

As Passed by the Senate

129th General Assembly

Regular Session

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Am. Sub. S. B. No. 314

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**

—

A B I L L

To amend sections 9.981, 102.03, 121.02, 121.03, 1
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 2
122.171, 122.174, 122.175, 122.39, 122.41, 122.42, 3
122.43, 122.44, 122.48, 122.49, 122.50, 122.51, 4
122.52, 122.53, 122.561, 122.57, 122.60, 122.601, 5
122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 6
122.80, 122.86, 149.43, 164.05, 164.06, 164.08, 7
166.01, 166.04, 166.05, 166.13, 166.14, 166.18, 8
166.19, 166.25, 166.30, 174.01, 184.01, 187.01, 9
187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 10
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 11
6117.062, to amend, for the purpose of adopting 12
new section numbers as indicated in parentheses, 13
sections 122.07 (122.073) and 122.071 (122.072), 14
to enact new sections 122.07 and 122.071 and 15
sections 122.942, 122.97, 184.011, 187.061, 16
3735.01, and 5701.15, and to repeal sections 17
122.40, 1525.11, 1525.12, 1525.13, and 6111.034 of 18
the Revised Code; to amend Sections 261.10.40, 19
261.10.70, 261.20.40, 261.20.50, 261.20.60, 20
261.20.80, 261.20.90, 261.30.10, 261.30.20, 21

261.30.30, 261.30.40, 261.30.60, 261.30.70, 22
261.30.80, 261.30.90, and 261.40.10 of Am. Sub. 23
H.B. 153 of the 129th General Assembly; to amend 24
Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 25
of the 129th General Assembly, as subsequently 26
amended by Sub. H.B. 371 of the 129th General 27
Assembly; and to repeal Sections 261.10.10, 28
261.10.20, 261.10.30, 261.10.50, 261.10.60, 29
261.10.80, 261.10.90, 261.20.10, 261.20.20, 30
261.20.70, and 261.30.50 of Am. Sub. H.B. 153 of 31
the 129th General Assembly to rename the 32
Department of Development the "Development 33
Services Agency"; to establish the Office of 34
TourismOhio within the Development Services 35
Agency, create the TourismOhio Advisory Board, and 36
establish a pilot program to test a new funding 37
mechanism for the state's travel and tourism 38
marketing; to modify the operation of JobsOhio, 39
including by requiring annual ethics training, 40
ethical conduct statements, and the development of 41
a gift policy; to makes changes to the Capital 42
Access Loan Program Fund and to allow transfers to 43
the Capital Access Loan Program Fund from the 44
Minority Business Enterprise Loan Fund; to provide 45
for projects that were started prior to receiving 46
a tax credit from the Ohio Tax Credit Authority; 47
to modify reporting requirements under the 48
Voluntary Action Program; to require the Director 49
of Development Services to administer federal 50
funds received for Brownfields revitalization 51
purposes; to terminate the Water and Sewer 52
Commission; to terminate the Development Financing 53
Advisory Council; to require the Director of 54

Development Services to make certain information 55
available to the public with respect to each 56
project for which state-funded financial 57
assistance is awarded by the Development Services 58
Agency; to increase the membership of the Third 59
Frontier Commission; and to make an appropriation. 60

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

Section 1. That sections 9.981, 102.03, 121.02, 121.03, 61
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 62
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 63
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 64
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 65
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 66
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 67
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 68
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6117.062 be 69
amended, sections 122.07 (122.073) and 122.071 (122.072) be 70
amended for the purpose of adopting new section numbers as 71
indicated in parentheses, and new sections 122.07 and 122.071 and 72
sections 122.942, 122.97, 184.011, 187.061, 3735.01, and 5701.15 73
of the Revised Code be enacted to read as follows: 74

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code 75
are applicable to bonds: 76

(1) The payment of the debt service on which is to be 77
provided for directly or indirectly by payments contracted to be 78
made in the bond proceedings by the absolute obligors, being 79
persons other than the issuer; and 80

(2) Which are authorized to be issued under sections 122.39 81
and 122.41 to 122.62, Chapter 165., 902., 3377., 3706., division 82

(A)(4) of section 4582.06, division (A)(8) of section 4582.31, 83
section 4582.48, or Chapter 6121. or 6123. of the Revised Code, 84
notwithstanding other provisions therein. 85

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 86
to bonds issued under sections 306.37 and 6119.12 of the Revised 87
Code and Chapters 140., 152., 154., 175., and 349. of the Revised 88
Code, and to any bonds authorized under laws which expressly make 89
those sections applicable. 90

(C) Subject to division (A) of this section, the authority 91
provided in sections 9.98 to 9.983 of the Revised Code is 92
supplemental to and not in derogation of any similar authority 93
provided by, derived from, or implied by, any law, the Ohio 94
Constitution, or any charter, resolution, or ordinance, and no 95
inference shall be drawn to negate the authority thereunder by 96
reason of the express provisions of sections 9.98 to 9.983 of the 97
Revised Code. 98

(D) Sections 9.98 to 9.983 of the Revised Code shall be 99
liberally construed to permit flexibility in the arrangements 100
therein provided to enhance the issuance of such bonds and provide 101
for terms most beneficial and satisfactory to the persons which 102
undertake to provide for their payment, security, and liquidity. 103

Sec. 102.03. (A)(1) No present or former public official or 104
employee shall, during public employment or service or for twelve 105
months thereafter, represent a client or act in a representative 106
capacity for any person on any matter in which the public official 107
or employee personally participated as a public official or 108
employee through decision, approval, disapproval, recommendation, 109
the rendering of advice, investigation, or other substantial 110
exercise of administrative discretion. 111

(2) For twenty-four months after the conclusion of service, 112
no former commissioner or attorney examiner of the public 113

utilities commission shall represent a public utility, as defined 114
in section 4905.02 of the Revised Code, or act in a representative 115
capacity on behalf of such a utility before any state board, 116
commission, or agency. 117

(3) For twenty-four months after the conclusion of employment 118
or service, no former public official or employee who personally 119
participated as a public official or employee through decision, 120
approval, disapproval, recommendation, the rendering of advice, 121
the development or adoption of solid waste management plans, 122
investigation, inspection, or other substantial exercise of 123
administrative discretion under Chapter 343. or 3734. of the 124
Revised Code shall represent a person who is the owner or operator 125
of a facility, as defined in section 3734.01 of the Revised Code, 126
or who is an applicant for a permit or license for a facility 127
under that chapter, on any matter in which the public official or 128
employee personally participated as a public official or employee. 129

(4) For a period of one year after the conclusion of 130
employment or service as a member or employee of the general 131
assembly, no former member or employee of the general assembly 132
shall represent, or act in a representative capacity for, any 133
person on any matter before the general assembly, any committee of 134
the general assembly, or the controlling board. Division (A)(4) of 135
this section does not apply to or affect a person who separates 136
from service with the general assembly on or before December 31, 137
1995. As used in division (A)(4) of this section "person" does not 138
include any state agency or political subdivision of the state. 139

(5) As used in divisions (A)(1), (2), and (3) of this 140
section, "matter" includes any case, proceeding, application, 141
determination, issue, or question, but does not include the 142
proposal, consideration, or enactment of statutes, rules, 143
ordinances, resolutions, or charter or constitutional amendments. 144
As used in division (A)(4) of this section, "matter" includes the 145

proposal, consideration, or enactment of statutes, resolutions, or 146
constitutional amendments. As used in division (A) of this 147
section, "represent" includes any formal or informal appearance 148
before, or any written or oral communication with, any public 149
agency on behalf of any person. 150

(6) Nothing contained in division (A) of this section shall 151
prohibit, during such period, a former public official or employee 152
from being retained or employed to represent, assist, or act in a 153
representative capacity for the public agency by which the public 154
official or employee was employed or on which the public official 155
or employee served. 156

(7) Division (A) of this section shall not be construed to 157
prohibit the performance of ministerial functions, including, but 158
not limited to, the filing or amendment of tax returns, 159
applications for permits and licenses, incorporation papers, and 160
other similar documents. 161

(8) Division (A) of this section does not prohibit a 162
nonelected public official or employee of a state agency, as 163
defined in section 1.60 of the Revised Code, from becoming a 164
public official or employee of another state agency. Division (A) 165
of this section does not prohibit such an official or employee 166
from representing or acting in a representative capacity for the 167
official's or employee's new state agency on any matter in which 168
the public official or employee personally participated as a 169
public official or employee at the official's or employee's former 170
state agency. However, no public official or employee of a state 171
agency shall, during public employment or for twelve months 172
thereafter, represent or act in a representative capacity for the 173
official's or employee's new state agency on any audit or 174
investigation pertaining to the official's or employee's new state 175
agency in which the public official or employee personally 176
participated at the official's or employee's former state agency 177

through decision, approval, disapproval, recommendation, the 178
rendering of advice, investigation, or other substantial exercise 179
of administrative discretion. 180

(9) Division (A) of this section does not prohibit a 181
nonelected public official or employee of a political subdivision 182
from becoming a public official or employee of a different 183
department, division, agency, office, or unit of the same 184
political subdivision. Division (A) of this section does not 185
prohibit such an official or employee from representing or acting 186
in a representative capacity for the official's or employee's new 187
department, division, agency, office, or unit on any matter in 188
which the public official or employee personally participated as a 189
public official or employee at the official's or employee's former 190
department, division, agency, office, or unit of the same 191
political subdivision. As used in this division, "political 192
subdivision" means a county, township, municipal corporation, or 193
any other body corporate and politic that is responsible for 194
government activities in a geographic area smaller than that of 195
the state. 196

(10) No present or former Ohio casino control commission 197
official shall, during public service or for two years thereafter, 198
represent a client, be employed or compensated by a person 199
regulated by the commission, or act in a representative capacity 200
for any person on any matter before or concerning the commission. 201

No present or former commission employee shall, during public 202
employment or for two years thereafter, represent a client or act 203
in a representative capacity on any matter in which the employee 204
personally participated as a commission employee through decision, 205
approval, disapproval, recommendation, the rendering of advice, 206
investigation, or other substantial exercise of administrative 207
discretion. 208

(B) No present or former public official or employee shall 209

disclose or use, without appropriate authorization, any 210
information acquired by the public official or employee in the 211
course of the public official's or employee's official duties that 212
is confidential because of statutory provisions, or that has been 213
clearly designated to the public official or employee as 214
confidential when that confidential designation is warranted 215
because of the status of the proceedings or the circumstances 216
under which the information was received and preserving its 217
confidentiality is necessary to the proper conduct of government 218
business. 219

(C) No public official or employee shall participate within 220
the scope of duties as a public official or employee, except 221
through ministerial functions as defined in division (A) of this 222
section, in any license or rate-making proceeding that directly 223
affects the license or rates of any person, partnership, trust, 224
business trust, corporation, or association in which the public 225
official or employee or immediate family owns or controls more 226
than five per cent. No public official or employee shall 227
participate within the scope of duties as a public official or 228
employee, except through ministerial functions as defined in 229
division (A) of this section, in any license or rate-making 230
proceeding that directly affects the license or rates of any 231
person to whom the public official or employee or immediate 232
family, or a partnership, trust, business trust, corporation, or 233
association of which the public official or employee or the public 234
official's or employee's immediate family owns or controls more 235
than five per cent, has sold goods or services totaling more than 236
one thousand dollars during the preceding year, unless the public 237
official or employee has filed a written statement acknowledging 238
that sale with the clerk or secretary of the public agency and the 239
statement is entered in any public record of the agency's 240
proceedings. This division shall not be construed to require the 241
disclosure of clients of attorneys or persons licensed under 242

section 4732.12 or 4732.15 of the Revised Code, or patients of 243
persons certified under section 4731.14 of the Revised Code. 244

(D) No public official or employee shall use or authorize the 245
use of the authority or influence of office or employment to 246
secure anything of value or the promise or offer of anything of 247
value that is of such a character as to manifest a substantial and 248
improper influence upon the public official or employee with 249
respect to that person's duties. 250

(E) No public official or employee shall solicit or accept 251
anything of value that is of such a character as to manifest a 252
substantial and improper influence upon the public official or 253
employee with respect to that person's duties. 254

(F) No person shall promise or give to a public official or 255
employee anything of value that is of such a character as to 256
manifest a substantial and improper influence upon the public 257
official or employee with respect to that person's duties. 258

(G) In the absence of bribery or another offense under the 259
Revised Code or a purpose to defraud, contributions made to a 260
campaign committee, political party, legislative campaign fund, 261
political action committee, or political contributing entity on 262
behalf of an elected public officer or other public official or 263
employee who seeks elective office shall be considered to accrue 264
ordinarily to the public official or employee for the purposes of 265
divisions (D), (E), and (F) of this section. 266

As used in this division, "contributions," "campaign 267
committee," "political party," "legislative campaign fund," 268
"political action committee," and "political contributing entity" 269
have the same meanings as in section 3517.01 of the Revised Code. 270

(H)(1) No public official or employee, except for the 271
president or other chief administrative officer or a member of 272
a board of trustees of a state institution of higher education as 273

defined in section 3345.011 of the Revised Code, who is required 274
to file a financial disclosure statement under section 102.02 of 275
the Revised Code shall solicit or accept, and no person shall give 276
to that public official or employee, an honorarium. Except as 277
provided in division (H)(2) of this section, this division and 278
divisions (D), (E), and (F) of this section do not prohibit a 279
public official or employee who is required to file a financial 280
disclosure statement under section 102.02 of the Revised Code from 281
accepting and do not prohibit a person from giving to that public 282
official or employee the payment of actual travel expenses, 283
including any expenses incurred in connection with the travel for 284
lodging, and meals, food, and beverages provided to the public 285
official or employee at a meeting at which the public official or 286
employee participates in a panel, seminar, or speaking engagement 287
or provided to the public official or employee at a meeting or 288
convention of a national organization to which any state agency, 289
including, but not limited to, any state legislative agency or 290
state institution of higher education as defined in section 291
3345.011 of the Revised Code, pays membership dues. Except as 292
provided in division (H)(2) of this section, this division and 293
divisions (D), (E), and (F) of this section do not prohibit a 294
public official or employee who is not required to file a 295
financial disclosure statement under section 102.02 of the Revised 296
Code from accepting and do not prohibit a person from promising or 297
giving to that public official or employee an honorarium or the 298
payment of travel, meal, and lodging expenses if the honorarium, 299
expenses, or both were paid in recognition of demonstrable 300
business, professional, or esthetic interests of the public 301
official or employee that exist apart from public office or 302
employment, including, but not limited to, such a demonstrable 303
interest in public speaking and were not paid by any person or 304
other entity, or by any representative or association of those 305
persons or entities, that is regulated by, doing business with, or 306

seeking to do business with the department, division, institution, 307
board, commission, authority, bureau, or other instrumentality of 308
the governmental entity with which the public official or employee 309
serves. 310

(2) No person who is a member of the board of a state 311
retirement system, a state retirement system investment officer, 312
or an employee of a state retirement system whose position 313
involves substantial and material exercise of discretion in the 314
investment of retirement system funds shall solicit or accept, and 315
no person shall give to that board member, officer, or employee, 316
payment of actual travel expenses, including expenses incurred 317
with the travel for lodging, meals, food, and beverages. 318

(I) A public official or employee may accept travel, meals, 319
and lodging or expenses or reimbursement of expenses for travel, 320
meals, and lodging in connection with conferences, seminars, and 321
similar events related to official duties if the travel, meals, 322
and lodging, expenses, or reimbursement is not of such a character 323
as to manifest a substantial and improper influence upon the 324
public official or employee with respect to that person's duties. 325
The house of representatives and senate, in their code of ethics, 326
and the Ohio ethics commission, under section 111.15 of the 327
Revised Code, may adopt rules setting standards and conditions for 328
the furnishing and acceptance of such travel, meals, and lodging, 329
expenses, or reimbursement. 330

A person who acts in compliance with this division and any 331
applicable rules adopted under it, or any applicable, similar 332
rules adopted by the supreme court governing judicial officers and 333
employees, does not violate division (D), (E), or (F) of this 334
section. This division does not preclude any person from seeking 335
an advisory opinion from the appropriate ethics commission under 336
section 102.08 of the Revised Code. 337

(J) For purposes of divisions (D), (E), and (F) of this 338

section, the membership of a public official or employee in an 339
organization shall not be considered, in and of itself, to be of 340
such a character as to manifest a substantial and improper 341
influence on the public official or employee with respect to that 342
person's duties. As used in this division, "organization" means a 343
church or a religious, benevolent, fraternal, or professional 344
organization that is tax exempt under subsection 501(a) and 345
described in subsection 501(c)(3), (4), (8), (10), or (19) of the 346
"Internal Revenue Code of 1986." This division does not apply to a 347
public official or employee who is an employee of an organization, 348
serves as a trustee, director, or officer of an organization, or 349
otherwise holds a fiduciary relationship with an organization. 350
This division does not allow a public official or employee who is 351
a member of an organization to participate, formally or 352
informally, in deliberations, discussions, or voting on a matter 353
or to use ~~his~~ the public official's or employee's official 354
position with regard to the interests of the organization on the 355
matter if the public official or employee has assumed a particular 356
responsibility in the organization with respect to the matter or 357
if the matter would affect that person's personal, pecuniary 358
interests. 359

(K) It is not a violation of this section for a prosecuting 360
attorney to appoint assistants and employees in accordance with 361
division (B) of section 309.06 and section 2921.421 of the Revised 362
Code, for a chief legal officer of a municipal corporation or an 363
official designated as prosecutor in a municipal corporation to 364
appoint assistants and employees in accordance with sections 365
733.621 and 2921.421 of the Revised Code, for a township law 366
director appointed under section 504.15 of the Revised Code to 367
appoint assistants and employees in accordance with sections 368
504.151 and 2921.421 of the Revised Code, or for a coroner to 369
appoint assistants and employees in accordance with division (B) 370
of section 313.05 of the Revised Code. 371

As used in this division, "chief legal officer" has the same 372
meaning as in section 733.621 of the Revised Code. 373

(L) No present public official or employee with a casino 374
gaming regulatory function shall indirectly invest, by way of an 375
entity the public official or employee has an ownership interest 376
or control in, or directly invest in a casino operator, management 377
company, holding company, casino facility, or gaming-related 378
vendor. No present public official or employee with a casino 379
gaming regulatory function shall directly or indirectly have a 380
financial interest in, have an ownership interest in, be the 381
creditor or hold a debt instrument issued by, or have an interest 382
in a contractual or service relationship with a casino operator, 383
management company, holding company, casino facility, or 384
gaming-related vendor. This section does not prohibit or limit 385
permitted passive investing by the public official or employee. 386

As used in this division, "passive investing" means 387
investment by the public official or employee by means of a mutual 388
fund in which the public official or employee has no control of 389
the investments or investment decisions. "Casino operator," 390
"holding company," "management company," "casino facility," and 391
"gaming-related vendor" have the same meanings as in section 392
3772.01 of the Revised Code. 393

(M) A member of the Ohio casino control commission, the 394
executive director of the commission, or an employee of the 395
commission shall not: 396

(1) Accept anything of value, including but not limited to a 397
gift, gratuity, emolument, or employment from a casino operator, 398
management company, or other person subject to the jurisdiction of 399
the commission, or from an officer, attorney, agent, or employee 400
of a casino operator, management company, or other person subject 401
to the jurisdiction of the commission; 402

(2) Solicit, suggest, request, or recommend, directly or 403
indirectly, to a casino operator, management company, or other 404
person subject to the jurisdiction of the commission, or to an 405
officer, attorney, agent, or employee of a casino operator, 406
management company, or other person subject to the jurisdiction of 407
the commission, the appointment of a person to an office, place, 408
position, or employment; 409

(3) Participate in casino gaming or any other amusement or 410
activity at a casino facility in this state or at an affiliate 411
gaming facility of a licensed casino operator, wherever located. 412

In addition to the penalty provided in section 102.99 of the 413
Revised Code, whoever violates division (M)(1), (2), or (3) of 414
this section forfeits the individual's office or employment. 415

Sec. 121.02. The following administrative departments and 416
their respective directors are hereby created: 417

(A) The office of budget and management, which shall be 418
administered by the director of budget and management; 419

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

(C) The department of administrative services, which shall be 422
administered by the director of administrative services; 423

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

(E) The department of agriculture, which shall be 426
administered by the director of agriculture; 427

(F) The department of natural resources, which shall be 428
administered by the director of natural resources; 429

(G) The department of health, which shall be administered by 430
the director of health; 431

(H) The department of job and family services, which shall be administered by the director of job and family services;	432 433
(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;	434 435
(J) The department of public safety, which shall be administered by the director of public safety;	436 437
(K) The department of mental health, which shall be administered by the director of mental health;	438 439
(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;	440 441
(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;	442 443
(N) The department of development <u>services agency</u> , which shall be administered by the director of development <u>services</u> ;	444 445
(O) The department of youth services, which shall be administered by the director of youth services;	446 447
(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;	448 449 450
(Q) The environmental protection agency, which shall be administered by the director of environmental protection;	451 452
(R) The department of aging, which shall be administered by the director of aging;	453 454
(S) The department of alcohol and drug addiction services, which shall be administered by the director of alcohol and drug addiction services;	455 456 457
(T) The department of veterans services, which shall be administered by the director of veterans services.	458 459
The director of each department shall exercise the powers and	460

perform the duties vested by law in such department. 461

Sec. 121.03. The following administrative department heads 462
shall be appointed by the governor, with the advice and consent of 463
the senate, and shall hold their offices during the term of the 464
appointing governor, and are subject to removal at the pleasure of 465
the governor. 466

(A) The director of budget and management; 467

(B) The director of commerce; 468

(C) The director of transportation; 469

(D) The director of agriculture; 470

(E) The director of job and family services; 471

(F) Until July 1, 1997, the director of liquor control; 472

(G) The director of public safety; 473

(H) The superintendent of insurance; 474

(I) The director of development services; 475

(J) The tax commissioner; 476

(K) The director of administrative services; 477

(L) The director of natural resources; 478

(M) The director of mental health; 479

(N) The director of developmental disabilities; 480

(O) The director of health; 481

(P) The director of youth services; 482

(Q) The director of rehabilitation and correction; 483

(R) The director of environmental protection; 484

(S) The director of aging; 485

(T) The director of alcohol and drug addiction services; 486

(U) The administrator of workers' compensation who meets the 487
qualifications required under division (A) of section 4121.121 of 488
the Revised Code; 489

(V) The director of veterans services who meets the 490
qualifications required under section 5902.01 of the Revised Code; 491

(W) The chancellor of the Ohio board of regents. 492

Sec. 121.22. (A) This section shall be liberally construed to 493
require public officials to take official action and to conduct 494
all deliberations upon official business only in open meetings 495
unless the subject matter is specifically excepted by law. 496

(B) As used in this section: 497

(1) "Public body" means any of the following: 498

(a) Any board, commission, committee, council, or similar 499
decision-making body of a state agency, institution, or authority, 500
and any legislative authority or board, commission, committee, 501
council, agency, authority, or similar decision-making body of any 502
county, township, municipal corporation, school district, or other 503
political subdivision or local public institution; 504

(b) Any committee or subcommittee of a body described in 505
division (B)(1)(a) of this section; 506

(c) A court of jurisdiction of a sanitary district organized 507
wholly for the purpose of providing a water supply for domestic, 508
municipal, and public use when meeting for the purpose of the 509
appointment, removal, or reappointment of a member of the board of 510
directors of such a district pursuant to section 6115.10 of the 511
Revised Code, if applicable, or for any other matter related to 512
such a district other than litigation involving the district. As 513
used in division (B)(1)(c) of this section, "court of 514
jurisdiction" has the same meaning as "court" in section 6115.01 515
of the Revised Code. 516

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.	517 518
(3) "Regulated individual" means either of the following:	519
(a) A student in a state or local public educational institution;	520 521
(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.	522 523 524 525
(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.	526 527
(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.	528 529 530 531 532
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.	533 534 535 536 537
(D) This section does not apply to any of the following:	538
(1) A grand jury;	539
(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;	540 541 542
(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;	543 544 545
(4) The organized crime investigations commission established	546

under section 177.01 of the Revised Code;	547
(5) Meetings of a child fatality review board established	548
under section 307.621 of the Revised Code and meetings conducted	549
pursuant to sections 5153.171 to 5153.173 of the Revised Code;	550
(6) The state medical board when determining whether to	551
suspend a certificate without a prior hearing pursuant to division	552
(G) of either section 4730.25 or 4731.22 of the Revised Code;	553
(7) The board of nursing when determining whether to suspend	554
a license or certificate without a prior hearing pursuant to	555
division (B) of section 4723.281 of the Revised Code;	556
(8) The state board of pharmacy when determining whether to	557
suspend a license without a prior hearing pursuant to division (D)	558
of section 4729.16 of the Revised Code;	559
(9) The state chiropractic board when determining whether to	560
suspend a license without a hearing pursuant to section 4734.37 of	561
the Revised Code;	562
(10) The executive committee of the emergency response	563
commission when determining whether to issue an enforcement order	564
or request that a civil action, civil penalty action, or criminal	565
action be brought to enforce Chapter 3750. of the Revised Code;	566
(11) The board of directors of the nonprofit corporation	567
formed under section 187.01 of the Revised Code or any committee	568
thereof, and the board of directors of any subsidiary of that	569
corporation or a committee thereof;	570
(12) An audit conference conducted by the audit staff of the	571
department of job and family services with officials of the public	572
office that is the subject of that audit under section 5101.37 of	573
the Revised Code.	574
(E) The controlling board, the development financing advisory	575
council , the industrial technology and enterprise advisory	576

council, the tax credit authority, or the minority development 577
financing advisory board, when meeting to consider granting 578
assistance pursuant to Chapter 122. or 166. of the Revised Code, 579
in order to protect the interest of the applicant or the possible 580
investment of public funds, by unanimous vote of all board, 581
council, or authority members present, may close the meeting 582
during consideration of the following information confidentially 583
received by the authority, council, or board from the applicant: 584

(1) Marketing plans; 585

(2) Specific business strategy; 586

(3) Production techniques and trade secrets; 587

(4) Financial projections; 588

(5) Personal financial statements of the applicant or members 589
of the applicant's immediate family, including, but not limited 590
to, tax records or other similar information not open to public 591
inspection. 592

The vote by the authority, council, or board to accept or 593
reject the application, as well as all proceedings of the 594
authority, council, or board not subject to this division, shall 595
be open to the public and governed by this section. 596

(F) Every public body, by rule, shall establish a reasonable 597
method whereby any person may determine the time and place of all 598
regularly scheduled meetings and the time, place, and purpose of 599
all special meetings. A public body shall not hold a special 600
meeting unless it gives at least twenty-four hours' advance notice 601
to the news media that have requested notification, except in the 602
event of an emergency requiring immediate official action. In the 603
event of an emergency, the member or members calling the meeting 604
shall notify the news media that have requested notification 605
immediately of the time, place, and purpose of the meeting. 606

The rule shall provide that any person, upon request and 607
payment of a reasonable fee, may obtain reasonable advance 608
notification of all meetings at which any specific type of public 609
business is to be discussed. Provisions for advance notification 610
may include, but are not limited to, mailing the agenda of 611
meetings to all subscribers on a mailing list or mailing notices 612
in self-addressed, stamped envelopes provided by the person. 613

(G) Except as provided in division (J) of this section, the 614
members of a public body may hold an executive session only after 615
a majority of a quorum of the public body determines, by a roll 616
call vote, to hold an executive session and only at a regular or 617
special meeting for the sole purpose of the consideration of any 618
of the following matters: 619

(1) To consider the appointment, employment, dismissal, 620
discipline, promotion, demotion, or compensation of a public 621
employee or official, or the investigation of charges or 622
complaints against a public employee, official, licensee, or 623
regulated individual, unless the public employee, official, 624
licensee, or regulated individual requests a public hearing. 625
Except as otherwise provided by law, no public body shall hold an 626
executive session for the discipline of an elected official for 627
conduct related to the performance of the elected official's 628
official duties or for the elected official's removal from office. 629
If a public body holds an executive session pursuant to division 630
(G)(1) of this section, the motion and vote to hold that executive 631
session shall state which one or more of the approved purposes 632
listed in division (G)(1) of this section are the purposes for 633
which the executive session is to be held, but need not include 634
the name of any person to be considered at the meeting. 635

(2) To consider the purchase of property for public purposes, 636
or for the sale of property at competitive bidding, if premature 637
disclosure of information would give an unfair competitive or 638

bargaining advantage to a person whose personal, private interest 639
is adverse to the general public interest. No member of a public 640
body shall use division (G)(2) of this section as a subterfuge for 641
providing covert information to prospective buyers or sellers. A 642
purchase or sale of public property is void if the seller or buyer 643
of the public property has received covert information from a 644
member of a public body that has not been disclosed to the general 645
public in sufficient time for other prospective buyers and sellers 646
to prepare and submit offers. 647

If the minutes of the public body show that all meetings and 648
deliberations of the public body have been conducted in compliance 649
with this section, any instrument executed by the public body 650
purporting to convey, lease, or otherwise dispose of any right, 651
title, or interest in any public property shall be conclusively 652
presumed to have been executed in compliance with this section 653
insofar as title or other interest of any bona fide purchasers, 654
lessees, or transferees of the property is concerned. 655

(3) Conferences with an attorney for the public body 656
concerning disputes involving the public body that are the subject 657
of pending or imminent court action; 658

(4) Preparing for, conducting, or reviewing negotiations or 659
bargaining sessions with public employees concerning their 660
compensation or other terms and conditions of their employment; 661

(5) Matters required to be kept confidential by federal law 662
or regulations or state statutes; 663

(6) Details relative to the security arrangements and 664
emergency response protocols for a public body or a public office, 665
if disclosure of the matters discussed could reasonably be 666
expected to jeopardize the security of the public body or public 667
office; 668

(7) In the case of a county hospital operated pursuant to 669

Chapter 339. of the Revised Code, a joint township hospital 670
operated pursuant to Chapter 513. of the Revised Code, or a 671
municipal hospital operated pursuant to Chapter 749. of the 672
Revised Code, to consider trade secrets, as defined in section 673
1333.61 of the Revised Code. 674

If a public body holds an executive session to consider any 675
of the matters listed in divisions (G)(2) to (7) of this section, 676
the motion and vote to hold that executive session shall state 677
which one or more of the approved matters listed in those 678
divisions are to be considered at the executive session. 679

A public body specified in division (B)(1)(c) of this section 680
shall not hold an executive session when meeting for the purposes 681
specified in that division. 682

(H) A resolution, rule, or formal action of any kind is 683
invalid unless adopted in an open meeting of the public body. A 684
resolution, rule, or formal action adopted in an open meeting that 685
results from deliberations in a meeting not open to the public is 686
invalid unless the deliberations were for a purpose specifically 687
authorized in division (G) or (J) of this section and conducted at 688
an executive session held in compliance with this section. A 689
resolution, rule, or formal action adopted in an open meeting is 690
invalid if the public body that adopted the resolution, rule, or 691
formal action violated division (F) of this section. 692

(I)(1) Any person may bring an action to enforce this 693
section. An action under division (I)(1) of this section shall be 694
brought within two years after the date of the alleged violation 695
or threatened violation. Upon proof of a violation or threatened 696
violation of this section in an action brought by any person, the 697
court of common pleas shall issue an injunction to compel the 698
members of the public body to comply with its provisions. 699

(2)(a) If the court of common pleas issues an injunction 700

pursuant to division (I)(1) of this section, the court shall order 701
the public body that it enjoins to pay a civil forfeiture of five 702
hundred dollars to the party that sought the injunction and shall 703
award to that party all court costs and, subject to reduction as 704
described in division (I)(2) of this section, reasonable 705
attorney's fees. The court, in its discretion, may reduce an award 706
of attorney's fees to the party that sought the injunction or not 707
award attorney's fees to that party if the court determines both 708
of the following: 709

(i) That, based on the ordinary application of statutory law 710
and case law as it existed at the time of violation or threatened 711
violation that was the basis of the injunction, a well-informed 712
public body reasonably would believe that the public body was not 713
violating or threatening to violate this section; 714

(ii) That a well-informed public body reasonably would 715
believe that the conduct or threatened conduct that was the basis 716
of the injunction would serve the public policy that underlies the 717
authority that is asserted as permitting that conduct or 718
threatened conduct. 719

(b) If the court of common pleas does not issue an injunction 720
pursuant to division (I)(1) of this section and the court 721
determines at that time that the bringing of the action was 722
frivolous conduct, as defined in division (A) of section 2323.51 723
of the Revised Code, the court shall award to the public body all 724
court costs and reasonable attorney's fees, as determined by the 725
court. 726

(3) Irreparable harm and prejudice to the party that sought 727
the injunction shall be conclusively and irrebuttably presumed 728
upon proof of a violation or threatened violation of this section. 729

(4) A member of a public body who knowingly violates an 730
injunction issued pursuant to division (I)(1) of this section may 731

be removed from office by an action brought in the court of common 732
pleas for that purpose by the prosecuting attorney or the attorney 733
general. 734

(J)(1) Pursuant to division (C) of section 5901.09 of the 735
Revised Code, a veterans service commission shall hold an 736
executive session for one or more of the following purposes unless 737
an applicant requests a public hearing: 738

(a) Interviewing an applicant for financial assistance under 739
sections 5901.01 to 5901.15 of the Revised Code; 740

(b) Discussing applications, statements, and other documents 741
described in division (B) of section 5901.09 of the Revised Code; 742

(c) Reviewing matters relating to an applicant's request for 743
financial assistance under sections 5901.01 to 5901.15 of the 744
Revised Code. 745

(2) A veterans service commission shall not exclude an 746
applicant for, recipient of, or former recipient of financial 747
assistance under sections 5901.01 to 5901.15 of the Revised Code, 748
and shall not exclude representatives selected by the applicant, 749
recipient, or former recipient, from a meeting that the commission 750
conducts as an executive session that pertains to the applicant's, 751
recipient's, or former recipient's application for financial 752
assistance. 753

(3) A veterans service commission shall vote on the grant or 754
denial of financial assistance under sections 5901.01 to 5901.15 755
of the Revised Code only in an open meeting of the commission. The 756
minutes of the meeting shall indicate the name, address, and 757
occupation of the applicant, whether the assistance was granted or 758
denied, the amount of the assistance if assistance is granted, and 759
the votes for and against the granting of assistance. 760

Sec. 122.01. (A) As used in the Revised Code, the "department 761

of development" means the development services agency and the 762
"director of development" means the director of development 763
services. Whenever the department or director of development is 764
referred to or designated in any statute, rule, contract, grant, 765
or other document, the reference or designation shall be deemed to 766
refer to the development services agency or director of 767
development services, as the case may be. 768

(B) As used in this chapter: 769

~~(A)~~(1) "Community problems" includes, but is not limited to, 770
taxation, fiscal administration, governmental structure and 771
organization, intergovernmental cooperation, education and 772
training, employment needs, community planning and development, 773
air and water pollution, public safety and the administration of 774
justice, housing, mass transportation, community facilities and 775
services, health, welfare, recreation, open space, and the 776
development of human resources. 777

~~(B)~~(2) "Professional personnel" means either of the 778
following: 779

~~(1)~~(a) Personnel who have earned a bachelor's degree from a 780
college or university; 781

~~(2)~~(b) Personnel who serve as or have the working title of 782
director, assistant director, deputy director, assistant deputy 783
director, manager, office chief, assistant office chief, or 784
program director. 785

~~(C)~~(3) "Technical personnel" means any of the following: 786

~~(1)~~(a) Personnel who provide technical assistance according 787
to their job description or in accordance with the Revised Code; 788

~~(2)~~(b) Personnel employed in the director of ~~development's~~ 789
development services' office or the legal office, communications 790
office, finance office, legislative affairs office, or human 791

resources office of the ~~department of~~ development services agency; 792

~~(3)(c)~~ Personnel employed in the technology division of the 793
~~department~~ agency. 794

Sec. 122.011. (A) The ~~department of~~ development services 795
agency shall develop and promote plans and programs designed to 796
assure that state resources are efficiently used, economic growth 797
is properly balanced, community growth is developed in an orderly 798
manner, and local governments are coordinated with each other and 799
the state, and for such purposes may do all of the following: 800

(1) Serve as a clearinghouse for information, data, and other 801
materials that may be helpful or necessary to persons or local 802
governments, as provided in section ~~122.07~~ 122.073 of the Revised 803
Code; 804

(2) Prepare and activate plans for the retention, 805
development, expansion, and use of the resources and commerce of 806
the state, as provided in section 122.04 of the Revised Code; 807

(3) Assist and cooperate with federal, state, and local 808
governments and agencies of federal, state, and local governments 809
in the coordination of programs to carry out the functions and 810
duties of the ~~department~~ agency; 811

(4) Encourage and foster research and development activities, 812
conduct studies related to the solution of community problems, and 813
develop recommendations for administrative or legislative actions, 814
as provided in section 122.03 of the Revised Code; 815

(5) Serve as the economic and community development planning 816
agency, which shall prepare and recommend plans and programs for 817
the orderly growth and development of this state and which shall 818
provide planning assistance, as provided in section 122.06 of the 819
Revised Code; 820

(6) Cooperate with and provide technical assistance to state 821

departments, political subdivisions, regional and local planning 822
commissions, tourist associations, councils of government, 823
community development groups, community action agencies, and other 824
appropriate organizations for carrying out the functions and 825
duties of the ~~department~~ development services agency or for the 826
solution of community problems; 827

(7) Coordinate the activities of state agencies that have an 828
impact on carrying out the functions and duties of the ~~department~~ 829
development services agency; 830

(8) Encourage and assist the efforts of and cooperate with 831
local governments to develop mutual and cooperative solutions to 832
their common problems that relate to carrying out the purposes of 833
this section; 834

(9) Study existing structure, operations, and financing of 835
regional or local government and those state activities that 836
involve significant relations with regional or local governmental 837
units, recommend to the governor and to the general assembly such 838
changes in these provisions and activities as will improve the 839
operations of regional or local government, and conduct other 840
studies of legal provisions that affect problems related to 841
carrying out the purposes of this section; 842

(10) Create and operate a division of community development 843
to develop and administer programs and activities that are 844
authorized by federal statute or the Revised Code; 845

(11) Until October 15, 2007, establish fees and charges, in 846
consultation with the director of agriculture, for purchasing 847
loans from financial institutions and providing loan guarantees 848
under the family farm loan program created under sections 901.80 849
to 901.83 of the Revised Code; 850

(12) Provide loan servicing for the loans purchased and loan 851
guarantees provided under section 901.80 of the Revised Code as 852

that section existed prior to October 15, 2007; 853

(13) Until October 15, 2007, and upon approval by the 854
controlling board under division (A)(3) of section 901.82 of the 855
Revised Code of the release of money to be used for purchasing a 856
loan or providing a loan guarantee, request the release of that 857
money in accordance with division (B) of section 166.03 of the 858
Revised Code for use for the purposes of the fund created by 859
section 166.031 of the Revised Code. 860

(14) Allocate that portion of the national recovery zone 861
economic development bond limitation and that portion of the 862
national recovery zone facility bond limitation that has been 863
allocated to the state under section 1400U-1 of the Internal 864
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 865
corporation waives any portion of an allocation it receives under 866
division (A)(14) of this section, the ~~department~~ agency may 867
reallocate that amount. Any allocation or reallocation shall be 868
made in accordance with this section and section 1400U-1 of the 869
Internal Revenue Code. 870

(B) The director of development services may request the 871
attorney general to, and the attorney general, in accordance with 872
section 109.02 of the Revised Code, shall bring a civil action in 873
any court of competent jurisdiction. The director may be sued in 874
the director's official capacity, in connection with this chapter, 875
in accordance with Chapter 2743. of the Revised Code. 876

(C) The director ~~of development~~ shall execute a contract 877
pursuant to section 187.04 of the Revised Code with the nonprofit 878
corporation formed under section 187.01 of the Revised Code, and 879
may execute any additional contracts with the corporation 880
providing for the corporation to assist the director or ~~department~~ 881
agency in carrying out any duties of the director or ~~department~~ 882
agency under this chapter, under any other provision of the 883
Revised Code dealing with economic development, or under a 884

contract with the director, subject to section 187.04 of the 885
Revised Code. 886

Sec. 122.07. (A) There is hereby created within the 887
development services agency an office to be known as the office of 888
TourismOhio. The office shall be under the supervision of a 889
director who shall be of equivalent rank of deputy director of the 890
agency and shall serve at the pleasure of the director of 891
development services. 892

(B) The office shall do both of the following: 893

(1) Promote the state as a travel destination and provide 894
related services or otherwise carry out the promotional functions 895
or duties of the agency, as necessary; 896

(2) Perform an annual return-on-investment study analyzing 897
the office's success in promoting Ohio tourism. A report 898
containing the findings of the study shall be submitted to the 899
governor, the speaker and minority leader of the house of 900
representatives, and the president and minority leader of the 901
senate. The report shall also be made available to the public. 902

Sec. 122.071. (A) The TourismOhio advisory board is hereby 903
established to advise the director of development services and the 904
director of the office of TourismOhio on strategies for promoting 905
tourism in this state. The board shall consist of the chief 906
investment officer of the nonprofit corporation formed under 907
section 187.01 of the Revised Code, the director of the office of 908
TourismOhio, and nine members to be appointed by the governor as 909
provided in division (B) of this section. All members of the 910
board, except the director of the office of TourismOhio, shall be 911
voting members. 912

