

As Reported by the Senate Finance Committee

129th General Assembly

Regular Session

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Sub. S. B. No. 314

Senators Wagoner, Cafaro

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

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A B I L L

To amend sections 9.981, 102.03, 121.02, 121.03, 1
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 2
122.171, 122.174, 122.175, 122.39, 122.41, 122.42, 3
122.43, 122.44, 122.48, 122.49, 122.50, 122.51, 4
122.52, 122.53, 122.561, 122.57, 122.60, 122.601, 5
122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 6
122.80, 122.86, 149.43, 164.05, 164.06, 164.08, 7
166.01, 166.04, 166.05, 166.13, 166.14, 166.18, 8
166.19, 166.25, 166.30, 174.01, 184.01, 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
1525.11, 1525.12, 1525.13, and 6111.034 of the 18
Revised Code; to repeal section 122.40 of the 19
Revised Code on July 1, 2012; to amend Sections 20
261.10.40, 261.10.70, 261.20.40, 261.20.50, 21
261.20.60, 261.20.80, 261.20.90, 261.30.10, 22
261.30.20, 261.30.30, 261.30.40, 261.30.60, 23

261.30.70, 261.30.80, 261.30.90, and 261.40.10 of 24
Am. Sub. H.B. 153 of the 129th General Assembly; 25
to amend Sections 261.10 and 261.20.93 of Am. Sub. 26
H.B. 153 of the 129th General Assembly, as 27
subsequently amended by Sub. H.B. 371 of the 129th 28
General Assembly; and to repeal Sections 29
261.10.10, 261.10.20, 261.10.30, 261.10.50, 30
261.10.60, 261.10.80, 261.10.90, 261.20.10, 31
261.20.20, 261.20.70, and 261.30.50 of Am. Sub. 32
H.B. 153 of the 129th General Assembly to rename 33
the Department of Development the "Development 34
Services Agency"; to establish the Office of 35
TourismOhio within the Development Services 36
Agency, create the TourismOhio Advisory Board, and 37
establish a pilot program to test a new funding 38
mechanism for the state's travel and tourism 39
marketing; to modify the operation of JobsOhio, 40
including by requiring annual ethics training, 41
ethical conduct statements, and the development of 42
a gift policy; to makes changes to the Capital 43
Access Loan Program Fund and to allow transfers to 44
the Capital Access Loan Program Fund from the 45
Minority Business Enterprise Loan Fund; to provide 46
for projects that were started prior to receiving 47
a tax credit from the Ohio Tax Credit Authority; 48
to modify reporting requirements under the 49
Voluntary Action Program; to require the Director 50
of Development Services to administer federal 51
funds received for Brownfields revitalization 52
purposes; to terminate the Water and Sewer 53
Commission; to terminate the Development Financing 54
Advisory Council as of July 1, 2012; to require 55
the Director of Development Services to make 56

certain information available to the public with 57
respect to each project for which state-funded 58
financial assistance is awarded by the Development 59
Services Agency; to increase the membership of the 60
Third Frontier Commission; and to make an 61
appropriation. 62

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

Section 1. That sections 9.981, 102.03, 121.02, 121.03, 63
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 64
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 65
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 66
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 67
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 68
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 69
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 70
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6117.062 be 71
amended, sections 122.07 (122.073) and 122.071 (122.072) be 72
amended for the purpose of adopting new section numbers as 73
indicated in parentheses, and new sections 122.07 and 122.071 and 74
sections 122.942, 122.97, 184.011, 187.061, 3735.01, and 5701.15 75
of the Revised Code be enacted to read as follows: 76

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code 77
are applicable to bonds: 78

(1) The payment of the debt service on which is to be 79
provided for directly or indirectly by payments contracted to be 80
made in the bond proceedings by the absolute obligors, being 81
persons other than the issuer; and 82

(2) Which are authorized to be issued under sections 122.39 83
and 122.41 to 122.62, Chapter 165., 902., 3377., 3706., division 84

(A)(4) of section 4582.06, division (A)(8) of section 4582.31, 85
section 4582.48, or Chapter 6121. or 6123. of the Revised Code, 86
notwithstanding other provisions therein. 87

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 88
to bonds issued under sections 306.37 and 6119.12 of the Revised 89
Code and Chapters 140., 152., 154., 175., and 349. of the Revised 90
Code, and to any bonds authorized under laws which expressly make 91
those sections applicable. 92

(C) Subject to division (A) of this section, the authority 93
provided in sections 9.98 to 9.983 of the Revised Code is 94
supplemental to and not in derogation of any similar authority 95
provided by, derived from, or implied by, any law, the Ohio 96
Constitution, or any charter, resolution, or ordinance, and no 97
inference shall be drawn to negate the authority thereunder by 98
reason of the express provisions of sections 9.98 to 9.983 of the 99
Revised Code. 100

(D) Sections 9.98 to 9.983 of the Revised Code shall be 101
liberally construed to permit flexibility in the arrangements 102
therein provided to enhance the issuance of such bonds and provide 103
for terms most beneficial and satisfactory to the persons which 104
undertake to provide for their payment, security, and liquidity. 105

Sec. 102.03. (A)(1) No present or former public official or 106
employee shall, during public employment or service or for twelve 107
months thereafter, represent a client or act in a representative 108
capacity for any person on any matter in which the public official 109
or employee personally participated as a public official or 110
employee through decision, approval, disapproval, recommendation, 111
the rendering of advice, investigation, or other substantial 112
exercise of administrative discretion. 113

(2) For twenty-four months after the conclusion of service, 114
no former commissioner or attorney examiner of the public 115

utilities commission shall represent a public utility, as defined 116
in section 4905.02 of the Revised Code, or act in a representative 117
capacity on behalf of such a utility before any state board, 118
commission, or agency. 119

(3) For twenty-four months after the conclusion of employment 120
or service, no former public official or employee who personally 121
participated as a public official or employee through decision, 122
approval, disapproval, recommendation, the rendering of advice, 123
the development or adoption of solid waste management plans, 124
investigation, inspection, or other substantial exercise of 125
administrative discretion under Chapter 343. or 3734. of the 126
Revised Code shall represent a person who is the owner or operator 127
of a facility, as defined in section 3734.01 of the Revised Code, 128
or who is an applicant for a permit or license for a facility 129
under that chapter, on any matter in which the public official or 130
employee personally participated as a public official or employee. 131

(4) For a period of one year after the conclusion of 132
employment or service as a member or employee of the general 133
assembly, no former member or employee of the general assembly 134
shall represent, or act in a representative capacity for, any 135
person on any matter before the general assembly, any committee of 136
the general assembly, or the controlling board. Division (A)(4) of 137
this section does not apply to or affect a person who separates 138
from service with the general assembly on or before December 31, 139
1995. As used in division (A)(4) of this section "person" does not 140
include any state agency or political subdivision of the state. 141

(5) As used in divisions (A)(1), (2), and (3) of this 142
section, "matter" includes any case, proceeding, application, 143
determination, issue, or question, but does not include the 144
proposal, consideration, or enactment of statutes, rules, 145
ordinances, resolutions, or charter or constitutional amendments. 146
As used in division (A)(4) of this section, "matter" includes the 147

proposal, consideration, or enactment of statutes, resolutions, or 148
constitutional amendments. As used in division (A) of this 149
section, "represent" includes any formal or informal appearance 150
before, or any written or oral communication with, any public 151
agency on behalf of any person. 152

(6) Nothing contained in division (A) of this section shall 153
prohibit, during such period, a former public official or employee 154
from being retained or employed to represent, assist, or act in a 155
representative capacity for the public agency by which the public 156
official or employee was employed or on which the public official 157
or employee served. 158

(7) Division (A) of this section shall not be construed to 159
prohibit the performance of ministerial functions, including, but 160
not limited to, the filing or amendment of tax returns, 161
applications for permits and licenses, incorporation papers, and 162
other similar documents. 163

(8) Division (A) of this section does not prohibit a 164
nonelected public official or employee of a state agency, as 165
defined in section 1.60 of the Revised Code, from becoming a 166
public official or employee of another state agency. Division (A) 167
of this section does not prohibit such an official or employee 168
from representing or acting in a representative capacity for the 169
official's or employee's new state agency on any matter in which 170
the public official or employee personally participated as a 171
public official or employee at the official's or employee's former 172
state agency. However, no public official or employee of a state 173
agency shall, during public employment or for twelve months 174
thereafter, represent or act in a representative capacity for the 175
official's or employee's new state agency on any audit or 176
investigation pertaining to the official's or employee's new state 177
agency in which the public official or employee personally 178
participated at the official's or employee's former state agency 179

through decision, approval, disapproval, recommendation, the 180
rendering of advice, investigation, or other substantial exercise 181
of administrative discretion. 182

(9) Division (A) of this section does not prohibit a 183
nonelected public official or employee of a political subdivision 184
from becoming a public official or employee of a different 185
department, division, agency, office, or unit of the same 186
political subdivision. Division (A) of this section does not 187
prohibit such an official or employee from representing or acting 188
in a representative capacity for the official's or employee's new 189
department, division, agency, office, or unit on any matter in 190
which the public official or employee personally participated as a 191
public official or employee at the official's or employee's former 192
department, division, agency, office, or unit of the same 193
political subdivision. As used in this division, "political 194
subdivision" means a county, township, municipal corporation, or 195
any other body corporate and politic that is responsible for 196
government activities in a geographic area smaller than that of 197
the state. 198

(10) No present or former Ohio casino control commission 199
official shall, during public service or for two years thereafter, 200
represent a client, be employed or compensated by a person 201
regulated by the commission, or act in a representative capacity 202
for any person on any matter before or concerning the commission. 203

No present or former commission employee shall, during public 204
employment or for two years thereafter, represent a client or act 205
in a representative capacity on any matter in which the employee 206
personally participated as a commission employee through decision, 207
approval, disapproval, recommendation, the rendering of advice, 208
investigation, or other substantial exercise of administrative 209
discretion. 210

(B) No present or former public official or employee shall 211

disclose or use, without appropriate authorization, any 212
information acquired by the public official or employee in the 213
course of the public official's or employee's official duties that 214
is confidential because of statutory provisions, or that has been 215
clearly designated to the public official or employee as 216
confidential when that confidential designation is warranted 217
because of the status of the proceedings or the circumstances 218
under which the information was received and preserving its 219
confidentiality is necessary to the proper conduct of government 220
business. 221

(C) No public official or employee shall participate within 222
the scope of duties as a public official or employee, except 223
through ministerial functions as defined in division (A) of this 224
section, in any license or rate-making proceeding that directly 225
affects the license or rates of any person, partnership, trust, 226
business trust, corporation, or association in which the public 227
official or employee or immediate family owns or controls more 228
than five per cent. No public official or employee shall 229
participate within the scope of duties as a public official or 230
employee, except through ministerial functions as defined in 231
division (A) of this section, in any license or rate-making 232
proceeding that directly affects the license or rates of any 233
person to whom the public official or employee or immediate 234
family, or a partnership, trust, business trust, corporation, or 235
association of which the public official or employee or the public 236
official's or employee's immediate family owns or controls more 237
than five per cent, has sold goods or services totaling more than 238
one thousand dollars during the preceding year, unless the public 239
official or employee has filed a written statement acknowledging 240
that sale with the clerk or secretary of the public agency and the 241
statement is entered in any public record of the agency's 242
proceedings. This division shall not be construed to require the 243
disclosure of clients of attorneys or persons licensed under 244

section 4732.12 or 4732.15 of the Revised Code, or patients of 245
persons certified under section 4731.14 of the Revised Code. 246

(D) No public official or employee shall use or authorize the 247
use of the authority or influence of office or employment to 248
secure anything of value or the promise or offer of anything of 249
value that is of such a character as to manifest a substantial and 250
improper influence upon the public official or employee with 251
respect to that person's duties. 252

(E) No public official or employee shall solicit or accept 253
anything of value that is of such a character as to manifest a 254
substantial and improper influence upon the public official or 255
employee with respect to that person's duties. 256

(F) No person shall promise or give to a public official or 257
employee anything of value that is of such a character as to 258
manifest a substantial and improper influence upon the public 259
official or employee with respect to that person's duties. 260

(G) In the absence of bribery or another offense under the 261
Revised Code or a purpose to defraud, contributions made to a 262
campaign committee, political party, legislative campaign fund, 263
political action committee, or political contributing entity on 264
behalf of an elected public officer or other public official or 265
employee who seeks elective office shall be considered to accrue 266
ordinarily to the public official or employee for the purposes of 267
divisions (D), (E), and (F) of this section. 268

As used in this division, "contributions," "campaign 269
committee," "political party," "legislative campaign fund," 270
"political action committee," and "political contributing entity" 271
have the same meanings as in section 3517.01 of the Revised Code. 272

(H)(1) No public official or employee, except for the 273
president or other chief administrative officer of or a member of 274
a board of trustees of a state institution of higher education as 275

defined in section 3345.011 of the Revised Code, who is required 276
to file a financial disclosure statement under section 102.02 of 277
the Revised Code shall solicit or accept, and no person shall give 278
to that public official or employee, an honorarium. Except as 279
provided in division (H)(2) of this section, this division and 280
divisions (D), (E), and (F) of this section do not prohibit a 281
public official or employee who is required to file a financial 282
disclosure statement under section 102.02 of the Revised Code from 283
accepting and do not prohibit a person from giving to that public 284
official or employee the payment of actual travel expenses, 285
including any expenses incurred in connection with the travel for 286
lodging, and meals, food, and beverages provided to the public 287
official or employee at a meeting at which the public official or 288
employee participates in a panel, seminar, or speaking engagement 289
or provided to the public official or employee at a meeting or 290
convention of a national organization to which any state agency, 291
including, but not limited to, any state legislative agency or 292
state institution of higher education as defined in section 293
3345.011 of the Revised Code, pays membership dues. Except as 294
provided in division (H)(2) of this section, this division and 295
divisions (D), (E), and (F) of this section do not prohibit a 296
public official or employee who is not required to file a 297
financial disclosure statement under section 102.02 of the Revised 298
Code from accepting and do not prohibit a person from promising or 299
giving to that public official or employee an honorarium or the 300
payment of travel, meal, and lodging expenses if the honorarium, 301
expenses, or both were paid in recognition of demonstrable 302
business, professional, or esthetic interests of the public 303
official or employee that exist apart from public office or 304
employment, including, but not limited to, such a demonstrable 305
interest in public speaking and were not paid by any person or 306
other entity, or by any representative or association of those 307
persons or entities, that is regulated by, doing business with, or 308

seeking to do business with the department, division, institution, 309
board, commission, authority, bureau, or other instrumentality of 310
the governmental entity with which the public official or employee 311
serves. 312

(2) No person who is a member of the board of a state 313
retirement system, a state retirement system investment officer, 314
or an employee of a state retirement system whose position 315
involves substantial and material exercise of discretion in the 316
investment of retirement system funds shall solicit or accept, and 317
no person shall give to that board member, officer, or employee, 318
payment of actual travel expenses, including expenses incurred 319
with the travel for lodging, meals, food, and beverages. 320

(I) A public official or employee may accept travel, meals, 321
and lodging or expenses or reimbursement of expenses for travel, 322
meals, and lodging in connection with conferences, seminars, and 323
similar events related to official duties if the travel, meals, 324
and lodging, expenses, or reimbursement is not of such a character 325
as to manifest a substantial and improper influence upon the 326
public official or employee with respect to that person's duties. 327
The house of representatives and senate, in their code of ethics, 328
and the Ohio ethics commission, under section 111.15 of the 329
Revised Code, may adopt rules setting standards and conditions for 330
the furnishing and acceptance of such travel, meals, and lodging, 331
expenses, or reimbursement. 332

A person who acts in compliance with this division and any 333
applicable rules adopted under it, or any applicable, similar 334
rules adopted by the supreme court governing judicial officers and 335
employees, does not violate division (D), (E), or (F) of this 336
section. This division does not preclude any person from seeking 337
an advisory opinion from the appropriate ethics commission under 338
section 102.08 of the Revised Code. 339

(J) For purposes of divisions (D), (E), and (F) of this 340

section, the membership of a public official or employee in an 341
organization shall not be considered, in and of itself, to be of 342
such a character as to manifest a substantial and improper 343
influence on the public official or employee with respect to that 344
person's duties. As used in this division, "organization" means a 345
church or a religious, benevolent, fraternal, or professional 346
organization that is tax exempt under subsection 501(a) and 347
described in subsection 501(c)(3), (4), (8), (10), or (19) of the 348
"Internal Revenue Code of 1986." This division does not apply to a 349
public official or employee who is an employee of an organization, 350
serves as a trustee, director, or officer of an organization, or 351
otherwise holds a fiduciary relationship with an organization. 352
This division does not allow a public official or employee who is 353
a member of an organization to participate, formally or 354
informally, in deliberations, discussions, or voting on a matter 355
or to use ~~his~~ the public official's or employee's official 356
position with regard to the interests of the organization on the 357
matter if the public official or employee has assumed a particular 358
responsibility in the organization with respect to the matter or 359
if the matter would affect that person's personal, pecuniary 360
interests. 361

(K) It is not a violation of this section for a prosecuting 362
attorney to appoint assistants and employees in accordance with 363
division (B) of section 309.06 and section 2921.421 of the Revised 364
Code, for a chief legal officer of a municipal corporation or an 365
official designated as prosecutor in a municipal corporation to 366
appoint assistants and employees in accordance with sections 367
733.621 and 2921.421 of the Revised Code, for a township law 368
director appointed under section 504.15 of the Revised Code to 369
appoint assistants and employees in accordance with sections 370
504.151 and 2921.421 of the Revised Code, or for a coroner to 371
appoint assistants and employees in accordance with division (B) 372
of section 313.05 of the Revised Code. 373

As used in this division, "chief legal officer" has the same 374
meaning as in section 733.621 of the Revised Code. 375

(L) No present public official or employee with a casino 376
gaming regulatory function shall indirectly invest, by way of an 377
entity the public official or employee has an ownership interest 378
or control in, or directly invest in a casino operator, management 379
company, holding company, casino facility, or gaming-related 380
vendor. No present public official or employee with a casino 381
gaming regulatory function shall directly or indirectly have a 382
financial interest in, have an ownership interest in, be the 383
creditor or hold a debt instrument issued by, or have an interest 384
in a contractual or service relationship with a casino operator, 385
management company, holding company, casino facility, or 386
gaming-related vendor. This section does not prohibit or limit 387
permitted passive investing by the public official or employee. 388

As used in this division, "passive investing" means 389
investment by the public official or employee by means of a mutual 390
fund in which the public official or employee has no control of 391
the investments or investment decisions. "Casino operator," 392
"holding company," "management company," "casino facility," and 393
"gaming-related vendor" have the same meanings as in section 394
3772.01 of the Revised Code. 395

(M) A member of the Ohio casino control commission, the 396
executive director of the commission, or an employee of the 397
commission shall not: 398

(1) Accept anything of value, including but not limited to a 399
gift, gratuity, emolument, or employment from a casino operator, 400
management company, or other person subject to the jurisdiction of 401
the commission, or from an officer, attorney, agent, or employee 402
of a casino operator, management company, or other person subject 403
to the jurisdiction of the commission; 404

(2) Solicit, suggest, request, or recommend, directly or 405
indirectly, to a casino operator, management company, or other 406
person subject to the jurisdiction of the commission, or to an 407
officer, attorney, agent, or employee of a casino operator, 408
management company, or other person subject to the jurisdiction of 409
the commission, the appointment of a person to an office, place, 410
position, or employment; 411

(3) Participate in casino gaming or any other amusement or 412
activity at a casino facility in this state or at an affiliate 413
gaming facility of a licensed casino operator, wherever located. 414

In addition to the penalty provided in section 102.99 of the 415
Revised Code, whoever violates division (M)(1), (2), or (3) of 416
this section forfeits the individual's office or employment. 417

Sec. 121.02. The following administrative departments and 418
their respective directors are hereby created: 419

(A) The office of budget and management, which shall be 420
administered by the director of budget and management; 421

(B) The department of commerce, which shall be administered 422
by the director of commerce; 423

(C) The department of administrative services, which shall be 424
administered by the director of administrative services; 425

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

(E) The department of agriculture, which shall be 428
administered by the director of agriculture; 429

(F) The department of natural resources, which shall be 430
administered by the director of natural resources; 431

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

(H) The department of job and family services, which shall be administered by the director of job and family services;	434 435
(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;	436 437
(J) The department of public safety, which shall be administered by the director of public safety;	438 439
(K) The department of mental health, which shall be administered by the director of mental health;	440 441
(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;	442 443
(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;	444 445
(N) The department of development <u>services agency</u> , which shall be administered by the director of development <u>services</u> ;	446 447
(O) The department of youth services, which shall be administered by the director of youth services;	448 449
(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;	450 451 452
(Q) The environmental protection agency, which shall be administered by the director of environmental protection;	453 454
(R) The department of aging, which shall be administered by the director of aging;	455 456
(S) The department of alcohol and drug addiction services, which shall be administered by the director of alcohol and drug addiction services;	457 458 459
(T) The department of veterans services, which shall be administered by the director of veterans services.	460 461
The director of each department shall exercise the powers and	462

perform the duties vested by law in such department. 463

Sec. 121.03. The following administrative department heads 464
shall be appointed by the governor, with the advice and consent of 465
the senate, and shall hold their offices during the term of the 466
appointing governor, and are subject to removal at the pleasure of 467
the governor. 468

(A) The director of budget and management; 469

(B) The director of commerce; 470

(C) The director of transportation; 471

(D) The director of agriculture; 472

(E) The director of job and family services; 473

(F) Until July 1, 1997, the director of liquor control; 474

(G) The director of public safety; 475

(H) The superintendent of insurance; 476

(I) The director of development services; 477

(J) The tax commissioner; 478

(K) The director of administrative services; 479

(L) The director of natural resources; 480

(M) The director of mental health; 481

(N) The director of developmental disabilities; 482

(O) The director of health; 483

(P) The director of youth services; 484

(Q) The director of rehabilitation and correction; 485

(R) The director of environmental protection; 486

(S) The director of aging; 487

(T) The director of alcohol and drug addiction services; 488

(U) The administrator of workers' compensation who meets the 489
qualifications required under division (A) of section 4121.121 of 490
the Revised Code; 491

(V) The director of veterans services who meets the 492
qualifications required under section 5902.01 of the Revised Code; 493

(W) The chancellor of the Ohio board of regents. 494

Sec. 121.22. (A) This section shall be liberally construed to 495
require public officials to take official action and to conduct 496
all deliberations upon official business only in open meetings 497
unless the subject matter is specifically excepted by law. 498

(B) As used in this section: 499

(1) "Public body" means any of the following: 500

(a) Any board, commission, committee, council, or similar 501
decision-making body of a state agency, institution, or authority, 502
and any legislative authority or board, commission, committee, 503
council, agency, authority, or similar decision-making body of any 504
county, township, municipal corporation, school district, or other 505
political subdivision or local public institution; 506

(b) Any committee or subcommittee of a body described in 507
division (B)(1)(a) of this section; 508

(c) A court of jurisdiction of a sanitary district organized 509
wholly for the purpose of providing a water supply for domestic, 510
municipal, and public use when meeting for the purpose of the 511
appointment, removal, or reappointment of a member of the board of 512
directors of such a district pursuant to section 6115.10 of the 513
Revised Code, if applicable, or for any other matter related to 514
such a district other than litigation involving the district. As 515
used in division (B)(1)(c) of this section, "court of 516
jurisdiction" has the same meaning as "court" in section 6115.01 517
of the Revised Code. 518

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.	519 520
(3) "Regulated individual" means either of the following:	521
(a) A student in a state or local public educational institution;	522 523
(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.	524 525 526 527
(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.	528 529
(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.	530 531 532 533 534
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.	535 536 537 538 539
(D) This section does not apply to any of the following:	540
(1) A grand jury;	541
(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;	542 543 544
(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;	545 546 547
(4) The organized crime investigations commission established	548

under section 177.01 of the Revised Code;	549
(5) Meetings of a child fatality review board established	550
under section 307.621 of the Revised Code and meetings conducted	551
pursuant to sections 5153.171 to 5153.173 of the Revised Code;	552
(6) The state medical board when determining whether to	553
suspend a certificate without a prior hearing pursuant to division	554
(G) of either section 4730.25 or 4731.22 of the Revised Code;	555
(7) The board of nursing when determining whether to suspend	556
a license or certificate without a prior hearing pursuant to	557
division (B) of section 4723.281 of the Revised Code;	558
(8) The state board of pharmacy when determining whether to	559
suspend a license without a prior hearing pursuant to division (D)	560
of section 4729.16 of the Revised Code;	561
(9) The state chiropractic board when determining whether to	562
suspend a license without a hearing pursuant to section 4734.37 of	563
the Revised Code;	564
(10) The executive committee of the emergency response	565
commission when determining whether to issue an enforcement order	566
or request that a civil action, civil penalty action, or criminal	567
action be brought to enforce Chapter 3750. of the Revised Code;	568
(11) The board of directors of the nonprofit corporation	569
formed under section 187.01 of the Revised Code or any committee	570
thereof, and the board of directors of any subsidiary of that	571
corporation or a committee thereof;	572
(12) An audit conference conducted by the audit staff of the	573
department of job and family services with officials of the public	574
office that is the subject of that audit under section 5101.37 of	575
the Revised Code.	576
(E) The controlling board, the development financing advisory	577
council , the industrial technology and enterprise advisory	578

council, the tax credit authority, or the minority development 579
financing advisory board, when meeting to consider granting 580
assistance pursuant to Chapter 122. or 166. of the Revised Code, 581
in order to protect the interest of the applicant or the possible 582
investment of public funds, by unanimous vote of all board, 583
council, or authority members present, may close the meeting 584
during consideration of the following information confidentially 585
received by the authority, council, or board from the applicant: 586

(1) Marketing plans; 587

(2) Specific business strategy; 588

(3) Production techniques and trade secrets; 589

(4) Financial projections; 590

(5) Personal financial statements of the applicant or members 591
of the applicant's immediate family, including, but not limited 592
to, tax records or other similar information not open to public 593
inspection. 594

The vote by the authority, council, or board to accept or 595
reject the application, as well as all proceedings of the 596
authority, council, or board not subject to this division, shall 597
be open to the public and governed by this section. 598

(F) Every public body, by rule, shall establish a reasonable 599
method whereby any person may determine the time and place of all 600
regularly scheduled meetings and the time, place, and purpose of 601
all special meetings. A public body shall not hold a special 602
meeting unless it gives at least twenty-four hours' advance notice 603
to the news media that have requested notification, except in the 604
event of an emergency requiring immediate official action. In the 605
event of an emergency, the member or members calling the meeting 606
shall notify the news media that have requested notification 607
immediately of the time, place, and purpose of the meeting. 608

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

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

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

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

bargaining advantage to a person whose personal, private interest 641
is adverse to the general public interest. No member of a public 642
body shall use division (G)(2) of this section as a subterfuge for 643
providing covert information to prospective buyers or sellers. A 644
purchase or sale of public property is void if the seller or buyer 645
of the public property has received covert information from a 646
member of a public body that has not been disclosed to the general 647
public in sufficient time for other prospective buyers and sellers 648
to prepare and submit offers. 649

If the minutes of the public body show that all meetings and 650
deliberations of the public body have been conducted in compliance 651
with this section, any instrument executed by the public body 652
purporting to convey, lease, or otherwise dispose of any right, 653
title, or interest in any public property shall be conclusively 654
presumed to have been executed in compliance with this section 655
insofar as title or other interest of any bona fide purchasers, 656
lessees, or transferees of the property is concerned. 657

(3) Conferences with an attorney for the public body 658
concerning disputes involving the public body that are the subject 659
of pending or imminent court action; 660

(4) Preparing for, conducting, or reviewing negotiations or 661
bargaining sessions with public employees concerning their 662
compensation or other terms and conditions of their employment; 663

(5) Matters required to be kept confidential by federal law 664
or regulations or state statutes; 665

(6) Details relative to the security arrangements and 666
emergency response protocols for a public body or a public office, 667
if disclosure of the matters discussed could reasonably be 668
expected to jeopardize the security of the public body or public 669
office; 670

(7) In the case of a county hospital operated pursuant to 671

Chapter 339. of the Revised Code, a joint township hospital 672
operated pursuant to Chapter 513. of the Revised Code, or a 673
municipal hospital operated pursuant to Chapter 749. of the 674
Revised Code, to consider trade secrets, as defined in section 675
1333.61 of the Revised Code. 676

If a public body holds an executive session to consider any 677
of the matters listed in divisions (G)(2) to (7) of this section, 678
the motion and vote to hold that executive session shall state 679
which one or more of the approved matters listed in those 680
divisions are to be considered at the executive session. 681

A public body specified in division (B)(1)(c) of this section 682
shall not hold an executive session when meeting for the purposes 683
specified in that division. 684

(H) A resolution, rule, or formal action of any kind is 685
invalid unless adopted in an open meeting of the public body. A 686
resolution, rule, or formal action adopted in an open meeting that 687
results from deliberations in a meeting not open to the public is 688
invalid unless the deliberations were for a purpose specifically 689
authorized in division (G) or (J) of this section and conducted at 690
an executive session held in compliance with this section. A 691
resolution, rule, or formal action adopted in an open meeting is 692
invalid if the public body that adopted the resolution, rule, or 693
formal action violated division (F) of this section. 694

(I)(1) Any person may bring an action to enforce this 695
section. An action under division (I)(1) of this section shall be 696
brought within two years after the date of the alleged violation 697
or threatened violation. Upon proof of a violation or threatened 698
violation of this section in an action brought by any person, the 699
court of common pleas shall issue an injunction to compel the 700
members of the public body to comply with its provisions. 701

(2)(a) If the court of common pleas issues an injunction 702

pursuant to division (I)(1) of this section, the court shall order 703
the public body that it enjoins to pay a civil forfeiture of five 704
hundred dollars to the party that sought the injunction and shall 705
award to that party all court costs and, subject to reduction as 706
described in division (I)(2) of this section, reasonable 707
attorney's fees. The court, in its discretion, may reduce an award 708
of attorney's fees to the party that sought the injunction or not 709
award attorney's fees to that party if the court determines both 710
of the following: 711

(i) That, based on the ordinary application of statutory law 712
and case law as it existed at the time of violation or threatened 713
violation that was the basis of the injunction, a well-informed 714
public body reasonably would believe that the public body was not 715
violating or threatening to violate this section; 716

(ii) That a well-informed public body reasonably would 717
believe that the conduct or threatened conduct that was the basis 718
of the injunction would serve the public policy that underlies the 719
authority that is asserted as permitting that conduct or 720
threatened conduct. 721

(b) If the court of common pleas does not issue an injunction 722
pursuant to division (I)(1) of this section and the court 723
determines at that time that the bringing of the action was 724
frivolous conduct, as defined in division (A) of section 2323.51 725
of the Revised Code, the court shall award to the public body all 726
court costs and reasonable attorney's fees, as determined by the 727
court. 728

(3) Irreparable harm and prejudice to the party that sought 729
the injunction shall be conclusively and irrebuttably presumed 730
upon proof of a violation or threatened violation of this section. 731

(4) A member of a public body who knowingly violates an 732
injunction issued pursuant to division (I)(1) of this section may 733

be removed from office by an action brought in the court of common 734
pleas for that purpose by the prosecuting attorney or the attorney 735
general. 736

(J)(1) Pursuant to division (C) of section 5901.09 of the 737
Revised Code, a veterans service commission shall hold an 738
executive session for one or more of the following purposes unless 739
an applicant requests a public hearing: 740

(a) Interviewing an applicant for financial assistance under 741
sections 5901.01 to 5901.15 of the Revised Code; 742

(b) Discussing applications, statements, and other documents 743
described in division (B) of section 5901.09 of the Revised Code; 744

(c) Reviewing matters relating to an applicant's request for 745
financial assistance under sections 5901.01 to 5901.15 of the 746
Revised Code. 747

(2) A veterans service commission shall not exclude an 748
applicant for, recipient of, or former recipient of financial 749
assistance under sections 5901.01 to 5901.15 of the Revised Code, 750
and shall not exclude representatives selected by the applicant, 751
recipient, or former recipient, from a meeting that the commission 752
conducts as an executive session that pertains to the applicant's, 753
recipient's, or former recipient's application for financial 754
assistance. 755

(3) A veterans service commission shall vote on the grant or 756
denial of financial assistance under sections 5901.01 to 5901.15 757
of the Revised Code only in an open meeting of the commission. The 758
minutes of the meeting shall indicate the name, address, and 759
occupation of the applicant, whether the assistance was granted or 760
denied, the amount of the assistance if assistance is granted, and 761
the votes for and against the granting of assistance. 762

Sec. 122.01. (A) As used in the Revised Code, the "department 763

of development" means the development services agency and the 764
"director of development" means the director of development 765
services. Whenever the department or director of development is 766
referred to or designated in any statute, rule, contract, grant, 767
or other document, the reference or designation shall be deemed to 768
refer to the development services agency or director of 769
development services, as the case may be. 770

