673~~
~~financial assistance under sections 166.02, 166.06, and 166.07 of 4674~~
~~the Revised Code may, only for consideration of the confidential 4675~~
~~information referred to, and in the manner provided in division 4676~~
~~(E) of section 121.22 of the Revised Code, close the meeting 4677~~
~~during such consideration. 4678~~

Sec. 166.11. (A) The aggregate ~~principal~~ amount of debt 4679
service payable in any calendar year on project financing 4680
obligations ~~that may be~~ issued under section 166.08 of the Revised 4681
Code is three hundred, exclusive of make-whole call redemptions or 4682
other optional prepayments, shall not exceed fifty million 4683
dollars, ~~plus the principal amount of such project financing~~ 4684
~~obligations retired by payments.~~ The aggregate principal amount of 4685
obligations, exclusive of project financing obligations, that may 4686
be issued under section 166.08 of the Revised Code is six hundred 4687
thirty million dollars, plus the principal amount of any such 4688
obligations retired by payment, the amounts held or obligations 4689
pledged for the payment of the principal amount of any such 4690
obligations outstanding, amounts in special funds held as reserves 4691
to meet bond service charges, and amounts of obligations issued to 4692
provide moneys required to meet payments from the loan guarantee 4693
fund created in section 166.06 of the Revised Code and the 4694
innovation Ohio loan guarantee fund created in section 166.15 of 4695
the Revised Code. Of that six hundred thirty million dollars, not 4696
more than eighty-four million principal amount of obligations may 4697
be issued for eligible advanced energy projects and not more than 4698
one hundred million principal amount of obligations may be issued 4699
for eligible logistics and distribution projects. The terms of the 4700
obligations issued under section 166.08 of the Revised Code, other 4701
than obligations issued to meet guarantees that cannot be 4702
satisfied from amounts then held in the loan guarantee fund or the 4703

innovation Ohio loan guarantee fund, shall be such that the 4704
aggregate amount of moneys used from profit from the sale of 4705
spirituous liquor, and not from other sources, in any fiscal year 4706
shall not exceed sixty-three million dollars. For purposes of the 4707
preceding sentence, "other sources" include the annual investment 4708
income on special funds to the extent it will be available for 4709
payment of any bond service charges in lieu of use of profit from 4710
the sale of spirituous liquor, and shall be estimated on the basis 4711
of the expected funding of those special funds and assumed 4712
investment earnings thereon at a rate equal to the weighted 4713
average yield on investments of those special funds determined as 4714
of any date within sixty days immediately preceding the date of 4715
issuance of the bonds in respect of which the determination is 4716
being made. Amounts received in any fiscal year under section 6341 4717
of the Internal Revenue Code, 26 U.S.C. 6341, shall not be 4718
included when determining the sixty-three million dollar limit. 4719
The determinations required by this division shall be made by the 4720
treasurer of state at the time of issuance of an issue of 4721
obligations and shall be conclusive for purposes of such issue of 4722
obligations from and after their issuance and delivery. 4723

(B) The aggregate amount of the guaranteed portion of the 4724
unpaid principal of loans guaranteed under sections 166.06 and 4725
166.15 of the Revised Code and the unpaid principal of loans made 4726
under sections 166.07, 166.16, and 166.21 of the Revised Code may 4727
not at any time exceed eight hundred million dollars. Of that 4728
eight hundred million dollars, the aggregate amount of the 4729
guaranteed portion of the unpaid principal of loans guaranteed 4730
under sections 166.06 and 166.15 of the Revised Code shall not at 4731
any time exceed two hundred million dollars. However, the 4732
limitations established under this division do not apply to loans 4733
made with proceeds from the issuance and sale of project financing 4734
obligations. 4735

Sec. 166.13. (A) Prior to entering into each agreement to 4736
provide innovation financial assistance under sections 166.12, 4737
166.15, and 166.16 of the Revised Code, the director of 4738
development services shall determine whether the assistance will 4739
conform to the requirements of sections 166.12 to 166.16 of the 4740
Revised Code. Such determination, and the facts upon which it is 4741
based, shall be set forth by the director in submissions made to 4742
the controlling board ~~for purposes of section 166.16 of the~~ 4743
~~Revised Code and to the development financing advisory council~~ 4744
~~under section 166.14 when the director seeks a release of moneys~~ 4745
~~under section 166.12~~ of the Revised Code. An agreement to provide 4746
assistance under sections 166.12, 166.15, and 166.16 of the 4747
Revised Code shall set forth the determination, which shall be 4748
conclusive for purposes of the validity and enforceability of the 4749
agreement and any innovation loan guarantees, innovation loans, or 4750
other agreements entered into pursuant to the agreement to provide 4751
innovation financial assistance. 4752

(B) Whenever a person applies for innovation financial 4753
assistance under sections 166.12, 166.15, and 166.16 of the 4754
Revised Code and the eligible innovation project for which 4755
innovation financial assistance is requested is to relocate an 4756
eligible innovation project that is currently being operated by 4757
the person and that is located in another county, municipal 4758
corporation, or township, the director shall provide written 4759
notification to the appropriate local governmental bodies and 4760
state officials. The notification shall contain the following 4761
information: 4762

(1) The name of the person applying for innovation financial 4763
assistance; 4764

(2) The county, and the municipal corporation or township, in 4765
which the eligible innovation project for which innovation 4766

financial assistance is requested is located; and 4767

(3) The county, and the municipal corporation or township, in 4768
which the eligible innovation project to be replaced is located. 4769

~~The director shall provide the written notification to the 4770
appropriate local governmental bodies and state officials so that 4771
they receive the notification at least five days before the 4772
development financing advisory council meeting at which the 4773
council considers the request for innovation financial assistance 4774
pursuant to sections 166.12, 166.15, and 166.16 of the Revised 4775
Code. 4776~~

(C) As used in division (B) of this section: 4777

(1) "Appropriate local governmental bodies" means: 4778

(a) The boards of county commissioners or legislative 4779
authorities of the county in which the project for which 4780
innovation financial assistance is requested is located and of the 4781
county in which the eligible innovation project to be replaced is 4782
located; 4783

(b) The legislative authority of the municipal corporation or 4784
the board of township trustees of the township in which the 4785
eligible innovation project for which innovation financial 4786
assistance is requested is located; and 4787

(c) The legislative authority of the municipal corporation or 4788
the board of township trustees of the township in which the 4789
eligible innovation project to be replaced is located. 4790

(2) "State officials" means: 4791

(a) The state representative and state senator in whose 4792
districts the project for which innovation financial assistance is 4793
requested is located; 4794

(b) The state representative and state senator in whose 4795
districts the innovation project to be replaced is located. 4796

Sec. 166.14. (A) In determining the eligible innovation 4797
projects to be assisted and the nature, amount, and terms of 4798
innovation financial assistance to be provided for an eligible 4799
innovation project under sections 166.12 to 166.16 of the Revised 4800
Code: 4801

(1) The director of development services shall take into 4802
consideration all of the following: 4803

(a) The number of jobs to be created or preserved by the 4804
eligible innovation project, directly or indirectly; 4805

(b) Payrolls, and the taxes generated, at both state and 4806
local levels, by or in connection with the eligible innovation 4807
project and by the employment created or preserved by or in 4808
connection with the eligible innovation project; 4809

(c) The size, nature, and cost of the eligible innovation 4810
project, including the prospect of the eligible innovation project 4811
for providing long-term jobs in enterprises consistent with the 4812
changing economics of the state and the nation; 4813

(d) The needs of any private sector enterprise to be 4814
assisted; 4815

(e) The amount and kind of assistance, if any, to be provided 4816
to the private sector enterprise by other governmental agencies 4817
through tax exemption or abatement, financing assistance with 4818
industrial development bonds, and otherwise, with respect to the 4819
eligible innovation project or with respect to any providers of 4820
innovation property to be included as part of the eligible 4821
innovation project; 4822

(f) The likelihood of the successful implementation of the 4823
proposed eligible innovation project; 4824

(g) Whether the eligible innovation project involves the use 4825
of technology in a targeted innovation industry sector. 4826

(2) The benefits to the local area, including taxes, jobs, 4827
and reduced unemployment and reduced welfare costs, among others, 4828
may be accorded value in the leasing or sales of innovation 4829
project facilities and in loan and guarantee arrangements. 4830

(3) In making determinations under division (A)(1) of this 4831
section, the director may consider the effect of an eligible 4832
innovation project upon any entity engaged to provide innovation 4833
property to be acquired, leased, or licensed in connection with 4834
such assistance. 4835

~~(B) The director shall submit to the development financing 4836
advisory council data pertinent to the considerations set forth in 4837
division (A) of this section, the terms of the proposed innovation 4838
financial assistance, and such other relevant information as the 4839
council may request. 4840~~

~~(C) The development financing advisory council, on the basis 4841
of such data, shall make recommendations as to the appropriateness 4842
of the innovation financial assistance to be provided. The 4843
recommendations may be revised to reflect any changes in the 4844
proposed innovation financial assistance as the director may 4845
submit to the council. The recommendations, as amended, of the 4846
council as to the appropriateness of the proposed innovation 4847
financial assistance shall be submitted to the controlling board. 4848~~

~~(D) Financial statements and other data submitted to the 4849
director of development, the development financing advisory 4850
council, services or the controlling board by any private sector 4851
person in connection with innovation financial assistance under 4852
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 4853
information taken from such statements or data for any purpose, 4854
shall not be open to public inspection. The development financing 4855
advisory council in considering confidential information in 4856
connection with innovation financial assistance under this chapter 4857
may, only for consideration of the confidential information 4858~~

~~referred to, and in the manner provided in division (E) of section 4859
121.22 of the Revised Code, close the meeting during such 4860
consideration. 4861~~

Sec. 166.18. (A) Prior to entering into each agreement to 4862
provide research and development financial assistance, the 4863
director of development services shall determine whether the 4864
assistance will conform to the requirements of sections 166.17 to 4865
166.21, 5733.352, and 5747.331 of the Revised Code. Such 4866
determination, and the facts upon which it is based, shall be set 4867
forth by the director in submissions made to the controlling board 4868
~~for purposes of section 166.17 of the Revised Code and to the 4869
development financing advisory council under section 166.19 when 4870
the director seeks a release of moneys under section 166.17 of the 4871
Revised Code. An agreement to provide research and development 4872
financial assistance under section 166.17 or 166.21 of the Revised 4873
Code shall set forth the determination, which shall be conclusive 4874
for purposes of the validity and enforceability of the agreement, 4875
and any loans or other agreements entered into pursuant to the 4876
agreement, to provide research and development financial 4877
assistance. 4878~~

(B) Whenever a person applies for research and development 4879
financial assistance, and the eligible research and development 4880
project for which that assistance is requested is to relocate an 4881
eligible research and development project that is currently being 4882
operated by the person and that is located in another county, 4883
municipal corporation, or township within the state, the director 4884
shall provide written notification to the appropriate local 4885
governmental bodies and state officials. The notification shall 4886
state all of the following: 4887

(1) The name of the person applying for research and 4888
development financial assistance; 4889

(2) The county, and the municipal corporation or township, in 4890
which the project for which research and development financial 4891
assistance is requested will be located; 4892

(3) The county, and the municipal corporation or township, in 4893
which the eligible research and development project is located at 4894
the time such financial assistance is requested. 4895

~~The director shall provide the written notification to the 4896
appropriate local governmental bodies and state officials so that 4897
they receive the notification at least five days before the 4898
development financing advisory council meeting at which the 4899
council considers the request for research and development 4900
financial assistance. 4901~~

(C) As used in division (B) of this section: 4902

(1) "Appropriate local governmental bodies" means all of the 4903
following: 4904

(a) The board of county commissioners of or legislative 4905
authorities of special districts in the county in which the 4906
eligible research and development project for which research and 4907
development financial assistance is requested is located and of 4908
the county in which the project will be located; 4909

(b) The legislative authority of the municipal corporation or 4910
the board of township trustees of the township in which the 4911
eligible research and development project for which research and 4912
development financial assistance is requested is located and of 4913
the municipal corporation or township in which the project will be 4914
located. 4915

(2) "State officials" means both of the following: 4916

(a) The state representative and state senator in whose 4917
district the eligible research and development project for which 4918
research and development financial assistance is requested is 4919

located; 4920

(b) The state representative and state senator in whose 4921
district the eligible research and development project will be 4922
located. 4923

Sec. 166.19. (A)(1) In determining the eligible research and 4924
development projects to be assisted and the nature, amount, and 4925
terms of the research and development financial assistance to be 4926
provided, the director of development services shall consider all 4927
of the following: 4928

(a) The number of jobs to be created or preserved, directly 4929
or indirectly, by or in connection with the eligible research and 4930
development project; 4931

(b) Payrolls, and the taxes generated at both state and local 4932
levels, by the eligible research and development project and by 4933
the employment created or preserved by or in connection with the 4934
project; 4935

(c) The size, nature, and cost of the eligible research and 4936
development project; 4937

(d) The likelihood that the eligible research and development 4938
project will create long-term jobs in enterprises consistent with 4939
the changing economy of the state and nation; 4940