(B)(1) The governor shall, within sixty days after the 913
effective date of this section, appoint to the TourismOhio 914

advisory board one individual who is a representative of 915
convention and visitors' bureaus, one individual who is a 916
representative of the lodging industry, one individual who is a 917
representative of the restaurant industry, one individual who is a 918
representative of attractions, one individual who is a 919
representative of special events and festivals, one individual who 920
is a representative of agritourism, and three individuals who are 921
representatives of the tourism industry. Of the initial 922
appointments, two individuals shall serve a term of one year, 923
three individuals shall serve a term of two years, and the 924
remainder shall serve a term of three years. Thereafter, terms of 925
office shall be for three years. Each individual appointed to the 926
board shall be a United States citizen. 927

(2) For purposes of division (B)(1) of this section, an 928
individual is a "representative of the tourism industry" if the 929
individual possesses five years or more executive-level experience 930
in the attractions, lodging, restaurant, transportation, or retail 931
industry or five years or more executive-level experience with a 932
destination marketing organization. 933

(C)(1) Each member of the TourismOhio advisory board shall 934
hold office from the date of the member's appointment until the 935
end of the term for which the member is appointed. Vacancies that 936
occur on the board shall be filled in the manner prescribed for 937
regular appointments to the board. A member appointed to fill a 938
vacancy occurring prior to the expiration of the term for which 939
the member's predecessor was appointed shall hold office for the 940
remainder of that predecessor's term. A member shall continue in 941
office subsequent to the expiration date of the member's term 942
until the member's successor takes office or until sixty days have 943
elapsed, whichever occurs first. Any member appointed to the board 944
is eligible for reappointment. 945

(2) The governor shall designate one member of the board as 946

chairperson. 947

(3) Members appointed to the board may be reimbursed for 948
actual and necessary expenses incurred in connection with their 949
official duties. 950

Sec. ~~122.071~~ 122.072. There is hereby created in the state 951
treasury the ~~travel and tourism cooperative projects~~ fund 952
consisting of ~~all~~ money credited or transferred to it and grants, 953
gifts, and contributions made directly to the director of 954
~~development for marketing and promotion of travel and tourism~~ 955
within it. Money in the fund shall be used to defray costs 956
incurred by the office of TourismOhio in promoting this state 957
~~pursuant to division (F) of section 122.04 and section 122.07 of~~ 958
~~the Revised Code as a travel destination.~~ 959

Sec. ~~122.07~~ 122.073. (A) The ~~department of~~ development 960
services agency may do ~~either~~ any of the following: 961

(1) Disseminate information concerning the industrial, 962
commercial, governmental, educational, cultural, recreational, 963
agricultural, and other advantages and attractions of the state; 964

(2) Provide technical assistance to public and private 965
agencies in the preparation of promotional programs designed to 966
attract business, industry, and tourists to the state; 967

(3) Enter into cooperative or contractual agreements, through 968
the director of development services, with any individual, 969
organization, or business to create, administer, or otherwise be 970
involved with Ohio tourism-related promotional programs. 971
Compensation under such agreements shall be determined by the 972
director and may include deferred compensation. This compensation 973
is payable from the tourism fund created in section 122.072 of the 974
Revised Code. Any excess revenue generated under such a 975
cooperative or contractual agreement shall be remitted to the fund 976

to be reinvested in ongoing tourism marketing initiatives as 977
authorized by law. 978

(B) Records related to tourism market research submitted to 979
or generated by the ~~research~~ office of ~~the division of travel and~~ 980
~~tourism of the department of development~~ TourismOhio, and any 981
information taken for any purpose from such research, are not 982
public records for the purposes of section 149.43 of the Revised 983
Code. The ~~department~~ agency may use, however, such tourism market 984
research in a public report if the director ~~of the department~~ 985
determines that issuing and distributing the report would promote 986
or market the state's travel and tourism industry or otherwise 987
advance the purposes of this section. 988

Sec. 122.17. (A) As used in this section: 989

(1) "Income tax revenue" means the total amount withheld 990
under section 5747.06 of the Revised Code by the taxpayer during 991
the taxable year, or during the calendar year that includes the 992
tax period, from the compensation of each employee employed in the 993
project to the extent the employee's withholdings are not used to 994
determine the credit under section 122.171 of the Revised Code. 995
"Income tax revenue" excludes amounts withheld before the day the 996
taxpayer becomes eligible for the credit. 997

(2) "Baseline income tax revenue" means income tax revenue 998
except that the applicable withholding period is the twelve months 999
immediately preceding the date the tax credit authority approves 1000
the taxpayer's application or the date the tax credit authority 1001
receives the recommendation described in division (C)(2)(a) of 1002
this section, whichever occurs first, multiplied by the sum of one 1003
plus an annual pay increase factor to be determined by the tax 1004
credit authority. If the taxpayer becomes eligible for the credit 1005
after the first day of the taxpayer's taxable year or after the 1006
first day of the calendar year that includes the tax period, the 1007

taxpayer's baseline income tax revenue for the first such taxable 1008
or calendar year of credit eligibility shall be reduced in 1009
proportion to the number of days during the taxable or calendar 1010
year for which the taxpayer was not eligible for the credit. For 1011
subsequent taxable or calendar years, "baseline income tax 1012
revenue" equals the unreduced baseline income tax revenue for the 1013
preceding taxable or calendar year multiplied by the sum of one 1014
plus the pay increase factor. 1015

(3) "Excess income tax revenue" means income tax revenue 1016
minus baseline income tax revenue. 1017

(B) The tax credit authority may make grants under this 1018
section to foster job creation in this state. Such a grant shall 1019
take the form of a refundable credit allowed against the tax 1020
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 1021
under Chapter 5751. of the Revised Code. The credit shall be 1022
claimed for the taxable years or tax periods specified in the 1023
taxpayer's agreement with the tax credit authority under division 1024
(D) of this section. With respect to taxes imposed under section 1025
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 1026
credit shall be claimed in the order required under section 1027
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 1028
the credit available for a taxable year or for a calendar year 1029
that includes a tax period equals the excess income tax revenue 1030
for that year multiplied by the percentage specified in the 1031
agreement with the tax credit authority. Any credit granted under 1032
this section against the tax imposed by section 5733.06 or 5747.02 1033
of the Revised Code, to the extent not fully utilized against such 1034
tax for taxable years ending prior to 2008, shall automatically be 1035
converted without any action taken by the tax credit authority to 1036
a credit against the tax levied under Chapter 5751. of the Revised 1037
Code for tax periods beginning on or after July 1, 2008, provided 1038
that the person to whom the credit was granted is subject to such 1039

tax. The converted credit shall apply to those calendar years in 1040
which the remaining taxable years specified in the agreement end. 1041

(C)(1) A taxpayer or potential taxpayer who proposes a 1042
project to create new jobs in this state may apply to the tax 1043
credit authority to enter into an agreement for a tax credit under 1044
this section. The director of development services shall prescribe 1045
the form of the application. After receipt of an application, the 1046
authority may enter into an agreement with the taxpayer for a 1047
credit under this section if it determines all of the following: 1048

~~(1)~~(a) The taxpayer's project will increase payroll and 1049
income tax revenue; 1050

~~(2)~~(b) The taxpayer's project is economically sound and will 1051
benefit the people of this state by increasing opportunities for 1052
employment and strengthening the economy of this state; 1053

~~(3)~~(c) Receiving the tax credit is a major factor in the 1054
taxpayer's decision to go forward with the project. 1055

(2)(a) A taxpayer that chooses to begin the project prior to 1056
receiving the determination of the authority may, upon submitting 1057
the taxpayer's application to the authority, request that the 1058
chief investment officer of the nonprofit corporation formed under 1059
section 187.01 of the Revised Code and the director review the 1060
taxpayer's application and recommend to the authority that the 1061
taxpayer's application be considered. As soon as possible after 1062
receiving such a request, the chief investment officer and the 1063
director shall review the taxpayer's application and, if they 1064
determine that the application warrants consideration by the 1065
authority, make that recommendation to the authority not later 1066
than six months after the application is received by the 1067
authority. 1068

(b) The authority shall consider any taxpayer's application 1069
for which it receives a recommendation under division (C)(2)(a) of 1070

this section. If the authority determines that the taxpayer does 1071
not meet all of the criteria set forth in division (C)(1) of this 1072
section, the authority and the development services agency shall 1073
proceed in accordance with rules adopted by the director pursuant 1074
to division (I) of this section. 1075

(D) An agreement under this section shall include all of the 1076
following: 1077

(1) A detailed description of the project that is the subject 1078
of the agreement; 1079

(2) The term of the tax credit, which shall not exceed 1080
fifteen years, and the first taxable year, or first calendar year 1081
that includes a tax period, for which the credit may be claimed; 1082

(3) A requirement that the taxpayer shall maintain operations 1083
at the project location for at least the greater of seven years or 1084
the term of the credit plus three years; 1085

(4) The percentage, as determined by the tax credit 1086
authority, of excess income tax revenue that will be allowed as 1087
the amount of the credit for each taxable year or for each 1088
calendar year that includes a tax period; 1089

(5) The pay increase factor to be applied to the taxpayer's 1090
baseline income tax revenue; 1091

(6) A requirement that the taxpayer annually shall report to 1092
the director of development services employment, tax withholding, 1093
investment, and other information the director needs to perform 1094
the director's duties under this section; 1095

(7) A requirement that the director of development services 1096
annually review the information reported under division (D)(6) of 1097
this section and verify compliance with the agreement; if the 1098
taxpayer is in compliance, a requirement that the director issue a 1099
certificate to the taxpayer stating that the information has been 1100

verified and identifying the amount of the credit that may be 1101
claimed for the taxable or calendar year; 1102

(8) A provision providing that the taxpayer may not relocate 1103
a substantial number of employment positions from elsewhere in 1104
this state to the project location unless the director of 1105
development services determines that the legislative authority of 1106
the county, township, or municipal corporation from which the 1107
employment positions would be relocated has been notified by the 1108
taxpayer of the relocation. 1109

For purposes of this section, the movement of an employment 1110
position from one political subdivision to another political 1111
subdivision shall be considered a relocation of an employment 1112
position unless the employment position in the first political 1113
subdivision is replaced. 1114

(E) If a taxpayer fails to meet or comply with any condition 1115
or requirement set forth in a tax credit agreement, the tax credit 1116
authority may amend the agreement to reduce the percentage or term 1117
of the tax credit. The reduction of the percentage or term may 1118
take effect in the current taxable or calendar year. 1119

(F) Projects that consist solely of point-of-final-purchase 1120
retail facilities are not eligible for a tax credit under this 1121
section. If a project consists of both point-of-final-purchase 1122
retail facilities and nonretail facilities, only the portion of 1123
the project consisting of the nonretail facilities is eligible for 1124
a tax credit and only the excess income tax revenue from the 1125
nonretail facilities shall be considered when computing the amount 1126
of the tax credit. If a warehouse facility is part of a 1127
point-of-final-purchase retail facility and supplies only that 1128
facility, the warehouse facility is not eligible for a tax credit. 1129
Catalog distribution centers are not considered 1130
point-of-final-purchase retail facilities for the purposes of this 1131
division, and are eligible for tax credits under this section. 1132

(G) Financial statements and other information submitted to 1133
the ~~department of~~ development services agency or the tax credit 1134
authority by an applicant or recipient of a tax credit under this 1135
section, and any information taken for any purpose from such 1136
statements or information, are not public records subject to 1137
section 149.43 of the Revised Code. However, the chairperson of 1138
the authority may make use of the statements and other information 1139
for purposes of issuing public reports or in connection with court 1140
proceedings concerning tax credit agreements under this section. 1141
Upon the request of the tax commissioner or, if the applicant or 1142
recipient is an insurance company, upon the request of the 1143
superintendent of insurance, the chairperson of the authority 1144
shall provide to the commissioner or superintendent any statement 1145
or information submitted by an applicant or recipient of a tax 1146
credit in connection with the credit. The commissioner or 1147
superintendent shall preserve the confidentiality of the statement 1148
or information. 1149

(H) A taxpayer claiming a credit under this section shall 1150
submit to the tax commissioner or, if the taxpayer is an insurance 1151
company, to the superintendent of insurance, a copy of the 1152
director of ~~development's~~ development services' certificate of 1153
verification under division (D)(7) of this section with the 1154
taxpayer's tax report or return for the taxable year or for the 1155
calendar year that includes the tax period. Failure to submit a 1156
copy of the certificate with the report or return does not 1157
invalidate a claim for a credit if the taxpayer submits a copy of 1158
the certificate to the commissioner or superintendent within sixty 1159
days after the commissioner or superintendent requests it. 1160

(I) The director of development services, after consultation 1161
with the tax commissioner and the superintendent of insurance and 1162
in accordance with Chapter 119. of the Revised Code, shall adopt 1163
rules necessary to implement this section, including rules that 1164

establish a procedure to be followed by the tax credit authority 1165
and the development services agency in the event the authority 1166
considers a taxpayer's application for which it receives a 1167
recommendation under division (C)(2)(a) of this section but does 1168
not approve it. The rules may provide for recipients of tax 1169
credits under this section to be charged fees to cover 1170
administrative costs of the tax credit program. The fees collected 1171
shall be credited to the ~~tax incentive programs operating~~ business 1172
assistance fund created in section 122.174 of the Revised Code. At 1173
the time the director gives public notice under division (A) of 1174
section 119.03 of the Revised Code of the adoption of the rules, 1175
the director shall submit copies of the proposed rules to the 1176
chairpersons of the standing committees on economic development in 1177
the senate and the house of representatives. 1178

(J) For the purposes of this section, a taxpayer may include 1179
a partnership, a corporation that has made an election under 1180
subchapter S of chapter one of subtitle A of the Internal Revenue 1181
Code, or any other business entity through which income flows as a 1182
distributive share to its owners. A partnership, S-corporation, or 1183
other such business entity may elect to pass the credit received 1184
under this section through to the persons to whom the income or 1185
profit of the partnership, S-corporation, or other entity is 1186
distributed. The election shall be made on the annual report 1187
required under division (D)(6) of this section. The election 1188
applies to and is irrevocable for the credit for which the report 1189
is submitted. If the election is made, the credit shall be 1190
apportioned among those persons in the same proportions as those 1191
in which the income or profit is distributed. 1192

(K) If the director of development services determines that a 1193
taxpayer who has received a credit under this section is not 1194
complying with the requirement under division (D)(3) of this 1195
section, the director shall notify the tax credit authority of the 1196

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 1229
house of representatives on the tax credit program under this 1230
section. The report shall include information on the number of 1231
agreements that were entered into under this section during the 1232
preceding calendar year, a description of the project that is the 1233
subject of each such agreement, and an update on the status of 1234
projects under agreements entered into before the preceding 1235
calendar year. 1236

(M) There is hereby created the tax credit authority, which 1237
consists of the director of development services and four other 1238
members appointed as follows: the governor, the president of the 1239
senate, and the speaker of the house of representatives each shall 1240
appoint one member who shall be a specialist in economic 1241
development; the governor also shall appoint a member who is a 1242
specialist in taxation. Of the initial appointees, the members 1243
appointed by the governor shall serve a term of two years; the 1244
members appointed by the president of the senate and the speaker 1245
of the house of representatives shall serve a term of four years. 1246
Thereafter, terms of office shall be for four years. Initial 1247
appointments to the authority shall be made within thirty days 1248
after January 13, 1993. Each member shall serve on the authority 1249
until the end of the term for which the member was appointed. 1250
Vacancies shall be filled in the same manner provided for original 1251
appointments. Any member appointed to fill a vacancy occurring 1252
prior to the expiration of the term for which the member's 1253
predecessor was appointed shall hold office for the remainder of 1254
that term. Members may be reappointed to the authority. Members of 1255
the authority shall receive their necessary and actual expenses 1256
while engaged in the business of the authority. The director of 1257
development services shall serve as chairperson of the authority, 1258
and the members annually shall elect a vice-chairperson from among 1259
themselves. Three members of the authority constitute a quorum to 1260
transact and vote on the business of the authority. The majority 1261

vote of the membership of the authority is necessary to approve 1262
any such business, including the election of the vice-chairperson. 1263

The director of development services may appoint a 1264
professional employee of the ~~department of~~ development services 1265
agency to serve as the director's substitute at a meeting of the 1266
authority. The director shall make the appointment in writing. In 1267
the absence of the director from a meeting of the authority, the 1268
appointed substitute shall serve as chairperson. In the absence of 1269
both the director and the director's substitute from a meeting, 1270
the vice-chairperson shall serve as chairperson. 1271

(N) For purposes of the credits granted by this section 1272
against the taxes imposed under sections 5725.18 and 5729.03 of 1273
the Revised Code, "taxable year" means the period covered by the 1274
taxpayer's annual statement to the superintendent of insurance. 1275

Sec. 122.171. (A) As used in this section: 1276

(1) "Capital investment project" means a plan of investment 1277
at a project site for the acquisition, construction, renovation, 1278
or repair of buildings, machinery, or equipment, or for 1279
capitalized costs of basic research and new product development 1280
determined in accordance with generally accepted accounting 1281
principles, but does not include any of the following: 1282

(a) Payments made for the acquisition of personal property 1283
through operating leases; 1284

(b) Project costs paid before January 1, 2002; 1285

(c) Payments made to a related member as defined in section 1286
5733.042 of the Revised Code or to a consolidated elected taxpayer 1287
or a combined taxpayer as defined in section 5751.01 of the 1288
Revised Code. 1289

(2) "Eligible business" means a taxpayer and its related 1290
members with Ohio operations satisfying all of the following: 1291

(a) The taxpayer employs at least five hundred full-time 1292
equivalent employees or has an annual payroll of at least 1293
thirty-five million dollars at the time the tax credit authority 1294
grants the tax credit under this section; 1295

(b) The taxpayer makes or causes to be made payments for the 1296
capital investment project of one of the following: 1297

(i) If the taxpayer is engaged at the project site primarily 1298
as a manufacturer, at least fifty million dollars in the aggregate 1299
at the project site during a period of three consecutive calendar 1300
years, including the calendar year that includes a day of the 1301
taxpayer's taxable year or tax period with respect to which the 1302
credit is granted; 1303

(ii) If the taxpayer is engaged at the project site primarily 1304
in significant corporate administrative functions, as defined by 1305
the director of development services by rule, at least twenty 1306
million dollars in the aggregate at the project site during a 1307
period of three consecutive calendar years including the calendar 1308
year that includes a day of the taxpayer's taxable year or tax 1309
period with respect to which the credit is granted; 1310

(iii) If the taxpayer is applying to enter into an agreement 1311
for a tax credit authorized under division (B)(3) of this section, 1312
at least five million dollars in the aggregate at the project site 1313
during a period of three consecutive calendar years, including the 1314
calendar year that includes a day of the taxpayer's taxable year 1315
or tax period with respect to which the credit is granted. 1316

(c) The taxpayer had a capital investment project reviewed 1317
and approved by the tax credit authority as provided in divisions 1318
(C), (D), and (E) of this section. 1319

(3) "Full-time equivalent employees" means the quotient 1320
obtained by dividing the total number of hours for which employees 1321
were compensated for employment in the project by two thousand 1322

eighty. "Full-time equivalent employees" shall exclude hours that 1323
are counted for a credit under section 122.17 of the Revised Code. 1324

(4) "Income tax revenue" means the total amount withheld 1325
under section 5747.06 of the Revised Code by the taxpayer during 1326
the taxable year, or during the calendar year that includes the 1327
tax period, from the compensation of all employees employed in the 1328
project whose hours of compensation are included in calculating 1329
the number of full-time equivalent employees. 1330

(5) "Manufacturer" has the same meaning as in section 1331
5739.011 of the Revised Code. 1332

(6) "Project site" means an integrated complex of facilities 1333
in this state, as specified by the tax credit authority under this 1334
section, within a fifteen-mile radius where a taxpayer is 1335
primarily operating as an eligible business. 1336

(7) "Related member" has the same meaning as in section 1337
5733.042 of the Revised Code as that section existed on the 1338
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 1339
general assembly, September 29, 1997. 1340

(8) "Taxable year" includes, in the case of a domestic or 1341
foreign insurance company, the calendar year ending on the 1342
thirty-first day of December preceding the day the superintendent 1343
of insurance is required to certify to the treasurer of state 1344
under section 5725.20 or 5729.05 of the Revised Code the amount of 1345
taxes due from insurance companies. 1346

(B) The tax credit authority created under section 122.17 of 1347
the Revised Code may grant tax credits under this section for the 1348
purpose of fostering job retention in this state. Upon application 1349
by an eligible business and upon consideration of the 1350
recommendation of the director of budget and management, tax 1351
commissioner, the superintendent of insurance in the case of an 1352
insurance company, and director of development services under 1353

division (C) of this section, the tax credit authority may grant 1354
the following credits against the tax imposed by section 5725.18, 1355
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code: 1356

(1) A nonrefundable credit to an eligible business; 1357

(2) A refundable credit to an eligible business meeting the 1358
following conditions, provided that the director of budget and 1359
management, tax commissioner, superintendent of insurance in the 1360
case of an insurance company, and director of development services 1361
have recommended the granting of the credit to the tax credit 1362
authority before July 1, 2011: 1363

(a) The business retains at least one thousand full-time 1364
equivalent employees at the project site. 1365

(b) The business makes or causes to be made payments for a 1366
capital investment project of at least twenty-five million dollars 1367
in the aggregate at the project site during a period of three 1368
consecutive calendar years, including the calendar year that 1369
includes a day of the business' taxable year or tax period with 1370
respect to which the credit is granted. 1371

(c) In 2010, the business received a written offer of 1372
financial incentives from another state of the United States that 1373
the director determines to be sufficient inducement for the 1374
business to relocate the business' operations from this state to 1375
that state. 1376

(3) A refundable credit to an eligible business with a total 1377
annual payroll of at least twenty million dollars, provided that 1378
the tax credit authority grants the tax credit on or after July 1, 1379
2011, and before January 1, 2014. 1380

The credits authorized in divisions (B)(1), (2), and (3) of 1381
this section may be granted for a period up to fifteen taxable 1382
years or, in the case of the tax levied by section 5751.02 of the 1383
Revised Code, for a period of up to fifteen calendar years. The 1384

credit amount for a taxable year or a calendar year that includes 1385
the tax period for which a credit may be claimed equals the income 1386
tax revenue for that year multiplied by the percentage specified 1387
in the agreement with the tax credit authority. The percentage may 1388
not exceed seventy-five per cent. The credit shall be claimed in 1389
the order required under section 5725.98, 5729.98, 5733.98, 1390
5747.98, or 5751.98 of the Revised Code. In determining the 1391
percentage and term of the credit, the tax credit authority shall 1392
consider both the number of full-time equivalent employees and the 1393
value of the capital investment project. The credit amount may not 1394
be based on the income tax revenue for a calendar year before the 1395
calendar year in which the tax credit authority specifies the tax 1396
credit is to begin, and the credit shall be claimed only for the 1397
taxable years or tax periods specified in the eligible business' 1398
agreement with the tax credit authority. In no event shall the 1399
credit be claimed for a taxable year or tax period terminating 1400
before the date specified in the agreement. Any credit granted 1401
under this section against the tax imposed by section 5733.06 or 1402
5747.02 of the Revised Code, to the extent not fully utilized 1403
against such tax for taxable years ending prior to 2008, shall 1404
automatically be converted without any action taken by the tax 1405
credit authority to a credit against the tax levied under Chapter 1406
5751. of the Revised Code for tax periods beginning on or after 1407
July 1, 2008, provided that the person to whom the credit was 1408
granted is subject to such tax. The converted credit shall apply 1409
to those calendar years in which the remaining taxable years 1410
specified in the agreement end. 1411

If a nonrefundable credit allowed under division (B)(1) of 1412
this section for a taxable year or tax period exceeds the 1413
taxpayer's tax liability for that year or period, the excess may 1414
be carried forward for the three succeeding taxable or calendar 1415
years, but the amount of any excess credit allowed in any taxable 1416
year or tax period shall be deducted from the balance carried 1417

forward to the succeeding year or period. 1418

(C) A taxpayer that proposes a capital investment project to 1419
retain jobs in this state may apply to the tax credit authority to 1420
enter into an agreement for a tax credit under this section. The 1421
director of development services shall prescribe the form of the 1422
application. After receipt of an application, the authority shall 1423
forward copies of the application to the director of budget and 1424
management, the tax commissioner, the superintendent of insurance 1425
in the case of an insurance company, and the director of 1426
development services, each of whom shall review the application to 1427
determine the economic impact the proposed project would have on 1428
the state and the affected political subdivisions and shall submit 1429
a summary of their determinations and recommendations to the 1430
authority. 1431

(D) Upon review and consideration of the determinations and 1432
recommendations described in division (C) of this section, the tax 1433
credit authority may enter into an agreement with the taxpayer for 1434
a credit under this section if the authority determines all of the 1435
following: 1436

(1) The taxpayer's capital investment project will result in 1437
the retention of employment in this state. 1438

(2) The taxpayer is economically sound and has the ability to 1439
complete the proposed capital investment project. 1440

(3) The taxpayer intends to and has the ability to maintain 1441
operations at the project site for at least the greater of (a) the 1442
term of the credit plus three years, or (b) seven years. 1443

(4) Receiving the credit is a major factor in the taxpayer's 1444
decision to begin, continue with, or complete the project. 1445

(5) If the taxpayer is applying to enter into an agreement 1446
for a tax credit authorized under division (B)(3) of this section, 1447
the taxpayer's capital investment project will be located in the 1448

political subdivision in which the taxpayer maintains its 1449
principal place of business. 1450

(E) An agreement under this section shall include all of the 1451
following: 1452

(1) A detailed description of the project that is the subject 1453
of the agreement, including the amount of the investment, the 1454
period over which the investment has been or is being made, the 1455
number of full-time equivalent employees at the project site, and 1456
the anticipated income tax revenue to be generated. 1457

(2) The term of the credit, the percentage of the tax credit, 1458
the maximum annual value of tax credits that may be allowed each 1459
year, and the first year for which the credit may be claimed. 1460

(3) A requirement that the taxpayer maintain operations at 1461
the project site for at least the greater of (a) the term of the 1462
credit plus three years, or (b) seven years. 1463

(4)(a) In the case of a credit granted under division (B)(1) 1464
of this section, a requirement that the taxpayer retain at least 1465
five hundred full-time equivalent employees at the project site 1466
and within this state for the entire term of the credit, or a 1467
requirement that the taxpayer maintain an annual payroll of at 1468
least thirty-five million dollars for the entire term of the 1469
credit; 1470

(b) In the case of a credit granted under division (B)(2) of 1471
this section, a requirement that the taxpayer retain at least one 1472
thousand full-time equivalent employees at the project site and 1473
within this state for the entire term of the credit; 1474

(c) In the case of a credit granted under division (B)(3) of 1475
this section, either of the following: 1476

(i) A requirement that the taxpayer retain at least five 1477
hundred full-time equivalent employees at the project site and 1478

within this state for the entire term of the credit and a 1479
requirement that the taxpayer maintain an annual payroll of at 1480
least twenty million dollars for the entire term of the credit; 1481

(ii) A requirement that the taxpayer maintain an annual 1482
payroll of at least thirty-five million dollars for the entire 1483
term of the credit. 1484

(5) A requirement that the taxpayer annually report to the 1485
director of development services employment, tax withholding, 1486
capital investment, and other information the director needs to 1487
perform the director's duties under this section. 1488

(6) A requirement that the director of development services 1489
annually review the annual reports of the taxpayer to verify the 1490
information reported under division (E)(5) of this section and 1491
compliance with the agreement. Upon verification, the director 1492
shall issue a certificate to the taxpayer stating that the 1493
information has been verified and identifying the amount of the 1494
credit for the taxable year or calendar year that includes the tax 1495
period. In determining the number of full-time equivalent 1496
employees, no position shall be counted that is filled by an 1497
employee who is included in the calculation of a tax credit under 1498
section 122.17 of the Revised Code. 1499

(7) A provision providing that the taxpayer may not relocate 1500
a substantial number of employment positions from elsewhere in 1501
this state to the project site unless the director of development 1502
services determines that the taxpayer notified the legislative 1503
authority of the county, township, or municipal corporation from 1504
which the employment positions would be relocated. 1505

For purposes of this section, the movement of an employment 1506
position from one political subdivision to another political 1507
subdivision shall be considered a relocation of an employment 1508
position unless the movement is confined to the project site. The 1509

transfer of an employment position from one political subdivision 1510
to another political subdivision shall not be considered a 1511
relocation of an employment position if the employment position in 1512
the first political subdivision is replaced by another employment 1513
position. 1514

(8) A waiver by the taxpayer of any limitations periods 1515
relating to assessments or adjustments resulting from the 1516
taxpayer's failure to comply with the agreement. 1517

(F) If a taxpayer fails to meet or comply with any condition 1518
or requirement set forth in a tax credit agreement, the tax credit 1519
authority may amend the agreement to reduce the percentage or term 1520
of the credit. The reduction of the percentage or term may take 1521
effect in the current taxable or calendar year. 1522

(G) Financial statements and other information submitted to 1523
the department of development services or the tax credit authority 1524
by an applicant for or recipient of a tax credit under this 1525
section, and any information taken for any purpose from such 1526
statements or information, are not public records subject to 1527
section 149.43 of the Revised Code. However, the chairperson of 1528
the authority may make use of the statements and other information 1529
for purposes of issuing public reports or in connection with court 1530
proceedings concerning tax credit agreements under this section. 1531
Upon the request of the tax commissioner, or the superintendent of 1532
insurance in the case of an insurance company, the chairperson of 1533
the authority shall provide to the commissioner or superintendent 1534
any statement or other information submitted by an applicant for 1535
or recipient of a tax credit in connection with the credit. The 1536
commissioner or superintendent shall preserve the confidentiality 1537
of the statement or other information. 1538

(H) A taxpayer claiming a tax credit under this section shall 1539
submit to the tax commissioner or, in the case of an insurance 1540
company, to the superintendent of insurance, a copy of the 1541

director of ~~development's~~ development services' certificate of 1542
verification under division (E)(6) of this section with the 1543
taxpayer's tax report or return for the taxable year or for the 1544
calendar year that includes the tax period. Failure to submit a 1545
copy of the certificate with the report or return does not 1546
invalidate a claim for a credit if the taxpayer submits a copy of 1547
the certificate to the commissioner or superintendent within sixty 1548
days after the commissioner or superintendent requests it. 1549

(I) For the purposes of this section, a taxpayer may include 1550
a partnership, a corporation that has made an election under 1551
subchapter S of chapter one of subtitle A of the Internal Revenue 1552
Code, or any other business entity through which income flows as a 1553
distributive share to its owners. A partnership, S-corporation, or 1554
other such business entity may elect to pass the credit received 1555
under this section through to the persons to whom the income or 1556
profit of the partnership, S-corporation, or other entity is 1557
distributed. The election shall be made on the annual report 1558
required under division (E)(5) of this section. The election 1559
applies to and is irrevocable for the credit for which the report 1560
is submitted. If the election is made, the credit shall be 1561
apportioned among those persons in the same proportions as those 1562
in which the income or profit is distributed. 1563

(J) If the director of development services determines that a 1564
taxpayer that received a tax credit under this section is not 1565
complying with the requirement under division (E)(3) of this 1566
section, the director shall notify the tax credit authority of the 1567
noncompliance. After receiving such a notice, and after giving the 1568
taxpayer an opportunity to explain the noncompliance, the 1569
authority may terminate the agreement and require the taxpayer to 1570
refund to the state all or a portion of the credit claimed in 1571
previous years, as follows: 1572

(1) If the taxpayer maintained operations at the project site 1573

for less than or equal to the term of the credit, an amount not to 1574
exceed one hundred per cent of the sum of any tax credits allowed 1575
and received under this section. 1576

(2) If the taxpayer maintained operations at the project site 1577
longer than the term of the credit, but less than the greater of 1578
(a) the term of the credit plus three years, or (b) seven years, 1579
the amount required to be refunded shall not exceed seventy-five 1580
per cent of the sum of any tax credits allowed and received under 1581
this section. 1582

In determining the portion of the credit to be refunded to 1583
this state, the authority shall consider the effect of market 1584
conditions on the taxpayer's project and whether the taxpayer 1585
continues to maintain other operations in this state. After making 1586
the determination, the authority shall certify the amount to be 1587
refunded to the tax commissioner or the superintendent of 1588
insurance. If the taxpayer is not an insurance company, the 1589
commissioner shall make an assessment for that amount against the 1590
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 1591
If the taxpayer is an insurance company, the superintendent of 1592
insurance shall make an assessment under section 5725.222 or 1593
5729.102 of the Revised Code. The time limitations on assessments 1594
under those chapters and sections do not apply to an assessment 1595
under this division, but the commissioner or superintendent shall 1596
make the assessment within one year after the date the authority 1597
certifies to the commissioner or superintendent the amount to be 1598
refunded. 1599

(K) The director of development services, after consultation 1600
with the tax commissioner and the superintendent of insurance and 1601
in accordance with Chapter 119. of the Revised Code, shall adopt 1602
rules necessary to implement this section. The rules may provide 1603
for recipients of tax credits under this section to be charged 1604
fees to cover administrative costs of the tax credit program. The 1605

fees collected shall be credited to the ~~tax incentive programs~~ 1606
~~operating business assistance~~ fund created in section 122.174 of 1607
the Revised Code. At the time the director gives public notice 1608
under division (A) of section 119.03 of the Revised Code of the 1609
adoption of the rules, the director shall submit copies of the 1610
proposed rules to the chairpersons of the standing committees on 1611
economic development in the senate and the house of 1612
representatives. 1613

(L) On or before the first day of August of each year, the 1614
director of development services shall submit a report to the 1615
governor, the president of the senate, and the speaker of the 1616
house of representatives on the tax credit program under this 1617
section. The report shall include information on the number of 1618
agreements that were entered into under this section during the 1619
preceding calendar year, a description of the project that is the 1620
subject of each such agreement, and an update on the status of 1621
projects under agreements entered into before the preceding 1622
calendar year. 1623

(M)(1) The aggregate amount of tax credits issued under 1624
division (B)(1) of this section during any calendar year for 1625
capital investment projects reviewed and approved by the tax 1626
credit authority may not exceed the following amounts: 1627

(a) For 2010, thirteen million dollars; 1628

(b) For 2011 through 2023, the amount of the limit for the 1629
preceding calendar year plus thirteen million dollars; 1630

(c) For 2024 and each year thereafter, one hundred 1631
ninety-five million dollars. 1632

(2) The aggregate amount of tax credits authorized under 1633
divisions (B)(2) and (3) of this section and allowed to be claimed 1634
by taxpayers in any calendar year for capital improvement projects 1635
reviewed and approved by the tax credit authority in 2011, 2012, 1636

and 2013 combined shall not exceed twenty-five million dollars. An 1637
amount equal to the aggregate amount of credits first authorized 1638
in calendar year 2011, 2012, and 2013 may be claimed over the 1639
ensuing period up to fifteen years, subject to the terms of 1640
individual tax credit agreements. 1641

The limitations in division (M) of this section do not apply 1642
to credits for capital investment projects approved by the tax 1643
credit authority before July 1, 2009. 1644

Sec. 122.174. There is hereby created in the state treasury 1645
the ~~tax incentive programs operating~~ business assistance fund. 1646
~~Money collected~~ The fund shall consist of any amounts appropriated 1647
to it and money credited to the fund pursuant to division (I) of 1648
section 121.17, division (K) of section 122.171, division (K) of 1649
section 122.175, division (C) of section 3735.672, and division 1650
(C) of section 5709.68 of the Revised Code ~~shall be credited to~~ 1651
~~the fund.~~ The director of development services shall use money in 1652
the fund to pay expenses related to the administration of the ~~tax~~ 1653
~~credit programs authorized by sections 122.17, 122.171, 3735.672,~~ 1654
~~and 5709.68 of the Revised Code~~ business services division of the 1655
development services agency. 1656

Sec. 122.175. (A) As used in this section: 1657

(1) "Capital investment project" means a plan of investment 1658
at a project site for the acquisition, construction, renovation, 1659
expansion, replacement, or repair of a computer data center or of 1660
computer data center equipment, but does not include any of the 1661
following: 1662

(a) Project costs paid before a date determined by the tax 1663
credit authority for each capital investment project; 1664

(b) Payments made to a related member as defined in section 1665
5733.042 of the Revised Code or to a consolidated elected taxpayer 1666

or a combined taxpayer as defined in section 5751.01 of the Revised Code. 1667
1668

(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. 1669
1670
1671
1672

(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. 1673
1674
1675
1676
1677
1678

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following: 1679
1680

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment; 1681
1682
1683

(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; 1684
1685
1686

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center. 1687
1688
1689

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements: 1690
1691

(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; 1692
1693
1694
1695

(b) The taxpayer will pay annual compensation that is subject 1696

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. 1728

(D) Upon review and consideration of such determinations and 1729
recommendations, the tax credit authority may enter into an 1730
agreement with the taxpayer for a complete or partial exemption 1731
from the taxes imposed under Chapters 5739. and 5741. of the 1732
Revised Code on computer data center equipment used or to be used 1733
at an eligible computer data center if the authority determines 1734
all of the following: 1735

(1) The taxpayer's capital investment project for the 1736
eligible computer data center will increase payroll and the amount 1737
of income taxes to be withheld from employee compensation pursuant 1738
to section 5747.06 of the Revised Code. 1739

(2) The taxpayer is economically sound and has the ability to 1740
complete the proposed capital investment project. 1741

(3) The taxpayer intends to and has the ability to maintain 1742
operations at the project site for the term of the agreement. 1743

(4) Receiving the exemption is a major factor in the 1744
taxpayer's decision to begin, continue with, or complete the 1745
capital investment project. 1746

(E) An agreement entered into under this section shall 1747
include all of the following: 1748

(1) A detailed description of the capital investment project 1749
that is the subject of the agreement, including the amount of the 1750
investment, the period over which the investment has been or is 1751
being made, the annual compensation to be paid by the taxpayer to 1752
its employees at the project site, and the anticipated amount of 1753
income taxes to be withheld from employee compensation pursuant to 1754
section 5747.06 of the Revised Code. 1755

(2) The percentage of the exemption from the taxes imposed 1756
under Chapters 5739. and 5741. of the Revised Code for the 1757

computer data center equipment used or to be used at the eligible 1758
computer data center, the length of time the computer data center 1759
equipment will be exempted, and the first date on which the 1760
exemption applies. 1761

(3) A requirement that the taxpayer maintain the computer 1762
data center as an eligible computer data center during the term of 1763
the agreement and that the taxpayer maintain operations at the 1764
eligible computer data center during that term. 1765

(4) A requirement that during each year of the term of the 1766
agreement the taxpayer pay annual compensation that is subject to 1767
the withholding obligation imposed under section 5747.06 of the 1768
Revised Code of at least five million dollars to its employees at 1769
the eligible computer data center. 1770

(5) A requirement that the taxpayer annually report to the 1771
director of development services employment, tax withholding, 1772
capital investment, and other information required by the director 1773
to perform the director's duties under this section. 1774

(6) A requirement that the director of development services 1775
annually review the annual reports of the taxpayer to verify the 1776
information reported under division (E)(5) of this section and 1777
compliance with the agreement. Upon verification, the director 1778
shall issue a certificate to the taxpayer stating that the 1779
information has been verified and that the taxpayer remains 1780
eligible for the exemption specified in the agreement. 1781

(7) A provision providing that the taxpayer may not relocate 1782
a substantial number of employment positions from elsewhere in 1783
this state to the project site unless the director of development 1784
services determines that the taxpayer notified the legislative 1785
authority of the county, township, or municipal corporation from 1786
which the employment positions would be relocated. For purposes of 1787
this paragraph, the movement of an employment position from one 1788

political subdivision to another political subdivision shall be 1789
considered a relocation of an employment position unless the 1790
movement is confined to the project site. The transfer of an 1791
employment position from one political subdivision to another 1792
political subdivision shall not be considered a relocation of an 1793
employment position if the employment position in the first 1794
political subdivision is replaced by another employment position. 1795

(8) A waiver by the taxpayer of any limitations periods 1796
relating to assessments or adjustments resulting from the 1797
taxpayer's failure to comply with the agreement. 1798

(F) The term of an agreement under this section shall be 1799
determined by the tax credit authority, and the amount of the 1800
exemption shall not exceed one hundred per cent of such taxes that 1801
would otherwise be owed in respect to the exempted computer data 1802
center equipment. 1803

(G) If a taxpayer fails to meet or comply with any condition 1804
or requirement set forth in an agreement under this section, the 1805
tax credit authority may amend the agreement to reduce the 1806
percentage of the exemption or term during which the exemption 1807
applies to the computer data center equipment used or to be used 1808
at an eligible computer data center. The reduction of the 1809
percentage or term may take effect in the current calendar year. 1810

(H) Financial statements and other information submitted to 1811
the department of development services or the tax credit authority 1812
by an applicant for or recipient of an exemption under this 1813
section, and any information taken for any purpose from such 1814
statements or information, are not public records subject to 1815
section 149.43 of the Revised Code. However, the chairperson of 1816
the authority may make use of the statements and other information 1817
for purposes of issuing public reports or in connection with court 1818
proceedings concerning tax exemption agreements under this 1819
section. Upon the request of the tax commissioner, the chairperson 1820

of the authority shall provide to the tax commissioner any 1821
statement or other information submitted by an applicant for or 1822
recipient of an exemption under this section. The tax commissioner 1823
shall preserve the confidentiality of the statement or other 1824
information. 1825