(B) As used in this chapter: 771

~~(A)~~(1) "Community problems" includes, but is not limited to, 772
taxation, fiscal administration, governmental structure and 773
organization, intergovernmental cooperation, education and 774
training, employment needs, community planning and development, 775
air and water pollution, public safety and the administration of 776
justice, housing, mass transportation, community facilities and 777
services, health, welfare, recreation, open space, and the 778
development of human resources. 779

~~(B)~~(2) "Professional personnel" means either of the 780
following: 781

~~(1)~~(a) Personnel who have earned a bachelor's degree from a 782
college or university; 783

~~(2)~~(b) Personnel who serve as or have the working title of 784
director, assistant director, deputy director, assistant deputy 785
director, manager, office chief, assistant office chief, or 786
program director. 787

~~(C)~~(3) "Technical personnel" means any of the following: 788

~~(1)~~(a) Personnel who provide technical assistance according 789
to their job description or in accordance with the Revised Code; 790

~~(2)~~(b) Personnel employed in the director of ~~development's~~ 791
development services' office or the legal office, communications 792
office, finance office, legislative affairs office, or human 793

resources office of the department of development <u>services agency</u> ;	794
(3)(c) Personnel employed in the technology division of the	795
department <u>agency</u> .	796
Sec. 122.011. (A) The department of development <u>services</u>	797
<u>agency</u> shall develop and promote plans and programs designed to	798
assure that state resources are efficiently used, economic growth	799
is properly balanced, community growth is developed in an orderly	800
manner, and local governments are coordinated with each other and	801
the state, and for such purposes may do all of the following:	802
(1) Serve as a clearinghouse for information, data, and other	803
materials that may be helpful or necessary to persons or local	804
governments, as provided in section 122.07 <u>122.073</u> of the Revised	805
Code;	806
(2) Prepare and activate plans for the retention,	807
development, expansion, and use of the resources and commerce of	808
the state, as provided in section 122.04 of the Revised Code;	809
(3) Assist and cooperate with federal, state, and local	810
governments and agencies of federal, state, and local governments	811
in the coordination of programs to carry out the functions and	812
duties of the department <u>agency</u> ;	813
(4) Encourage and foster research and development activities,	814
conduct studies related to the solution of community problems, and	815
develop recommendations for administrative or legislative actions,	816
as provided in section 122.03 of the Revised Code;	817
(5) Serve as the economic and community development planning	818
agency, which shall prepare and recommend plans and programs for	819
the orderly growth and development of this state and which shall	820
provide planning assistance, as provided in section 122.06 of the	821
Revised Code;	822
(6) Cooperate with and provide technical assistance to state	823

departments, political subdivisions, regional and local planning 824
commissions, tourist associations, councils of government, 825
community development groups, community action agencies, and other 826
appropriate organizations for carrying out the functions and 827
duties of the ~~department~~ development services agency or for the 828
solution of community problems; 829

(7) Coordinate the activities of state agencies that have an 830
impact on carrying out the functions and duties of the ~~department~~ 831
development services agency; 832

(8) Encourage and assist the efforts of and cooperate with 833
local governments to develop mutual and cooperative solutions to 834
their common problems that relate to carrying out the purposes of 835
this section; 836

(9) Study existing structure, operations, and financing of 837
regional or local government and those state activities that 838
involve significant relations with regional or local governmental 839
units, recommend to the governor and to the general assembly such 840
changes in these provisions and activities as will improve the 841
operations of regional or local government, and conduct other 842
studies of legal provisions that affect problems related to 843
carrying out the purposes of this section; 844

(10) Create and operate a division of community development 845
to develop and administer programs and activities that are 846
authorized by federal statute or the Revised Code; 847

(11) Until October 15, 2007, establish fees and charges, in 848
consultation with the director of agriculture, for purchasing 849
loans from financial institutions and providing loan guarantees 850
under the family farm loan program created under sections 901.80 851
to 901.83 of the Revised Code; 852

(12) Provide loan servicing for the loans purchased and loan 853
guarantees provided under section 901.80 of the Revised Code as 854

that section existed prior to October 15, 2007; 855

(13) Until October 15, 2007, and upon approval by the 856
controlling board under division (A)(3) of section 901.82 of the 857
Revised Code of the release of money to be used for purchasing a 858
loan or providing a loan guarantee, request the release of that 859
money in accordance with division (B) of section 166.03 of the 860
Revised Code for use for the purposes of the fund created by 861
section 166.031 of the Revised Code. 862

(14) Allocate that portion of the national recovery zone 863
economic development bond limitation and that portion of the 864
national recovery zone facility bond limitation that has been 865
allocated to the state under section 1400U-1 of the Internal 866
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 867
corporation waives any portion of an allocation it receives under 868
division (A)(14) of this section, the ~~department~~ agency may 869
reallocate that amount. Any allocation or reallocation shall be 870
made in accordance with this section and section 1400U-1 of the 871
Internal Revenue Code. 872

(B) The director of development services may request the 873
attorney general to, and the attorney general, in accordance with 874
section 109.02 of the Revised Code, shall bring a civil action in 875
any court of competent jurisdiction. The director may be sued in 876
the director's official capacity, in connection with this chapter, 877
in accordance with Chapter 2743. of the Revised Code. 878

(C) The director ~~of development~~ shall execute a contract 879
pursuant to section 187.04 of the Revised Code with the nonprofit 880
corporation formed under section 187.01 of the Revised Code, and 881
may execute any additional contracts with the corporation 882
providing for the corporation to assist the director or ~~department~~ 883
agency in carrying out any duties of the director or ~~department~~ 884
agency under this chapter, under any other provision of the 885
Revised Code dealing with economic development, or under a 886

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

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

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

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

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

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

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

advisory board one individual who is a representative of 917
convention and visitors' bureaus, one individual who is a 918
representative of the lodging industry, one individual who is a 919
representative of the restaurant industry, one individual who is a 920
representative of attractions, one individual who is a 921
representative of special events and festivals, one individual who 922
is a representative of agritourism, and three individuals who are 923
representatives of the tourism industry. Of the initial 924
appointments, two individuals shall serve a term of one year, 925
three individuals shall serve a term of two years, and the 926
remainder shall serve a term of three years. Thereafter, terms of 927
office shall be for three years. Each individual appointed to the 928
board shall be a United States citizen. 929

(2) For purposes of division (B)(1) of this section, an 930
individual is a "representative of the tourism industry" if the 931
individual possesses five years or more executive-level experience 932
in the attractions, lodging, restaurant, transportation, or retail 933
industry or five years or more executive-level experience with a 934
destination marketing organization. 935

(C)(1) Each member of the TourismOhio advisory board shall 936
hold office from the date of the member's appointment until the 937
end of the term for which the member is appointed. Vacancies that 938
occur on the board shall be filled in the manner prescribed for 939
regular appointments to the board. A member appointed to fill a 940
vacancy occurring prior to the expiration of the term for which 941
the member's predecessor was appointed shall hold office for the 942
remainder of that predecessor's term. A member shall continue in 943
office subsequent to the expiration date of the member's term 944
until the member's successor takes office or until sixty days have 945
elapsed, whichever occurs first. Any member appointed to the board 946
is eligible for reappointment. 947

(2) The governor shall designate one member of the board as 948

chairperson. 949

(3) Members appointed to the board may be reimbursed for 950
actual and necessary expenses incurred in connection with their 951
official duties. 952

Sec. ~~122.071~~ 122.072. There is hereby created in the state 953
treasury the ~~travel and tourism cooperative projects~~ fund 954
consisting of ~~all~~ money credited or transferred to it and grants, 955
gifts, and contributions made directly to the director of 956
~~development for marketing and promotion of travel and tourism~~ 957
within it. Money in the fund shall be used to defray costs 958
incurred by the office of TourismOhio in promoting this state 959
~~pursuant to division (F) of section 122.04 and section 122.07 of~~ 960
~~the Revised Code as a travel destination.~~ 961

Sec. ~~122.07~~ 122.073. (A) The ~~department of~~ development 962
services agency may do ~~either~~ any of the following: 963

(1) Disseminate information concerning the industrial, 964
commercial, governmental, educational, cultural, recreational, 965
agricultural, and other advantages and attractions of the state; 966

(2) Provide technical assistance to public and private 967
agencies in the preparation of promotional programs designed to 968
attract business, industry, and tourists to the state; 969

(3) Enter into cooperative or contractual agreements, through 970
the director of development services, with any individual, 971
organization, or business to create, administer, or otherwise be 972
involved with Ohio tourism-related promotional programs. 973
Compensation under such agreements shall be determined by the 974
director and may include deferred compensation. This compensation 975
is payable from the tourism fund created in section 122.072 of the 976
Revised Code. Any excess revenue generated under such a 977
cooperative or contractual agreement shall be remitted to the fund 978

to be reinvested in ongoing tourism marketing initiatives as 979
authorized by law. 980

(B) Records related to tourism market research submitted to 981
or generated by the ~~research~~ office of ~~the division of travel and~~ 982
~~tourism of the department of development~~ TourismOhio, and any 983
information taken for any purpose from such research, are not 984
public records for the purposes of section 149.43 of the Revised 985
Code. The ~~department~~ agency may use, however, such tourism market 986
research in a public report if the director ~~of the department~~ 987
determines that issuing and distributing the report would promote 988
or market the state's travel and tourism industry or otherwise 989
advance the purposes of this section. 990

Sec. 122.17. (A) As used in this section: 991

(1) "Income tax revenue" means the total amount withheld 992
under section 5747.06 of the Revised Code by the taxpayer during 993
the taxable year, or during the calendar year that includes the 994
tax period, from the compensation of each employee employed in the 995
project to the extent the employee's withholdings are not used to 996
determine the credit under section 122.171 of the Revised Code. 997
"Income tax revenue" excludes amounts withheld before the day the 998
taxpayer becomes eligible for the credit. 999

(2) "Baseline income tax revenue" means income tax revenue 1000
except that the applicable withholding period is the twelve months 1001
immediately preceding the date the tax credit authority approves 1002
the taxpayer's application or the date the tax credit authority 1003
receives the recommendation described in division (C)(2)(a) of 1004
this section, whichever occurs first, multiplied by the sum of one 1005
plus an annual pay increase factor to be determined by the tax 1006
credit authority. If the taxpayer becomes eligible for the credit 1007
after the first day of the taxpayer's taxable year or after the 1008
first day of the calendar year that includes the tax period, the 1009

taxpayer's baseline income tax revenue for the first such taxable 1010
or calendar year of credit eligibility shall be reduced in 1011
proportion to the number of days during the taxable or calendar 1012
year for which the taxpayer was not eligible for the credit. For 1013
subsequent taxable or calendar years, "baseline income tax 1014
revenue" equals the unreduced baseline income tax revenue for the 1015
preceding taxable or calendar year multiplied by the sum of one 1016
plus the pay increase factor. 1017

(3) "Excess income tax revenue" means income tax revenue 1018
minus baseline income tax revenue. 1019

(B) The tax credit authority may make grants under this 1020
section to foster job creation in this state. Such a grant shall 1021
take the form of a refundable credit allowed against the tax 1022
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 1023
under Chapter 5751. of the Revised Code. The credit shall be 1024
claimed for the taxable years or tax periods specified in the 1025
taxpayer's agreement with the tax credit authority under division 1026
(D) of this section. With respect to taxes imposed under section 1027
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 1028
credit shall be claimed in the order required under section 1029
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 1030
the credit available for a taxable year or for a calendar year 1031
that includes a tax period equals the excess income tax revenue 1032
for that year multiplied by the percentage specified in the 1033
agreement with the tax credit authority. Any credit granted under 1034
this section against the tax imposed by section 5733.06 or 5747.02 1035
of the Revised Code, to the extent not fully utilized against such 1036
tax for taxable years ending prior to 2008, shall automatically be 1037
converted without any action taken by the tax credit authority to 1038
a credit against the tax levied under Chapter 5751. of the Revised 1039
Code for tax periods beginning on or after July 1, 2008, provided 1040
that the person to whom the credit was granted is subject to such 1041

tax. The converted credit shall apply to those calendar years in 1042
which the remaining taxable years specified in the agreement end. 1043

(C)(1) A taxpayer or potential taxpayer who proposes a 1044
project to create new jobs in this state may apply to the tax 1045
credit authority to enter into an agreement for a tax credit under 1046
this section. The director of development services shall prescribe 1047
the form of the application. After receipt of an application, the 1048
authority may enter into an agreement with the taxpayer for a 1049
credit under this section if it determines all of the following: 1050

~~(1)~~(a) The taxpayer's project will increase payroll and 1051
income tax revenue; 1052

~~(2)~~(b) The taxpayer's project is economically sound and will 1053
benefit the people of this state by increasing opportunities for 1054
employment and strengthening the economy of this state; 1055

~~(3)~~(c) Receiving the tax credit is a major factor in the 1056
taxpayer's decision to go forward with the project. 1057

(2)(a) A taxpayer that chooses to begin the project prior to 1058
receiving the determination of the authority may, upon submitting 1059
the taxpayer's application to the authority, request that the 1060
chief investment officer of the nonprofit corporation formed under 1061
section 187.01 of the Revised Code and the director review the 1062
taxpayer's application and recommend to the authority that the 1063
taxpayer's application be considered. As soon as possible after 1064
receiving such a request, the chief investment officer and the 1065
director shall review the taxpayer's application and, if they 1066
determine that the application warrants consideration by the 1067
authority, make that recommendation to the authority not later 1068
than six months after the application is received by the 1069
authority. 1070

(b) The authority shall consider any taxpayer's application 1071
for which it receives a recommendation under division (C)(2)(a) of 1072

this section. If the authority determines that the taxpayer does 1073
not meet all of the criteria set forth in division (C)(1) of this 1074
section, the authority and the development services agency shall 1075
proceed in accordance with rules adopted by the director pursuant 1076
to division (I) of this section. 1077

(D) An agreement under this section shall include all of the 1078
following: 1079

(1) A detailed description of the project that is the subject 1080
of the agreement; 1081

(2) The term of the tax credit, which shall not exceed 1082
fifteen years, and the first taxable year, or first calendar year 1083
that includes a tax period, for which the credit may be claimed; 1084

(3) A requirement that the taxpayer shall maintain operations 1085
at the project location for at least the greater of seven years or 1086
the term of the credit plus three years; 1087

(4) The percentage, as determined by the tax credit 1088
authority, of excess income tax revenue that will be allowed as 1089
the amount of the credit for each taxable year or for each 1090
calendar year that includes a tax period; 1091

(5) The pay increase factor to be applied to the taxpayer's 1092
baseline income tax revenue; 1093

(6) A requirement that the taxpayer annually shall report to 1094
the director of development services employment, tax withholding, 1095
investment, and other information the director needs to perform 1096
the director's duties under this section; 1097

(7) A requirement that the director of development services 1098
annually review the information reported under division (D)(6) of 1099
this section and verify compliance with the agreement; if the 1100
taxpayer is in compliance, a requirement that the director issue a 1101
certificate to the taxpayer stating that the information has been 1102

verified and identifying the amount of the credit that may be 1103
claimed for the taxable or calendar year; 1104

(8) A provision providing that the taxpayer may not relocate 1105
a substantial number of employment positions from elsewhere in 1106
this state to the project location unless the director of 1107
development services determines that the legislative authority of 1108
the county, township, or municipal corporation from which the 1109
employment positions would be relocated has been notified by the 1110
taxpayer of the relocation. 1111

For purposes of this section, the movement of an employment 1112
position from one political subdivision to another political 1113
subdivision shall be considered a relocation of an employment 1114
position unless the employment position in the first political 1115
subdivision is replaced. 1116

(E) If a taxpayer fails to meet or comply with any condition 1117
or requirement set forth in a tax credit agreement, the tax credit 1118
authority may amend the agreement to reduce the percentage or term 1119
of the tax credit. The reduction of the percentage or term may 1120
take effect in the current taxable or calendar year. 1121

(F) Projects that consist solely of point-of-final-purchase 1122
retail facilities are not eligible for a tax credit under this 1123
section. If a project consists of both point-of-final-purchase 1124
retail facilities and nonretail facilities, only the portion of 1125
the project consisting of the nonretail facilities is eligible for 1126
a tax credit and only the excess income tax revenue from the 1127
nonretail facilities shall be considered when computing the amount 1128
of the tax credit. If a warehouse facility is part of a 1129
point-of-final-purchase retail facility and supplies only that 1130
facility, the warehouse facility is not eligible for a tax credit. 1131
Catalog distribution centers are not considered 1132
point-of-final-purchase retail facilities for the purposes of this 1133
division, and are eligible for tax credits under this section. 1134

(G) Financial statements and other information submitted to 1135
the ~~department of~~ development services agency or the tax credit 1136
authority by an applicant or recipient of a tax credit under this 1137
section, and any information taken for any purpose from such 1138
statements or information, are not public records subject to 1139
section 149.43 of the Revised Code. However, the chairperson of 1140
the authority may make use of the statements and other information 1141
for purposes of issuing public reports or in connection with court 1142
proceedings concerning tax credit agreements under this section. 1143
Upon the request of the tax commissioner or, if the applicant or 1144
recipient is an insurance company, upon the request of the 1145
superintendent of insurance, the chairperson of the authority 1146
shall provide to the commissioner or superintendent any statement 1147
or information submitted by an applicant or recipient of a tax 1148
credit in connection with the credit. The commissioner or 1149
superintendent shall preserve the confidentiality of the statement 1150
or information. 1151

(H) A taxpayer claiming a credit under this section shall 1152
submit to the tax commissioner or, if the taxpayer is an insurance 1153
company, to the superintendent of insurance, a copy of the 1154
director of ~~development's~~ development services' certificate of 1155
verification under division (D)(7) of this section with the 1156
taxpayer's tax report or return for the taxable year or for the 1157
calendar year that includes the tax period. Failure to submit a 1158
copy of the certificate with the report or return does not 1159
invalidate a claim for a credit if the taxpayer submits a copy of 1160
the certificate to the commissioner or superintendent within sixty 1161
days after the commissioner or superintendent requests it. 1162

(I) The director of development services, after consultation 1163
with the tax commissioner and the superintendent of insurance and 1164
in accordance with Chapter 119. of the Revised Code, shall adopt 1165
rules necessary to implement this section, including rules that 1166

establish a procedure to be followed by the tax credit authority 1167
and the development services agency in the event the authority 1168
considers a taxpayer's application for which it receives a 1169
recommendation under division (C)(2)(a) of this section but does 1170
not approve it. The rules may provide for recipients of tax 1171
credits under this section to be charged fees to cover 1172
administrative costs of the tax credit program. The fees collected 1173
shall be credited to the ~~tax incentive programs operating~~ business 1174
assistance fund created in section 122.174 of the Revised Code. At 1175
the time the director gives public notice under division (A) of 1176
section 119.03 of the Revised Code of the adoption of the rules, 1177
the director shall submit copies of the proposed rules to the 1178
chairpersons of the standing committees on economic development in 1179
the senate and the house of representatives. 1180

(J) For the purposes of this section, a taxpayer may include 1181
a partnership, a corporation that has made an election under 1182
subchapter S of chapter one of subtitle A of the Internal Revenue 1183
Code, or any other business entity through which income flows as a 1184
distributive share to its owners. A partnership, S-corporation, or 1185
other such business entity may elect to pass the credit received 1186
under this section through to the persons to whom the income or 1187
profit of the partnership, S-corporation, or other entity is 1188
distributed. The election shall be made on the annual report 1189
required under division (D)(6) of this section. The election 1190
applies to and is irrevocable for the credit for which the report 1191
is submitted. If the election is made, the credit shall be 1192
apportioned among those persons in the same proportions as those 1193
in which the income or profit is distributed. 1194

(K) If the director of development services determines that a 1195
taxpayer who has received a credit under this section is not 1196
complying with the requirement under division (D)(3) of this 1197
section, the director shall notify the tax credit authority of the 1198

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 1231
house of representatives on the tax credit program under this 1232
section. The report shall include information on the number of 1233
agreements that were entered into under this section during the 1234
preceding calendar year, a description of the project that is the 1235
subject of each such agreement, and an update on the status of 1236
projects under agreements entered into before the preceding 1237
calendar year. 1238

(M) There is hereby created the tax credit authority, which 1239
consists of the director of development services and four other 1240
members appointed as follows: the governor, the president of the 1241
senate, and the speaker of the house of representatives each shall 1242
appoint one member who shall be a specialist in economic 1243
development; the governor also shall appoint a member who is a 1244
specialist in taxation. Of the initial appointees, the members 1245
appointed by the governor shall serve a term of two years; the 1246
members appointed by the president of the senate and the speaker 1247
of the house of representatives shall serve a term of four years. 1248
Thereafter, terms of office shall be for four years. Initial 1249
appointments to the authority shall be made within thirty days 1250
after January 13, 1993. Each member shall serve on the authority 1251
until the end of the term for which the member was appointed. 1252
Vacancies shall be filled in the same manner provided for original 1253
appointments. Any member appointed to fill a vacancy occurring 1254
prior to the expiration of the term for which the member's 1255
predecessor was appointed shall hold office for the remainder of 1256
that term. Members may be reappointed to the authority. Members of 1257
the authority shall receive their necessary and actual expenses 1258
while engaged in the business of the authority. The director of 1259
development services shall serve as chairperson of the authority, 1260
and the members annually shall elect a vice-chairperson from among 1261
themselves. Three members of the authority constitute a quorum to 1262
transact and vote on the business of the authority. The majority 1263

vote of the membership of the authority is necessary to approve 1264
any such business, including the election of the vice-chairperson. 1265

The director of development services may appoint a 1266
professional employee of the ~~department of~~ development services 1267
agency to serve as the director's substitute at a meeting of the 1268
authority. The director shall make the appointment in writing. In 1269
the absence of the director from a meeting of the authority, the 1270
appointed substitute shall serve as chairperson. In the absence of 1271
both the director and the director's substitute from a meeting, 1272
the vice-chairperson shall serve as chairperson. 1273

(N) For purposes of the credits granted by this section 1274
against the taxes imposed under sections 5725.18 and 5729.03 of 1275
the Revised Code, "taxable year" means the period covered by the 1276
taxpayer's annual statement to the superintendent of insurance. 1277

Sec. 122.171. (A) As used in this section: 1278

(1) "Capital investment project" means a plan of investment 1279
at a project site for the acquisition, construction, renovation, 1280
or repair of buildings, machinery, or equipment, or for 1281
capitalized costs of basic research and new product development 1282
determined in accordance with generally accepted accounting 1283
principles, but does not include any of the following: 1284

(a) Payments made for the acquisition of personal property 1285
through operating leases; 1286

(b) Project costs paid before January 1, 2002; 1287

(c) Payments made to a related member as defined in section 1288
5733.042 of the Revised Code or to a consolidated elected taxpayer 1289
or a combined taxpayer as defined in section 5751.01 of the 1290
Revised Code. 1291

(2) "Eligible business" means a taxpayer and its related 1292
members with Ohio operations satisfying all of the following: 1293

(a) The taxpayer employs at least five hundred full-time 1294
equivalent employees or has an annual payroll of at least 1295
thirty-five million dollars at the time the tax credit authority 1296
grants the tax credit under this section; 1297

(b) The taxpayer makes or causes to be made payments for the 1298
capital investment project of one of the following: 1299

(i) If the taxpayer is engaged at the project site primarily 1300
as a manufacturer, at least fifty million dollars in the aggregate 1301
at the project site during a period of three consecutive calendar 1302
years, including the calendar year that includes a day of the 1303
taxpayer's taxable year or tax period with respect to which the 1304
credit is granted; 1305

(ii) If the taxpayer is engaged at the project site primarily 1306
in significant corporate administrative functions, as defined by 1307
the director of development services by rule, at least twenty 1308
million dollars in the aggregate at the project site during a 1309
period of three consecutive calendar years including the calendar 1310
year that includes a day of the taxpayer's taxable year or tax 1311
period with respect to which the credit is granted; 1312

(iii) If the taxpayer is applying to enter into an agreement 1313
for a tax credit authorized under division (B)(3) of this section, 1314
at least five million dollars in the aggregate at the project site 1315
during a period of three consecutive calendar years, including the 1316
calendar year that includes a day of the taxpayer's taxable year 1317
or tax period with respect to which the credit is granted. 1318

(c) The taxpayer had a capital investment project reviewed 1319
and approved by the tax credit authority as provided in divisions 1320
(C), (D), and (E) of this section. 1321

(3) "Full-time equivalent employees" means the quotient 1322
obtained by dividing the total number of hours for which employees 1323
were compensated for employment in the project by two thousand 1324

eighty. "Full-time equivalent employees" shall exclude hours that 1325
are counted for a credit under section 122.17 of the Revised Code. 1326

(4) "Income tax revenue" means the total amount withheld 1327
under section 5747.06 of the Revised Code by the taxpayer during 1328
the taxable year, or during the calendar year that includes the 1329
tax period, from the compensation of all employees employed in the 1330
project whose hours of compensation are included in calculating 1331
the number of full-time equivalent employees. 1332

(5) "Manufacturer" has the same meaning as in section 1333
5739.011 of the Revised Code. 1334

(6) "Project site" means an integrated complex of facilities 1335
in this state, as specified by the tax credit authority under this 1336
section, within a fifteen-mile radius where a taxpayer is 1337
primarily operating as an eligible business. 1338

(7) "Related member" has the same meaning as in section 1339
5733.042 of the Revised Code as that section existed on the 1340
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 1341
general assembly, September 29, 1997. 1342

(8) "Taxable year" includes, in the case of a domestic or 1343
foreign insurance company, the calendar year ending on the 1344
thirty-first day of December preceding the day the superintendent 1345
of insurance is required to certify to the treasurer of state 1346
under section 5725.20 or 5729.05 of the Revised Code the amount of 1347
taxes due from insurance companies. 1348

(B) The tax credit authority created under section 122.17 of 1349
the Revised Code may grant tax credits under this section for the 1350
purpose of fostering job retention in this state. Upon application 1351
by an eligible business and upon consideration of the 1352
recommendation of the director of budget and management, tax 1353
commissioner, the superintendent of insurance in the case of an 1354
insurance company, and director of development services under 1355

division (C) of this section, the tax credit authority may grant 1356
the following credits against the tax imposed by section 5725.18, 1357
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code: 1358

(1) A nonrefundable credit to an eligible business; 1359

(2) A refundable credit to an eligible business meeting the 1360
following conditions, provided that the director of budget and 1361
management, tax commissioner, superintendent of insurance in the 1362
case of an insurance company, and director of development services 1363
have recommended the granting of the credit to the tax credit 1364
authority before July 1, 2011: 1365

(a) The business retains at least one thousand full-time 1366
equivalent employees at the project site. 1367

(b) The business makes or causes to be made payments for a 1368
capital investment project of at least twenty-five million dollars 1369
in the aggregate at the project site during a period of three 1370
consecutive calendar years, including the calendar year that 1371
includes a day of the business' taxable year or tax period with 1372
respect to which the credit is granted. 1373

(c) In 2010, the business received a written offer of 1374
financial incentives from another state of the United States that 1375
the director determines to be sufficient inducement for the 1376
business to relocate the business' operations from this state to 1377
that state. 1378

(3) A refundable credit to an eligible business with a total 1379
annual payroll of at least twenty million dollars, provided that 1380
the tax credit authority grants the tax credit on or after July 1, 1381
2011, and before January 1, 2014. 1382

The credits authorized in divisions (B)(1), (2), and (3) of 1383
this section may be granted for a period up to fifteen taxable 1384
years or, in the case of the tax levied by section 5751.02 of the 1385
Revised Code, for a period of up to fifteen calendar years. The 1386

credit amount for a taxable year or a calendar year that includes 1387
the tax period for which a credit may be claimed equals the income 1388
tax revenue for that year multiplied by the percentage specified 1389
in the agreement with the tax credit authority. The percentage may 1390
not exceed seventy-five per cent. The credit shall be claimed in 1391
the order required under section 5725.98, 5729.98, 5733.98, 1392
5747.98, or 5751.98 of the Revised Code. In determining the 1393
percentage and term of the credit, the tax credit authority shall 1394
consider both the number of full-time equivalent employees and the 1395
value of the capital investment project. The credit amount may not 1396
be based on the income tax revenue for a calendar year before the 1397
calendar year in which the tax credit authority specifies the tax 1398
credit is to begin, and the credit shall be claimed only for the 1399
taxable years or tax periods specified in the eligible business' 1400
agreement with the tax credit authority. In no event shall the 1401
credit be claimed for a taxable year or tax period terminating 1402
before the date specified in the agreement. Any credit granted 1403
under this section against the tax imposed by section 5733.06 or 1404
5747.02 of the Revised Code, to the extent not fully utilized 1405
against such tax for taxable years ending prior to 2008, shall 1406
automatically be converted without any action taken by the tax 1407
credit authority to a credit against the tax levied under Chapter 1408
5751. of the Revised Code for tax periods beginning on or after 1409
July 1, 2008, provided that the person to whom the credit was 1410
granted is subject to such tax. The converted credit shall apply 1411
to those calendar years in which the remaining taxable years 1412
specified in the agreement end. 1413

If a nonrefundable credit allowed under division (B)(1) of 1414
this section for a taxable year or tax period exceeds the 1415
taxpayer's tax liability for that year or period, the excess may 1416
be carried forward for the three succeeding taxable or calendar 1417
years, but the amount of any excess credit allowed in any taxable 1418
year or tax period shall be deducted from the balance carried 1419

forward to the succeeding year or period. 1420

(C) A taxpayer that proposes a capital investment project to 1421
retain jobs in this state may apply to the tax credit authority to 1422
enter into an agreement for a tax credit under this section. The 1423
director of development services shall prescribe the form of the 1424
application. After receipt of an application, the authority shall 1425
forward copies of the application to the director of budget and 1426
management, the tax commissioner, the superintendent of insurance 1427
in the case of an insurance company, and the director of 1428
development services, each of whom shall review the application to 1429
determine the economic impact the proposed project would have on 1430
the state and the affected political subdivisions and shall submit 1431
a summary of their determinations and recommendations to the 1432
authority. 1433

(D) Upon review and consideration of the determinations and 1434
recommendations described in division (C) of this section, the tax 1435
credit authority may enter into an agreement with the taxpayer for 1436
a credit under this section if the authority determines all of the 1437
following: 1438

(1) The taxpayer's capital investment project will result in 1439
the retention of employment in this state. 1440

(2) The taxpayer is economically sound and has the ability to 1441
complete the proposed capital investment project. 1442

(3) The taxpayer intends to and has the ability to maintain 1443
operations at the project site for at least the greater of (a) the 1444
term of the credit plus three years, or (b) seven years. 1445

(4) Receiving the credit is a major factor in the taxpayer's 1446
decision to begin, continue with, or complete the project. 1447

(5) If the taxpayer is applying to enter into an agreement 1448
for a tax credit authorized under division (B)(3) of this section, 1449
the taxpayer's capital investment project will be located in the 1450

political subdivision in which the taxpayer maintains its 1451
principal place of business. 1452

(E) An agreement under this section shall include all of the 1453
following: 1454

(1) A detailed description of the project that is the subject 1455
of the agreement, including the amount of the investment, the 1456
period over which the investment has been or is being made, the 1457
number of full-time equivalent employees at the project site, and 1458
the anticipated income tax revenue to be generated. 1459

(2) The term of the credit, the percentage of the tax credit, 1460
the maximum annual value of tax credits that may be allowed each 1461
year, and the first year for which the credit may be claimed. 1462

(3) A requirement that the taxpayer maintain operations at 1463
the project site for at least the greater of (a) the term of the 1464
credit plus three years, or (b) seven years. 1465

(4)(a) In the case of a credit granted under division (B)(1) 1466
of this section, a requirement that the taxpayer retain at least 1467
five hundred full-time equivalent employees at the project site 1468
and within this state for the entire term of the credit, or a 1469
requirement that the taxpayer maintain an annual payroll of at 1470
least thirty-five million dollars for the entire term of the 1471
credit; 1472

(b) In the case of a credit granted under division (B)(2) of 1473
this section, a requirement that the taxpayer retain at least one 1474
thousand full-time equivalent employees at the project site and 1475
within this state for the entire term of the credit; 1476

(c) In the case of a credit granted under division (B)(3) of 1477
this section, either of the following: 1478

(i) A requirement that the taxpayer retain at least five 1479
hundred full-time equivalent employees at the project site and 1480

within this state for the entire term of the credit and a 1481
requirement that the taxpayer maintain an annual payroll of at 1482
least twenty million dollars for the entire term of the credit; 1483

(ii) A requirement that the taxpayer maintain an annual 1484
payroll of at least thirty-five million dollars for the entire 1485
term of the credit. 1486

(5) A requirement that the taxpayer annually report to the 1487
director of development services employment, tax withholding, 1488
capital investment, and other information the director needs to 1489
perform the director's duties under this section. 1490

(6) A requirement that the director of development services 1491
annually review the annual reports of the taxpayer to verify the 1492
information reported under division (E)(5) of this section and 1493
compliance with the agreement. Upon verification, the director 1494
shall issue a certificate to the taxpayer stating that the 1495
information has been verified and identifying the amount of the 1496
credit for the taxable year or calendar year that includes the tax 1497
period. In determining the number of full-time equivalent 1498
employees, no position shall be counted that is filled by an 1499
employee who is included in the calculation of a tax credit under 1500
section 122.17 of the Revised Code. 1501