(e) The needs of any private sector enterprise to be 4941
assisted, taking into consideration the amount and kind of 4942
assistance, if any, to be provided to the private sector 4943
enterprise by other governmental agencies through tax exemption or 4944
abatement, financing assistance with industrial development bonds, 4945
and otherwise, with respect to the eligible research and 4946
development project or with respect to any providers of research 4947
and development property to be included as part of the project; 4948

(f) The likelihood that the eligible research and development 4949

project will be successfully implemented. 4950

(2) The director may consider the benefits to the local area, 4951
including taxes, jobs, and reduced unemployment and reduced 4952
welfare costs, in the leasing or sale of eligible research and 4953
development project facilities and in loan arrangements. 4954

(3) The director may consider the effect of an eligible 4955
research and development project upon any entity engaged to 4956
provide research and development property to be acquired, leased, 4957
or licensed in connection with research and development financial 4958
assistance. 4959

~~(B) The director shall submit to the development financing 4960
advisory council data pertinent to the considerations set forth in 4961
division (A) of this section, the terms of the proposed research 4962
and development assistance, and such other relevant information as 4963
the council may request. 4964~~

~~(C) The development financing advisory council, on the basis 4965
of the data submitted under division (B) of this section, shall 4966
make recommendations as to the appropriateness of the research and 4967
development financial assistance to be provided. The 4968
recommendations may be revised to reflect any changes in the 4969
proposed research and development financial assistance that the 4970
director may submit to the council. The recommendations of the 4971
council as to the appropriateness of the proposed research and 4972
development financial assistance shall be submitted to the 4973
controlling board. 4974~~

~~(D) Financial statements and other data submitted to the 4975
director of development, the development financing advisory 4976
council, services or the controlling board by any private sector 4977
person in connection with research and development financial 4978
assistance, or any information taken from such statements or data 4979
for any purpose, shall not be open to public inspection. The 4980~~

~~development financing advisory council, in considering 4981
confidential information in connection with research and 4982
development financial assistance may, only for consideration of 4983
the confidential information referred to and in the manner 4984
provided in division (E) of section 121.22 of the Revised Code, 4985
close the meeting during such consideration. 4986~~

Sec. 166.25. (A) The director of development services, with 4987
the approval of the controlling board and subject to the other 4988
applicable provisions of this chapter, may lend money in the 4989
logistics and distribution infrastructure fund and the logistics 4990
and distribution infrastructure taxable bond fund to persons for 4991
the purpose of paying allowable costs of eligible logistics and 4992
distribution projects. 4993

(B) In determining the eligible logistics and distribution 4994
projects to be assisted and the nature, amount, and terms of 4995
assistance to be provided for an eligible logistics and 4996
distribution project, the director shall consult with appropriate 4997
governmental agencies, including the department of transportation 4998
and the Ohio rail development commission. 4999

~~(C)(1) The director shall submit to the development financing 5000
advisory council the terms of the proposed assistance to be 5001
provided for an eligible logistics and distribution project and 5002
such other relevant information as the council may request. 5003~~

~~(2) The council, on the basis of such information, shall make 5004
recommendations as to the appropriateness of the assistance to be 5005
provided. The recommendations may be revised to reflect any 5006
changes in the proposed assistance the director may submit to the 5007
council. 5008~~

~~(3) The director shall submit the terms of the proposed 5009
assistance to be provided, along with the recommendations, as 5010
amended, of the council as to the appropriateness of the proposed 5011~~

~~assistance, to the controlling board.~~ 5012

~~(D)~~ Any loan made pursuant to this section shall be evidenced 5013
by a loan agreement, which shall contain such terms as the 5014
director determines necessary or appropriate, including 5015
performance measures and reporting requirements. The director may 5016
take actions necessary or appropriate to collect or otherwise deal 5017
with any loan made under this section, including requiring a loan 5018
recipient to repay the amount of the loan plus interest at a rate 5019
of three per cent above the federal short term interest rate or 5020
any other rate determined by the director. 5021

Sec. 166.30. (A) The Ohio air quality development authority, 5022
with the approval of the controlling board and subject to sections 5023
3706.25 to 3706.30 of the Revised Code, may provide grants from 5024
money in the advanced energy research and development fund and may 5025
lend money in the advanced energy research and development taxable 5026
fund to persons for the purposes of paying allowable costs of 5027
eligible advanced energy projects. 5028

(B) In determining the eligible advanced energy projects to 5029
be assisted and the nature, amount, and terms of assistance to be 5030
provided for an eligible advanced energy project, the authority 5031
shall consult with appropriate governmental agencies. 5032

~~(C)(1) The authority shall submit to the development 5033
financing advisory council the terms of the proposed assistance to 5034
be provided for an eligible advanced energy project and such other 5035
relevant information as the council may request.~~ 5036

~~(2) The council, on the basis of such information, shall make 5037
recommendations as to the appropriateness of the assistance to be 5038
provided. The recommendations may be revised to reflect any 5039
changes in the proposed assistance the authority may submit to the 5040
council.~~ 5041

~~(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.

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

(F) "Lending institution" means any financial institution 5072
qualified to conduct business in this state, a subsidiary 5073
corporation that is wholly owned by a financial institution 5074
qualified to conduct business in this state, and a mortgage lender 5075
whose regular business is originating, servicing, or brokering 5076
real estate loans and who is qualified to do business in this 5077
state. 5078

(G) "Loan" means any extension of credit or other form of 5079
financing or indebtedness directly or indirectly to a borrower 5080
with the expectation that it will be repaid in accordance with the 5081
terms of the underlying loan agreement or other pertinent 5082
document. "Loan" includes financing extended to lending 5083
institutions and indebtedness purchased from lending institutions. 5084

(H) "Loan guarantee" means any agreement in favor of a 5085
lending institution or other lender in which the credit and 5086
resources of the housing trust fund are pledged to secure the 5087
payment or collection of financing extended to a borrower for the 5088
acquisition, construction, improvement, rehabilitation or 5089
preservation of housing, or to refinance any financing previously 5090
extended for those purposes by any lender. 5091

(I) "Loan subsidy" means any deposit of funds into a lending 5092
institution with the authorization or direction that the income or 5093
revenues the deposit earns, or could have earned at competitive 5094
rates, be applied directly or indirectly to the benefit of housing 5095
assistance or financial assistance. 5096

(J) "Low- and moderate-income persons" means individuals and 5097
families who qualify as low- and moderate-income persons pursuant 5098
to guidelines the ~~department of~~ development services agency 5099
establishes. 5100

(K) "Multifamily rental housing" means multiple unit housing 5101
intended for rental occupancy. 5102

(L) "Nonprofit organization" means a nonprofit organization 5103
in good standing and qualified to conduct business in this state 5104
including any corporation whose members are members of a 5105
metropolitan housing authority. 5106

(M) "Department of development" means the development 5107
services agency and "director of development" means the director 5108
of development services. 5109

Sec. 184.01. (A) There is hereby created the third frontier 5110
commission in the ~~department of development~~ services agency. The 5111
purpose of the commission is to coordinate and administer science 5112
and technology programs to promote the welfare of the people of 5113
the state and to maximize the economic growth of the state through 5114
expansion of both of the following: 5115

(1) The state's high technology research and development 5116
capabilities; 5117

(2) The state's product and process innovation and 5118
commercialization. 5119

(B)(1) The commission shall consist of ~~nine~~ eleven members: 5120
the director of development services, the chancellor of the Ohio 5121
board of regents, the governor's science and technology advisor, 5122
the chief investment officer of the nonprofit corporation formed 5123
under section 187.01 of the Revised Code, and ~~six~~ seven persons 5124
appointed by the governor with the advice and consent of the 5125
senate. 5126

(2) Of the ~~six~~ seven persons appointed by the governor, one 5127
shall represent the central region, which is composed of the 5128
counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, 5129
Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, 5130
and Union; one shall represent the west central region, which is 5131
composed of the counties of Champaign, Clark, Darke, Greene, 5132

Miami, Montgomery, Preble, and Shelby; one shall represent the 5133
northeast region, which is composed of the counties of Ashland, 5134
Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, 5135
Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, 5136
Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall 5137
represent the northwest region, which is composed of the counties 5138
of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, 5139
Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van 5140
Wert, Williams, Wood, and Wyandot; one shall represent the 5141
southeast region, which shall represent the counties of Adams, 5142
Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, 5143
Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, 5144
Pike, Scioto, Vinton, and Washington; ~~and~~ one shall represent the 5145
southwest region, which is composed of the counties of Butler, 5146
Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one 5147
shall represent the public at large. Of the initial appointments, 5148
two shall be for one year, two shall be for two years, and two 5149
shall be for three years as assigned by the governor. Thereafter, 5150
appointments shall be for three-year terms. Members may be 5151
reappointed and vacancies shall be filled in the same manner as 5152
appointments. A person must have a background in business or 5153
research in order to be eligible for appointment to the 5154
commission. 5155

(3) The governor shall select a chairperson from among the 5156
members, who shall serve in that role at the pleasure of the 5157
governor. Sections 101.82 to 101.87 of the Revised Code do not 5158
apply to the commission. 5159

(C) The commission shall meet at least once during each 5160
quarter of the calendar year or at the call of the chairperson. A 5161
majority of all members of the commission constitutes a quorum, 5162
and no action shall be taken without the concurrence of a majority 5163
of the members. 5164

(D) The commission shall administer any money that may be 5165
appropriated to it by the general assembly. The commission may use 5166
such money for research and commercialization and for any other 5167
purposes that may be designated by the commission. 5168

(E) The ~~department of~~ development services agency shall 5169
provide office space and facilities for the commission. 5170
Administrative costs associated with the operation of the 5171
commission or with any program or activity administered by the 5172
commission shall be paid from amounts appropriated to the 5173
commission or to the ~~department of development~~ agency for such 5174
purposes. 5175

(F) The attorney general shall serve as the legal 5176
representative for the commission and may appoint other counsel as 5177
necessary for that purpose in accordance with section 109.07 of 5178
the Revised Code. 5179

(G) Members of the commission shall serve without 5180
compensation, but shall receive their reasonable and necessary 5181
expenses incurred in the conduct of commission business. 5182

(H) Members of the commission shall file financial disclosure 5183
statements described in division (B) of section 102.02 of the 5184
Revised Code. 5185

Sec. 184.011. As used in this chapter, "department of 5186
development" means the development services agency and "director 5187
of development" means the director of development services. 5188

Sec. 187.01. As used in this chapter, "JobsOhio" means the 5189
nonprofit corporation formed under this section, and includes any 5190
subsidiary of that corporation. In any section of law that refers 5191
to the nonprofit corporation formed under this section, reference 5192
to the corporation includes reference to any such subsidiary 5193
unless otherwise specified or clearly appearing from the context. 5194

The governor is hereby authorized to form a nonprofit corporation, to be named "JobsOhio," with the purposes of promoting economic development, job creation, job retention, job training, and the recruitment of business to this state. Except as otherwise provided in this chapter, the corporation shall be organized and operated in accordance with Chapter 1702. of the Revised Code. The governor shall sign and file articles of incorporation for the corporation with the secretary of state. The legal existence of the corporation shall begin upon the filing of the articles.