(I) The tax commissioner shall issue a direct payment permit 1826
under section 5739.031 of the Revised Code to a taxpayer that 1827
enters into an agreement under this section. Such direct payment 1828
permit shall authorize the taxpayer to pay any sales and use taxes 1829
due on purchases of computer data center equipment used or to be 1830
used in an eligible computer data center and to pay any sales and 1831
use taxes due on purchases of tangible personal property or 1832
taxable services other than computer data center equipment used or 1833
to be used in an eligible computer data center directly to the tax 1834
commissioner. Each taxpayer shall pay pursuant to such direct 1835
payment permit all sales tax levied on such purchases under 1836
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 1837
Code and all use tax levied on such purchases under sections 1838
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 1839
consistent with the terms of the agreement entered into under this 1840
section. 1841

During the term of an agreement under this section the 1842
taxpayer shall submit to the tax commissioner a return that shows 1843
the amount of computer data center equipment purchased for use at 1844
the eligible computer data center, the amount of tangible personal 1845
property and taxable services other than computer data center 1846
equipment purchased for use at the eligible computer data center, 1847
the amount of tax under Chapter 5739. or 5741. of the Revised Code 1848
that would be due in the absence of the agreement under this 1849
section, the exemption percentage for computer data center 1850
equipment specified in the agreement, and the amount of tax due 1851
under Chapter 5739. or 5741. of the Revised Code as a result of 1852

the agreement under this section. The taxpayer shall pay the tax 1853
shown on the return to be due in the manner and at the times as 1854
may be further prescribed by the tax commissioner. The taxpayer 1855
shall include a copy of the director of ~~development's~~ development 1856
services' certificate of verification issued under division (E)(6) 1857
of this section. Failure to submit a copy of the certificate with 1858
the return does not invalidate the claim for exemption if the 1859
taxpayer submits a copy of the certificate to the tax commissioner 1860
within sixty days after the tax commissioner requests it. 1861

(J) If the director of development services determines that a 1862
taxpayer that received an exemption under this section is not 1863
complying with the requirement under division (E)(3) of this 1864
section, the director shall notify the tax credit authority of the 1865
noncompliance. After receiving such a notice, and after giving the 1866
taxpayer an opportunity to explain the noncompliance, the 1867
authority may terminate the agreement and require the taxpayer to 1868
pay to the state all or a portion of the taxes that would have 1869
been owed in regards to the exempt equipment in previous years, 1870
all as determined under rules adopted pursuant to division (K) of 1871
this section. In determining the portion of the taxes that would 1872
have been owed on the previously exempted equipment to be paid to 1873
this state by the taxpayer, the authority shall consider the 1874
effect of market conditions on the taxpayer's eligible computer 1875
data center and whether the taxpayer continues to maintain other 1876
operations in this state. After making the determination, the 1877
authority shall certify to the tax commissioner the amount to be 1878
paid by the taxpayer. The tax commissioner shall make an 1879
assessment for that amount against the taxpayer under Chapter 1880
5739. or 5741. of the Revised Code. The time limitations on 1881
assessments under those chapters do not apply to an assessment 1882
under this division, but the tax commissioner shall make the 1883
assessment within one year after the date the authority certifies 1884
to the tax commissioner the amount to be paid by the taxpayer. 1885

(K) The director of development services, after consultation 1886
with the tax commissioner and in accordance with Chapter 119. of 1887
the Revised Code, shall adopt rules necessary to implement this 1888
section. The rules may provide for recipients of tax exemptions 1889
under this section to be charged fees to cover administrative 1890
costs incurred in the administration of this section. The fees 1891
collected shall be credited to the ~~tax incentive programs~~ 1892
~~operating~~ business assistance fund created in section 122.174 of 1893
the Revised Code. At the time the director gives public notice 1894
under division (A) of section 119.03 of the Revised Code of the 1895
adoption of the rules, the director shall submit copies of the 1896
proposed rules to the chairpersons of the standing committees on 1897
economic development in the senate and the house of 1898
representatives. 1899

(L) On or before the first day of August of each year, the 1900
director of development services shall submit a report to the 1901
governor, the president of the senate, and the speaker of the 1902
house of representatives on the tax exemption authorized under 1903
this section. The report shall include information on the number 1904
of agreements that were entered into under this section during the 1905
preceding calendar year, a description of the eligible computer 1906
data center that is the subject of each such agreement, and an 1907
update on the status of eligible computer data centers under 1908
agreements entered into before the preceding calendar year. 1909

Sec. 122.39. As used in sections 122.39 and 122.41 to 122.62 1910
of the Revised Code: 1911

(A) "Financial institution" means any banking corporation, 1912
trust company, insurance company, savings and loan association, 1913
building and loan association, or corporation, partnership, 1914
federal lending agency, foundation, or other institution engaged 1915
in lending or investing funds for industrial or business purposes. 1916

(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 1948
insurance as provided in section 122.451 of the Revised Code. It 1949
is hereby determined that the accomplishment of such purposes is 1950
essential so that the people of the state may maintain their 1951
present high standards in comparison with the people of other 1952
states and so that opportunities for employment and for favorable 1953
markets for the products of the state's natural resources, 1954
agriculture, and manufacturing shall be improved and that it is 1955
necessary for the state to establish the programs authorized 1956
pursuant to Chapter 122. of the Revised Code, ~~to establish the~~ 1957
~~development financing advisory council,~~ and ~~to invest it and the~~ 1958
director of development services with the powers and duties 1959
provided in Chapter 122. of the Revised Code. The powers granted 1960
to the director ~~of development~~ by Chapter 165. of the Revised Code 1961
are independent of and in addition and alternate to, and are not 1962
limited or restricted by, Chapter 122. of the Revised Code. 1963

~~(B) The development financing advisory council shall:~~ 1964

~~(1) Make recommendations to the director of development as to 1965
applications for assistance pursuant to sections 122.39 to 122.62 1966
or Chapter 166. of the Revised Code. The council may revise its 1967
recommendations to reflect any changes in the proposed assistance 1968
made by the director.~~ 1969

~~(2) Advise the director in the administration of sections 1970
122.39 to 122.62 and Chapter 166. of the Revised Code;~~ 1971

~~(3) Adopt bylaws to govern the conduct of the council's 1972
business.~~ 1973

Sec. 122.42. (A) The director of development services shall 1974
do all of the following: 1975

(1) Receive applications for assistance under sections 122.39 1976
and 122.41 to 122.62 of the Revised Code, ~~and, after processing,~~ 1977

forward them to the development financing advisory board together	1978
with necessary supporting information;	1979
(2) Receive the recommendations of the board and make <u>Make</u> a	1980
final determination whether to approve the application for	1981
assistance;	1982
(3) Transmit determinations to approve assistance to the	1983
controlling board together with any information the controlling	1984
board requires for the board's review and decision as to whether	1985
to approve the assistance;	1986
(4) Issue revenue bonds of the state through the treasurer of	1987
state, as necessary, payable solely from revenues and other	1988
sources as provided in sections 122.39 <u>and 122.41</u> to 122.62 of the	1989
Revised Code.	1990
(B) The director may do all of the following:	1991
(1) Fix the rate of interest and charges to be made upon or	1992
with respect to moneys loaned by the director and the terms upon	1993
which mortgages and lease rentals may be guaranteed and the rates	1994
of charges to be made for the loans and guarantees and to make	1995
provisions for the operation of the funds established by the	1996
director in accordance with this section and sections 122.54,	1997
122.55, 122.56, and 122.57 of the Revised Code;	1998
(2) Loan moneys from the fund established in accordance with	1999
section 122.54 of the Revised Code pursuant to and in compliance	2000
with sections 122.39 <u>and 122.41</u> to 122.62 of the Revised Code;	2001
(3) Acquire in the name of the director any property of any	2002
kind or character in accordance with sections 122.39 <u>and 122.41</u> to	2003
122.62 of the Revised Code, by purchase, purchase at foreclosure,	2004
or exchange on such terms and in such manner as the director	2005
considers proper;	2006
(4) Make and enter into all contracts and agreements	2007

necessary or incidental to the performance of the director's 2008
duties and the exercise of the director's powers under sections 2009
122.39 and 122.41 to 122.62 of the Revised Code; 2010

(5) Maintain, protect, repair, improve, and insure any 2011
property which the director has acquired and dispose of the same 2012
by sale, exchange, or lease for the consideration and on the terms 2013
and in the manner as the director considers proper, but is not 2014
authorized to operate any such property as a business except as 2015
the lessor of the property; 2016

(6)(a) When the cost of any contract for the maintenance, 2017
protection, repair, or improvement of any property held by the 2018
director other than compensation for personal services involves an 2019
expenditure of more than one thousand dollars, the director shall 2020
make a written contract with the lowest responsive and responsible 2021
bidder in accordance with section 9.312 of the Revised Code after 2022
advertisement for not less than two consecutive weeks in a 2023
newspaper of general circulation in the county where such 2024
contract, or some substantial part of it, is to be performed, and 2025
in such other publications as the director determines, which 2026
notice shall state the general character of the work and the 2027
general character of the materials to be furnished, the place 2028
where plans and specifications may be examined, and the time and 2029
place of receiving bids. 2030

(b) Each bid for a contract for the construction, demolition, 2031
alteration, repair, or reconstruction of an improvement shall 2032
contain the full name of every person interested in it and meet 2033
the requirements of section 153.54 of the Revised Code. 2034

(c) Each bid for a contract, except as provided in division 2035
(B)(6)(b) of this section, shall contain the full name of every 2036
person interested in it and shall be accompanied by bond or 2037
certified check on a solvent bank, in such amount as the director 2038
considers sufficient, that if the bid is accepted a contract will 2039

be entered into and the performance of the proposal secured. 2040

(d) The director may reject any and all bids. 2041

(e) A bond with good and sufficient surety, approved by the 2042
director, shall be required of every contractor awarded a contract 2043
except as provided in division (B)(6)(b) of this section, in an 2044
amount equal to at least fifty per cent of the contract price, 2045
conditioned upon faithful performance of the contract. 2046

(7) Employ financial consultants, appraisers, consulting 2047
engineers, superintendents, managers, construction and accounting 2048
experts, attorneys, and other employees and agents as are 2049
necessary in the director's judgment and fix their compensation; 2050

(8) Assist qualified persons in the coordination and 2051
formation of a small business development company, having a 2052
statewide area of operation, conditional upon the company's 2053
agreeing to seek to obtain certification from the federal small 2054
business administration as a certified statewide development 2055
company and participation in the guaranteed loan program 2056
administered by the small business administration pursuant to the 2057
Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the 2058
initial period of formation of the statewide small business 2059
development company, the director shall provide technical and 2060
financial expertise, legal and managerial assistance, and other 2061
services as are necessary and proper to enable the company to 2062
obtain and maintain federal certification and participation in the 2063
federal guaranteed loan program. The director may charge a fee, in 2064
such amount and on such terms and conditions as the director 2065
determines necessary and proper, for assistance and services 2066
provided pursuant to division (B)(8) of this section. 2067

Persons chosen by the director to receive assistance in the 2068
formation of a statewide small business development company 2069
pursuant to division (B)(8) of this section shall make a special 2070

effort to use their participation in the federal guaranteed loan 2071
program to assist small businesses which are minority business 2072
enterprises as defined in division (E) of section 122.71 of the 2073
Revised Code. The director, with the assistance of the minority 2074
business development division of the department of development, 2075
shall provide technical and financial expertise, legal and 2076
managerial assistance, and other services in such a manner to 2077
enable the development company to provide assistance to small 2078
businesses which are minority business enterprises, and shall make 2079
available to the development company information pertaining to 2080
assistance available to minority business enterprises under 2081
programs established pursuant to sections 122.71 to 122.83, 122.87 2082
to 122.89, 122.92 to 122.94, 123.151, and 125.081 of the Revised 2083
Code. 2084

(9) Receive and accept grants, gifts, and contributions of 2085
money, property, labor, and other things of value to be held, 2086
used, and applied only for the purpose for which such grants, 2087
gifts, and contributions are made, from individuals, private and 2088
public corporations, from the United States or any agency of the 2089
United States, from the state or any agency of the state, and from 2090
any political subdivision of the state, and may agree to repay any 2091
contribution of money or to return any property contributed or the 2092
value of the property at such times, in such amounts, and on such 2093
terms and conditions, excluding the payment of interest, as the 2094
director determines at the time such contribution is made, and may 2095
evidence such obligations by notes, bonds, or other written 2096
instruments; 2097

(10) Establish with the treasurer of state the funds provided 2098
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 2099
Code, in addition to such funds as the director determines are 2100
necessary or proper; 2101

(11) Do all acts and things necessary or proper to carry out 2102

the powers expressly granted and the duties imposed in sections 2103
122.39 and 122.41 to 122.62 and Chapter 163. of the Revised Code. 2104

(C) All expenses and obligations incurred by the director in 2105
carrying out the director's powers and in exercising the 2106
director's duties under sections 122.39 and 122.41 to 122.62 of 2107
the Revised Code, shall be payable solely from the proceeds of 2108
revenue bonds issued pursuant to those sections, from revenues or 2109
other receipts or income of the director, from grants, gifts, and 2110
contributions, or funds established in accordance with those 2111
sections. Those sections do not authorize the director to incur 2112
indebtedness or to impose liability on the state or any political 2113
subdivision of the state. 2114

(D) Financial statements and financial data submitted to the 2115
director by any corporation, partnership, or person in connection 2116
with a loan application, or any information taken from such 2117
statements or data for any purpose, shall not be open to public 2118
inspection. 2119

Sec. 122.43. The director of development services, with 2120
controlling board approval, may lend funds which are obtained from 2121
the sale of revenue bonds issued by the treasurer of state 2122
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2123
Code, from revenues or other receipts or income of the director, 2124
or funds established in accordance with sections 122.39 and 122.41 2125
to 122.62 of the Revised Code, and from grants, gifts, and 2126
contributions subject to any provisions of resolutions authorizing 2127
the revenue bonds or of trust agreements securing such bonds, to 2128
community improvement corporations and Ohio development 2129
corporations and other corporations, partnerships, and persons for 2130
the purpose of procuring or improving real or personal property, 2131
or both, for the establishment, location, or expansion of 2132
industrial, distribution, commercial, or research facilities in 2133

the state, and to community improvement corporations and Ohio 2134
development corporations for the purpose of loaning funds to other 2135
corporations, partnerships, and persons for the purpose of 2136
procuring or improving real or personal property, or both, for the 2137
establishment, location, or expansion of industrial, distribution, 2138
commercial, or research facilities in the state, if the director 2139
finds that: 2140

(A) The project is economically sound and will benefit the 2141
people of the state by increasing opportunities for employment and 2142
strengthening the economy of the state; 2143

(B) The proposed borrower, if other than a community 2144
improvement corporation or an Ohio development corporation, is 2145
unable to finance the proposed project through ordinary financial 2146
channels upon reasonable terms and at comparable interest rates, 2147
or the borrower, if a community improvement corporation or an Ohio 2148
development corporation, should not, in the opinion of the 2149
director, be required to finance the proposed project without a 2150
loan from the director; 2151

(C) The value of the project is, or upon completion thereof 2152
will be, at least equal to the total amount of the money expended 2153
in such procurement or improvement of which amount one or more 2154
financial institutions have loaned or invested not less than forty 2155
per cent; 2156

(D) The amount to be loaned by the director will not exceed 2157
fifty per cent of the total amount expended in the procurement or 2158
improvement of the project; 2159

(E) The amount to be loaned by the director will be 2160
adequately secured by a first or second mortgage upon the project, 2161
and by mortgages, leases, liens, assignments, or pledges on or of 2162
such other property or contracts as the director shall require and 2163
that such mortgage will not be subordinate to any other liens or 2164

mortgages except the liens securing loans or investments made by 2165
financial institutions referred to in division (C) of this 2166
section, and the liens securing loans previously made by any 2167
financial institution in connection with the procurement or 2168
expansion of all or part of a project. 2169

In no event may the ~~director~~ DIRECTOR director lend funds 2170
under the authority of this section for the purpose of procuring 2171
or improving motor vehicles, power driven vehicles, office 2172
equipment, raw materials, small tools, supplies, inventories, or 2173
accounts receivable. 2174

Sec. 122.44. Fees, charges, rates of interest, times of 2175
payment of interest and principal, and other terms, conditions, 2176
and provisions of the loans made by the director of development 2177
services pursuant to sections 122.39 and 122.41 to 122.62 of the 2178
Revised Code shall be such as the director determines to be 2179
appropriate and in furtherance of the purpose for which the loans 2180
are made, but the mortgage lien securing any money loaned by the 2181
director may be subordinate to the mortgage lien securing any 2182
money loaned or invested by a financial institution, but shall be 2183
superior to that securing any money loaned or expended by any 2184
other corporation or person. The funds used in making such loans 2185
shall be disbursed upon order of the director. 2186

Sec. 122.48. Each issue of revenue bonds issued by the 2187
treasurer of state pursuant to sections 122.39 and 122.41 to 2188
122.62 of the Revised Code, shall be dated, shall bear interest at 2189
a rate or rates or at a variable rate, as provided in or 2190
authorized by the proceedings authorizing or providing for the 2191
terms and conditions of the revenue bonds, shall mature at such 2192
time or times, not to exceed forty years from date, as determined 2193
by the director of development services and may be made redeemable 2194
before maturity at the option of the director at such price or 2195

prices and under such terms and conditions as are fixed by the 2196
director prior to the issuance of the bonds. The director shall 2197
determine the form of the bonds, including any interest coupons to 2198
be attached thereto, and the denomination or denominations of the 2199
bonds and the place or places of payment of principal and 2200
interest, which may be at any bank or trust company within or 2201
without the state. 2202

The bonds shall be executed by the signature or facsimile 2203
signature of the treasurer of state, the official seal or a 2204
facsimile thereof of the state shall be affixed thereto and 2205
attested by the treasurer of state or designated treasurer of 2206
state, and any coupons attached thereto shall bear the facsimile 2207
signature of the treasurer of state. In case the person whose 2208
signature, or a facsimile of whose signature, appears on any bonds 2209
or coupons ceases to be such officer before delivery of bonds or 2210
in case such person was not at the date of such bonds or coupons 2211
such officer but at the actual date of execution of such bonds or 2212
coupons was the proper officer, such signature or facsimile shall 2213
nevertheless be valid and sufficient for all purposes the same as 2214
if ~~he~~ the person had remained in office until such delivery. 2215

All revenue bonds issued under sections 122.39 and 122.41 to 2216
122.62 of the Revised Code, shall be negotiable instruments. The 2217
bonds may be issued in coupon or in registered form or both, as 2218
the treasurer determines. Provision may be made for the 2219
registration of any coupon bonds as to the principal alone and 2220
also as to both principal and interest, and for the reconversion 2221
into coupon bonds of any bonds registered as to both principal and 2222
interest. The treasurer of state may sell such bonds in the manner 2223
and for the price ~~he~~ the treasurer of state determines to be for 2224
the best interest of the state. 2225

Prior to the preparation of definitive bonds, the treasurer 2226
of state may, under like restrictions, issue interim receipts or 2227

temporary bonds, with or without coupons, exchangeable for 2228
definitive bonds when such bonds have been executed and are 2229
available for delivery. The treasurer of state may also provide 2230
for the replacement of any bonds which become mutilated or are 2231
destroyed, stolen, or lost. Bonds may be issued under sections 2232
122.39 to 122.62 of the Revised Code, without obtaining the 2233
consent of any department, division, commission, board, bureau, or 2234
agency of the state, and without any other proceeding or the 2235
happening of any other conditions or things than those 2236
proceedings, conditions, or things which are specifically required 2237
by such sections. 2238

Sec. 122.49. The proceeds of each issue of revenue bonds 2239
issued pursuant to sections 122.39 and 122.41 to 122.62 of the 2240
Revised Code shall be used for the making of loans authorized in 2241
sections 122.43 and 122.45 of the Revised Code, for the purchase 2242
and improvement of property authorized in section 122.46 of the 2243
Revised Code, for insuring mortgage payments authorized in section 2244
122.451 of the Revised Code, and for the crediting into and among 2245
the funds established in accordance with sections 122.35, 122.54, 2246
122.55, 122.56, 122.561, and 122.57 of the Revised Code, but 2247
subject to such conditions, limitations, and covenants with the 2248
purchasers and holders of the bonds as shall be provided for in 2249
the bond authorization proceedings and in the trust agreement 2250
securing the same. 2251

Provision shall be made by the director of development 2252
services for the payment of the expenses of the director in 2253
operating the assistance programs authorized under this chapter in 2254
such manner and to such extent as shall be determined by the 2255
director. 2256

Sec. 122.50. Revenue bonds issued under sections 122.39 and 2257
122.41 to 122.62, inclusive, of the Revised Code, do not 2258

constitute a debt, or a pledge of the faith and credit, of the 2259
state or of any political subdivision thereof, but such bonds 2260
shall be payable solely from the funds pledged for their payment 2261
as authorized by such sections, or by funds derived from the 2262
issuance of refunding bonds as authorized in section 122.52 of the 2263
Revised Code, which refunding bonds shall be payable solely from 2264
funds pledged for their payment as authorized by such section. All 2265
such revenue bonds shall contain on the face thereof a statement 2266
to the effect that the bonds, as to both principal and interest, 2267
are not an obligation of the state or of any political subdivision 2268
thereof, but are payable solely from revenues pledged for their 2269
payment. 2270

Sec. 122.51. All revenue bonds issued under sections 122.39 2271
and 122.41 to 122.62, inclusive, of the Revised Code, are lawful 2272
investments of banks, building and loan and savings and loan 2273
associations, deposit guarantee associations, trust companies, 2274
trustees, fiduciaries, trustees or other officers having charge of 2275
sinking or bond retirement funds of municipal corporations and 2276
other subdivisions of this state, and of domestic insurance 2277
companies notwithstanding sections 3907.14 and 3925.08 of the 2278
Revised Code, and are acceptable as security for the deposit of 2279
public moneys. 2280

Sec. 122.52. The director of development services may provide 2281
for the issuance of revenue refunding bonds of the state by the 2282
treasurer of state, payable solely from the sinking funds 2283
established in accordance with section 122.51 of the Revised Code 2284
at the times and in the order and manner provided by the director 2285
and in any trust agreement securing such bonds and shall also be 2286
secured by moneys in the other funds established pursuant to 2287
sections 122.39 and 122.41 to 122.62 of the Revised Code to the 2288
extent and on the terms specified by the director, for the purpose 2289

of refunding any revenue bonds then outstanding which have been 2290
issued under sections 122.39 and 122.41 to 122.62 of the Revised 2291
Code, including the payment of any redemption premium thereon and 2292
any interest accrued or to accrue to the date of redemption of 2293
such bonds. The issuance of such bonds, the maturities and other 2294
details thereof, the rights of the holders thereof, and the 2295
rights, duties, and obligations of the director and treasurer of 2296
state in respect to such bonds shall be governed by such sections 2297
insofar as they are applicable. 2298

Sec. 122.53. In the discretion of the treasurer of state, any 2299
bonds issued under sections 122.39 and 122.41 to 122.62 of the 2300
Revised Code, may be secured by a trust agreement between the 2301
treasurer of state and a corporate trustee, which trustee may be 2302
any trust company or bank having the powers of a trust company 2303
within or without the state. 2304

Any such trust agreement may pledge or assign payments of 2305
principal of and interest on loans, charges, fees, and other 2306
revenue to be received by the director of development services, 2307
all rentals received under leases made by the director, and all 2308
proceeds of the sale or other disposition of property held by the 2309
director, and may provide for the holding in trust by the trustee 2310
to the extent provided for in the proceedings authorizing such 2311
bonds, of all such moneys and moneys otherwise payable into the 2312
mortgage guarantee fund created by section 122.56 of the Revised 2313
Code, and all moneys otherwise payable into the mortgage insurance 2314
fund created by section 122.561 of the Revised Code, and of moneys 2315
payable into the sinking fund or funds referred to in section 2316
122.57 of the Revised Code, but shall not convey or mortgage any 2317
of the real or personal property held by the director or any part 2318
thereof. Any such trust agreement, or any proceedings providing 2319
for the issuance of such bonds, may contain such provisions for 2320
protecting and enforcing the rights and remedies of the 2321

bondholders as are reasonable and proper and not in violation of 2322
law, including covenants setting forth the duties of the director 2323
in relation to the acquisition of property, and the construction, 2324
improvement, maintenance, repair, operation, and insurance of 2325
facilities, the making of loans and leases and the terms and 2326
provisions thereof, and the custody, safeguarding, investment, and 2327
application of all moneys, and provisions for the employment of 2328
consulting engineers or other consultants in connection with the 2329
making of loans and leases and the construction or operation of 2330
any facility. Any bank or trust company incorporated under the 2331
laws of this state which may act as trustee or as depository of 2332
the proceeds of bonds or of revenue may furnish such indemnifying 2333
bonds or may pledge such securities as are required by the 2334
treasurer of state. Any such trust agreement may set forth the 2335
rights and remedies of the bondholders and of the trustee, and may 2336
restrict the individual right of action by bondholders as is 2337
customary in trust agreements or trust indentures securing bonds 2338
or debentures of corporations. Such trust agreement may contain 2339
such other provisions as the treasurer of state deems reasonable 2340
and proper for the security of the bondholders. All expenses 2341
incurred by the treasurer of state in carrying out the provisions 2342
of any such trust agreement shall be treated as a part of the cost 2343
of the operation of the assistance programs authorized pursuant to 2344
Chapter 122. of the Revised Code. Any such trust agreement may 2345
provide the method whereby general administrative overhead expense 2346
of the director with respect to those assistance programs shall be 2347
allocated among the funds established pursuant to Chapter 122. of 2348
the Revised Code with respect to the operating expenses of the 2349
director payable out of the income of the assistance programs. 2350

Sec. 122.561. The mortgage insurance fund of the director of 2351
development services is hereby created to consist of all money 2352
allocated by the director from the proceeds of the sale of any 2353

issue of revenue bonds, to the extent and subject to the 2354
conditions provided in the proceedings authorizing such bonds or 2355
in the trust agreements securing such bonds, for the purpose of 2356
insuring mortgage payments pursuant to section 122.451 of the 2357
Revised Code, all grants and contributions made to the director 2358
for such purpose, all moneys deposited or credited to the mortgage 2359
insurance fund pursuant to section 169.05 of the Revised Code, all 2360
other moneys and property designated by the director and by law 2361
for such purpose, all mortgage insurance premiums charged and 2362
collected as provided in this section, and all receipts and 2363
proceeds from the sale, disposal, lease, or rental of real or 2364
personal property which the director may hold as a result of a 2365
default in an insured mortgage. The director shall fix mortgage 2366
insurance premiums for the insurance of mortgage payments pursuant 2367
to section 122.451 of the Revised Code, to be computed as a 2368
percentage of the principal obligation of the mortgage outstanding 2369
at the beginning of each mortgage year. Such insurance premiums 2370
shall not be more than three per cent per annum of the outstanding 2371
principal obligation, and shall be calculated on the basis of all 2372
pertinent available data. Such premiums shall be payable by the 2373
mortgagors or the mortgagees in such manner as is prescribed by 2374
the director. The amount of premium need not be uniform among the 2375
various mortgages insured. The director may provide for the 2376
custody, investment, and use of the unclaimed funds trust fund 2377
created by section 169.05 of the Revised Code and all mortgage 2378
insurance premiums, including the payment therefrom of the 2379
expenses and costs of the director in insuring mortgage payments 2380
pursuant to section 122.451 of the Revised Code. Any financial 2381
statements or financial data submitted to the director, ~~the~~ 2382
~~development financing advisory council,~~ or the controlling board 2383
in connection with any application for the insurance of mortgage 2384
payments, or any information taken from such statements or data, 2385
is not open to public inspection. 2386

Sec. 122.57. All payments of principal of and interest on the 2387
loans made by the director of development services, all rentals 2388
received under leases made by ~~him~~ the director, and all proceeds 2389
of the sale or other disposition of property held by ~~him~~ the 2390
director shall be placed in separate sinking funds to the extent 2391
provided in the proceedings authorizing revenue bonds which are 2392
hereby pledged to and charged with the payment of interest on, 2393
principal of and redemption premium on, the revenue bonds issued 2394
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2395
Code to the extent provided in the proceedings authorizing and the 2396
trust agreements securing such bonds. The moneys therein in excess 2397
of the amounts required by the bond proceedings and trust 2398
agreements and all payments not so required to be paid into such 2399
sinking funds shall be retained or placed in such fund or in the 2400
other funds provided for by sections 122.35, 122.54, 122.42, 2401
122.55, 122.56, 122.561, and 122.57 of the Revised Code as the 2402
director shall determine, and shall be available for the uses for 2403
which such funds are established. 2404

Sec. 122.60. As used in sections 122.60 to 122.605 of the 2405
Revised Code: 2406

(A) "Capital access loan" means a loan made by a 2407
participating financial institution to an eligible business that 2408
may be secured by a deposit of money from the fund into the 2409
participating financial institution's program reserve account. 2410

(B) "Department of development" means the ~~department of~~ 2411
development services agency. 2412

(C) "Eligible business" means a for-profit business entity, 2413
or a nonprofit entity, that had total annual sales in its most 2414
recently completed fiscal year of less than ten million dollars 2415
and that has a principal place of for-profit business or nonprofit 2416

entity activity within the state, the operation of which, alone or 2417
in conjunction with other facilities, will create new jobs or 2418
preserve existing jobs and employment opportunities and will 2419
improve the economic welfare of the people of the state. As used 2420
in this division, "new jobs" does not include existing jobs 2421
transferred from another facility within the state, and "existing 2422
jobs" means only existing jobs at facilities within the same 2423
municipal corporation or township in which the project, activity, 2424
or enterprise that is the subject of a capital access loan is 2425
located. 2426

(D) "Financial institution" means any bank, trust company, 2427
savings bank, or savings and loan association that is chartered by 2428
and has a significant presence in the state, or any national bank, 2429
federal savings and loan association, or federal savings bank that 2430
has a significant presence in the state. 2431

(E) "Fund" means the capital access loan program fund. 2432

(F) "Minority business supplier development council" has the 2433
same meaning as in section 122.71 of the Revised Code. 2434

(G) "Participating financial institution" means a financial 2435
institution that has a valid, current participation agreement with 2436
the ~~department~~ development services agency. 2437

~~(G)~~(H) "Participation agreement" means the agreement between 2438
a financial institution and the ~~department~~ agency under which a 2439
financial institution may participate in the program. 2440

~~(H)~~(I) "Passive real estate ownership" means the ownership of 2441
real estate for the sole purpose of deriving income from it by 2442
speculation, trade, or rental. 2443

~~(I)~~(J) "Program" means the capital access loan program 2444
created under section 122.602 of the Revised Code. 2445

~~(J)~~(K) "Program reserve account" means a dedicated account at 2446

each participating financial institution that is the property of 2447
the state and may be used by the participating financial 2448
institution only for the purpose of recovering a claim under 2449
section 122.604 of the Revised Code arising from a default on a 2450
loan made by the participating financial institution under the 2451
program. 2452

Sec. 122.601. There is hereby created in the state treasury 2453
the capital access loan program fund. The fund shall consist of 2454
money deposited into it from the minority business enterprise loan 2455
fund pursuant to section 122.80 of the Revised Code and the 2456
facilities establishment fund pursuant to section 166.03 of the 2457
Revised Code and all money deposited into it pursuant to section 2458
122.602 of the Revised Code. The total amount of money deposited 2459
into the fund from the minority business enterprise loan fund or 2460
the facilities establishment fund shall not exceed three million 2461
dollars during any particular fiscal year of the ~~department~~ 2462
development services agency. 2463

The ~~department~~ agency shall disburse money from the fund only 2464
to pay the operating costs of the program, including the 2465
administrative costs incurred by the ~~department~~ agency in 2466
connection with the program, and only in keeping with the purposes 2467
specified in sections 122.60 to 122.605 of the Revised Code. 2468

Sec. 122.602. (A) There is hereby created in the department 2469
of development the capital access loan program to assist 2470
participating financial institutions in making program loans to 2471
eligible businesses that face barriers in accessing working 2472
capital and obtaining fixed asset financing. In administering the 2473
program, the director of development may do any of the following: 2474

(1) Receive and accept grants, gifts, and contributions of 2475
money, property, labor, and other things of value to be held, 2476

used, and applied only for the purpose for which the grants, 2477
gifts, and contributions are made, from individuals, private and 2478
public corporations, the United States or any agency of the United 2479
States, the state or any agency of the state, or any political 2480
subdivision of the state; 2481

(2) Agree to repay any contribution of money or return any 2482
property contributed or the value of that property at the times, 2483
in the amounts, and on the terms and conditions, excluding the 2484
payment of interest, that the director consents to at the time a 2485
contribution is made; and evidence obligations by notes, bonds, or 2486
other written instruments; 2487

(3) Adopt rules under Chapter 119. of the Revised Code to 2488
carry out the purposes of the program specified in sections 122.60 2489
to 122.605 of the Revised Code; 2490

(4) Engage in all other acts, and enter into contracts and 2491
execute all instruments, necessary or appropriate to carry out the 2492
purposes specified in sections 122.60 to 122.605 of the Revised 2493
Code. 2494

(B) The director shall determine the eligibility of a 2495
financial institution to participate in the program and may set a 2496
limit on the number of financial institutions that may participate 2497
in the program. 2498

(C) To be considered eligible by the director to participate 2499
in the program, a financial institution shall enter into a 2500
participation agreement with the department that sets out the 2501
terms and conditions under which the department will deposit 2502
moneys from the fund into the financial institution's program 2503
reserve account, specifies the criteria for loan qualification 2504
under the program, and contains any additional terms the director 2505
considers necessary. 2506

(D) After receiving the certification required under division 2507

(C) of section 122.603 of the Revised Code, the director may 2508
disburse moneys from the fund to a participating financial 2509
institution for deposit in its program reserve account if the 2510
director determines that the capital access loan involved meets 2511
all of the following criteria: 2512

(1) It will be made to an eligible business. 2513

(2) It will be used by the eligible business for a project, 2514
activity, or enterprise that fosters economic development. 2515

(3) It will not be made in order to enroll in the program 2516
prior debt that is not covered under the program and that is owed 2517
or was previously owed by an eligible business to the financial 2518
institution. 2519

(4) It will not be utilized for a project or development 2520
related to the on-site construction or purchase of residential 2521
housing. 2522

(5) It will not be used to finance passive real estate 2523
ownership. 2524

(6) It conforms to the requirements of divisions (E), (F), 2525
(G), (H), and (I) of this section, and to the rules adopted by the 2526
director under division (A)(3) of this section. 2527

(E) The director shall not approve a deposit amount from the 2528
fund for a capital access loan to an eligible business that 2529
exceeds two hundred fifty thousand dollars for working capital or 2530
five hundred thousand dollars for the purchase of fixed assets. An 2531
eligible business may apply for the maximum deposit amount ~~of~~ for 2532
both working capital and the purchase of fixed assets in the same 2533
capital access loan enrollment. 2534

(F) A financial institution may apply to the director for the 2535
approval of a capital access loan to any business that is owned or 2536
operated by a person that has previously defaulted under any state 2537

financial assistance program. 2538

(G) Eligible businesses that apply for a capital access loan 2539
shall comply with section 9.66 of the Revised Code. 2540

(H) A financial institution may apply to the director for the 2541
approval of a capital access loan that refinances a nonprogram 2542
loan made by another financial institution. 2543

(I) The director shall not approve a capital access loan that 2544
refinances a nonprogram loan made by the same financial 2545
institution, unless the amount of the refinanced loan exceeds the 2546
existing debt, in which case only the amount exceeding the 2547
existing debt is eligible for a loan under the program. 2548

Sec. 122.603. (A)(1) Upon approval by the director of 2549
development services and after entering into a participation 2550
agreement with the ~~department of~~ development services agency, a 2551
participating financial institution making a capital access loan 2552
shall establish a program reserve account. The account shall be an 2553
interest-bearing account and shall contain only moneys deposited 2554
into it under the program and the interest payable on the moneys 2555
in the account. 2556

(2) All interest payable on the moneys in the program reserve 2557
account shall be added to the moneys and held as an additional 2558
loss reserve. The director may require that a portion or all of 2559
the accrued interest so held in the account be released to the 2560
~~department~~ agency. If the director causes a release of accrued 2561
interest, the director shall deposit the released amount into the 2562
capital access loan program fund created in section 122.601 of the 2563
Revised Code. The director shall not require the release of that 2564
accrued interest more than twice in a fiscal year. 2565

(B) When a participating financial institution makes a 2566
capital access loan, it shall require the eligible business to pay 2567

to the participating financial institution a fee in an amount that 2568
is not less than one and one-half per cent, and not more than 2569
three per cent, of the principal amount of the loan. The 2570
participating financial institution shall deposit the fee into its 2571
program reserve account, and it also shall deposit into the 2572
account an amount of its own funds equal to the amount of the fee. 2573
The participating financial institution may recover from the 2574
eligible business all or part of the amount that the participating 2575
financial institution is required to deposit into the account 2576
under this division in any manner agreed to by the participating 2577
financial institution and the eligible business. 2578

(C) For each capital access loan made by a participating 2579
financial institution, the participating financial institution 2580
shall certify to the director, within a period specified by the 2581
director, that the participating financial institution has made 2582
the loan. The certification shall include the amount of the loan, 2583
the amount of the fee received from the eligible business, the 2584
amount of its own funds that the participating financial 2585
institution deposited into its program reserve account to reflect 2586
that fee, and any other information specified by the director. The 2587
certification also shall indicate if the eligible business 2588
receiving the capital access loan is a minority business 2589
enterprise as defined in section 122.71 of the Revised Code or 2590
certified by the minority business supplier development council. 2591

(D)(1)(a) Upon receipt of each of the first three 2592
certifications from a participating financial institution made 2593
under division (C) of this section and subject to section 122.602 2594
of the Revised Code, the director shall disburse to the 2595
participating financial institution from the capital access loan 2596
program fund an amount ~~equal~~ not to exceed fifty per cent of the 2597
principal amount of the particular capital access loan for deposit 2598
into the participating financial institution's program reserve 2599

account. Thereafter, upon receipt of a certification from that 2600
participating financial institution made under division (C) of 2601
this section and subject to section 122.602 of the Revised Code, 2602
the director shall disburse to the participating financial 2603
institution from the capital access loan program fund an amount 2604
equal to ten per cent of the principal amount of the particular 2605
capital access loan for deposit into the participating financial 2606
institution's program reserve account. 2607

(b) Notwithstanding division (D)(1)(a) of this section, and 2608
subject to section 122.602 of the Revised Code, upon receipt of 2609
any certification from a participating financial institution made 2610
under division (C) of this section with respect to a capital 2611
access loan made to an eligible business that is a minority 2612
business enterprise, the director shall disburse to the 2613
participating financial institution from the capital access loan 2614
program fund an amount ~~equal~~ not to exceed eighty per cent of the 2615
principal amount of the particular capital access loan for deposit 2616
into the participating financial institution's program reserve 2617
account. 2618

(2) The disbursement of moneys from the fund to a 2619
participating financial institution does not require approval from 2620
the controlling board. 2621

(E) If the amount in a program reserve account exceeds an 2622
amount equal to thirty-three per cent of a participating financial 2623
institution's outstanding capital access loans, the ~~department~~ 2624
agency may cause the withdrawal of the excess amount and the 2625
deposit of the withdrawn amount into the capital access loan 2626
program fund. 2627

(F)(1) The ~~department~~ agency may cause the withdrawal of the 2628
total amount in a participating financial institution's program 2629
reserve account if any of the following applies: 2630

(a) The financial institution is no longer eligible to participate in the program. 2631
2632

(b) The participation agreement expires without renewal by the ~~department~~ agency or the financial institution. 2633
2634

(c) The financial institution has no outstanding capital access loans. 2635
2636

(d) The financial institution has not made a capital access loan within the preceding twenty-four months. 2637
2638

(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. 2639
2640
2641
2642

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. 2643
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Sec. 122.62. All moneys received under sections 122.39 and 2660

122.41 to 122.62 of the Revised Code as proceeds from the sale of 2661
bonds are trust funds. All moneys received under those sections 2662
shall be held and applied solely as provided in such sections and 2663
section 166.03 of the Revised Code. All such moneys, except as 2664
otherwise provided in any proceedings authorizing revenue bonds or 2665
in any trust agreement securing such bonds or except when 2666
deposited with the treasurer of state, or except as they may be 2667
invested pursuant to section 122.58 of the Revised Code, shall be 2668
kept in depositories as selected by the director of development 2669
services in the manner provided in sections 135.01 to 135.21 of 2670
the Revised Code, insofar as such sections are applicable, and the 2671
deposits shall be secured as provided in sections 135.01 to 135.21 2672
of the Revised Code. The proceedings authorizing the issuance of 2673
bonds of any issue or the trust agreement securing such bonds 2674
shall provide that any official to whom, or any bank or trust 2675
company to which, such moneys are paid, shall act as trustee of 2676
such moneys and hold and apply them for the purposes of sections 2677
122.39 and 122.41 to 122.62 of the Revised Code, subject to such 2678
rules as such sections and such bond issuance proceedings or trust 2679
agreement provide. 2680

Sec. 122.64. (A) There is hereby established in the 2681
~~department of development~~ services agency a business services 2682
~~division of economic development~~. The division shall be supervised 2683
by a deputy director appointed by the director of development 2684
services. 2685

The division is responsible for the administration of the 2686
state economic development financing programs established pursuant 2687
to sections 122.17 and 122.18, sections 122.39 and 122.41 to 2688
122.62, and Chapter 166. of the Revised Code ~~and for coordinating~~ 2689
~~the activities of the development financing advisory council so as~~ 2690
~~to ensure the efficient administration of the programs.~~ 2691