(7) A provision providing that the taxpayer may not relocate 1502
a substantial number of employment positions from elsewhere in 1503
this state to the project site unless the director of development 1504
services determines that the taxpayer notified the legislative 1505
authority of the county, township, or municipal corporation from 1506
which the employment positions would be relocated. 1507

For purposes of this section, the movement of an employment 1508
position from one political subdivision to another political 1509
subdivision shall be considered a relocation of an employment 1510
position unless the movement is confined to the project site. The 1511

transfer of an employment position from one political subdivision 1512
to another political subdivision shall not be considered a 1513
relocation of an employment position if the employment position in 1514
the first political subdivision is replaced by another employment 1515
position. 1516

(8) A waiver by the taxpayer of any limitations periods 1517
relating to assessments or adjustments resulting from the 1518
taxpayer's failure to comply with the agreement. 1519

(F) If a taxpayer fails to meet or comply with any condition 1520
or requirement set forth in a tax credit agreement, the tax credit 1521
authority may amend the agreement to reduce the percentage or term 1522
of the credit. The reduction of the percentage or term may take 1523
effect in the current taxable or calendar year. 1524

(G) Financial statements and other information submitted to 1525
the department of development services or the tax credit authority 1526
by an applicant for or recipient of a tax credit under this 1527
section, and any information taken for any purpose from such 1528
statements or information, are not public records subject to 1529
section 149.43 of the Revised Code. However, the chairperson of 1530
the authority may make use of the statements and other information 1531
for purposes of issuing public reports or in connection with court 1532
proceedings concerning tax credit agreements under this section. 1533
Upon the request of the tax commissioner, or the superintendent of 1534
insurance in the case of an insurance company, the chairperson of 1535
the authority shall provide to the commissioner or superintendent 1536
any statement or other information submitted by an applicant for 1537
or recipient of a tax credit in connection with the credit. The 1538
commissioner or superintendent shall preserve the confidentiality 1539
of the statement or other information. 1540

(H) A taxpayer claiming a tax credit under this section shall 1541
submit to the tax commissioner or, in the case of an insurance 1542
company, to the superintendent of insurance, a copy of the 1543

director of ~~development's~~ development services' certificate of 1544
verification under division (E)(6) of this section with the 1545
taxpayer's tax report or return for the taxable year or for the 1546
calendar year that includes the tax period. Failure to submit a 1547
copy of the certificate with the report or return does not 1548
invalidate a claim for a credit if the taxpayer submits a copy of 1549
the certificate to the commissioner or superintendent within sixty 1550
days after the commissioner or superintendent requests it. 1551

(I) For the purposes of this section, a taxpayer may include 1552
a partnership, a corporation that has made an election under 1553
subchapter S of chapter one of subtitle A of the Internal Revenue 1554
Code, or any other business entity through which income flows as a 1555
distributive share to its owners. A partnership, S-corporation, or 1556
other such business entity may elect to pass the credit received 1557
under this section through to the persons to whom the income or 1558
profit of the partnership, S-corporation, or other entity is 1559
distributed. The election shall be made on the annual report 1560
required under division (E)(5) of this section. The election 1561
applies to and is irrevocable for the credit for which the report 1562
is submitted. If the election is made, the credit shall be 1563
apportioned among those persons in the same proportions as those 1564
in which the income or profit is distributed. 1565

(J) If the director of development services determines that a 1566
taxpayer that received a tax credit under this section is not 1567
complying with the requirement under division (E)(3) of this 1568
section, the director shall notify the tax credit authority of the 1569
noncompliance. After receiving such a notice, and after giving the 1570
taxpayer an opportunity to explain the noncompliance, the 1571
authority may terminate the agreement and require the taxpayer to 1572
refund to the state all or a portion of the credit claimed in 1573
previous years, as follows: 1574

(1) If the taxpayer maintained operations at the project site 1575

for less than or equal to the term of the credit, an amount not to 1576
exceed one hundred per cent of the sum of any tax credits allowed 1577
and received under this section. 1578

(2) If the taxpayer maintained operations at the project site 1579
longer than the term of the credit, but less than the greater of 1580
(a) the term of the credit plus three years, or (b) seven years, 1581
the amount required to be refunded shall not exceed seventy-five 1582
per cent of the sum of any tax credits allowed and received under 1583
this section. 1584

In determining the portion of the credit to be refunded to 1585
this state, the authority shall consider the effect of market 1586
conditions on the taxpayer's project and whether the taxpayer 1587
continues to maintain other operations in this state. After making 1588
the determination, the authority shall certify the amount to be 1589
refunded to the tax commissioner or the superintendent of 1590
insurance. If the taxpayer is not an insurance company, the 1591
commissioner shall make an assessment for that amount against the 1592
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 1593
If the taxpayer is an insurance company, the superintendent of 1594
insurance shall make an assessment under section 5725.222 or 1595
5729.102 of the Revised Code. The time limitations on assessments 1596
under those chapters and sections do not apply to an assessment 1597
under this division, but the commissioner or superintendent shall 1598
make the assessment within one year after the date the authority 1599
certifies to the commissioner or superintendent the amount to be 1600
refunded. 1601

(K) The director of development services, after consultation 1602
with the tax commissioner and the superintendent of insurance and 1603
in accordance with Chapter 119. of the Revised Code, shall adopt 1604
rules necessary to implement this section. The rules may provide 1605
for recipients of tax credits under this section to be charged 1606
fees to cover administrative costs of the tax credit program. The 1607

fees collected shall be credited to the ~~tax incentive programs~~ 1608
~~operating business assistance~~ fund created in section 122.174 of 1609
the Revised Code. At the time the director gives public notice 1610
under division (A) of section 119.03 of the Revised Code of the 1611
adoption of the rules, the director shall submit copies of the 1612
proposed rules to the chairpersons of the standing committees on 1613
economic development in the senate and the house of 1614
representatives. 1615

(L) On or before the first day of August of each year, the 1616
director of development services shall submit a report to the 1617
governor, the president of the senate, and the speaker of the 1618
house of representatives on the tax credit program under this 1619
section. The report shall include information on the number of 1620
agreements that were entered into under this section during the 1621
preceding calendar year, a description of the project that is the 1622
subject of each such agreement, and an update on the status of 1623
projects under agreements entered into before the preceding 1624
calendar year. 1625

(M)(1) The aggregate amount of tax credits issued under 1626
division (B)(1) of this section during any calendar year for 1627
capital investment projects reviewed and approved by the tax 1628
credit authority may not exceed the following amounts: 1629

(a) For 2010, thirteen million dollars; 1630

(b) For 2011 through 2023, the amount of the limit for the 1631
preceding calendar year plus thirteen million dollars; 1632

(c) For 2024 and each year thereafter, one hundred 1633
ninety-five million dollars. 1634

(2) The aggregate amount of tax credits authorized under 1635
divisions (B)(2) and (3) of this section and allowed to be claimed 1636
by taxpayers in any calendar year for capital improvement projects 1637
reviewed and approved by the tax credit authority in 2011, 2012, 1638

and 2013 combined shall not exceed twenty-five million dollars. An 1639
amount equal to the aggregate amount of credits first authorized 1640
in calendar year 2011, 2012, and 2013 may be claimed over the 1641
ensuing period up to fifteen years, subject to the terms of 1642
individual tax credit agreements. 1643

The limitations in division (M) of this section do not apply 1644
to credits for capital investment projects approved by the tax 1645
credit authority before July 1, 2009. 1646

Sec. 122.174. There is hereby created in the state treasury 1647
the ~~tax incentive programs operating~~ business assistance fund. 1648
~~Money collected~~ The fund shall consist of any amounts appropriated 1649
to it and money credited to the fund pursuant to division (I) of 1650
section 121.17, division (K) of section 122.171, division (K) of 1651
section 122.175, division (C) of section 3735.672, and division 1652
(C) of section 5709.68 of the Revised Code ~~shall be credited to~~ 1653
~~the fund.~~ The director of development services shall use money in 1654
the fund to pay expenses related to the administration of the ~~tax~~ 1655
~~credit programs authorized by sections 122.17, 122.171, 3735.672,~~ 1656
~~and 5709.68 of the Revised Code~~ business services division of the 1657
development services agency. 1658

Sec. 122.175. (A) As used in this section: 1659

(1) "Capital investment project" means a plan of investment 1660
at a project site for the acquisition, construction, renovation, 1661
expansion, replacement, or repair of a computer data center or of 1662
computer data center equipment, but does not include any of the 1663
following: 1664

(a) Project costs paid before a date determined by the tax 1665
credit authority for each capital investment project; 1666

(b) Payments made to a related member as defined in section 1667
5733.042 of the Revised Code or to a consolidated elected taxpayer 1668

or a combined taxpayer as defined in section 5751.01 of the Revised Code. 1669
1670

(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. 1671
1672
1673
1674

(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. 1675
1676
1677
1678
1679
1680

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following: 1681
1682

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment; 1683
1684
1685

(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; 1686
1687
1688

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center. 1689
1690
1691

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements: 1692
1693

(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; 1694
1695
1696
1697

(b) The taxpayer will pay annual compensation that is subject 1698

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. 1730

(D) Upon review and consideration of such determinations and 1731
recommendations, the tax credit authority may enter into an 1732
agreement with the taxpayer for a complete or partial exemption 1733
from the taxes imposed under Chapters 5739. and 5741. of the 1734
Revised Code on computer data center equipment used or to be used 1735
at an eligible computer data center if the authority determines 1736
all of the following: 1737

(1) The taxpayer's capital investment project for the 1738
eligible computer data center will increase payroll and the amount 1739
of income taxes to be withheld from employee compensation pursuant 1740
to section 5747.06 of the Revised Code. 1741

(2) The taxpayer is economically sound and has the ability to 1742
complete the proposed capital investment project. 1743

(3) The taxpayer intends to and has the ability to maintain 1744
operations at the project site for the term of the agreement. 1745

(4) Receiving the exemption is a major factor in the 1746
taxpayer's decision to begin, continue with, or complete the 1747
capital investment project. 1748

(E) An agreement entered into under this section shall 1749
include all of the following: 1750

(1) A detailed description of the capital investment project 1751
that is the subject of the agreement, including the amount of the 1752
investment, the period over which the investment has been or is 1753
being made, the annual compensation to be paid by the taxpayer to 1754
its employees at the project site, and the anticipated amount of 1755
income taxes to be withheld from employee compensation pursuant to 1756
section 5747.06 of the Revised Code. 1757

(2) The percentage of the exemption from the taxes imposed 1758
under Chapters 5739. and 5741. of the Revised Code for the 1759

computer data center equipment used or to be used at the eligible 1760
computer data center, the length of time the computer data center 1761
equipment will be exempted, and the first date on which the 1762
exemption applies. 1763

(3) A requirement that the taxpayer maintain the computer 1764
data center as an eligible computer data center during the term of 1765
the agreement and that the taxpayer maintain operations at the 1766
eligible computer data center during that term. 1767

(4) A requirement that during each year of the term of the 1768
agreement the taxpayer pay annual compensation that is subject to 1769
the withholding obligation imposed under section 5747.06 of the 1770
Revised Code of at least five million dollars to its employees at 1771
the eligible computer data center. 1772

(5) A requirement that the taxpayer annually report to the 1773
director of development services employment, tax withholding, 1774
capital investment, and other information required by the director 1775
to perform the director's duties under this section. 1776

(6) A requirement that the director of development services 1777
annually review the annual reports of the taxpayer to verify the 1778
information reported under division (E)(5) of this section and 1779
compliance with the agreement. Upon verification, the director 1780
shall issue a certificate to the taxpayer stating that the 1781
information has been verified and that the taxpayer remains 1782
eligible for the exemption specified in the agreement. 1783

(7) A provision providing that the taxpayer may not relocate 1784
a substantial number of employment positions from elsewhere in 1785
this state to the project site unless the director of development 1786
services determines that the taxpayer notified the legislative 1787
authority of the county, township, or municipal corporation from 1788
which the employment positions would be relocated. For purposes of 1789
this paragraph, the movement of an employment position from one 1790

political subdivision to another political subdivision shall be 1791
considered a relocation of an employment position unless the 1792
movement is confined to the project site. The transfer of an 1793
employment position from one political subdivision to another 1794
political subdivision shall not be considered a relocation of an 1795
employment position if the employment position in the first 1796
political subdivision is replaced by another employment position. 1797

(8) A waiver by the taxpayer of any limitations periods 1798
relating to assessments or adjustments resulting from the 1799
taxpayer's failure to comply with the agreement. 1800

(F) The term of an agreement under this section shall be 1801
determined by the tax credit authority, and the amount of the 1802
exemption shall not exceed one hundred per cent of such taxes that 1803
would otherwise be owed in respect to the exempted computer data 1804
center equipment. 1805

(G) If a taxpayer fails to meet or comply with any condition 1806
or requirement set forth in an agreement under this section, the 1807
tax credit authority may amend the agreement to reduce the 1808
percentage of the exemption or term during which the exemption 1809
applies to the computer data center equipment used or to be used 1810
at an eligible computer data center. The reduction of the 1811
percentage or term may take effect in the current calendar year. 1812

(H) Financial statements and other information submitted to 1813
the department of development services or the tax credit authority 1814
by an applicant for or recipient of an exemption under this 1815
section, and any information taken for any purpose from such 1816
statements or information, are not public records subject to 1817
section 149.43 of the Revised Code. However, the chairperson of 1818
the authority may make use of the statements and other information 1819
for purposes of issuing public reports or in connection with court 1820
proceedings concerning tax exemption agreements under this 1821
section. Upon the request of the tax commissioner, the chairperson 1822

of the authority shall provide to the tax commissioner any 1823
statement or other information submitted by an applicant for or 1824
recipient of an exemption under this section. The tax commissioner 1825
shall preserve the confidentiality of the statement or other 1826
information. 1827

(I) The tax commissioner shall issue a direct payment permit 1828
under section 5739.031 of the Revised Code to a taxpayer that 1829
enters into an agreement under this section. Such direct payment 1830
permit shall authorize the taxpayer to pay any sales and use taxes 1831
due on purchases of computer data center equipment used or to be 1832
used in an eligible computer data center and to pay any sales and 1833
use taxes due on purchases of tangible personal property or 1834
taxable services other than computer data center equipment used or 1835
to be used in an eligible computer data center directly to the tax 1836
commissioner. Each taxpayer shall pay pursuant to such direct 1837
payment permit all sales tax levied on such purchases under 1838
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 1839
Code and all use tax levied on such purchases under sections 1840
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 1841
consistent with the terms of the agreement entered into under this 1842
section. 1843

During the term of an agreement under this section the 1844
taxpayer shall submit to the tax commissioner a return that shows 1845
the amount of computer data center equipment purchased for use at 1846
the eligible computer data center, the amount of tangible personal 1847
property and taxable services other than computer data center 1848
equipment purchased for use at the eligible computer data center, 1849
the amount of tax under Chapter 5739. or 5741. of the Revised Code 1850
that would be due in the absence of the agreement under this 1851
section, the exemption percentage for computer data center 1852
equipment specified in the agreement, and the amount of tax due 1853
under Chapter 5739. or 5741. of the Revised Code as a result of 1854

the agreement under this section. The taxpayer shall pay the tax 1855
shown on the return to be due in the manner and at the times as 1856
may be further prescribed by the tax commissioner. The taxpayer 1857
shall include a copy of the director of ~~development's~~ development 1858
services' certificate of verification issued under division (E)(6) 1859
of this section. Failure to submit a copy of the certificate with 1860
the return does not invalidate the claim for exemption if the 1861
taxpayer submits a copy of the certificate to the tax commissioner 1862
within sixty days after the tax commissioner requests it. 1863

(J) If the director of development services determines that a 1864
taxpayer that received an exemption under this section is not 1865
complying with the requirement under division (E)(3) of this 1866
section, the director shall notify the tax credit authority of the 1867
noncompliance. After receiving such a notice, and after giving the 1868
taxpayer an opportunity to explain the noncompliance, the 1869
authority may terminate the agreement and require the taxpayer to 1870
pay to the state all or a portion of the taxes that would have 1871
been owed in regards to the exempt equipment in previous years, 1872
all as determined under rules adopted pursuant to division (K) of 1873
this section. In determining the portion of the taxes that would 1874
have been owed on the previously exempted equipment to be paid to 1875
this state by the taxpayer, the authority shall consider the 1876
effect of market conditions on the taxpayer's eligible computer 1877
data center and whether the taxpayer continues to maintain other 1878
operations in this state. After making the determination, the 1879
authority shall certify to the tax commissioner the amount to be 1880
paid by the taxpayer. The tax commissioner shall make an 1881
assessment for that amount against the taxpayer under Chapter 1882
5739. or 5741. of the Revised Code. The time limitations on 1883
assessments under those chapters do not apply to an assessment 1884
under this division, but the tax commissioner shall make the 1885
assessment within one year after the date the authority certifies 1886
to the tax commissioner the amount to be paid by the taxpayer. 1887

(K) The director of development services, after consultation 1888
with the tax commissioner and in accordance with Chapter 119. of 1889
the Revised Code, shall adopt rules necessary to implement this 1890
section. The rules may provide for recipients of tax exemptions 1891
under this section to be charged fees to cover administrative 1892
costs incurred in the administration of this section. The fees 1893
collected shall be credited to the ~~tax incentive programs~~ 1894
~~operating~~ business assistance fund created in section 122.174 of 1895
the Revised Code. At the time the director gives public notice 1896
under division (A) of section 119.03 of the Revised Code of the 1897
adoption of the rules, the director shall submit copies of the 1898
proposed rules to the chairpersons of the standing committees on 1899
economic development in the senate and the house of 1900
representatives. 1901

(L) On or before the first day of August of each year, the 1902
director of development services shall submit a report to the 1903
governor, the president of the senate, and the speaker of the 1904
house of representatives on the tax exemption authorized under 1905
this section. The report shall include information on the number 1906
of agreements that were entered into under this section during the 1907
preceding calendar year, a description of the eligible computer 1908
data center that is the subject of each such agreement, and an 1909
update on the status of eligible computer data centers under 1910
agreements entered into before the preceding calendar year. 1911

Sec. 122.39. As used in sections 122.39 and 122.41 to 122.62 1912
of the Revised Code: 1913

(A) "Financial institution" means any banking corporation, 1914
trust company, insurance company, savings and loan association, 1915
building and loan association, or corporation, partnership, 1916
federal lending agency, foundation, or other institution engaged 1917
in lending or investing funds for industrial or business purposes. 1918

(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 1950
insurance as provided in section 122.451 of the Revised Code. It 1951
is hereby determined that the accomplishment of such purposes is 1952
essential so that the people of the state may maintain their 1953
present high standards in comparison with the people of other 1954
states and so that opportunities for employment and for favorable 1955
markets for the products of the state's natural resources, 1956
agriculture, and manufacturing shall be improved and that it is 1957
necessary for the state to establish the programs authorized 1958
pursuant to Chapter 122. of the Revised Code, ~~to establish the~~ 1959
~~development financing advisory council,~~ and ~~to invest it and the~~ 1960
director of development services with the powers and duties 1961
provided in Chapter 122. of the Revised Code. The powers granted 1962
to the director ~~of development~~ by Chapter 165. of the Revised Code 1963
are independent of and in addition and alternate to, and are not 1964
limited or restricted by, Chapter 122. of the Revised Code. 1965

~~(B) The development financing advisory council shall:~~ 1966

~~(1) Make recommendations to the director of development as to 1967
applications for assistance pursuant to sections 122.39 to 122.62 1968
or Chapter 166. of the Revised Code. The council may revise its 1969
recommendations to reflect any changes in the proposed assistance 1970
made by the director. 1971~~

~~(2) Advise the director in the administration of sections 1972
122.39 to 122.62 and Chapter 166. of the Revised Code; 1973~~

~~(3) Adopt bylaws to govern the conduct of the council's 1974
business. 1975~~

Sec. 122.42. (A) The director of development services shall 1976
do all of the following: 1977

(1) Receive applications for assistance under sections 122.39 1978
and 122.41 to 122.62 of the Revised Code, ~~and, after processing,~~ 1979

forward them to the development financing advisory board together	1980
with necessary supporting information;	1981
(2) Receive the recommendations of the board and make <u>Make</u> a	1982
final determination whether to approve the application for	1983
assistance;	1984
(3) Transmit determinations to approve assistance to the	1985
controlling board together with any information the controlling	1986
board requires for the board's review and decision as to whether	1987
to approve the assistance;	1988
(4) Issue revenue bonds of the state through the treasurer of	1989
state, as necessary, payable solely from revenues and other	1990
sources as provided in sections 122.39 <u>and 122.41</u> to 122.62 of the	1991
Revised Code.	1992
(B) The director may do all of the following:	1993
(1) Fix the rate of interest and charges to be made upon or	1994
with respect to moneys loaned by the director and the terms upon	1995
which mortgages and lease rentals may be guaranteed and the rates	1996
of charges to be made for the loans and guarantees and to make	1997
provisions for the operation of the funds established by the	1998
director in accordance with this section and sections 122.54,	1999
122.55, 122.56, and 122.57 of the Revised Code;	2000
(2) Loan moneys from the fund established in accordance with	2001
section 122.54 of the Revised Code pursuant to and in compliance	2002
with sections 122.39 <u>and 122.41</u> to 122.62 of the Revised Code;	2003
(3) Acquire in the name of the director any property of any	2004
kind or character in accordance with sections 122.39 <u>and 122.41</u> to	2005
122.62 of the Revised Code, by purchase, purchase at foreclosure,	2006
or exchange on such terms and in such manner as the director	2007
considers proper;	2008
(4) Make and enter into all contracts and agreements	2009

necessary or incidental to the performance of the director's 2010
duties and the exercise of the director's powers under sections 2011
122.39 and 122.41 to 122.62 of the Revised Code; 2012

(5) Maintain, protect, repair, improve, and insure any 2013
property which the director has acquired and dispose of the same 2014
by sale, exchange, or lease for the consideration and on the terms 2015
and in the manner as the director considers proper, but is not 2016
authorized to operate any such property as a business except as 2017
the lessor of the property; 2018

(6)(a) When the cost of any contract for the maintenance, 2019
protection, repair, or improvement of any property held by the 2020
director other than compensation for personal services involves an 2021
expenditure of more than one thousand dollars, the director shall 2022
make a written contract with the lowest responsive and responsible 2023
bidder in accordance with section 9.312 of the Revised Code after 2024
advertisement for not less than two consecutive weeks in a 2025
newspaper of general circulation in the county where such 2026
contract, or some substantial part of it, is to be performed, and 2027
in such other publications as the director determines, which 2028
notice shall state the general character of the work and the 2029
general character of the materials to be furnished, the place 2030
where plans and specifications may be examined, and the time and 2031
place of receiving bids. 2032

(b) Each bid for a contract for the construction, demolition, 2033
alteration, repair, or reconstruction of an improvement shall 2034
contain the full name of every person interested in it and meet 2035
the requirements of section 153.54 of the Revised Code. 2036

(c) Each bid for a contract, except as provided in division 2037
(B)(6)(b) of this section, shall contain the full name of every 2038
person interested in it and shall be accompanied by bond or 2039
certified check on a solvent bank, in such amount as the director 2040
considers sufficient, that if the bid is accepted a contract will 2041

be entered into and the performance of the proposal secured. 2042

(d) The director may reject any and all bids. 2043

(e) A bond with good and sufficient surety, approved by the 2044
director, shall be required of every contractor awarded a contract 2045
except as provided in division (B)(6)(b) of this section, in an 2046
amount equal to at least fifty per cent of the contract price, 2047
conditioned upon faithful performance of the contract. 2048

(7) Employ financial consultants, appraisers, consulting 2049
engineers, superintendents, managers, construction and accounting 2050
experts, attorneys, and other employees and agents as are 2051
necessary in the director's judgment and fix their compensation; 2052

(8) Assist qualified persons in the coordination and 2053
formation of a small business development company, having a 2054
statewide area of operation, conditional upon the company's 2055
agreeing to seek to obtain certification from the federal small 2056
business administration as a certified statewide development 2057
company and participation in the guaranteed loan program 2058
administered by the small business administration pursuant to the 2059
Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the 2060
initial period of formation of the statewide small business 2061
development company, the director shall provide technical and 2062
financial expertise, legal and managerial assistance, and other 2063
services as are necessary and proper to enable the company to 2064
obtain and maintain federal certification and participation in the 2065
federal guaranteed loan program. The director may charge a fee, in 2066
such amount and on such terms and conditions as the director 2067
determines necessary and proper, for assistance and services 2068
provided pursuant to division (B)(8) of this section. 2069

Persons chosen by the director to receive assistance in the 2070
formation of a statewide small business development company 2071
pursuant to division (B)(8) of this section shall make a special 2072

effort to use their participation in the federal guaranteed loan 2073
program to assist small businesses which are minority business 2074
enterprises as defined in division (E) of section 122.71 of the 2075
Revised Code. The director, with the assistance of the minority 2076
business development division of the department of development, 2077
shall provide technical and financial expertise, legal and 2078
managerial assistance, and other services in such a manner to 2079
enable the development company to provide assistance to small 2080
businesses which are minority business enterprises, and shall make 2081
available to the development company information pertaining to 2082
assistance available to minority business enterprises under 2083
programs established pursuant to sections 122.71 to 122.83, 122.87 2084
to 122.89, 122.92 to 122.94, 123.151, and 125.081 of the Revised 2085
Code. 2086

(9) Receive and accept grants, gifts, and contributions of 2087
money, property, labor, and other things of value to be held, 2088
used, and applied only for the purpose for which such grants, 2089
gifts, and contributions are made, from individuals, private and 2090
public corporations, from the United States or any agency of the 2091
United States, from the state or any agency of the state, and from 2092
any political subdivision of the state, and may agree to repay any 2093
contribution of money or to return any property contributed or the 2094
value of the property at such times, in such amounts, and on such 2095
terms and conditions, excluding the payment of interest, as the 2096
director determines at the time such contribution is made, and may 2097
evidence such obligations by notes, bonds, or other written 2098
instruments; 2099

(10) Establish with the treasurer of state the funds provided 2100
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 2101
Code, in addition to such funds as the director determines are 2102
necessary or proper; 2103

(11) Do all acts and things necessary or proper to carry out 2104

the powers expressly granted and the duties imposed in sections 2105
122.39 and 122.41 to 122.62 and Chapter 163. of the Revised Code. 2106

(C) All expenses and obligations incurred by the director in 2107
carrying out the director's powers and in exercising the 2108
director's duties under sections 122.39 and 122.41 to 122.62 of 2109
the Revised Code, shall be payable solely from the proceeds of 2110
revenue bonds issued pursuant to those sections, from revenues or 2111
other receipts or income of the director, from grants, gifts, and 2112
contributions, or funds established in accordance with those 2113
sections. Those sections do not authorize the director to incur 2114
indebtedness or to impose liability on the state or any political 2115
subdivision of the state. 2116

(D) Financial statements and financial data submitted to the 2117
director by any corporation, partnership, or person in connection 2118
with a loan application, or any information taken from such 2119
statements or data for any purpose, shall not be open to public 2120
inspection. 2121

Sec. 122.43. The director of development services, with 2122
controlling board approval, may lend funds which are obtained from 2123
the sale of revenue bonds issued by the treasurer of state 2124
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2125
Code, from revenues or other receipts or income of the director, 2126
or funds established in accordance with sections 122.39 and 122.41 2127
to 122.62 of the Revised Code, and from grants, gifts, and 2128
contributions subject to any provisions of resolutions authorizing 2129
the revenue bonds or of trust agreements securing such bonds, to 2130
community improvement corporations and Ohio development 2131
corporations and other corporations, partnerships, and persons for 2132
the purpose of procuring or improving real or personal property, 2133
or both, for the establishment, location, or expansion of 2134
industrial, distribution, commercial, or research facilities in 2135

the state, and to community improvement corporations and Ohio 2136
development corporations for the purpose of loaning funds to other 2137
corporations, partnerships, and persons for the purpose of 2138
procuring or improving real or personal property, or both, for the 2139
establishment, location, or expansion of industrial, distribution, 2140
commercial, or research facilities in the state, if the director 2141
finds that: 2142

(A) The project is economically sound and will benefit the 2143
people of the state by increasing opportunities for employment and 2144
strengthening the economy of the state; 2145

(B) The proposed borrower, if other than a community 2146
improvement corporation or an Ohio development corporation, is 2147
unable to finance the proposed project through ordinary financial 2148
channels upon reasonable terms and at comparable interest rates, 2149
or the borrower, if a community improvement corporation or an Ohio 2150
development corporation, should not, in the opinion of the 2151
director, be required to finance the proposed project without a 2152
loan from the director; 2153

(C) The value of the project is, or upon completion thereof 2154
will be, at least equal to the total amount of the money expended 2155
in such procurement or improvement of which amount one or more 2156
financial institutions have loaned or invested not less than forty 2157
per cent; 2158

(D) The amount to be loaned by the director will not exceed 2159
fifty per cent of the total amount expended in the procurement or 2160
improvement of the project; 2161

(E) The amount to be loaned by the director will be 2162
adequately secured by a first or second mortgage upon the project, 2163
and by mortgages, leases, liens, assignments, or pledges on or of 2164
such other property or contracts as the director shall require and 2165
that such mortgage will not be subordinate to any other liens or 2166

mortgages except the liens securing loans or investments made by 2167
financial institutions referred to in division (C) of this 2168
section, and the liens securing loans previously made by any 2169
financial institution in connection with the procurement or 2170
expansion of all or part of a project. 2171

In no event may the ~~director~~ DIRECTOR director lend funds 2172
under the authority of this section for the purpose of procuring 2173
or improving motor vehicles, power driven vehicles, office 2174
equipment, raw materials, small tools, supplies, inventories, or 2175
accounts receivable. 2176

Sec. 122.44. Fees, charges, rates of interest, times of 2177
payment of interest and principal, and other terms, conditions, 2178
and provisions of the loans made by the director of development 2179
services pursuant to sections 122.39 and 122.41 to 122.62 of the 2180
Revised Code shall be such as the director determines to be 2181
appropriate and in furtherance of the purpose for which the loans 2182
are made, but the mortgage lien securing any money loaned by the 2183
director may be subordinate to the mortgage lien securing any 2184
money loaned or invested by a financial institution, but shall be 2185
superior to that securing any money loaned or expended by any 2186
other corporation or person. The funds used in making such loans 2187
shall be disbursed upon order of the director. 2188

Sec. 122.48. Each issue of revenue bonds issued by the 2189
treasurer of state pursuant to sections 122.39 and 122.41 to 2190
122.62 of the Revised Code, shall be dated, shall bear interest at 2191
a rate or rates or at a variable rate, as provided in or 2192
authorized by the proceedings authorizing or providing for the 2193
terms and conditions of the revenue bonds, shall mature at such 2194
time or times, not to exceed forty years from date, as determined 2195
by the director of development services and may be made redeemable 2196
before maturity at the option of the director at such price or 2197

prices and under such terms and conditions as are fixed by the 2198
director prior to the issuance of the bonds. The director shall 2199
determine the form of the bonds, including any interest coupons to 2200
be attached thereto, and the denomination or denominations of the 2201
bonds and the place or places of payment of principal and 2202
interest, which may be at any bank or trust company within or 2203
without the state. 2204

The bonds shall be executed by the signature or facsimile 2205
signature of the treasurer of state, the official seal or a 2206
facsimile thereof of the state shall be affixed thereto and 2207
attested by the treasurer of state or designated treasurer of 2208
state, and any coupons attached thereto shall bear the facsimile 2209
signature of the treasurer of state. In case the person whose 2210
signature, or a facsimile of whose signature, appears on any bonds 2211
or coupons ceases to be such officer before delivery of bonds or 2212
in case such person was not at the date of such bonds or coupons 2213
such officer but at the actual date of execution of such bonds or 2214
coupons was the proper officer, such signature or facsimile shall 2215
nevertheless be valid and sufficient for all purposes the same as 2216
if ~~he~~ the person had remained in office until such delivery. 2217

All revenue bonds issued under sections 122.39 and 122.41 to 2218
122.62 of the Revised Code, shall be negotiable instruments. The 2219
bonds may be issued in coupon or in registered form or both, as 2220
the treasurer determines. Provision may be made for the 2221
registration of any coupon bonds as to the principal alone and 2222
also as to both principal and interest, and for the reconversion 2223
into coupon bonds of any bonds registered as to both principal and 2224
interest. The treasurer of state may sell such bonds in the manner 2225
and for the price ~~he~~ the treasurer of state determines to be for 2226
the best interest of the state. 2227

Prior to the preparation of definitive bonds, the treasurer 2228
of state may, under like restrictions, issue interim receipts or 2229

temporary bonds, with or without coupons, exchangeable for 2230
definitive bonds when such bonds have been executed and are 2231
available for delivery. The treasurer of state may also provide 2232
for the replacement of any bonds which become mutilated or are 2233
destroyed, stolen, or lost. Bonds may be issued under sections 2234
122.39 to 122.62 of the Revised Code, without obtaining the 2235
consent of any department, division, commission, board, bureau, or 2236
agency of the state, and without any other proceeding or the 2237
happening of any other conditions or things than those 2238
proceedings, conditions, or things which are specifically required 2239
by such sections. 2240