In addition to meeting the requirements for articles of incorporation in Chapter 1702. of the Revised Code, the articles of incorporation for the nonprofit corporation shall set forth the following:

(A) The designation of the name of the corporation as JobsOhio;

(B) The creation of a board of directors consisting of nine directors, to be appointed by the governor, who satisfy the qualifications prescribed by section 187.02 of the Revised Code;

(C) A requirement that the governor make initial appointments to the board within sixty days after the filing of the articles of incorporation. Of the initial appointments made to the board, two shall be for a term ending one year after the date the articles were filed, two shall be for a term ending two years after the date the articles were filed, and five shall be for a term ending four years after the date the articles were filed. The articles shall state that, following the initial appointments, the governor shall appoint directors to terms of office of four years, with each term of office ending on the same day of the same month as did the term that it succeeds. If any director dies, resigns, or the director's status changes such that any of the requirements of division (C) of section 187.02 of the Revised Code are no longer

met, that director's seat on the board shall become immediately 5227
vacant. The governor shall forthwith fill the vacancy by 5228
appointment for the remainder of the term of office of the vacated 5229
seat. 5230

(D) A requirement that the governor appoint one director to 5231
be chairperson of the board and procedures for electing directors 5232
to serve as officers of the corporation and members of an 5233
executive committee; 5234

(E) A provision for the appointment of a chief investment 5235
officer of the corporation by the recommendation of the board and 5236
approval of the governor. The chief investment officer shall serve 5237
at the pleasure of the board and shall have the power to execute 5238
contracts, spend corporation funds, and hire employees on behalf 5239
of the corporation. If the position of chief investment officer 5240
becomes vacant for any reason, the vacancy shall be filled in the 5241
same manner as provided in this division. 5242

(F) Provisions requiring the board to do all of the 5243
following: 5244

(1) Adopt one or more resolutions providing for compensation 5245
of the chief investment officer; 5246

(2) Approve an employee compensation plan recommended by the 5247
chief investment officer; 5248

(3) Approve a contract with the director of development 5249
services for the corporation to assist the director and the 5250
~~department of development~~ services agency with providing services 5251
or otherwise carrying out the functions or duties of the 5252
~~department~~ agency, including the operation and management of 5253
programs, offices, divisions, or boards, as may be determined by 5254
the director of development services in consultation with the 5255
governor; 5256

(4) Approve all major contracts for services recommended by 5257

the chief investment officer;	5258
(5) Establish an annual strategic plan and standards of measure to be used in evaluating the corporation's success in executing the plan;	5259 5260 5261
(6) Establish a conflicts of interest policy that, at a minimum, complies with section 187.06 of the Revised Code;	5262 5263
(7) Hold a minimum of four board of directors meetings per year at which a quorum of the board is physically present, and such other meetings, at which directors' physical presence is not required, as may be necessary. Meetings at which a quorum of the board is required to be physically present are subject to divisions (C), (D), and (E) of section 187.03 of the Revised Code.	5264 5265 5266 5267 5268 5269
(8) Establish a records retention policy and present the policy, and any subsequent changes to the policy, at a meeting of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F)(7) of this section;	5270 5271 5272 5273 5274
(9) Adopt standards of conduct for the directors.	5275
(G) A statement that directors shall not receive any compensation from the corporation, except that directors may be reimbursed for actual and necessary expenses incurred in connection with services performed for the corporation;	5276 5277 5278 5279
(H) A provision authorizing the board to amend provisions of the corporation's articles of incorporation or regulations, except provisions required by this chapter;	5280 5281 5282
(I) Procedures by which the corporation would be dissolved and by which all corporation rights and assets would be distributed to the state or to another corporation organized under this chapter. These procedures shall incorporate any separate procedures subsequently set forth in this chapter for the	5283 5284 5285 5286 5287

dissolution of the corporation. The articles shall state that no 5288
dissolution shall take effect until the corporation has made 5289
adequate provision for the payment of any outstanding bonds, 5290
notes, or other obligations. 5291

(J) A provision establishing an audit committee to be 5292
comprised of directors. The articles shall require that the audit 5293
committee hire an independent certified public accountant to 5294
perform a financial audit of the corporation at least once every 5295
year. 5296

(K) A provision authorizing a majority of the disinterested 5297
directors to remove a director for misconduct, as that term may be 5298
defined in the articles or regulations of the corporation. The 5299
removal of a director under this division creates a vacancy on the 5300
board that the governor shall fill by appointment for the 5301
remainder of the term of office of the vacated seat. 5302

Sec. 187.03. (A) JobsOhio may perform such functions as 5303
permitted and shall perform such duties as prescribed by law and 5304
as set forth in any contract entered into under section 187.04 of 5305
the Revised Code, but shall not be considered a state or public 5306
department, agency, office, body, institution, or instrumentality 5307
for purposes of section 1.60 or Chapter 102., 121., 125., or 149. 5308
of the Revised Code. JobsOhio and its board of directors are not 5309
subject to the following sections of Chapter 1702. of the Revised 5310
Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 5311
1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 5312
1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 5313
1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this 5314
division shall be construed to impair the powers and duties of the 5315
Ohio ethics commission described in section 102.06 of the Revised 5316
Code to investigate and enforce section 102.02 of the Revised Code 5317
with regard to individuals required to file statements under 5318

division (B)(2) of this section. 5319

(B)(1) Directors and employees of JobsOhio are not employees 5320
or officials of the state and, except as provided in division 5321
(B)(2) of this section, are not subject to Chapter 102., 124., 5322
145., or 4117. of the Revised Code. 5323

(2) The chief investment officer, any other officer or 5324
employee with significant administrative, supervisory, 5325
contracting, or investment authority, and any director of JobsOhio 5326
shall file, with the Ohio ethics commission, a financial 5327
disclosure statement pursuant to section 102.02 of the Revised 5328
Code that includes, in place of the information required by 5329
divisions (A)(2), (7), (8), and (9) of that section, the 5330
information required by divisions (A) and (B) of section 102.022 5331
of the Revised Code. The governor shall comply with all applicable 5332
requirements of section 102.02 of the Revised Code. 5333

(3) Actual or in-kind expenditures for the travel, meals, or 5334
lodging of the governor or of any public official or employee 5335
designated by the governor for the purpose of this division shall 5336
not be considered a violation of section 102.03 of the Revised 5337
Code if the expenditures are made by the corporation, or on behalf 5338
of the corporation by any person, in connection with the 5339
governor's performance of official duties related to JobsOhio. The 5340
governor may designate any person, including a person who is a 5341
public official or employee as defined in section 102.01 of the 5342
Revised Code, for the purpose of this division if such 5343
expenditures are made on behalf of the person in connection with 5344
the governor's performance of official duties related to JobsOhio. 5345
A public official or employee so designated by the governor shall 5346
comply with all applicable requirements of section 102.02 of the 5347
Revised Code. 5348

At the times and frequency agreed to under division (B)(2)(b) 5349

of section 187.04 of the Revised Code, beginning in 2012, the 5350
corporation shall file with the ~~department of~~ development services 5351
agency a written report of all such expenditures paid or incurred 5352
during the preceding calendar year. The report shall state the 5353
dollar value and purpose of each expenditure, the date of each 5354
expenditure, the name of the person that paid or incurred each 5355
expenditure, and the location, if any, where services or benefits 5356
of an expenditure were received, provided that any such 5357
information that may disclose proprietary information as defined 5358
in division (C) of this section shall not be included in the 5359
report. 5360

(4) The prohibition applicable to former public officials or 5361
employees in division (A)(1) of section 102.03 of the Revised Code 5362
does not apply to any person appointed to be a director or hired 5363
as an employee of JobsOhio. 5364

(5) Notwithstanding division (A)(2) of section 145.01 of the 5365
Revised Code, any person who is a former state employee shall no 5366
longer be considered a public employee for purposes of Chapter 5367
145. of the Revised Code upon commencement of employment with 5368
JobsOhio. 5369

(6) Any director, officer, or employee of JobsOhio may 5370
request an advisory opinion from the Ohio ethics commission with 5371
regard to questions concerning the provisions of sections 102.02 5372
and 102.022 of the Revised Code to which the person is subject. 5373

(C) Meetings of the board of directors at which a quorum of 5374
the board is required to be physically present pursuant to 5375
division (F) of section 187.01 of the Revised Code shall be open 5376
to the public except, by a majority vote of the directors present 5377
at the meeting, such a meeting may be closed to the public only 5378
for one or more of the following purposes: 5379

(1) To consider business strategy of the corporation; 5380

(2) To consider proprietary information belonging to 5381
potential applicants or potential recipients of business 5382
recruitment, retention, or creation incentives. For the purposes 5383
of this division, "proprietary information" means marketing plans, 5384
specific business strategy, production techniques and trade 5385
secrets, financial projections, or personal financial statements 5386
of applicants or members of the applicants' immediate family, 5387
including, but not limited to, tax records or other similar 5388
information not open to the public inspection. 5389

(3) To consider legal matters, including litigation, in which 5390
the corporation is or may be involved; 5391

(4) To consider personnel matters related to an individual 5392
employee of the corporation. 5393

(D) The board of directors shall establish a reasonable 5394
method whereby any person may obtain the time and place of all 5395
public meetings described in division (C) of this section. The 5396
method shall provide that any person, upon request and payment of 5397
a reasonable fee, may obtain reasonable advance notification of 5398
all such meetings. 5399

(E) The board of directors shall promptly prepare, file, and 5400
maintain minutes of all public meetings described in division (C) 5401
of this section. 5402

(F) Not later than March 1, 2012, and the first day of March 5403
of each year thereafter, the chief investment officer of JobsOhio 5404
shall prepare and submit a report of the corporation's activities 5405
for the preceding year to the governor, the speaker and minority 5406
leader of the house of representatives, and the president and 5407
minority leader of the senate. The annual report shall include the 5408
following: 5409

(1) An analysis of the state's economy; 5410

(2) A description of the structure, operation, and financial 5411

status of the corporation; 5412

(3) A description of the corporation's strategy to improve 5413
the state economy and the standards of measure used to evaluate 5414
its progress; 5415

(4) An evaluation of the performance of current strategies 5416
and major initiatives; 5417

(5) An analysis of any statutory or administrative barriers 5418
to successful economic development, business recruitment, and job 5419
growth in the state identified by JobsOhio during the preceding 5420
year. 5421

Sec. 187.04. (A) The director of development services, as 5422
soon as practical after ~~the effective date of this section~~ 5423
February 18, 2011, shall execute a contract with JobsOhio for the 5424
corporation to assist the director and the ~~department of~~ 5425
development services agency with providing services or otherwise 5426
carrying out the functions or duties of the ~~department~~ agency, 5427
including the operation and management of programs, offices, 5428
divisions, or boards, as may be determined by the director in 5429
consultation with the governor. The approval or disapproval of 5430
awards involving public money shall remain functions of the 5431
~~department~~ agency. All contracts for grants, loans, and tax 5432
incentives involving public money shall be between the ~~department~~ 5433
agency and the recipient and shall be enforced by the ~~department~~ 5434
agency. JobsOhio may not execute contracts obligating the 5435
~~department~~ agency for loans, grants, tax credits, or incentive 5436
awards recommended by JobsOhio to the ~~department~~ agency. Prior to 5437
execution, all contracts between the director and JobsOhio entered 5438
into under this section that obligate the agency to pay JobsOhio 5439
for services rendered are subject to controlling board approval. 5440

5441

The term of a an initial contract entered into under this 5442
section shall not extend beyond June 30, 2013. Thereafter, the 5443
director and JobsOhio may renew the contract for subsequent fiscal 5444
biennia, but at no time shall a particular contract be effective 5445
for longer than a fiscal biennium of the general assembly, ~~but may~~ 5446
~~be renewed or amended by the parties.~~ 5447

JobsOhio's provision of services to the agency as described 5448
in this section shall be pursuant to a contract entered into under 5449
this section. If at any time the director determines that the 5450
contract with JobsOhio may not be renewed for the subsequent 5451
fiscal biennium, the director shall notify JobsOhio of the 5452
director's decision not later than one hundred twenty days prior 5453
to the end of the current fiscal biennium. If the director does 5454
not provide such written notice to JobsOhio prior to one hundred 5455
days before the end of the current fiscal biennium, the contract 5456
shall be renewed upon such terms as the parties may agree, subject 5457
to the requirements of this section. 5458

(B) A contract entered into under this section shall include 5459
all of the following: 5460

(1) Terms assigning to the corporation the duties of advising 5461
and assisting the director ~~of development~~ in the director's 5462
evaluation of the ~~department~~ agency and the formulation of 5463
recommendations under section 187.05 of the Revised Code; 5464

(2) Terms designating records created or received by JobsOhio 5465
that shall be made available to the public under the same 5466
conditions as are public records under section 149.43 of the 5467
Revised Code. Documents designated to be made available to the 5468
public pursuant to the contract shall be kept on file with the 5469
~~department of development~~ agency. 5470

Among records to be designated under this division shall be 5471
the following: 5472

(a) The corporation's federal income tax returns;	5473
(b) The report of expenditures described in division (B)(3) of section 187.03 of the Revised Code. The records shall be filed with the department <u>agency</u> at such times and frequency as agreed to by the corporation and the department <u>agency</u> , which shall not be less frequently than quarterly.	5474 5475 5476 5477 5478
(c) The annual total compensation paid to each officer and employee of the corporation;	5479 5480
(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.	5481 5482 5483 5484
(e) Records of any fully executed incentive proposals, to be filed annually;	5485 5486
(f) Records pertaining to the monitoring of commitments made by incentive recipients, to be filed annually;	5487 5488
(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.	5489 5490 5491
(3) The following statement acknowledging that JobsOhio is not acting as an agent of the state:	5492 5493
"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."	5494 5495 5496 5497 5498
(C) <u>(1)</u> Records created or received by JobsOhio are not public records for the purposes of section 149.43 <u>Chapter 149.</u> of the Revised Code, regardless of who may have custody of the records, unless the record is designated to be available to the	5499 5500 5501 5502

public by the contract under division (B)(2) of this section. 5503

(2) Records received by JobsOhio from any person or entity 5504
that is not subject to section 149.43 of the Revised Code are not 5505
public records for purposes of Chapter 149. of the Revised Code, 5506
regardless of who may have custody of the records, unless the 5507
record is designated to be available to the public by the contract 5508
under division (B)(2) of this section. 5509

(3) Records received by JobsOhio from a public office as 5510
defined in section 149.011 of the Revised Code that are not public 5511
records under section 149.43 of the Revised Code when in the 5512
custody of the public office are not public records for the 5513
purposes of section 149.43 of the Revised Code regardless of who 5514
has custody of the records. 5515