(B) The director of development services shall: 2692

(1) ~~Appoint an individual to serve as director of the~~ 2693
~~development financing advisory council;~~ 2694

~~(2)~~ Receive applications for assistance pursuant to sections 2695
122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. 2696
The director shall process the applications ~~and, except as~~ 2697
~~provided in division (C)(2) of section 166.05 of the Revised Code,~~ 2698
~~forward them to the development financing advisory council. As~~ 2699
~~appropriate, the director shall receive the recommendations of the~~ 2700
~~council as to applications for assistance.~~ 2701

~~(3)~~(2) With the approval of the director of administrative 2702
services, establish salary schedules for employees of the various 2703
positions of employment with the division and assign the various 2704
positions to those salary schedules; 2705

~~(4)~~ ~~Furnish and pay for, out of funds appropriated to the~~ 2706
~~department of development for that purpose, office space and~~ 2707
~~associated utilities service, for the development financing~~ 2708
~~advisory council;~~ 2709

~~(5)~~(3) Employ and fix the compensation of financial 2710
consultants, appraisers, consulting engineers, superintendents, 2711
managers, construction and accounting experts, attorneys, and 2712
other agents for the assistance programs authorized pursuant to 2713
sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, 2714
and Chapter 166. of the Revised Code as are necessary; 2715

~~(6)~~(4) Supervise the administrative operations of the 2716
division; 2717

~~(7)~~(5) On or before the first day of October in each year, 2718
make an annual report of the activities and operations under 2719
assistance programs authorized pursuant to sections 122.39 and 2720
122.41 to 122.62 and Chapter 166. of the Revised Code for the 2721
preceding fiscal year to the governor and the general assembly. 2722

Each such report shall set forth a complete operating and 2723
financial statement covering such activities and operations during 2724
the year in accordance with generally accepted accounting 2725
principles and shall be audited by a certified public accountant. 2726
The director of development services shall transmit a copy of the 2727
audited financial report to the office of budget and management. 2728

Sec. 122.76. (A) The director of development services, with 2729
controlling board approval, may lend funds to minority business 2730
enterprises and to community improvement corporations, Ohio 2731
development corporations, minority contractors business assistance 2732
organizations, and minority business supplier development councils 2733
for the purpose of loaning funds to minority business enterprises 2734
and for the purpose of procuring or improving real or personal 2735
property, or both, for the establishment, location, or expansion 2736
of industrial, distribution, commercial, or research facilities in 2737
the state, and to community development corporations that 2738
predominantly benefit minority business enterprises or are located 2739
in a census tract that has a population that is sixty per cent or 2740
more minority if the director determines, in the director's sole 2741
discretion, that all of the following apply: 2742

(1) The project is economically sound and will benefit the 2743
people of the state by increasing opportunities for employment, by 2744
strengthening the economy of the state, or expanding minority 2745
business enterprises. 2746

(2) The proposed minority business enterprise borrower is 2747
unable to finance the proposed project through ordinary financial 2748
channels at comparable terms. 2749

(3) The value of the project is or, upon completion, will be 2750
at least equal to the total amount of the money expended in the 2751
procurement or improvement of the project. 2752

(4) The amount to be loaned by the director will not exceed 2753

~~sixty~~ seventy-five per cent of the total amount expended in the 2754
procurement or improvement of the project. 2755

(5) The amount to be loaned by the director will be 2756
adequately secured by a first or second mortgage upon the project 2757
or by mortgages, leases, liens, assignments, or pledges on or of 2758
other property or contracts as the director requires, and such 2759
mortgage will not be subordinate to any other liens or mortgages 2760
except the liens securing loans or investments made by financial 2761
institutions referred to in division (A)(3) of this section, and 2762
the liens securing loans previously made by any financial 2763
institution in connection with the procurement or expansion of all 2764
or part of a project. 2765

(B) Any proposed minority business enterprise borrower 2766
submitting an application for assistance under this section shall 2767
not have defaulted on a previous loan from the director, and no 2768
full or limited partner, major shareholder, or holder of an equity 2769
interest of the proposed minority business enterprise borrower 2770
shall have defaulted on a loan from the director. 2771

(C) The proposed minority business enterprise borrower shall 2772
demonstrate to the satisfaction of the director that it is able to 2773
successfully compete in the private sector if it obtains the 2774
necessary financial, technical, or managerial support and that 2775
support is available through the director, the minority business 2776
development office of the department of development, or other 2777
identified and acceptable sources. In determining whether a 2778
minority business enterprise borrower will be able to successfully 2779
compete, the director may give consideration to such factors as 2780
the successful completion of or participation in courses of study, 2781
recognized by the board of regents as providing financial, 2782
technical, or managerial skills related to the operation of the 2783
business, by the economically disadvantaged individual, owner, or 2784
partner, and the prior success of the individual, owner, or 2785

partner in personal, career, or business activities, as well as to 2786
other factors identified by the director. 2787

(D) The director shall not lend funds for the purpose of 2788
procuring or improving motor vehicles or accounts receivable. 2789

Sec. 122.80. There is hereby created in the state treasury 2790
the minority business enterprise loan fund. The fund shall consist 2791
of money deposited into the fund from the facilities establishment 2792
fund pursuant to section 166.03 of the Revised Code and all money 2793
deposited into the fund pursuant to section 122.81 of the Revised 2794
Code. The director of development shall use the fund to pay 2795
operating costs of the minority development financing advisory 2796
board, make loans to minority business enterprises as authorized 2797
in division (A) of section 122.76 of the Revised Code and, loan 2798
guarantees to small businesses as authorized in division (A) of 2799
section 122.77 of the Revised Code, and for transfer to the 2800
capital access loan program fund established in section 122.601 of 2801
the Revised Code. 2802

Sec. 122.86. (A) As used in this section and section 5747.81 2803
of the Revised Code: 2804

(1) "Small business enterprise" means a corporation, 2805
pass-through entity, or other person satisfying all of the 2806
following: 2807

(a) At the time of a qualifying investment, the enterprise 2808
meets all of the following requirements: 2809

(i) Has no outstanding tax or other liabilities owed to the 2810
state; 2811

(ii) Is in good standing with the secretary of state, if the 2812
enterprise is required to be registered with the secretary; 2813

(iii) Is current with any court-ordered payments; 2814

(iv) Is not engaged in any illegal activity. 2815

(b) At the time of a qualifying investment, the enterprise's 2816
assets according to generally accepted accounting principles do 2817
not exceed fifty million dollars, or its annual sales do not 2818
exceed ten million dollars~~+~~. When making this determination, the 2819
assets and annual sales of all of the enterprise's related or 2820
affiliated entities shall be included in the calculation. 2821

~~(b)~~(c) The enterprise employs at least fifty full-time 2822
equivalent employees in this state for whom the enterprise is 2823
required to withhold income tax under section 5747.06 of the 2824
Revised Code, or more than one-half the enterprise's total number 2825
of full-time equivalent employees employed anywhere in the United 2826
States are employed in this state and are subject to that 2827
withholding requirement. 2828

~~(e)~~(d) The enterprise, within six months after an eligible 2829
investor's qualifying investment is made, invests in or incurs 2830
cost for one or more of the following in an amount at least equal 2831
to the amount of the qualifying investment: 2832

(i) Tangible personal property, other than motor vehicles 2833
operated on public roads and highways, used in business and 2834
physically located in this state from the time of its acquisition 2835
by the enterprise until the end of the investor's holding period; 2836

(ii) Motor vehicles operated on public roads and highways if, 2837
from the time of acquisition by the enterprise until the end of 2838
the investor's holding period, the motor vehicles are purchased in 2839
this state, registered in this state under Chapter 4503. of the 2840
Revised Code, are used primarily for business purposes, and are 2841
necessary for the operation of the enterprise's business; 2842

(iii) Real property located in this state that is used in 2843
business from the time of its acquisition by the enterprise until 2844
the end of the holding period; 2845

(iv) Intangible personal property, including patents, 2846
copyrights, trademarks, service marks, or licenses used in 2847
business primarily in this state from the time of its acquisition 2848
by the enterprise until the end of the holding period; 2849

(v) Compensation for new employees of the enterprise for whom 2850
the enterprise is required to withhold income tax under section 2851
5747.06 of the Revised Code, not including increased compensation 2852
for owners, officers, or managers of the enterprise. For this 2853
purpose compensation for new employees includes compensation for 2854
newly hired or retained employees. 2855

(2) "Qualifying investment" means an investment of money made 2856
on or after July 1, 2011, to acquire capital stock or other equity 2857
interest in a small business enterprise. "Qualifying investment" 2858
does not include ~~any~~ either of the following: 2859

(a) Any investment of money an eligible investor derives, 2860
directly or indirectly, from a grant or loan from the federal 2861
government or the state or a political subdivision, including the 2862
third frontier program under Chapter 184. of the Revised Code; 2863

(b) Any investment of money which is the basis of a tax 2864
credit granted under any other section of the Revised Code. 2865

(3) "Eligible investor" means an individual, estate, or trust 2866
subject to the tax imposed by section 5747.02 of the Revised Code, 2867
or a pass-through entity in which such an individual, estate, or 2868
trust holds a direct or indirect ownership or other equity 2869
interest. To qualify as an eligible investor, the individual, 2870
estate, trust, or pass-through entity shall not owe any 2871
outstanding tax or other liability to the state at the time of a 2872
qualifying investment. 2873

(4) "Holding period" means: 2874

(a) For qualifying investments made on or after July 1, 2011, 2875
but before July 1, 2013, the two-year period beginning on the day 2876

the investment was made; 2877

(b) For qualifying investments made on or after July 1, 2013, 2878
the five-year period beginning on the day the investment was made. 2879

(5) "Pass-through entity" has the same meaning as in section 2880
5733.04 of the Revised Code. 2881

(B) Any eligible investor that makes a qualifying investment 2882
in a small business enterprise on or after July 1, 2011, may apply 2883
to the director of development services to obtain a small business 2884
investment certificate from the director. Alternatively, a small 2885
business enterprise may apply on behalf of eligible investors to 2886
obtain the certificates for those investors. The director, in 2887
consultation with the tax commissioner, shall prescribe the form 2888
or manner in which an applicant shall apply for the certificate, 2889
devise the form of the certificate, and prescribe any records or 2890
other information an applicant shall furnish with the application 2891
to evidence the qualifying investment. The applicant shall state 2892
the amount of the intended investment. The applicant shall pay an 2893
application fee equal to the greater of one-tenth of one per cent 2894
of the amount of the intended investment or one hundred dollars. 2895

A small business investment certificate entitles the 2896
certificate holder to receive a tax credit under section 5747.81 2897
of the Revised Code if the certificate holder qualifies for the 2898
credit as otherwise provided in this section. If the certificate 2899
holder is a pass-through entity, the certificate entitles the 2900
entity's equity owners to receive their distributive or 2901
proportionate shares of the credit. In any fiscal biennium, an 2902
eligible investor may not apply for small business investment 2903
certificates representing intended investment amounts in excess of 2904
ten million dollars. Such certificates are not transferable. 2905

The director of development ~~shall issue~~ services may reserve 2906
small business investment certificates to qualifying applicants in 2907

the order in which the director receives applications, but may 2908
issue the certificates as the applications are completed. An 2909
application is completed when the director has validated that an 2910
eligible investor has made a qualified investment and the small 2911
business enterprise has made the appropriate reinvestment of the 2912
qualified investment pursuant to the requirements of division 2913
(A)(1)(d) of this section. To qualify for a certificate, an 2914
eligible investor must satisfy both of the following, subject to 2915
the limitation on the amount of qualifying investments for which 2916
certificates may be issued under division (C) of this section: 2917

(1) The eligible investor makes a qualifying investment on or 2918
after July 1, 2011. 2919

(2) The eligible investor pledges not to sell or otherwise 2920
dispose of the qualifying investment before the conclusion of the 2921
applicable holding period. 2922

(C)(1) The amount of any eligible investor's qualifying 2923
investments for which small business investment certificates may 2924
be issued for a fiscal biennium shall not exceed ten million 2925
dollars. 2926

(2) The director of development services shall not issue a 2927
small business investment certificate to an eligible investor 2928
representing an amount of qualifying investment in excess of the 2929
amount of the intended investment indicated on the investor's 2930
application for the certificate. 2931

(3) The director of development services shall not issue 2932
small business investment certificates in a total amount that 2933
would cause the tax credits claimed in any fiscal biennium to 2934
exceed one hundred million dollars. 2935

(4) The director of development services may issue a small 2936
business investment certificate only if both of the following 2937
apply at the time of issuance: 2938

(a) The small business enterprise meets all the requirements listed in divisions (A)(1)(a)(i) to (iv) of this section; 2939
2940

(b) The eligible investor does not owe any outstanding tax or other liability to the state. 2941
2942

(D) Before the end of the applicable holding period of a 2943
qualifying investment, each enterprise in which a qualifying 2944
investment was made for which a small business investment 2945
certificate has been issued, upon the request of the director of 2946
development services, shall provide to the director records or 2947
other evidence satisfactory to the director that the enterprise is 2948
a small business enterprise for the purposes of this section. Each 2949
enterprise shall also provide annually to the director records or 2950
evidence regarding the number of jobs created or retained in the 2951
state. No credit may be claimed under this section and section 2952
5747.81 of the Revised Code if the director finds that an 2953
enterprise is not a small business enterprise for the purposes of 2954
this section. The director shall compile and maintain a register 2955
of small business enterprises qualifying under this section and 2956
shall certify the register to the tax commissioner. The director 2957
shall also compile and maintain a record of the number of jobs 2958
created or retained as a result of qualifying investments made 2959
pursuant to this section. 2960

(E) After the conclusion of the applicable holding period for 2961
a qualifying investment, a person to whom a small business 2962
investment certificate has been issued under this section may 2963
claim a credit as provided under section 5747.81 of the Revised 2964
Code. 2965

(F) The director of development services, in consultation 2966
with the tax commissioner, may adopt rules for the administration 2967
of this section, including rules governing the following: 2968

(1) Documents, records, or other information eligible 2969

investors shall provide to the director; 2970

(2) Any information a small business enterprise shall provide 2971
for the purposes of this section and section 5747.81 of the 2972
Revised Code; 2973

(3) Determination of the number of full-time equivalent 2974
employees of a small business enterprise; 2975

(4) Verification of a small business enterprise's investment 2976
in tangible personal property and intangible personal property 2977
under division (A)(1)~~(e)~~(d) of this section, including when such 2978
investments have been made and where the property is used in 2979
business; 2980

(5) Circumstances under which small business enterprises or 2981
eligible investors may be subverting the purposes of this section 2982
and section 5747.81 of the Revised Code. 2983

There is hereby created in the state treasury the InvestOhio 2984
support fund. The fund shall consist of the fees paid under 2985
division (B) of this section and shall be used by the development 2986
services agency to pay the costs of administering the small 2987
business investment certificate program established under this 2988
section. 2989

Sec. 122.942. The director of development services shall, 2990
with respect to each project for which a loan, grant, tax credit, 2991
or other state-funded financial assistance is awarded by the 2992
development services agency, make all of the following information 2993
available to the public within thirty days after the agency enters 2994
into a contract with the recipient: 2995

(A) A summary of the project that includes all of the 2996
following: 2997

(1) A breakdown of the sources of the funds for each aspect 2998
of the project, such as state or federal programs, the operating 2999

<u>company or entity itself, or any private financing, and a complete</u>	3000
<u>description of how each type of funds is to be used;</u>	3001
<u>(2) The total amount of assistance awarded;</u>	3002
<u>(3) A brief description of the project;</u>	3003
<u>(4) The following information regarding the project:</u>	3004
<u>(a) The operating company or entity that is awarded the</u>	3005
<u>assistance;</u>	3006
<u>(b) The products or services provided by the operating</u>	3007
<u>company or entity;</u>	3008
<u>(c) The number of new jobs, at-risk jobs, and retained jobs</u>	3009
<u>anticipated; the hourly wages and hourly benefits of those jobs;</u>	3010
<u>and the dollar amount of assistance per job affected.</u>	3011
<u>(5) The strengths and weaknesses of the project;</u>	3012
<u>(6) The location of the project, the location of the</u>	3013
<u>operating company or entity, and whether relocation is involved;</u>	3014
<u>(7) The Ohio house district and Ohio senate district in which</u>	3015
<u>the project is located;</u>	3016
<u>(8) The payment terms and conditions of the assistance</u>	3017
<u>awarded;</u>	3018
<u>(9) The collateral or security required;</u>	3019
<u>(10) The recommendation of the staff assigned to the project.</u>	3020
<u>(B) A comprehensive report that provides a description of the</u>	3021
<u>operating company or entity; all relevant information regarding</u>	3022
<u>the project; an analysis of the operating company or entity and</u>	3023
<u>the goods or services it provides; the explicit terms of any</u>	3024
<u>collateral or security required; and the reasoning behind the</u>	3025
<u>staffs' recommendation.</u>	3026
<u>(C) Any other relevant information the controlling board may</u>	3027
<u>request, or the director may consider necessary to more fully</u>	3028

describe the details of the assistance or the operating company or 3029
entity, that is provided before the controlling board approves the 3030
assistance. 3031

Nothing in this section shall be construed as requiring the 3032
disclosure of information that is not a public record under 3033
section 149.43 of the Revised Code. 3034

Sec. 122.97. (A) The business development and assistance fund 3035
is hereby created in the state treasury. Investment earnings on 3036
moneys in the fund shall be credited to the fund. The development 3037
services agency shall deposit any money it receives for business 3038
development services and business assistance services to the 3039
credit of the fund, including: 3040

(1) Reimbursements for services provided for business 3041
development and business assistance services; 3042

(2) Contract or grant payments from private entities; 3043

(3) Donations or sponsorship payments from private entities; 3044

(4) Contract or grant payments from public agencies or 3045
political subdivisions. 3046

(B) The agency shall use money in the fund for any agency 3047
operating purposes or programs providing business support or 3048
business assistance, including grants, loans, or administrative 3049
expenses. 3050

Sec. 149.43. (A) As used in this section: 3051

(1) "Public record" means records kept by any public office, 3052
including, but not limited to, state, county, city, village, 3053
township, and school district units, and records pertaining to the 3054
delivery of educational services by an alternative school in this 3055
state kept by the nonprofit or for-profit entity operating the 3056
alternative school pursuant to section 3313.533 of the Revised 3057

Code. "Public record" does not mean any of the following:	3058
(a) Medical records;	3059
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	3060 3061 3062
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	3063 3064 3065
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;	3066 3067 3068
(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;	3069 3070 3071 3072 3073 3074
(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;	3075 3076 3077
(g) Trial preparation records;	3078
(h) Confidential law enforcement investigatory records;	3079
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	3080 3081
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	3082 3083
(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;	3084 3085 3086 3087

(l) Records maintained by the department of youth services	3088
pertaining to children in its custody released by the department	3089
of youth services to the department of rehabilitation and	3090
correction pursuant to section 5139.05 of the Revised Code;	3091
(m) Intellectual property records;	3092
(n) Donor profile records;	3093
(o) Records maintained by the department of job and family	3094
services pursuant to section 3121.894 of the Revised Code;	3095
(p) Peace officer, parole officer, probation officer,	3096
bailiff, prosecuting attorney, assistant prosecuting attorney,	3097
correctional employee, youth services employee, firefighter, EMT,	3098
or investigator of the bureau of criminal identification and	3099
investigation residential and familial information;	3100
(q) In the case of a county hospital operated pursuant to	3101
Chapter 339. of the Revised Code or a municipal hospital operated	3102
pursuant to Chapter 749. of the Revised Code, information that	3103
constitutes a trade secret, as defined in section 1333.61 of the	3104
Revised Code;	3105
(r) Information pertaining to the recreational activities of	3106
a person under the age of eighteen;	3107
(s) Records provided to, statements made by review board	3108
members during meetings of, and all work products of a child	3109
fatality review board acting under sections 307.621 to 307.629 of	3110
the Revised Code, and child fatality review data submitted by the	3111
child fatality review board to the department of health or a	3112
national child death review database, other than the report	3113
prepared pursuant to division (A) of section 307.626 of the	3114
Revised Code;	3115
(t) Records provided to and statements made by the executive	3116
director of a public children services agency or a prosecuting	3117

attorney acting pursuant to section 5153.171 of the Revised Code	3118
other than the information released under that section;	3119
(u) Test materials, examinations, or evaluation tools used in	3120
an examination for licensure as a nursing home administrator that	3121
the board of examiners of nursing home administrators administers	3122
under section 4751.04 of the Revised Code or contracts under that	3123
section with a private or government entity to administer;	3124
(v) Records the release of which is prohibited by state or	3125
federal law;	3126
(w) Proprietary information of or relating to any person that	3127
is submitted to or compiled by the Ohio venture capital authority	3128
created under section 150.01 of the Revised Code;	3129
(x) Information reported and evaluations conducted pursuant	3130
to section 3701.072 of the Revised Code;	3131
(y) Financial statements and data any person submits for any	3132
purpose to the Ohio housing finance agency or the controlling	3133
board in connection with applying for, receiving, or accounting	3134
for financial assistance from the agency, and information that	3135
identifies any individual who benefits directly or indirectly from	3136
financial assistance from the agency;	3137
(z) Records listed in section 5101.29 of the Revised Code;	3138
(aa) Discharges recorded with a county recorder under section	3139
317.24 of the Revised Code, as specified in division (B)(2) of	3140
that section;	3141
(bb) Usage information including names and addresses of	3142
specific residential and commercial customers of a municipally	3143
owned or operated public utility;	3144
<u>(cc) Records described in division (C) of section 187.04 of</u>	3145
<u>the Revised Code that are not designated to be made available to</u>	3146
<u>the public as provided in that division.</u>	3147

(2) "Confidential law enforcement investigatory record" means 3148
any record that pertains to a law enforcement matter of a 3149
criminal, quasi-criminal, civil, or administrative nature, but 3150
only to the extent that the release of the record would create a 3151
high probability of disclosure of any of the following: 3152

(a) The identity of a suspect who has not been charged with 3153
the offense to which the record pertains, or of an information 3154
source or witness to whom confidentiality has been reasonably 3155
promised; 3156

(b) Information provided by an information source or witness 3157
to whom confidentiality has been reasonably promised, which 3158
information would reasonably tend to disclose the source's or 3159
witness's identity; 3160

(c) Specific confidential investigatory techniques or 3161
procedures or specific investigatory work product; 3162

(d) Information that would endanger the life or physical 3163
safety of law enforcement personnel, a crime victim, a witness, or 3164
a confidential information source. 3165

(3) "Medical record" means any document or combination of 3166
documents, except births, deaths, and the fact of admission to or 3167
discharge from a hospital, that pertains to the medical history, 3168
diagnosis, prognosis, or medical condition of a patient and that 3169
is generated and maintained in the process of medical treatment. 3170

(4) "Trial preparation record" means any record that contains 3171
information that is specifically compiled in reasonable 3172
anticipation of, or in defense of, a civil or criminal action or 3173
proceeding, including the independent thought processes and 3174
personal trial preparation of an attorney. 3175

(5) "Intellectual property record" means a record, other than 3176
a financial or administrative record, that is produced or 3177
collected by or for faculty or staff of a state institution of 3178

higher learning in the conduct of or as a result of study or 3179
research on an educational, commercial, scientific, artistic, 3180
technical, or scholarly issue, regardless of whether the study or 3181
research was sponsored by the institution alone or in conjunction 3182
with a governmental body or private concern, and that has not been 3183
publicly released, published, or patented. 3184

(6) "Donor profile record" means all records about donors or 3185
potential donors to a public institution of higher education 3186
except the names and reported addresses of the actual donors and 3187
the date, amount, and conditions of the actual donation. 3188

(7) "Peace officer, parole officer, probation officer, 3189
bailiff, prosecuting attorney, assistant prosecuting attorney, 3190
correctional employee, youth services employee, firefighter, EMT, 3191
or investigator of the bureau of criminal identification and 3192
investigation residential and familial information" means any 3193
information that discloses any of the following about a peace 3194
officer, parole officer, probation officer, bailiff, prosecuting 3195
attorney, assistant prosecuting attorney, correctional employee, 3196
youth services employee, firefighter, EMT, or investigator of the 3197
bureau of criminal identification and investigation: 3198

(a) The address of the actual personal residence of a peace 3199
officer, parole officer, probation officer, bailiff, assistant 3200
prosecuting attorney, correctional employee, youth services 3201
employee, firefighter, EMT, or an investigator of the bureau of 3202
criminal identification and investigation, except for the state or 3203
political subdivision in which the peace officer, parole officer, 3204
probation officer, bailiff, assistant prosecuting attorney, 3205
correctional employee, youth services employee, firefighter, EMT, 3206
or investigator of the bureau of criminal identification and 3207
investigation resides; 3208

(b) Information compiled from referral to or participation in 3209
an employee assistance program; 3210

(c) The social security number, the residential telephone 3211
number, any bank account, debit card, charge card, or credit card 3212
number, or the emergency telephone number of, or any medical 3213
information pertaining to, a peace officer, parole officer, 3214
probation officer, bailiff, prosecuting attorney, assistant 3215
prosecuting attorney, correctional employee, youth services 3216
employee, firefighter, EMT, or investigator of the bureau of 3217
criminal identification and investigation; 3218

(d) The name of any beneficiary of employment benefits, 3219
including, but not limited to, life insurance benefits, provided 3220
to a peace officer, parole officer, probation officer, bailiff, 3221
prosecuting attorney, assistant prosecuting attorney, correctional 3222
employee, youth services employee, firefighter, EMT, or 3223
investigator of the bureau of criminal identification and 3224
investigation by the peace officer's, parole officer's, probation 3225
officer's, bailiff's, prosecuting attorney's, assistant 3226
prosecuting attorney's, correctional employee's, youth services 3227
employee's, firefighter's, EMT's, or investigator of the bureau of 3228
criminal identification and investigation's employer; 3229

(e) The identity and amount of any charitable or employment 3230
benefit deduction made by the peace officer's, parole officer's, 3231
probation officer's, bailiff's, prosecuting attorney's, assistant 3232
prosecuting attorney's, correctional employee's, youth services 3233
employee's, firefighter's, EMT's, or investigator of the bureau of 3234
criminal identification and investigation's employer from the 3235
peace officer's, parole officer's, probation officer's, bailiff's, 3236
prosecuting attorney's, assistant prosecuting attorney's, 3237
correctional employee's, youth services employee's, firefighter's, 3238
EMT's, or investigator of the bureau of criminal identification 3239
and investigation's compensation unless the amount of the 3240
deduction is required by state or federal law; 3241

(f) The name, the residential address, the name of the 3242

employer, the address of the employer, the social security number, 3243
the residential telephone number, any bank account, debit card, 3244
charge card, or credit card number, or the emergency telephone 3245
number of the spouse, a former spouse, or any child of a peace 3246
officer, parole officer, probation officer, bailiff, prosecuting 3247
attorney, assistant prosecuting attorney, correctional employee, 3248
youth services employee, firefighter, EMT, or investigator of the 3249
bureau of criminal identification and investigation; 3250

(g) A photograph of a peace officer who holds a position or 3251
has an assignment that may include undercover or plain clothes 3252
positions or assignments as determined by the peace officer's 3253
appointing authority. 3254

As used in divisions (A)(7) and (B)(9) of this section, 3255
"peace officer" has the same meaning as in section 109.71 of the 3256
Revised Code and also includes the superintendent and troopers of 3257
the state highway patrol; it does not include the sheriff of a 3258
county or a supervisory employee who, in the absence of the 3259
sheriff, is authorized to stand in for, exercise the authority of, 3260
and perform the duties of the sheriff. 3261

As used in divisions (A)(7) and (B)(5) of this section, 3262
"correctional employee" means any employee of the department of 3263
rehabilitation and correction who in the course of performing the 3264
employee's job duties has or has had contact with inmates and 3265
persons under supervision. 3266

As used in divisions (A)(7) and (B)(5) of this section, 3267
"youth services employee" means any employee of the department of 3268
youth services who in the course of performing the employee's job 3269
duties has or has had contact with children committed to the 3270
custody of the department of youth services. 3271

As used in divisions (A)(7) and (B)(9) of this section, 3272
"firefighter" means any regular, paid or volunteer, member of a 3273

lawfully constituted fire department of a municipal corporation, 3274
township, fire district, or village. 3275

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 3276
means EMTs-basic, EMTs-I, and paramedics that provide emergency 3277
medical services for a public emergency medical service 3278
organization. "Emergency medical service organization," 3279
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 3280
section 4765.01 of the Revised Code. 3281

As used in divisions (A)(7) and (B)(9) of this section, 3282
"investigator of the bureau of criminal identification and 3283
investigation" has the meaning defined in section 2903.11 of the 3284
Revised Code. 3285

(8) "Information pertaining to the recreational activities of 3286
a person under the age of eighteen" means information that is kept 3287
in the ordinary course of business by a public office, that 3288
pertains to the recreational activities of a person under the age 3289
of eighteen years, and that discloses any of the following: 3290

(a) The address or telephone number of a person under the age 3291
of eighteen or the address or telephone number of that person's 3292
parent, guardian, custodian, or emergency contact person; 3293

(b) The social security number, birth date, or photographic 3294
image of a person under the age of eighteen; 3295

(c) Any medical record, history, or information pertaining to 3296
a person under the age of eighteen; 3297

(d) Any additional information sought or required about a 3298
person under the age of eighteen for the purpose of allowing that 3299
person to participate in any recreational activity conducted or 3300
sponsored by a public office or to use or obtain admission 3301
privileges to any recreational facility owned or operated by a 3302
public office. 3303

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 3304
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(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 3306
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(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code. 3308
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(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code. 3312
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(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction. 3314
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(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize 3333
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and maintain public records in a manner that they can be made 3335
available for inspection or copying in accordance with division 3336
(B) of this section. A public office also shall have available a 3337
copy of its current records retention schedule at a location 3338
readily available to the public. If a requester makes an ambiguous 3339
or overly broad request or has difficulty in making a request for 3340
copies or inspection of public records under this section such 3341
that the public office or the person responsible for the requested 3342
public record cannot reasonably identify what public records are 3343
being requested, the public office or the person responsible for 3344
the requested public record may deny the request but shall provide 3345
the requester with an opportunity to revise the request by 3346
informing the requester of the manner in which records are 3347
maintained by the public office and accessed in the ordinary 3348
course of the public office's or person's duties. 3349

(3) If a request is ultimately denied, in part or in whole, 3350
the public office or the person responsible for the requested 3351
public record shall provide the requester with an explanation, 3352
including legal authority, setting forth why the request was 3353
denied. If the initial request was provided in writing, the 3354
explanation also shall be provided to the requester in writing. 3355
The explanation shall not preclude the public office or the person 3356
responsible for the requested public record from relying upon 3357
additional reasons or legal authority in defending an action 3358
commenced under division (C) of this section. 3359

(4) Unless specifically required or authorized by state or 3360
federal law or in accordance with division (B) of this section, no 3361
public office or person responsible for public records may limit 3362
or condition the availability of public records by requiring 3363
disclosure of the requester's identity or the intended use of the 3364
requested public record. Any requirement that the requester 3365
disclose the requestor's identity or the intended use of the 3366

requested public record constitutes a denial of the request. 3367

(5) A public office or person responsible for public records 3368
may ask a requester to make the request in writing, may ask for 3369
the requester's identity, and may inquire about the intended use 3370
of the information requested, but may do so only after disclosing 3371
to the requester that a written request is not mandatory and that 3372
the requester may decline to reveal the requester's identity or 3373
the intended use and when a written request or disclosure of the 3374
identity or intended use would benefit the requester by enhancing 3375
the ability of the public office or person responsible for public 3376
records to identify, locate, or deliver the public records sought 3377
by the requester. 3378

(6) If any person chooses to obtain a copy of a public record 3379
in accordance with division (B) of this section, the public office 3380
or person responsible for the public record may require that 3381
person to pay in advance the cost involved in providing the copy 3382
of the public record in accordance with the choice made by the 3383
person seeking the copy under this division. The public office or 3384
the person responsible for the public record shall permit that 3385
person to choose to have the public record duplicated upon paper, 3386
upon the same medium upon which the public office or person 3387
responsible for the public record keeps it, or upon any other 3388
medium upon which the public office or person responsible for the 3389
public record determines that it reasonably can be duplicated as 3390
an integral part of the normal operations of the public office or 3391
person responsible for the public record. When the person seeking 3392
the copy makes a choice under this division, the public office or 3393
person responsible for the public record shall provide a copy of 3394
it in accordance with the choice made by the person seeking the 3395
copy. Nothing in this section requires a public office or person 3396
responsible for the public record to allow the person seeking a 3397
copy of the public record to make the copies of the public record. 3398

(7) Upon a request made in accordance with division (B) of 3399
this section and subject to division (B)(6) of this section, a 3400
public office or person responsible for public records shall 3401
transmit a copy of a public record to any person by United States 3402
mail or by any other means of delivery or transmission within a 3403
reasonable period of time after receiving the request for the 3404
copy. The public office or person responsible for the public 3405
record may require the person making the request to pay in advance 3406
the cost of postage if the copy is transmitted by United States 3407
mail or the cost of delivery if the copy is transmitted other than 3408
by United States mail, and to pay in advance the costs incurred 3409
for other supplies used in the mailing, delivery, or transmission. 3410

Any public office may adopt a policy and procedures that it 3411
will follow in transmitting, within a reasonable period of time 3412
after receiving a request, copies of public records by United 3413
States mail or by any other means of delivery or transmission 3414
pursuant to this division. A public office that adopts a policy 3415
and procedures under this division shall comply with them in 3416
performing its duties under this division. 3417

In any policy and procedures adopted under this division, a 3418
public office may limit the number of records requested by a 3419
person that the office will transmit by United States mail to ten 3420
per month, unless the person certifies to the office in writing 3421
that the person does not intend to use or forward the requested 3422
records, or the information contained in them, for commercial 3423
purposes. For purposes of this division, "commercial" shall be 3424
narrowly construed and does not include reporting or gathering 3425
news, reporting or gathering information to assist citizen 3426
oversight or understanding of the operation or activities of 3427
government, or nonprofit educational research. 3428

(8) A public office or person responsible for public records 3429
is not required to permit a person who is incarcerated pursuant to 3430

a criminal conviction or a juvenile adjudication to inspect or to 3431
obtain a copy of any public record concerning a criminal 3432
investigation or prosecution or concerning what would be a 3433
criminal investigation or prosecution if the subject of the 3434
investigation or prosecution were an adult, unless the request to 3435
inspect or to obtain a copy of the record is for the purpose of 3436
acquiring information that is subject to release as a public 3437
record under this section and the judge who imposed the sentence 3438
or made the adjudication with respect to the person, or the 3439
judge's successor in office, finds that the information sought in 3440
the public record is necessary to support what appears to be a 3441
justiciable claim of the person. 3442

(9)(a) Upon written request made and signed by a journalist 3443
on or after December 16, 1999, a public office, or person 3444
responsible for public records, having custody of the records of 3445
the agency employing a specified peace officer, parole officer, 3446
probation officer, bailiff, prosecuting attorney, assistant 3447
prosecuting attorney, correctional employee, youth services 3448
employee, firefighter, EMT, or investigator of the bureau of 3449
criminal identification and investigation shall disclose to the 3450
journalist the address of the actual personal residence of the 3451
peace officer, parole officer, probation officer, bailiff, 3452
prosecuting attorney, assistant prosecuting attorney, correctional 3453
employee, youth services employee, firefighter, EMT, or 3454
investigator of the bureau of criminal identification and 3455
investigation and, if the peace officer's, parole officer's, 3456
probation officer's, bailiff's, prosecuting attorney's, assistant 3457
prosecuting attorney's, correctional employee's, youth services 3458
employee's, firefighter's, EMT's, or investigator of the bureau of 3459
criminal identification and investigation's spouse, former spouse, 3460
or child is employed by a public office, the name and address of 3461
the employer of the peace officer's, parole officer's, probation 3462
officer's, bailiff's, prosecuting attorney's, assistant 3463

prosecuting attorney's, correctional employee's, youth services 3464
employee's, firefighter's, EMT's, or investigator of the bureau of 3465
criminal identification and investigation's spouse, former spouse, 3466
or child. The request shall include the journalist's name and 3467
title and the name and address of the journalist's employer and 3468
shall state that disclosure of the information sought would be in 3469
the public interest. 3470

(b) Division (B)(9)(a) of this section also applies to 3471
journalist requests for customer information maintained by a 3472
municipally owned or operated public utility, other than social 3473
security numbers and any private financial information such as 3474
credit reports, payment methods, credit card numbers, and bank 3475
account information. 3476

(c) As used in division (B)(9) of this section, "journalist" 3477
means a person engaged in, connected with, or employed by any news 3478
medium, including a newspaper, magazine, press association, news 3479
agency, or wire service, a radio or television station, or a 3480
similar medium, for the purpose of gathering, processing, 3481
transmitting, compiling, editing, or disseminating information for 3482
the general public. 3483

(C)(1) If a person allegedly is aggrieved by the failure of a 3484
public office or the person responsible for public records to 3485
promptly prepare a public record and to make it available to the 3486
person for inspection in accordance with division (B) of this 3487
section or by any other failure of a public office or the person 3488
responsible for public records to comply with an obligation in 3489
accordance with division (B) of this section, the person allegedly 3490
aggrieved may commence a mandamus action to obtain a judgment that 3491
orders the public office or the person responsible for the public 3492
record to comply with division (B) of this section, that awards 3493
court costs and reasonable attorney's fees to the person that 3494
instituted the mandamus action, and, if applicable, that includes 3495

an order fixing statutory damages under division (C)(1) of this 3496
section. The mandamus action may be commenced in the court of 3497
common pleas of the county in which division (B) of this section 3498
allegedly was not complied with, in the supreme court pursuant to 3499
its original jurisdiction under Section 2 of Article IV, Ohio 3500
Constitution, or in the court of appeals for the appellate 3501
district in which division (B) of this section allegedly was not 3502
complied with pursuant to its original jurisdiction under Section 3503
3 of Article IV, Ohio Constitution. 3504

If a requestor transmits a written request by hand delivery 3505
or certified mail to inspect or receive copies of any public 3506
record in a manner that fairly describes the public record or 3507
class of public records to the public office or person responsible 3508
for the requested public records, except as otherwise provided in 3509
this section, the requestor shall be entitled to recover the 3510
amount of statutory damages set forth in this division if a court 3511
determines that the public office or the person responsible for 3512
public records failed to comply with an obligation in accordance 3513
with division (B) of this section. 3514

The amount of statutory damages shall be fixed at one hundred 3515
dollars for each business day during which the public office or 3516
person responsible for the requested public records failed to 3517
comply with an obligation in accordance with division (B) of this 3518
section, beginning with the day on which the requester files a 3519
mandamus action to recover statutory damages, up to a maximum of 3520
one thousand dollars. The award of statutory damages shall not be 3521
construed as a penalty, but as compensation for injury arising 3522
from lost use of the requested information. The existence of this 3523
injury shall be conclusively presumed. The award of statutory 3524
damages shall be in addition to all other remedies authorized by 3525
this section. 3526

The court may reduce an award of statutory damages or not 3527

award statutory damages if the court determines both of the 3528
following: 3529

(a) That, based on the ordinary application of statutory law 3530
and case law as it existed at the time of the conduct or 3531
threatened conduct of the public office or person responsible for 3532
the requested public records that allegedly constitutes a failure 3533
to comply with an obligation in accordance with division (B) of 3534
this section and that was the basis of the mandamus action, a 3535
well-informed public office or person responsible for the 3536
requested public records reasonably would believe that the conduct 3537
or threatened conduct of the public office or person responsible 3538
for the requested public records did not constitute a failure to 3539
comply with an obligation in accordance with division (B) of this 3540
section; 3541

(b) That a well-informed public office or person responsible 3542
for the requested public records reasonably would believe that the 3543
conduct or threatened conduct of the public office or person 3544
responsible for the requested public records would serve the 3545
public policy that underlies the authority that is asserted as 3546
permitting that conduct or threatened conduct. 3547

(2)(a) If the court issues a writ of mandamus that orders the 3548
public office or the person responsible for the public record to 3549
comply with division (B) of this section and determines that the 3550
circumstances described in division (C)(1) of this section exist, 3551
the court shall determine and award to the relator all court 3552
costs. 3553

(b) If the court renders a judgment that orders the public 3554
office or the person responsible for the public record to comply 3555
with division (B) of this section, the court may award reasonable 3556
attorney's fees subject to reduction as described in division 3557
(C)(2)(c) of this section. The court shall award reasonable 3558
attorney's fees, subject to reduction as described in division 3559

(C)(2)(c) of this section when either of the following applies: 3560

(i) The public office or the person responsible for the 3561
public records failed to respond affirmatively or negatively to 3562
the public records request in accordance with the time allowed 3563
under division (B) of this section. 3564

(ii) The public office or the person responsible for the 3565
public records promised to permit the relator to inspect or 3566
receive copies of the public records requested within a specified 3567
period of time but failed to fulfill that promise within that 3568
specified period of time. 3569

(c) Court costs and reasonable attorney's fees awarded under 3570
this section shall be construed as remedial and not punitive. 3571
Reasonable attorney's fees shall include reasonable fees incurred 3572
to produce proof of the reasonableness and amount of the fees and 3573
to otherwise litigate entitlement to the fees. The court may 3574
reduce an award of attorney's fees to the relator or not award 3575
attorney's fees to the relator if the court determines both of the 3576
following: 3577

(i) That, based on the ordinary application of statutory law 3578
and case law as it existed at the time of the conduct or 3579
threatened conduct of the public office or person responsible for 3580
the requested public records that allegedly constitutes a failure 3581
to comply with an obligation in accordance with division (B) of 3582
this section and that was the basis of the mandamus action, a 3583
well-informed public office or person responsible for the 3584
requested public records reasonably would believe that the conduct 3585
or threatened conduct of the public office or person responsible 3586
for the requested public records did not constitute a failure to 3587
comply with an obligation in accordance with division (B) of this 3588
section; 3589

(ii) That a well-informed public office or person responsible 3590

for the requested public records reasonably would believe that the
conduct or threatened conduct of the public office or person
responsible for the requested public records as described in
division (C)(2)(c)(i) of this section would serve the public
policy that underlies the authority that is asserted as permitting
that conduct or threatened conduct.