Sec. 122.49. The proceeds of each issue of revenue bonds 2241
issued pursuant to sections 122.39 and 122.41 to 122.62 of the 2242
Revised Code shall be used for the making of loans authorized in 2243
sections 122.43 and 122.45 of the Revised Code, for the purchase 2244
and improvement of property authorized in section 122.46 of the 2245
Revised Code, for insuring mortgage payments authorized in section 2246
122.451 of the Revised Code, and for the crediting into and among 2247
the funds established in accordance with sections 122.35, 122.54, 2248
122.55, 122.56, 122.561, and 122.57 of the Revised Code, but 2249
subject to such conditions, limitations, and covenants with the 2250
purchasers and holders of the bonds as shall be provided for in 2251
the bond authorization proceedings and in the trust agreement 2252
securing the same. 2253

Provision shall be made by the director of development 2254
services for the payment of the expenses of the director in 2255
operating the assistance programs authorized under this chapter in 2256
such manner and to such extent as shall be determined by the 2257
director. 2258

Sec. 122.50. Revenue bonds issued under sections 122.39 and 2259
122.41 to 122.62, inclusive, of the Revised Code, do not 2260

constitute a debt, or a pledge of the faith and credit, of the 2261
state or of any political subdivision thereof, but such bonds 2262
shall be payable solely from the funds pledged for their payment 2263
as authorized by such sections, or by funds derived from the 2264
issuance of refunding bonds as authorized in section 122.52 of the 2265
Revised Code, which refunding bonds shall be payable solely from 2266
funds pledged for their payment as authorized by such section. All 2267
such revenue bonds shall contain on the face thereof a statement 2268
to the effect that the bonds, as to both principal and interest, 2269
are not an obligation of the state or of any political subdivision 2270
thereof, but are payable solely from revenues pledged for their 2271
payment. 2272

Sec. 122.51. All revenue bonds issued under sections 122.39 2273
and 122.41 to 122.62, inclusive, of the Revised Code, are lawful 2274
investments of banks, building and loan and savings and loan 2275
associations, deposit guarantee associations, trust companies, 2276
trustees, fiduciaries, trustees or other officers having charge of 2277
sinking or bond retirement funds of municipal corporations and 2278
other subdivisions of this state, and of domestic insurance 2279
companies notwithstanding sections 3907.14 and 3925.08 of the 2280
Revised Code, and are acceptable as security for the deposit of 2281
public moneys. 2282

Sec. 122.52. The director of development services may provide 2283
for the issuance of revenue refunding bonds of the state by the 2284
treasurer of state, payable solely from the sinking funds 2285
established in accordance with section 122.51 of the Revised Code 2286
at the times and in the order and manner provided by the director 2287
and in any trust agreement securing such bonds and shall also be 2288
secured by moneys in the other funds established pursuant to 2289
sections 122.39 and 122.41 to 122.62 of the Revised Code to the 2290
extent and on the terms specified by the director, for the purpose 2291

of refunding any revenue bonds then outstanding which have been 2292
issued under sections 122.39 and 122.41 to 122.62 of the Revised 2293
Code, including the payment of any redemption premium thereon and 2294
any interest accrued or to accrue to the date of redemption of 2295
such bonds. The issuance of such bonds, the maturities and other 2296
details thereof, the rights of the holders thereof, and the 2297
rights, duties, and obligations of the director and treasurer of 2298
state in respect to such bonds shall be governed by such sections 2299
insofar as they are applicable. 2300

Sec. 122.53. In the discretion of the treasurer of state, any 2301
bonds issued under sections 122.39 and 122.41 to 122.62 of the 2302
Revised Code, may be secured by a trust agreement between the 2303
treasurer of state and a corporate trustee, which trustee may be 2304
any trust company or bank having the powers of a trust company 2305
within or without the state. 2306

Any such trust agreement may pledge or assign payments of 2307
principal of and interest on loans, charges, fees, and other 2308
revenue to be received by the director of development services, 2309
all rentals received under leases made by the director, and all 2310
proceeds of the sale or other disposition of property held by the 2311
director, and may provide for the holding in trust by the trustee 2312
to the extent provided for in the proceedings authorizing such 2313
bonds, of all such moneys and moneys otherwise payable into the 2314
mortgage guarantee fund created by section 122.56 of the Revised 2315
Code, and all moneys otherwise payable into the mortgage insurance 2316
fund created by section 122.561 of the Revised Code, and of moneys 2317
payable into the sinking fund or funds referred to in section 2318
122.57 of the Revised Code, but shall not convey or mortgage any 2319
of the real or personal property held by the director or any part 2320
thereof. Any such trust agreement, or any proceedings providing 2321
for the issuance of such bonds, may contain such provisions for 2322
protecting and enforcing the rights and remedies of the 2323

bondholders as are reasonable and proper and not in violation of 2324
law, including covenants setting forth the duties of the director 2325
in relation to the acquisition of property, and the construction, 2326
improvement, maintenance, repair, operation, and insurance of 2327
facilities, the making of loans and leases and the terms and 2328
provisions thereof, and the custody, safeguarding, investment, and 2329
application of all moneys, and provisions for the employment of 2330
consulting engineers or other consultants in connection with the 2331
making of loans and leases and the construction or operation of 2332
any facility. Any bank or trust company incorporated under the 2333
laws of this state which may act as trustee or as depository of 2334
the proceeds of bonds or of revenue may furnish such indemnifying 2335
bonds or may pledge such securities as are required by the 2336
treasurer of state. Any such trust agreement may set forth the 2337
rights and remedies of the bondholders and of the trustee, and may 2338
restrict the individual right of action by bondholders as is 2339
customary in trust agreements or trust indentures securing bonds 2340
or debentures of corporations. Such trust agreement may contain 2341
such other provisions as the treasurer of state deems reasonable 2342
and proper for the security of the bondholders. All expenses 2343
incurred by the treasurer of state in carrying out the provisions 2344
of any such trust agreement shall be treated as a part of the cost 2345
of the operation of the assistance programs authorized pursuant to 2346
Chapter 122. of the Revised Code. Any such trust agreement may 2347
provide the method whereby general administrative overhead expense 2348
of the director with respect to those assistance programs shall be 2349
allocated among the funds established pursuant to Chapter 122. of 2350
the Revised Code with respect to the operating expenses of the 2351
director payable out of the income of the assistance programs. 2352

Sec. 122.561. The mortgage insurance fund of the director of 2353
development services is hereby created to consist of all money 2354
allocated by the director from the proceeds of the sale of any 2355

issue of revenue bonds, to the extent and subject to the 2356
conditions provided in the proceedings authorizing such bonds or 2357
in the trust agreements securing such bonds, for the purpose of 2358
insuring mortgage payments pursuant to section 122.451 of the 2359
Revised Code, all grants and contributions made to the director 2360
for such purpose, all moneys deposited or credited to the mortgage 2361
insurance fund pursuant to section 169.05 of the Revised Code, all 2362
other moneys and property designated by the director and by law 2363
for such purpose, all mortgage insurance premiums charged and 2364
collected as provided in this section, and all receipts and 2365
proceeds from the sale, disposal, lease, or rental of real or 2366
personal property which the director may hold as a result of a 2367
default in an insured mortgage. The director shall fix mortgage 2368
insurance premiums for the insurance of mortgage payments pursuant 2369
to section 122.451 of the Revised Code, to be computed as a 2370
percentage of the principal obligation of the mortgage outstanding 2371
at the beginning of each mortgage year. Such insurance premiums 2372
shall not be more than three per cent per annum of the outstanding 2373
principal obligation, and shall be calculated on the basis of all 2374
pertinent available data. Such premiums shall be payable by the 2375
mortgagors or the mortgagees in such manner as is prescribed by 2376
the director. The amount of premium need not be uniform among the 2377
various mortgages insured. The director may provide for the 2378
custody, investment, and use of the unclaimed funds trust fund 2379
created by section 169.05 of the Revised Code and all mortgage 2380
insurance premiums, including the payment therefrom of the 2381
expenses and costs of the director in insuring mortgage payments 2382
pursuant to section 122.451 of the Revised Code. Any financial 2383
statements or financial data submitted to the director, ~~the~~ 2384
~~development financing advisory council,~~ or the controlling board 2385
in connection with any application for the insurance of mortgage 2386
payments, or any information taken from such statements or data, 2387
is not open to public inspection. 2388

Sec. 122.57. All payments of principal of and interest on the 2389
loans made by the director of development services, all rentals 2390
received under leases made by ~~him~~ the director, and all proceeds 2391
of the sale or other disposition of property held by ~~him~~ the 2392
director shall be placed in separate sinking funds to the extent 2393
provided in the proceedings authorizing revenue bonds which are 2394
hereby pledged to and charged with the payment of interest on, 2395
principal of and redemption premium on, the revenue bonds issued 2396
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2397
Code to the extent provided in the proceedings authorizing and the 2398
trust agreements securing such bonds. The moneys therein in excess 2399
of the amounts required by the bond proceedings and trust 2400
agreements and all payments not so required to be paid into such 2401
sinking funds shall be retained or placed in such fund or in the 2402
other funds provided for by sections 122.35, 122.54, 122.42, 2403
122.55, 122.56, 122.561, and 122.57 of the Revised Code as the 2404
director shall determine, and shall be available for the uses for 2405
which such funds are established. 2406

Sec. 122.60. As used in sections 122.60 to 122.605 of the 2407
Revised Code: 2408

(A) "Capital access loan" means a loan made by a 2409
participating financial institution to an eligible business that 2410
may be secured by a deposit of money from the fund into the 2411
participating financial institution's program reserve account. 2412

(B) "Department of development" means the ~~department of~~ 2413
development services agency. 2414

(C) "Eligible business" means a for-profit business entity, 2415
or a nonprofit entity, that had total annual sales in its most 2416
recently completed fiscal year of less than ten million dollars 2417
and that has a principal place of for-profit business or nonprofit 2418

entity activity within the state, the operation of which, alone or 2419
in conjunction with other facilities, will create new jobs or 2420
preserve existing jobs and employment opportunities and will 2421
improve the economic welfare of the people of the state. As used 2422
in this division, "new jobs" does not include existing jobs 2423
transferred from another facility within the state, and "existing 2424
jobs" means only existing jobs at facilities within the same 2425
municipal corporation or township in which the project, activity, 2426
or enterprise that is the subject of a capital access loan is 2427
located. 2428

(D) "Financial institution" means any bank, trust company, 2429
savings bank, or savings and loan association that is chartered by 2430
and has a significant presence in the state, or any national bank, 2431
federal savings and loan association, or federal savings bank that 2432
has a significant presence in the state. 2433

(E) "Fund" means the capital access loan program fund. 2434

(F) "Minority business supplier development council" has the 2435
same meaning as in section 122.71 of the Revised Code. 2436

(G) "Participating financial institution" means a financial 2437
institution that has a valid, current participation agreement with 2438
the ~~department~~ development services agency. 2439

~~(G)~~(H) "Participation agreement" means the agreement between 2440
a financial institution and the ~~department~~ agency under which a 2441
financial institution may participate in the program. 2442

~~(H)~~(I) "Passive real estate ownership" means the ownership of 2443
real estate for the sole purpose of deriving income from it by 2444
speculation, trade, or rental. 2445

~~(I)~~(J) "Program" means the capital access loan program 2446
created under section 122.602 of the Revised Code. 2447

~~(J)~~(K) "Program reserve account" means a dedicated account at 2448

each participating financial institution that is the property of 2449
the state and may be used by the participating financial 2450
institution only for the purpose of recovering a claim under 2451
section 122.604 of the Revised Code arising from a default on a 2452
loan made by the participating financial institution under the 2453
program. 2454

Sec. 122.601. There is hereby created in the state treasury 2455
the capital access loan program fund. The fund shall consist of 2456
money deposited into it from the minority business enterprise loan 2457
fund pursuant to section 122.80 of the Revised Code and the 2458
facilities establishment fund pursuant to section 166.03 of the 2459
Revised Code and all money deposited into it pursuant to section 2460
122.602 of the Revised Code. The total amount of money deposited 2461
into the fund from the minority business enterprise loan fund or 2462
the facilities establishment fund shall not exceed three million 2463
dollars during any particular fiscal year of the ~~department~~ 2464
development services agency. 2465

The ~~department~~ agency shall disburse money from the fund only 2466
to pay the operating costs of the program, including the 2467
administrative costs incurred by the ~~department~~ agency in 2468
connection with the program, and only in keeping with the purposes 2469
specified in sections 122.60 to 122.605 of the Revised Code. 2470

Sec. 122.602. (A) There is hereby created in the department 2471
of development the capital access loan program to assist 2472
participating financial institutions in making program loans to 2473
eligible businesses that face barriers in accessing working 2474
capital and obtaining fixed asset financing. In administering the 2475
program, the director of development may do any of the following: 2476

(1) Receive and accept grants, gifts, and contributions of 2477
money, property, labor, and other things of value to be held, 2478

used, and applied only for the purpose for which the grants, 2479
gifts, and contributions are made, from individuals, private and 2480
public corporations, the United States or any agency of the United 2481
States, the state or any agency of the state, or any political 2482
subdivision of the state; 2483

(2) Agree to repay any contribution of money or return any 2484
property contributed or the value of that property at the times, 2485
in the amounts, and on the terms and conditions, excluding the 2486
payment of interest, that the director consents to at the time a 2487
contribution is made; and evidence obligations by notes, bonds, or 2488
other written instruments; 2489

(3) Adopt rules under Chapter 119. of the Revised Code to 2490
carry out the purposes of the program specified in sections 122.60 2491
to 122.605 of the Revised Code; 2492

(4) Engage in all other acts, and enter into contracts and 2493
execute all instruments, necessary or appropriate to carry out the 2494
purposes specified in sections 122.60 to 122.605 of the Revised 2495
Code. 2496

(B) The director shall determine the eligibility of a 2497
financial institution to participate in the program and may set a 2498
limit on the number of financial institutions that may participate 2499
in the program. 2500

(C) To be considered eligible by the director to participate 2501
in the program, a financial institution shall enter into a 2502
participation agreement with the department that sets out the 2503
terms and conditions under which the department will deposit 2504
moneys from the fund into the financial institution's program 2505
reserve account, specifies the criteria for loan qualification 2506
under the program, and contains any additional terms the director 2507
considers necessary. 2508

(D) After receiving the certification required under division 2509

(C) of section 122.603 of the Revised Code, the director may 2510
disburse moneys from the fund to a participating financial 2511
institution for deposit in its program reserve account if the 2512
director determines that the capital access loan involved meets 2513
all of the following criteria: 2514

(1) It will be made to an eligible business. 2515

(2) It will be used by the eligible business for a project, 2516
activity, or enterprise that fosters economic development. 2517

(3) It will not be made in order to enroll in the program 2518
prior debt that is not covered under the program and that is owed 2519
or was previously owed by an eligible business to the financial 2520
institution. 2521

(4) It will not be utilized for a project or development 2522
related to the on-site construction or purchase of residential 2523
housing. 2524

(5) It will not be used to finance passive real estate 2525
ownership. 2526

(6) It conforms to the requirements of divisions (E), (F), 2527
(G), (H), and (I) of this section, and to the rules adopted by the 2528
director under division (A)(3) of this section. 2529

(E) The director shall not approve a deposit amount from the 2530
fund for a capital access loan to an eligible business that 2531
exceeds two hundred fifty thousand dollars for working capital or 2532
five hundred thousand dollars for the purchase of fixed assets. An 2533
eligible business may apply for the maximum deposit amount ~~of~~ for 2534
both working capital and the purchase of fixed assets in the same 2535
capital access loan enrollment. 2536

(F) A financial institution may apply to the director for the 2537
approval of a capital access loan to any business that is owned or 2538
operated by a person that has previously defaulted under any state 2539

financial assistance program. 2540

(G) Eligible businesses that apply for a capital access loan 2541
shall comply with section 9.66 of the Revised Code. 2542

(H) A financial institution may apply to the director for the 2543
approval of a capital access loan that refinances a nonprogram 2544
loan made by another financial institution. 2545

(I) The director shall not approve a capital access loan that 2546
refinances a nonprogram loan made by the same financial 2547
institution, unless the amount of the refinanced loan exceeds the 2548
existing debt, in which case only the amount exceeding the 2549
existing debt is eligible for a loan under the program. 2550

Sec. 122.603. (A)(1) Upon approval by the director of 2551
development services and after entering into a participation 2552
agreement with the ~~department of~~ development services agency, a 2553
participating financial institution making a capital access loan 2554
shall establish a program reserve account. The account shall be an 2555
interest-bearing account and shall contain only moneys deposited 2556
into it under the program and the interest payable on the moneys 2557
in the account. 2558

(2) All interest payable on the moneys in the program reserve 2559
account shall be added to the moneys and held as an additional 2560
loss reserve. The director may require that a portion or all of 2561
the accrued interest so held in the account be released to the 2562
~~department~~ agency. If the director causes a release of accrued 2563
interest, the director shall deposit the released amount into the 2564
capital access loan program fund created in section 122.601 of the 2565
Revised Code. The director shall not require the release of that 2566
accrued interest more than twice in a fiscal year. 2567

(B) When a participating financial institution makes a 2568
capital access loan, it shall require the eligible business to pay 2569

to the participating financial institution a fee in an amount that 2570
is not less than one and one-half per cent, and not more than 2571
three per cent, of the principal amount of the loan. The 2572
participating financial institution shall deposit the fee into its 2573
program reserve account, and it also shall deposit into the 2574
account an amount of its own funds equal to the amount of the fee. 2575
The participating financial institution may recover from the 2576
eligible business all or part of the amount that the participating 2577
financial institution is required to deposit into the account 2578
under this division in any manner agreed to by the participating 2579
financial institution and the eligible business. 2580

(C) For each capital access loan made by a participating 2581
financial institution, the participating financial institution 2582
shall certify to the director, within a period specified by the 2583
director, that the participating financial institution has made 2584
the loan. The certification shall include the amount of the loan, 2585
the amount of the fee received from the eligible business, the 2586
amount of its own funds that the participating financial 2587
institution deposited into its program reserve account to reflect 2588
that fee, and any other information specified by the director. The 2589
certification also shall indicate if the eligible business 2590
receiving the capital access loan is a minority business 2591
enterprise as defined in section 122.71 of the Revised Code or 2592
certified by the minority business supplier development council. 2593

(D)(1)(a) Upon receipt of each of the first three 2594
certifications from a participating financial institution made 2595
under division (C) of this section and subject to section 122.602 2596
of the Revised Code, the director shall disburse to the 2597
participating financial institution from the capital access loan 2598
program fund an amount ~~equal~~ not to exceed fifty per cent of the 2599
principal amount of the particular capital access loan for deposit 2600
into the participating financial institution's program reserve 2601

account. Thereafter, upon receipt of a certification from that 2602
participating financial institution made under division (C) of 2603
this section and subject to section 122.602 of the Revised Code, 2604
the director shall disburse to the participating financial 2605
institution from the capital access loan program fund an amount 2606
equal to ten per cent of the principal amount of the particular 2607
capital access loan for deposit into the participating financial 2608
institution's program reserve account. 2609

(b) Notwithstanding division (D)(1)(a) of this section, and 2610
subject to section 122.602 of the Revised Code, upon receipt of 2611
any certification from a participating financial institution made 2612
under division (C) of this section with respect to a capital 2613
access loan made to an eligible business that is a minority 2614
business enterprise, the director shall disburse to the 2615
participating financial institution from the capital access loan 2616
program fund an amount ~~equal~~ not to exceed eighty per cent of the 2617
principal amount of the particular capital access loan for deposit 2618
into the participating financial institution's program reserve 2619
account. 2620

(2) The disbursement of moneys from the fund to a 2621
participating financial institution does not require approval from 2622
the controlling board. 2623

(E) If the amount in a program reserve account exceeds an 2624
amount equal to thirty-three per cent of a participating financial 2625
institution's outstanding capital access loans, the ~~department~~ 2626
agency may cause the withdrawal of the excess amount and the 2627
deposit of the withdrawn amount into the capital access loan 2628
program fund. 2629

(F)(1) The ~~department~~ agency may cause the withdrawal of the 2630
total amount in a participating financial institution's program 2631
reserve account if any of the following applies: 2632

(a) The financial institution is no longer eligible to participate in the program. 2633
2634

(b) The participation agreement expires without renewal by the ~~department~~ agency or the financial institution. 2635
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(c) The financial institution has no outstanding capital access loans. 2637
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(d) The financial institution has not made a capital access loan within the preceding twenty-four months. 2639
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(2) If the ~~department~~ agency causes a withdrawal under division (F)(1) of this section, the ~~department~~ agency shall deposit the withdrawn amount into the capital access loan program fund. 2641
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Sec. 122.61. The exercise of the powers granted by sections 122.39 and 122.41 to 122.62 of the Revised Code, will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of conditions of employment, and will constitute the performance of essential governmental functions; therefore the director of development services shall not be required to pay any taxes upon any ~~of~~ property or assets held by ~~him~~ the director, or upon any property acquired or used by ~~him~~ the director under sections 122.39 and 122.41 to 122.62 of the Revised Code, or upon the income therefrom, provided, such exemption shall not apply to any property held by the director while it is in the possession of a private person, partnership, or corporation and used for private purposes for profit. The bonds, notes, or other obligations issued under such sections, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state. 2645
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Sec. 122.62. All moneys received under sections 122.39 and 2662

122.41 to 122.62 of the Revised Code as proceeds from the sale of 2663
bonds are trust funds. All moneys received under those sections 2664
shall be held and applied solely as provided in such sections and 2665
section 166.03 of the Revised Code. All such moneys, except as 2666
otherwise provided in any proceedings authorizing revenue bonds or 2667
in any trust agreement securing such bonds or except when 2668
deposited with the treasurer of state, or except as they may be 2669
invested pursuant to section 122.58 of the Revised Code, shall be 2670
kept in depositories as selected by the director of development 2671
services in the manner provided in sections 135.01 to 135.21 of 2672
the Revised Code, insofar as such sections are applicable, and the 2673
deposits shall be secured as provided in sections 135.01 to 135.21 2674
of the Revised Code. The proceedings authorizing the issuance of 2675
bonds of any issue or the trust agreement securing such bonds 2676
shall provide that any official to whom, or any bank or trust 2677
company to which, such moneys are paid, shall act as trustee of 2678
such moneys and hold and apply them for the purposes of sections 2679
122.39 and 122.41 to 122.62 of the Revised Code, subject to such 2680
rules as such sections and such bond issuance proceedings or trust 2681
agreement provide. 2682

Sec. 122.64. (A) There is hereby established in the 2683
~~department of development~~ services agency a business services 2684
~~division of economic development~~. The division shall be supervised 2685
by a deputy director appointed by the director of development 2686
services. 2687

The division is responsible for the administration of the 2688
state economic development financing programs established pursuant 2689
to sections 122.17 and 122.18, sections 122.39 and 122.41 to 2690
122.62, and Chapter 166. of the Revised Code ~~and for coordinating~~ 2691
~~the activities of the development financing advisory council so as~~ 2692
~~to ensure the efficient administration of the programs.~~ 2693

(B) The director of development services shall: 2694

~~(1) Appoint an individual to serve as director of the 2695
development financing advisory council; 2696~~

~~(2) Receive applications for assistance pursuant to sections 2697
122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. 2698
The director shall process the applications ~~and, except as 2699
provided in division (C)(2) of section 166.05 of the Revised Code, 2700
forward them to the development financing advisory council. As 2701
appropriate, the director shall receive the recommendations of the 2702
council as to applications for assistance. 2703~~~~

~~(3)(2) With the approval of the director of administrative 2704
services, establish salary schedules for employees of the various 2705
positions of employment with the division and assign the various 2706
positions to those salary schedules; 2707~~

~~(4) Furnish and pay for, out of funds appropriated to the 2708
department of development for that purpose, office space and 2709
associated utilities service, for the development financing 2710
advisory council; 2711~~

~~(5)(3) Employ and fix the compensation of financial 2712
consultants, appraisers, consulting engineers, superintendents, 2713
managers, construction and accounting experts, attorneys, and 2714
other agents for the assistance programs authorized pursuant to 2715
sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, 2716
and Chapter 166. of the Revised Code as are necessary; 2717~~

~~(6)(4) Supervise the administrative operations of the 2718
division; 2719~~

~~(7)(5) On or before the first day of October in each year, 2720
make an annual report of the activities and operations under 2721
assistance programs authorized pursuant to sections 122.39 and 2722
122.41 to 122.62 and Chapter 166. of the Revised Code for the 2723
preceding fiscal year to the governor and the general assembly. 2724~~

Each such report shall set forth a complete operating and 2725
financial statement covering such activities and operations during 2726
the year in accordance with generally accepted accounting 2727
principles and shall be audited by a certified public accountant. 2728
The director of development services shall transmit a copy of the 2729
audited financial report to the office of budget and management. 2730

Sec. 122.76. (A) The director of development services, with 2731
controlling board approval, may lend funds to minority business 2732
enterprises and to community improvement corporations, Ohio 2733
development corporations, minority contractors business assistance 2734
organizations, and minority business supplier development councils 2735
for the purpose of loaning funds to minority business enterprises 2736
and for the purpose of procuring or improving real or personal 2737
property, or both, for the establishment, location, or expansion 2738
of industrial, distribution, commercial, or research facilities in 2739
the state, and to community development corporations that 2740
predominantly benefit minority business enterprises or are located 2741
in a census tract that has a population that is sixty per cent or 2742
more minority if the director determines, in the director's sole 2743
discretion, that all of the following apply: 2744

(1) The project is economically sound and will benefit the 2745
people of the state by increasing opportunities for employment, by 2746
strengthening the economy of the state, or expanding minority 2747
business enterprises. 2748

(2) The proposed minority business enterprise borrower is 2749
unable to finance the proposed project through ordinary financial 2750
channels at comparable terms. 2751

(3) The value of the project is or, upon completion, will be 2752
at least equal to the total amount of the money expended in the 2753
procurement or improvement of the project. 2754

(4) The amount to be loaned by the director will not exceed 2755

~~sixty~~ seventy-five per cent of the total amount expended in the 2756
procurement or improvement of the project. 2757

(5) The amount to be loaned by the director will be 2758
adequately secured by a first or second mortgage upon the project 2759
or by mortgages, leases, liens, assignments, or pledges on or of 2760
other property or contracts as the director requires, and such 2761
mortgage will not be subordinate to any other liens or mortgages 2762
except the liens securing loans or investments made by financial 2763
institutions referred to in division (A)(3) of this section, and 2764
the liens securing loans previously made by any financial 2765
institution in connection with the procurement or expansion of all 2766
or part of a project. 2767

(B) Any proposed minority business enterprise borrower 2768
submitting an application for assistance under this section shall 2769
not have defaulted on a previous loan from the director, and no 2770
full or limited partner, major shareholder, or holder of an equity 2771
interest of the proposed minority business enterprise borrower 2772
shall have defaulted on a loan from the director. 2773

(C) The proposed minority business enterprise borrower shall 2774
demonstrate to the satisfaction of the director that it is able to 2775
successfully compete in the private sector if it obtains the 2776
necessary financial, technical, or managerial support and that 2777
support is available through the director, the minority business 2778
development office of the department of development, or other 2779
identified and acceptable sources. In determining whether a 2780
minority business enterprise borrower will be able to successfully 2781
compete, the director may give consideration to such factors as 2782
the successful completion of or participation in courses of study, 2783
recognized by the board of regents as providing financial, 2784
technical, or managerial skills related to the operation of the 2785
business, by the economically disadvantaged individual, owner, or 2786
partner, and the prior success of the individual, owner, or 2787

partner in personal, career, or business activities, as well as to 2788
other factors identified by the director. 2789

(D) The director shall not lend funds for the purpose of 2790
procuring or improving motor vehicles or accounts receivable. 2791

Sec. 122.80. There is hereby created in the state treasury 2792
the minority business enterprise loan fund. The fund shall consist 2793
of money deposited into the fund from the facilities establishment 2794
fund pursuant to section 166.03 of the Revised Code and all money 2795
deposited into the fund pursuant to section 122.81 of the Revised 2796
Code. The director of development shall use the fund to pay 2797
operating costs of the minority development financing advisory 2798
board, make loans to minority business enterprises as authorized 2799
in division (A) of section 122.76 of the Revised Code and, loan 2800
guarantees to small businesses as authorized in division (A) of 2801
section 122.77 of the Revised Code, and for transfer to the 2802
capital access loan program fund established in section 122.601 of 2803
the Revised Code. 2804

Sec. 122.86. (A) As used in this section and section 5747.81 2805
of the Revised Code: 2806

(1) "Small business enterprise" means a corporation, 2807
pass-through entity, or other person satisfying all of the 2808
following: 2809

(a) At the time of a qualifying investment, the enterprise 2810
meets all of the following requirements: 2811

(i) Has no outstanding tax or other liabilities owed to the 2812
state; 2813

(ii) Is in good standing with the secretary of state, if the 2814
enterprise is required to be registered with the secretary; 2815

(iii) Is current with any court-ordered payments; 2816

<u>(iv) Is not engaged in any illegal activity.</u>	2817
<u>(b) At the time of a qualifying investment, the enterprise's assets according to generally accepted accounting principles do not exceed fifty million dollars, or its annual sales do not exceed ten million dollars. When making this determination, the assets and annual sales of all of the enterprise's related or affiliated entities shall be included in the calculation.</u>	2818 2819 2820 2821 2822 2823
(b) <u>(c)</u> The enterprise employs at least fifty full-time equivalent employees in this state for whom the enterprise is required to withhold income tax under section 5747.06 of the Revised Code, or more than one-half the enterprise's total number of full-time equivalent employees employed anywhere in the United States are employed in this state and are subject to that withholding requirement.	2824 2825 2826 2827 2828 2829 2830
(e) <u>(d)</u> The enterprise, within six months after an eligible investor's qualifying investment is made, invests in or incurs cost for one or more of the following in an amount at least equal to the amount of the qualifying investment:	2831 2832 2833 2834
(i) Tangible personal property, other than motor vehicles operated on public roads and highways, used in business and physically located in this state from the time of its acquisition by the enterprise until the end of the investor's holding period;	2835 2836 2837 2838
(ii) Motor vehicles operated on public roads and highways if, from the time of acquisition by the enterprise until the end of the investor's holding period, the motor vehicles are purchased in this state, registered in this state under Chapter 4503. of the Revised Code, are used primarily for business purposes, and are necessary for the operation of the enterprise's business;	2839 2840 2841 2842 2843 2844
(iii) Real property located in this state that is used in business from the time of its acquisition by the enterprise until the end of the holding period;	2845 2846 2847

(iv) Intangible personal property, including patents, 2848
copyrights, trademarks, service marks, or licenses used in 2849
business primarily in this state from the time of its acquisition 2850
by the enterprise until the end of the holding period; 2851

(v) Compensation for new employees of the enterprise for whom 2852
the enterprise is required to withhold income tax under section 2853
5747.06 of the Revised Code, not including increased compensation 2854
for owners, officers, or managers of the enterprise. For this 2855
purpose compensation for new employees includes compensation for 2856
newly hired or retained employees. 2857

(2) "Qualifying investment" means an investment of money made 2858
on or after July 1, 2011, to acquire capital stock or other equity 2859
interest in a small business enterprise. "Qualifying investment" 2860
does not include ~~any~~ either of the following: 2861

(a) Any investment of money an eligible investor derives, 2862
directly or indirectly, from a grant or loan from the federal 2863
government or the state or a political subdivision, including the 2864
third frontier program under Chapter 184. of the Revised Code; 2865

(b) Any investment of money which is the basis of a tax 2866
credit granted under any other section of the Revised Code. 2867

(3) "Eligible investor" means an individual, estate, or trust 2868
subject to the tax imposed by section 5747.02 of the Revised Code, 2869
or a pass-through entity in which such an individual, estate, or 2870
trust holds a direct or indirect ownership or other equity 2871
interest. To qualify as an eligible investor, the individual, 2872
estate, trust, or pass-through entity shall not owe any 2873
outstanding tax or other liability to the state at the time of a 2874
qualifying investment. 2875

(4) "Holding period" means: 2876

(a) For qualifying investments made on or after July 1, 2011, 2877
but before July 1, 2013, the two-year period beginning on the day 2878

the investment was made; 2879

(b) For qualifying investments made on or after July 1, 2013, 2880
the five-year period beginning on the day the investment was made. 2881

(5) "Pass-through entity" has the same meaning as in section 2882
5733.04 of the Revised Code. 2883

(B) Any eligible investor that makes a qualifying investment 2884
in a small business enterprise on or after July 1, 2011, may apply 2885
to the director of development services to obtain a small business 2886
investment certificate from the director. Alternatively, a small 2887
business enterprise may apply on behalf of eligible investors to 2888
obtain the certificates for those investors. The director, in 2889
consultation with the tax commissioner, shall prescribe the form 2890
or manner in which an applicant shall apply for the certificate, 2891
devise the form of the certificate, and prescribe any records or 2892
other information an applicant shall furnish with the application 2893
to evidence the qualifying investment. The applicant shall state 2894
the amount of the intended investment. The applicant shall pay an 2895
application fee equal to the greater of one-tenth of one per cent 2896
of the amount of the intended investment or one hundred dollars. 2897