(D) Any contract executed under authority of this section 5516
shall not negate, impair, or otherwise adversely affect the 5517
obligation of this state to pay debt charges on securities 5518
executed by the director ~~of development~~ or issued by the treasurer 5519
of state, Ohio public facilities commission, or any other issuing 5520
authority under Chapter 122., 151., 165., or 166. of the Revised 5521
Code to fund economic development programs of the state, or to 5522
abide by any pledge or covenant relating to the payment of those 5523
debt charges made in any related proceedings. As used in this 5524
division, "debt charges," "proceedings," and "securities" have the 5525
same meanings as in section 133.01 of the Revised Code. 5526

(E) Nothing in this section, other than the requirement of 5527
controlling board approval, shall prohibit the ~~department~~ agency 5528
from contracting with JobsOhio to perform any of the following 5529
functions: 5530

(1) Promoting and advocating for the state; 5531

(2) Making recommendations to the ~~department~~ agency; 5532

(3) Performing research for the ~~department~~ agency; 5533

(4) Establishing and managing programs or offices on behalf 5534
of the ~~department~~ agency, by contract; 5535

(5) Negotiating on behalf of the state. 5536

(F) Nothing in this section, other than the requirement of 5537
controlling board approval, shall prohibit the ~~department~~ agency 5538
from compensating JobsOhio from funds currently appropriated to 5539
the ~~department~~ agency to perform the functions described in 5540
division (E) of this section. 5541

Sec. 187.05. The director of development services, as soon as 5542
practical after ~~the effective date of this section~~ February 18, 5543
2011, shall, in consultation with the governor, evaluate all 5544
powers, functions, and duties of the ~~department~~ development 5545
services agency. Within six months after ~~that effective date~~ 5546
February 18, 2011, the director shall submit a report to the 5547
general assembly recommending statutory changes necessary to 5548
improve the functioning and efficiency of the ~~department~~ agency 5549
and to transfer specified powers, functions, and duties of the 5550
~~department~~ agency to other existing agencies of the state or to 5551
JobsOhio, or eliminate specified powers, functions, or duties. The 5552
recommendations shall be submitted in writing to the speaker and 5553
minority leader of the house of representatives and the president 5554
and minority leader of the senate. 5555

After submitting the report, the director, in consultation 5556
with the governor, shall continue to evaluate the ~~department~~ 5557
agency and make additional recommendations on such matters to the 5558
general assembly. 5559

Sec. 187.061. (A) Each officer and employee of JobsOhio shall 5560
do all of the following: 5561

(1) Sign an ethical conduct statement prescribed by the board 5562
of directors of JobsOhio; 5563

<u>(2) Complete an annual course or program of study on ethics.</u>	5564
<u>The course or program of study shall be reviewed and approved by</u>	5565
<u>the board of directors.</u>	5566
<u>(3) Comply with the gift policy prescribed by the board of</u>	5567
<u>directors.</u>	5568
<u>(B) Prior to the renewal of the contract between the director</u>	5569
<u>of development services and JobsOhio as described in section</u>	5570
<u>187.04 of the Revised Code, the board of directors shall submit to</u>	5571
<u>the controlling board a comprehensive review of the ethics</u>	5572
<u>policies and procedures that have been adopted by JobsOhio.</u>	5573
Sec. 929.03. (A)(1) No public entity with authority to levy	5574
special assessments on real property shall collect an assessment	5575
for purposes of sewer, water, or electrical service on real	5576
property that is within an agricultural district as described in	5577
division (A)(2) of this section without the permission of the	5578
owner, except that any assessment may be collected on a lot	5579
surrounding a dwelling or other structure not used in agricultural	5580
production that does not exceed one acre or the minimum area	5581
required by local zoning or subdivision rules, whichever is the	5582
greater area.	5583
(2) For purposes of division (A)(1) of this section, an	5584
agricultural district is such a district that is established:	5585
(a) In the case of counties, prior to the adoption of a	5586
resolution of necessity by a board of county commissioners,	5587
pursuant to section 6103.05 or 6117.06 of the Revised Code;	5588
(b) In the case of municipal corporations, prior to whichever	5589
of the following occurs first:	5590
(i) The adoption of the resolution of necessity by the	5591
municipal legislative authority, pursuant to section 727.12 or	5592
729.02 of the Revised Code;	5593

(ii) The service of notice on all or some of the owners to be assessed pursuant to section 729.06 of the Revised Code; 5594
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(iii) The adoption of the resolution or ordinance by the municipal legislative authority declaring the necessity for the improvement, the costs of which are to be assessed under procedures authorized by a municipal charter adopted pursuant to Section 7 of Article XVIII, Ohio Constitution, or, if no such ordinance or resolution is required under the charter, the service of the first notice on all or some of the owners of lands to be assessed, or the adoption of the first ordinance or resolution by the municipal legislative authority pertaining to the assessment proceedings under the charter. 5596
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(c) In the case of a regional water and sewer district established pursuant to Chapter 6119. of the Revised Code, prior to the adoption of a resolution of necessity by the board of trustees of the district under section 6119.25 of the Revised Code. 5606
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(B) For each special assessment levied by a public entity on real property within an agricultural district for purposes of sewer, water, or electrical service, the county auditor shall make and maintain a list showing: 5611
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(1) The name of the owner of each lot, tract, or parcel of land that is exempt from the collection of the special assessment under this section; 5615
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(2) A description of the exempt land; 5618

(3) The purpose of the special assessment; 5619

(4) The amount of the uncollected assessment on the exempt land. 5620
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In the case of a county project constructed under Chapter 6103. or 6117. of the Revised Code, the county auditor may use a 5622
5623

list provided for in those chapters in lieu of the list required 5624
by division (B) of this section. The auditor shall also record in 5625
the water works record required by section 6103.16 of the Revised 5626
Code or the sewer improvement record required by section 6117.33 5627
of the Revised Code those assessments not collected under this 5628
section. The recording of the assessments does not permit the 5629
collection of the assessments until such time as exempt lands are 5630
withdrawn from agricultural districts or converted to 5631
nonagricultural use. 5632

(C) If at any time any of the owner's exempt land, other than 5633
a lot sold or transferred to a son, daughter, brother, sister, 5634
mother, or father for the purpose of constructing a dwelling in 5635
which the relative will reside for at least three years, is 5636
withdrawn from an agricultural district or if the owner of the 5637
exempt land uses on that land the service for which the special 5638
assessment was assessed, the public entity may collect the entire 5639
uncollected assessment, except as otherwise provided in this 5640
division, in addition to an amount equal to the rate of interest 5641
that any bonds or notes issued for the project for which the 5642
assessment was made did bear for the number of years the land was 5643
exempted, not to exceed twenty-five or the number of years for 5644
which the bonds or notes were issued, whichever is the lesser 5645
number. The owner shall notify the county auditor of any 5646
withdrawal from a district or use of the service within ninety 5647
days following the withdrawal or use of the service. The charge 5648
shall constitute a lien of the public entity upon the land and 5649
shall continue until discharged. All liens shall be recorded in 5650
the appropriate county recorder's office. Moneys collected as a 5651
result of the charge shall be deposited in the appropriate fund of 5652
the public entity that levied the special assessment. 5653

If the owner of exempt land sells or transfers a lot to ~~his~~ 5654
the owner's son, daughter, brother, sister, mother, or father for 5655

the purpose of constructing a dwelling in which the relative will 5656
reside for at least three years, and if the owner or the buyer of 5657
the lot uses the service for which the special assessment was 5658
assessed only to provide service to that lot, the owner of the lot 5659
shall pay only that portion of the uncollected assessment and 5660
interest that applies to the lot. 5661

If at any time any part of an owner's exempt land is 5662
appropriated, the owner shall pay only that portion of the 5663
uncollected assessment and interest that applies to the 5664
appropriated parcel of land. 5665

In lieu of immediate payment of the uncollected assessment 5666
and interest, the board of county commissioners, legislative 5667
authority of a municipal corporation, or other governing board of 5668
any other public entity may, upon the request of the owner, 5669
establish an extended repayment schedule for the owner. If the 5670
board, legislative authority, or other governing board establishes 5671
such a schedule, it shall notify the county auditor of the 5672
schedule. 5673

~~(D) A board of county commissioners, legislative authority of 5674
a municipal corporation, or other governing board of any other 5675
public entity may apply to the water and sewer commission, created 5676
by division (C) of section 1525.11 of the Revised Code, for an 5677
advance of moneys from the water and sewer fund, created by 5678
division (A) of section 1525.11 of the Revised Code, in an amount 5679
equal to that portion of the costs of a water or sewer improvement 5680
authorized by law that is to be financed by assessments whose 5681
collection is prohibited under division (A) of this section. The 5682
application for such an advance of moneys shall be made in the 5683
manner prescribed by rules of the commission. Upon collection of 5684
any assessment whose collection was prohibited under division (A) 5685
of this section, the board of county commissioners, legislative 5686
authority, or other governing board shall repay the commission the 5687~~

~~amount of any moneys advanced by it in regard to the assessments.~~ 5688

Sec. 1551.01. As used in this chapter: 5689

(A) "Governmental agency" means the United States government 5690
or any department, agency, or instrumentality thereof; any 5691
department, agency, or instrumentality of a state government; any 5692
municipal corporation, county, township, board of education, or 5693
other political subdivision or any other body corporate and 5694
politic of a state; or any agency, commission, or authority 5695
established under an interstate compact or agreement. 5696

(B) "Energy resource development facility" means any energy 5697
resource development, research, or conservation facility, 5698
including pilot as well as demonstration facilities, and including 5699
undivided or other interests therein, acquired or to be acquired, 5700
or constructed or to be constructed under this chapter or Chapter 5701
6121. or 6123. of the Revised Code, or acquired or to be acquired, 5702
or constructed or to be constructed by a governmental agency or 5703
person with all or a part of the cost thereof being paid from a 5704
loan or grant under such chapters, including all buildings and 5705
facilities that the director of development services determines 5706
necessary for the operation of the facility, together with all 5707
property, rights, easements, and interests that may be required 5708
for the operation of the facility, which facilities may include: 5709

(1) Any building, testing facility, testing device, or 5710
support facilities which would provide experimental, 5711
demonstration, or testing capabilities or services not otherwise 5712
available in this state and which are necessary for the 5713
accomplishment of the purposes of this chapter; 5714

(2) Any method, process, structure, or equipment that is used 5715
to store coal, oil, natural gas, fuel for nuclear reactors, or any 5716
other form of energy; 5717

(3) Any method, process, structure, or equipment that is used 5718
to recover or convert coal, oil, natural gas, steam, or other form 5719
of energy from property located within the state for the purpose 5720
of supplying energy for utilization; 5721

(4) Any method, process, structure, or equipment that is 5722
designed to result in more efficient recovery, conversion, or 5723
utilization of energy resources within the state, including any 5724
scrap tire recovery facility for which a registration certificate 5725
or permit has been issued under section 3734.78 of the Revised 5726
Code; 5727

(5) Any improvement that is designed to improve the thermal 5728
efficiency of a building or structure or reduce the fuel or power 5729
needed to heat, cool, light, ventilate, or provide hot water in a 5730
building or structure; 5731

(6) Any improvement designed to enable the substitution of 5732
coal or alternate fuel, other than natural gas, for natural gas or 5733
a petroleum fuel, or the conversion of coal to other fuels; 5734

(7) Any improvement designed to enable the combustion of high 5735
sulfur coal in compliance with air or water pollution control or 5736
solid waste disposal laws, including, but not limited to, any 5737
facility for processing coal to remove sulfur before combustion of 5738
the coal, for fluidized bed combustion, or for removal of the 5739
sulfur before the products of combustion are emitted or 5740
discharged. 5741

(C) "Cost" as applied to an energy resource development 5742
facility means the cost of acquisition and construction, the cost 5743
of acquisition of all land, rights-of-way, property rights, 5744
easements, franchise rights, and interests required for such 5745
acquisition and construction, the cost of demolishing or removing 5746
any buildings or structures on land so acquired, including the 5747
cost of acquiring any lands to which such buildings or structures 5748

may be moved, the cost of acquiring or constructing and equipping 5749
a principal office and sub-offices of the department of 5750
development, the cost of diverting highways, interchange of 5751
highways, access roads to private property, including the cost of 5752
land or easements for such access roads, the cost of public 5753
utility and common carrier relocation or duplication, the cost of 5754
all machinery, furnishings, and equipment, financing charges, 5755
interest prior to and during construction and for no more than 5756
eighteen months after completion of construction, engineering, 5757
expenses of research and development with respect to the facility, 5758
legal expenses, plans, specifications, surveys, studies, estimates 5759
of cost and revenues, working capital, other expenses necessary or 5760
incident to determining the feasibility or practicability of 5761
acquiring or constructing such facility, administrative expense, 5762
and such other expense as may be necessary or incident to the 5763
acquisition or construction of the facility, the financing of such 5764
acquisition or construction, including the amount authorized in 5765
the resolution of the Ohio water development authority providing 5766
for the issuance of energy resource development revenue bonds to 5767
be paid into any special funds from the proceeds of such bonds, 5768
and the financing of the placing of such facility in operation. 5769
Any obligation, cost, or expense incurred after August 26, 1975, 5770
by any governmental agency or person for surveys, borings, 5771
preparation of plans and specifications, and other engineering 5772
services, or any other cost described above, in connection with 5773
the acquisition or construction of a facility may be regarded as a 5774
part of the cost of such facility and may be reimbursed out of the 5775
proceeds of energy resource development revenue bonds. 5776