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

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

(2) The public office shall distribute the public records
policy adopted by the public office under division (E)(1) of this
section to the employee of the public office who is the records
custodian or records manager or otherwise has custody of the
records of that office. The public office shall require that
employee to acknowledge receipt of the copy of the public records

policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

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

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

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

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction

request" does not include a request by a person who gives 3655
assurance to the bureau that the person making the request does 3656
not intend to use or forward the requested copies for surveys, 3657
marketing, solicitation, or resale for commercial purposes. 3658

(c) "Commercial" means profit-seeking production, buying, or 3659
selling of any good, service, or other product. 3660

(d) "Special extraction costs" means the cost of the time 3661
spent by the lowest paid employee competent to perform the task, 3662
the actual amount paid to outside private contractors employed by 3663
the bureau, or the actual cost incurred to create computer 3664
programs to make the special extraction. "Special extraction 3665
costs" include any charges paid to a public agency for computer or 3666
records services. 3667

(3) For purposes of divisions (F)(1) and (2) of this section, 3668
"surveys, marketing, solicitation, or resale for commercial 3669
purposes" shall be narrowly construed and does not include 3670
reporting or gathering news, reporting or gathering information to 3671
assist citizen oversight or understanding of the operation or 3672
activities of government, or nonprofit educational research. 3673

Sec. 164.05. (A) The director of the Ohio public works 3674
commission shall do all of the following: 3675

(1) Approve requests for financial assistance from district 3676
public works integrating committees and enter into agreements with 3677
one or more local subdivisions to provide loans, grants, and local 3678
debt support and credit enhancements for a capital improvement 3679
project if the director determines that: 3680

(a) The project is an eligible project pursuant to this 3681
chapter; 3682

(b) The financial assistance for the project has been 3683
properly approved and requested by the district committee of the 3684

district which includes the recipient of the loan or grant; 3685

(c) The amount of the financial assistance, when added to all 3686
other financial assistance provided during the fiscal year for 3687
projects within the district, does not exceed that district's 3688
allocation of money from the state capital improvements fund for 3689
that fiscal year; 3690

(d) The district committee has provided such documentation 3691
and other evidence as the director may require that the district 3692
committee has satisfied the requirements of section 164.06 or 3693
164.14 of the Revised Code; 3694

(e) The portion of a district's annual allocation which the 3695
director approves in the form of loans and local debt support and 3696
credit enhancements for eligible projects is consistent with 3697
divisions (E) and (F) of this section. 3698

(2) Authorize payments to local subdivisions or their 3699
contractors for costs incurred for capital improvement projects 3700
which have been approved pursuant to this chapter. All requests 3701
for payments shall be submitted to the director on forms and in 3702
accordance with procedures specified in rules adopted by the 3703
director pursuant to division (A)(4) of this section. 3704

(3) Retain the services of or employ financial consultants, 3705
engineers, accountants, attorneys, and such other employees as the 3706
director determines are necessary to carry out the director's 3707
duties under this chapter and fix the compensation for their 3708
services; 3709

(4) Adopt rules establishing the procedures for making 3710
applications, reviewing, approving, and rejecting projects for 3711
which assistance is authorized under this chapter, and any other 3712
rules needed to implement the provisions of this chapter. Such 3713
rules shall be adopted under Chapter 119. of the Revised Code. 3714

(5) Provide information and other assistance to local 3715

subdivisions and district public works integrating committees in 3716
developing their requests for financial assistance for capital 3717
improvements under this chapter and encourage cooperation and 3718
coordination of requests and the development of multisubdivision 3719
and multidistrict projects in order to maximize the benefits that 3720
may be derived by districts from each year's allocation; 3721

(6) Require local subdivisions, to the extent practicable, to 3722
use Ohio products, materials, services, and labor in connection 3723
with any capital improvement project financed in whole or in part 3724
under this chapter; 3725

(7) Notify the director of budget and management of all 3726
approved projects, and supply all information necessary to track 3727
approved projects through the state accounting system; 3728

(8) Appoint the administrator of the Ohio small government 3729
capital improvements commission; 3730

(9) Do all other acts, enter into contracts, and execute all 3731
instruments necessary or appropriate to carry out this chapter; 3732

(10) Develop a standardized methodology for evaluating 3733
capital improvement needs which will be used by local subdivisions 3734
in preparing the plans required by division (C) of section 164.06 3735
of the Revised Code. The director shall develop this methodology 3736
not later than July 1, 1991. 3737

(11) Establish a program to provide local subdivisions with 3738
technical assistance in preparing project applications. The 3739
program shall be designed to assist local subdivisions that lack 3740
the financial or technical resources to prepare project 3741
applications on their own. 3742

(B) When the director of the Ohio public works commission 3743
decides to conditionally approve or disapprove projects, the 3744
director's decisions and the reasons for which they are made shall 3745
be made in writing. These written decisions shall be conclusive 3746

for the purposes of the validity and enforceability of such 3747
determinations. 3748

(C) Fees, charges, rates of interest, times of payment of 3749
interest and principal, and other terms, conditions, and 3750
provisions of and security for financial assistance provided 3751
pursuant to the provisions of this chapter shall be such as the 3752
director determines to be appropriate. If any payments required by 3753
a loan agreement entered into pursuant to this chapter are not 3754
paid, the funds which would otherwise be apportioned to the local 3755
subdivision from the county undivided local government fund, 3756
pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, 3757
at the direction of the director of the Ohio public works 3758
commission, be reduced by the amount payable. The county treasurer 3759
shall, at the direction of the director, pay the amount of such 3760
reductions to the state capital improvements revolving loan fund. 3761
The director may renegotiate a loan repayment schedule with a 3762
local subdivision whose payments from the county undivided local 3763
government fund could be reduced pursuant to this division, but 3764
such a renegotiation may occur only one time with respect to any 3765
particular loan agreement. 3766

(D) Grants approved for the repair and replacement of 3767
existing infrastructure pursuant to this chapter shall not exceed 3768
ninety per cent of the estimated total cost of the capital 3769
improvement project. Grants approved for new or expanded 3770
infrastructure shall not exceed fifty per cent of the estimated 3771
cost of the new or expansion elements of the capital improvement 3772
project. A local subdivision share of the estimated cost of a 3773
capital improvement may consist of any of the following: 3774

(1) The reasonable value, as determined by the director or 3775
the administrator, of labor, materials, and equipment that will be 3776
contributed by the local subdivision in performing the capital 3777
improvement project; 3778

(2) Moneys received by the local subdivision in any form from an authority, commission, or agency of the United States for use in performing the capital improvement project; 3779
3780
3781

(3) Loans made to the local subdivision under this chapter; 3782

(4) Engineering costs incurred by the local subdivision in performing engineering activities related to the project. 3783
3784

A local subdivision share of the cost of a capital improvement shall not include any amounts awarded to it from the local transportation improvement program fund created in section 164.14 of the Revised Code. 3785
3786
3787
3788

(E) The following portion of a district public works integrating committee's annual allocation share pursuant to section 164.08 of the Revised Code may be awarded to subdivisions only in the form of interest-free, low-interest, market rate of interest, or blended-rate loans: 3789
3790
3791
3792
3793

YEAR IN WHICH MONEYS ARE ALLOCATED	PORTION USED FOR LOANS	3794 3795
Year 1	0%	3796
Year 2	0%	3797
Year 3	10%	3798
Year 4	12%	3799
Year 5	15%	3800
Year 6	20%	3801
Year 7, 8, 9, and 10	22%	3802

(F) The following portion of a district public works integrating committee's annual allocation pursuant to section 164.08 of the Revised Code shall be awarded to subdivisions in the form of local debt supported and credit enhancements: 3803
3804
3805
3806

YEAR IN WHICH MONEYS ARE ALLOCATED	PORTIONS USED FOR LOCAL DEBT SUPPORT AND CREDIT ENHANCEMENTS	3807 3808 3809
---------------------------------------	--	----------------------

Year 1	0%	3810
Year 2	0%	3811
Year 3	3%	3812
Year 4	5%	3813
Year 5	5%	3814
Year 6	7%	3815
Year 7	7%	3816
Year 8	8%	3817
Year 9	8%	3818
Year 10	8%	3819

(G) For the period commencing on March 29, 1988 and ending on 3820
 June 30, 1993, for the period commencing July 1, 1993, and ending 3821
 June 30, 1999, and for each five-year period thereafter, the total 3822
 amount of financial assistance awarded under sections 164.01 to 3823
 164.08 of the Revised Code for capital improvement projects 3824
 located wholly or partially within a county shall be equal to at 3825
 least thirty per cent of the amount of what the county would have 3826
 been allocated from the obligations authorized to be sold under 3827
 this chapter during each period, if such amounts had been 3828
 allocable to each county on a per capita basis. 3829

(H) The amount of the annual allocations made pursuant to 3830
 divisions (B)(1) and ~~(6)~~(5) of section 164.08 of the Revised Code 3831
 which can be used for new or expanded infrastructure is limited as 3832
 follows: 3833

YEAR IN WHICH	PORTION WHICH MAY	
MONEYS ARE ALLOCATED	BE USED FOR NEW OR	
	EXPANSION INFRASTRUCTURE	
Year 1	5%	3837
Year 2	5%	3838
Year 3	10%	3839
Year 4	10%	3840
Year 5	10%	3841

Year 6	15%	3842
Year 7	15%	3843
Year 8	20%	3844
Year 9	20%	3845
Year 10 and each year		3846
thereafter	20%	3847

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

	PORTION USED FOR LOANS	3854
YEAR IN WHICH	OR LOCAL DEBT SUPPORT	3855
MONEYS ARE ALLOCATED	AND CREDIT ENHANCEMENTS	3856
Year 11 and each year		3857
thereafter	20%	3858

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

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

preparation and coordination of project plans. 3874

(B) In selecting the requests for assistance for capital 3875
improvement projects which will be submitted to the director, and 3876
in determining the nature, amount, and terms of the assistance 3877
that will be requested, a district public works integrating 3878
committee shall give priority to capital improvement projects for 3879
the repair or replacement of existing infrastructure and which 3880
would be unlikely to be undertaken without assistance under this 3881
chapter, and shall specifically consider all of the following 3882
factors: 3883

(1) The infrastructure repair and replacement needs of the 3884
district; 3885

(2) The age and condition of the system to be repaired or 3886
replaced; 3887

(3) Whether the project would generate revenue in the form of 3888
user fees or assessments; 3889

(4) The importance of the project to the health and safety of 3890
the citizens of the district; 3891

(5) The cost of the project and whether it is consistent with 3892
division (G) of section 164.05 of the Revised Code and the 3893
district's allocation for grants, loans, and local debt support 3894
and credit enhancements for that year; 3895

(6) The effort and ability of the benefited local 3896
subdivisions to assist in financing the project; 3897

(7) The availability of federal or other funds for the 3898
project; 3899

(8) The overall economic health of the particular local 3900
subdivision; 3901

(9) The adequacy of the planning for the project and the 3902
readiness of the applicant to proceed should the project be 3903

approved; 3904

(10) Any other factors relevant to a particular project. 3905

(C) Prior to filing an application with its district public 3906
works integrating committee for assistance in financing a capital 3907
improvement project under this section, a local subdivision shall 3908
conduct a study of its existing capital improvements, the 3909
condition of those improvements, and the projected capital 3910
improvement needs of the subdivision in the ensuing five-year 3911
period. After completing this study, the subdivision shall compile 3912
a report that includes an inventory of its existing capital 3913
improvements, a plan detailing the capital improvement needs of 3914
the subdivision in the ensuing five-year period, and a list of the 3915
subdivision's priorities with respect to addressing those needs. 3916
Each year, the report shall be reviewed and updated by the 3917
subdivision to reflect capital improvement projects undertaken or 3918
completed in the past year and any changes in the subdivision's 3919
plan or priorities. The report and annual updates shall be made 3920
available upon request to the Ohio public works commission, the 3921
Ohio small government capital improvements commission, and the 3922
district public works integrating committee of the district of 3923
which the subdivision is a part. 3924

(D) In addition to reviewing and selecting the projects for 3925
which approval will be sought from the director of the Ohio public 3926
works commission for financial assistance from the state capital 3927
improvements fund, each district public works integrating 3928
committee shall appoint a subcommittee of its members that will 3929
represent the interests of villages and townships and that will 3930
review and select the capital improvement projects which will be 3931
submitted by the subcommittee to the administrator of the Ohio 3932
small government capital improvements commission for consideration 3933
of assistance from the portion of the net proceeds of obligations 3934
issued and sold by the treasurer of state which is allocated 3935

pursuant to division (B)(1) of section 164.08 of the Revised Code. 3936
In reviewing and approving the projects selected by its 3937
subcommittee, the administrator, and the Ohio small government 3938
capital improvements commission shall be guided by the provisions 3939
of division (B) of this section, and shall also take into account 3940
the fact that villages and townships may have different public 3941
infrastructure needs than larger subdivisions. 3942

(E) The district public works integrating committee for each 3943
district that includes at least one county with a population of 3944
less than eighty-five thousand according to the most recent 3945
decennial census shall appoint a subcommittee of its members for 3946
the purposes of the small counties capital improvement program 3947
created under division (F) of section 164.02 of the Revised Code. 3948
The subcommittee shall select and submit to the director the 3949
projects that will be considered for assistance from the money 3950
allocated to the program under division (B)~~(4)~~(3) of section 3951
164.08 of the Revised Code. 3952

Sec. 164.08. (A) Except as provided in sections 151.01 and 3953
151.08 or section 164.09 of the Revised Code, the net proceeds of 3954
obligations issued and sold by the treasurer of state pursuant to 3955
section 164.09 of the Revised Code before September 30, 2000, or 3956
pursuant to sections 151.01 and 151.08 of the Revised Code, for 3957
the purpose of financing or assisting in the financing of the cost 3958
of public infrastructure capital improvement projects of local 3959
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 3960
VIII, Ohio Constitution, and this chapter, shall be paid into the 3961
state capital improvements fund, which is hereby created in the 3962
state treasury. Investment earnings on moneys in the fund shall be 3963
credited to the fund. 3964

(B) Beginning July 1, 2011, each program year the amount of 3965
obligations authorized by the general assembly in accordance with 3966

sections 151.01 and 151.08 or section 164.09 of the Revised Code, 3967
excluding the proceeds of refunding or renewal obligations, shall 3968
be allocated by the director of the Ohio public works commission 3969
as follows: 3970

(1) First, fifteen million dollars of the amount of 3971
obligations authorized shall be allocated to provide financial 3972
assistance to villages and to townships with populations in the 3973
unincorporated areas of the township of less than five thousand 3974
persons, for capital improvements in accordance with section 3975
164.051 and division (D) of section 164.06 of the Revised Code. As 3976
used in division (B)(1) of this section, "capital improvements" 3977
includes resurfacing and improving roads. 3978

(2) Following the allocation required by division (B)(1) of 3979
this section, the director may allocate three million dollars of 3980
the authorized obligations to provide financial assistance to 3981
local subdivisions for capital improvement projects which in the 3982
judgment of the director of the Ohio public works commission are 3983
necessary for the immediate preservation of the health, safety, 3984
and welfare of the citizens of the local subdivision requesting 3985
assistance. 3986

~~(3) For the second, third, fourth, and fifth years that 3987
obligations are authorized and are available for allocation under 3988
this chapter, one million dollars shall be allocated to the sewer 3989
and water fund created in section 1525.11 of the Revised Code. 3990
Money from this allocation shall be transferred to that fund when 3991
needed to support specific payments from that fund. 3992~~

~~(4) For program years twelve and fourteen that obligations 3993
are authorized and available for allocation under this chapter, 3994
two million dollars each program year shall be allocated to the 3995
small county capital improvement program for use in providing 3996
financial assistance under division (F) of section 164.02 of the 3997
Revised Code. 3998~~

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

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

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

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

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

(4) Investment earnings credited to the state capital improvements revolving loan fund that exceed the amounts required to meet estimated federal arbitrage rebate requirements shall be used to pay costs incurred by the public works commission in

administering this section. Investment earnings credited to the 4030
state capital improvements revolving loan fund that exceed the 4031
amounts required to pay for the administrative costs and estimated 4032
rebate requirements shall be allocated to each district on a per 4033
capita basis. 4034

(5) Each program year, loan repayments received and on 4035
deposit in the state capital improvements revolving loan fund 4036
shall be allocated as follows: 4037

(a) Each district public works integrating committee shall be 4038
allocated an amount equal to the sum of all loan repayments made 4039
to the state capital improvements revolving loan fund by local 4040
subdivisions that are part of the district. Moneys not used in a 4041
program year may be used in the next program year in the same 4042
manner and for the same purpose as originally allocated. 4043

(b) Loan repayments made pursuant to projects approved under 4044
division (B)(1) of this section shall be used to make loans in 4045
accordance with section 164.051 and division (D) of section 164.06 4046
of the Revised Code. Allocations for this purpose made pursuant to 4047
division (C)(5) of this section shall be in addition to the 4048
allocation provided in division (B)(1) of this section. 4049

(c) Loan repayments made pursuant to projects approved under 4050
division (B)(2) of this section shall be used to make loans in 4051
accordance with division (B)(2) of this section. Allocations for 4052
this purpose made pursuant to division (C)(5) of this section 4053
shall be in addition to the allocation provided in division (B)(2) 4054
of this section. 4055

(d) Loans made from the state capital improvements revolving 4056
loan fund shall not be limited in their usage by divisions (E), 4057
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 4058

(D) Investment earnings credited to the state capital 4059
improvements fund that exceed the amounts required to meet 4060

estimated federal arbitrage rebate requirements shall be used to 4061
pay costs incurred by the public works commission in administering 4062
sections 164.01 to 164.12 of the Revised Code. 4063

(E) The director of the Ohio public works commission shall 4064
notify the director of budget and management of the amounts 4065
allocated pursuant to this section and such information shall be 4066
entered into the state accounting system. The director of budget 4067
and management shall establish appropriation line items as needed 4068
to track these allocations. 4069

(F) If the amount of a district's allocation in a program 4070
year exceeds the amount of financial assistance approved for the 4071
district by the commission for that year, the remaining portion of 4072
the district's allocation shall be added to the district's 4073
allocation pursuant to division (B) of this section for the next 4074
succeeding year for use in the same manner and for the same 4075
purposes as it was originally allocated, except that any portion 4076
of a district's allocation which was available for use on new or 4077
expanded infrastructure pursuant to division (H) of section 164.05 4078
of the Revised Code shall be available in succeeding years only 4079
for the repair and replacement of existing infrastructure. 4080

(G) When an allocation based on population is made by the 4081
director pursuant to division (B) of this section, the director 4082
shall use the most recent decennial census statistics, and shall 4083
not make any reallocations based upon a change in a district's 4084
population. 4085

Sec. 166.01. As used in this chapter: 4086

(A) "Allowable costs" means all or part of the costs of 4087
project facilities, eligible projects, eligible innovation 4088
projects, eligible research and development projects, eligible 4089
advanced energy projects, or eligible logistics and distribution 4090
projects, including costs of acquiring, constructing, 4091

reconstructing, rehabilitating, renovating, enlarging, improving, 4092
equipping, or furnishing project facilities, eligible projects, 4093
eligible innovation projects, eligible research and development 4094
projects, eligible advanced energy projects, or eligible logistics 4095
and distribution projects, site clearance and preparation, 4096
supplementing and relocating public capital improvements or 4097
utility facilities, designs, plans, specifications, surveys, 4098
studies, and estimates of costs, expenses necessary or incident to 4099
determining the feasibility or practicability of assisting an 4100
eligible project, an eligible innovation project, an eligible 4101
research and development project, an eligible advanced energy 4102
project, or an eligible logistics and distribution project, or 4103
providing project facilities or facilities related to an eligible 4104
project, an eligible innovation project, an eligible research and 4105
development project, an eligible advanced energy project, or an 4106
eligible logistics and distribution project, architectural, 4107
engineering, and legal services fees and expenses, the costs of 4108
conducting any other activities as part of a voluntary action, and 4109
such other expenses as may be necessary or incidental to the 4110
establishment or development of an eligible project, an eligible 4111
innovation project, an eligible research and development project, 4112
an eligible advanced energy project, or an eligible logistics and 4113
distribution project, and reimbursement of moneys advanced or 4114
applied by any governmental agency or other person for allowable 4115
costs. 4116

(B) "Allowable innovation costs" includes allowable costs of 4117
eligible innovation projects and, in addition, includes the costs 4118
of research and development of eligible innovation projects; 4119
obtaining or creating any requisite software or computer hardware 4120
related to an eligible innovation project or the products or 4121
services associated therewith; testing (including, without 4122
limitation, quality control activities necessary for initial 4123
production), perfecting, and marketing of such products and 4124

services; creating and protecting intellectual property related to 4125
an eligible innovation project or any products or services related 4126
thereto, including costs of securing appropriate patent, 4127
trademark, trade secret, trade dress, copyright, or other form of 4128
intellectual property protection for an eligible innovation 4129
project or related products and services; all to the extent that 4130
such expenditures could be capitalized under then-applicable 4131
generally accepted accounting principles; and the reimbursement of 4132
moneys advanced or applied by any governmental agency or other 4133
person for allowable innovation costs. 4134

(C) "Eligible innovation project" includes an eligible 4135
project, including any project facilities associated with an 4136
eligible innovation project and, in addition, includes all 4137
tangible and intangible property related to a new product or 4138
process based on new technology or the creative application of 4139
existing technology, including research and development, product 4140
or process testing, quality control, market research, and related 4141
activities, that is to be acquired, established, expanded, 4142
remodeled, rehabilitated, or modernized for industry, commerce, 4143
distribution, or research, or any combination thereof, the 4144
operation of which, alone or in conjunction with other eligible 4145
projects, eligible innovation projects, or innovation property, 4146
will create new jobs or preserve existing jobs and employment 4147
opportunities and improve the economic welfare of the people of 4148
the state. 4149

(D) "Eligible project" means project facilities to be 4150
acquired, established, expanded, remodeled, rehabilitated, or 4151
modernized for industry, commerce, distribution, or research, or 4152
any combination thereof, the operation of which, alone or in 4153
conjunction with other facilities, will create new jobs or 4154
preserve existing jobs and employment opportunities and improve 4155
the economic welfare of the people of the state. "Eligible 4156

project" includes, without limitation, a voluntary action. For 4157
purposes of this division, "new jobs" does not include existing 4158
jobs transferred from another facility within the state, and 4159
"existing jobs" includes only those existing jobs with work places 4160
within the municipal corporation or unincorporated area of the 4161
county in which the eligible project is located. 4162

"Eligible project" does not include project facilities to be 4163
acquired, established, expanded, remodeled, rehabilitated, or 4164
modernized for industry, commerce, distribution, or research, or 4165
any combination of industry, commerce, distribution, or research, 4166
if the project facilities consist solely of 4167
point-of-final-purchase retail facilities. If the project 4168
facilities consist of both point-of-final-purchase retail 4169
facilities and nonretail facilities, only the portion of the 4170
project facilities consisting of nonretail facilities is an 4171
eligible project. If a warehouse facility is part of a 4172
point-of-final-purchase retail facility and supplies only that 4173
facility, the warehouse facility is not an eligible project. 4174
Catalog distribution facilities are not considered 4175
point-of-final-purchase retail facilities for purposes of this 4176
paragraph, and are eligible projects. 4177

(E) "Eligible research and development project" means an 4178
eligible project, including project facilities, comprising, 4179
within, or related to, a facility or portion of a facility at 4180
which research is undertaken for the purpose of discovering 4181
information that is technological in nature and the application of 4182
which is intended to be useful in the development of a new or 4183
improved product, process, technique, formula, or invention, a new 4184
product or process based on new technology, or the creative 4185
application of existing technology. 4186

(F) "Financial assistance" means inducements under division 4187
(B) of section 166.02 of the Revised Code, loan guarantees under 4188

section 166.06 of the Revised Code, and direct loans under section 4189
166.07 of the Revised Code. 4190

(G) "Governmental action" means any action by a governmental 4191
agency relating to the establishment, development, or operation of 4192
an eligible project, eligible innovation project, eligible 4193
research and development project, eligible advanced energy 4194
project, or eligible logistics and distribution project, and 4195
project facilities that the governmental agency acting has 4196
authority to take or provide for the purpose under law, including, 4197
but not limited to, actions relating to contracts and agreements, 4198
zoning, building, permits, acquisition and disposition of 4199
property, public capital improvements, utility and transportation 4200
service, taxation, employee recruitment and training, and liaison 4201
and coordination with and among governmental agencies. 4202

(H) "Governmental agency" means the state and any state 4203
department, division, commission, institution or authority; a 4204
municipal corporation, county, or township, and any agency 4205
thereof, and any other political subdivision or public corporation 4206
or the United States or any agency thereof; any agency, 4207
commission, or authority established pursuant to an interstate 4208
compact or agreement; and any combination of the above. 4209

(I) "Innovation financial assistance" means inducements under 4210
division (B) of section 166.12 of the Revised Code, innovation 4211
Ohio loan guarantees under section 166.15 of the Revised Code, and 4212
innovation Ohio loans under section 166.16 of the Revised Code. 4213

(J) "Innovation Ohio loan guarantee reserve requirement" 4214
means, at any time, with respect to innovation loan guarantees 4215
made under section 166.15 of the Revised Code, a balance in the 4216
innovation Ohio loan guarantee fund equal to the greater of twenty 4217
per cent of the then-outstanding principal amount of all 4218
outstanding innovation loan guarantees made pursuant to section 4219
166.15 of the Revised Code or fifty per cent of the principal 4220

amount of the largest outstanding guarantee made pursuant to 4221
section 166.15 of the Revised Code. 4222

(K) "Innovation property" includes property and also includes 4223
software, inventory, licenses, contract rights, goodwill, 4224
intellectual property, including without limitation, patents, 4225
patent applications, trademarks and service marks, and trade 4226
secrets, and other tangible and intangible property, and any 4227
rights and interests in or connected to the foregoing. 4228

(L) "Loan guarantee reserve requirement" means, at any time, 4229
with respect to loan guarantees made under section 166.06 of the 4230
Revised Code, a balance in the loan guarantee fund equal to the 4231
greater of twenty per cent of the then-outstanding principal 4232
amount of all outstanding guarantees made pursuant to section 4233
166.06 of the Revised Code or fifty per cent of the principal 4234
amount of the largest outstanding guarantee made pursuant to 4235
section 166.06 of the Revised Code. 4236

(M) "Person" means any individual, firm, partnership, 4237
association, corporation, or governmental agency, and any 4238
combination thereof. 4239

(N) "Project facilities" means buildings, structures, and 4240
other improvements, and equipment and other property, excluding 4241
small tools, supplies, and inventory, and any one, part of, or 4242
combination of the above, comprising all or part of, or serving or 4243
being incidental to, an eligible project, an eligible innovation 4244
project, an eligible research and development project, an eligible 4245
advanced energy project, or an eligible logistics and distribution 4246
project, including, but not limited to, public capital 4247
improvements. 4248

(O) "Property" means real and personal property and interests 4249
therein. 4250

(P) "Public capital improvements" means capital improvements 4251

or facilities that any governmental agency has authority to 4252
acquire, pay the costs of, own, maintain, or operate, or to 4253
contract with other persons to have the same done, including, but 4254
not limited to, highways, roads, streets, water and sewer 4255
facilities, railroad and other transportation facilities, and air 4256
and water pollution control and solid waste disposal facilities. 4257
For purposes of this division, "air pollution control facilities" 4258
includes, without limitation, solar, geothermal, biofuel, biomass, 4259
wind, hydro, wave, and other advanced energy projects as defined 4260
in section 3706.25 of the Revised Code. 4261

(Q) "Research and development financial assistance" means 4262
inducements under section 166.17 of the Revised Code, research and 4263
development loans under section 166.21 of the Revised Code, and 4264
research and development tax credits under sections 5733.352 and 4265
5747.331 of the Revised Code. 4266

(R) "Targeted innovation industry sectors" means industry 4267
sectors involving the production or use of advanced materials, 4268
instruments, controls and electronics, power and propulsion, 4269
biosciences, and information technology, or such other sectors as 4270
may be designated by the director of development services. 4271

(S) "Voluntary action" means a voluntary action, as defined 4272
in section 3746.01 of the Revised Code, that is conducted under 4273
the voluntary action program established in Chapter 3746. of the 4274
Revised Code. 4275

(T) "Project financing obligations" means obligations issued 4276
pursuant to section 166.08 of the Revised Code other than 4277
obligations for which the bond proceedings provide that bond 4278
service charges shall be paid from receipts of the state 4279
representing gross profit on the sale of spirituous liquor as 4280
referred to in division (B)(4) of section 4310.10 of the Revised 4281
Code. 4282

(U) "Regional economic development entity" means an entity 4283
that is under contract with the director ~~of development~~ to 4284
administer a loan program under this chapter in a particular area 4285
of this state. 4286

(V) "Advanced energy research and development fund" means the 4287
advanced energy research and development fund created in section 4288
3706.27 of the Revised Code. 4289

(W) "Advanced energy research and development taxable fund" 4290
means the advanced energy research and development taxable fund 4291
created in section 3706.27 of the Revised Code. 4292

(X) "Eligible advanced energy project" means an eligible 4293
project that is an "advanced energy project" as defined in section 4294
3706.25 of the Revised Code. 4295

(Y) "Eligible logistics and distribution project" means an 4296
eligible project, including project facilities, to be acquired, 4297
established, expanded, remodeled, rehabilitated, or modernized for 4298
transportation logistics and distribution infrastructure purposes. 4299
As used in this division, "transportation logistics and 4300
distribution infrastructure purposes" means promoting, providing 4301
for, and enabling improvements to the ground, air, and water 4302
transportation infrastructure comprising the transportation system 4303
in this state, including, without limitation, highways, streets, 4304
roads, bridges, railroads carrying freight, and air and water 4305
ports and port facilities, and all related supporting facilities. 4306

(Z) "Department of development" means the development 4307
services agency and "director of development" means the director 4308
of development services. 4309

Sec. 166.04. (A) Prior to entering into each agreement to 4310
provide assistance under sections 166.02, 166.06, and 166.07 of 4311
the Revised Code, the director of development services shall 4312

determine whether the assistance will conform to the requirements 4313
of sections 166.01 to 166.11 of the Revised Code. Such 4314
determination, and the facts upon which it is based, shall be set 4315
forth, where required, by the director in submissions made to the 4316
controlling board ~~for purposes of section 166.03 and, unless~~ 4317
~~provision of the assistance has been recommended to the director~~ 4318
~~by a regional economic development entity, to the development~~ 4319
~~financing advisory council under section 166.05~~ when the director 4320
seeks a release of moneys under section 166.02 of the Revised 4321
Code. An agreement to provide assistance under sections 166.02, 4322
166.06, and 166.07 of the Revised Code shall set forth such 4323
determination, which shall be conclusive for purposes of the 4324
validity and enforceability of such agreement and any loan 4325
guarantees, loans, or other agreements entered into pursuant to 4326
such agreement to provide assistance. 4327

(B) Whenever a person applies for financial assistance under 4328
sections 166.02, 166.06, and 166.07 of the Revised Code and the 4329
project for which assistance is requested is to relocate 4330
facilities that are currently being operated by the person and 4331
that are located in another county, municipal corporation, or 4332
township, the director shall provide written notification to the 4333
appropriate local governmental bodies and state officials. The 4334
notification shall contain the following information: 4335

(1) The name of the person applying for financial assistance; 4336

(2) The county, and the municipal corporation or township, in 4337
which the project for which assistance is requested is located; 4338
and 4339

(3) The county, and the municipal corporation or township, in 4340
which the facility to be replaced is located. 4341

~~The director shall provide the written notification to the~~ 4342
~~appropriate local governmental bodies and state officials so that~~ 4343

~~they receive the notification at least five days before the~~ 4344
~~development financing advisory council meeting at which the~~ 4345
~~council considers the request for financial assistance pursuant to~~ 4346
~~section 166.05 of the Revised Code.~~ 4347

(C) As used in division (B) of this section: 4348

(1) "Appropriate local governmental bodies" means: 4349

(a) The boards of county commissioners or legislative 4350
authorities of the county in which the project for which 4351
assistance is requested is located and of the county in which the 4352
facility to be replaced is located; 4353

(b) The legislative authority of the municipal corporation or 4354
the board of township trustees of the township in which the 4355
project for which assistance is requested is located; and 4356

(c) The legislative authority of the municipal corporation or 4357
the board of township trustees of the township in which the 4358
facility to be replaced is located. 4359

(2) "State officials" means: 4360

(a) The state representative and state senator in whose 4361
districts the project for which assistance is requested is 4362
located; 4363

(b) The state representative and state senator in whose 4364
districts the facility to be replaced is located. 4365

Sec. 166.05. (A) In determining the projects to be assisted 4366
and the nature, amount, and terms of assistance to be provided for 4367
an eligible project under sections 166.02, 166.06, and 166.07 of 4368
the Revised Code: 4369

(1) ~~Except as otherwise provided in division (A)(3) of this~~ 4370
~~section, the~~ The director of development services shall take into 4371
consideration all of the following: 4372

(a) The number of jobs to be created or preserved, directly or indirectly;	4373 4374
(b) Payrolls, and the taxes generated, at both state and local levels, by the eligible project and by the employment created or preserved by the eligible project;	4375 4376 4377
(c) The size, nature, and cost of the eligible project, including the prospect of the project for providing long-term jobs in enterprises consistent with the changing economics of the state and the nation;	4378 4379 4380 4381
(d) The needs, and degree of needs, of the area in which the eligible project is to be located;	4382 4383
(e) The needs of any private sector enterprise to be assisted;	4384 4385
(f) The competitive effect of the assistance on other enterprises providing jobs for people of the state;	4386 4387
(g) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible project;	4388 4389 4390 4391 4392
(h) The impact of the eligible project and its operations on local government services, including school services, and on public facilities;	4393 4394 4395
(i) The effect of the assistance on the loss of or damage to or destruction of prime farmland, or the removal from agricultural production of prime farmland. As used in this section, "prime farmland" means agricultural land that meets the criteria for this classification as defined by the United States soil conservation service.	4396 4397 4398 4399 4400 4401
(j) The length of time the operator of the project has been	4402

operating facilities within the state. 4403

(2) The benefits to the local area, including taxes, jobs, 4404
and reduced unemployment and reduced welfare costs, among others, 4405
may be accorded value in the leasing or sales of project 4406
facilities and in loan and guarantee arrangements. 4407

(B) Prior to granting final approval of the assistance to be 4408
provided, the director shall determine that the benefits to be 4409
derived by the state and local area from the establishment or 4410
development, and operation, of the eligible project will exceed 4411
the cost of providing such assistance and, ~~except as provided in~~ 4412
~~division (C)(2) of this section,~~ shall submit to the development 4413
~~financing advisory council and to the~~ controlling board a copy of 4414
that determination including the basis for the determination. 4415

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 4416
~~prior to the submission provided for in division (B) of this~~ 4417
~~section to the controlling board, the director shall submit to the~~ 4418
~~development financing advisory council data pertinent to the~~ 4419
~~considerations set forth in division (A) of this section, the~~ 4420
~~terms of the proposed assistance, and such other relevant~~ 4421
~~information as the development financing advisory council may~~ 4422
~~request.~~ 4423

~~(2) The director is not required to submit any determination,~~ 4424
~~data, terms, or other application materials or information to the~~ 4425
~~development financing advisory council when provision of the~~ 4426
~~assistance has been recommended to the director by a regional~~ 4427
~~economic development entity.~~ 4428

~~(D) The development financing advisory council, on the basis~~ 4429
~~of such data, shall make recommendations as to the appropriateness~~ 4430
~~of the assistance to be provided. The recommendations may be~~ 4431
~~revised to reflect any changes in the proposed assistance as the~~ 4432
~~director may submit to the council. The recommendations, as~~ 4433

~~amended, of the council as to the appropriateness of the proposed 4434
assistance shall be submitted to the controlling board. 4435~~

~~(E) Financial statements and other data submitted to the 4436
director of development, the development financing advisory 4437
council, services or the controlling board by any private sector 4438
person in connection with financial assistance under sections 4439
166.02, 166.06, and 166.07 of the Revised Code, or any information 4440
taken from such statements or data for any purpose, shall not be 4441
open to public inspection. The development financing advisory 4442
council in considering confidential information in connection with 4443
financial assistance under sections 166.02, 166.06, and 166.07 of 4444
the Revised Code may, only for consideration of the confidential 4445
information referred to, and in the manner provided in division 4446
(E) of section 121.22 of the Revised Code, close the meeting 4447
during such consideration. 4448~~

Sec. 166.13. (A) Prior to entering into each agreement to 4449
provide innovation financial assistance under sections 166.12, 4450
166.15, and 166.16 of the Revised Code, the director of 4451
development services shall determine whether the assistance will 4452
conform to the requirements of sections 166.12 to 166.16 of the 4453
Revised Code. Such determination, and the facts upon which it is 4454
based, shall be set forth by the director in submissions made to 4455
the controlling board ~~for purposes of section 166.16 of the 4456
Revised Code and to the development financing advisory council 4457
under section 166.14~~ when the director seeks a release of moneys 4458
under section 166.12 of the Revised Code. An agreement to provide 4459
assistance under sections 166.12, 166.15, and 166.16 of the 4460
Revised Code shall set forth the determination, which shall be 4461
conclusive for purposes of the validity and enforceability of the 4462
agreement and any innovation loan guarantees, innovation loans, or 4463
other agreements entered into pursuant to the agreement to provide 4464
innovation financial assistance. 4465

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

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

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

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

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

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

(1) "Appropriate local governmental bodies" means:

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

(b) The legislative authority of the municipal corporation or 4497
the board of township trustees of the township in which the 4498
eligible innovation project for which innovation financial 4499
assistance is requested is located; and 4500

(c) The legislative authority of the municipal corporation or 4501
the board of township trustees of the township in which the 4502
eligible innovation project to be replaced is located. 4503

(2) "State officials" means: 4504

(a) The state representative and state senator in whose 4505
districts the project for which innovation financial assistance is 4506
requested is located; 4507

(b) The state representative and state senator in whose 4508
districts the innovation project to be replaced is located. 4509

Sec. 166.14. (A) In determining the eligible innovation 4510
projects to be assisted and the nature, amount, and terms of 4511
innovation financial assistance to be provided for an eligible 4512
innovation project under sections 166.12 to 166.16 of the Revised 4513
Code: 4514

(1) The director of development services shall take into 4515
consideration all of the following: 4516

(a) The number of jobs to be created or preserved by the 4517
eligible innovation project, directly or indirectly; 4518

(b) Payrolls, and the taxes generated, at both state and 4519
local levels, by or in connection with the eligible innovation 4520
project and by the employment created or preserved by or in 4521
connection with the eligible innovation project; 4522

(c) The size, nature, and cost of the eligible innovation 4523
project, including the prospect of the eligible innovation project 4524
for providing long-term jobs in enterprises consistent with the 4525
changing economics of the state and the nation; 4526

(d) The needs of any private sector enterprise to be assisted;	4527 4528
(e) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible innovation project or with respect to any providers of innovation property to be included as part of the eligible innovation project;	4529 4530 4531 4532 4533 4534 4535
(f) The likelihood of the successful implementation of the proposed eligible innovation project;	4536 4537
(g) Whether the eligible innovation project involves the use of technology in a targeted innovation industry sector.	4538 4539
(2) The benefits to the local area, including taxes, jobs, and reduced unemployment and reduced welfare costs, among others, may be accorded value in the leasing or sales of innovation project facilities and in loan and guarantee arrangements.	4540 4541 4542 4543
(3) In making determinations under division (A)(1) of this section, the director may consider the effect of an eligible innovation project upon any entity engaged to provide innovation property to be acquired, leased, or licensed in connection with such assistance.	4544 4545 4546 4547 4548
(B) The director shall submit to the development financing advisory council data pertinent to the considerations set forth in division (A) of this section, the terms of the proposed innovation financial assistance, and such other relevant information as the council may request.	4549 4550 4551 4552 4553
(C) The development financing advisory council, on the basis of such data, shall make recommendations as to the appropriateness of the innovation financial assistance to be provided. The recommendations may be revised to reflect any changes in the	4554 4555 4556 4557

~~proposed innovation financial assistance as the director may 4558
submit to the council. The recommendations, as amended, of the 4559
council as to the appropriateness of the proposed innovation 4560
financial assistance shall be submitted to the controlling board. 4561~~

~~(D) Financial statements and other data submitted to the 4562
director of development, the development financing advisory 4563
council, services or the controlling board by any private sector 4564
person in connection with innovation financial assistance under 4565
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 4566
information taken from such statements or data for any purpose, 4567
shall not be open to public inspection. The development financing 4568
advisory council in considering confidential information in 4569
connection with innovation financial assistance under this chapter 4570
may, only for consideration of the confidential information 4571
referred to, and in the manner provided in division (E) of section 4572
121.22 of the Revised Code, close the meeting during such 4573
consideration. 4574~~