A small business investment certificate entitles the 2898
certificate holder to receive a tax credit under section 5747.81 2899
of the Revised Code if the certificate holder qualifies for the 2900
credit as otherwise provided in this section. If the certificate 2901
holder is a pass-through entity, the certificate entitles the 2902
entity's equity owners to receive their distributive or 2903
proportionate shares of the credit. In any fiscal biennium, an 2904
eligible investor may not apply for small business investment 2905
certificates representing intended investment amounts in excess of 2906
ten million dollars. Such certificates are not transferable. 2907

The director of development ~~shall issue~~ services may reserve 2908
small business investment certificates to qualifying applicants in 2909

the order in which the director receives applications, but may 2910
issue the certificates as the applications are completed. An 2911
application is completed when the director has validated that an 2912
eligible investor has made a qualified investment and the small 2913
business enterprise has made the appropriate reinvestment of the 2914
qualified investment pursuant to the requirements of division 2915
(A)(1)(d) of this section. To qualify for a certificate, an 2916
eligible investor must satisfy both of the following, subject to 2917
the limitation on the amount of qualifying investments for which 2918
certificates may be issued under division (C) of this section: 2919

(1) The eligible investor makes a qualifying investment on or 2920
after July 1, 2011. 2921

(2) The eligible investor pledges not to sell or otherwise 2922
dispose of the qualifying investment before the conclusion of the 2923
applicable holding period. 2924

(C)(1) The amount of any eligible investor's qualifying 2925
investments for which small business investment certificates may 2926
be issued for a fiscal biennium shall not exceed ten million 2927
dollars. 2928

(2) The director of development services shall not issue a 2929
small business investment certificate to an eligible investor 2930
representing an amount of qualifying investment in excess of the 2931
amount of the intended investment indicated on the investor's 2932
application for the certificate. 2933

(3) The director of development services shall not issue 2934
small business investment certificates in a total amount that 2935
would cause the tax credits claimed in any fiscal biennium to 2936
exceed one hundred million dollars. 2937

(4) The director of development services may issue a small 2938
business investment certificate only if both of the following 2939
apply at the time of issuance: 2940

<u>(a) The small business enterprise meets all the requirements</u>	2941
<u>listed in divisions (A)(1)(a)(i) to (iv) of this section;</u>	2942
<u>(b) The eligible investor does not owe any outstanding tax or</u>	2943
<u>other liability to the state.</u>	2944
(D) Before the end of the applicable holding period of a	2945
qualifying investment, each enterprise in which a qualifying	2946
investment was made for which a small business investment	2947
certificate has been issued, upon the request of the director of	2948
development <u>services</u> , shall provide to the director records or	2949
other evidence satisfactory to the director that the enterprise is	2950
a small business enterprise for the purposes of this section. <u>Each</u>	2951
<u>enterprise shall also provide annually to the director records or</u>	2952
<u>evidence regarding the number of jobs created or retained in the</u>	2953
<u>state.</u> No credit may be claimed under this section and section	2954
5747.81 of the Revised Code if the director finds that an	2955
enterprise is not a small business enterprise for the purposes of	2956
this section. The director shall compile and maintain a register	2957
of small business enterprises qualifying under this section and	2958
shall certify the register to the tax commissioner. <u>The director</u>	2959
<u>shall also compile and maintain a record of the number of jobs</u>	2960
<u>created or retained as a result of qualifying investments made</u>	2961
<u>pursuant to this section.</u>	2962
(E) After the conclusion of the applicable holding period for	2963
a qualifying investment, a person to whom a small business	2964
investment certificate has been issued under this section may	2965
claim a credit as provided under section 5747.81 of the Revised	2966
Code.	2967
(F) The director of development <u>services</u> , in consultation	2968
with the tax commissioner, may adopt rules for the administration	2969
of this section, including rules governing the following:	2970
(1) Documents, records, or other information eligible	2971

investors shall provide to the director;	2972
(2) Any information a small business enterprise shall provide for the purposes of this section and section 5747.81 of the Revised Code;	2973 2974 2975
(3) Determination of the number of full-time equivalent employees of a small business enterprise;	2976 2977
(4) Verification of a small business enterprise's investment in tangible personal property and intangible personal property under division (A)(1) (e) (d) of this section, including when such investments have been made and where the property is used in business;	2978 2979 2980 2981 2982
(5) Circumstances under which small business enterprises or eligible investors may be subverting the purposes of this section and section 5747.81 of the Revised Code.	2983 2984 2985
<u>There is hereby created in the state treasury the InvestOhio support fund. The fund shall consist of the fees paid under division (B) of this section and shall be used by the development services agency to pay the costs of administering the small business investment certificate program established under this section.</u>	2986 2987 2988 2989 2990 2991
<u>Sec. 122.942. The director of development services shall, with respect to each project for which a loan, grant, tax credit, or other state-funded financial assistance is awarded by the development services agency, make all of the following information available to the public within thirty days after the agency enters into a contract with the recipient:</u>	2992 2993 2994 2995 2996 2997
<u>(A) A summary of the project that includes all of the following:</u>	2998 2999
<u>(1) A breakdown of the sources of the funds for each aspect of the project, such as state or federal programs, the operating</u>	3000 3001

<u>company or entity itself, or any private financing, and a complete</u>	3002
<u>description of how each type of funds is to be used;</u>	3003
<u>(2) The total amount of assistance awarded;</u>	3004
<u>(3) A brief description of the project;</u>	3005
<u>(4) The following information regarding the project:</u>	3006
<u>(a) The operating company or entity that is awarded the</u>	3007
<u>assistance;</u>	3008
<u>(b) The products or services provided by the operating</u>	3009
<u>company or entity;</u>	3010
<u>(c) The number of new jobs, at-risk jobs, and retained jobs</u>	3011
<u>anticipated; the hourly wages and hourly benefits of those jobs;</u>	3012
<u>and the dollar amount of assistance per job affected.</u>	3013
<u>(5) The strengths and weaknesses of the project;</u>	3014
<u>(6) The location of the project, the location of the</u>	3015
<u>operating company or entity, and whether relocation is involved;</u>	3016
<u>(7) The Ohio house district and Ohio senate district in which</u>	3017
<u>the project is located;</u>	3018
<u>(8) The payment terms and conditions of the assistance</u>	3019
<u>awarded;</u>	3020
<u>(9) The collateral or security required;</u>	3021
<u>(10) The recommendation of the staff assigned to the project.</u>	3022
<u>(B) A comprehensive report that provides a description of the</u>	3023
<u>operating company or entity; all relevant information regarding</u>	3024
<u>the project; an analysis of the operating company or entity and</u>	3025
<u>the goods or services it provides; the explicit terms of any</u>	3026
<u>collateral or security required; and the reasoning behind the</u>	3027
<u>staffs' recommendation.</u>	3028
<u>(C) Any other relevant information the controlling board may</u>	3029
<u>request, or the director may consider necessary to more fully</u>	3030

describe the details of the assistance or the operating company or 3031
entity, that is provided before the controlling board approves the 3032
assistance. 3033

Nothing in this section shall be construed as requiring the 3034
disclosure of information that is not a public record under 3035
section 149.43 of the Revised Code. 3036

Sec. 122.97. (A) The business development and assistance fund 3037
is hereby created in the state treasury. Investment earnings on 3038
moneys in the fund shall be credited to the fund. The development 3039
services agency shall deposit any money it receives for business 3040
development services and business assistance services to the 3041
credit of the fund, including: 3042

(1) Reimbursements for services provided for business 3043
development and business assistance services; 3044

(2) Contract or grant payments from private entities; 3045

(3) Donations or sponsorship payments from private entities; 3046

(4) Contract or grant payments from public agencies or 3047
political subdivisions. 3048

(B) The agency shall use money in the fund for any agency 3049
operating purposes or programs providing business support or 3050
business assistance, including grants, loans, or administrative 3051
expenses. 3052

Sec. 149.43. (A) As used in this section: 3053

(1) "Public record" means records kept by any public office, 3054
including, but not limited to, state, county, city, village, 3055
township, and school district units, and records pertaining to the 3056
delivery of educational services by an alternative school in this 3057
state kept by the nonprofit or for-profit entity operating the 3058
alternative school pursuant to section 3313.533 of the Revised 3059

Code. "Public record" does not mean any of the following:	3060
(a) Medical records;	3061
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	3062 3063 3064
(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;	3065 3066 3067
(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;	3068 3069 3070
(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;	3071 3072 3073 3074 3075 3076
(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;	3077 3078 3079
(g) Trial preparation records;	3080
(h) Confidential law enforcement investigatory records;	3081
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	3082 3083
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	3084 3085
(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;	3086 3087 3088 3089

(l) Records maintained by the department of youth services	3090
pertaining to children in its custody released by the department	3091
of youth services to the department of rehabilitation and	3092
correction pursuant to section 5139.05 of the Revised Code;	3093
(m) Intellectual property records;	3094
(n) Donor profile records;	3095
(o) Records maintained by the department of job and family	3096
services pursuant to section 3121.894 of the Revised Code;	3097
(p) Peace officer, parole officer, probation officer,	3098
bailiff, prosecuting attorney, assistant prosecuting attorney,	3099
correctional employee, youth services employee, firefighter, EMT,	3100
or investigator of the bureau of criminal identification and	3101
investigation residential and familial information;	3102
(q) In the case of a county hospital operated pursuant to	3103
Chapter 339. of the Revised Code or a municipal hospital operated	3104
pursuant to Chapter 749. of the Revised Code, information that	3105
constitutes a trade secret, as defined in section 1333.61 of the	3106
Revised Code;	3107
(r) Information pertaining to the recreational activities of	3108
a person under the age of eighteen;	3109
(s) Records provided to, statements made by review board	3110
members during meetings of, and all work products of a child	3111
fatality review board acting under sections 307.621 to 307.629 of	3112
the Revised Code, and child fatality review data submitted by the	3113
child fatality review board to the department of health or a	3114
national child death review database, other than the report	3115
prepared pursuant to division (A) of section 307.626 of the	3116
Revised Code;	3117
(t) Records provided to and statements made by the executive	3118
director of a public children services agency or a prosecuting	3119

attorney acting pursuant to section 5153.171 of the Revised Code	3120
other than the information released under that section;	3121
(u) Test materials, examinations, or evaluation tools used in	3122
an examination for licensure as a nursing home administrator that	3123
the board of examiners of nursing home administrators administers	3124
under section 4751.04 of the Revised Code or contracts under that	3125
section with a private or government entity to administer;	3126
(v) Records the release of which is prohibited by state or	3127
federal law;	3128
(w) Proprietary information of or relating to any person that	3129
is submitted to or compiled by the Ohio venture capital authority	3130
created under section 150.01 of the Revised Code;	3131
(x) Information reported and evaluations conducted pursuant	3132
to section 3701.072 of the Revised Code;	3133
(y) Financial statements and data any person submits for any	3134
purpose to the Ohio housing finance agency or the controlling	3135
board in connection with applying for, receiving, or accounting	3136
for financial assistance from the agency, and information that	3137
identifies any individual who benefits directly or indirectly from	3138
financial assistance from the agency;	3139
(z) Records listed in section 5101.29 of the Revised Code;	3140
(aa) Discharges recorded with a county recorder under section	3141
317.24 of the Revised Code, as specified in division (B)(2) of	3142
that section;	3143
(bb) Usage information including names and addresses of	3144
specific residential and commercial customers of a municipally	3145
owned or operated public utility;	3146
(cc) <u>Records described in division (C) of section 187.04 of</u>	3147
<u>the Revised Code that are not designated to be made available to</u>	3148
<u>the public as provided in that division.</u>	3149

(2) "Confidential law enforcement investigatory record" means 3150
any record that pertains to a law enforcement matter of a 3151
criminal, quasi-criminal, civil, or administrative nature, but 3152
only to the extent that the release of the record would create a 3153
high probability of disclosure of any of the following: 3154

(a) The identity of a suspect who has not been charged with 3155
the offense to which the record pertains, or of an information 3156
source or witness to whom confidentiality has been reasonably 3157
promised; 3158

(b) Information provided by an information source or witness 3159
to whom confidentiality has been reasonably promised, which 3160
information would reasonably tend to disclose the source's or 3161
witness's identity; 3162

(c) Specific confidential investigatory techniques or 3163
procedures or specific investigatory work product; 3164

(d) Information that would endanger the life or physical 3165
safety of law enforcement personnel, a crime victim, a witness, or 3166
a confidential information source. 3167

(3) "Medical record" means any document or combination of 3168
documents, except births, deaths, and the fact of admission to or 3169
discharge from a hospital, that pertains to the medical history, 3170
diagnosis, prognosis, or medical condition of a patient and that 3171
is generated and maintained in the process of medical treatment. 3172

(4) "Trial preparation record" means any record that contains 3173
information that is specifically compiled in reasonable 3174
anticipation of, or in defense of, a civil or criminal action or 3175
proceeding, including the independent thought processes and 3176
personal trial preparation of an attorney. 3177

(5) "Intellectual property record" means a record, other than 3178
a financial or administrative record, that is produced or 3179
collected by or for faculty or staff of a state institution of 3180

higher learning in the conduct of or as a result of study or 3181
research on an educational, commercial, scientific, artistic, 3182
technical, or scholarly issue, regardless of whether the study or 3183
research was sponsored by the institution alone or in conjunction 3184
with a governmental body or private concern, and that has not been 3185
publicly released, published, or patented. 3186

(6) "Donor profile record" means all records about donors or 3187
potential donors to a public institution of higher education 3188
except the names and reported addresses of the actual donors and 3189
the date, amount, and conditions of the actual donation. 3190

(7) "Peace officer, parole officer, probation officer, 3191
bailiff, prosecuting attorney, assistant prosecuting attorney, 3192
correctional employee, youth services employee, firefighter, EMT, 3193
or investigator of the bureau of criminal identification and 3194
investigation residential and familial information" means any 3195
information that discloses any of the following about a peace 3196
officer, parole officer, probation officer, bailiff, prosecuting 3197
attorney, assistant prosecuting attorney, correctional employee, 3198
youth services employee, firefighter, EMT, or investigator of the 3199
bureau of criminal identification and investigation: 3200

(a) The address of the actual personal residence of a peace 3201
officer, parole officer, probation officer, bailiff, assistant 3202
prosecuting attorney, correctional employee, youth services 3203
employee, firefighter, EMT, or an investigator of the bureau of 3204
criminal identification and investigation, except for the state or 3205
political subdivision in which the peace officer, parole officer, 3206
probation officer, bailiff, assistant prosecuting attorney, 3207
correctional employee, youth services employee, firefighter, EMT, 3208
or investigator of the bureau of criminal identification and 3209
investigation resides; 3210

(b) Information compiled from referral to or participation in 3211
an employee assistance program; 3212

(c) The social security number, the residential telephone 3213
number, any bank account, debit card, charge card, or credit card 3214
number, or the emergency telephone number of, or any medical 3215
information pertaining to, a peace officer, parole officer, 3216
probation officer, bailiff, prosecuting attorney, assistant 3217
prosecuting attorney, correctional employee, youth services 3218
employee, firefighter, EMT, or investigator of the bureau of 3219
criminal identification and investigation; 3220

(d) The name of any beneficiary of employment benefits, 3221
including, but not limited to, life insurance benefits, provided 3222
to a peace officer, parole officer, probation officer, bailiff, 3223
prosecuting attorney, assistant prosecuting attorney, correctional 3224
employee, youth services employee, firefighter, EMT, or 3225
investigator of the bureau of criminal identification and 3226
investigation by the peace officer's, parole officer's, probation 3227
officer's, bailiff's, prosecuting attorney's, assistant 3228
prosecuting attorney's, correctional employee's, youth services 3229
employee's, firefighter's, EMT's, or investigator of the bureau of 3230
criminal identification and investigation's employer; 3231

(e) The identity and amount of any charitable or employment 3232
benefit deduction made by the peace officer's, parole officer's, 3233
probation officer's, bailiff's, prosecuting attorney's, assistant 3234
prosecuting attorney's, correctional employee's, youth services 3235
employee's, firefighter's, EMT's, or investigator of the bureau of 3236
criminal identification and investigation's employer from the 3237
peace officer's, parole officer's, probation officer's, bailiff's, 3238
prosecuting attorney's, assistant prosecuting attorney's, 3239
correctional employee's, youth services employee's, firefighter's, 3240
EMT's, or investigator of the bureau of criminal identification 3241
and investigation's compensation unless the amount of the 3242
deduction is required by state or federal law; 3243

(f) The name, the residential address, the name of the 3244

employer, the address of the employer, the social security number, 3245
the residential telephone number, any bank account, debit card, 3246
charge card, or credit card number, or the emergency telephone 3247
number of the spouse, a former spouse, or any child of a peace 3248
officer, parole officer, probation officer, bailiff, prosecuting 3249
attorney, assistant prosecuting attorney, correctional employee, 3250
youth services employee, firefighter, EMT, or investigator of the 3251
bureau of criminal identification and investigation; 3252

(g) A photograph of a peace officer who holds a position or 3253
has an assignment that may include undercover or plain clothes 3254
positions or assignments as determined by the peace officer's 3255
appointing authority. 3256

As used in divisions (A)(7) and (B)(9) of this section, 3257
"peace officer" has the same meaning as in section 109.71 of the 3258
Revised Code and also includes the superintendent and troopers of 3259
the state highway patrol; it does not include the sheriff of a 3260
county or a supervisory employee who, in the absence of the 3261
sheriff, is authorized to stand in for, exercise the authority of, 3262
and perform the duties of the sheriff. 3263

As used in divisions (A)(7) and (B)(5) of this section, 3264
"correctional employee" means any employee of the department of 3265
rehabilitation and correction who in the course of performing the 3266
employee's job duties has or has had contact with inmates and 3267
persons under supervision. 3268

As used in divisions (A)(7) and (B)(5) of this section, 3269
"youth services employee" means any employee of the department of 3270
youth services who in the course of performing the employee's job 3271
duties has or has had contact with children committed to the 3272
custody of the department of youth services. 3273

As used in divisions (A)(7) and (B)(9) of this section, 3274
"firefighter" means any regular, paid or volunteer, member of a 3275

lawfully constituted fire department of a municipal corporation, 3276
township, fire district, or village. 3277

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 3278
means EMTs-basic, EMTs-I, and paramedics that provide emergency 3279
medical services for a public emergency medical service 3280
organization. "Emergency medical service organization," 3281
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 3282
section 4765.01 of the Revised Code. 3283

As used in divisions (A)(7) and (B)(9) of this section, 3284
"investigator of the bureau of criminal identification and 3285
investigation" has the meaning defined in section 2903.11 of the 3286
Revised Code. 3287

(8) "Information pertaining to the recreational activities of 3288
a person under the age of eighteen" means information that is kept 3289
in the ordinary course of business by a public office, that 3290
pertains to the recreational activities of a person under the age 3291
of eighteen years, and that discloses any of the following: 3292

(a) The address or telephone number of a person under the age 3293
of eighteen or the address or telephone number of that person's 3294
parent, guardian, custodian, or emergency contact person; 3295

(b) The social security number, birth date, or photographic 3296
image of a person under the age of eighteen; 3297

(c) Any medical record, history, or information pertaining to 3298
a person under the age of eighteen; 3299

(d) Any additional information sought or required about a 3300
person under the age of eighteen for the purpose of allowing that 3301
person to participate in any recreational activity conducted or 3302
sponsored by a public office or to use or obtain admission 3303
privileges to any recreational facility owned or operated by a 3304
public office. 3305

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 3306
3307

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 3308
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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. 3310
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(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code. 3314
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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. 3316
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(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize 3335
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and maintain public records in a manner that they can be made 3337
available for inspection or copying in accordance with division 3338
(B) of this section. A public office also shall have available a 3339
copy of its current records retention schedule at a location 3340
readily available to the public. If a requester makes an ambiguous 3341
or overly broad request or has difficulty in making a request for 3342
copies or inspection of public records under this section such 3343
that the public office or the person responsible for the requested 3344
public record cannot reasonably identify what public records are 3345
being requested, the public office or the person responsible for 3346
the requested public record may deny the request but shall provide 3347
the requester with an opportunity to revise the request by 3348
informing the requester of the manner in which records are 3349
maintained by the public office and accessed in the ordinary 3350
course of the public office's or person's duties. 3351

(3) If a request is ultimately denied, in part or in whole, 3352
the public office or the person responsible for the requested 3353
public record shall provide the requester with an explanation, 3354
including legal authority, setting forth why the request was 3355
denied. If the initial request was provided in writing, the 3356
explanation also shall be provided to the requester in writing. 3357
The explanation shall not preclude the public office or the person 3358
responsible for the requested public record from relying upon 3359
additional reasons or legal authority in defending an action 3360
commenced under division (C) of this section. 3361

(4) Unless specifically required or authorized by state or 3362
federal law or in accordance with division (B) of this section, no 3363
public office or person responsible for public records may limit 3364
or condition the availability of public records by requiring 3365
disclosure of the requester's identity or the intended use of the 3366
requested public record. Any requirement that the requester 3367
disclose the requestor's identity or the intended use of the 3368

requested public record constitutes a denial of the request. 3369

(5) A public office or person responsible for public records 3370
may ask a requester to make the request in writing, may ask for 3371
the requester's identity, and may inquire about the intended use 3372
of the information requested, but may do so only after disclosing 3373
to the requester that a written request is not mandatory and that 3374
the requester may decline to reveal the requester's identity or 3375
the intended use and when a written request or disclosure of the 3376
identity or intended use would benefit the requester by enhancing 3377
the ability of the public office or person responsible for public 3378
records to identify, locate, or deliver the public records sought 3379
by the requester. 3380

(6) If any person chooses to obtain a copy of a public record 3381
in accordance with division (B) of this section, the public office 3382
or person responsible for the public record may require that 3383
person to pay in advance the cost involved in providing the copy 3384
of the public record in accordance with the choice made by the 3385
person seeking the copy under this division. The public office or 3386
the person responsible for the public record shall permit that 3387
person to choose to have the public record duplicated upon paper, 3388
upon the same medium upon which the public office or person 3389
responsible for the public record keeps it, or upon any other 3390
medium upon which the public office or person responsible for the 3391
public record determines that it reasonably can be duplicated as 3392
an integral part of the normal operations of the public office or 3393
person responsible for the public record. When the person seeking 3394
the copy makes a choice under this division, the public office or 3395
person responsible for the public record shall provide a copy of 3396
it in accordance with the choice made by the person seeking the 3397
copy. Nothing in this section requires a public office or person 3398
responsible for the public record to allow the person seeking a 3399
copy of the public record to make the copies of the public record. 3400

(7) Upon a request made in accordance with division (B) of 3401
this section and subject to division (B)(6) of this section, a 3402
public office or person responsible for public records shall 3403
transmit a copy of a public record to any person by United States 3404
mail or by any other means of delivery or transmission within a 3405
reasonable period of time after receiving the request for the 3406
copy. The public office or person responsible for the public 3407
record may require the person making the request to pay in advance 3408
the cost of postage if the copy is transmitted by United States 3409
mail or the cost of delivery if the copy is transmitted other than 3410
by United States mail, and to pay in advance the costs incurred 3411
for other supplies used in the mailing, delivery, or transmission. 3412

Any public office may adopt a policy and procedures that it 3413
will follow in transmitting, within a reasonable period of time 3414
after receiving a request, copies of public records by United 3415
States mail or by any other means of delivery or transmission 3416
pursuant to this division. A public office that adopts a policy 3417
and procedures under this division shall comply with them in 3418
performing its duties under this division. 3419

In any policy and procedures adopted under this division, a 3420
public office may limit the number of records requested by a 3421
person that the office will transmit by United States mail to ten 3422
per month, unless the person certifies to the office in writing 3423
that the person does not intend to use or forward the requested 3424
records, or the information contained in them, for commercial 3425
purposes. For purposes of this division, "commercial" shall be 3426
narrowly construed and does not include reporting or gathering 3427
news, reporting or gathering information to assist citizen 3428
oversight or understanding of the operation or activities of 3429
government, or nonprofit educational research. 3430

(8) A public office or person responsible for public records 3431
is not required to permit a person who is incarcerated pursuant to 3432

a criminal conviction or a juvenile adjudication to inspect or to 3433
obtain a copy of any public record concerning a criminal 3434
investigation or prosecution or concerning what would be a 3435
criminal investigation or prosecution if the subject of the 3436
investigation or prosecution were an adult, unless the request to 3437
inspect or to obtain a copy of the record is for the purpose of 3438
acquiring information that is subject to release as a public 3439
record under this section and the judge who imposed the sentence 3440
or made the adjudication with respect to the person, or the 3441
judge's successor in office, finds that the information sought in 3442
the public record is necessary to support what appears to be a 3443
justiciable claim of the person. 3444

(9)(a) Upon written request made and signed by a journalist 3445
on or after December 16, 1999, a public office, or person 3446
responsible for public records, having custody of the records of 3447
the agency employing a specified peace officer, parole officer, 3448
probation officer, bailiff, prosecuting attorney, assistant 3449
prosecuting attorney, correctional employee, youth services 3450
employee, firefighter, EMT, or investigator of the bureau of 3451
criminal identification and investigation shall disclose to the 3452
journalist the address of the actual personal residence of the 3453
peace officer, parole officer, probation officer, bailiff, 3454
prosecuting attorney, assistant prosecuting attorney, correctional 3455
employee, youth services employee, firefighter, EMT, or 3456
investigator of the bureau of criminal identification and 3457
investigation and, if the peace officer's, parole officer's, 3458
probation officer's, bailiff's, prosecuting attorney's, assistant 3459
prosecuting attorney's, correctional employee's, youth services 3460
employee's, firefighter's, EMT's, or investigator of the bureau of 3461
criminal identification and investigation's spouse, former spouse, 3462
or child is employed by a public office, the name and address of 3463
the employer of the peace officer's, parole officer's, probation 3464
officer's, bailiff's, prosecuting attorney's, assistant 3465

prosecuting attorney's, correctional employee's, youth services 3466
employee's, firefighter's, EMT's, or investigator of the bureau of 3467
criminal identification and investigation's spouse, former spouse, 3468
or child. The request shall include the journalist's name and 3469
title and the name and address of the journalist's employer and 3470
shall state that disclosure of the information sought would be in 3471
the public interest. 3472

(b) Division (B)(9)(a) of this section also applies to 3473
journalist requests for customer information maintained by a 3474
municipally owned or operated public utility, other than social 3475
security numbers and any private financial information such as 3476
credit reports, payment methods, credit card numbers, and bank 3477
account information. 3478

(c) As used in division (B)(9) of this section, "journalist" 3479
means a person engaged in, connected with, or employed by any news 3480
medium, including a newspaper, magazine, press association, news 3481
agency, or wire service, a radio or television station, or a 3482
similar medium, for the purpose of gathering, processing, 3483
transmitting, compiling, editing, or disseminating information for 3484
the general public. 3485

(C)(1) If a person allegedly is aggrieved by the failure of a 3486
public office or the person responsible for public records to 3487
promptly prepare a public record and to make it available to the 3488
person for inspection in accordance with division (B) of this 3489
section or by any other failure of a public office or the person 3490
responsible for public records to comply with an obligation in 3491
accordance with division (B) of this section, the person allegedly 3492
aggrieved may commence a mandamus action to obtain a judgment that 3493
orders the public office or the person responsible for the public 3494
record to comply with division (B) of this section, that awards 3495
court costs and reasonable attorney's fees to the person that 3496
instituted the mandamus action, and, if applicable, that includes 3497

an order fixing statutory damages under division (C)(1) of this 3498
section. The mandamus action may be commenced in the court of 3499
common pleas of the county in which division (B) of this section 3500
allegedly was not complied with, in the supreme court pursuant to 3501
its original jurisdiction under Section 2 of Article IV, Ohio 3502
Constitution, or in the court of appeals for the appellate 3503
district in which division (B) of this section allegedly was not 3504
complied with pursuant to its original jurisdiction under Section 3505
3 of Article IV, Ohio Constitution. 3506

If a requestor transmits a written request by hand delivery 3507
or certified mail to inspect or receive copies of any public 3508
record in a manner that fairly describes the public record or 3509
class of public records to the public office or person responsible 3510
for the requested public records, except as otherwise provided in 3511
this section, the requestor shall be entitled to recover the 3512
amount of statutory damages set forth in this division if a court 3513
determines that the public office or the person responsible for 3514
public records failed to comply with an obligation in accordance 3515
with division (B) of this section. 3516

The amount of statutory damages shall be fixed at one hundred 3517
dollars for each business day during which the public office or 3518
person responsible for the requested public records failed to 3519
comply with an obligation in accordance with division (B) of this 3520
section, beginning with the day on which the requester files a 3521
mandamus action to recover statutory damages, up to a maximum of 3522
one thousand dollars. The award of statutory damages shall not be 3523
construed as a penalty, but as compensation for injury arising 3524
from lost use of the requested information. The existence of this 3525
injury shall be conclusively presumed. The award of statutory 3526
damages shall be in addition to all other remedies authorized by 3527
this section. 3528

The court may reduce an award of statutory damages or not 3529

award statutory damages if the court determines both of the 3530
following: 3531

(a) That, based on the ordinary application of statutory law 3532
and case law as it existed at the time of the conduct or 3533
threatened conduct of the public office or person responsible for 3534
the requested public records that allegedly constitutes a failure 3535
to comply with an obligation in accordance with division (B) of 3536
this section and that was the basis of the mandamus action, a 3537
well-informed public office or person responsible for the 3538
requested public records reasonably would believe that the conduct 3539
or threatened conduct of the public office or person responsible 3540
for the requested public records did not constitute a failure to 3541
comply with an obligation in accordance with division (B) of this 3542
section; 3543

(b) That a well-informed public office or person responsible 3544
for the requested public records reasonably would believe that the 3545
conduct or threatened conduct of the public office or person 3546
responsible for the requested public records would serve the 3547
public policy that underlies the authority that is asserted as 3548
permitting that conduct or threatened conduct. 3549

(2)(a) If the court issues a writ of mandamus that orders the 3550
public office or the person responsible for the public record to 3551
comply with division (B) of this section and determines that the 3552
circumstances described in division (C)(1) of this section exist, 3553
the court shall determine and award to the relator all court 3554
costs. 3555

(b) If the court renders a judgment that orders the public 3556
office or the person responsible for the public record to comply 3557
with division (B) of this section, the court may award reasonable 3558
attorney's fees subject to reduction as described in division 3559
(C)(2)(c) of this section. The court shall award reasonable 3560
attorney's fees, subject to reduction as described in division 3561

(C)(2)(c) of this section when either of the following applies: 3562

(i) The public office or the person responsible for the 3563
public records failed to respond affirmatively or negatively to 3564
the public records request in accordance with the time allowed 3565
under division (B) of this section. 3566

(ii) The public office or the person responsible for the 3567
public records promised to permit the relator to inspect or 3568
receive copies of the public records requested within a specified 3569
period of time but failed to fulfill that promise within that 3570
specified period of time. 3571

(c) Court costs and reasonable attorney's fees awarded under 3572
this section shall be construed as remedial and not punitive. 3573
Reasonable attorney's fees shall include reasonable fees incurred 3574
to produce proof of the reasonableness and amount of the fees and 3575
to otherwise litigate entitlement to the fees. The court may 3576
reduce an award of attorney's fees to the relator or not award 3577
attorney's fees to the relator if the court determines both of the 3578
following: 3579

(i) That, based on the ordinary application of statutory law 3580
and case law as it existed at the time of the conduct or 3581
threatened conduct of the public office or person responsible for 3582
the requested public records that allegedly constitutes a failure 3583
to comply with an obligation in accordance with division (B) of 3584
this section and that was the basis of the mandamus action, a 3585
well-informed public office or person responsible for the 3586
requested public records reasonably would believe that the conduct 3587
or threatened conduct of the public office or person responsible 3588
for the requested public records did not constitute a failure to 3589
comply with an obligation in accordance with division (B) of this 3590
section; 3591

(ii) That a well-informed public office or person responsible 3592

for the requested public records reasonably would believe that the 3593
conduct or threatened conduct of the public office or person 3594
responsible for the requested public records as described in 3595
division (C)(2)(c)(i) of this section would serve the public 3596
policy that underlies the authority that is asserted as permitting 3597
that conduct or threatened conduct. 3598

(D) Chapter 1347. of the Revised Code does not limit the 3599
provisions of this section. 3600

(E)(1) To ensure that all employees of public offices are 3601
appropriately educated about a public office's obligations under 3602
division (B) of this section, all elected officials or their 3603
appropriate designees shall attend training approved by the 3604
attorney general as provided in section 109.43 of the Revised 3605
Code. In addition, all public offices shall adopt a public records 3606
policy in compliance with this section for responding to public 3607
records requests. In adopting a public records policy under this 3608
division, a public office may obtain guidance from the model 3609
public records policy developed and provided to the public office 3610
by the attorney general under section 109.43 of the Revised Code. 3611
Except as otherwise provided in this section, the policy may not 3612
limit the number of public records that the public office will 3613
make available to a single person, may not limit the number of 3614
public records that it will make available during a fixed period 3615
of time, and may not establish a fixed period of time before it 3616
will respond to a request for inspection or copying of public 3617
records, unless that period is less than eight hours. 3618