(D) "Revenues" means all rentals and other charges received 5777
by the Ohio water development authority for the use or services of 5778
any energy resource development facility, any contract, gift, or 5779
grant received with respect to any energy resource development 5780
facility, and moneys received with respect to the lease, sublease, 5781

sale, including installment sale or conditional sale, or other 5782
disposition of an energy resource development facility, moneys 5783
received in repayment of and for interest on any loans made by the 5784
authority to a person or governmental agency, whether from the 5785
United States or any department, administration, or agency 5786
thereof, or otherwise, proceeds of energy resource development 5787
revenue bonds to the extent that the use thereof for payment of 5788
principal of, premium, if any, or interest on the bonds is 5789
authorized by the authority, proceeds from any insurance, 5790
condemnation, or guaranty pertaining to a facility or property 5791
mortgaged to secure bonds or pertaining to the financing of a 5792
facility, and income and profit from the investment of the 5793
proceeds of energy resource development revenue bonds or of any 5794
revenues. 5795

(E) "Construction," unless the context indicates a different 5796
meaning or intent, includes construction, reconstruction, 5797
enlargement, improvement, or providing furnishings or equipment. 5798

(F) "Energy resource development revenue bonds," unless the 5799
context indicates a different meaning or intent, includes energy 5800
resource development revenue bonds, energy resource development 5801
revenue notes, and energy resource development revenue refunding 5802
bonds. 5803

(G) "Energy" means work or heat that is, or can be, produced 5804
from any fuel or source whatsoever. 5805

(H) "Energy audit" means any process by which energy usage or 5806
costs of heating, cooling, lighting, and climate control in a 5807
building or structure are determined. 5808

(I) "Energy conservation" means preservation of energy 5809
resources by efficient utilization, and reduction of waste. 5810

(J) "Energy conservation measure" means any modification of a 5811
building, structure, machine, appliance, vehicle, improvement, or 5812

process in order to improve its efficiency of energy use or energy costs. 5813
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(K) "Fuel" means petroleum, crude oil, petroleum product, coal, natural gas, synthetic natural or artificial gas, nuclear, or other substance used primarily for its energy content. 5815
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(L) "Net energy analysis" means the determination of the amount of energy remaining after all energy outputs have been subtracted from the energy inputs of a given system. 5818
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(M) "Department of development" means the development services agency and "director of development" means the director of development services. 5821
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Sec. 3735.01. As used in this chapter, "department of development" means the development services agency and "director of development" means the director of development services. 5824
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Sec. 3735.672. (A) On or before the thirty-first day of March each year, a legislative authority that has entered into an agreement with a party under section 3735.671 of the Revised Code shall submit to the director of development services and the board of education of each school district of which a municipal corporation or township to which such an agreement applies is a part a report on all such agreements in effect during the preceding calendar year. The report shall include the following information: 5827
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(1) The designation, assigned by the director of development services, of each community reinvestment area within the municipal corporation or county, and the total population of each area according to the most recent data available; 5836
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(2) The number of agreements and the number of full-time employees subject to those agreements within each area, each according to the most recent data available and identified and 5840
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categorized by the appropriate standard industrial code, and the 5843
rate of unemployment in the municipal corporation or county in 5844
which the area is located for each year since the area was 5845
certified; 5846

(3) The number of agreements approved and executed during the 5847
calendar year for which the report is submitted, the total number 5848
of agreements in effect on the thirty-first day of December of the 5849
preceding calendar year, the number of agreements that expired 5850
during the calendar year for which the report is submitted, and 5851
the number of agreements scheduled to expire during the calendar 5852
year in which the report is submitted. For each agreement that 5853
expired during the calendar year for which the report is 5854
submitted, the legislative authority shall include the amount of 5855
taxes exempted under the agreement. 5856

(4) The number of agreements receiving compliance reviews by 5857
the tax incentive review council in the municipal corporation or 5858
county during the calendar year for which the report is submitted, 5859
including all of the following information: 5860

(a) The number of agreements the terms of which the party has 5861
complied with, indicating separately for each such agreement the 5862
value of the real property exempted pursuant to the agreement and 5863
a comparison of the stipulated and actual schedules for hiring new 5864
employees, for retaining existing employees, and for the amount of 5865
payroll of the party attributable to these employees; 5866

(b) The number of agreements the terms of which a party has 5867
failed to comply with, indicating separately for each such 5868
agreement the value of the real and personal property exempted 5869
pursuant to the agreement and a comparison of the stipulated and 5870
actual schedules for hiring new employees, for retaining existing 5871
employees, and for the amount of payroll of the enterprise 5872
attributable to these employees; 5873

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority, and the number of such recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(5) The number of parties subject to agreements that expanded within each area, including the number of new employees hired and existing employees retained by that party, and the number of new parties subject to agreements that established within each area, including the number of new employees hired by each party;

(6) For each agreement in effect during any part of the preceding year, the number of employees employed by the party at the property that is the subject of the agreement immediately prior to formal approval of the agreement, the number of employees employed by the party at that property on the thirty-first day of December of the preceding year, the payroll of the party for the preceding year, the amount of taxes paid on real property that was exempted under the agreement, and the amount of such taxes that were not paid because of the exemption.

(B) Upon the failure of a municipal corporation or county to comply with division (A) of this section:

(1) Beginning on the first day of April of the calendar year in which the municipal corporation or county fails to comply with that division, the municipal corporation or county shall not enter into any agreements under section 3735.671 of the Revised Code until the municipal corporation or county has complied with division (A) of this section.

(2) On the first day of each ensuing calendar month until the municipal corporation or county complies with that division, the director of development services shall either order the proper

county auditor to deduct from the next succeeding payment of taxes 5905
to the municipal corporation or county under section 321.31, 5906
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5907
five hundred dollars for each calendar month the municipal 5908
corporation or county fails to comply with that division, or order 5909
the county auditor to deduct such an amount from the next 5910
succeeding payment to the municipal corporation or county from the 5911
undivided local government fund under section 5747.51 of the 5912
Revised Code. At the time such a payment is made, the county 5913
auditor shall comply with the director's order by issuing a 5914
warrant, drawn on the fund from which such money would have been 5915
paid, to the director of development services, who shall deposit 5916
the warrant into the state community reinvestment area program 5917
administration fund created in division (C) of this section. 5918

(C) The director, by rule, shall establish the state's 5919
application fee for applications submitted to a municipal 5920
corporation or county to enter into an agreement under section 5921
3735.671 of the Revised Code. In establishing the amount of the 5922
fee, the director shall consider the state's cost of administering 5923
the community reinvestment area program, including the cost of 5924
reviewing the reports required under division (A) of this section. 5925
The director may change the amount of the fee at such times and in 5926
such increments as the director considers necessary. Any municipal 5927
corporation or county that receives an application shall collect 5928
the application fee and remit the fee for deposit in the state 5929
treasury to the credit of the ~~tax incentive programs operating~~ 5930
business assistance fund created in section 122.174 of the Revised 5931
Code. 5932

Sec. 3746.35. (A) Not later than September 1, 1996, and not 5933
later than the first day of September of each subsequent year, the 5934
director of environmental protection shall prepare and submit to 5935
the chairpersons of the respective standing committees of the 5936

senate and house of representatives primarily responsible for 5937
considering environmental and taxation matters a report regarding 5938
the voluntary action program established under this chapter and 5939
rules adopted under it and the tax abatements granted pursuant to 5940
sections 5709.87 and 5709.88 of the Revised Code for properties 5941
where voluntary actions were conducted. Each annual report shall 5942
include, without limitation, all of the following: 5943

(1) Both of the following for each property for which a 5944
covenant not to sue was issued under section 3746.12 of the 5945
Revised Code during the preceding calendar year: 5946

(a) The address of the property and name of the person who 5947
undertook the voluntary action at the property; 5948

(b) Whether the applicable standards governing the voluntary 5949
action were the interim standards established in section 3746.07 5950
of the Revised Code or the generic numerical clean-up standards 5951
established in rules adopted under division (B)(1) of section 5952
3746.04 of the Revised Code, were established through the 5953
performance of a risk assessment pursuant to rules adopted under 5954
division (B)(2) of section 3746.04 of the Revised Code, or were 5955
set forth in a variance issued under section 3746.09 of the 5956
Revised Code. 5957

(2) All of the following for each property for which a 5958
variance was issued under section 3746.09 of the Revised Code 5959
during the preceding calendar year: 5960

(a) The address of the property and the name of the person to 5961
whom the variance was issued; 5962

(b) A summary of the alternative standards and terms and 5963
conditions of the variance and brief description of the 5964
improvement in environmental conditions at the property that is 5965
anticipated to result from compliance with the alternative 5966
standards and terms and conditions set forth in the variance; 5967

(c) A brief description of the economic benefits to the person to whom the variance was issued and the community in which the property is located that are anticipated to result from the undertaking of the voluntary action in compliance with the alternative standards and terms and conditions set forth in the variance.

(3) The number of audits performed under section 3746.17 of the Revised Code during the preceding calendar year and, in connection with each of them, at least the following information:

(a) The address of the property in connection with which the audit was performed and the name of the person who undertook the voluntary action at the property;

(b) An indication as to whether the audit was a random audit or was conducted in accordance with the priorities established in rules adopted under divisions (A)(9)(a) to (f) of section 3746.04 of the Revised Code and, if the audit was conducted in accordance with those priorities, an indication as to which of them resulted in the selection of the voluntary action for an audit;

(c) A brief summary of the findings of the audit and any action taken by the environmental protection agency as a result of those findings.

(4) The number of covenants not to sue revoked during the preceding calendar year through the operation of divisions (A)(2)(c) and (B) of section 3746.12, division (B)(2) of section 3746.18, and division (B) of section 3746.19 of the Revised Code and for each property for which a covenant was revoked, at least both of the following:

(a) The address of the property affected by the revocation and name of the person who undertook the voluntary action at the property;

(b) The reason for the revocation.

(5) The amount of money credited to the voluntary action 5999
administration fund created in section 3746.16 of the Revised Code 6000
during the preceding fiscal year from the fees established in 6001
divisions (D) and (H) of section 3746.07 and division (C) of 6002
section 3746.13 of the Revised Code and from civil penalties 6003
imposed under section 3746.22 of the Revised Code. The report 6004
shall indicate the amount of money that arose from each of the 6005
fees and from the civil penalties. The report also shall include 6006
the amount of money expended from the fund during the preceding 6007
fiscal year by program category, including, without limitation, 6008
the amount expended for conducting audits under section 3746.17 of 6009
the Revised Code during the preceding fiscal year. 6010

(6) For each property that is receiving a tax abatement under 6011
section 5709.87 of the Revised Code for the preceding tax year, 6012
the amount of the valuation exempted from real property taxation 6013
for that tax year under that section. In order to comply with 6014
division (A)(6) of this section, the director shall include in the 6015
annual report the report required ~~to be provided to the director~~ 6016
~~by the director of development~~ under division (B)(2) of this 6017
section. ~~The sole responsibility of the director of environmental~~ 6018
~~protection regarding the report provided to the director under~~ 6019
~~that division is to include it in the annual report prepared under~~ 6020
~~division (A) of this section.~~ 6021

(7) For each property that is receiving a tax abatement 6022
pursuant to an agreement with a municipal corporation or county 6023
entered into under section 5709.88 of the Revised Code, the amount 6024
of the valuation exempted from real or personal property taxation. 6025
In order to comply with division (A)(7) of this section, the 6026
director shall include in the annual report the report required ~~to~~ 6027
~~be provided to the director by the director of development~~ under 6028
division (C) of this section. ~~The sole responsibility of the~~ 6029
~~director of environmental protection regarding the report provided~~ 6030

~~to the director under that division is to include it in the annual
report prepared under division (A) of this section.~~ 6031
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(B)(1) Not later than March 31, 1996, the county auditor of 6033
each county in which is located any property that is receiving a 6034
tax abatement under section 5709.87 of the Revised Code shall 6035
report to the director of ~~development~~ environmental protection for 6036
each such property both of the following as applicable to tax year 6037
1995: 6038

(a) The address of the property and the name of the owner as 6039
stated in the records of the county auditor of the county in which 6040
the property is located; 6041

(b) The amount of the valuation of the property that was 6042
exempted from real property taxation under that section. 6043

Not later than the thirty-first day of March of each 6044
subsequent year, each such county auditor shall report the 6045
information described in those divisions to the director of 6046
~~development~~ environmental protection for each property within the 6047
county that is receiving a tax abatement under that section for 6048
the preceding tax year. 6049

(2) Not later than July 1, 1996, and not later than the first 6050
day of July of each subsequent year, the director of ~~development~~ 6051
environmental protection shall compile the information provided to 6052
the director under division (B)(1) of this section applicable to 6053
the preceding tax year into a report covering all of the counties 6054
in the state in which are located properties receiving a tax 6055
abatement under section 5709.87 of the Revised Code for the 6056
preceding tax year ~~and shall forward the report to the director of~~ 6057
~~environmental protection. The sole responsibility of the director~~ 6058
~~of development in preparing the report is to compile the~~ 6059
~~information submitted to the director by the county auditors under~~ 6060
~~division (B)(1) of this section.~~ 6061