Sec. 166.18. (A) Prior to entering into each agreement to 4575
provide research and development financial assistance, the 4576
director of development services shall determine whether the 4577
assistance will conform to the requirements of sections 166.17 to 4578
166.21, 5733.352, and 5747.331 of the Revised Code. Such 4579
determination, and the facts upon which it is based, shall be set 4580
forth by the director in submissions made to the controlling board 4581
~~for purposes of section 166.17 of the Revised Code and to the 4582
development financing advisory council under section 166.19 when 4583
the director seeks a release of moneys under section 166.17 of the 4584
Revised Code. An agreement to provide research and development 4585
financial assistance under section 166.17 or 166.21 of the Revised 4586
Code shall set forth the determination, which shall be conclusive 4587
for purposes of the validity and enforceability of the agreement, 4588
and any loans or other agreements entered into pursuant to the 4589~~

agreement, to provide research and development financial 4590
assistance. 4591

(B) Whenever a person applies for research and development 4592
financial assistance, and the eligible research and development 4593
project for which that assistance is requested is to relocate an 4594
eligible research and development project that is currently being 4595
operated by the person and that is located in another county, 4596
municipal corporation, or township within the state, the director 4597
shall provide written notification to the appropriate local 4598
governmental bodies and state officials. The notification shall 4599
state all of the following: 4600

(1) The name of the person applying for research and 4601
development financial assistance; 4602

(2) The county, and the municipal corporation or township, in 4603
which the project for which research and development financial 4604
assistance is requested will be located; 4605

(3) The county, and the municipal corporation or township, in 4606
which the eligible research and development project is located at 4607
the time such financial assistance is requested. 4608

~~The director shall provide the written notification to the 4609
appropriate local governmental bodies and state officials so that 4610
they receive the notification at least five days before the 4611
development financing advisory council meeting at which the 4612
council considers the request for research and development 4613
financial assistance. 4614~~

(C) As used in division (B) of this section: 4615

(1) "Appropriate local governmental bodies" means all of the 4616
following: 4617

(a) The board of county commissioners of or legislative 4618
authorities of special districts in the county in which the 4619

eligible research and development project for which research and 4620
development financial assistance is requested is located and of 4621
the county in which the project will be located; 4622

(b) The legislative authority of the municipal corporation or 4623
the board of township trustees of the township in which the 4624
eligible research and development project for which research and 4625
development financial assistance is requested is located and of 4626
the municipal corporation or township in which the project will be 4627
located. 4628

(2) "State officials" means both of the following: 4629

(a) The state representative and state senator in whose 4630
district the eligible research and development project for which 4631
research and development financial assistance is requested is 4632
located; 4633

(b) The state representative and state senator in whose 4634
district the eligible research and development project will be 4635
located. 4636

Sec. 166.19. (A)(1) In determining the eligible research and 4637
development projects to be assisted and the nature, amount, and 4638
terms of the research and development financial assistance to be 4639
provided, the director of development services shall consider all 4640
of the following: 4641

(a) The number of jobs to be created or preserved, directly 4642
or indirectly, by or in connection with the eligible research and 4643
development project; 4644

(b) Payrolls, and the taxes generated at both state and local 4645
levels, by the eligible research and development project and by 4646
the employment created or preserved by or in connection with the 4647
project; 4648

(c) The size, nature, and cost of the eligible research and 4649

development project; 4650

(d) The likelihood that the eligible research and development 4651
project will create long-term jobs in enterprises consistent with 4652
the changing economy of the state and nation; 4653

(e) The needs of any private sector enterprise to be 4654
assisted, taking into consideration the amount and kind of 4655
assistance, if any, to be provided to the private sector 4656
enterprise by other governmental agencies through tax exemption or 4657
abatement, financing assistance with industrial development bonds, 4658
and otherwise, with respect to the eligible research and 4659
development project or with respect to any providers of research 4660
and development property to be included as part of the project; 4661

(f) The likelihood that the eligible research and development 4662
project will be successfully implemented. 4663

(2) The director may consider the benefits to the local area, 4664
including taxes, jobs, and reduced unemployment and reduced 4665
welfare costs, in the leasing or sale of eligible research and 4666
development project facilities and in loan arrangements. 4667

(3) The director may consider the effect of an eligible 4668
research and development project upon any entity engaged to 4669
provide research and development property to be acquired, leased, 4670
or licensed in connection with research and development financial 4671
assistance. 4672

~~(B) The director shall submit to the development financing 4673
advisory council data pertinent to the considerations set forth in 4674
division (A) of this section, the terms of the proposed research 4675
and development assistance, and such other relevant information as 4676
the council may request. 4677~~

~~(C) The development financing advisory council, on the basis 4678
of the data submitted under division (B) of this section, shall 4679
make recommendations as to the appropriateness of the research and 4680~~

~~development financial assistance to be provided. The 4681
recommendations may be revised to reflect any changes in the 4682
proposed research and development financial assistance that the 4683
director may submit to the council. The recommendations of the 4684
council as to the appropriateness of the proposed research and 4685
development financial assistance shall be submitted to the 4686
controlling board. 4687~~

~~(D) Financial statements and other data submitted to the 4688
director of development, the development financing advisory 4689
council, services or the controlling board by any private sector 4690
person in connection with research and development financial 4691
assistance, or any information taken from such statements or data 4692
for any purpose, shall not be open to public inspection. The 4693
development financing advisory council, in considering 4694
confidential information in connection with research and 4695
development financial assistance may, only for consideration of 4696
the confidential information referred to and in the manner 4697
provided in division (E) of section 121.22 of the Revised Code, 4698
close the meeting during such consideration. 4699~~

Sec. 166.25. (A) The director of development services, with 4700
the approval of the controlling board and subject to the other 4701
applicable provisions of this chapter, may lend money in the 4702
logistics and distribution infrastructure fund and the logistics 4703
and distribution infrastructure taxable bond fund to persons for 4704
the purpose of paying allowable costs of eligible logistics and 4705
distribution projects. 4706

(B) In determining the eligible logistics and distribution 4707
projects to be assisted and the nature, amount, and terms of 4708
assistance to be provided for an eligible logistics and 4709
distribution project, the director shall consult with appropriate 4710
governmental agencies, including the department of transportation 4711

and the Ohio rail development commission. 4712

~~(C)(1) The director shall submit to the development financing advisory council the terms of the proposed assistance to be provided for an eligible logistics and distribution project and such other relevant information as the council may request.~~ 4713
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~~(2) The council, on the basis of such information, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance the director may submit to the council.~~ 4717
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~~(3) The director shall submit the terms of the proposed assistance to be provided, along with the recommendations, as amended, of the council as to the appropriateness of the proposed assistance, to the controlling board.~~ 4722
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~~(D)~~ Any loan made pursuant to this section shall be evidenced by a loan agreement, which shall contain such terms as the director determines necessary or appropriate, including performance measures and reporting requirements. The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section, including requiring a loan recipient to repay the amount of the loan plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the director. 4726
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Sec. 166.30. (A) The Ohio air quality development authority, with the approval of the controlling board and subject to sections 3706.25 to 3706.30 of the Revised Code, may provide grants from money in the advanced energy research and development fund and may lend money in the advanced energy research and development taxable fund to persons for the purposes of paying allowable costs of eligible advanced energy projects. 4735
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(B) In determining the eligible advanced energy projects to 4742
be assisted and the nature, amount, and terms of assistance to be 4743
provided for an eligible advanced energy project, the authority 4744
shall consult with appropriate governmental agencies. 4745

~~(C)(1) The authority shall submit to the development 4746
financing advisory council the terms of the proposed assistance to 4747
be provided for an eligible advanced energy project and such other 4748
relevant information as the council may request. 4749~~

~~(2) The council, on the basis of such information, shall make 4750
recommendations as to the appropriateness of the assistance to be 4751
provided. The recommendations may be revised to reflect any 4752
changes in the proposed assistance the authority may submit to the 4753
council. 4754~~

~~(3) The authority shall submit the terms of the proposed 4755
assistance to be provided, along with the recommendations, as 4756
amended, of the council as to the appropriateness of the proposed 4757
assistance, to the controlling board. 4758~~

~~(D) Any grant or loan made pursuant to this section shall be 4759
evidenced by an agreement, which shall contain such terms as the 4760
authority determines necessary or appropriate, including 4761
performance measures and reporting requirements. The authority may 4762
take actions necessary or appropriate to collect or otherwise deal 4763
with any assistance provided under this section, including 4764
requiring a loan or grant recipient to repay the amount of the 4765
loan or grant plus interest at a rate of three per cent above the 4766
federal short term interest rate or any other rate determined by 4767
the authority. 4768~~

Sec. 174.01. As used in this chapter: 4769

(A) "Financial assistance" means grants, loans, loan 4770
guarantees, an equity position in a project, or loan subsidies. 4771

(B) "Grant" means funding the ~~department of~~ development 4772
services agency or the Ohio housing finance agency provides for 4773
which the ~~department or the~~ relevant agency does not require 4774
repayment. 4775

(C) "Housing" means housing for owner-occupancy and 4776
multifamily rental housing. 4777

(D) "Housing for owner-occupancy" means housing that is 4778
intended for occupancy by an owner as a principal residence. 4779
"Housing for owner-occupancy" may be any type of structure and may 4780
be owned in any type of ownership. 4781

(E) "Housing trust fund" means the low- and moderate-income 4782
housing trust fund created and administered pursuant to Chapter 4783
174. of the Revised Code. 4784

(F) "Lending institution" means any financial institution 4785
qualified to conduct business in this state, a subsidiary 4786
corporation that is wholly owned by a financial institution 4787
qualified to conduct business in this state, and a mortgage lender 4788
whose regular business is originating, servicing, or brokering 4789
real estate loans and who is qualified to do business in this 4790
state. 4791

(G) "Loan" means any extension of credit or other form of 4792
financing or indebtedness directly or indirectly to a borrower 4793
with the expectation that it will be repaid in accordance with the 4794
terms of the underlying loan agreement or other pertinent 4795
document. "Loan" includes financing extended to lending 4796
institutions and indebtedness purchased from lending institutions. 4797

(H) "Loan guarantee" means any agreement in favor of a 4798
lending institution or other lender in which the credit and 4799
resources of the housing trust fund are pledged to secure the 4800
payment or collection of financing extended to a borrower for the 4801
acquisition, construction, improvement, rehabilitation or 4802

preservation of housing, or to refinance any financing previously 4803
extended for those purposes by any lender. 4804

(I) "Loan subsidy" means any deposit of funds into a lending 4805
institution with the authorization or direction that the income or 4806
revenues the deposit earns, or could have earned at competitive 4807
rates, be applied directly or indirectly to the benefit of housing 4808
assistance or financial assistance. 4809

(J) "Low_ and moderate_income persons" means individuals and 4810
families who qualify as low- and moderate-income persons pursuant 4811
to guidelines the ~~department of~~ development services agency 4812
establishes. 4813

(K) "Multifamily rental housing" means multiple unit housing 4814
intended for rental occupancy. 4815

(L) "Nonprofit organization" means a nonprofit organization 4816
in good standing and qualified to conduct business in this state 4817
including any corporation whose members are members of a 4818
metropolitan housing authority. 4819

(M) "Department of development" means the development 4820
services agency and "director of development" means the director 4821
of development services. 4822

Sec. 184.01. (A) There is hereby created the third frontier 4823
commission in the ~~department of~~ development services agency. The 4824
purpose of the commission is to coordinate and administer science 4825
and technology programs to promote the welfare of the people of 4826
the state and to maximize the economic growth of the state through 4827
expansion of both of the following: 4828

(1) The state's high technology research and development 4829
capabilities; 4830

(2) The state's product and process innovation and 4831
commercialization. 4832

(B)(1) The commission shall consist of ~~nine~~ eleven members: 4833
the director of development services, the chancellor of the Ohio 4834
board of regents, the governor's science and technology advisor, 4835
the chief investment officer of the nonprofit corporation formed 4836
under section 187.01 of the Revised Code, and ~~six~~ seven persons 4837
appointed by the governor with the advice and consent of the 4838
senate. 4839

(2) Of the ~~six~~ seven persons appointed by the governor, one 4840
shall represent the central region, which is composed of the 4841
counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, 4842
Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, 4843
and Union; one shall represent the west central region, which is 4844
composed of the counties of Champaign, Clark, Darke, Greene, 4845
Miami, Montgomery, Preble, and Shelby; one shall represent the 4846
northeast region, which is composed of the counties of Ashland, 4847
Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, 4848
Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, 4849
Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall 4850
represent the northwest region, which is composed of the counties 4851
of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, 4852
Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van 4853
Wert, Williams, Wood, and Wyandot; one shall represent the 4854
southeast region, which shall represent the counties of Adams, 4855
Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, 4856
Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, 4857
Pike, Scioto, Vinton, and Washington; ~~and~~ one shall represent the 4858
southwest region, which is composed of the counties of Butler, 4859
Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one 4860
shall represent the public at large. Of the initial appointments, 4861
two shall be for one year, two shall be for two years, and two 4862
shall be for three years as assigned by the governor. Thereafter, 4863
appointments shall be for three-year terms. Members may be 4864
reappointed and vacancies shall be filled in the same manner as 4865

appointments. A person must have a background in business or 4866
research in order to be eligible for appointment to the 4867
commission. 4868

(3) The governor shall select a chairperson from among the 4869
members, who shall serve in that role at the pleasure of the 4870
governor. Sections 101.82 to 101.87 of the Revised Code do not 4871
apply to the commission. 4872

(C) The commission shall meet at least once during each 4873
quarter of the calendar year or at the call of the chairperson. A 4874
majority of all members of the commission constitutes a quorum, 4875
and no action shall be taken without the concurrence of a majority 4876
of the members. 4877

(D) The commission shall administer any money that may be 4878
appropriated to it by the general assembly. The commission may use 4879
such money for research and commercialization and for any other 4880
purposes that may be designated by the commission. 4881

(E) The ~~department of development~~ services agency shall 4882
provide office space and facilities for the commission. 4883
Administrative costs associated with the operation of the 4884
commission or with any program or activity administered by the 4885
commission shall be paid from amounts appropriated to the 4886
commission or to the ~~department of development~~ agency for such 4887
purposes. 4888

(F) The attorney general shall serve as the legal 4889
representative for the commission and may appoint other counsel as 4890
necessary for that purpose in accordance with section 109.07 of 4891
the Revised Code. 4892

(G) Members of the commission shall serve without 4893
compensation, but shall receive their reasonable and necessary 4894
expenses incurred in the conduct of commission business. 4895

(H) Members of the commission shall file financial disclosure 4896

statements described in division (B) of section 102.02 of the Revised Code.

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

Sec. 187.01. As used in this chapter, "JobsOhio" means the nonprofit corporation formed under this section, and includes any subsidiary of that corporation. In any section of law that refers to the nonprofit corporation formed under this section, reference to the corporation includes reference to any such subsidiary unless otherwise specified or clearly appearing from the context.

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 4927
to the board within sixty days after the filing of the articles of 4928
incorporation. Of the initial appointments made to the board, two 4929
shall be for a term ending one year after the date the articles 4930
were filed, two shall be for a term ending two years after the 4931
date the articles were filed, and five shall be for a term ending 4932
four years after the date the articles were filed. The articles 4933
shall state that, following the initial appointments, the governor 4934
shall appoint directors to terms of office of four years, with 4935
each term of office ending on the same day of the same month as 4936
did the term that it succeeds. If any director dies, resigns, or 4937
the director's status changes such that any of the requirements of 4938
division (C) of section 187.02 of the Revised Code are no longer 4939
met, that director's seat on the board shall become immediately 4940
vacant. The governor shall forthwith fill the vacancy by 4941
appointment for the remainder of the term of office of the vacated 4942
seat. 4943

(D) A requirement that the governor appoint one director to 4944
be chairperson of the board and procedures for electing directors 4945
to serve as officers of the corporation and members of an 4946
executive committee; 4947

(E) A provision for the appointment of a chief investment 4948
officer of the corporation by the recommendation of the board and 4949
approval of the governor. The chief investment officer shall serve 4950
at the pleasure of the board and shall have the power to execute 4951
contracts, spend corporation funds, and hire employees on behalf 4952
of the corporation. If the position of chief investment officer 4953
becomes vacant for any reason, the vacancy shall be filled in the 4954
same manner as provided in this division. 4955

(F) Provisions requiring the board to do all of the 4956
following: 4957

(1) Adopt one or more resolutions providing for compensation 4958

- of the chief investment officer; 4959
- (2) Approve an employee compensation plan recommended by the 4960
chief investment officer; 4961
- (3) Approve a contract with the director of development 4962
services for the corporation to assist the director and the 4963
~~department of~~ development services agency with providing services 4964
or otherwise carrying out the functions or duties of the 4965
~~department~~ agency, including the operation and management of 4966
programs, offices, divisions, or boards, as may be determined by 4967
the director of development services in consultation with the 4968
governor; 4969
- (4) Approve all major contracts for services recommended by 4970
the chief investment officer; 4971
- (5) Establish an annual strategic plan and standards of 4972
measure to be used in evaluating the corporation's success in 4973
executing the plan; 4974
- (6) Establish a conflicts of interest policy that, at a 4975
minimum, complies with section 187.06 of the Revised Code; 4976
- (7) Hold a minimum of four board of directors meetings per 4977
year at which a quorum of the board is physically present, and 4978
such other meetings, at which directors' physical presence is not 4979
required, as may be necessary. Meetings at which a quorum of the 4980
board is required to be physically present are subject to 4981
divisions (C), (D), and (E) of section 187.03 of the Revised Code. 4982
- (8) Establish a records retention policy and present the 4983
policy, and any subsequent changes to the policy, at a meeting of 4984
the board of directors at which a quorum of the board is required 4985
to be physically present pursuant to division (F)(7) of this 4986
section; 4987
- (9) Adopt standards of conduct for the directors. 4988

(G) A statement that directors shall not receive any 4989
compensation from the corporation, except that directors may be 4990
reimbursed for actual and necessary expenses incurred in 4991
connection with services performed for the corporation; 4992

(H) A provision authorizing the board to amend provisions of 4993
the corporation's articles of incorporation or regulations, except 4994
provisions required by this chapter; 4995

(I) Procedures by which the corporation would be dissolved 4996
and by which all corporation rights and assets would be 4997
distributed to the state or to another corporation organized under 4998
this chapter. These procedures shall incorporate any separate 4999
procedures subsequently set forth in this chapter for the 5000
dissolution of the corporation. The articles shall state that no 5001
dissolution shall take effect until the corporation has made 5002
adequate provision for the payment of any outstanding bonds, 5003
notes, or other obligations. 5004

(J) A provision establishing an audit committee to be 5005
comprised of directors. The articles shall require that the audit 5006
committee hire an independent certified public accountant to 5007
perform a financial audit of the corporation at least once every 5008
year. 5009

(K) A provision authorizing a majority of the disinterested 5010
directors to remove a director for misconduct, as that term may be 5011
defined in the articles or regulations of the corporation. The 5012
removal of a director under this division creates a vacancy on the 5013
board that the governor shall fill by appointment for the 5014
remainder of the term of office of the vacated seat. 5015

Sec. 187.03. (A) JobsOhio may perform such functions as 5016
permitted and shall perform such duties as prescribed by law and 5017
as set forth in any contract entered into under section 187.04 of 5018
the Revised Code, but shall not be considered a state or public 5019

department, agency, office, body, institution, or instrumentality 5020
for purposes of section 1.60 or Chapter 102., 121., 125., or 149. 5021
of the Revised Code. JobsOhio and its board of directors are not 5022
subject to the following sections of Chapter 1702. of the Revised 5023
Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 5024
1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 5025
1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 5026
1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this 5027
division shall be construed to impair the powers and duties of the 5028
Ohio ethics commission described in section 102.06 of the Revised 5029
Code to investigate and enforce section 102.02 of the Revised Code 5030
with regard to individuals required to file statements under 5031
division (B)(2) of this section. 5032

(B)(1) Directors and employees of JobsOhio are not employees 5033
or officials of the state and, except as provided in division 5034
(B)(2) of this section, are not subject to Chapter 102., 124., 5035
145., or 4117. of the Revised Code. 5036

(2) The chief investment officer, any other officer or 5037
employee with significant administrative, supervisory, 5038
contracting, or investment authority, and any director of JobsOhio 5039
shall file, with the Ohio ethics commission, a financial 5040
disclosure statement pursuant to section 102.02 of the Revised 5041
Code that includes, in place of the information required by 5042
divisions (A)(2), (7), (8), and (9) of that section, the 5043
information required by divisions (A) and (B) of section 102.022 5044
of the Revised Code. The governor shall comply with all applicable 5045
requirements of section 102.02 of the Revised Code. 5046

(3) Actual or in-kind expenditures for the travel, meals, or 5047
lodging of the governor or of any public official or employee 5048
designated by the governor for the purpose of this division shall 5049
not be considered a violation of section 102.03 of the Revised 5050

Code if the expenditures are made by the corporation, or on behalf 5051
of the corporation by any person, in connection with the 5052
governor's performance of official duties related to JobsOhio. The 5053
governor may designate any person, including a person who is a 5054
public official or employee as defined in section 102.01 of the 5055
Revised Code, for the purpose of this division if such 5056
expenditures are made on behalf of the person in connection with 5057
the governor's performance of official duties related to JobsOhio. 5058
A public official or employee so designated by the governor shall 5059
comply with all applicable requirements of section 102.02 of the 5060
Revised Code. 5061

At the times and frequency agreed to under division (B)(2)(b) 5062
of section 187.04 of the Revised Code, beginning in 2012, the 5063
corporation shall file with the ~~department of development~~ services 5064
agency a written report of all such expenditures paid or incurred 5065
during the preceding calendar year. The report shall state the 5066
dollar value and purpose of each expenditure, the date of each 5067
expenditure, the name of the person that paid or incurred each 5068
expenditure, and the location, if any, where services or benefits 5069
of an expenditure were received, provided that any such 5070
information that may disclose proprietary information as defined 5071
in division (C) of this section shall not be included in the 5072
report. 5073

(4) The prohibition applicable to former public officials or 5074
employees in division (A)(1) of section 102.03 of the Revised Code 5075
does not apply to any person appointed to be a director or hired 5076
as an employee of JobsOhio. 5077

(5) Notwithstanding division (A)(2) of section 145.01 of the 5078
Revised Code, any person who is a former state employee shall no 5079
longer be considered a public employee for purposes of Chapter 5080
145. of the Revised Code upon commencement of employment with 5081
JobsOhio. 5082

(6) Any director, officer, or employee of JobsOhio may request an advisory opinion from the Ohio ethics commission with regard to questions concerning the provisions of sections 102.02 and 102.022 of the Revised Code to which the person is subject.

(C) Meetings of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F) of section 187.01 of the Revised Code shall be open to the public except, by a majority vote of the directors present at the meeting, such a meeting may be closed to the public only for one or more of the following purposes:

(1) To consider business strategy of the corporation;

(2) To consider proprietary information belonging to potential applicants or potential recipients of business recruitment, retention, or creation incentives. For the purposes of this division, "proprietary information" means marketing plans, specific business strategy, production techniques and trade secrets, financial projections, or personal financial statements of applicants or members of the applicants' immediate family, including, but not limited to, tax records or other similar information not open to the public inspection.

(3) To consider legal matters, including litigation, in which the corporation is or may be involved;

(4) To consider personnel matters related to an individual employee of the corporation.

(D) The board of directors shall establish a reasonable method whereby any person may obtain the time and place of all public meetings described in division (C) of this section. The method shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all such meetings.

(E) The board of directors shall promptly prepare, file, and

maintain minutes of all public meetings described in division (C) 5114
of this section. 5115

(F) Not later than March 1, 2012, and the first day of March 5116
of each year thereafter, the chief investment officer of JobsOhio 5117
shall prepare and submit a report of the corporation's activities 5118
for the preceding year to the governor, the speaker and minority 5119
leader of the house of representatives, and the president and 5120
minority leader of the senate. The annual report shall include the 5121
following: 5122

(1) An analysis of the state's economy; 5123

(2) A description of the structure, operation, and financial 5124
status of the corporation; 5125

(3) A description of the corporation's strategy to improve 5126
the state economy and the standards of measure used to evaluate 5127
its progress; 5128

(4) An evaluation of the performance of current strategies 5129
and major initiatives; 5130

(5) An analysis of any statutory or administrative barriers 5131
to successful economic development, business recruitment, and job 5132
growth in the state identified by JobsOhio during the preceding 5133
year. 5134

Sec. 187.04. (A) The director of development services, as 5135
soon as practical after ~~the effective date of this section~~ 5136
February 18, 2011, shall execute a contract with JobsOhio for the 5137
corporation to assist the director and the ~~department of~~ 5138
development services agency with providing services or otherwise 5139
carrying out the functions or duties of the ~~department~~ agency, 5140
including the operation and management of programs, offices, 5141
divisions, or boards, as may be determined by the director in 5142
consultation with the governor. The approval or disapproval of 5143

awards involving public money shall remain functions of the 5144
~~department~~ agency. All contracts for grants, loans, and tax 5145
incentives involving public money shall be between the ~~department~~ 5146
agency and the recipient and shall be enforced by the ~~department~~ 5147
agency. JobsOhio may not execute contracts obligating the 5148
~~department~~ agency for loans, grants, tax credits, or incentive 5149
awards recommended by JobsOhio to the ~~department~~ agency. Prior to 5150
execution, all contracts between the director and JobsOhio entered 5151
into under this section that obligate the agency to pay JobsOhio 5152
for services rendered are subject to controlling board approval. 5153

5154
The term of a an initial contract entered into under this 5155
section shall not extend beyond June 30, 2013. Thereafter, the 5156
director and JobsOhio may renew the contract for subsequent fiscal 5157
biennia, but at no time shall a particular contract be effective 5158
for longer than a fiscal biennium of the general assembly, ~~but may~~ 5159
~~be renewed or amended by the parties.~~ 5160

JobsOhio's provision of services to the agency as described 5161
in this section shall be pursuant to a contract entered into under 5162
this section. If at any time the director determines that the 5163
contract with JobsOhio may not be renewed for the subsequent 5164
fiscal biennium, the director shall notify JobsOhio of the 5165
director's decision not later than one hundred twenty days prior 5166
to the end of the current fiscal biennium. If the director does 5167
not provide such written notice to JobsOhio prior to one hundred 5168
days before the end of the current fiscal biennium, the contract 5169
shall be renewed upon such terms as the parties may agree, subject 5170
to the requirements of this section. 5171

(B) A contract entered into under this section shall include 5172
all of the following: 5173

(1) Terms assigning to the corporation the duties of advising 5174

and assisting the director of ~~development~~ in the director's 5175
evaluation of the ~~department~~ agency and the formulation of 5176
recommendations under section 187.05 of the Revised Code; 5177

(2) Terms designating records created or received by JobsOhio 5178
that shall be made available to the public under the same 5179
conditions as are public records under section 149.43 of the 5180
Revised Code. Documents designated to be made available to the 5181
public pursuant to the contract shall be kept on file with the 5182
~~department of development~~ agency. 5183

Among records to be designated under this division shall be 5184
the following: 5185

(a) The corporation's federal income tax returns; 5186

(b) The report of expenditures described in division (B)(3) 5187
of section 187.03 of the Revised Code. The records shall be filed 5188
with the ~~department~~ agency at such times and frequency as agreed 5189
to by the corporation and the ~~department~~ agency, which shall not 5190
be less frequently than quarterly. 5191

(c) The annual total compensation paid to each officer and 5192
employee of the corporation; 5193

(d) A copy of the audit report for each financial audit of 5194
the corporation performed by an independent certified public 5195
accountant pursuant to division (J) of section 187.01 of the 5196
Revised Code. 5197

(e) Records of any fully executed incentive proposals, to be 5198
filed annually; 5199

(f) Records pertaining to the monitoring of commitments made 5200
by incentive recipients, to be filed annually; 5201

(g) A copy of the minutes of all public meetings described in 5202
division (C) of section 187.03 of the Revised Code not otherwise 5203
closed to the public. 5204

(3) The following statement acknowledging that JobsOhio is 5205
not acting as an agent of the state: 5206

"JobsOhio shall have no power or authority to bind the state 5207
or to assume or create an obligation or responsibility, expressed 5208
or implied, on behalf of the state or in its name, nor shall 5209
JobsOhio represent to any person that it has any such power or 5210
authority, except as expressly provided in this contract." 5211

(C) (1) Records created or received by JobsOhio are not 5212
public records for the purposes of ~~section 149.43~~ Chapter 149. of 5213
the Revised Code, regardless of who may have custody of the 5214
records, unless the record is designated to be available to the 5215
public by the contract under division (B)(2) of this section. 5216

(2) Records received by JobsOhio from any person or entity 5217
that is not subject to section 149.43 of the Revised Code are not 5218
public records for purposes of Chapter 149. of the Revised Code, 5219
regardless of who may have custody of the records, unless the 5220
record is designated to be available to the public by the contract 5221
under division (B)(2) of this section. 5222

(3) Records received by JobsOhio from a public office as 5223
defined in section 149.011 of the Revised Code that are not public 5224
records under section 149.43 of the Revised Code when in the 5225
custody of the public office are not public records for the 5226
purposes of section 149.43 of the Revised Code when in the custody 5227
of JobsOhio. 5228

(D) Any contract executed under authority of this section 5229
shall not negate, impair, or otherwise adversely affect the 5230
obligation of this state to pay debt charges on securities 5231
executed by the director ~~of development~~ or issued by the treasurer 5232
of state, Ohio public facilities commission, or any other issuing 5233
authority under Chapter 122., 151., 165., or 166. of the Revised 5234
Code to fund economic development programs of the state, or to 5235

abide by any pledge or covenant relating to the payment of those 5236
debt charges made in any related proceedings. As used in this 5237
division, "debt charges," "proceedings," and "securities" have the 5238
same meanings as in section 133.01 of the Revised Code. 5239

(E) Nothing in this section, other than the requirement of 5240
controlling board approval, shall prohibit the ~~department~~ agency 5241
from contracting with JobsOhio to perform any of the following 5242
functions: 5243

(1) Promoting and advocating for the state; 5244

(2) Making recommendations to the ~~department~~ agency; 5245

(3) Performing research for the ~~department~~ agency; 5246

(4) Establishing and managing programs or offices on behalf 5247
of the ~~department~~ agency, by contract; 5248

(5) Negotiating on behalf of the state. 5249

(F) Nothing in this section, other than the requirement of 5250
controlling board approval, shall prohibit the ~~department~~ agency 5251
from compensating JobsOhio from funds currently appropriated to 5252
the ~~department~~ agency to perform the functions described in 5253
division (E) of this section. 5254

Sec. 187.05. The director of development services, as soon as 5255
practical after ~~the effective date of this section~~ February 18, 5256
2011, shall, in consultation with the governor, evaluate all 5257
powers, functions, and duties of the ~~department~~ development 5258
services agency. Within six months after ~~that effective date~~ 5259
February 18, 2011, the director shall submit a report to the 5260
general assembly recommending statutory changes necessary to 5261
improve the functioning and efficiency of the ~~department~~ agency 5262
and to transfer specified powers, functions, and duties of the 5263
~~department~~ agency to other existing agencies of the state or to 5264
JobsOhio, or eliminate specified powers, functions, or duties. The 5265

recommendations shall be submitted in writing to the speaker and 5266
minority leader of the house of representatives and the president 5267
and minority leader of the senate. 5268

After submitting the report, the director, in consultation 5269
with the governor, shall continue to evaluate the ~~department~~ 5270
agency and make additional recommendations on such matters to the 5271
general assembly. 5272

Sec. 187.061. (A) Each officer and employee of JobsOhio shall 5273
do all of the following: 5274

(1) Sign an ethical conduct statement prescribed by the board 5275
of directors of JobsOhio; 5276

(2) Complete an annual course or program of study on ethics. 5277
The course or program of study shall be reviewed and approved by 5278
the board of directors. 5279

(3) Comply with the gift policy prescribed by the board of 5280
directors. 5281

(B) Prior to the renewal of the contract between the director 5282
of development services and JobsOhio as described in section 5283
187.04 of the Revised Code, the board of directors shall submit to 5284
the controlling board a comprehensive review of the ethics 5285
policies and procedures that have been adopted by JobsOhio. 5286

Sec. 929.03. (A)(1) No public entity with authority to levy 5287
special assessments on real property shall collect an assessment 5288
for purposes of sewer, water, or electrical service on real 5289
property that is within an agricultural district as described in 5290
division (A)(2) of this section without the permission of the 5291
owner, except that any assessment may be collected on a lot 5292
surrounding a dwelling or other structure not used in agricultural 5293
production that does not exceed one acre or the minimum area 5294

required by local zoning or subdivision rules, whichever is the 5295
greater area. 5296

(2) For purposes of division (A)(1) of this section, an 5297
agricultural district is such a district that is established: 5298

(a) In the case of counties, prior to the adoption of a 5299
resolution of necessity by a board of county commissioners, 5300
pursuant to section 6103.05 or 6117.06 of the Revised Code; 5301

(b) In the case of municipal corporations, prior to whichever 5302
of the following occurs first: 5303

(i) The adoption of the resolution of necessity by the 5304
municipal legislative authority, pursuant to section 727.12 or 5305
729.02 of the Revised Code; 5306

(ii) The service of notice on all or some of the owners to be 5307
assessed pursuant to section 729.06 of the Revised Code; 5308

(iii) The adoption of the resolution or ordinance by the 5309
municipal legislative authority declaring the necessity for the 5310
improvement, the costs of which are to be assessed under 5311
procedures authorized by a municipal charter adopted pursuant to 5312
Section 7 of Article XVIII, Ohio Constitution, or, if no such 5313
ordinance or resolution is required under the charter, the service 5314
of the first notice on all or some of the owners of lands to be 5315
assessed, or the adoption of the first ordinance or resolution by 5316
the municipal legislative authority pertaining to the assessment 5317
proceedings under the charter. 5318

(c) In the case of a regional water and sewer district 5319
established pursuant to Chapter 6119. of the Revised Code, prior 5320
to the adoption of a resolution of necessity by the board of 5321
trustees of the district under section 6119.25 of the Revised 5322
Code. 5323

(B) For each special assessment levied by a public entity on 5324

real property within an agricultural district for purposes of 5325
sewer, water, or electrical service, the county auditor shall make 5326
and maintain a list showing: 5327

(1) The name of the owner of each lot, tract, or parcel of 5328
land that is exempt from the collection of the special assessment 5329
under this section; 5330

(2) A description of the exempt land; 5331

(3) The purpose of the special assessment; 5332

(4) The amount of the uncollected assessment on the exempt 5333
land. 5334

In the case of a county project constructed under Chapter 5335
6103. or 6117. of the Revised Code, the county auditor may use a 5336
list provided for in those chapters in lieu of the list required 5337
by division (B) of this section. The auditor shall also record in 5338
the water works record required by section 6103.16 of the Revised 5339
Code or the sewer improvement record required by section 6117.33 5340
of the Revised Code those assessments not collected under this 5341
section. The recording of the assessments does not permit the 5342
collection of the assessments until such time as exempt lands are 5343
withdrawn from agricultural districts or converted to 5344
nonagricultural use. 5345

(C) If at any time any of the owner's exempt land, other than 5346
a lot sold or transferred to a son, daughter, brother, sister, 5347
mother, or father for the purpose of constructing a dwelling in 5348
which the relative will reside for at least three years, is 5349
withdrawn from an agricultural district or if the owner of the 5350
exempt land uses on that land the service for which the special 5351
assessment was assessed, the public entity may collect the entire 5352
uncollected assessment, except as otherwise provided in this 5353
division, in addition to an amount equal to the rate of interest 5354
that any bonds or notes issued for the project for which the 5355

assessment was made did bear for the number of years the land was 5356
exempted, not to exceed twenty-five or the number of years for 5357
which the bonds or notes were issued, whichever is the lesser 5358
number. The owner shall notify the county auditor of any 5359
withdrawal from a district or use of the service within ninety 5360
days following the withdrawal or use of the service. The charge 5361
shall constitute a lien of the public entity upon the land and 5362
shall continue until discharged. All liens shall be recorded in 5363
the appropriate county recorder's office. Moneys collected as a 5364
result of the charge shall be deposited in the appropriate fund of 5365
the public entity that levied the special assessment. 5366

If the owner of exempt land sells or transfers a lot to ~~his~~ 5367
the owner's son, daughter, brother, sister, mother, or father for 5368
the purpose of constructing a dwelling in which the relative will 5369
reside for at least three years, and if the owner or the buyer of 5370
the lot uses the service for which the special assessment was 5371
assessed only to provide service to that lot, the owner of the lot 5372
shall pay only that portion of the uncollected assessment and 5373
interest that applies to the lot. 5374

If at any time any part of an owner's exempt land is 5375
appropriated, the owner shall pay only that portion of the 5376
uncollected assessment and interest that applies to the 5377
appropriated parcel of land. 5378

In lieu of immediate payment of the uncollected assessment 5379
and interest, the board of county commissioners, legislative 5380
authority of a municipal corporation, or other governing board of 5381
any other public entity may, upon the request of the owner, 5382
establish an extended repayment schedule for the owner. If the 5383
board, legislative authority, or other governing board establishes 5384
such a schedule, it shall notify the county auditor of the 5385
schedule. 5386

~~(D) A board of county commissioners, legislative authority of~~ 5387

~~a municipal corporation, or other governing board of any other public entity may apply to the water and sewer commission, created by division (C) of section 1525.11 of the Revised Code, for an advance of moneys from the water and sewer fund, created by division (A) of section 1525.11 of the Revised Code, in an amount equal to that portion of the costs of a water or sewer improvement authorized by law that is to be financed by assessments whose collection is prohibited under division (A) of this section. The application for such an advance of moneys shall be made in the manner prescribed by rules of the commission. Upon collection of any assessment whose collection was prohibited under division (A) of this section, the board of county commissioners, legislative authority, or other governing board shall repay the commission the amount of any moneys advanced by it in regard to the assessments.~~

Sec. 1551.01. As used in this chapter:

(A) "Governmental agency" means the United States government or any department, agency, or instrumentality thereof; any department, agency, or instrumentality of a state government; any municipal corporation, county, township, board of education, or other political subdivision or any other body corporate and politic of a state; or any agency, commission, or authority established under an interstate compact or agreement.