(2) The public office shall distribute the public records 3619
policy adopted by the public office under division (E)(1) of this 3620
section to the employee of the public office who is the records 3621
custodian or records manager or otherwise has custody of the 3622
records of that office. The public office shall require that 3623
employee to acknowledge receipt of the copy of the public records 3624

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 3657
assurance to the bureau that the person making the request does 3658
not intend to use or forward the requested copies for surveys, 3659
marketing, solicitation, or resale for commercial purposes. 3660

(c) "Commercial" means profit-seeking production, buying, or 3661
selling of any good, service, or other product. 3662

(d) "Special extraction costs" means the cost of the time 3663
spent by the lowest paid employee competent to perform the task, 3664
the actual amount paid to outside private contractors employed by 3665
the bureau, or the actual cost incurred to create computer 3666
programs to make the special extraction. "Special extraction 3667
costs" include any charges paid to a public agency for computer or 3668
records services. 3669

(3) For purposes of divisions (F)(1) and (2) of this section, 3670
"surveys, marketing, solicitation, or resale for commercial 3671
purposes" shall be narrowly construed and does not include 3672
reporting or gathering news, reporting or gathering information to 3673
assist citizen oversight or understanding of the operation or 3674
activities of government, or nonprofit educational research. 3675

Sec. 164.05. (A) The director of the Ohio public works 3676
commission shall do all of the following: 3677

(1) Approve requests for financial assistance from district 3678
public works integrating committees and enter into agreements with 3679
one or more local subdivisions to provide loans, grants, and local 3680
debt support and credit enhancements for a capital improvement 3681
project if the director determines that: 3682

(a) The project is an eligible project pursuant to this 3683
chapter; 3684

(b) The financial assistance for the project has been 3685
properly approved and requested by the district committee of the 3686

district which includes the recipient of the loan or grant; 3687

(c) The amount of the financial assistance, when added to all 3688
other financial assistance provided during the fiscal year for 3689
projects within the district, does not exceed that district's 3690
allocation of money from the state capital improvements fund for 3691
that fiscal year; 3692

(d) The district committee has provided such documentation 3693
and other evidence as the director may require that the district 3694
committee has satisfied the requirements of section 164.06 or 3695
164.14 of the Revised Code; 3696

(e) The portion of a district's annual allocation which the 3697
director approves in the form of loans and local debt support and 3698
credit enhancements for eligible projects is consistent with 3699
divisions (E) and (F) of this section. 3700

(2) Authorize payments to local subdivisions or their 3701
contractors for costs incurred for capital improvement projects 3702
which have been approved pursuant to this chapter. All requests 3703
for payments shall be submitted to the director on forms and in 3704
accordance with procedures specified in rules adopted by the 3705
director pursuant to division (A)(4) of this section. 3706

(3) Retain the services of or employ financial consultants, 3707
engineers, accountants, attorneys, and such other employees as the 3708
director determines are necessary to carry out the director's 3709
duties under this chapter and fix the compensation for their 3710
services; 3711

(4) Adopt rules establishing the procedures for making 3712
applications, reviewing, approving, and rejecting projects for 3713
which assistance is authorized under this chapter, and any other 3714
rules needed to implement the provisions of this chapter. Such 3715
rules shall be adopted under Chapter 119. of the Revised Code. 3716

(5) Provide information and other assistance to local 3717

subdivisions and district public works integrating committees in 3718
developing their requests for financial assistance for capital 3719
improvements under this chapter and encourage cooperation and 3720
coordination of requests and the development of multisubdivision 3721
and multidistrict projects in order to maximize the benefits that 3722
may be derived by districts from each year's allocation; 3723

(6) Require local subdivisions, to the extent practicable, to 3724
use Ohio products, materials, services, and labor in connection 3725
with any capital improvement project financed in whole or in part 3726
under this chapter; 3727

(7) Notify the director of budget and management of all 3728
approved projects, and supply all information necessary to track 3729
approved projects through the state accounting system; 3730

(8) Appoint the administrator of the Ohio small government 3731
capital improvements commission; 3732

(9) Do all other acts, enter into contracts, and execute all 3733
instruments necessary or appropriate to carry out this chapter; 3734

(10) Develop a standardized methodology for evaluating 3735
capital improvement needs which will be used by local subdivisions 3736
in preparing the plans required by division (C) of section 164.06 3737
of the Revised Code. The director shall develop this methodology 3738
not later than July 1, 1991. 3739

(11) Establish a program to provide local subdivisions with 3740
technical assistance in preparing project applications. The 3741
program shall be designed to assist local subdivisions that lack 3742
the financial or technical resources to prepare project 3743
applications on their own. 3744

(B) When the director of the Ohio public works commission 3745
decides to conditionally approve or disapprove projects, the 3746
director's decisions and the reasons for which they are made shall 3747
be made in writing. These written decisions shall be conclusive 3748

for the purposes of the validity and enforceability of such 3749
determinations. 3750

(C) Fees, charges, rates of interest, times of payment of 3751
interest and principal, and other terms, conditions, and 3752
provisions of and security for financial assistance provided 3753
pursuant to the provisions of this chapter shall be such as the 3754
director determines to be appropriate. If any payments required by 3755
a loan agreement entered into pursuant to this chapter are not 3756
paid, the funds which would otherwise be apportioned to the local 3757
subdivision from the county undivided local government fund, 3758
pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, 3759
at the direction of the director of the Ohio public works 3760
commission, be reduced by the amount payable. The county treasurer 3761
shall, at the direction of the director, pay the amount of such 3762
reductions to the state capital improvements revolving loan fund. 3763
The director may renegotiate a loan repayment schedule with a 3764
local subdivision whose payments from the county undivided local 3765
government fund could be reduced pursuant to this division, but 3766
such a renegotiation may occur only one time with respect to any 3767
particular loan agreement. 3768

(D) Grants approved for the repair and replacement of 3769
existing infrastructure pursuant to this chapter shall not exceed 3770
ninety per cent of the estimated total cost of the capital 3771
improvement project. Grants approved for new or expanded 3772
infrastructure shall not exceed fifty per cent of the estimated 3773
cost of the new or expansion elements of the capital improvement 3774
project. A local subdivision share of the estimated cost of a 3775
capital improvement may consist of any of the following: 3776

(1) The reasonable value, as determined by the director or 3777
the administrator, of labor, materials, and equipment that will be 3778
contributed by the local subdivision in performing the capital 3779
improvement project; 3780

(2) Moneys received by the local subdivision in any form from 3781
 an authority, commission, or agency of the United States for use 3782
 in performing the capital improvement project; 3783

(3) Loans made to the local subdivision under this chapter; 3784

(4) Engineering costs incurred by the local subdivision in 3785
 performing engineering activities related to the project. 3786

A local subdivision share of the cost of a capital 3787
 improvement shall not include any amounts awarded to it from the 3788
 local transportation improvement program fund created in section 3789
 164.14 of the Revised Code. 3790

(E) The following portion of a district public works 3791
 integrating committee's annual allocation share pursuant to 3792
 section 164.08 of the Revised Code may be awarded to subdivisions 3793
 only in the form of interest-free, low-interest, market rate of 3794
 interest, or blended-rate loans: 3795

YEAR IN WHICH	PORTION USED FOR	
MONEYS ARE ALLOCATED	LOANS	
Year 1	0%	3798
Year 2	0%	3799
Year 3	10%	3800
Year 4	12%	3801
Year 5	15%	3802
Year 6	20%	3803
Year 7, 8, 9, and 10	22%	3804

(F) The following portion of a district public works 3805
 integrating committee's annual allocation pursuant to section 3806
 164.08 of the Revised Code shall be awarded to subdivisions in the 3807
 form of local debt supported and credit enhancements: 3808

YEAR IN WHICH	PORTIONS USED FOR	
MONEYS ARE ALLOCATED	LOCAL DEBT SUPPORT	
	AND CREDIT ENHANCEMENTS	
		3809
		3810
		3811

Year 1	0%	3812
Year 2	0%	3813
Year 3	3%	3814
Year 4	5%	3815
Year 5	5%	3816
Year 6	7%	3817
Year 7	7%	3818
Year 8	8%	3819
Year 9	8%	3820
Year 10	8%	3821

(G) For the period commencing on March 29, 1988 and ending on 3822
 June 30, 1993, for the period commencing July 1, 1993, and ending 3823
 June 30, 1999, and for each five-year period thereafter, the total 3824
 amount of financial assistance awarded under sections 164.01 to 3825
 164.08 of the Revised Code for capital improvement projects 3826
 located wholly or partially within a county shall be equal to at 3827
 least thirty per cent of the amount of what the county would have 3828
 been allocated from the obligations authorized to be sold under 3829
 this chapter during each period, if such amounts had been 3830
 allocable to each county on a per capita basis. 3831

(H) The amount of the annual allocations made pursuant to 3832
 divisions (B)(1) and ~~(6)~~(5) of section 164.08 of the Revised Code 3833
 which can be used for new or expanded infrastructure is limited as 3834
 follows: 3835

YEAR IN WHICH	PORTION WHICH MAY	
MONEYS ARE ALLOCATED	BE USED FOR NEW OR	
	EXPANSION INFRASTRUCTURE	
Year 1	5%	3839
Year 2	5%	3840
Year 3	10%	3841
Year 4	10%	3842
Year 5	10%	3843

Year 6	15%	3844
Year 7	15%	3845
Year 8	20%	3846
Year 9	20%	3847
Year 10 and each year thereafter		3848
	20%	3849

(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	3856
YEAR IN WHICH	OR LOCAL DEBT SUPPORT	3857
MONEYS ARE ALLOCATED	AND CREDIT ENHANCEMENTS	3858
Year 11 and each year		3859
thereafter	20%	3860

(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.	3876
(B) In selecting the requests for assistance for capital improvement projects which will be submitted to the director, and in determining the nature, amount, and terms of the assistance that will be requested, a district public works integrating committee shall give priority to capital improvement projects for the repair or replacement of existing infrastructure and which would be unlikely to be undertaken without assistance under this chapter, and shall specifically consider all of the following factors:	3877 3878 3879 3880 3881 3882 3883 3884 3885
(1) The infrastructure repair and replacement needs of the district;	3886 3887
(2) The age and condition of the system to be repaired or replaced;	3888 3889
(3) Whether the project would generate revenue in the form of user fees or assessments;	3890 3891
(4) The importance of the project to the health and safety of the citizens of the district;	3892 3893
(5) The cost of the project and whether it is consistent with division (G) of section 164.05 of the Revised Code and the district's allocation for grants, loans, and local debt support and credit enhancements for that year;	3894 3895 3896 3897
(6) The effort and ability of the benefited local subdivisions to assist in financing the project;	3898 3899
(7) The availability of federal or other funds for the project;	3900 3901
(8) The overall economic health of the particular local subdivision;	3902 3903
(9) The adequacy of the planning for the project and the readiness of the applicant to proceed should the project be	3904 3905

approved; 3906

(10) Any other factors relevant to a particular project. 3907

(C) Prior to filing an application with its district public 3908
works integrating committee for assistance in financing a capital 3909
improvement project under this section, a local subdivision shall 3910
conduct a study of its existing capital improvements, the 3911
condition of those improvements, and the projected capital 3912
improvement needs of the subdivision in the ensuing five-year 3913
period. After completing this study, the subdivision shall compile 3914
a report that includes an inventory of its existing capital 3915
improvements, a plan detailing the capital improvement needs of 3916
the subdivision in the ensuing five-year period, and a list of the 3917
subdivision's priorities with respect to addressing those needs. 3918
Each year, the report shall be reviewed and updated by the 3919
subdivision to reflect capital improvement projects undertaken or 3920
completed in the past year and any changes in the subdivision's 3921
plan or priorities. The report and annual updates shall be made 3922
available upon request to the Ohio public works commission, the 3923
Ohio small government capital improvements commission, and the 3924
district public works integrating committee of the district of 3925
which the subdivision is a part. 3926

(D) In addition to reviewing and selecting the projects for 3927
which approval will be sought from the director of the Ohio public 3928
works commission for financial assistance from the state capital 3929
improvements fund, each district public works integrating 3930
committee shall appoint a subcommittee of its members that will 3931
represent the interests of villages and townships and that will 3932
review and select the capital improvement projects which will be 3933
submitted by the subcommittee to the administrator of the Ohio 3934
small government capital improvements commission for consideration 3935
of assistance from the portion of the net proceeds of obligations 3936
issued and sold by the treasurer of state which is allocated 3937

pursuant to division (B)(1) of section 164.08 of the Revised Code. 3938
In reviewing and approving the projects selected by its 3939
subcommittee, the administrator, and the Ohio small government 3940
capital improvements commission shall be guided by the provisions 3941
of division (B) of this section, and shall also take into account 3942
the fact that villages and townships may have different public 3943
infrastructure needs than larger subdivisions. 3944

(E) The district public works integrating committee for each 3945
district that includes at least one county with a population of 3946
less than eighty-five thousand according to the most recent 3947
decennial census shall appoint a subcommittee of its members for 3948
the purposes of the small counties capital improvement program 3949
created under division (F) of section 164.02 of the Revised Code. 3950
The subcommittee shall select and submit to the director the 3951
projects that will be considered for assistance from the money 3952
allocated to the program under division (B)~~(4)~~(3) of section 3953
164.08 of the Revised Code. 3954

Sec. 164.08. (A) Except as provided in sections 151.01 and 3955
151.08 or section 164.09 of the Revised Code, the net proceeds of 3956
obligations issued and sold by the treasurer of state pursuant to 3957
section 164.09 of the Revised Code before September 30, 2000, or 3958
pursuant to sections 151.01 and 151.08 of the Revised Code, for 3959
the purpose of financing or assisting in the financing of the cost 3960
of public infrastructure capital improvement projects of local 3961
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 3962
VIII, Ohio Constitution, and this chapter, shall be paid into the 3963
state capital improvements fund, which is hereby created in the 3964
state treasury. Investment earnings on moneys in the fund shall be 3965
credited to the fund. 3966

(B) Beginning July 1, 2011, each program year the amount of 3967
obligations authorized by the general assembly in accordance with 3968

sections 151.01 and 151.08 or section 164.09 of the Revised Code, 3969
excluding the proceeds of refunding or renewal obligations, shall 3970
be allocated by the director of the Ohio public works commission 3971
as follows: 3972

(1) First, fifteen million dollars of the amount of 3973
obligations authorized shall be allocated to provide financial 3974
assistance to villages and to townships with populations in the 3975
unincorporated areas of the township of less than five thousand 3976
persons, for capital improvements in accordance with section 3977
164.051 and division (D) of section 164.06 of the Revised Code. As 3978
used in division (B)(1) of this section, "capital improvements" 3979
includes resurfacing and improving roads. 3980

(2) Following the allocation required by division (B)(1) of 3981
this section, the director may allocate three million dollars of 3982
the authorized obligations to provide financial assistance to 3983
local subdivisions for capital improvement projects which in the 3984
judgment of the director of the Ohio public works commission are 3985
necessary for the immediate preservation of the health, safety, 3986
and welfare of the citizens of the local subdivision requesting 3987
assistance. 3988

~~(3) For the second, third, fourth, and fifth years that 3989
obligations are authorized and are available for allocation under 3990
this chapter, one million dollars shall be allocated to the sewer 3991
and water fund created in section 1525.11 of the Revised Code. 3992
Money from this allocation shall be transferred to that fund when 3993
needed to support specific payments from that fund. 3994~~

~~(4) For program years twelve and fourteen that obligations 3995
are authorized and available for allocation under this chapter, 3996
two million dollars each program year shall be allocated to the 3997
small county capital improvement program for use in providing 3998
financial assistance under division (F) of section 164.02 of the 3999
Revised Code. 4000~~

~~(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 4032
state capital improvements revolving loan fund that exceed the 4033
amounts required to pay for the administrative costs and estimated 4034
rebate requirements shall be allocated to each district on a per 4035
capita basis. 4036

(5) Each program year, loan repayments received and on 4037
deposit in the state capital improvements revolving loan fund 4038
shall be allocated as follows: 4039

(a) Each district public works integrating committee shall be 4040
allocated an amount equal to the sum of all loan repayments made 4041
to the state capital improvements revolving loan fund by local 4042
subdivisions that are part of the district. Moneys not used in a 4043
program year may be used in the next program year in the same 4044
manner and for the same purpose as originally allocated. 4045

(b) Loan repayments made pursuant to projects approved under 4046
division (B)(1) of this section shall be used to make loans in 4047
accordance with section 164.051 and division (D) of section 164.06 4048
of the Revised Code. Allocations for this purpose made pursuant to 4049
division (C)(5) of this section shall be in addition to the 4050
allocation provided in division (B)(1) of this section. 4051

(c) Loan repayments made pursuant to projects approved under 4052
division (B)(2) of this section shall be used to make loans in 4053
accordance with division (B)(2) of this section. Allocations for 4054
this purpose made pursuant to division (C)(5) of this section 4055
shall be in addition to the allocation provided in division (B)(2) 4056
of this section. 4057

(d) Loans made from the state capital improvements revolving 4058
loan fund shall not be limited in their usage by divisions (E), 4059
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 4060

(D) Investment earnings credited to the state capital 4061
improvements fund that exceed the amounts required to meet 4062

estimated federal arbitrage rebate requirements shall be used to 4063
pay costs incurred by the public works commission in administering 4064
sections 164.01 to 164.12 of the Revised Code. 4065

(E) The director of the Ohio public works commission shall 4066
notify the director of budget and management of the amounts 4067
allocated pursuant to this section and such information shall be 4068
entered into the state accounting system. The director of budget 4069
and management shall establish appropriation line items as needed 4070
to track these allocations. 4071

(F) If the amount of a district's allocation in a program 4072
year exceeds the amount of financial assistance approved for the 4073
district by the commission for that year, the remaining portion of 4074
the district's allocation shall be added to the district's 4075
allocation pursuant to division (B) of this section for the next 4076
succeeding year for use in the same manner and for the same 4077
purposes as it was originally allocated, except that any portion 4078
of a district's allocation which was available for use on new or 4079
expanded infrastructure pursuant to division (H) of section 164.05 4080
of the Revised Code shall be available in succeeding years only 4081
for the repair and replacement of existing infrastructure. 4082

(G) When an allocation based on population is made by the 4083
director pursuant to division (B) of this section, the director 4084
shall use the most recent decennial census statistics, and shall 4085
not make any reallocations based upon a change in a district's 4086
population. 4087

Sec. 166.01. As used in this chapter: 4088

(A) "Allowable costs" means all or part of the costs of 4089
project facilities, eligible projects, eligible innovation 4090
projects, eligible research and development projects, eligible 4091
advanced energy projects, or eligible logistics and distribution 4092
projects, including costs of acquiring, constructing, 4093

reconstructing, rehabilitating, renovating, enlarging, improving, 4094
equipping, or furnishing project facilities, eligible projects, 4095
eligible innovation projects, eligible research and development 4096
projects, eligible advanced energy projects, or eligible logistics 4097
and distribution projects, site clearance and preparation, 4098
supplementing and relocating public capital improvements or 4099
utility facilities, designs, plans, specifications, surveys, 4100
studies, and estimates of costs, expenses necessary or incident to 4101
determining the feasibility or practicability of assisting an 4102
eligible project, an eligible innovation project, an eligible 4103
research and development project, an eligible advanced energy 4104
project, or an eligible logistics and distribution project, or 4105
providing project facilities or facilities related to an eligible 4106
project, an eligible innovation project, an eligible research and 4107
development project, an eligible advanced energy project, or an 4108
eligible logistics and distribution project, architectural, 4109
engineering, and legal services fees and expenses, the costs of 4110
conducting any other activities as part of a voluntary action, and 4111
such other expenses as may be necessary or incidental to the 4112
establishment or development of an eligible project, an eligible 4113
innovation project, an eligible research and development project, 4114
an eligible advanced energy project, or an eligible logistics and 4115
distribution project, and reimbursement of moneys advanced or 4116
applied by any governmental agency or other person for allowable 4117
costs. 4118

(B) "Allowable innovation costs" includes allowable costs of 4119
eligible innovation projects and, in addition, includes the costs 4120
of research and development of eligible innovation projects; 4121
obtaining or creating any requisite software or computer hardware 4122
related to an eligible innovation project or the products or 4123
services associated therewith; testing (including, without 4124
limitation, quality control activities necessary for initial 4125
production), perfecting, and marketing of such products and 4126

services; creating and protecting intellectual property related to 4127
an eligible innovation project or any products or services related 4128
thereto, including costs of securing appropriate patent, 4129
trademark, trade secret, trade dress, copyright, or other form of 4130
intellectual property protection for an eligible innovation 4131
project or related products and services; all to the extent that 4132
such expenditures could be capitalized under then-applicable 4133
generally accepted accounting principles; and the reimbursement of 4134
moneys advanced or applied by any governmental agency or other 4135
person for allowable innovation costs. 4136

(C) "Eligible innovation project" includes an eligible 4137
project, including any project facilities associated with an 4138
eligible innovation project and, in addition, includes all 4139
tangible and intangible property related to a new product or 4140
process based on new technology or the creative application of 4141
existing technology, including research and development, product 4142
or process testing, quality control, market research, and related 4143
activities, that is to be acquired, established, expanded, 4144
remodeled, rehabilitated, or modernized for industry, commerce, 4145
distribution, or research, or any combination thereof, the 4146
operation of which, alone or in conjunction with other eligible 4147
projects, eligible innovation projects, or innovation property, 4148
will create new jobs or preserve existing jobs and employment 4149
opportunities and improve the economic welfare of the people of 4150
the state. 4151

(D) "Eligible project" means project facilities to be 4152
acquired, established, expanded, remodeled, rehabilitated, or 4153
modernized for industry, commerce, distribution, or research, or 4154
any combination thereof, the operation of which, alone or in 4155
conjunction with other facilities, will create new jobs or 4156
preserve existing jobs and employment opportunities and improve 4157
the economic welfare of the people of the state. "Eligible 4158

project" includes, without limitation, a voluntary action. For 4159
purposes of this division, "new jobs" does not include existing 4160
jobs transferred from another facility within the state, and 4161
"existing jobs" includes only those existing jobs with work places 4162
within the municipal corporation or unincorporated area of the 4163
county in which the eligible project is located. 4164

"Eligible project" does not include project facilities to be 4165
acquired, established, expanded, remodeled, rehabilitated, or 4166
modernized for industry, commerce, distribution, or research, or 4167
any combination of industry, commerce, distribution, or research, 4168
if the project facilities consist solely of 4169
point-of-final-purchase retail facilities. If the project 4170
facilities consist of both point-of-final-purchase retail 4171
facilities and nonretail facilities, only the portion of the 4172
project facilities consisting of nonretail facilities is an 4173
eligible project. If a warehouse facility is part of a 4174
point-of-final-purchase retail facility and supplies only that 4175
facility, the warehouse facility is not an eligible project. 4176
Catalog distribution facilities are not considered 4177
point-of-final-purchase retail facilities for purposes of this 4178
paragraph, and are eligible projects. 4179

(E) "Eligible research and development project" means an 4180
eligible project, including project facilities, comprising, 4181
within, or related to, a facility or portion of a facility at 4182
which research is undertaken for the purpose of discovering 4183
information that is technological in nature and the application of 4184
which is intended to be useful in the development of a new or 4185
improved product, process, technique, formula, or invention, a new 4186
product or process based on new technology, or the creative 4187
application of existing technology. 4188

(F) "Financial assistance" means inducements under division 4189
(B) of section 166.02 of the Revised Code, loan guarantees under 4190

section 166.06 of the Revised Code, and direct loans under section 4191
166.07 of the Revised Code. 4192

(G) "Governmental action" means any action by a governmental 4193
agency relating to the establishment, development, or operation of 4194
an eligible project, eligible innovation project, eligible 4195
research and development project, eligible advanced energy 4196
project, or eligible logistics and distribution project, and 4197
project facilities that the governmental agency acting has 4198
authority to take or provide for the purpose under law, including, 4199
but not limited to, actions relating to contracts and agreements, 4200
zoning, building, permits, acquisition and disposition of 4201
property, public capital improvements, utility and transportation 4202
service, taxation, employee recruitment and training, and liaison 4203
and coordination with and among governmental agencies. 4204

(H) "Governmental agency" means the state and any state 4205
department, division, commission, institution or authority; a 4206
municipal corporation, county, or township, and any agency 4207
thereof, and any other political subdivision or public corporation 4208
or the United States or any agency thereof; any agency, 4209
commission, or authority established pursuant to an interstate 4210
compact or agreement; and any combination of the above. 4211

(I) "Innovation financial assistance" means inducements under 4212
division (B) of section 166.12 of the Revised Code, innovation 4213
Ohio loan guarantees under section 166.15 of the Revised Code, and 4214
innovation Ohio loans under section 166.16 of the Revised Code. 4215

(J) "Innovation Ohio loan guarantee reserve requirement" 4216
means, at any time, with respect to innovation loan guarantees 4217
made under section 166.15 of the Revised Code, a balance in the 4218
innovation Ohio loan guarantee fund equal to the greater of twenty 4219
per cent of the then-outstanding principal amount of all 4220
outstanding innovation loan guarantees made pursuant to section 4221
166.15 of the Revised Code or fifty per cent of the principal 4222

amount of the largest outstanding guarantee made pursuant to 4223
section 166.15 of the Revised Code. 4224

(K) "Innovation property" includes property and also includes 4225
software, inventory, licenses, contract rights, goodwill, 4226
intellectual property, including without limitation, patents, 4227
patent applications, trademarks and service marks, and trade 4228
secrets, and other tangible and intangible property, and any 4229
rights and interests in or connected to the foregoing. 4230

(L) "Loan guarantee reserve requirement" means, at any time, 4231
with respect to loan guarantees made under section 166.06 of the 4232
Revised Code, a balance in the loan guarantee fund equal to the 4233
greater of twenty per cent of the then-outstanding principal 4234
amount of all outstanding guarantees made pursuant to section 4235
166.06 of the Revised Code or fifty per cent of the principal 4236
amount of the largest outstanding guarantee made pursuant to 4237
section 166.06 of the Revised Code. 4238

(M) "Person" means any individual, firm, partnership, 4239
association, corporation, or governmental agency, and any 4240
combination thereof. 4241

(N) "Project facilities" means buildings, structures, and 4242
other improvements, and equipment and other property, excluding 4243
small tools, supplies, and inventory, and any one, part of, or 4244
combination of the above, comprising all or part of, or serving or 4245
being incidental to, an eligible project, an eligible innovation 4246
project, an eligible research and development project, an eligible 4247
advanced energy project, or an eligible logistics and distribution 4248
project, including, but not limited to, public capital 4249
improvements. 4250

(O) "Property" means real and personal property and interests 4251
therein. 4252

(P) "Public capital improvements" means capital improvements 4253

or facilities that any governmental agency has authority to 4254
acquire, pay the costs of, own, maintain, or operate, or to 4255
contract with other persons to have the same done, including, but 4256
not limited to, highways, roads, streets, water and sewer 4257
facilities, railroad and other transportation facilities, and air 4258
and water pollution control and solid waste disposal facilities. 4259
For purposes of this division, "air pollution control facilities" 4260
includes, without limitation, solar, geothermal, biofuel, biomass, 4261
wind, hydro, wave, and other advanced energy projects as defined 4262
in section 3706.25 of the Revised Code. 4263

(Q) "Research and development financial assistance" means 4264
inducements under section 166.17 of the Revised Code, research and 4265
development loans under section 166.21 of the Revised Code, and 4266
research and development tax credits under sections 5733.352 and 4267
5747.331 of the Revised Code. 4268

(R) "Targeted innovation industry sectors" means industry 4269
sectors involving the production or use of advanced materials, 4270
instruments, controls and electronics, power and propulsion, 4271
biosciences, and information technology, or such other sectors as 4272
may be designated by the director of development services. 4273

(S) "Voluntary action" means a voluntary action, as defined 4274
in section 3746.01 of the Revised Code, that is conducted under 4275
the voluntary action program established in Chapter 3746. of the 4276
Revised Code. 4277

(T) "Project financing obligations" means obligations issued 4278
pursuant to section 166.08 of the Revised Code other than 4279
obligations for which the bond proceedings provide that bond 4280
service charges shall be paid from receipts of the state 4281
representing gross profit on the sale of spirituous liquor as 4282
referred to in division (B)(4) of section 4310.10 of the Revised 4283
Code. 4284

(U) "Regional economic development entity" means an entity 4285
that is under contract with the director ~~of development~~ to 4286
administer a loan program under this chapter in a particular area 4287
of this state. 4288

(V) "Advanced energy research and development fund" means the 4289
advanced energy research and development fund created in section 4290
3706.27 of the Revised Code. 4291

(W) "Advanced energy research and development taxable fund" 4292
means the advanced energy research and development taxable fund 4293
created in section 3706.27 of the Revised Code. 4294

(X) "Eligible advanced energy project" means an eligible 4295
project that is an "advanced energy project" as defined in section 4296
3706.25 of the Revised Code. 4297

(Y) "Eligible logistics and distribution project" means an 4298
eligible project, including project facilities, to be acquired, 4299
established, expanded, remodeled, rehabilitated, or modernized for 4300
transportation logistics and distribution infrastructure purposes. 4301
As used in this division, "transportation logistics and 4302
distribution infrastructure purposes" means promoting, providing 4303
for, and enabling improvements to the ground, air, and water 4304
transportation infrastructure comprising the transportation system 4305
in this state, including, without limitation, highways, streets, 4306
roads, bridges, railroads carrying freight, and air and water 4307
ports and port facilities, and all related supporting facilities. 4308

(Z) "Department of development" means the development 4309
services agency and "director of development" means the director 4310
of development services. 4311

Sec. 166.04. (A) Prior to entering into each agreement to 4312
provide assistance under sections 166.02, 166.06, and 166.07 of 4313
the Revised Code, the director of development services shall 4314

determine whether the assistance will conform to the requirements 4315
of sections 166.01 to 166.11 of the Revised Code. Such 4316
determination, and the facts upon which it is based, shall be set 4317
forth, where required, by the director in submissions made to the 4318
controlling board ~~for purposes of section 166.03 and, unless~~ 4319
~~provision of the assistance has been recommended to the director~~ 4320
~~by a regional economic development entity, to the development~~ 4321
~~financing advisory council under section 166.05~~ when the director 4322
seeks a release of moneys under section 166.02 of the Revised 4323
Code. An agreement to provide assistance under sections 166.02, 4324
166.06, and 166.07 of the Revised Code shall set forth such 4325
determination, which shall be conclusive for purposes of the 4326
validity and enforceability of such agreement and any loan 4327
guarantees, loans, or other agreements entered into pursuant to 4328
such agreement to provide assistance. 4329

(B) Whenever a person applies for financial assistance under 4330
sections 166.02, 166.06, and 166.07 of the Revised Code and the 4331
project for which assistance is requested is to relocate 4332
facilities that are currently being operated by the person and 4333
that are located in another county, municipal corporation, or 4334
township, the director shall provide written notification to the 4335
appropriate local governmental bodies and state officials. The 4336
notification shall contain the following information: 4337

(1) The name of the person applying for financial assistance; 4338

(2) The county, and the municipal corporation or township, in 4339
which the project for which assistance is requested is located; 4340
and 4341

(3) The county, and the municipal corporation or township, in 4342
which the facility to be replaced is located. 4343

~~The director shall provide the written notification to the~~ 4344
~~appropriate local governmental bodies and state officials so that~~ 4345

~~they receive the notification at least five days before the~~ 4346
~~development financing advisory council meeting at which the~~ 4347
~~council considers the request for financial assistance pursuant to~~ 4348
~~section 166.05 of the Revised Code.~~ 4349

(C) As used in division (B) of this section: 4350

(1) "Appropriate local governmental bodies" means: 4351

(a) The boards of county commissioners or legislative 4352
authorities of the county in which the project for which 4353
assistance is requested is located and of the county in which the 4354
facility to be replaced is located; 4355

(b) The legislative authority of the municipal corporation or 4356
the board of township trustees of the township in which the 4357
project for which assistance is requested is located; and 4358

(c) The legislative authority of the municipal corporation or 4359
the board of township trustees of the township in which the 4360
facility to be replaced is located. 4361

(2) "State officials" means: 4362

(a) The state representative and state senator in whose 4363
districts the project for which assistance is requested is 4364
located; 4365

(b) The state representative and state senator in whose 4366
districts the facility to be replaced is located. 4367

Sec. 166.05. (A) In determining the projects to be assisted 4368
and the nature, amount, and terms of assistance to be provided for 4369
an eligible project under sections 166.02, 166.06, and 166.07 of 4370
the Revised Code: 4371

(1) ~~Except as otherwise provided in division (A)(3) of this~~ 4372
~~section, the~~ The director of development services shall take into 4373
consideration all of the following: 4374