(C) Not later than July 1, 1996, and not later than the first 6062
day of July of each subsequent year, the director of ~~development~~ 6063
environmental protection shall compile the information provided to 6064
the director by municipal corporations and counties under division 6065
(A) of section 5709.882 of the Revised Code applicable to the 6066
preceding calendar year into a report covering, by county, all of 6067
the municipal corporations and counties in this state in which are 6068
located properties receiving a tax abatement pursuant to an 6069
agreement entered into under section 5709.88 of the Revised Code 6070
~~and shall forward the report to the director of environmental~~ 6071
~~protection. The sole responsibility of the director of development~~ 6072
~~in preparing the report is to compile the information submitted to~~ 6073
~~him by municipal corporations and counties under division (A) of~~ 6074
~~section 5709.882 of the Revised Code.~~ 6075

Sec. 5117.22. All petroleum violation escrow funds received 6076
by this state from the federal government shall be deposited in 6077
the state treasury to the credit of the energy oil overcharge 6078
fund, which is hereby created. The fund shall be used by the 6079
~~department of development~~ services agency for energy conservation 6080
and assistance programs approved by the United States department 6081
of energy. All investment earnings of the fund shall be credited 6082
to the fund. 6083

Sec. 5701.15. As used in Title LVII of the Revised Code, 6084
"department of development" means the development services agency 6085
and "director of development" means the director of development 6086
services. 6087

Sec. 5709.68. (A) On or before the thirty-first day of March 6088
each year, a municipal corporation or county that has entered into 6089
an agreement with an enterprise under section 5709.62, 5709.63, or 6090
5709.632 of the Revised Code shall submit to the director of 6091

development services and the board of education of each school 6092
district of which a municipal corporation or township to which 6093
such an agreement applies is a part a report on all of those 6094
agreements in effect during the preceding calendar year. The 6095
report shall include all of the following information: 6096

(1) The designation, assigned by the director of development 6097
services, of each urban jobs and enterprise zone within the 6098
municipal corporation or county, the date each zone was certified, 6099
the name of each municipal corporation or township within each 6100
zone, and the total population of each zone according to the most 6101
recent data available; 6102

(2) The number of enterprises that are subject to those 6103
agreements and the number of full-time employees subject to those 6104
agreements within each zone, each according to the most recent 6105
data available and identified and categorized by the appropriate 6106
standard industrial code, and the rate of unemployment in the 6107
municipal corporation or county in which the zone is located for 6108
each year since each zone was certified; 6109

(3) The number of agreements approved and executed during the 6110
calendar year for which the report is submitted, the total number 6111
of agreements in effect on the thirty-first day of December of the 6112
preceding calendar year, the number of agreements that expired 6113
during the calendar year for which the report is submitted, and 6114
the number of agreements scheduled to expire during the calendar 6115
year in which the report is submitted. For each agreement that 6116
expired during the calendar year for which the report is 6117
submitted, the municipal corporation or county shall include the 6118
amount of taxes exempted and the estimated dollar value of any 6119
other incentives provided under the agreement. 6120

(4) The number of agreements receiving compliance reviews by 6121
the tax incentive review council in the municipal corporation or 6122
county during the calendar year for which the report is submitted, 6123

including all of the following information: 6124

(a) The number of agreements the terms of which an enterprise 6125
has complied with, indicating separately for each agreement the 6126
value of the real and personal property exempted pursuant to the 6127
agreement and a comparison of the stipulated and actual schedules 6128
for hiring new employees, for retaining existing employees, for 6129
the amount of payroll of the enterprise attributable to these 6130
employees, and for investing in establishing, expanding, 6131
renovating, or occupying a facility; 6132

(b) The number of agreements the terms of which an enterprise 6133
has failed to comply with, indicating separately for each 6134
agreement the value of the real and personal property exempted 6135
pursuant to the agreement and a comparison of the stipulated and 6136
actual schedules for hiring new employees, for retaining existing 6137
employees, for the amount of payroll of the enterprise 6138
attributable to these employees, and for investing in 6139
establishing, expanding, renovating, or occupying a facility; 6140

(c) The number of agreements about which the tax incentive 6141
review council made recommendations to the legislative authority 6142
of the municipal corporation or county, and the number of those 6143
recommendations that have not been followed; 6144

(d) The number of agreements rescinded during the calendar 6145
year for which the report is submitted. 6146

(5) The number of enterprises that are subject to agreements 6147
that expanded within each zone, including the number of new 6148
employees hired and existing employees retained by each 6149
enterprise, and the number of new enterprises that are subject to 6150
agreements and that established within each zone, including the 6151
number of new employees hired by each enterprise; 6152

(6)(a) The number of enterprises that are subject to 6153
agreements and that closed or reduced employment at any place of 6154

business within the state for the primary purpose of establishing, 6155
expanding, renovating, or occupying a facility, indicating 6156
separately for each enterprise the political subdivision in which 6157
the enterprise closed or reduced employment at a place of business 6158
and the number of full-time employees transferred and retained by 6159
each such place of business; 6160

(b) The number of enterprises that are subject to agreements 6161
and that closed or reduced employment at any place of business 6162
outside the state for the primary purpose of establishing, 6163
expanding, renovating, or occupying a facility. 6164

(7) For each agreement in effect during any part of the 6165
preceding year, the number of employees employed by the enterprise 6166
at the project site immediately prior to formal approval of the 6167
agreement, the number of employees employed by the enterprise at 6168
the project site on the thirty-first day of December of the 6169
preceding year, the payroll of the enterprise for the preceding 6170
year, the amount of taxes paid on tangible personal property 6171
situated at the project site and the amount of those taxes that 6172
were not paid because of the exemption granted under the 6173
agreement, and the amount of taxes paid on real property 6174
constituting the project site and the amount of those taxes that 6175
were not paid because of the exemption granted under the 6176
agreement. If an agreement was entered into under section 5709.632 6177
of the Revised Code with an enterprise described in division 6178
(B)(2) of that section, the report shall include the number of 6179
employee positions at all of the enterprise's locations in this 6180
state. If an agreement is conditioned on a waiver issued under 6181
division (B) of section 5709.633 of the Revised Code on the basis 6182
of the circumstance described in division (B)(3)(a) or (b) of that 6183
section, the report shall include the number of employees at the 6184
facilities referred to in division (B)(3)(a)(i) or (b)(i) of that 6185
section, respectively. 6186

(B) Upon the failure of a municipal corporation or county to 6187
comply with division (A) of this section: 6188

(1) Beginning on the first day of April of the calendar year 6189
in which the municipal corporation or county fails to comply with 6190
that division, the municipal corporation or county shall not enter 6191
into any agreements with an enterprise under section 5709.62, 6192
5709.63, or 5709.632 of the Revised Code until the municipal 6193
corporation or county has complied with division (A) of this 6194
section. 6195

(2) On the first day of each ensuing calendar month until the 6196
municipal corporation or county complies with division (A) of this 6197
section, the director of development services shall either order 6198
the proper county auditor to deduct from the next succeeding 6199
payment of taxes to the municipal corporation or county under 6200
section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an 6201
amount equal to one thousand dollars for each calendar month the 6202
municipal corporation or county fails to comply with that 6203
division, or order the county auditor to deduct that amount from 6204
the next succeeding payment to the municipal corporation or county 6205
from the undivided local government fund under section 5747.51 of 6206
the Revised Code. At the time such a payment is made, the county 6207
auditor shall comply with the director's order by issuing a 6208
warrant, drawn on the fund from which the money would have been 6209
paid, to the director of development services, who shall deposit 6210
the warrant into the state enterprise zone program administration 6211
fund created in division (C) of this section. 6212

(C) The director, by rule, shall establish the state's 6213
application fee for applications submitted to a municipal 6214
corporation or county to enter into an agreement under section 6215
5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing 6216
the amount of the fee, the director shall consider the state's 6217
cost of administering the enterprise zone program, including the 6218

cost of reviewing the reports required under division (A) of this 6219
section. The director may change the amount of the fee at the 6220
times and in the increments the director considers necessary. Any 6221
municipal corporation or county that receives an application shall 6222
collect the application fee and remit the fee for deposit in the 6223
state treasury to the credit of the ~~tax incentive programs~~ 6224
~~operating~~ business assistance fund created in section 122.174 of 6225
the Revised Code. 6226

(D) On or before the thirtieth day of June each year, the 6227
director of development services shall certify to the tax 6228
commissioner the information described under division (A)(7) of 6229
this section, derived from the reports submitted to the director 6230
under this section. 6231

On the basis of the information certified under this 6232
division, the tax commissioner annually shall submit a report to 6233
the governor, the speaker of the house of representatives, the 6234
president of the senate, and the chairpersons of the ways and 6235
means committees of the respective houses of the general assembly, 6236
indicating for each enterprise zone the amount of state and local 6237
taxes that were not required to be paid because of exemptions 6238
granted under agreements entered into under section 5709.62, 6239
5709.63, or 5709.632 of the Revised Code and the amount of 6240
additional taxes paid from the payroll of new employees. 6241

Sec. 5709.882. (A) On or before the thirty-first day of March 6242
each year, a municipal corporation or county that has entered into 6243
an agreement with an enterprise under section 5709.88 of the 6244
Revised Code shall submit to the ~~director~~ directors of development 6245
services and environmental protection and the board of education 6246
of each school district of which a municipal corporation or county 6247
to which such an agreement applies is a part a report on all such 6248
agreements in effect during the preceding calendar year. The 6249

report shall include all of the following information: 6250

(1) The number of enterprises that are subject to such 6251
agreements and the number of full-time employees subject to those 6252
agreements in the county or municipal corporation; 6253

(2) The number of agreements approved and executed during the 6254
calendar year for which the report is submitted, the total number 6255
of agreements in effect on the thirty-first day of December of the 6256
preceding calendar year, the number of agreements that expired 6257
during the calendar year for which the report is submitted, and 6258
the number of agreements scheduled to expire during the calendar 6259
year in which the report is submitted. For each agreement that 6260
expired during the calendar year for which the report is 6261
submitted, the municipal corporation or county shall include the 6262
amount of taxes exempted and the estimated dollar value of any 6263
other incentives provided under the agreement. 6264

(3) The number of agreements receiving compliance reviews by 6265
the tax incentive review council in the municipal corporation or 6266
county under section 5709.883 of the Revised Code during the 6267
calendar year for which the report is submitted, including all of 6268
the following information: 6269

(a) The number of agreements the terms of which an enterprise 6270
has complied with, indicating separately for each such agreement 6271
the value of the real and personal property exempted pursuant to 6272
the agreement and a comparison of the stipulated and actual 6273
schedules for hiring new employees, for retaining existing 6274
employees, for the amount of payroll of the enterprise 6275
attributable to these employees, and for remediating and investing 6276
in establishing, expanding, renovating, or occupying a facility; 6277

(b) The number of agreements the terms of which an enterprise 6278
has failed to comply with, indicating separately for each such 6279
agreement the value of the real and personal property exempted 6280

pursuant to the agreement and a comparison of the stipulated and 6281
actual schedules for hiring new employees, for retaining existing 6282
employees, for the amount of payroll of the enterprise 6283
attributable to these employees, and for remediating and investing 6284
in establishing, expanding, renovating, or occupying a facility; 6285

(c) The number of agreements about which the tax incentive 6286
review council made recommendations to the legislative authority 6287
of the municipal corporation or county, and the number of such 6288
recommendations that have not been followed; 6289

(d) The number of agreements rescinded during the calendar 6290
year for which the report is submitted. 6291

(4) The number of enterprises that are subject to agreements 6292
and the number of new employees hired and existing employees 6293
retained by each such enterprise; 6294

(5)(a) The number of enterprises that are subject to 6295
agreements and that closed or reduced employment at any place of 6296
business within the state for the primary purpose of remediating 6297
and establishing, expanding, renovating, or occupying a facility, 6298
indicating separately for each such enterprise the political 6299
subdivision in which the enterprise closed or reduced employment 6300
at a place of business and the number of full-time employees 6301
transferred and retained by each such place of business; 6302

(b) The number of enterprises that are subject to agreements 6303
and that closed or reduced employment at any place of business 6304
outside the state for the primary purpose of remediating and 6305
establishing, expanding, renovating, or occupying a facility. 6306

(B) Upon the failure of a municipal corporation or county to 6307
comply with division (A) of this section, both of the following 6308
apply: 6309

(1) Beginning on the first day of April of the calendar year 6310
in which the municipal corporation or county fails to comply with 6311

that division, the municipal corporation or county shall not enter 6312
into any agreements with an enterprise under section 5709.88 of 6313
the Revised Code until the municipal corporation or county has 6314
complied with division (A) of this section; 6315