(B) "Energy resource development facility" means any energy resource development, research, or conservation facility, including pilot as well as demonstration facilities, and including undivided or other interests therein, acquired or to be acquired, or constructed or to be constructed under this chapter or Chapter 6121. or 6123. of the Revised Code, or acquired or to be acquired, or constructed or to be constructed by a governmental agency or person with all or a part of the cost thereof being paid from a loan or grant under such chapters, including all buildings and

facilities that the director of development services determines 5419
necessary for the operation of the facility, together with all 5420
property, rights, easements, and interests that may be required 5421
for the operation of the facility, which facilities may include: 5422

(1) Any building, testing facility, testing device, or 5423
support facilities which would provide experimental, 5424
demonstration, or testing capabilities or services not otherwise 5425
available in this state and which are necessary for the 5426
accomplishment of the purposes of this chapter; 5427

(2) Any method, process, structure, or equipment that is used 5428
to store coal, oil, natural gas, fuel for nuclear reactors, or any 5429
other form of energy; 5430

(3) Any method, process, structure, or equipment that is used 5431
to recover or convert coal, oil, natural gas, steam, or other form 5432
of energy from property located within the state for the purpose 5433
of supplying energy for utilization; 5434

(4) Any method, process, structure, or equipment that is 5435
designed to result in more efficient recovery, conversion, or 5436
utilization of energy resources within the state, including any 5437
scrap tire recovery facility for which a registration certificate 5438
or permit has been issued under section 3734.78 of the Revised 5439
Code; 5440

(5) Any improvement that is designed to improve the thermal 5441
efficiency of a building or structure or reduce the fuel or power 5442
needed to heat, cool, light, ventilate, or provide hot water in a 5443
building or structure; 5444

(6) Any improvement designed to enable the substitution of 5445
coal or alternate fuel, other than natural gas, for natural gas or 5446
a petroleum fuel, or the conversion of coal to other fuels; 5447

(7) Any improvement designed to enable the combustion of high 5448
sulfur coal in compliance with air or water pollution control or 5449

solid waste disposal laws, including, but not limited to, any 5450
facility for processing coal to remove sulfur before combustion of 5451
the coal, for fluidized bed combustion, or for removal of the 5452
sulfur before the products of combustion are emitted or 5453
discharged. 5454

(C) "Cost" as applied to an energy resource development 5455
facility means the cost of acquisition and construction, the cost 5456
of acquisition of all land, rights-of-way, property rights, 5457
easements, franchise rights, and interests required for such 5458
acquisition and construction, the cost of demolishing or removing 5459
any buildings or structures on land so acquired, including the 5460
cost of acquiring any lands to which such buildings or structures 5461
may be moved, the cost of acquiring or constructing and equipping 5462
a principal office and sub-offices of the department of 5463
development, the cost of diverting highways, interchange of 5464
highways, access roads to private property, including the cost of 5465
land or easements for such access roads, the cost of public 5466
utility and common carrier relocation or duplication, the cost of 5467
all machinery, furnishings, and equipment, financing charges, 5468
interest prior to and during construction and for no more than 5469
eighteen months after completion of construction, engineering, 5470
expenses of research and development with respect to the facility, 5471
legal expenses, plans, specifications, surveys, studies, estimates 5472
of cost and revenues, working capital, other expenses necessary or 5473
incident to determining the feasibility or practicability of 5474
acquiring or constructing such facility, administrative expense, 5475
and such other expense as may be necessary or incident to the 5476
acquisition or construction of the facility, the financing of such 5477
acquisition or construction, including the amount authorized in 5478
the resolution of the Ohio water development authority providing 5479
for the issuance of energy resource development revenue bonds to 5480
be paid into any special funds from the proceeds of such bonds, 5481
and the financing of the placing of such facility in operation. 5482

Any obligation, cost, or expense incurred after August 26, 1975, 5483
by any governmental agency or person for surveys, borings, 5484
preparation of plans and specifications, and other engineering 5485
services, or any other cost described above, in connection with 5486
the acquisition or construction of a facility may be regarded as a 5487
part of the cost of such facility and may be reimbursed out of the 5488
proceeds of energy resource development revenue bonds. 5489

(D) "Revenues" means all rentals and other charges received 5490
by the Ohio water development authority for the use or services of 5491
any energy resource development facility, any contract, gift, or 5492
grant received with respect to any energy resource development 5493
facility, and moneys received with respect to the lease, sublease, 5494
sale, including installment sale or conditional sale, or other 5495
disposition of an energy resource development facility, moneys 5496
received in repayment of and for interest on any loans made by the 5497
authority to a person or governmental agency, whether from the 5498
United States or any department, administration, or agency 5499
thereof, or otherwise, proceeds of energy resource development 5500
revenue bonds to the extent that the use thereof for payment of 5501
principal of, premium, if any, or interest on the bonds is 5502
authorized by the authority, proceeds from any insurance, 5503
condemnation, or guaranty pertaining to a facility or property 5504
mortgaged to secure bonds or pertaining to the financing of a 5505
facility, and income and profit from the investment of the 5506
proceeds of energy resource development revenue bonds or of any 5507
revenues. 5508

(E) "Construction," unless the context indicates a different 5509
meaning or intent, includes construction, reconstruction, 5510
enlargement, improvement, or providing furnishings or equipment. 5511

(F) "Energy resource development revenue bonds," unless the 5512
context indicates a different meaning or intent, includes energy 5513
resource development revenue bonds, energy resource development 5514

revenue notes, and energy resource development revenue refunding 5515
bonds. 5516

(G) "Energy" means work or heat that is, or can be, produced 5517
from any fuel or source whatsoever. 5518

(H) "Energy audit" means any process by which energy usage or 5519
costs of heating, cooling, lighting, and climate control in a 5520
building or structure are determined. 5521

(I) "Energy conservation" means preservation of energy 5522
resources by efficient utilization, and reduction of waste. 5523

(J) "Energy conservation measure" means any modification of a 5524
building, structure, machine, appliance, vehicle, improvement, or 5525
process in order to improve its efficiency of energy use or energy 5526
costs. 5527

(K) "Fuel" means petroleum, crude oil, petroleum product, 5528
coal, natural gas, synthetic natural or artificial gas, nuclear, 5529
or other substance used primarily for its energy content. 5530

(L) "Net energy analysis" means the determination of the 5531
amount of energy remaining after all energy outputs have been 5532
subtracted from the energy inputs of a given system. 5533

(M) "Department of development" means the development 5534
services agency and "director of development" means the director 5535
of development services. 5536

Sec. 3735.01. As used in this chapter, "department of 5537
development" means the development services agency and "director 5538
of development" means the director of development services. 5539

Sec. 3735.672. (A) On or before the thirty-first day of March 5540
each year, a legislative authority that has entered into an 5541
agreement with a party under section 3735.671 of the Revised Code 5542
shall submit to the director of development services and the board 5543

of education of each school district of which a municipal 5544
corporation or township to which such an agreement applies is a 5545
part a report on all such agreements in effect during the 5546
preceding calendar year. The report shall include the following 5547
information: 5548

(1) The designation, assigned by the director of development 5549
services, of each community reinvestment area within the municipal 5550
corporation or county, and the total population of each area 5551
according to the most recent data available; 5552

(2) The number of agreements and the number of full-time 5553
employees subject to those agreements within each area, each 5554
according to the most recent data available and identified and 5555
categorized by the appropriate standard industrial code, and the 5556
rate of unemployment in the municipal corporation or county in 5557
which the area is located for each year since the area was 5558
certified; 5559

(3) The number of agreements approved and executed during the 5560
calendar year for which the report is submitted, the total number 5561
of agreements in effect on the thirty-first day of December of the 5562
preceding calendar year, the number of agreements that expired 5563
during the calendar year for which the report is submitted, and 5564
the number of agreements scheduled to expire during the calendar 5565
year in which the report is submitted. For each agreement that 5566
expired during the calendar year for which the report is 5567
submitted, the legislative authority shall include the amount of 5568
taxes exempted under the agreement. 5569

(4) The number of agreements receiving compliance reviews by 5570
the tax incentive review council in the municipal corporation or 5571
county during the calendar year for which the report is submitted, 5572
including all of the following information: 5573

(a) The number of agreements the terms of which the party has 5574

complied with, indicating separately for each such agreement the 5575
value of the real property exempted pursuant to the agreement and 5576
a comparison of the stipulated and actual schedules for hiring new 5577
employees, for retaining existing employees, and for the amount of 5578
payroll of the party attributable to these employees; 5579

(b) The number of agreements the terms of which a party has 5580
failed to comply with, indicating separately for each such 5581
agreement the value of the real and personal property exempted 5582
pursuant to the agreement and a comparison of the stipulated and 5583
actual schedules for hiring new employees, for retaining existing 5584
employees, and for the amount of payroll of the enterprise 5585
attributable to these employees; 5586

(c) The number of agreements about which the tax incentive 5587
review council made recommendations to the legislative authority, 5588
and the number of such recommendations that have not been 5589
followed; 5590

(d) The number of agreements rescinded during the calendar 5591
year for which the report is submitted. 5592

(5) The number of parties subject to agreements that expanded 5593
within each area, including the number of new employees hired and 5594
existing employees retained by that party, and the number of new 5595
parties subject to agreements that established within each area, 5596
including the number of new employees hired by each party; 5597

(6) For each agreement in effect during any part of the 5598
preceding year, the number of employees employed by the party at 5599
the property that is the subject of the agreement immediately 5600
prior to formal approval of the agreement, the number of employees 5601
employed by the party at that property on the thirty-first day of 5602
December of the preceding year, the payroll of the party for the 5603
preceding year, the amount of taxes paid on real property that was 5604
exempted under the agreement, and the amount of such taxes that 5605

were not paid because of the exemption. 5606

(B) Upon the failure of a municipal corporation or county to 5607
comply with division (A) of this section: 5608

(1) Beginning on the first day of April of the calendar year 5609
in which the municipal corporation or county fails to comply with 5610
that division, the municipal corporation or county shall not enter 5611
into any agreements under section 3735.671 of the Revised Code 5612
until the municipal corporation or county has complied with 5613
division (A) of this section. 5614

(2) On the first day of each ensuing calendar month until the 5615
municipal corporation or county complies with that division, the 5616
director of development services shall either order the proper 5617
county auditor to deduct from the next succeeding payment of taxes 5618
to the municipal corporation or county under section 321.31, 5619
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5620
five hundred dollars for each calendar month the municipal 5621
corporation or county fails to comply with that division, or order 5622
the county auditor to deduct such an amount from the next 5623
succeeding payment to the municipal corporation or county from the 5624
undivided local government fund under section 5747.51 of the 5625
Revised Code. At the time such a payment is made, the county 5626
auditor shall comply with the director's order by issuing a 5627
warrant, drawn on the fund from which such money would have been 5628
paid, to the director of development services, who shall deposit 5629
the warrant into the state community reinvestment area program 5630
administration fund created in division (C) of this section. 5631

(C) The director, by rule, shall establish the state's 5632
application fee for applications submitted to a municipal 5633
corporation or county to enter into an agreement under section 5634
3735.671 of the Revised Code. In establishing the amount of the 5635
fee, the director shall consider the state's cost of administering 5636
the community reinvestment area program, including the cost of 5637

reviewing the reports required under division (A) of this section. 5638
The director may change the amount of the fee at such times and in 5639
such increments as the director considers necessary. Any municipal 5640
corporation or county that receives an application shall collect 5641
the application fee and remit the fee for deposit in the state 5642
treasury to the credit of the ~~tax incentive programs operating~~ 5643
business assistance fund created in section 122.174 of the Revised 5644
Code. 5645

Sec. 3746.35. (A) Not later than September 1, 1996, and not 5646
later than the first day of September of each subsequent year, the 5647
director of environmental protection shall prepare and submit to 5648
the chairpersons of the respective standing committees of the 5649
senate and house of representatives primarily responsible for 5650
considering environmental and taxation matters a report regarding 5651
the voluntary action program established under this chapter and 5652
rules adopted under it and the tax abatements granted pursuant to 5653
sections 5709.87 and 5709.88 of the Revised Code for properties 5654
where voluntary actions were conducted. Each annual report shall 5655
include, without limitation, all of the following: 5656

(1) Both of the following for each property for which a 5657
covenant not to sue was issued under section 3746.12 of the 5658
Revised Code during the preceding calendar year: 5659

(a) The address of the property and name of the person who 5660
undertook the voluntary action at the property; 5661

(b) Whether the applicable standards governing the voluntary 5662
action were the interim standards established in section 3746.07 5663
of the Revised Code or the generic numerical clean-up standards 5664
established in rules adopted under division (B)(1) of section 5665
3746.04 of the Revised Code, were established through the 5666
performance of a risk assessment pursuant to rules adopted under 5667
division (B)(2) of section 3746.04 of the Revised Code, or were 5668

set forth in a variance issued under section 3746.09 of the Revised Code.

(2) All of the following for each property for which a variance was issued under section 3746.09 of the Revised Code during the preceding calendar year:

(a) The address of the property and the name of the person to whom the variance was issued;

(b) A summary of the alternative standards and terms and conditions of the variance and brief description of the improvement in environmental conditions at the property that is anticipated to result from compliance with the alternative standards and terms and conditions set forth in the variance;

(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 administration fund created in section 3746.16 of the Revised Code during the preceding fiscal year from the fees established in divisions (D) and (H) of section 3746.07 and division (C) of section 3746.13 of the Revised Code and from civil penalties imposed under section 3746.22 of the Revised Code. The report shall indicate the amount of money that arose from each of the fees and from the civil penalties. The report also shall include the amount of money expended from the fund during the preceding fiscal year by program category, including, without limitation, the amount expended for conducting audits under section 3746.17 of the Revised Code during the preceding fiscal year.

(6) For each property that is receiving a tax abatement under section 5709.87 of the Revised Code for the preceding tax year, the amount of the valuation exempted from real property taxation for that tax year under that section. In order to comply with division (A)(6) of this section, the director shall include in the annual report the report required ~~to be provided to the director~~

~~by the director of development under division (B)(2) of this 5730
section. The sole responsibility of the director of environmental 5731
protection regarding the report provided to the director under 5732
that division is to include it in the annual report prepared under 5733
division (A) of this section. 5734~~

(7) For each property that is receiving a tax abatement 5735
pursuant to an agreement with a municipal corporation or county 5736
entered into under section 5709.88 of the Revised Code, the amount 5737
of the valuation exempted from real or personal property taxation. 5738
In order to comply with division (A)(7) of this section, the 5739
director shall include in the annual report the report required ~~to 5740
be provided to the director by the director of development under 5741
division (C) of this section. The sole responsibility of the 5742
director of environmental protection regarding the report provided 5743
to the director under that division is to include it in the annual 5744
report prepared under division (A) of this section. 5745~~

(B)(1) Not later than March 31, 1996, the county auditor of 5746
each county in which is located any property that is receiving a 5747
tax abatement under section 5709.87 of the Revised Code shall 5748
report to the director of ~~development~~ environmental protection for 5749
each such property both of the following as applicable to tax year 5750
1995: 5751

(a) The address of the property and the name of the owner as 5752
stated in the records of the county auditor of the county in which 5753
the property is located; 5754

(b) The amount of the valuation of the property that was 5755
exempted from real property taxation under that section. 5756

Not later than the thirty-first day of March of each 5757
subsequent year, each such county auditor shall report the 5758
information described in those divisions to the director of 5759
~~development~~ environmental protection for each property within the 5760

county that is receiving a tax abatement under that section for 5761
the preceding tax year. 5762

(2) Not later than July 1, 1996, and not later than the first 5763
day of July of each subsequent year, the director of ~~development~~ 5764
environmental protection shall compile the information provided to 5765
the director under division (B)(1) of this section applicable to 5766
the preceding tax year into a report covering all of the counties 5767
in the state in which are located properties receiving a tax 5768
abatement under section 5709.87 of the Revised Code for the 5769
preceding tax year ~~and shall forward the report to the director of~~ 5770
~~environmental protection. The sole responsibility of the director~~ 5771
~~of development in preparing the report is to compile the~~ 5772
~~information submitted to the director by the county auditors under~~ 5773
~~division (B)(1) of this section.~~ 5774

(C) Not later than July 1, 1996, and not later than the first 5775
day of July of each subsequent year, the director of ~~development~~ 5776
environmental protection shall compile the information provided to 5777
the director by municipal corporations and counties under division 5778
(A) of section 5709.882 of the Revised Code applicable to the 5779
preceding calendar year into a report covering, by county, all of 5780
the municipal corporations and counties in this state in which are 5781
located properties receiving a tax abatement pursuant to an 5782
agreement entered into under section 5709.88 of the Revised Code 5783
~~and shall forward the report to the director of environmental~~ 5784
~~protection. The sole responsibility of the director of development~~ 5785
~~in preparing the report is to compile the information submitted to~~ 5786
~~him by municipal corporations and counties under division (A) of~~ 5787
~~section 5709.882 of the Revised Code.~~ 5788

Sec. 5117.22. All petroleum violation escrow funds received 5789
by this state from the federal government shall be deposited in 5790
the state treasury to the credit of the energy oil overcharge 5791

fund, which is hereby created. The fund shall be used by the 5792
~~department of development~~ services agency for energy conservation 5793
and assistance programs approved by the United States department 5794
of energy. All investment earnings of the fund shall be credited 5795
to the fund. 5796

Sec. 5701.15. As used in Title LVII of the Revised Code, 5797
"department of development" means the development services agency 5798
and "director of development" means the director of development 5799
services. 5800

Sec. 5709.68. (A) On or before the thirty-first day of March 5801
each year, a municipal corporation or county that has entered into 5802
an agreement with an enterprise under section 5709.62, 5709.63, or 5803
5709.632 of the Revised Code shall submit to the director of 5804
development services and the board of education of each school 5805
district of which a municipal corporation or township to which 5806
such an agreement applies is a part a report on all of those 5807
agreements in effect during the preceding calendar year. The 5808
report shall include all of the following information: 5809

(1) The designation, assigned by the director of development 5810
services, of each urban jobs and enterprise zone within the 5811
municipal corporation or county, the date each zone was certified, 5812
the name of each municipal corporation or township within each 5813
zone, and the total population of each zone according to the most 5814
recent data available; 5815

(2) The number of enterprises that are subject to those 5816
agreements and the number of full-time employees subject to those 5817
agreements within each zone, each according to the most recent 5818
data available and identified and categorized by the appropriate 5819
standard industrial code, and the rate of unemployment in the 5820
municipal corporation or county in which the zone is located for 5821

each year since each zone was certified; 5822

(3) The number of agreements approved and executed during the 5823
calendar year for which the report is submitted, the total number 5824
of agreements in effect on the thirty-first day of December of the 5825
preceding calendar year, the number of agreements that expired 5826
during the calendar year for which the report is submitted, and 5827
the number of agreements scheduled to expire during the calendar 5828
year in which the report is submitted. For each agreement that 5829
expired during the calendar year for which the report is 5830
submitted, the municipal corporation or county shall include the 5831
amount of taxes exempted and the estimated dollar value of any 5832
other incentives provided under the agreement. 5833

(4) The number of agreements receiving compliance reviews by 5834
the tax incentive review council in the municipal corporation or 5835
county during the calendar year for which the report is submitted, 5836
including all of the following information: 5837

(a) The number of agreements the terms of which an enterprise 5838
has complied with, indicating separately for each agreement the 5839
value of the real and personal property exempted pursuant to the 5840
agreement and a comparison of the stipulated and actual schedules 5841
for hiring new employees, for retaining existing employees, for 5842
the amount of payroll of the enterprise attributable to these 5843
employees, and for investing in establishing, expanding, 5844
renovating, or occupying a facility; 5845

(b) The number of agreements the terms of which an enterprise 5846
has failed to comply with, indicating separately for each 5847
agreement the value of the real and personal property exempted 5848
pursuant to the agreement and a comparison of the stipulated and 5849
actual schedules for hiring new employees, for retaining existing 5850
employees, for the amount of payroll of the enterprise 5851
attributable to these employees, and for investing in 5852
establishing, expanding, renovating, or occupying a facility; 5853

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority of the municipal corporation or county, and the number of those 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 enterprises that are subject to agreements that expanded within each zone, including the number of new employees hired and existing employees retained by each enterprise, and the number of new enterprises that are subject to agreements and that established within each zone, including the number of new employees hired by each enterprise;

(6)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business within the state for the primary purpose of establishing, expanding, renovating, or occupying a facility, indicating separately for each enterprise the political subdivision in which the enterprise closed or reduced employment at a place of business and the number of full-time employees transferred and retained by each such place of business;

(b) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business outside the state for the primary purpose of establishing, expanding, renovating, or occupying a facility.

(7) For each agreement in effect during any part of the preceding year, the number of employees employed by the enterprise at the project site immediately prior to formal approval of the agreement, the number of employees employed by the enterprise at the project site on the thirty-first day of December of the preceding year, the payroll of the enterprise for the preceding year, the amount of taxes paid on tangible personal property

situated at the project site and the amount of those taxes that 5885
were not paid because of the exemption granted under the 5886
agreement, and the amount of taxes paid on real property 5887
constituting the project site and the amount of those taxes that 5888
were not paid because of the exemption granted under the 5889
agreement. If an agreement was entered into under section 5709.632 5890
of the Revised Code with an enterprise described in division 5891
(B)(2) of that section, the report shall include the number of 5892
employee positions at all of the enterprise's locations in this 5893
state. If an agreement is conditioned on a waiver issued under 5894
division (B) of section 5709.633 of the Revised Code on the basis 5895
of the circumstance described in division (B)(3)(a) or (b) of that 5896
section, the report shall include the number of employees at the 5897
facilities referred to in division (B)(3)(a)(i) or (b)(i) of that 5898
section, respectively. 5899

(B) Upon the failure of a municipal corporation or county to 5900
comply with division (A) of this section: 5901

(1) Beginning on the first day of April of the calendar year 5902
in which the municipal corporation or county fails to comply with 5903
that division, the municipal corporation or county shall not enter 5904
into any agreements with an enterprise under section 5709.62, 5905
5709.63, or 5709.632 of the Revised Code until the municipal 5906
corporation or county has complied with division (A) of this 5907
section. 5908

(2) On the first day of each ensuing calendar month until the 5909
municipal corporation or county complies with division (A) of this 5910
section, the director of development services shall either order 5911
the proper county auditor to deduct from the next succeeding 5912
payment of taxes to the municipal corporation or county under 5913
section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an 5914
amount equal to one thousand dollars for each calendar month the 5915
municipal corporation or county fails to comply with that 5916

division, or order the county auditor to deduct that amount from 5917
the next succeeding payment to the municipal corporation or county 5918
from the undivided local government fund under section 5747.51 of 5919
the Revised Code. At the time such a payment is made, the county 5920
auditor shall comply with the director's order by issuing a 5921
warrant, drawn on the fund from which the money would have been 5922
paid, to the director of development services, who shall deposit 5923
the warrant into the state enterprise zone program administration 5924
fund created in division (C) of this section. 5925

(C) The director, by rule, shall establish the state's 5926
application fee for applications submitted to a municipal 5927
corporation or county to enter into an agreement under section 5928
5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing 5929
the amount of the fee, the director shall consider the state's 5930
cost of administering the enterprise zone program, including the 5931
cost of reviewing the reports required under division (A) of this 5932
section. The director may change the amount of the fee at the 5933
times and in the increments the director considers necessary. Any 5934
municipal corporation or county that receives an application shall 5935
collect the application fee and remit the fee for deposit in the 5936
state treasury to the credit of the ~~tax incentive programs~~ 5937
~~operating~~ business assistance fund created in section 122.174 of 5938
the Revised Code. 5939

(D) On or before the thirtieth day of June each year, the 5940
director of development services shall certify to the tax 5941
commissioner the information described under division (A)(7) of 5942
this section, derived from the reports submitted to the director 5943
under this section. 5944

On the basis of the information certified under this 5945
division, the tax commissioner annually shall submit a report to 5946
the governor, the speaker of the house of representatives, the 5947
president of the senate, and the chairpersons of the ways and 5948

means committees of the respective houses of the general assembly, 5949
indicating for each enterprise zone the amount of state and local 5950
taxes that were not required to be paid because of exemptions 5951
granted under agreements entered into under section 5709.62, 5952
5709.63, or 5709.632 of the Revised Code and the amount of 5953
additional taxes paid from the payroll of new employees. 5954

Sec. 5709.882. (A) On or before the thirty-first day of March 5955
each year, a municipal corporation or county that has entered into 5956
an agreement with an enterprise under section 5709.88 of the 5957
Revised Code shall submit to the ~~director~~ directors of development 5958
services and environmental protection and the board of education 5959
of each school district of which a municipal corporation or county 5960
to which such an agreement applies is a part a report on all such 5961
agreements in effect during the preceding calendar year. The 5962
report shall include all of the following information: 5963

(1) The number of enterprises that are subject to such 5964
agreements and the number of full-time employees subject to those 5965
agreements in the county or municipal corporation; 5966

(2) The number of agreements approved and executed during the 5967
calendar year for which the report is submitted, the total number 5968
of agreements in effect on the thirty-first day of December of the 5969
preceding calendar year, the number of agreements that expired 5970
during the calendar year for which the report is submitted, and 5971
the number of agreements scheduled to expire during the calendar 5972
year in which the report is submitted. For each agreement that 5973
expired during the calendar year for which the report is 5974
submitted, the municipal corporation or county shall include the 5975
amount of taxes exempted and the estimated dollar value of any 5976
other incentives provided under the agreement. 5977

(3) The number of agreements receiving compliance reviews by 5978
the tax incentive review council in the municipal corporation or 5979

county under section 5709.883 of the Revised Code during the 5980
calendar year for which the report is submitted, including all of 5981
the following information: 5982

(a) The number of agreements the terms of which an enterprise 5983
has complied with, indicating separately for each such agreement 5984
the value of the real and personal property exempted pursuant to 5985
the agreement and a comparison of the stipulated and actual 5986
schedules for hiring new employees, for retaining existing 5987
employees, for the amount of payroll of the enterprise 5988
attributable to these employees, and for remediating and investing 5989
in establishing, expanding, renovating, or occupying a facility; 5990

(b) The number of agreements the terms of which an enterprise 5991
has failed to comply with, indicating separately for each such 5992
agreement the value of the real and personal property exempted 5993
pursuant to the agreement and a comparison of the stipulated and 5994
actual schedules for hiring new employees, for retaining existing 5995
employees, for the amount of payroll of the enterprise 5996
attributable to these employees, and for remediating and investing 5997
in establishing, expanding, renovating, or occupying a facility; 5998

(c) The number of agreements about which the tax incentive 5999
review council made recommendations to the legislative authority 6000
of the municipal corporation or county, and the number of such 6001
recommendations that have not been followed; 6002

(d) The number of agreements rescinded during the calendar 6003
year for which the report is submitted. 6004

(4) The number of enterprises that are subject to agreements 6005
and the number of new employees hired and existing employees 6006
retained by each such enterprise; 6007

(5)(a) The number of enterprises that are subject to 6008
agreements and that closed or reduced employment at any place of 6009
business within the state for the primary purpose of remediating 6010

and establishing, expanding, renovating, or occupying a facility, 6011
indicating separately for each such enterprise the political 6012
subdivision in which the enterprise closed or reduced employment 6013
at a place of business and the number of full-time employees 6014
transferred and retained by each such place of business; 6015

(b) The number of enterprises that are subject to agreements 6016
and that closed or reduced employment at any place of business 6017
outside the state for the primary purpose of remediating and 6018
establishing, expanding, renovating, or occupying a facility. 6019

(B) Upon the failure of a municipal corporation or county to 6020
comply with division (A) of this section, both of the following 6021
apply: 6022

(1) Beginning on the first day of April of the calendar year 6023
in which the municipal corporation or county fails to comply with 6024
that division, the municipal corporation or county shall not enter 6025
into any agreements with an enterprise under section 5709.88 of 6026
the Revised Code until the municipal corporation or county has 6027
complied with division (A) of this section; 6028

(2) On the first day of each ensuing calendar month until the 6029
municipal corporation or county complies with that division, the 6030
director of development services shall either order the proper 6031
county auditor to deduct from the next succeeding payment of taxes 6032
to the municipal corporation or county under section 321.31, 6033
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 6034
five hundred dollars for each calendar month the municipal 6035
corporation or county fails to comply with that division, or order 6036
the county auditor to deduct such an amount from the next 6037
succeeding payment to the municipal corporation or county from the 6038
undivided local government fund under section 5747.51 of the 6039
Revised Code. At the time such a payment is made, the county 6040
auditor shall comply with the director's order by issuing a 6041
warrant, drawn on the fund from which such money would have been 6042

paid, to the director of development services, who shall deposit 6043
the warrant into the contaminated sites development program 6044
administration fund created in division (C) of this section. 6045

(C) The director, by rule, shall establish the state's 6046
application fee for applications submitted to a municipal 6047
corporation or county to enter into an agreement under section 6048
5709.88 of the Revised Code. In establishing the amount of the 6049
fee, the director shall consider the state's cost of administering 6050
this section and section 5709.88 of the Revised Code. The director 6051
may change the amount of the fee at such times and in such 6052
increments as ~~he~~ the director considers necessary. Any municipal 6053
corporation or county that receives an application shall collect 6054
the application fee and remit the fee for deposit in the state 6055
treasury to the credit of the contaminated sites development 6056
program administration fund, which is hereby created. Money 6057
credited to the fund shall be used by the ~~department of~~ 6058
development services agency to pay the costs of administering this 6059
section and section 5709.88 of the Revised Code. 6060

Sec. 6103.052. (A) ~~A board of county commissioners may apply 6061
to the water and sewer commission, created by division (C) of 6062
section 1525.11 of the Revised Code, for an advance of moneys from 6063
the water and sewer fund, created by division (A) of section 6064
1525.11 of the Revised Code, in an amount equal to that portion of 6065
the costs of an improvement authorized under sections 6103.02 to 6066
6103.30 of the Revised Code which is to be financed by assessments 6067
whose collection is deferred pursuant to division (B) of this 6068
section. The application for such an advance of moneys shall be 6069
made in the manner prescribed by rules of the commission. 6070~~

~~(B)~~ At any time prior to the expiration of the five-day 6071
period provided by section 6103.05 of the Revised Code for the 6072
filing of written objections, any owner of property which is 6073

classified on the general tax list of the county auditor as 6074
agricultural land and has been assessed for the extension of a 6075
main water line over or along such property under sections 6103.02 6076
to 6103.30 of the Revised Code may file with the board of county 6077
commissioners a request in writing for deferment of the collection 6078
of ~~his~~ the owner's assessment if the main water line ~~serves a~~ 6079
~~purpose set forth in section 1525.13 of the Revised Code for which~~ 6080
~~the water and sewer fund may be used~~ provides water facilities to 6081
aid in the establishment of new industrial plants, the expansion 6082
of existing industrial plants, or such other industrial 6083
development, or provides water facilities to aid in the 6084
establishment of commercial and residential developments. Such 6085
request shall identify the property in connection with which the 6086
request for deferment is made, shall describe its present use and 6087
present classification on the general tax list of the county 6088
auditor, shall state its estimated market value, showing 6089
separately the value of the land and the value of the buildings 6090
thereon, shall state the reasons, if any, why a portion of the 6091
benefit of the improvement will not be realized until the use of 6092
the land is changed, and shall state the amount to be deferred. 6093
The board shall promptly consider such request and may order the 6094
deferment of the collection of that portion of the assessment 6095
representing a benefit from the improvement that will not be 6096
realized until the use of the land is changed. The board may, upon 6097
request of an owner whose property has been assessed for the 6098
extension of a main water line over or along such property under 6099
sections 6103.02 to 6103.31 of the Revised Code, defer all or any 6100
part of the assessment on property which is classified on the 6101
general tax list of the county auditor as agricultural land, by 6102
attributing the amount of such assessment or part thereof as 6103
tap-in charges, if the main water line ~~serves a purpose set forth~~ 6104
~~in section 1525.13 of the Revised Code for which the water and~~ 6105
~~sewer fund may be used. A deferment under this section may be~~ 6106

~~conditioned upon the approval of the advance of moneys applied for~~ 6107
~~pursuant to division (A) of this section, and a maximum length of~~ 6108
~~the deferment may be fixed to coincide with the maximum time~~ 6109
~~within which the advance must be repaid. The decision on the~~ 6110
~~request for deferment of collection of assessments shall be made~~ 6111
~~pursuant to standards established by rules of the commission~~ 6112
provides water facilities to aid in the establishment of new 6113
industrial plants, the expansion of existing industrial plants, or 6114
such other industrial development, or provides water facilities to 6115
aid in the establishment of commercial and residential 6116
developments. Upon determination and approval of final 6117
assessments, the board of county commissioners shall certify all 6118
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6119
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6120
~~the Revised Code attributable to the~~ two per cent of the amount of 6121
the deferred assessments to the county auditor. For purposes of 6122
this section, "assessment," "deferred assessment," or "assessment 6123
deferred under this section" mean the fee and the deferred 6124
assessment certified to the county auditor. The county auditor 6125
shall record an assessment deferred under this section in the 6126
water works record. Such record shall be kept until such time as 6127
the assessments are paid in full or certified for collection in 6128
installments as provided in this section. During the time when the 6129
assessment is deferred there shall be a lien on the property 6130
assessed, which lien shall arise at the time of recordation by the 6131
county auditor and shall be in force until the assessments are 6132
paid in full or certified for collection in installments. 6133

~~(C)~~(B) The board of county commissioners shall defer the 6134
collection of an assessment, except the amount of such assessment 6135
or part thereof attributable as tap-in charges, which has been 6136
deferred pursuant to division ~~(B)~~(A) of this section on or before 6137
January 1, 1987, beyond the expiration of the maximum time for the 6138
original deferment if the property owner requests in writing, no 6139

later than six months prior to the expiration of the original 6140
deferment, that the assessment be further deferred and as long as 6141
the property owner's land could qualify for placement in an 6142
agricultural district pursuant to section 929.02 of the Revised 6143
Code. 6144

The board shall regularly review the use and ownership of the 6145
property for which the collection of assessments has been deferred 6146
pursuant to this division, and upon finding that the land could no 6147
longer qualify for placement in an agricultural district pursuant 6148
to section 929.02 of the Revised Code, the board shall immediately 6149
collect, without interest, the full amount of the assessment 6150
~~deferred and repay the commission the amount of any moneys~~ 6151
~~advanced by it in regard to such assessment. The board shall pay~~ 6152
~~all such amounts to the commission in one annual payment or longer~~ 6153
~~period as approved by the commission. The board shall pay, from~~ 6154
~~the general funds of the county, interest annually at the interest~~ 6155
~~rate per annum equal to that rate of interest published as the~~ 6156
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6157
~~annum or at five per cent per annum, whichever is greater, for any~~ 6158
~~moneys not repaid to the commission pursuant to this division~~ 6159
~~within one year of the date of the disqualification of the~~ 6160
~~property for the continual deferment which requires such~~ 6161
~~repayment. The interest rate for any moneys not repaid to the~~ 6162
~~commission shall be calculated one year from the date of the~~ 6163
~~disqualification of the property for the continual deferment which~~ 6164
~~requires such repayment, and annually thereafter.~~ 6165

~~(D)~~(C) The board of county commissioners shall send a notice 6166
by regular or certified mail to all owners of property on which 6167
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6168
section, which lists the expiration of the deferment, not later 6169
than two hundred ten days prior to the expiration of the deferment 6170
of those assessments. 6171

~~(E)~~(D) The board shall collect the assessments, without 6172
interest, which have been deferred pursuant to division ~~(B)~~(A) of 6173
this section upon expiration of the maximum time for which 6174
deferments were made ~~and repay the commission the amount of any~~ 6175
~~moneys advanced by it in regard to such assessments;~~ provided, 6176
that for a property owner who requests in writing, no later than 6177
six months prior to the expiration of the deferment period, that 6178
payment of ~~his~~ the owner's deferred assessments be in 6179
installments, the board of county commissioners upon expiration of 6180
the deferment period may by resolution further certify for 6181
collection pursuant to section 6103.16 of the Revised Code, such 6182
deferred assessments in installments over not more than twenty 6183
years, as determined by the board, together with interest thereon 6184
each year on the unpaid balance at the same rate borne by bonds of 6185
the county which shall be issued in anticipation thereof as 6186
provided in Chapter 133. of the Revised Code, ~~and the proceeds of~~ 6187
~~the bond issue used to repay such deferred assessments to the~~ 6188
~~commission.~~ 6189

Assessments which have been deferred by attribution as tap-in 6190
charges under division ~~(B)~~(A) of this section shall be collected 6191
as deferred assessments at that time. ~~As the board collects tap-in~~ 6192
~~charges which are deferred assessments under division (B) of this~~ 6193
~~section, it shall repay the commission the amount thereof which~~ 6194
~~was advanced by it in regard to such assessments.~~ An owner of 6195
property for which assessments have been deferred under division 6196
~~(B)~~(A) of this section, in requesting a tap-in may, subject to the 6197
approval of the board, designate a part of an entire assessed 6198
tract as the part which the tap-in is to serve, and the board 6199
shall collect the deferred assessment on that tract in the 6200
proportion that the part bears to the entire tract, on a front 6201
foot or other basis approved by the commission, but if in the 6202
judgment of the board the tap-in is reasonably intended to serve 6203
the entire tract or substantially all of the tract, it shall 6204

collect the deferred assessment for the entire tract. 6205

Prior to the expiration of the maximum time of deferment, the 6206
board shall regularly review the use of the property for which the 6207
collection of assessments has been deferred and upon finding, 6208
~~pursuant to the rules of the commission,~~ that the use of the land 6209
has changed from the use at the time of the deferment so that the 6210
benefit of the improvement can then be realized, the board shall 6211
immediately collect the full amount of the assessment for the 6212
portion of the property for which the use has so changed, without 6213
interest, ~~and repay the commission the amount of any moneys~~ 6214
~~advanced by it in regard to such assessment. The board shall pay~~ 6215
~~all such amounts to the commission in one annual payment or longer~~ 6216
~~period as approved by the commission. The board of county~~ 6217
~~commissioners shall pay, from the general funds of the county,~~ 6218
~~interest annually at the interest rate per annum equal to that~~ 6219
~~rate of interest published as the 20 bond index rate in "The Bond~~ 6220
~~Buyer" minus four per cent per annum or at five per cent per~~ 6221
~~annum, whichever is greater, for any moneys not repaid to the~~ 6222
~~commission pursuant to this division within one year of the date~~ 6223
~~of the change in the use of property requiring such repayment, or~~ 6224
~~of the date upon which payment of a tap in charge is required by~~ 6225
~~law to be made, whichever date is applicable. The interest rate~~ 6226
~~for any moneys not repaid to the commission shall be calculated~~ 6227
~~one year from the date of the change in the use of property~~ 6228
~~requiring such repayment or from the date upon which payment of a~~ 6229
~~tap in charge is required by law to be made, whichever date is~~ 6230
~~applicable, and annually thereafter.~~ 6231

Sec. 6117.062. (A) ~~A board of county commissioners may apply~~ 6232
~~to the water and sewer commission, created by division (C) of~~ 6233
~~section 1525.11 of the Revised Code, for an advance of moneys from~~ 6234
~~the water and sewer fund, created by division (A) of section~~ 6235
~~1525.11 of the Revised Code, in an amount equal to that portion of~~ 6236

~~the costs of an improvement authorized under sections 6117.01 to 6237
6117.45 of the Revised Code which is to be financed by assessments 6238
whose collection is deferred pursuant to division (B) of this 6239
section. The application for such an advance of moneys shall be 6240
made in the manner prescribed by rules of the commission. 6241~~

(B) At any time prior to the expiration of the five-day 6242
period provided by section 6117.06 of the Revised Code for the 6243
filing of written objections, any owner of property which is 6244
classified on the general tax list of the county auditor as 6245
agricultural land and has been assessed for the extension of a 6246
trunk sewer line over or along such property under sections 6247
6117.01 to 6117.45 of the Revised Code may file with the board of 6248
county commissioners a request in writing for deferment of the 6249
collection of ~~his~~ the assessment if the trunk sewer line ~~serves a~~ 6250
~~purpose, as set forth in section 1525.13 of the Revised Code, for~~ 6251
~~which the fund may be used~~ provides sewer facilities to aid in the 6252
establishment of new industrial plants, the expansion of existing 6253
industrial plants, or such other industrial development, or 6254
provides sewer facilities to aid in the establishment of 6255
commercial and residential developments. Such request shall 6256
identify the property in connection with which the request for 6257
deferment is made, shall describe its present use and present 6258
classification on the general tax list of the county auditor, 6259
shall state its estimated market value, showing separately the 6260
value of the land and the value of the buildings thereon, shall 6261
state the reasons, if any, why a portion of the benefit of the 6262
improvement will not be realized until the use of the land is 6263
changed, and shall state the amount to be deferred. The board 6264
shall promptly consider such request and may order the deferment 6265
of the collection of that portion of the assessment representing a 6266
benefit from the improvement which will not be realized until the 6267
use of the land is changed. The board may, upon request of an 6268
owner whose property has been assessed for the extension of a 6269

trunk sewer line over or along such property under sections 6270
6117.01 to 6117.45 of the Revised Code, defer all or any part of 6271
the assessment on property which is classified on the general tax 6272
list as agricultural land, by attributing the amount of such 6273
assessment or part thereof as tap-in charges, if the trunk sewer 6274
line ~~serves a purpose set forth in section 1525.13 of the Revised~~ 6275
~~Code for which the fund may be used. A deferment under this~~ 6276
~~section may be conditioned upon the approval of the advance of~~ 6277
~~moneys applied for pursuant to division (A) of this section, and a~~ 6278
~~maximum length of the deferment may be fixed to coincide with the~~ 6279
~~maximum time within which the advance must be repaid. The decision~~ 6280
~~on the request for deferment of collection of assessments shall be~~ 6281
~~made pursuant to standards established by rules of the commission~~ 6282
provides sewer facilities to aid in the establishment of new 6283
industrial plants, the expansion of existing industrial plants, or 6284
such other industrial development, or provides sewer facilities to 6285
aid in the establishment of commercial and residential 6286
developments. Upon determination and approval of final 6287
assessments, the board of county commissioners shall certify all 6288
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6289
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6290
~~the Revised Code attributable to the deferred payments~~ two per 6291
cent of the amount of the deferred assessments to the county 6292
auditor. For purposes of this section, "assessment," "deferred 6293
assessment," or "assessment deferred under this section" mean the 6294
fee and the deferred assessment certified to the county auditor. 6295
The county auditor shall record an assessment deferred under this 6296
section in the sewer improvement record. Such record shall be kept 6297
until such time as the assessments are paid in full or certified 6298
for collection in installments as provided in this section. During 6299
the time when the assessment is deferred there shall be a lien on 6300
the property assessed, which lien shall arise at the time of 6301
recordation by the county auditor and which shall be in force 6302

until the assessments are paid in full or certified for collection 6303
in installments. 6304

~~(C)~~(B) The board of county commissioners shall defer the 6305
collection of an assessment, except the amount of such assessment 6306
or part thereof attributable as tap-in charges, which has been 6307
deferred pursuant to division ~~(B)~~(A) of this section on or before 6308
January 1, 1987, beyond the expiration of the maximum time for the 6309
original deferment if the property owner requests in writing, no 6310
later than six months prior to the expiration of the original 6311
deferment, that the assessment be further deferred and as long as 6312
the property owner's land could qualify for placement in an 6313
agricultural district pursuant to section 929.02 of the Revised 6314
Code. 6315

The board shall regularly review the use and ownership of the 6316
property for which the collection of assessments has been deferred 6317
pursuant to this division, and upon finding that the land could no 6318
longer qualify for placement in an agricultural district pursuant 6319
to section 929.02 of the Revised Code, the board shall immediately 6320
collect, without interest, the full amount of the assessment 6321
~~deferred and repay the commission the amount of any moneys~~ 6322
~~advanced by it in regard to such assessment. The board shall pay~~ 6323
~~all such amounts to the commission in one annual payment or longer~~ 6324
~~period as approved by the commission. The board shall pay, from~~ 6325
~~the general funds of the county, interest annually at the interest~~ 6326
~~rate per annum equal to that rate of interest published as the~~ 6327
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6328
~~annum or at five per cent per annum, whichever rate is greater,~~ 6329
~~for any moneys not repaid to the commission pursuant to this~~ 6330
~~division within one year of the date of the disqualification of~~ 6331
~~the property for the continual deferment which requires such~~ 6332
~~repayment. The interest rate for any moneys not repaid to the~~ 6333
~~commission shall be calculated one year from the date of the~~ 6334

~~disqualification of the property for the continual deferment which~~ 6335
~~requires such repayment, and annually thereafter.~~ 6336