(a) The number of jobs to be created or preserved, directly or indirectly;	4375 4376
(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;	4377 4378 4379
(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;	4380 4381 4382 4383
(d) The needs, and degree of needs, of the area in which the eligible project is to be located;	4384 4385
(e) The needs of any private sector enterprise to be assisted;	4386 4387
(f) The competitive effect of the assistance on other enterprises providing jobs for people of the state;	4388 4389
(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;	4390 4391 4392 4393 4394
(h) The impact of the eligible project and its operations on local government services, including school services, and on public facilities;	4395 4396 4397
(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.	4398 4399 4400 4401 4402 4403
(j) The length of time the operator of the project has been	4404

operating facilities within the state. 4405

(2) The benefits to the local area, including taxes, jobs, 4406
and reduced unemployment and reduced welfare costs, among others, 4407
may be accorded value in the leasing or sales of project 4408
facilities and in loan and guarantee arrangements. 4409

(B) Prior to granting final approval of the assistance to be 4410
provided, the director shall determine that the benefits to be 4411
derived by the state and local area from the establishment or 4412
development, and operation, of the eligible project will exceed 4413
the cost of providing such assistance and, ~~except as provided in~~ 4414
~~division (C)(2) of this section,~~ shall submit to the development 4415
~~financing advisory council and to the~~ controlling board a copy of 4416
that determination including the basis for the determination. 4417

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 4418
~~prior to the submission provided for in division (B) of this~~ 4419
~~section to the controlling board, the director shall submit to the~~ 4420
~~development financing advisory council data pertinent to the~~ 4421
~~considerations set forth in division (A) of this section, the~~ 4422
~~terms of the proposed assistance, and such other relevant~~ 4423
~~information as the development financing advisory council may~~ 4424
~~request.~~ 4425

~~(2) The director is not required to submit any determination,~~ 4426
~~data, terms, or other application materials or information to the~~ 4427
~~development financing advisory council when provision of the~~ 4428
~~assistance has been recommended to the director by a regional~~ 4429
~~economic development entity.~~ 4430

~~(D) The development financing advisory council, on the basis~~ 4431
~~of such data, shall make recommendations as to the appropriateness~~ 4432
~~of the assistance to be provided. The recommendations may be~~ 4433
~~revised to reflect any changes in the proposed assistance as the~~ 4434
~~director may submit to the council. The recommendations, as~~ 4435

~~amended, of the council as to the appropriateness of the proposed 4436
assistance shall be submitted to the controlling board. 4437~~

~~(E) Financial statements and other data submitted to the 4438
director of development, the development financing advisory 4439
council, services or the controlling board by any private sector 4440
person in connection with financial assistance under sections 4441
166.02, 166.06, and 166.07 of the Revised Code, or any information 4442
taken from such statements or data for any purpose, shall not be 4443
open to public inspection. The development financing advisory 4444
council in considering confidential information in connection with 4445
financial assistance under sections 166.02, 166.06, and 166.07 of 4446
the Revised Code may, only for consideration of the confidential 4447
information referred to, and in the manner provided in division 4448
(E) of section 121.22 of the Revised Code, close the meeting 4449
during such consideration. 4450~~

Sec. 166.13. (A) Prior to entering into each agreement to 4451
provide innovation financial assistance under sections 166.12, 4452
166.15, and 166.16 of the Revised Code, the director of 4453
development services shall determine whether the assistance will 4454
conform to the requirements of sections 166.12 to 166.16 of the 4455
Revised Code. Such determination, and the facts upon which it is 4456
based, shall be set forth by the director in submissions made to 4457
the controlling board ~~for purposes of section 166.16 of the 4458
Revised Code and to the development financing advisory council 4459
under section 166.14~~ when the director seeks a release of moneys 4460
under section 166.12 of the Revised Code. An agreement to provide 4461
assistance under sections 166.12, 166.15, and 166.16 of the 4462
Revised Code shall set forth the determination, which shall be 4463
conclusive for purposes of the validity and enforceability of the 4464
agreement and any innovation loan guarantees, innovation loans, or 4465
other agreements entered into pursuant to the agreement to provide 4466
innovation financial assistance. 4467

(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 4499
the board of township trustees of the township in which the 4500
eligible innovation project for which innovation financial 4501
assistance is requested is located; and 4502

(c) The legislative authority of the municipal corporation or 4503
the board of township trustees of the township in which the 4504
eligible innovation project to be replaced is located. 4505

(2) "State officials" means: 4506

(a) The state representative and state senator in whose 4507
districts the project for which innovation financial assistance is 4508
requested is located; 4509

(b) The state representative and state senator in whose 4510
districts the innovation project to be replaced is located. 4511

Sec. 166.14. (A) In determining the eligible innovation 4512
projects to be assisted and the nature, amount, and terms of 4513
innovation financial assistance to be provided for an eligible 4514
innovation project under sections 166.12 to 166.16 of the Revised 4515
Code: 4516

(1) The director of development services shall take into 4517
consideration all of the following: 4518

(a) The number of jobs to be created or preserved by the 4519
eligible innovation project, directly or indirectly; 4520

(b) Payrolls, and the taxes generated, at both state and 4521
local levels, by or in connection with the eligible innovation 4522
project and by the employment created or preserved by or in 4523
connection with the eligible innovation project; 4524

(c) The size, nature, and cost of the eligible innovation 4525
project, including the prospect of the eligible innovation project 4526
for providing long-term jobs in enterprises consistent with the 4527
changing economics of the state and the nation; 4528

(d) The needs of any private sector enterprise to be 4529
assisted; 4530

(e) The amount and kind of assistance, if any, to be provided 4531
to the private sector enterprise by other governmental agencies 4532
through tax exemption or abatement, financing assistance with 4533
industrial development bonds, and otherwise, with respect to the 4534
eligible innovation project or with respect to any providers of 4535
innovation property to be included as part of the eligible 4536
innovation project; 4537

(f) The likelihood of the successful implementation of the 4538
proposed eligible innovation project; 4539

(g) Whether the eligible innovation project involves the use 4540
of technology in a targeted innovation industry sector. 4541

(2) The benefits to the local area, including taxes, jobs, 4542
and reduced unemployment and reduced welfare costs, among others, 4543
may be accorded value in the leasing or sales of innovation 4544
project facilities and in loan and guarantee arrangements. 4545

(3) In making determinations under division (A)(1) of this 4546
section, the director may consider the effect of an eligible 4547
innovation project upon any entity engaged to provide innovation 4548
property to be acquired, leased, or licensed in connection with 4549
such assistance. 4550

~~(B) The director shall submit to the development financing 4551
advisory council data pertinent to the considerations set forth in 4552
division (A) of this section, the terms of the proposed innovation 4553
financial assistance, and such other relevant information as the 4554
council may request. 4555~~

~~(C) The development financing advisory council, on the basis 4556
of such data, shall make recommendations as to the appropriateness 4557
of the innovation financial assistance to be provided. The 4558
recommendations may be revised to reflect any changes in the 4559~~

~~proposed innovation financial assistance as the director may 4560
submit to the council. The recommendations, as amended, of the 4561
council as to the appropriateness of the proposed innovation 4562
financial assistance shall be submitted to the controlling board. 4563~~

~~(D) Financial statements and other data submitted to the 4564
director of development, the development financing advisory 4565
council, services or the controlling board by any private sector 4566
person in connection with innovation financial assistance under 4567
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 4568
information taken from such statements or data for any purpose, 4569
shall not be open to public inspection. The development financing 4570
advisory council in considering confidential information in 4571
connection with innovation financial assistance under this chapter 4572
may, only for consideration of the confidential information 4573
referred to, and in the manner provided in division (E) of section 4574
121.22 of the Revised Code, close the meeting during such 4575
consideration. 4576~~

Sec. 166.18. (A) Prior to entering into each agreement to 4577
provide research and development financial assistance, the 4578
director of development services shall determine whether the 4579
assistance will conform to the requirements of sections 166.17 to 4580
166.21, 5733.352, and 5747.331 of the Revised Code. Such 4581
determination, and the facts upon which it is based, shall be set 4582
forth by the director in submissions made to the controlling board 4583
~~for purposes of section 166.17 of the Revised Code and to the 4584
development financing advisory council under section 166.19 when 4585
the director seeks a release of moneys under section 166.17 of the 4586
Revised Code. An agreement to provide research and development 4587
financial assistance under section 166.17 or 166.21 of the Revised 4588
Code shall set forth the determination, which shall be conclusive 4589
for purposes of the validity and enforceability of the agreement, 4590
and any loans or other agreements entered into pursuant to the 4591~~

agreement, to provide research and development financial 4592
assistance. 4593

(B) Whenever a person applies for research and development 4594
financial assistance, and the eligible research and development 4595
project for which that assistance is requested is to relocate an 4596
eligible research and development project that is currently being 4597
operated by the person and that is located in another county, 4598
municipal corporation, or township within the state, the director 4599
shall provide written notification to the appropriate local 4600
governmental bodies and state officials. The notification shall 4601
state all of the following: 4602

(1) The name of the person applying for research and 4603
development financial assistance; 4604

(2) The county, and the municipal corporation or township, in 4605
which the project for which research and development financial 4606
assistance is requested will be located; 4607

(3) The county, and the municipal corporation or township, in 4608
which the eligible research and development project is located at 4609
the time such financial assistance is requested. 4610

~~The director shall provide the written notification to the 4611
appropriate local governmental bodies and state officials so that 4612
they receive the notification at least five days before the 4613
development financing advisory council meeting at which the 4614
council considers the request for research and development 4615
financial assistance. 4616~~

(C) As used in division (B) of this section: 4617

(1) "Appropriate local governmental bodies" means all of the 4618
following: 4619

(a) The board of county commissioners of or legislative 4620
authorities of special districts in the county in which the 4621

eligible research and development project for which research and 4622
development financial assistance is requested is located and of 4623
the county in which the project will be located; 4624

(b) The legislative authority of the municipal corporation or 4625
the board of township trustees of the township in which the 4626
eligible research and development project for which research and 4627
development financial assistance is requested is located and of 4628
the municipal corporation or township in which the project will be 4629
located. 4630

(2) "State officials" means both of the following: 4631

(a) The state representative and state senator in whose 4632
district the eligible research and development project for which 4633
research and development financial assistance is requested is 4634
located; 4635

(b) The state representative and state senator in whose 4636
district the eligible research and development project will be 4637
located. 4638

Sec. 166.19. (A)(1) In determining the eligible research and 4639
development projects to be assisted and the nature, amount, and 4640
terms of the research and development financial assistance to be 4641
provided, the director of development services shall consider all 4642
of the following: 4643

(a) The number of jobs to be created or preserved, directly 4644
or indirectly, by or in connection with the eligible research and 4645
development project; 4646

(b) Payrolls, and the taxes generated at both state and local 4647
levels, by the eligible research and development project and by 4648
the employment created or preserved by or in connection with the 4649
project; 4650

(c) The size, nature, and cost of the eligible research and 4651

development project; 4652

(d) The likelihood that the eligible research and development 4653
project will create long-term jobs in enterprises consistent with 4654
the changing economy of the state and nation; 4655

(e) The needs of any private sector enterprise to be 4656
assisted, taking into consideration the amount and kind of 4657
assistance, if any, to be provided to the private sector 4658
enterprise by other governmental agencies through tax exemption or 4659
abatement, financing assistance with industrial development bonds, 4660
and otherwise, with respect to the eligible research and 4661
development project or with respect to any providers of research 4662
and development property to be included as part of the project; 4663

(f) The likelihood that the eligible research and development 4664
project will be successfully implemented. 4665

(2) The director may consider the benefits to the local area, 4666
including taxes, jobs, and reduced unemployment and reduced 4667
welfare costs, in the leasing or sale of eligible research and 4668
development project facilities and in loan arrangements. 4669

(3) The director may consider the effect of an eligible 4670
research and development project upon any entity engaged to 4671
provide research and development property to be acquired, leased, 4672
or licensed in connection with research and development financial 4673
assistance. 4674

~~(B) The director shall submit to the development financing 4675
advisory council data pertinent to the considerations set forth in 4676
division (A) of this section, the terms of the proposed research 4677
and development assistance, and such other relevant information as 4678
the council may request. 4679~~

~~(C) The development financing advisory council, on the basis 4680
of the data submitted under division (B) of this section, shall 4681
make recommendations as to the appropriateness of the research and 4682~~

~~development financial assistance to be provided. The 4683
recommendations may be revised to reflect any changes in the 4684
proposed research and development financial assistance that the 4685
director may submit to the council. The recommendations of the 4686
council as to the appropriateness of the proposed research and 4687
development financial assistance shall be submitted to the 4688
controlling board. 4689~~

~~(D) Financial statements and other data submitted to the 4690
director of development, the development financing advisory 4691
council, services or the controlling board by any private sector 4692
person in connection with research and development financial 4693
assistance, or any information taken from such statements or data 4694
for any purpose, shall not be open to public inspection. The 4695
development financing advisory council, in considering 4696
confidential information in connection with research and 4697
development financial assistance may, only for consideration of 4698
the confidential information referred to and in the manner 4699
provided in division (E) of section 121.22 of the Revised Code, 4700
close the meeting during such consideration. 4701~~

Sec. 166.25. (A) The director of development services, with 4702
the approval of the controlling board and subject to the other 4703
applicable provisions of this chapter, may lend money in the 4704
logistics and distribution infrastructure fund and the logistics 4705
and distribution infrastructure taxable bond fund to persons for 4706
the purpose of paying allowable costs of eligible logistics and 4707
distribution projects. 4708

(B) In determining the eligible logistics and distribution 4709
projects to be assisted and the nature, amount, and terms of 4710
assistance to be provided for an eligible logistics and 4711
distribution project, the director shall consult with appropriate 4712
governmental agencies, including the department of transportation 4713

and the Ohio rail development commission. 4714

~~(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.~~ 4715
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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.~~ 4719
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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.~~ 4724
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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. 4728
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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. 4737
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(B) In determining the eligible advanced energy projects to 4744
be assisted and the nature, amount, and terms of assistance to be 4745
provided for an eligible advanced energy project, the authority 4746
shall consult with appropriate governmental agencies. 4747

~~(C)(1) The authority shall submit to the development 4748
financing advisory council the terms of the proposed assistance to 4749
be provided for an eligible advanced energy project and such other 4750
relevant information as the council may request. 4751~~

~~(2) The council, on the basis of such information, shall make 4752
recommendations as to the appropriateness of the assistance to be 4753
provided. The recommendations may be revised to reflect any 4754
changes in the proposed assistance the authority may submit to the 4755
council. 4756~~

~~(3) The authority shall submit the terms of the proposed 4757
assistance to be provided, along with the recommendations, as 4758
amended, of the council as to the appropriateness of the proposed 4759
assistance, to the controlling board. 4760~~

~~(D) Any grant or loan made pursuant to this section shall be 4761
evidenced by an agreement, which shall contain such terms as the 4762
authority determines necessary or appropriate, including 4763
performance measures and reporting requirements. The authority may 4764
take actions necessary or appropriate to collect or otherwise deal 4765
with any assistance provided under this section, including 4766
requiring a loan or grant recipient to repay the amount of the 4767
loan or grant plus interest at a rate of three per cent above the 4768
federal short term interest rate or any other rate determined by 4769
the authority. 4770~~

Sec. 174.01. As used in this chapter: 4771

(A) "Financial assistance" means grants, loans, loan 4772
guarantees, an equity position in a project, or loan subsidies. 4773

(B) "Grant" means funding the ~~department of~~ development 4774
services agency or the Ohio housing finance agency provides for 4775
which the ~~department or the~~ relevant agency does not require 4776
repayment. 4777

(C) "Housing" means housing for owner-occupancy and 4778
multifamily rental housing. 4779

(D) "Housing for owner-occupancy" means housing that is 4780
intended for occupancy by an owner as a principal residence. 4781
"Housing for owner-occupancy" may be any type of structure and may 4782
be owned in any type of ownership. 4783

(E) "Housing trust fund" means the low- and moderate-income 4784
housing trust fund created and administered pursuant to Chapter 4785
174. of the Revised Code. 4786

(F) "Lending institution" means any financial institution 4787
qualified to conduct business in this state, a subsidiary 4788
corporation that is wholly owned by a financial institution 4789
qualified to conduct business in this state, and a mortgage lender 4790
whose regular business is originating, servicing, or brokering 4791
real estate loans and who is qualified to do business in this 4792
state. 4793

(G) "Loan" means any extension of credit or other form of 4794
financing or indebtedness directly or indirectly to a borrower 4795
with the expectation that it will be repaid in accordance with the 4796
terms of the underlying loan agreement or other pertinent 4797
document. "Loan" includes financing extended to lending 4798
institutions and indebtedness purchased from lending institutions. 4799

(H) "Loan guarantee" means any agreement in favor of a 4800
lending institution or other lender in which the credit and 4801
resources of the housing trust fund are pledged to secure the 4802
payment or collection of financing extended to a borrower for the 4803
acquisition, construction, improvement, rehabilitation or 4804

preservation of housing, or to refinance any financing previously 4805
extended for those purposes by any lender. 4806

(I) "Loan subsidy" means any deposit of funds into a lending 4807
institution with the authorization or direction that the income or 4808
revenues the deposit earns, or could have earned at competitive 4809
rates, be applied directly or indirectly to the benefit of housing 4810
assistance or financial assistance. 4811

(J) "Low_ and moderate_income persons" means individuals and 4812
families who qualify as low- and moderate-income persons pursuant 4813
to guidelines the ~~department of~~ development services agency 4814
establishes. 4815

(K) "Multifamily rental housing" means multiple unit housing 4816
intended for rental occupancy. 4817

(L) "Nonprofit organization" means a nonprofit organization 4818
in good standing and qualified to conduct business in this state 4819
including any corporation whose members are members of a 4820
metropolitan housing authority. 4821

(M) "Department of development" means the development 4822
services agency and "director of development" means the director 4823
of development services. 4824

Sec. 184.01. (A) There is hereby created the third frontier 4825
commission in the ~~department of~~ development services agency. The 4826
purpose of the commission is to coordinate and administer science 4827
and technology programs to promote the welfare of the people of 4828
the state and to maximize the economic growth of the state through 4829
expansion of both of the following: 4830

(1) The state's high technology research and development 4831
capabilities; 4832

(2) The state's product and process innovation and 4833
commercialization. 4834

(B)(1) The commission shall consist of ~~nine~~ eleven members: 4835
the director of development services, the chancellor of the Ohio 4836
board of regents, the governor's science and technology advisor, 4837
the chief investment officer of the nonprofit corporation formed 4838
under section 187.01 of the Revised Code, and ~~six~~ seven persons 4839
appointed by the governor with the advice and consent of the 4840
senate. 4841

(2) Of the ~~six~~ seven persons appointed by the governor, one 4842
shall represent the central region, which is composed of the 4843
counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, 4844
Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, 4845
and Union; one shall represent the west central region, which is 4846
composed of the counties of Champaign, Clark, Darke, Greene, 4847
Miami, Montgomery, Preble, and Shelby; one shall represent the 4848
northeast region, which is composed of the counties of Ashland, 4849
Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, 4850
Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, 4851
Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall 4852
represent the northwest region, which is composed of the counties 4853
of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, 4854
Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van 4855
Wert, Williams, Wood, and Wyandot; one shall represent the 4856
southeast region, which shall represent the counties of Adams, 4857
Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, 4858
Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, 4859
Pike, Scioto, Vinton, and Washington; ~~and~~ one shall represent the 4860
southwest region, which is composed of the counties of Butler, 4861
Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one 4862
shall represent the public at large. Of the initial appointments, 4863
two shall be for one year, two shall be for two years, and two 4864
shall be for three years as assigned by the governor. Thereafter, 4865
appointments shall be for three-year terms. Members may be 4866
reappointed and vacancies shall be filled in the same manner as 4867

appointments. A person must have a background in business or 4868
research in order to be eligible for appointment to the 4869
commission. 4870

(3) The governor shall select a chairperson from among the 4871
members, who shall serve in that role at the pleasure of the 4872
governor. Sections 101.82 to 101.87 of the Revised Code do not 4873
apply to the commission. 4874

(C) The commission shall meet at least once during each 4875
quarter of the calendar year or at the call of the chairperson. A 4876
majority of all members of the commission constitutes a quorum, 4877
and no action shall be taken without the concurrence of a majority 4878
of the members. 4879

(D) The commission shall administer any money that may be 4880
appropriated to it by the general assembly. The commission may use 4881
such money for research and commercialization and for any other 4882
purposes that may be designated by the commission. 4883

(E) The ~~department of~~ development services agency shall 4884
provide office space and facilities for the commission. 4885
Administrative costs associated with the operation of the 4886
commission or with any program or activity administered by the 4887
commission shall be paid from amounts appropriated to the 4888
commission or to the ~~department of development~~ agency for such 4889
purposes. 4890

(F) The attorney general shall serve as the legal 4891
representative for the commission and may appoint other counsel as 4892
necessary for that purpose in accordance with section 109.07 of 4893
the Revised Code. 4894

(G) Members of the commission shall serve without 4895
compensation, but shall receive their reasonable and necessary 4896
expenses incurred in the conduct of commission business. 4897

(H) Members of the commission shall file financial disclosure 4898

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 4929
to the board within sixty days after the filing of the articles of 4930
incorporation. Of the initial appointments made to the board, two 4931
shall be for a term ending one year after the date the articles 4932
were filed, two shall be for a term ending two years after the 4933
date the articles were filed, and five shall be for a term ending 4934
four years after the date the articles were filed. The articles 4935
shall state that, following the initial appointments, the governor 4936
shall appoint directors to terms of office of four years, with 4937
each term of office ending on the same day of the same month as 4938
did the term that it succeeds. If any director dies, resigns, or 4939
the director's status changes such that any of the requirements of 4940
division (C) of section 187.02 of the Revised Code are no longer 4941
met, that director's seat on the board shall become immediately 4942
vacant. The governor shall forthwith fill the vacancy by 4943
appointment for the remainder of the term of office of the vacated 4944
seat. 4945

(D) A requirement that the governor appoint one director to 4946
be chairperson of the board and procedures for electing directors 4947
to serve as officers of the corporation and members of an 4948
executive committee; 4949

(E) A provision for the appointment of a chief investment 4950
officer of the corporation by the recommendation of the board and 4951
approval of the governor. The chief investment officer shall serve 4952
at the pleasure of the board and shall have the power to execute 4953
contracts, spend corporation funds, and hire employees on behalf 4954
of the corporation. If the position of chief investment officer 4955
becomes vacant for any reason, the vacancy shall be filled in the 4956
same manner as provided in this division. 4957

(F) Provisions requiring the board to do all of the 4958
following: 4959

(1) Adopt one or more resolutions providing for compensation 4960

- of the chief investment officer; 4961
- (2) Approve an employee compensation plan recommended by the 4962
chief investment officer; 4963
- (3) Approve a contract with the director of development 4964
services for the corporation to assist the director and the 4965
~~department of~~ development services agency with providing services 4966
or otherwise carrying out the functions or duties of the 4967
~~department~~ agency, including the operation and management of 4968
programs, offices, divisions, or boards, as may be determined by 4969
the director of development services in consultation with the 4970
governor; 4971
- (4) Approve all major contracts for services recommended by 4972
the chief investment officer; 4973
- (5) Establish an annual strategic plan and standards of 4974
measure to be used in evaluating the corporation's success in 4975
executing the plan; 4976
- (6) Establish a conflicts of interest policy that, at a 4977
minimum, complies with section 187.06 of the Revised Code; 4978
- (7) Hold a minimum of four board of directors meetings per 4979
year at which a quorum of the board is physically present, and 4980
such other meetings, at which directors' physical presence is not 4981
required, as may be necessary. Meetings at which a quorum of the 4982
board is required to be physically present are subject to 4983
divisions (C), (D), and (E) of section 187.03 of the Revised Code. 4984
- (8) Establish a records retention policy and present the 4985
policy, and any subsequent changes to the policy, at a meeting of 4986
the board of directors at which a quorum of the board is required 4987
to be physically present pursuant to division (F)(7) of this 4988
section; 4989
- (9) Adopt standards of conduct for the directors. 4990

(G) A statement that directors shall not receive any 4991
compensation from the corporation, except that directors may be 4992
reimbursed for actual and necessary expenses incurred in 4993
connection with services performed for the corporation; 4994

(H) A provision authorizing the board to amend provisions of 4995
the corporation's articles of incorporation or regulations, except 4996
provisions required by this chapter; 4997

(I) Procedures by which the corporation would be dissolved 4998
and by which all corporation rights and assets would be 4999
distributed to the state or to another corporation organized under 5000
this chapter. These procedures shall incorporate any separate 5001
procedures subsequently set forth in this chapter for the 5002
dissolution of the corporation. The articles shall state that no 5003
dissolution shall take effect until the corporation has made 5004
adequate provision for the payment of any outstanding bonds, 5005
notes, or other obligations. 5006

(J) A provision establishing an audit committee to be 5007
comprised of directors. The articles shall require that the audit 5008
committee hire an independent certified public accountant to 5009
perform a financial audit of the corporation at least once every 5010
year. 5011

(K) A provision authorizing a majority of the disinterested 5012
directors to remove a director for misconduct, as that term may be 5013
defined in the articles or regulations of the corporation. The 5014
removal of a director under this division creates a vacancy on the 5015
board that the governor shall fill by appointment for the 5016
remainder of the term of office of the vacated seat. 5017

Sec. 187.03. (A) JobsOhio may perform such functions as 5018
permitted and shall perform such duties as prescribed by law and 5019
as set forth in any contract entered into under section 187.04 of 5020
the Revised Code, but shall not be considered a state or public 5021

department, agency, office, body, institution, or instrumentality 5022
for purposes of section 1.60 or Chapter 102., 121., 125., or 149. 5023
of the Revised Code. JobsOhio and its board of directors are not 5024
subject to the following sections of Chapter 1702. of the Revised 5025
Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 5026
1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 5027
1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 5028
1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this 5029
division shall be construed to impair the powers and duties of the 5030
Ohio ethics commission described in section 102.06 of the Revised 5031
Code to investigate and enforce section 102.02 of the Revised Code 5032
with regard to individuals required to file statements under 5033
division (B)(2) of this section. 5034

(B)(1) Directors and employees of JobsOhio are not employees 5035
or officials of the state and, except as provided in division 5036
(B)(2) of this section, are not subject to Chapter 102., 124., 5037
145., or 4117. of the Revised Code. 5038

(2) The chief investment officer, any other officer or 5039
employee with significant administrative, supervisory, 5040
contracting, or investment authority, and any director of JobsOhio 5041
shall file, with the Ohio ethics commission, a financial 5042
disclosure statement pursuant to section 102.02 of the Revised 5043
Code that includes, in place of the information required by 5044
divisions (A)(2), (7), (8), and (9) of that section, the 5045
information required by divisions (A) and (B) of section 102.022 5046
of the Revised Code. The governor shall comply with all applicable 5047
requirements of section 102.02 of the Revised Code. 5048

(3) Actual or in-kind expenditures for the travel, meals, or 5049
lodging of the governor or of any public official or employee 5050
designated by the governor for the purpose of this division shall 5051
not be considered a violation of section 102.03 of the Revised 5052

Code if the expenditures are made by the corporation, or on behalf 5053
of the corporation by any person, in connection with the 5054
governor's performance of official duties related to JobsOhio. The 5055
governor may designate any person, including a person who is a 5056
public official or employee as defined in section 102.01 of the 5057
Revised Code, for the purpose of this division if such 5058
expenditures are made on behalf of the person in connection with 5059
the governor's performance of official duties related to JobsOhio. 5060
A public official or employee so designated by the governor shall 5061
comply with all applicable requirements of section 102.02 of the 5062
Revised Code. 5063

At the times and frequency agreed to under division (B)(2)(b) 5064
of section 187.04 of the Revised Code, beginning in 2012, the 5065
corporation shall file with the ~~department of development~~ services 5066
agency a written report of all such expenditures paid or incurred 5067
during the preceding calendar year. The report shall state the 5068
dollar value and purpose of each expenditure, the date of each 5069
expenditure, the name of the person that paid or incurred each 5070
expenditure, and the location, if any, where services or benefits 5071
of an expenditure were received, provided that any such 5072
information that may disclose proprietary information as defined 5073
in division (C) of this section shall not be included in the 5074
report. 5075

(4) The prohibition applicable to former public officials or 5076
employees in division (A)(1) of section 102.03 of the Revised Code 5077
does not apply to any person appointed to be a director or hired 5078
as an employee of JobsOhio. 5079

(5) Notwithstanding division (A)(2) of section 145.01 of the 5080
Revised Code, any person who is a former state employee shall no 5081
longer be considered a public employee for purposes of Chapter 5082
145. of the Revised Code upon commencement of employment with 5083
JobsOhio. 5084

(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) 5116
of this section. 5117

(F) Not later than March 1, 2012, and the first day of March 5118
of each year thereafter, the chief investment officer of JobsOhio 5119
shall prepare and submit a report of the corporation's activities 5120
for the preceding year to the governor, the speaker and minority 5121
leader of the house of representatives, and the president and 5122
minority leader of the senate. The annual report shall include the 5123
following: 5124

(1) An analysis of the state's economy; 5125

(2) A description of the structure, operation, and financial 5126
status of the corporation; 5127

(3) A description of the corporation's strategy to improve 5128
the state economy and the standards of measure used to evaluate 5129
its progress; 5130

(4) An evaluation of the performance of current strategies 5131
and major initiatives; 5132

(5) An analysis of any statutory or administrative barriers 5133
to successful economic development, business recruitment, and job 5134
growth in the state identified by JobsOhio during the preceding 5135
year. 5136

Sec. 187.04. (A) The director of development services, as 5137
soon as practical after ~~the effective date of this section~~ 5138
February 18, 2011, shall execute a contract with JobsOhio for the 5139
corporation to assist the director and the ~~department of~~ 5140
development services agency with providing services or otherwise 5141
carrying out the functions or duties of the ~~department~~ agency, 5142
including the operation and management of programs, offices, 5143
divisions, or boards, as may be determined by the director in 5144
consultation with the governor. The approval or disapproval of 5145

awards involving public money shall remain functions of the 5146
~~department~~ agency. All contracts for grants, loans, and tax 5147
incentives involving public money shall be between the ~~department~~ 5148
agency and the recipient and shall be enforced by the ~~department~~ 5149
agency. JobsOhio may not execute contracts obligating the 5150
~~department~~ agency for loans, grants, tax credits, or incentive 5151
awards recommended by JobsOhio to the ~~department~~ agency. Prior to 5152
execution, all contracts between the director and JobsOhio entered 5153
into under this section that obligate the agency to pay JobsOhio 5154
for services rendered are subject to controlling board approval. 5155

5156
The term of a an initial contract entered into under this 5157
section shall not extend beyond June 30, 2013. Thereafter, the 5158
director and JobsOhio may renew the contract for subsequent fiscal 5159
biennia, but at no time shall a particular contract be effective 5160
for longer than a fiscal biennium of the general assembly, ~~but may~~ 5161
~~be renewed or amended by the parties.~~ 5162

JobsOhio's provision of services to the agency as described 5163
in this section shall be pursuant to a contract entered into under 5164
this section. If at any time the director determines that the 5165
contract with JobsOhio may not be renewed for the subsequent 5166
fiscal biennium, the director shall notify JobsOhio of the 5167
director's decision not later than one hundred twenty days prior 5168
to the end of the current fiscal biennium. If the director does 5169
not provide such written notice to JobsOhio prior to one hundred 5170
days before the end of the current fiscal biennium, the contract 5171
shall be renewed upon such terms as the parties may agree, subject 5172
to the requirements of this section. 5173

(B) A contract entered into under this section shall include 5174
all of the following: 5175

(1) Terms assigning to the corporation the duties of advising 5176

and assisting the director of ~~development~~ in the director's 5177
evaluation of the ~~department~~ agency and the formulation of 5178
recommendations under section 187.05 of the Revised Code; 5179

(2) Terms designating records created or received by JobsOhio 5180
that shall be made available to the public under the same 5181
conditions as are public records under section 149.43 of the 5182
Revised Code. Documents designated to be made available to the 5183
public pursuant to the contract shall be kept on file with the 5184
~~department of development~~ agency. 5185

Among records to be designated under this division shall be 5186
the following: 5187

(a) The corporation's federal income tax returns; 5188

(b) The report of expenditures described in division (B)(3) 5189
of section 187.03 of the Revised Code. The records shall be filed 5190
with the ~~department~~ agency at such times and frequency as agreed 5191
to by the corporation and the ~~department~~ agency, which shall not 5192
be less frequently than quarterly. 5193

(c) The annual total compensation paid to each officer and 5194
employee of the corporation; 5195

(d) A copy of the audit report for each financial audit of 5196
the corporation performed by an independent certified public 5197
accountant pursuant to division (J) of section 187.01 of the 5198
Revised Code. 5199

(e) Records of any fully executed incentive proposals, to be 5200
filed annually; 5201

(f) Records pertaining to the monitoring of commitments made 5202
by incentive recipients, to be filed annually; 5203

(g) A copy of the minutes of all public meetings described in 5204
division (C) of section 187.03 of the Revised Code not otherwise 5205
closed to the public. 5206

(3) The following statement acknowledging that JobsOhio is 5207
not acting as an agent of the state: 5208

"JobsOhio shall have no power or authority to bind the state 5209
or to assume or create an obligation or responsibility, expressed 5210
or implied, on behalf of the state or in its name, nor shall 5211
JobsOhio represent to any person that it has any such power or 5212
authority, except as expressly provided in this contract." 5213

(C) Records created or received by JobsOhio are not public 5214
records for the purposes of section 149.43 of the Revised Code, 5215
regardless of who may have custody of the records, unless the 5216
record is designated to be available to the public by the contract 5217
under division (B)(2) of this section. 5218

(D) Any contract executed under authority of this section 5219
shall not negate, impair, or otherwise adversely affect the 5220
obligation of this state to pay debt charges on securities 5221
executed by the director ~~of development~~ or issued by the treasurer 5222
of state, Ohio public facilities commission, or any other issuing 5223
authority under Chapter 122., 151., 165., or 166. of the Revised 5224
Code to fund economic development programs of the state, or to 5225
abide by any pledge or covenant relating to the payment of those 5226
debt charges made in any related proceedings. As used in this 5227
division, "debt charges," "proceedings," and "securities" have the 5228
same meanings as in section 133.01 of the Revised Code. 5229

(E) Nothing in this section, other than the requirement of 5230
controlling board approval, shall prohibit the ~~department~~ agency 5231
from contracting with JobsOhio to perform any of the following 5232
functions: 5233

(1) Promoting and advocating for the state; 5234

(2) Making recommendations to the ~~department~~ agency; 5235

(3) Performing research for the ~~department~~ agency; 5236

(4) Establishing and managing programs or offices on behalf of the ~~department~~ agency, by contract;

(5) Negotiating on behalf of the state.