(2) On the first day of each ensuing calendar month until the 6316
municipal corporation or county complies with that division, the 6317
director of development services shall either order the proper 6318
county auditor to deduct from the next succeeding payment of taxes 6319
to the municipal corporation or county under section 321.31, 6320
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 6321
five hundred dollars for each calendar month the municipal 6322
corporation or county fails to comply with that division, or order 6323
the county auditor to deduct such an amount from the next 6324
succeeding payment to the municipal corporation or county from the 6325
undivided local government fund under section 5747.51 of the 6326
Revised Code. At the time such a payment is made, the county 6327
auditor shall comply with the director's order by issuing a 6328
warrant, drawn on the fund from which such money would have been 6329
paid, to the director of development services, who shall deposit 6330
the warrant into the contaminated sites development program 6331
administration fund created in division (C) of this section. 6332

(C) The director, by rule, shall establish the state's 6333
application fee for applications submitted to a municipal 6334
corporation or county to enter into an agreement under section 6335
5709.88 of the Revised Code. In establishing the amount of the 6336
fee, the director shall consider the state's cost of administering 6337
this section and section 5709.88 of the Revised Code. The director 6338
may change the amount of the fee at such times and in such 6339
increments as ~~he~~ the director considers necessary. Any municipal 6340
corporation or county that receives an application shall collect 6341
the application fee and remit the fee for deposit in the state 6342
treasury to the credit of the contaminated sites development 6343

program administration fund, which is hereby created. Money 6344
credited to the fund shall be used by the ~~department of~~ 6345
development services agency to pay the costs of administering this 6346
section and section 5709.88 of the Revised Code. 6347

Sec. 6103.052. (A) ~~A board of county commissioners may apply~~ 6348
~~to the water and sewer commission, created by division (C) of~~ 6349
~~section 1525.11 of the Revised Code, for an advance of moneys from~~ 6350
~~the water and sewer fund, created by division (A) of section~~ 6351
~~1525.11 of the Revised Code, in an amount equal to that portion of~~ 6352
~~the costs of an improvement authorized under sections 6103.02 to~~ 6353
~~6103.30 of the Revised Code which is to be financed by assessments~~ 6354
~~whose collection is deferred pursuant to division (B) of this~~ 6355
~~section. The application for such an advance of moneys shall be~~ 6356
~~made in the manner prescribed by rules of the commission.~~ 6357

~~(B)~~ At any time prior to the expiration of the five-day 6358
period provided by section 6103.05 of the Revised Code for the 6359
filing of written objections, any owner of property which is 6360
classified on the general tax list of the county auditor as 6361
agricultural land and has been assessed for the extension of a 6362
main water line over or along such property under sections 6103.02 6363
to 6103.30 of the Revised Code may file with the board of county 6364
commissioners a request in writing for deferment of the collection 6365
of ~~his~~ the owner's assessment if the main water line ~~serves a~~ 6366
~~purpose set forth in section 1525.13 of the Revised Code for which~~ 6367
~~the water and sewer fund may be used~~ provides water facilities to 6368
aid in the establishment of new industrial plants, the expansion 6369
of existing industrial plants, or such other industrial 6370
development, or provides water facilities to aid in the 6371
establishment of commercial and residential developments. Such 6372
request shall identify the property in connection with which the 6373
request for deferment is made, shall describe its present use and 6374
present classification on the general tax list of the county 6375

auditor, shall state its estimated market value, showing 6376
separately the value of the land and the value of the buildings 6377
thereon, shall state the reasons, if any, why a portion of the 6378
benefit of the improvement will not be realized until the use of 6379
the land is changed, and shall state the amount to be deferred. 6380
The board shall promptly consider such request and may order the 6381
deferment of the collection of that portion of the assessment 6382
representing a benefit from the improvement that will not be 6383
realized until the use of the land is changed. The board may, upon 6384
request of an owner whose property has been assessed for the 6385
extension of a main water line over or along such property under 6386
sections 6103.02 to 6103.31 of the Revised Code, defer all or any 6387
part of the assessment on property which is classified on the 6388
general tax list of the county auditor as agricultural land, by 6389
attributing the amount of such assessment or part thereof as 6390
tap-in charges, if the main water line ~~serves a purpose set forth~~ 6391
~~in section 1525.13 of the Revised Code for which the water and~~ 6392
~~sewer fund may be used. A deferment under this section may be~~ 6393
~~conditioned upon the approval of the advance of moneys applied for~~ 6394
~~pursuant to division (A) of this section, and a maximum length of~~ 6395
~~the deferment may be fixed to coincide with the maximum time~~ 6396
~~within which the advance must be repaid. The decision on the~~ 6397
~~request for deferment of collection of assessments shall be made~~ 6398
~~pursuant to standards established by rules of the commission~~ 6399
provides water facilities to aid in the establishment of new 6400
industrial plants, the expansion of existing industrial plants, or 6401
such other industrial development, or provides water facilities to 6402
aid in the establishment of commercial and residential 6403
developments. Upon determination and approval of final 6404
assessments, the board of county commissioners shall certify all 6405
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6406
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6407
~~the Revised Code attributable to the two per cent of the amount of~~ 6408

the deferred assessments to the county auditor. For purposes of 6409
this section, "assessment," "deferred assessment," or "assessment 6410
deferred under this section" mean the fee and the deferred 6411
assessment certified to the county auditor. The county auditor 6412
shall record an assessment deferred under this section in the 6413
water works record. Such record shall be kept until such time as 6414
the assessments are paid in full or certified for collection in 6415
installments as provided in this section. During the time when the 6416
assessment is deferred there shall be a lien on the property 6417
assessed, which lien shall arise at the time of recordation by the 6418
county auditor and shall be in force until the assessments are 6419
paid in full or certified for collection in installments. 6420

~~(C)~~(B) The board of county commissioners shall defer the 6421
collection of an assessment, except the amount of such assessment 6422
or part thereof attributable as tap-in charges, which has been 6423
deferred pursuant to division ~~(B)~~(A) of this section on or before 6424
January 1, 1987, beyond the expiration of the maximum time for the 6425
original deferment if the property owner requests in writing, no 6426
later than six months prior to the expiration of the original 6427
deferment, that the assessment be further deferred and as long as 6428
the property owner's land could qualify for placement in an 6429
agricultural district pursuant to section 929.02 of the Revised 6430
Code. 6431

The board shall regularly review the use and ownership of the 6432
property for which the collection of assessments has been deferred 6433
pursuant to this division, and upon finding that the land could no 6434
longer qualify for placement in an agricultural district pursuant 6435
to section 929.02 of the Revised Code, the board shall immediately 6436
collect, without interest, the full amount of the assessment 6437
~~deferred and repay the commission the amount of any moneys~~ 6438
~~advanced by it in regard to such assessment. The board shall pay~~ 6439
~~all such amounts to the commission in one annual payment or longer~~ 6440

~~period as approved by the commission. The board shall pay, from 6441
the general funds of the county, interest annually at the interest 6442
rate per annum equal to that rate of interest published as the 6443
20 bond index rate in "The Bond Buyer" minus four per cent per 6444
annum or at five per cent per annum, whichever is greater, for any 6445
moneys not repaid to the commission pursuant to this division 6446
within one year of the date of the disqualification of the 6447
property for the continual deferment which requires such 6448
repayment. The interest rate for any moneys not repaid to the 6449
commission shall be calculated one year from the date of the 6450
disqualification of the property for the continual deferment which 6451
requires such repayment, and annually thereafter. 6452~~

~~(D)(C)~~ The board of county commissioners shall send a notice 6453
by regular or certified mail to all owners of property on which 6454
assessments have been deferred pursuant to division ~~(B)(A)~~ of this 6455
section, which lists the expiration of the deferment, not later 6456
than two hundred ten days prior to the expiration of the deferment 6457
of those assessments. 6458

~~(E)(D)~~ The board shall collect the assessments, without 6459
interest, which have been deferred pursuant to division ~~(B)(A)~~ of 6460
this section upon expiration of the maximum time for which 6461
deferments were made ~~and repay the commission the amount of any~~ 6462
~~moneys advanced by it in regard to such assessments; provided,~~ 6463
that for a property owner who requests in writing, no later than 6464
six months prior to the expiration of the deferment period, that 6465
payment of ~~his~~ the owner's deferred assessments be in 6466
installments, the board of county commissioners upon expiration of 6467
the deferment period may by resolution further certify for 6468
collection pursuant to section 6103.16 of the Revised Code, such 6469
deferred assessments in installments over not more than twenty 6470
years, as determined by the board, together with interest thereon 6471
each year on the unpaid balance at the same rate borne by bonds of 6472

the county which shall be issued in anticipation thereof as 6473
provided in Chapter 133. of the Revised Code, ~~and the proceeds of~~ 6474
~~the bond issue used to repay such deferred assessments to the~~ 6475
~~commission.~~ 6476

Assessments which have been deferred by attribution as tap-in 6477
charges under division ~~(B)~~(A) of this section shall be collected 6478
as deferred assessments at that time. ~~As the board collects tap-in~~ 6479
~~charges which are deferred assessments under division (B) of this~~ 6480
~~section, it shall repay the commission the amount thereof which~~ 6481
~~was advanced by it in regard to such assessments.~~ An owner of 6482
property for which assessments have been deferred under division 6483
~~(B)~~(A) of this section, in requesting a tap-in may, subject to the 6484
approval of the board, designate a part of an entire assessed 6485
tract as the part which the tap-in is to serve, and the board 6486
shall collect the deferred assessment on that tract in the 6487
proportion that the part bears to the entire tract, on a front 6488
foot or other basis approved by the commission, but if in the 6489
judgment of the board the tap-in is reasonably intended to serve 6490
the entire tract or substantially all of the tract, it shall 6491
collect the deferred assessment for the entire tract. 6492

Prior to the expiration of the maximum time of deferment, the 6493
board shall regularly review the use of the property for which the 6494
collection of assessments has been deferred and upon finding, 6495
~~pursuant to the rules of the commission,~~ that the use of the land 6496
has changed from the use at the time of the deferment so that the 6497
benefit of the improvement can then be realized, the board shall 6498
immediately collect the full amount of the assessment for the 6499
portion of the property for which the use has so changed, without 6500
interest, ~~and repay the commission the amount of any moneys~~ 6501
~~advanced by it in regard to such assessment. The board shall pay~~ 6502
~~all such amounts to the commission in one annual payment or longer~~ 6503
~~period as approved by the commission. The board of county~~ 6504

~~commissioners shall pay, from the general funds of the county, 6505
interest annually at the interest rate per annum equal to that 6506
rate of interest published as the 20 bond index rate in "The Bond 6507
Buyer" minus four per cent per annum or at five per cent per 6508
annum, whichever is greater, for any moneys not repaid to the 6509
commission pursuant to this division within one year of the date 6510
of the change in the use of property requiring such repayment, or 6511
of the date upon which payment of a tap in charge is required by 6512
law to be made, whichever date is applicable. The interest rate 6513
for any moneys not repaid to the commission shall be calculated 6514
one year from the date of the change in the use of property 6515
requiring such repayment or from the date upon which payment of a 6516
tap in charge is required by law to be made, whichever date is 6517
applicable, and annually thereafter. 6518~~

~~Sec. 6117.062. (A) A board of county commissioners may apply 6519
to the water and sewer commission, created by division (C) of 6520
section 1525.11 of the Revised Code, for an advance of moneys from 6521
the water and sewer fund, created by division (A) of section 6522
1525.11 of the Revised Code, in an amount equal to that portion of 6523
the costs of an improvement authorized under sections 6117.01 to 6524
6117.45 of the Revised Code which is to be financed by assessments 6525
whose collection is deferred pursuant to division (B) of this 6526
section. The application for such an advance of moneys shall be 6527
made in the manner prescribed by rules of the commission. 6528~~