~~(D)~~(C) The board of county commissioners shall send a notice 6337
by regular or certified mail to all owners of property on which 6338
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6339
section, which lists the expiration of the deferment, not later 6340
than two hundred ten days prior to the expiration of the deferment 6341
of those assessments. 6342

~~(E)~~(D) The board shall collect assessments, without interest, 6343
which have been deferred pursuant to division ~~(B)~~(A) of this 6344
section upon expiration of the maximum time for which deferments 6345
were made ~~and repay the commission the amount of any moneys~~ 6346
~~advanced by it in regard to such assessments;~~ provided that for a 6347
property owner who requests in writing, no later than six months 6348
prior to the expiration of the deferment period, that payment of 6349
~~his~~ the deferred assessments be in installments, the board of 6350
county commissioners upon expiration of the deferment period may 6351
by resolution further certify for collection pursuant to section 6352
6117.33 of the Revised Code, such deferred assessments in 6353
installments over not more than twenty years, as determined by the 6354
board, together with interest thereon each year on the unpaid 6355
balance at the same rate borne by bonds of the county which shall 6356
be issued in anticipation thereof as provided in Chapter 133. of 6357
the Revised Code, ~~and the proceeds of the bond issue used to repay~~ 6358
~~such deferred assessments to the commission.~~ Prior to the 6359
expiration of the maximum time of deferment, the board shall 6360
regularly review the use of the property for which the collection 6361
of assessments has been deferred and upon finding, ~~pursuant to the~~ 6362
~~rules of the commission,~~ that the use of the land has changed from 6363
the use at the time of the deferment so that the benefit of the 6364
improvement can then be realized, the board shall immediately 6365
collect the full amount of the assessment for the portion of the 6366

property for which the use has so changed, without interest, and 6367
repay the commission the amount of any moneys advanced by it in 6368
regard to such assessment. The board shall pay all such amounts to 6369
the commission in one annual payment or longer period as approved 6370
by the commission. The board shall pay, from the general funds of 6371
the county, interest annually at the interest rate per annum equal 6372
to that rate of interest published as the 20 bond index rate in 6373
"The Bond Buyer" minus four per cent per annum or at five per cent 6374
per annum, whichever is greater, for any moneys not repaid to the 6375
commission pursuant to this division within one year of the date 6376
of the change in the use of property requiring such repayment, or 6377
of the date upon which payment of a tap in charge is required by 6378
law to be made, whichever date is applicable. The interest rate 6379
for any moneys not repaid to the commission shall be calculated 6380
one year from the date of the change in the use of property 6381
requiring such repayment or from the date upon which payment of a 6382
tap in charge is required by law to be made, whichever date is 6383
applicable, and annually thereafter. 6384

Section 2. That existing sections 9.981, 102.03, 121.02, 6385
121.03, 121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 6386
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 6387
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 6388
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 6389
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 6390
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 6391
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 6392
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6117.062 and 6393
sections 122.40, 1525.11, 1525.12, 1525.13, and 6111.034 of the 6394
Revised Code are hereby repealed. 6395

Section 3. In enacting this act, it is the intent of the 6396
General Assembly that changing the name of the "Department of 6397

Development" to the Development Services Agency and the name of 6398
the "Director of Development" to the Director of Development 6399
Services does not do either of the following: 6400

(A) Make substantive changes in statutory law; 6401

(B) Cause unnecessary expense. The letterhead, forms, printed 6402
materials, and signage displaying the former name of the 6403
Department may be used until they are replaced. 6404

Section 4. Upon the effective date of this act, all 6405
references to the Department of Development or Director of 6406
Development in other uncodified sections of law in Am. Sub. H.B. 6407
153 of the 129th General Assembly and Am. Sub. H.B. 114 of the 6408
129th General Assembly, shall be deemed to refer to the 6409
Development Services Agency or the Director of Development 6410
Services, respectively. 6411

Section 5. (A) There is hereby established a five-year pilot 6412
program to test a new funding mechanism for the state's travel and 6413
tourism marketing. The funding mechanism shall begin operation in 6414
fiscal year 2014 and be calculated as follows: 6415

(1)(a) Not later than the twentieth day of October of each 6416
year, starting in 2013 and ending in 2017, the Tax Commissioner 6417
shall calculate the growth in fiscal year sales tax revenue from 6418
certain defined categories that are related to tourism and certify 6419
that amount to the Director of Budget and Management. 6420

(b) Not later than the twentieth day of October of each year, 6421
starting in 2013 and ending in 2017, the Commissioner shall 6422
calculate and certify to the Director the difference, if greater 6423
than zero, between the revenue collected from the tax imposed 6424
under section 5739.02 of the Revised Code during the twelve-month 6425
period ending on the last day of the preceding June and the 6426

revenue collected during the same twelve-month period one year 6427
earlier, for all vendors classified under the industry codes 6428
identified in division (A)(2) of this section. On or before the 6429
last day of October of each year, starting in 2013 and ending in 6430
2017, the Director of Budget and Management shall transfer from 6431
the General Revenue Fund to the Tourism Fund created in section 6432
122.072 of the Revised Code the amount certified by the 6433
Commissioner under this division, except that the transfer shall 6434
not exceed ten million dollars for any fiscal year. 6435

(c) Each fiscal year, beginning in fiscal year 2015, the Tax 6436
Commissioner shall adjust the ten million annual dollar limit on 6437
transfers to the Tourism Fund. The adjustment shall be made by 6438
adding to the annual limit the product of multiplying the limit 6439
for the preceding fiscal year by the sum of one plus the 6440
percentage increase in the Consumer Price Index for all urban 6441
consumers for the Midwest region, as determined by the United 6442
States Bureau of Labor Statistics, for the twelve-month period 6443
corresponding to the preceding fiscal year. The result shall be 6444
rounded to the nearest one thousand dollars. The calculation of 6445
the percentage increase in the Consumer Price Index shall be done 6446
by taking the average index value over the twelve months of the 6447
last completed fiscal year and comparing that to the average index 6448
value over the twelve months of the immediately preceding fiscal 6449
year. 6450

(2) The following industries included in the industrial 6451
classification system used by the Tax Commissioner shall be used 6452
in the computations under division (A)(1) of this section: air 6453
transportation; water transportation; interurban and rural bus 6454
transportation; taxi service; limousine service; other transit and 6455
ground passenger transportation; scenic and sightseeing 6456
transportation; support activities for air transportation; 6457
automotive equipment rental and leasing; travel arrangement and 6458

reservation services; performing arts companies; spectator sports; 6459
independent artists, writers, and performers; museums, historical 6460
sites, and similar institutions; amusement parks and arcades; 6461
gambling industries; hotels and motels; casino hotels; 6462
bed-and-breakfast inns; other travel accommodations; recreational 6463
vehicle parks and recreational camps; full-service restaurants; 6464
limited-service eating places; drinking places (alcoholic 6465
beverages). 6466

(B) The pilot program shall terminate when the last transfer 6467
of funds made in accordance with division (A)(1)(b) of this 6468
section occurs in fiscal year 2018, specifically in October 2017. 6469
At that time, the Director of Development Services, the Director 6470
of Budget and Management, and the Tax Commissioner shall jointly 6471
review the pilot program and make recommendations to the Governor 6472
and the General Assembly on whether to make the funding mechanism 6473
permanent and, if so, whether any changes should be made to it. If 6474
the recommendation is to make the funding mechanism permanent, the 6475
Director of Development Services, the Director of Budget and 6476
Management, and the Tax Commissioner shall also study and make 6477
recommendations to the Governor and the General Assembly as to 6478
whether the Office of TourismOhio and its functions should be 6479
removed from the Development Services Agency and established as a 6480
private nonprofit corporation or a subsidiary corporation of 6481
JobsOhio. 6482

Section 6. (A) As used in this section, "federal act" means 6483
the "Small Business Liability Relief and Brownfields 6484
Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and 6485
9604. 6486

(B) There is hereby created in the state treasury the 6487
Brownfields Revolving Loan Fund. The Fund shall consist of all 6488
moneys received by the state from the United States Department of 6489

Environmental Protection under the federal act. The Fund shall be 6490
used to make grants and loans by the Director of Development 6491
Services. 6492

(C) The Director shall administer moneys received into the 6493
Fund and comply with all requirements imposed by the federal act 6494
in its application for, and administration of, the funds as grants 6495
and loans. 6496

(D) The Director shall establish a schedule of fees and 6497
charges payable by grant and loan recipients to the Director for 6498
the administration of this section. 6499

Section 7. That Sections 261.10.40, 261.10.70, 261.20.40, 6500
261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 6501
261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 6502
and 261.40.10 of Am. Sub. H.B. 153 of the 129th General Assembly 6503
be amended to read as follows: 6504

Sec. 261.10.40. ~~STRATEGIC BUSINESS INVESTMENT DIVISION AND~~ 6505
~~REGIONAL OFFICES~~ DEVELOPMENT SERVICES 6506

The foregoing appropriation item 195415, ~~Strategic Business~~ 6507
~~Investment Division and Regional Offices~~ Development Services, 6508
shall be used for the operating expenses of the ~~Strategic Business~~ 6509
~~Investment Services~~ Division and the regional economic development 6510
offices and for grants for cooperative economic development 6511
ventures. 6512

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION 6513

The foregoing appropriation item 195426, Clean Ohio 6514
Implementation, shall be used to fund the costs of administering 6515
the Clean Ohio Revitalization program and other urban 6516
revitalization programs that may be implemented by the ~~Department~~ 6517
~~of~~ Development Services Agency. 6518

Sec. 261.20.40. SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS 6519

The Director of Development Services may assess ~~divisions~~ 6520
offices of the ~~department~~ agency for the cost of central service 6521
operations. An assessment shall contain the characteristics of 6522
administrative ease and uniform application. A division's payments 6523
shall be credited to the Supportive Services Fund (Fund 1350) 6524
using an intrastate transfer voucher. 6525

~~ECONOMIC DEVELOPMENT CONTINGENCY~~ 6526

~~The foregoing appropriation item 195677, Economic Development~~ 6527
~~Contingency, may be used to award funds directly to either (1)~~ 6528
~~business entities considering Ohio for expansion or new site~~ 6529
~~location opportunities or (2) political subdivisions to assist~~ 6530
~~with necessary costs involved in attracting a business entity. In~~ 6531
~~addition, the Director of Development may award funds for~~ 6532
~~alternative purposes when appropriate to satisfy an economic~~ 6533
~~development opportunity or need deemed extraordinary in nature by~~ 6534
~~the Director.~~ 6535

~~DIRECT COST RECOVERY DEVELOPMENT SERVICES REIMBURSABLE~~ 6536
~~EXPENDITURES~~ 6537

The foregoing appropriation item 195636, ~~Direct Cost Recovery~~ 6538
Development Services Reimbursable Expenditures, shall be used for 6539
reimbursable costs incurred by the agency. Revenues to the General 6540
Reimbursement Fund (Fund 6850) shall consist of moneys charged for 6541
administrative costs that are not central service costs. 6542

Sec. 261.20.50. HEAP WEATHERIZATION 6543

Up to fifteen per cent of the federal funds deposited to the 6544
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 6545
may be expended from appropriation item 195614, HEAP 6546
Weatherization, to provide home weatherization services in the 6547
state as determined by the Director of Development Services. Any 6548

transfers or increases in appropriation for the foregoing 6549
appropriation items 195614, HEAP Weatherization, or 195611, Home 6550
Energy Assistance Block Grant, shall be subject to approval by the 6551
Controlling Board. 6552

Sec. 261.20.60. STATE SPECIAL PROJECTS 6553

The State Special Projects Fund (Fund 4F20), may be used for 6554
the deposit of private-sector funds from utility companies and for 6555
the deposit of other miscellaneous state funds. State moneys so 6556
deposited ~~shall~~ may also be used to match federal housing grants 6557
for the homeless ~~and to market economic development opportunities~~ 6558
~~in the state~~. Private-sector moneys shall be deposited for use in 6559
appropriation item 195699, Utility ~~Provided Funds~~ Community 6560
Assistance, and shall be used to (1) pay the expenses of verifying 6561
the income-eligibility of HEAP applicants, (2) leverage additional 6562
federal funds, (3) fund special projects to assist ~~homeless~~ 6563
individuals income-eligible veterans and families with services 6564
and energy assistance programs, (4) fund special projects to 6565
assist with the energy efficiency of households eligible to 6566
participate in the Percentage of Income Payment Plan, and (5) 6567
assist with training programs for agencies that administer 6568
low-income customer assistance programs. 6569

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 6570

All repayments from the Minority Development Financing 6571
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 6572
Program shall be deposited in the State Treasury to the credit of 6573
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 6574
costs of administering the Minority Business Enterprise Loan Fund 6575
may be paid from the Minority Business Enterprise Loan Fund (Fund 6576
4W10). 6577

MINORITY BUSINESS BONDING FUND 6578

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development Services may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the ~~Department of Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department of Commerce to the ~~Department of Development's~~ Minority Business Bonding Fund (Fund 4490) used by the Development Services Agency shall occur, if requested by the Director of Development Services, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS

(A) On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$20,000,000 cash from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ Development Services Agency.

On July 1, 2012, or as soon as possible thereafter, the 6610
Director of Budget and Management shall transfer up to \$30,000,000 6611
cash from the Economic Development Programs Fund (Fund 5JC0) used 6612
by the Board of Regents to the Ohio Incumbent Workforce Job 6613
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 6614
Services Agency. 6615

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 6616
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 6617
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 6618
be used to support the Ohio Incumbent Workforce Training Voucher 6619
Program. The Director of Development Services and the Chief 6620
Investment Officer of JobsOhio may enter into an agreement to 6621
operate the program pursuant to the contract between the 6622
~~Department of~~ Development Services Agency and JobsOhio under 6623
section 187.04 of the Revised Code. The agreement may include a 6624
provision for granting, loaning, or transferring funds from 6625
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 6626
Vouchers, to JobsOhio to provide training for incumbent workers. 6627

(C) Regardless of any agreement between the Director and the 6628
Chief Investment Officer under division (B) of this section, the 6629
Ohio Incumbent Workforce Training Voucher Program shall conform to 6630
guidelines for the operation of the program, including, but not 6631
limited to, the following: 6632

(1) A requirement that a training voucher under the program 6633
shall not exceed \$6,000 per worker per year; 6634

(2) A provision for an employer of an eligible employee to 6635
apply for a voucher on behalf of the eligible employee; 6636

(3) A provision for an eligible employee to apply directly 6637
for a training voucher with the pre-approval of the employee's 6638
employer; and 6639

(4) A requirement that an employee participating in the 6640

program, or the employee's employer, shall pay for not less than 6641
thirty-three per cent of the training costs under the program. 6642

DEFENSE DEVELOPMENT ASSISTANCE 6643

On July 1 of each fiscal year, or as soon as possible 6644
thereafter, the Director of Budget and Management shall transfer 6645
\$5,000,000 in cash from the Economic Development Projects Fund 6646
(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 6647
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 6648
Development Services Agency. The transferred funds are hereby 6649
appropriated in appropriation item 195622, Defense Development 6650
Assistance. 6651

The foregoing appropriation item 195622, Defense Development 6652
Assistance, shall be used for economic development programs and 6653
the creation of new jobs to leverage and support mission gains at 6654
Department of Defense facilities in Ohio by working with future 6655
base realignment and closure activities and ongoing Department of 6656
Defense efficiency initiatives, assisting efforts to secure 6657
Department of Defense support contracts for Ohio companies, 6658
assessing and supporting regional job training and workforce 6659
development needs generated by the Department of Defense and the 6660
Ohio aerospace industry, and for expanding job training and 6661
economic development programs in human performance related 6662
initiatives. These funds shall be matched by private industry 6663
partners or the Department of Defense in an aggregate amount of 6664
\$6,000,000 over the FY 2012-FY 2013 biennium. 6665

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS 6666

The foregoing appropriation item 195660, Advanced Energy Loan 6667
Programs, shall be used to provide financial assistance to 6668
customers for eligible advanced energy projects for residential, 6669
commercial, and industrial business, local government, educational 6670
institution, nonprofit, and agriculture customers, and to pay for 6671

the program's administrative costs as provided in sections 4928.61 6672
to 4928.63 of the Revised Code and rules adopted by the Director 6673
of Development Services. 6674

On July 1 of each fiscal year, or as soon as possible 6675
thereafter, the Director of Budget and Management shall transfer 6676
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 6677
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 6678

VOLUME CAP ADMINISTRATION 6679

The foregoing appropriation item 195654, Volume Cap 6680
Administration, shall be used for expenses related to the 6681
administration of the Volume Cap Program. Revenues received by the 6682
Volume Cap Administration Fund (Fund 6170) shall consist of 6683
application fees, forfeited deposits, and interest earned from the 6684
custodial account held by the Treasurer of State. 6685

Sec. 261.30.20. INNOVATION OHIO LOAN FUND 6686

The foregoing appropriation item 195664, Innovation Ohio, 6687
shall be used to provide for innovation Ohio purposes, including 6688
loan guarantees and loans under Chapter 166. and particularly 6689
sections 166.12 to 166.16 of the Revised Code. 6690

RESEARCH AND DEVELOPMENT 6691

The foregoing appropriation item 195665, Research and 6692
Development, shall be used to provide for research and development 6693
purposes, including loans, under Chapter 166. and particularly 6694
sections 166.17 to 166.21 of the Revised Code. 6695

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 6696

Appropriation item 195698, Logistics and Distribution 6697
Infrastructure, shall be used for eligible logistics and 6698
distribution infrastructure projects as defined in section 166.01 6699
of the Revised Code. Any unexpended and unencumbered portion of 6700
the appropriation item at the end of fiscal year 2011 is hereby 6701

reappropriated for the same purpose in fiscal year 2012, and any 6702
unexpended and unencumbered portion of the appropriation item at 6703
the end of fiscal year 2012 is hereby reappropriated for the same 6704
purpose in fiscal year 2013. 6705

After all encumbrances have been paid, the Director of Budget 6706
and Management shall transfer the remaining cash balance in the 6707
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 6708
Facilities Establishment Fund (Fund 7037). 6709

FACILITIES ESTABLISHMENT ~~FUND~~ 6710

The foregoing appropriation item 195615, Facilities 6711
Establishment (Fund 7037), shall be used for the purposes of the 6712
Facilities Establishment Fund under Chapter 166. of the Revised 6713
Code. 6714

Notwithstanding Chapter 166. of the Revised Code, an amount 6715
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 6716
transferred from the Facilities Establishment Fund (Fund 7037) to 6717
the ~~Economic Development Financing Operating~~ Business Assistance 6718
Fund (Fund 4510). The transfer is subject to Controlling Board 6719
approval under division (B) of section 166.03 of the Revised Code. 6720

Notwithstanding Chapter 166. of the Revised Code, the 6721
Director of Budget and Management may transfer an amount not to 6722
exceed \$2,500,000 in cash in each fiscal year from the Facilities 6723
Establishment Fund (Fund 7037) to the Minority Business Enterprise 6724
Loan Fund (Fund 4W10). 6725

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 6726
Director of Budget and Management shall transfer the unexpended 6727
and unencumbered cash balance in the Urban Development Loans Fund 6728
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 6729

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 6730
Director of Budget and Management shall transfer the unexpended 6731
and unencumbered cash balance in the Rural Industrial Park Loan 6732

Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 6733

CAPITAL ACCESS LOAN PROGRAM 6734

The foregoing appropriation item 195628, Capital Access Loan 6735
Program, shall be used for operating, program, and administrative 6736
expenses of the program. Funds of the Capital Access Loan Program 6737
shall be used to assist participating financial institutions in 6738
making program loans to eligible businesses that face barriers in 6739
accessing working capital and obtaining fixed-asset financing. 6740

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES 6741

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ 6742
Program, shall be used by the ~~Department of~~ Development Services 6743
Agency in administering Clean Ohio Revitalization Fund (Fund 7003) 6744
projects pursuant to sections 122.65 to 122.658 of the Revised 6745
Code. 6746

Sec. 261.30.40. THIRD FRONTIER OPERATING 6747

The foregoing appropriation items 195686, Third Frontier 6748
Operating, and 195620, Third Frontier Operating - Tax, shall be 6749
used for operating expenses incurred by the ~~Department of~~ 6750
Development Services Agency in administering projects pursuant to 6751
sections 184.10 to 184.20 of the Revised Code. Operating expenses 6752
paid from item 195686 shall be limited to the administration of 6753
projects funded from the Third Frontier Research & Development 6754
Fund (Fund 7011) and operating expenses paid from item 195620 6755
shall be limited to the administration of projects funded from the 6756
Third Frontier Research & Development Taxable Bond Project Fund 6757
(Fund 7014). 6758

Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM 6759

The foregoing appropriation item 195688, Job Ready Site 6760
~~Operating~~ Program, shall be used for operating expenses incurred 6761

by the ~~Department of~~ Development Services Agency in administering 6762
Job Ready Site Development Fund (Fund 7012) projects pursuant to 6763
sections 122.085 to 122.0820 of the Revised Code. Operating 6764
expenses include, but are not limited to, certain qualified 6765
expenses of the District Public Works Integrating Committees, as 6766
applicable, engineering review of submitted applications by the 6767
State Architect or a third-party engineering firm, audit and 6768
accountability activities, and costs associated with formal 6769
certifications verifying that site infrastructure is in place and 6770
is functional. 6771

Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE 6772

On July 1, 2011, or as soon as possible thereafter, the 6773
Director of Budget and Management shall transfer any unexpended 6774
and unencumbered portion of appropriation item 898604, Coal 6775
Research and Development Fund, used by the Ohio Air Quality 6776
Development Authority, to a new capital appropriation item in the 6777
~~Department of~~ Development Services Agency, to be determined by the 6778
Director. The Director also shall cancel all outstanding 6779
encumbrances against appropriation item 898604, Coal Research and 6780
Development Fund, and reestablish them against the foregoing new 6781
capital appropriation item. The amounts of the transfer and the 6782
reestablished encumbrances, plus \$2,283,264, are hereby 6783
appropriated for fiscal year 2012 in the foregoing new 6784
appropriation item and shall be used to provide funding for coal 6785
research and development purposes. 6786

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 6787
COMMERCIALIZATION SUPPORT 6788

The General Assembly and the Governor recognize the role that 6789
the biomedical industry has in job creation, innovation, and 6790
economic development throughout Ohio. It is the intent of the 6791

General Assembly, the Governor, the Director of Development 6792
Services, and the Director of Budget and Management to work 6793
together in continuing to provide comprehensive state support for 6794
the biomedical industry. 6795

Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER 6796

(A) Notwithstanding division (A) of section 169.05 of the 6797
Revised Code, upon the request of the Director of Budget and 6798
Management, the Director of Commerce, before June 30, 2012, shall 6799
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 6800
amount not to exceed \$25,000,000 in cash of the unclaimed funds 6801
that have been reported by the holders of unclaimed funds under 6802
section 169.05 of the Revised Code, regardless of the allocation 6803
of the unclaimed funds described under that section. 6804

Notwithstanding division (A) of section 169.05 of the Revised 6805
Code, upon the request of the Director of Budget and Management, 6806
the Director of Commerce, before June 30, 2013, shall transfer to 6807
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 6808
exceed ~~\$15,000,000~~ 18,600,000 in cash of the unclaimed funds that 6809
have been reported by the holders of unclaimed funds under section 6810
169.05 of the Revised Code, regardless of the allocation of the 6811
unclaimed funds described under that section. 6812

(B) Notwithstanding division (A) of section 169.05 of the 6813
Revised Code, upon the request of the Director of Budget and 6814
Management, the Director of Commerce, before June 30, 2012, shall 6815
transfer to the State Special Projects Fund (Fund 4F20) an amount 6816
not to exceed \$5,000,000 in cash of the unclaimed funds that have 6817
been reported by the holders of unclaimed funds under section 6818
169.05 of the Revised Code, regardless of the allocation of the 6819
unclaimed funds described under that section. 6820

Sec. 261.40.10. WORKFORCE DEVELOPMENT 6821

The Director of Development Services and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the ~~Department of Development~~ Services Agency and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

Section 8. That existing Sections 261.10.40, 261.10.70, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, and 261.40.10 of Am. Sub. H.B. 153 of the 129th General Assembly are hereby repealed.

Section 9. That Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly, be amended to read as follows:

Sec. 261.10. DEV ~~DEPARTMENT OF~~ DEVELOPMENT SERVICES AGENCY
General Revenue Fund
GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0
GRF 195402 Coal ~~Development~~ \$ 260,983 \$ 261,205
Office Research
Operating
GRF 195404 Small Business \$ 1,565,770 \$ 0

		Development					
GRF	195405	Minority Business	\$	1,118,528	\$	0	6850
		Enterprise Division					
GRF	195407	Travel and Tourism	\$	5,000,000	\$	5,000,000	6851
GRF	195412	Rapid Outreach Grants	\$	9,000,000	\$	0	6852
GRF	195415	Strategie Business	\$	4,500,000	\$	2,413,387	6853
		Investment Division					
		and Regional Offices					
		Development Services					
GRF	195416	Governor's Office of	\$	3,700,000	\$	3,700,000	6854
		Appalachia				0	
GRF	195422	Technology Action	\$	547,341	\$	0	6855
GRF	195426	Clean Ohio	\$	468,365	\$	468,365	6856
		Implementation					
GRF	195432	Global Markets	\$	3,500,000	\$	0	6857
GRF	195434	Industrial Training	\$	10,000,000	\$	0	6858
		Grants					
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	1,015,000	6859
GRF	195501	Appalachian Local	\$	391,482	\$	391,482	6860
		Development Districts					
GRF	195502	Appalachian Regional	\$	195,000	\$	195,000	6861
		Commission Dues					
GRF	195528	Economic Development	\$	0	\$	26,943,518	6862
		Projects					
<u>GRF</u>	<u>195532</u>	<u>Technology Programs</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>13,547,341</u>	6863
		<u>and Grants</u>					
<u>GRF</u>	<u>195533</u>	<u>Business Assistance</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>5,899,465</u>	6864
<u>GRF</u>	<u>195535</u>	<u>Appalachia Assistance</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>4,286,482</u>	6865
GRF	195901	Coal Research &	\$	7,861,100	\$	5,577,700	6866
		Development General					
		Obligation Debt					
		Service					
GRF	195905	Third Frontier	\$	29,323,300	\$	63,640,300	6867

		Research &				
		Development General				
		Obligation Debt				
		Service				
GRF	195912	Job Ready Site	\$	9,859,200	\$	15,680,500
		Development General				6868
		Obligation Debt				
		Service				
TOTAL GRF	General Revenue Fund		\$	103,126,423	\$	116,389,705
						6869
						<u>117,789,745</u>
		General Services Fund Group				6870
1350	195684	Supportive	\$	11,700,000	\$	11,700,000
		<u>Development Services</u>				6871
		<u>Operations</u>				
4W10	195646	Minority Business	\$	2,500,000	\$	2,500,000
		Enterprise Loan				6872
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000
						6873
						<u>18,600,000</u>
5AD0	195677	Economic Development	\$	10,000,000	\$	0
		Contingency				6874
5W50	195690	Travel and Tourism	\$	50,000	\$	50,000
		Cooperative Projects				6875
6850	195636	Direct Cost Recovery	\$	750,000	\$	750,000
		<u>Development Services</u>				6876
		<u>Reimbursable</u>				
		Expenditures				
TOTAL GSF	General Services Fund					6877
Group			\$	40,000,000	\$	30,000,000
						6878
						<u>33,600,000</u>
		Federal Special Revenue Fund Group				6879
3080	195602	Appalachian Regional	\$	475,000	\$	475,000
		Commission				6880

3080	195603	Housing and Urban Development <u>Assistance Programs</u>	\$	6,000,000	\$	6,000,000	6881
3080	195605	Federal Projects	\$	85,028,606	\$	85,470,106 0	6882
3080	195609	Small Business Administration <u>Grants</u>	\$	6,438,143	\$	5,511,381	6883
3080	195618	Energy Federal Grants	\$	38,000,000	\$	3,400,000	6884
<u>3080</u>	<u>195670</u>	<u>Home Weatherization</u> <u>Program</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>72,670,106</u>	6885
<u>3080</u>	<u>195671</u>	<u>Brownfield</u> <u>Redevelopment</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>6,800,000</u>	6886
<u>3080</u>	<u>195672</u>	<u>Manufacturing</u> <u>Extension Partnership</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>6,000,000</u>	6887
3350	195610	Energy Conservation and Emerging Technology <u>Programs</u>	\$	1,100,000	\$	1,100,000	6888
3AE0	195643	Workforce Development Initiatives	\$	16,300,000	\$	16,300,000	6889
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	3,000,000	\$	42,485	6890
3EG0	195608	Federal Energy <u>Sector</u> Training <u>Grants</u>	\$	5,000,000	\$	1,344,056	6891
3K80	195613	Community Development Block Grant	\$	76,795,818	\$	65,210,000	6892
3K90	195611	Home Energy Assistance Block Grant	\$	115,743,608	\$	115,743,608	6893
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	6894
3L00	195612	Community Services Block Grant	\$	27,240,217	\$	27,240,217	6895
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000	6896

TOTAL FED Federal Special Revenue				6897
Fund Group	\$	443,121,392	\$ 389,836,853	6898
State Special Revenue Fund Group				6899
4500 195624 Minority Business	\$	160,110	\$ 159,069	6900
Bonding Program				
Administration				
4510 195625 Economic Development	\$	3,000,000	\$ 3,000,000 0	6901
Financing Operating				
<u>4510 195649 Business Assistance</u>	\$	0	\$ <u>3,700,800</u>	6902
<u>Programs</u>				
4F20 195639 State Special Projects	\$	180,437	\$ 180,436	6903
4F20 195676 Marketing Initiatives	\$	5,000,000	\$ 0	6904
4F20 195699 Utility Provided Funds	\$	500,000	\$ 500,000	6905
<u>Community Assistance</u>				
4S00 195630 Tax Incentive Programs	\$	650,800	\$ 650,800 0	6906
5CG0 195679 Alternative Fuel	\$	750,000	\$ 750,000	6907
Transportation				
5HJ0 195604 Motion Picture Tax	\$	50,000	\$ 50,000 0	6908
Credit Program				
5HR0 195526 Ohio Incumbent	\$	20,000,000	\$ 30,000,000	6909
Workforce Job Training				
<u>Vouchers</u>				
5HR0 195622 Defense Development	\$	5,000,000	\$ 5,000,000	6910
Assistance				
<u>5JR0 195635 Redevelopment Program</u>	\$	0	\$ <u>100,000</u>	6911
<u>Support</u>				
5JR0 195656 New Market Tax Credit	\$	50,000	\$ 50,000 0	6912
Program				
5KD0 195621 Brownfield Stormwater	\$	50,000	\$ 50,000 0	6913
Loan				
5KN0 195640 Local Government	\$	175,000	\$ 44,825,000	6914
Innovation				
<u>5LK0 195655 Workforce Development</u>	\$	0	\$ <u>10,000,000</u>	6915

		<u>Programs</u>			
5M40	195659	Low Income Energy Assistance (<u>USF</u>)	\$	245,000,000	\$ 245,000,000 6916
5M50	195660	Advanced Energy <u>Loan</u> Programs	\$	8,000,000	\$ 0 6917
5W60	195691	International Trade Cooperative Projects	\$	160,000	\$ 160,000 6918
6170	195654	Volume Cap Administration	\$	94,397	\$ 92,768 6919
6460	195638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$ 53,000,000 6920
TOTAL SSR State Special Revenue Fund Group					6921
			\$	341,820,744	\$ 383,468,073 6922
					<u>393,468,073</u>
Facilities Establishment Fund Group					6923
5S90	195628	Capital Access Loan Program	\$	1,500,000	\$ 1,500,000 6924
7009	195664	Innovation Ohio	\$	15,000,000	\$ 15,000,000 6925
7010	195665	Research and Development	\$	22,000,000	\$ 22,000,000 6926
7037	195615	Facilities Establishment	\$	50,000,000	\$ 50,000,000 6927
TOTAL 037 Facilities Establishment Fund Group					6928
			\$	88,500,000	\$ 88,500,000 6929
Clean Ohio Revitalization Fund					6930
7003	195663	Clean Ohio Operating <u>Program</u>	\$	950,000	\$ 950,000 6931
TOTAL 7003 Clean Ohio Revitalization Fund			\$	950,000	\$ 950,000 6932
Third Frontier Research & Development Fund Group					6933
7011	195686	Third Frontier	\$	1,149,750	\$ 1,149,750 6934

		Operating				
7011	195687	Third Frontier	\$	183,850,250	\$	133,850,250
		Research & Development Projects				6935
7014	195620	Third Frontier	\$	1,700,000	\$	1,700,000
		Operating - Tax				6936
7014	195692	Research & Development Taxable Bond Projects	\$	38,300,000	\$	38,300,000
						6937
TOTAL	011	Third Frontier Research & Development Fund Group	\$	225,000,000	\$	175,000,000
						6938
		Job Ready Site Development Fund Group				6939
7012	195688	Job Ready Site	\$	800,000	\$	800,000
		<u>Operating Program</u>				6940
TOTAL	012	Job Ready Site Development Fund Group	\$	800,000	\$	800,000
						6941
		Tobacco Master Settlement Agreement Fund Group				6942
M087	195435	Biomedical Research and Technology Transfer	\$	1,999,224	\$	1,999,224
						6943
TOTAL	TSF	Tobacco Master Settlement Agreement Fund Group	\$	1,999,224	\$	1,999,224
						6944
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,245,317,783	\$	1,186,943,855 <u>1,201,943,895</u>
						6945

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 6947

The foregoing appropriation item 195640, Local Government 6948
 Innovation, shall be used for the purposes of making loans and 6949
 grants to political subdivisions under the Local Government 6950
 Innovation Program in accordance with sections 189.01 to 189.10 of 6951
 the Revised Code. Of the foregoing appropriation item 195640, 6952
 Local Government Innovation, up to \$175,000 in fiscal year 2012 6953

and \$175,000 in fiscal year 2013 shall be used for administrative 6954
costs incurred by the ~~Department of Development~~ Services Agency. 6955

On the effective date of this amendment, or as soon as 6956
possible thereafter, the Director of Budget and Management shall 6957
transfer \$175,000 in cash from the General Revenue Fund to the 6958
Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 6959
as soon as possible thereafter, the Director of Budget and 6960
Management shall transfer \$44,825,000 in cash from the General 6961
Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 6962

Section 10. That existing Sections 261.10 and 261.20.93 of 6963
Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 6964
Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 6965

Section 11. TRAVEL AND TOURISM 6966

The foregoing appropriation item 195407, Travel and Tourism, 6967
shall be used for marketing the state of Ohio as a tourism 6968
destination and to support administrative expenses and contracts 6969
necessary to market Ohio. 6970

Section 12. CDBG OPERATING MATCH 6971

The foregoing appropriation item 195497, CDBG Operating 6972
Match, shall be used as matching funds for grants from the United 6973
States Department of Housing and Urban Development pursuant to the 6974
Housing and Community Development Act of 1974 and regulations and 6975
policy guidelines for the programs pursuant thereto. 6976

Section 13. TECHNOLOGY PROGRAMS AND GRANTS 6977

The foregoing appropriation item 195532, Technology Programs 6978
and Grants, shall be used for the same purposes as funding 6979
previously appropriated for appropriation items 195401, Thomas 6980
Edison Program, and 195422, Technology Action. Of the foregoing 6981

appropriation item 195532, Technology Programs and Grants, up to 6982
\$547,341 in fiscal year 2013 shall be used for operating expenses 6983
incurred in administering the Ohio Third Frontier pursuant to 6984
sections 184.10 to 184.20 of the Revised Code; and up to 6985
\$13,000,000 in fiscal year 2013 shall be used for the Thomas 6986
Edison Program pursuant to sections 122.28 to 122.38 of the 6987
Revised Code, of which not more than ten per cent shall be used 6988
for operating expenses incurred in administering the program. 6989

Section 14. BUSINESS ASSISTANCE 6990

The foregoing appropriation item 195533, Business Assistance, 6991
shall be used as matching funds for grants from the United States 6992
Small Business Administration and other federal agencies, pursuant 6993
to Public Law No. 96-302 as amended by Public Law No. 98-395, and 6994
regulations and policy guidelines for the programs pursuant 6995
thereto. This appropriation item also may be used to provide 6996
grants to local organizations to support economic development 6997
activities that promote minority business development, small 6998
business development, entrepreneurship, and exports of Ohio's 6999
goods and services. 7000

Section 15. APPALACHIA ASSISTANCE 7001

The foregoing appropriation item 195535, Appalachia 7002
Assistance, may be used for the administrative costs of planning 7003
and liaison activities for the Governor's Office of Appalachia, to 7004
provide financial assistance to projects in Ohio's Appalachian 7005
counties, to pay dues for the Appalachian Regional Commission, and 7006
to match federal funds from the Appalachian Regional Commission. 7007

Of the foregoing appropriation item 195535, Appalachia 7008
Assistance, up to \$440,000 in fiscal year 2013 shall be used to 7009
support four local development districts. Of that amount, up to 7010
\$135,000 shall be allocated to the Ohio Valley Regional 7011

Development Commission, up to \$135,000 shall be allocated to the 7012
Ohio Mid-Eastern Government Association, up to \$135,000 shall be 7013
allocated to the Buckeye Hills-Hocking Valley Regional Development 7014
District, and up to \$35,000 shall be allocated to the Eastgate 7015
Regional Council of Governments. Local development districts 7016
receiving funding under this section shall use the funds for the 7017
implementation and administration of programs and duties under 7018
section 107.21 of the Revised Code. 7019

Section 16. LEGACY PROJECTS 7020

The foregoing appropriation item 195633, Legacy Projects, 7021
shall be used to support existing grant commitments to companies 7022
incurred prior to fiscal year 2013. A portion of the appropriation 7023
item may also be used to support administrative expenses and other 7024
costs associated with these projects. 7025

Section 17. BUSINESS ASSISTANCE PROGRAMS 7026

The foregoing appropriation item 195649, Business Assistance 7027
Programs, shall be used for administrative expenses associated 7028
with the operation of tax credit programs, loan servicing, the 7029
Ohio Film Office, and the Office of Strategic Business 7030
Investments, and for payments to the JobsOhio corporation 7031
established in Chapter 187. of the Revised Code for services 7032
provided for the administration of the 166 Direct Loan Program, 7033
Ohio Enterprise Bond Fund, Research and Development Loan Program, 7034
and Innovation Ohio Loan Program. 7035

Section 18. WORKFORCE DEVELOPMENT PROGRAMS 7036

The foregoing appropriation item 195655, Workforce 7037
Development Programs, may be used for the Ohio Workforce Guarantee 7038
Program to promote training through grants to businesses and, in 7039
the case of a business consortium, to the consortium for training 7040

and education providers for the reimbursement of eligible training 7041
expenses. Not more than ten per cent of appropriation item 195655, 7042
Workforce Development Programs, shall be used for administrative 7043
expenses related to the Ohio Workforce Guarantee Program. 7044

Section 19. ASSORTED TRANSFERS FOR RESTRUCTURING 7045

On July 1, 2012, or as soon as possible thereafter, the 7046
Director of Budget and Management shall transfer the unexpended 7047
and unencumbered cash balance in the Water and Sewer Fund (Fund 7048
4440) to the General Reimbursement Fund (Fund 6850). 7049

On July 1, 2012, or as soon as possible thereafter, the 7050
Director of Budget and Management shall transfer the unexpended 7051
and unencumbered cash balance in the Water and Sewer 7052
Administration Fund (Fund 6110) to the General Reimbursement Fund 7053
(Fund 6850). 7054

On July 1, 2012, or as soon as possible thereafter, the 7055
Director of Budget and Management shall transfer the unexpended 7056
and unencumbered cash balance in the Tax Incentive Programs 7057
Operating Fund (Fund 4S00) to the Business Assistance Fund (Fund 7058
4510). 7059

On July 1, 2012, or as soon as possible thereafter, the 7060
Director of Budget and Management shall transfer the unexpended 7061
and unencumbered cash balance in the Brownfield Stormwater Loan 7062
Fund (Fund 5KD0) to the New Market Tax Credit Program Fund (Fund 7063
5JR0). 7064

Section 20. That Sections 261.10.10, 261.10.20, 261.10.30, 7065
261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 7066
261.20.70, and 261.30.50 of Am. Sub. H.B. 153 of the 129th General 7067
Assembly are hereby repealed. 7068

Section 21. The amendment by this act adding division (C)(2) 7069

to section 122.17 of the Revised Code does not apply to projects 7070
that are completed before the effective date of this section. 7071

Section 22. Sections 7 to 20 of this act are not subject to 7072
the referendum under Ohio Constitution, Article II, Section 1d, 7073
and section 1.471 of the Revised Code, and therefore those 7074
sections take effect immediately when this act becomes law. 7075

Section 23. Section 122.42 of the Revised Code is presented 7076
in this act as a composite of the section as amended by both Am. 7077
Sub. H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. 7078
The General Assembly, applying the principle stated in division 7079
(B) of section 1.52 of the Revised Code that amendments are to be 7080
harmonized if reasonably capable of simultaneous operation, finds 7081
that the composite is the resulting version of the section in 7082
effect prior to the effective date of the section as presented in 7083
this act. 7084

Section 24. Section 149.43 of the Revised Code is presented 7085
in this act as a composite of the section as amended by both Sub. 7086
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 7087
General Assembly, applying the principle stated in division (B) of 7088
section 1.52 of the Revised Code that amendments are to be 7089
harmonized if reasonably capable of simultaneous operation, finds 7090
that the composite is the resulting version of the section in 7091
effect prior to the effective date of the section as presented in 7092
this act. 7093