~~(B) At any time prior to the expiration of the five-day 6529
period provided by section 6117.06 of the Revised Code for the 6530
filing of written objections, any owner of property which is 6531
classified on the general tax list of the county auditor as 6532
agricultural land and has been assessed for the extension of a 6533
trunk sewer line over or along such property under sections 6534
6117.01 to 6117.45 of the Revised Code may file with the board of 6535
county commissioners a request in writing for deferment of the 6536~~

collection of ~~his~~ the assessment if the trunk sewer line ~~serves a~~ 6537
~~purpose, as set forth in section 1525.13 of the Revised Code, for~~ 6538
~~which the fund may be used~~ provides sewer facilities to aid in the 6539
establishment of new industrial plants, the expansion of existing 6540
industrial plants, or such other industrial development, or 6541
provides sewer facilities to aid in the establishment of 6542
commercial and residential developments. Such request shall 6543
identify the property in connection with which the request for 6544
deferment is made, shall describe its present use and present 6545
classification on the general tax list of the county auditor, 6546
shall state its estimated market value, showing separately the 6547
value of the land and the value of the buildings thereon, shall 6548
state the reasons, if any, why a portion of the benefit of the 6549
improvement will not be realized until the use of the land is 6550
changed, and shall state the amount to be deferred. The board 6551
shall promptly consider such request and may order the deferment 6552
of the collection of that portion of the assessment representing a 6553
benefit from the improvement which will not be realized until the 6554
use of the land is changed. The board may, upon request of an 6555
owner whose property has been assessed for the extension of a 6556
trunk sewer line over or along such property under sections 6557
6117.01 to 6117.45 of the Revised Code, defer all or any part of 6558
the assessment on property which is classified on the general tax 6559
list as agricultural land, by attributing the amount of such 6560
assessment or part thereof as tap-in charges, if the trunk sewer 6561
line ~~serves a purpose set forth in section 1525.13 of the Revised~~ 6562
~~Code for which the fund may be used. A deferment under this~~ 6563
~~section may be conditioned upon the approval of the advance of~~ 6564
~~moneys applied for pursuant to division (A) of this section, and a~~ 6565
~~maximum length of the deferment may be fixed to coincide with the~~ 6566
~~maximum time within which the advance must be repaid. The decision~~ 6567
~~on the request for deferment of collection of assessments shall be~~ 6568
~~made pursuant to standards established by rules of the commission~~ 6569

provides sewer facilities to aid in the establishment of new 6570
industrial plants, the expansion of existing industrial plants, or 6571
such other industrial development, or provides sewer facilities to 6572
aid in the establishment of commercial and residential 6573
developments. Upon determination and approval of final 6574
assessments, the board of county commissioners shall certify all 6575
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6576
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6577
~~the Revised Code attributable to the deferred payments~~ two per 6578
cent of the amount of the deferred assessments to the county 6579
auditor. For purposes of this section, "assessment," "deferred 6580
assessment," or "assessment deferred under this section" mean the 6581
fee and the deferred assessment certified to the county auditor. 6582
The county auditor shall record an assessment deferred under this 6583
section in the sewer improvement record. Such record shall be kept 6584
until such time as the assessments are paid in full or certified 6585
for collection in installments as provided in this section. During 6586
the time when the assessment is deferred there shall be a lien on 6587
the property assessed, which lien shall arise at the time of 6588
recordation by the county auditor and which shall be in force 6589
until the assessments are paid in full or certified for collection 6590
in installments. 6591

~~(C)~~(B) The board of county commissioners shall defer the 6592
collection of an assessment, except the amount of such assessment 6593
or part thereof attributable as tap-in charges, which has been 6594
deferred pursuant to division ~~(B)~~(A) of this section on or before 6595
January 1, 1987, beyond the expiration of the maximum time for the 6596
original deferment if the property owner requests in writing, no 6597
later than six months prior to the expiration of the original 6598
deferment, that the assessment be further deferred and as long as 6599
the property owner's land could qualify for placement in an 6600
agricultural district pursuant to section 929.02 of the Revised 6601
Code. 6602

The board shall regularly review the use and ownership of the property for which the collection of assessments has been deferred pursuant to this division, and upon finding that the land could no longer qualify for placement in an agricultural district pursuant to section 929.02 of the Revised Code, the board shall immediately collect, without interest, the full amount of the assessment deferred ~~and repay the commission the amount of any moneys advanced by it in regard to such assessment. The board shall pay all such amounts to the commission in one annual payment or longer period as approved by the commission. The board shall pay, from the general funds of the county, interest annually at the interest rate per annum equal to that rate of interest published as the 20 bond index rate in "The Bond Buyer" minus four per cent per annum or at five per cent per annum, whichever rate is greater, for any moneys not repaid to the commission pursuant to this division within one year of the date of the disqualification of the property for the continual deferment which requires such repayment. The interest rate for any moneys not repaid to the commission shall be calculated one year from the date of the disqualification of the property for the continual deferment which requires such repayment, and annually thereafter.~~

~~(D)~~(C) The board of county commissioners shall send a notice by regular or certified mail to all owners of property on which assessments have been deferred pursuant to division ~~(B)~~(A) of this section, which lists the expiration of the deferment, not later than two hundred ten days prior to the expiration of the deferment of those assessments.

~~(E)~~(D) The board shall collect assessments, without interest, which have been deferred pursuant to division ~~(B)~~(A) of this section upon expiration of the maximum time for which deferments were made ~~and repay the commission the amount of any moneys advanced by it in regard to such assessments;~~ provided that for a

property owner who requests in writing, no later than six months 6635
prior to the expiration of the deferment period, that payment of 6636
~~his~~ the deferred assessments be in installments, the board of 6637
county commissioners upon expiration of the deferment period may 6638
by resolution further certify for collection pursuant to section 6639
6117.33 of the Revised Code, such deferred assessments in 6640
installments over not more than twenty years, as determined by the 6641
board, together with interest thereon each year on the unpaid 6642
balance at the same rate borne by bonds of the county which shall 6643
be issued in anticipation thereof as provided in Chapter 133. of 6644
the Revised Code, ~~and the proceeds of the bond issue used to repay~~ 6645
~~such deferred assessments to the commission.~~ Prior to the 6646
expiration of the maximum time of deferment, the board shall 6647
regularly review the use of the property for which the collection 6648
of assessments has been deferred and upon finding, ~~pursuant to the~~ 6649
~~rules of the commission,~~ that the use of the land has changed from 6650
the use at the time of the deferment so that the benefit of the 6651
improvement can then be realized, the board shall immediately 6652
collect the full amount of the assessment for the portion of the 6653
property for which the use has so changed, without interest, ~~and~~ 6654
~~repay the commission the amount of any moneys advanced by it in~~ 6655
~~regard to such assessment. The board shall pay all such amounts to~~ 6656
~~the commission in one annual payment or longer period as approved~~ 6657
~~by the commission. The board shall pay, from the general funds of~~ 6658
~~the county, interest annually at the interest rate per annum equal~~ 6659
~~to that rate of interest published as the 20 bond index rate in~~ 6660
~~"The Bond Buyer" minus four per cent per annum or at five per cent~~ 6661
~~per annum, whichever is greater, for any moneys not repaid to the~~ 6662
~~commission pursuant to this division within one year of the date~~ 6663
~~of the change in the use of property requiring such repayment, or~~ 6664
~~of the date upon which payment of a tap in charge is required by~~ 6665
~~law to be made, whichever date is applicable. The interest rate~~ 6666
~~for any moneys not repaid to the commission shall be calculated~~ 6667

~~one year from the date of the change in the use of property 6668
requiring such repayment or from the date upon which payment of a 6669
tap in charge is required by law to be made, whichever date is 6670
applicable, and annually thereafter. 6671~~

Section 2. That existing sections 9.981, 102.03, 121.02, 6672
121.03, 121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 6673
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 6674
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 6675
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 6676
122.86, 149.311, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 6677
166.05, 166.11, 166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 6678
174.01, 184.01, 187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 6679
3735.672, 3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6680
6117.062 and sections 122.40, 1525.11, 1525.12, 1525.13, and 6681
6111.034 of the Revised Code are hereby repealed. 6682

Section 3. In enacting this act, it is the intent of the 6683
General Assembly that changing the name of the "Department of 6684
Development" to the Development Services Agency and the name of 6685
the "Director of Development" to the Director of Development 6686
Services does not do either of the following: 6687

(A) Make substantive changes in statutory law; 6688

(B) Cause unnecessary expense. The letterhead, forms, printed 6689
materials, and signage displaying the former name of the 6690
Department may be used until they are replaced. 6691

Section 4. Upon the effective date of this act, all 6692
references to the Department of Development or Director of 6693
Development in other uncodified sections of law in Am. Sub. H.B. 6694
153 of the 129th General Assembly and Am. Sub. H.B. 114 of the 6695
129th General Assembly, shall be deemed to refer to the 6696
Development Services Agency or the Director of Development 6697

Services, respectively. 6698

Section 5. (A) There is hereby established a five-year pilot 6699
program to test a new funding mechanism for the state's travel and 6700
tourism marketing. The funding mechanism shall begin operation in 6701
fiscal year 2014 and be calculated as follows: 6702

(1)(a) Not later than the twentieth day of October of each 6703
year, starting in 2013 and ending in 2017, the Tax Commissioner 6704
shall calculate the growth in fiscal year sales tax revenue from 6705
certain defined categories that are related to tourism and certify 6706
that amount to the Director of Budget and Management. 6707

(b) Not later than the twentieth day of October of each year, 6708
starting in 2013 and ending in 2017, the Commissioner shall 6709
calculate and certify to the Director the difference, if greater 6710
than zero, between the revenue collected from the tax imposed 6711
under section 5739.02 of the Revised Code during the twelve-month 6712
period ending on the last day of the preceding June and the 6713
revenue collected during the same twelve-month period one year 6714
earlier, for all vendors classified under the industry codes 6715
identified in division (A)(2) of this section. On or before the 6716
last day of October of each year, starting in 2013 and ending in 6717
2017, the Director of Budget and Management shall transfer from 6718
the General Revenue Fund to the Tourism Fund created in section 6719
122.072 of the Revised Code the amount certified by the 6720
Commissioner under this division, except that the transfer shall 6721
not exceed ten million dollars for any fiscal year. 6722

(c) Each fiscal year, beginning in fiscal year 2015, the Tax 6723
Commissioner shall adjust the ten million annual dollar limit on 6724
transfers to the Tourism Fund. The adjustment shall be made by 6725
adding to the annual limit the product of multiplying the limit 6726
for the preceding fiscal year by the sum of one plus the 6727

percentage increase in the Consumer Price Index for all urban 6728
consumers for the Midwest region, as determined by the United 6729
States Bureau of Labor Statistics, for the twelve-month period 6730
corresponding to the preceding fiscal year. The result shall be 6731
rounded to the nearest one thousand dollars. The calculation of 6732
the percentage increase in the Consumer Price Index shall be done 6733
by taking the average index value over the twelve months of the 6734
last completed fiscal year and comparing that to the average index 6735
value over the twelve months of the immediately preceding fiscal 6736
year. 6737

(2) The following industries included in the industrial 6738
classification system used by the Tax Commissioner shall be used 6739
in the computations under division (A)(1) of this section: air 6740
transportation; water transportation; interurban and rural bus 6741
transportation; taxi service; limousine service; other transit and 6742
ground passenger transportation; scenic and sightseeing 6743
transportation; support activities for air transportation; 6744
automotive equipment rental and leasing; travel arrangement and 6745
reservation services; performing arts companies; spectator sports; 6746
independent artists, writers, and performers; museums, historical 6747
sites, and similar institutions; amusement parks and arcades; 6748
gambling industries; hotels and motels; casino hotels; 6749
bed-and-breakfast inns; other travel accommodations; recreational 6750
vehicle parks and recreational camps; full-service restaurants; 6751
limited-service eating places; drinking places (alcoholic 6752
beverages). 6753

(B) The pilot program shall terminate when the last transfer 6754
of funds made in accordance with division (A)(1)(b) of this 6755
section occurs in fiscal year 2018, specifically in October 2017. 6756
At that time, the Director of Development Services, the Director 6757
of Budget and Management, and the Tax Commissioner shall jointly 6758
review the pilot program and make recommendations to the Governor 6759

and the General Assembly on whether to make the funding mechanism 6760
permanent and, if so, whether any changes should be made to it. If 6761
the recommendation is to make the funding mechanism permanent, the 6762
Director of Development Services, the Director of Budget and 6763
Management, and the Tax Commissioner shall also study and make 6764
recommendations to the Governor and the General Assembly as to 6765
whether the Office of TourismOhio and its functions should be 6766
removed from the Development Services Agency and established as a 6767
private nonprofit corporation or a subsidiary corporation of 6768
JobsOhio. 6769

Section 6. (A) As used in this section, "federal act" means 6770
the "Small Business Liability Relief and Brownfields 6771
Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and 6772
9604. 6773

(B) There is hereby created in the state treasury the 6774
Brownfields Revolving Loan Fund. The Fund shall consist of all 6775
moneys received by the state from the United States Department of 6776
Environmental Protection under the federal act. The Fund shall be 6777
used to make grants and loans by the Director of Development 6778
Services. 6779

(C) The Director shall administer moneys received into the 6780
Fund and comply with all requirements imposed by the federal act 6781
in its application for, and administration of, the funds as grants 6782
and loans. 6783

(D) The Director shall establish a schedule of fees and 6784
charges payable by grant and loan recipients to the Director for 6785
the administration of this section. 6786

Section 7. The amendment by this act adding division (C)(2) 6787
to section 122.17 of the Revised Code does not apply to projects 6788
that are completed before the effective date of this section. 6789

Section 8. Section 122.42 of the Revised Code is presented in 6790
this act as a composite of the section as amended by both Am. Sub. 6791
H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. The 6792
General Assembly, applying the principle stated in division (B) of 6793
section 1.52 of the Revised Code that amendments are to be 6794
harmonized if reasonably capable of simultaneous operation, finds 6795
that the composite is the resulting version of the section in 6796
effect prior to the effective date of the section as presented in 6797
this act. 6798

Section 9. Section 149.43 of the Revised Code is presented in 6799
this act as a composite of the section as amended by both Sub. 6800
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 6801
General Assembly, applying the principle stated in division (B) of 6802
section 1.52 of the Revised Code that amendments are to be 6803
harmonized if reasonably capable of simultaneous operation, finds 6804
that the composite is the resulting version of the section in 6805
effect prior to the effective date of the section as presented in 6806
this act. 6807