(F) Nothing in this section, other than the requirement of controlling board approval, shall prohibit the ~~department~~ agency from compensating JobsOhio from funds currently appropriated to the ~~department~~ agency to perform the functions described in division (E) of this section.

Sec. 187.05. The director of development services, as soon as practical after ~~the effective date of this section~~ February 18, 2011, shall, in consultation with the governor, evaluate all powers, functions, and duties of the ~~department~~ development services agency. Within six months after ~~that effective date~~ February 18, 2011, the director shall submit a report to the general assembly recommending statutory changes necessary to improve the functioning and efficiency of the ~~department~~ agency and to transfer specified powers, functions, and duties of the ~~department~~ agency to other existing agencies of the state or to JobsOhio, or eliminate specified powers, functions, or duties. The recommendations shall be submitted in writing to the speaker and minority leader of the house of representatives and the president and minority leader of the senate.

After submitting the report, the director, in consultation with the governor, shall continue to evaluate the ~~department~~ agency and make additional recommendations on such matters to the general assembly.

Sec. 187.061. (A) Each officer and employee of JobsOhio shall do all of the following:

(1) Sign an ethical conduct statement prescribed by the board of directors of JobsOhio;

<u>(2) Complete an annual course or program of study on ethics.</u>	5267
<u>The course or program of study shall be reviewed and approved by</u>	5268
<u>the board of directors.</u>	5269
<u>(3) Comply with the gift policy prescribed by the board of</u>	5270
<u>directors.</u>	5271
<u>(B) Prior to the renewal of the contract between the director</u>	5272
<u>of development services and JobsOhio as described in section</u>	5273
<u>187.04 of the Revised Code, the board of directors shall submit to</u>	5274
<u>the controlling board a comprehensive review of the ethics</u>	5275
<u>policies and procedures that have been adopted by JobsOhio.</u>	5276
Sec. 929.03. (A)(1) No public entity with authority to levy	5277
special assessments on real property shall collect an assessment	5278
for purposes of sewer, water, or electrical service on real	5279
property that is within an agricultural district as described in	5280
division (A)(2) of this section without the permission of the	5281
owner, except that any assessment may be collected on a lot	5282
surrounding a dwelling or other structure not used in agricultural	5283
production that does not exceed one acre or the minimum area	5284
required by local zoning or subdivision rules, whichever is the	5285
greater area.	5286
(2) For purposes of division (A)(1) of this section, an	5287
agricultural district is such a district that is established:	5288
(a) In the case of counties, prior to the adoption of a	5289
resolution of necessity by a board of county commissioners,	5290
pursuant to section 6103.05 or 6117.06 of the Revised Code;	5291
(b) In the case of municipal corporations, prior to whichever	5292
of the following occurs first:	5293
(i) The adoption of the resolution of necessity by the	5294
municipal legislative authority, pursuant to section 727.12 or	5295
729.02 of the Revised Code;	5296

(ii) The service of notice on all or some of the owners to be assessed pursuant to section 729.06 of the Revised Code;	5297 5298
(iii) The adoption of the resolution or ordinance by the municipal legislative authority declaring the necessity for the improvement, the costs of which are to be assessed under procedures authorized by a municipal charter adopted pursuant to Section 7 of Article XVIII, Ohio Constitution, or, if no such ordinance or resolution is required under the charter, the service of the first notice on all or some of the owners of lands to be assessed, or the adoption of the first ordinance or resolution by the municipal legislative authority pertaining to the assessment proceedings under the charter.	5299 5300 5301 5302 5303 5304 5305 5306 5307 5308
(c) In the case of a regional water and sewer district established pursuant to Chapter 6119. of the Revised Code, prior to the adoption of a resolution of necessity by the board of trustees of the district under section 6119.25 of the Revised Code.	5309 5310 5311 5312 5313
(B) For each special assessment levied by a public entity on real property within an agricultural district for purposes of sewer, water, or electrical service, the county auditor shall make and maintain a list showing:	5314 5315 5316 5317
(1) The name of the owner of each lot, tract, or parcel of land that is exempt from the collection of the special assessment under this section;	5318 5319 5320
(2) A description of the exempt land;	5321
(3) The purpose of the special assessment;	5322
(4) The amount of the uncollected assessment on the exempt land.	5323 5324
In the case of a county project constructed under Chapter 6103. or 6117. of the Revised Code, the county auditor may use a	5325 5326

list provided for in those chapters in lieu of the list required 5327
by division (B) of this section. The auditor shall also record in 5328
the water works record required by section 6103.16 of the Revised 5329
Code or the sewer improvement record required by section 6117.33 5330
of the Revised Code those assessments not collected under this 5331
section. The recording of the assessments does not permit the 5332
collection of the assessments until such time as exempt lands are 5333
withdrawn from agricultural districts or converted to 5334
nonagricultural use. 5335

(C) If at any time any of the owner's exempt land, other than 5336
a lot sold or transferred to a son, daughter, brother, sister, 5337
mother, or father for the purpose of constructing a dwelling in 5338
which the relative will reside for at least three years, is 5339
withdrawn from an agricultural district or if the owner of the 5340
exempt land uses on that land the service for which the special 5341
assessment was assessed, the public entity may collect the entire 5342
uncollected assessment, except as otherwise provided in this 5343
division, in addition to an amount equal to the rate of interest 5344
that any bonds or notes issued for the project for which the 5345
assessment was made did bear for the number of years the land was 5346
exempted, not to exceed twenty-five or the number of years for 5347
which the bonds or notes were issued, whichever is the lesser 5348
number. The owner shall notify the county auditor of any 5349
withdrawal from a district or use of the service within ninety 5350
days following the withdrawal or use of the service. The charge 5351
shall constitute a lien of the public entity upon the land and 5352
shall continue until discharged. All liens shall be recorded in 5353
the appropriate county recorder's office. Moneys collected as a 5354
result of the charge shall be deposited in the appropriate fund of 5355
the public entity that levied the special assessment. 5356

If the owner of exempt land sells or transfers a lot to ~~his~~ 5357
the owner's son, daughter, brother, sister, mother, or father for 5358

the purpose of constructing a dwelling in which the relative will 5359
reside for at least three years, and if the owner or the buyer of 5360
the lot uses the service for which the special assessment was 5361
assessed only to provide service to that lot, the owner of the lot 5362
shall pay only that portion of the uncollected assessment and 5363
interest that applies to the lot. 5364

If at any time any part of an owner's exempt land is 5365
appropriated, the owner shall pay only that portion of the 5366
uncollected assessment and interest that applies to the 5367
appropriated parcel of land. 5368

In lieu of immediate payment of the uncollected assessment 5369
and interest, the board of county commissioners, legislative 5370
authority of a municipal corporation, or other governing board of 5371
any other public entity may, upon the request of the owner, 5372
establish an extended repayment schedule for the owner. If the 5373
board, legislative authority, or other governing board establishes 5374
such a schedule, it shall notify the county auditor of the 5375
schedule. 5376

~~(D) A board of county commissioners, legislative authority of 5377
a municipal corporation, or other governing board of any other 5378
public entity may apply to the water and sewer commission, created 5379
by division (C) of section 1525.11 of the Revised Code, for an 5380
advance of moneys from the water and sewer fund, created by 5381
division (A) of section 1525.11 of the Revised Code, in an amount 5382
equal to that portion of the costs of a water or sewer improvement 5383
authorized by law that is to be financed by assessments whose 5384
collection is prohibited under division (A) of this section. The 5385
application for such an advance of moneys shall be made in the 5386
manner prescribed by rules of the commission. Upon collection of 5387
any assessment whose collection was prohibited under division (A) 5388
of this section, the board of county commissioners, legislative 5389
authority, or other governing board shall repay the commission the 5390~~

~~amount of any moneys advanced by it in regard to the assessments.~~ 5391

Sec. 1551.01. As used in this chapter: 5392

(A) "Governmental agency" means the United States government 5393
or any department, agency, or instrumentality thereof; any 5394
department, agency, or instrumentality of a state government; any 5395
municipal corporation, county, township, board of education, or 5396
other political subdivision or any other body corporate and 5397
politic of a state; or any agency, commission, or authority 5398
established under an interstate compact or agreement. 5399

(B) "Energy resource development facility" means any energy 5400
resource development, research, or conservation facility, 5401
including pilot as well as demonstration facilities, and including 5402
undivided or other interests therein, acquired or to be acquired, 5403
or constructed or to be constructed under this chapter or Chapter 5404
6121. or 6123. of the Revised Code, or acquired or to be acquired, 5405
or constructed or to be constructed by a governmental agency or 5406
person with all or a part of the cost thereof being paid from a 5407
loan or grant under such chapters, including all buildings and 5408
facilities that the director of development services determines 5409
necessary for the operation of the facility, together with all 5410
property, rights, easements, and interests that may be required 5411
for the operation of the facility, which facilities may include: 5412

(1) Any building, testing facility, testing device, or 5413
support facilities which would provide experimental, 5414
demonstration, or testing capabilities or services not otherwise 5415
available in this state and which are necessary for the 5416
accomplishment of the purposes of this chapter; 5417

(2) Any method, process, structure, or equipment that is used 5418
to store coal, oil, natural gas, fuel for nuclear reactors, or any 5419
other form of energy; 5420

(3) Any method, process, structure, or equipment that is used 5421
to recover or convert coal, oil, natural gas, steam, or other form 5422
of energy from property located within the state for the purpose 5423
of supplying energy for utilization; 5424

(4) Any method, process, structure, or equipment that is 5425
designed to result in more efficient recovery, conversion, or 5426
utilization of energy resources within the state, including any 5427
scrap tire recovery facility for which a registration certificate 5428
or permit has been issued under section 3734.78 of the Revised 5429
Code; 5430

(5) Any improvement that is designed to improve the thermal 5431
efficiency of a building or structure or reduce the fuel or power 5432
needed to heat, cool, light, ventilate, or provide hot water in a 5433
building or structure; 5434

(6) Any improvement designed to enable the substitution of 5435
coal or alternate fuel, other than natural gas, for natural gas or 5436
a petroleum fuel, or the conversion of coal to other fuels; 5437

(7) Any improvement designed to enable the combustion of high 5438
sulfur coal in compliance with air or water pollution control or 5439
solid waste disposal laws, including, but not limited to, any 5440
facility for processing coal to remove sulfur before combustion of 5441
the coal, for fluidized bed combustion, or for removal of the 5442
sulfur before the products of combustion are emitted or 5443
discharged. 5444

(C) "Cost" as applied to an energy resource development 5445
facility means the cost of acquisition and construction, the cost 5446
of acquisition of all land, rights-of-way, property rights, 5447
easements, franchise rights, and interests required for such 5448
acquisition and construction, the cost of demolishing or removing 5449
any buildings or structures on land so acquired, including the 5450
cost of acquiring any lands to which such buildings or structures 5451

may be moved, the cost of acquiring or constructing and equipping 5452
a principal office and sub-offices of the department of 5453
development, the cost of diverting highways, interchange of 5454
highways, access roads to private property, including the cost of 5455
land or easements for such access roads, the cost of public 5456
utility and common carrier relocation or duplication, the cost of 5457
all machinery, furnishings, and equipment, financing charges, 5458
interest prior to and during construction and for no more than 5459
eighteen months after completion of construction, engineering, 5460
expenses of research and development with respect to the facility, 5461
legal expenses, plans, specifications, surveys, studies, estimates 5462
of cost and revenues, working capital, other expenses necessary or 5463
incident to determining the feasibility or practicability of 5464
acquiring or constructing such facility, administrative expense, 5465
and such other expense as may be necessary or incident to the 5466
acquisition or construction of the facility, the financing of such 5467
acquisition or construction, including the amount authorized in 5468
the resolution of the Ohio water development authority providing 5469
for the issuance of energy resource development revenue bonds to 5470
be paid into any special funds from the proceeds of such bonds, 5471
and the financing of the placing of such facility in operation. 5472
Any obligation, cost, or expense incurred after August 26, 1975, 5473
by any governmental agency or person for surveys, borings, 5474
preparation of plans and specifications, and other engineering 5475
services, or any other cost described above, in connection with 5476
the acquisition or construction of a facility may be regarded as a 5477
part of the cost of such facility and may be reimbursed out of the 5478
proceeds of energy resource development revenue bonds. 5479

(D) "Revenues" means all rentals and other charges received 5480
by the Ohio water development authority for the use or services of 5481
any energy resource development facility, any contract, gift, or 5482
grant received with respect to any energy resource development 5483
facility, and moneys received with respect to the lease, sublease, 5484

sale, including installment sale or conditional sale, or other 5485
disposition of an energy resource development facility, moneys 5486
received in repayment of and for interest on any loans made by the 5487
authority to a person or governmental agency, whether from the 5488
United States or any department, administration, or agency 5489
thereof, or otherwise, proceeds of energy resource development 5490
revenue bonds to the extent that the use thereof for payment of 5491
principal of, premium, if any, or interest on the bonds is 5492
authorized by the authority, proceeds from any insurance, 5493
condemnation, or guaranty pertaining to a facility or property 5494
mortgaged to secure bonds or pertaining to the financing of a 5495
facility, and income and profit from the investment of the 5496
proceeds of energy resource development revenue bonds or of any 5497
revenues. 5498

(E) "Construction," unless the context indicates a different 5499
meaning or intent, includes construction, reconstruction, 5500
enlargement, improvement, or providing furnishings or equipment. 5501

(F) "Energy resource development revenue bonds," unless the 5502
context indicates a different meaning or intent, includes energy 5503
resource development revenue bonds, energy resource development 5504
revenue notes, and energy resource development revenue refunding 5505
bonds. 5506

(G) "Energy" means work or heat that is, or can be, produced 5507
from any fuel or source whatsoever. 5508

(H) "Energy audit" means any process by which energy usage or 5509
costs of heating, cooling, lighting, and climate control in a 5510
building or structure are determined. 5511

(I) "Energy conservation" means preservation of energy 5512
resources by efficient utilization, and reduction of waste. 5513

(J) "Energy conservation measure" means any modification of a 5514
building, structure, machine, appliance, vehicle, improvement, or 5515

process in order to improve its efficiency of energy use or energy costs. 5516
5517

(K) "Fuel" means petroleum, crude oil, petroleum product, coal, natural gas, synthetic natural or artificial gas, nuclear, or other substance used primarily for its energy content. 5518
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(L) "Net energy analysis" means the determination of the amount of energy remaining after all energy outputs have been subtracted from the energy inputs of a given system. 5521
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(M) "Department of development" means the development services agency and "director of development" means the director of development services. 5524
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Sec. 3735.01. As used in this chapter, "department of development" means the development services agency and "director of development" means the director of development services. 5527
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Sec. 3735.672. (A) On or before the thirty-first day of March each year, a legislative authority that has entered into an agreement with a party under section 3735.671 of the Revised Code shall submit to the director of development services and the board of education of each school district of which a municipal corporation or township to which such an agreement applies is a part a report on all such agreements in effect during the preceding calendar year. The report shall include the following information: 5530
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(1) The designation, assigned by the director of development services, of each community reinvestment area within the municipal corporation or county, and the total population of each area according to the most recent data available; 5539
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(2) The number of agreements and the number of full-time employees subject to those agreements within each area, each according to the most recent data available and identified and 5543
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5545

categorized by the appropriate standard industrial code, and the 5546
rate of unemployment in the municipal corporation or county in 5547
which the area is located for each year since the area was 5548
certified; 5549

(3) The number of agreements approved and executed during the 5550
calendar year for which the report is submitted, the total number 5551
of agreements in effect on the thirty-first day of December of the 5552
preceding calendar year, the number of agreements that expired 5553
during the calendar year for which the report is submitted, and 5554
the number of agreements scheduled to expire during the calendar 5555
year in which the report is submitted. For each agreement that 5556
expired during the calendar year for which the report is 5557
submitted, the legislative authority shall include the amount of 5558
taxes exempted under the agreement. 5559

(4) The number of agreements receiving compliance reviews by 5560
the tax incentive review council in the municipal corporation or 5561
county during the calendar year for which the report is submitted, 5562
including all of the following information: 5563

(a) The number of agreements the terms of which the party has 5564
complied with, indicating separately for each such agreement the 5565
value of the real property exempted pursuant to the agreement and 5566
a comparison of the stipulated and actual schedules for hiring new 5567
employees, for retaining existing employees, and for the amount of 5568
payroll of the party attributable to these employees; 5569

(b) The number of agreements the terms of which a party has 5570
failed to comply with, indicating separately for each such 5571
agreement the value of the real and personal property exempted 5572
pursuant to the agreement and a comparison of the stipulated and 5573
actual schedules for hiring new employees, for retaining existing 5574
employees, and for the amount of payroll of the enterprise 5575
attributable to these employees; 5576

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority, and the number of such recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(5) The number of parties subject to agreements that expanded within each area, including the number of new employees hired and existing employees retained by that party, and the number of new parties subject to agreements that established within each area, including the number of new employees hired by each party;

(6) For each agreement in effect during any part of the preceding year, the number of employees employed by the party at the property that is the subject of the agreement immediately prior to formal approval of the agreement, the number of employees employed by the party at that property on the thirty-first day of December of the preceding year, the payroll of the party for the preceding year, the amount of taxes paid on real property that was exempted under the agreement, and the amount of such taxes that were not paid because of the exemption.

(B) Upon the failure of a municipal corporation or county to comply with division (A) of this section:

(1) Beginning on the first day of April of the calendar year in which the municipal corporation or county fails to comply with that division, the municipal corporation or county shall not enter into any agreements under section 3735.671 of the Revised Code until the municipal corporation or county has complied with division (A) of this section.

(2) On the first day of each ensuing calendar month until the municipal corporation or county complies with that division, the director of development services shall either order the proper

county auditor to deduct from the next succeeding payment of taxes 5608
to the municipal corporation or county under section 321.31, 5609
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5610
five hundred dollars for each calendar month the municipal 5611
corporation or county fails to comply with that division, or order 5612
the county auditor to deduct such an amount from the next 5613
succeeding payment to the municipal corporation or county from the 5614
undivided local government fund under section 5747.51 of the 5615
Revised Code. At the time such a payment is made, the county 5616
auditor shall comply with the director's order by issuing a 5617
warrant, drawn on the fund from which such money would have been 5618
paid, to the director of development services, who shall deposit 5619
the warrant into the state community reinvestment area program 5620
administration fund created in division (C) of this section. 5621

(C) The director, by rule, shall establish the state's 5622
application fee for applications submitted to a municipal 5623
corporation or county to enter into an agreement under section 5624
3735.671 of the Revised Code. In establishing the amount of the 5625
fee, the director shall consider the state's cost of administering 5626
the community reinvestment area program, including the cost of 5627
reviewing the reports required under division (A) of this section. 5628
The director may change the amount of the fee at such times and in 5629
such increments as the director considers necessary. Any municipal 5630
corporation or county that receives an application shall collect 5631
the application fee and remit the fee for deposit in the state 5632
treasury to the credit of the ~~tax incentive programs operating~~ 5633
business assistance fund created in section 122.174 of the Revised 5634
Code. 5635

Sec. 3746.35. (A) Not later than September 1, 1996, and not 5636
later than the first day of September of each subsequent year, the 5637
director of environmental protection shall prepare and submit to 5638
the chairpersons of the respective standing committees of the 5639

senate and house of representatives primarily responsible for 5640
considering environmental and taxation matters a report regarding 5641
the voluntary action program established under this chapter and 5642
rules adopted under it and the tax abatements granted pursuant to 5643
sections 5709.87 and 5709.88 of the Revised Code for properties 5644
where voluntary actions were conducted. Each annual report shall 5645
include, without limitation, all of the following: 5646

(1) Both of the following for each property for which a 5647
covenant not to sue was issued under section 3746.12 of the 5648
Revised Code during the preceding calendar year: 5649

(a) The address of the property and name of the person who 5650
undertook the voluntary action at the property; 5651

(b) Whether the applicable standards governing the voluntary 5652
action were the interim standards established in section 3746.07 5653
of the Revised Code or the generic numerical clean-up standards 5654
established in rules adopted under division (B)(1) of section 5655
3746.04 of the Revised Code, were established through the 5656
performance of a risk assessment pursuant to rules adopted under 5657
division (B)(2) of section 3746.04 of the Revised Code, or were 5658
set forth in a variance issued under section 3746.09 of the 5659
Revised Code. 5660

(2) All of the following for each property for which a 5661
variance was issued under section 3746.09 of the Revised Code 5662
during the preceding calendar year: 5663

(a) The address of the property and the name of the person to 5664
whom the variance was issued; 5665

(b) A summary of the alternative standards and terms and 5666
conditions of the variance and brief description of the 5667
improvement in environmental conditions at the property that is 5668
anticipated to result from compliance with the alternative 5669
standards and terms and conditions set forth in the variance; 5670

(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 section. ~~The sole responsibility of the director of environmental protection regarding the report provided to the director under that division is to include it in the annual report prepared under division (A) of this section.~~

(7) For each property that is receiving a tax abatement pursuant to an agreement with a municipal corporation or county entered into under section 5709.88 of the Revised Code, the amount of the valuation exempted from real or personal property taxation. In order to comply with division (A)(7) 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 (C) of this section. ~~The sole responsibility of the director of environmental protection regarding the report provided~~

~~to the director under that division is to include it in the annual~~ 5734
~~report prepared under division (A) of this section.~~ 5735

(B)(1) Not later than March 31, 1996, the county auditor of 5736
each county in which is located any property that is receiving a 5737
tax abatement under section 5709.87 of the Revised Code shall 5738
report to the director of ~~development~~ environmental protection for 5739
each such property both of the following as applicable to tax year 5740
1995: 5741

(a) The address of the property and the name of the owner as 5742
stated in the records of the county auditor of the county in which 5743
the property is located; 5744

(b) The amount of the valuation of the property that was 5745
exempted from real property taxation under that section. 5746

Not later than the thirty-first day of March of each 5747
subsequent year, each such county auditor shall report the 5748
information described in those divisions to the director of 5749
~~development~~ environmental protection for each property within the 5750
county that is receiving a tax abatement under that section for 5751
the preceding tax year. 5752

(2) Not later than July 1, 1996, and not later than the first 5753
day of July of each subsequent year, the director of ~~development~~ 5754
environmental protection shall compile the information provided to 5755
the director under division (B)(1) of this section applicable to 5756
the preceding tax year into a report covering all of the counties 5757
in the state in which are located properties receiving a tax 5758
abatement under section 5709.87 of the Revised Code for the 5759
preceding tax year ~~and shall forward the report to the director of~~ 5760
~~environmental protection. The sole responsibility of the director~~ 5761
~~of development in preparing the report is to compile the~~ 5762
~~information submitted to the director by the county auditors under~~ 5763
~~division (B)(1) of this section.~~ 5764

(C) Not later than July 1, 1996, and not later than the first 5765
day of July of each subsequent year, the director of ~~development~~ 5766
environmental protection shall compile the information provided to 5767
the director by municipal corporations and counties under division 5768
(A) of section 5709.882 of the Revised Code applicable to the 5769
preceding calendar year into a report covering, by county, all of 5770
the municipal corporations and counties in this state in which are 5771
located properties receiving a tax abatement pursuant to an 5772
agreement entered into under section 5709.88 of the Revised Code 5773
~~and shall forward the report to the director of environmental~~ 5774
~~protection. The sole responsibility of the director of development~~ 5775
~~in preparing the report is to compile the information submitted to~~ 5776
~~him by municipal corporations and counties under division (A) of~~ 5777
~~section 5709.882 of the Revised Code.~~ 5778

Sec. 5117.22. All petroleum violation escrow funds received 5779
by this state from the federal government shall be deposited in 5780
the state treasury to the credit of the energy oil overcharge 5781
fund, which is hereby created. The fund shall be used by the 5782
~~department of development~~ services agency for energy conservation 5783
and assistance programs approved by the United States department 5784
of energy. All investment earnings of the fund shall be credited 5785
to the fund. 5786

Sec. 5701.15. As used in Title LVII of the Revised Code, 5787
"department of development" means the development services agency 5788
and "director of development" means the director of development 5789
services. 5790

Sec. 5709.68. (A) On or before the thirty-first day of March 5791
each year, a municipal corporation or county that has entered into 5792
an agreement with an enterprise under section 5709.62, 5709.63, or 5793
5709.632 of the Revised Code shall submit to the director of 5794

development services and the board of education of each school 5795
district of which a municipal corporation or township to which 5796
such an agreement applies is a part a report on all of those 5797
agreements in effect during the preceding calendar year. The 5798
report shall include all of the following information: 5799

(1) The designation, assigned by the director of development 5800
services, of each urban jobs and enterprise zone within the 5801
municipal corporation or county, the date each zone was certified, 5802
the name of each municipal corporation or township within each 5803
zone, and the total population of each zone according to the most 5804
recent data available; 5805

(2) The number of enterprises that are subject to those 5806
agreements and the number of full-time employees subject to those 5807
agreements within each zone, each according to the most recent 5808
data available and identified and categorized by the appropriate 5809
standard industrial code, and the rate of unemployment in the 5810
municipal corporation or county in which the zone is located for 5811
each year since each zone was certified; 5812

(3) The number of agreements approved and executed during the 5813
calendar year for which the report is submitted, the total number 5814
of agreements in effect on the thirty-first day of December of the 5815
preceding calendar year, the number of agreements that expired 5816
during the calendar year for which the report is submitted, and 5817
the number of agreements scheduled to expire during the calendar 5818
year in which the report is submitted. For each agreement that 5819
expired during the calendar year for which the report is 5820
submitted, the municipal corporation or county shall include the 5821
amount of taxes exempted and the estimated dollar value of any 5822
other incentives provided under the agreement. 5823

(4) The number of agreements receiving compliance reviews by 5824
the tax incentive review council in the municipal corporation or 5825
county during the calendar year for which the report is submitted, 5826

including all of the following information:	5827
(a) The number of agreements the terms of which an enterprise has complied with, indicating separately for each agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, for the amount of payroll of the enterprise attributable to these employees, and for investing in establishing, expanding, renovating, or occupying a facility;	5828 5829 5830 5831 5832 5833 5834 5835
(b) The number of agreements the terms of which an enterprise has failed to comply with, indicating separately for each agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, for the amount of payroll of the enterprise attributable to these employees, and for investing in establishing, expanding, renovating, or occupying a facility;	5836 5837 5838 5839 5840 5841 5842 5843
(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;	5844 5845 5846 5847
(d) The number of agreements rescinded during the calendar year for which the report is submitted.	5848 5849
(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;	5850 5851 5852 5853 5854 5855
(6)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of	5856 5857

business within the state for the primary purpose of establishing, 5858
expanding, renovating, or occupying a facility, indicating 5859
separately for each enterprise the political subdivision in which 5860
the enterprise closed or reduced employment at a place of business 5861
and the number of full-time employees transferred and retained by 5862
each such place of business; 5863

(b) The number of enterprises that are subject to agreements 5864
and that closed or reduced employment at any place of business 5865
outside the state for the primary purpose of establishing, 5866
expanding, renovating, or occupying a facility. 5867

(7) For each agreement in effect during any part of the 5868
preceding year, the number of employees employed by the enterprise 5869
at the project site immediately prior to formal approval of the 5870
agreement, the number of employees employed by the enterprise at 5871
the project site on the thirty-first day of December of the 5872
preceding year, the payroll of the enterprise for the preceding 5873
year, the amount of taxes paid on tangible personal property 5874
situated at the project site and the amount of those taxes that 5875
were not paid because of the exemption granted under the 5876
agreement, and the amount of taxes paid on real property 5877
constituting the project site and the amount of those taxes that 5878
were not paid because of the exemption granted under the 5879
agreement. If an agreement was entered into under section 5709.632 5880
of the Revised Code with an enterprise described in division 5881
(B)(2) of that section, the report shall include the number of 5882
employee positions at all of the enterprise's locations in this 5883
state. If an agreement is conditioned on a waiver issued under 5884
division (B) of section 5709.633 of the Revised Code on the basis 5885
of the circumstance described in division (B)(3)(a) or (b) of that 5886
section, the report shall include the number of employees at the 5887
facilities referred to in division (B)(3)(a)(i) or (b)(i) of that 5888
section, respectively. 5889

(B) Upon the failure of a municipal corporation or county to 5890
comply with division (A) of this section: 5891

(1) Beginning on the first day of April of the calendar year 5892
in which the municipal corporation or county fails to comply with 5893
that division, the municipal corporation or county shall not enter 5894
into any agreements with an enterprise under section 5709.62, 5895
5709.63, or 5709.632 of the Revised Code until the municipal 5896
corporation or county has complied with division (A) of this 5897
section. 5898

(2) On the first day of each ensuing calendar month until the 5899
municipal corporation or county complies with division (A) of this 5900
section, the director of development services shall either order 5901
the proper county auditor to deduct from the next succeeding 5902
payment of taxes to the municipal corporation or county under 5903
section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an 5904
amount equal to one thousand dollars for each calendar month the 5905
municipal corporation or county fails to comply with that 5906
division, or order the county auditor to deduct that amount from 5907
the next succeeding payment to the municipal corporation or county 5908
from the undivided local government fund under section 5747.51 of 5909
the Revised Code. At the time such a payment is made, the county 5910
auditor shall comply with the director's order by issuing a 5911
warrant, drawn on the fund from which the money would have been 5912
paid, to the director of development services, who shall deposit 5913
the warrant into the state enterprise zone program administration 5914
fund created in division (C) of this section. 5915

(C) The director, by rule, shall establish the state's 5916
application fee for applications submitted to a municipal 5917
corporation or county to enter into an agreement under section 5918
5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing 5919
the amount of the fee, the director shall consider the state's 5920
cost of administering the enterprise zone program, including the 5921

cost of reviewing the reports required under division (A) of this 5922
section. The director may change the amount of the fee at the 5923
times and in the increments the director considers necessary. Any 5924
municipal corporation or county that receives an application shall 5925
collect the application fee and remit the fee for deposit in the 5926
state treasury to the credit of the ~~tax incentive programs~~ 5927
~~operating~~ business assistance fund created in section 122.174 of 5928
the Revised Code. 5929

(D) On or before the thirtieth day of June each year, the 5930
director of development services shall certify to the tax 5931
commissioner the information described under division (A)(7) of 5932
this section, derived from the reports submitted to the director 5933
under this section. 5934

On the basis of the information certified under this 5935
division, the tax commissioner annually shall submit a report to 5936
the governor, the speaker of the house of representatives, the 5937
president of the senate, and the chairpersons of the ways and 5938
means committees of the respective houses of the general assembly, 5939
indicating for each enterprise zone the amount of state and local 5940
taxes that were not required to be paid because of exemptions 5941
granted under agreements entered into under section 5709.62, 5942
5709.63, or 5709.632 of the Revised Code and the amount of 5943
additional taxes paid from the payroll of new employees. 5944

Sec. 5709.882. (A) On or before the thirty-first day of March 5945
each year, a municipal corporation or county that has entered into 5946
an agreement with an enterprise under section 5709.88 of the 5947
Revised Code shall submit to the ~~director~~ directors of development 5948
services and environmental protection and the board of education 5949
of each school district of which a municipal corporation or county 5950
to which such an agreement applies is a part a report on all such 5951
agreements in effect during the preceding calendar year. The 5952

report shall include all of the following information: 5953

(1) The number of enterprises that are subject to such 5954
agreements and the number of full-time employees subject to those 5955
agreements in the county or municipal corporation; 5956

(2) The number of agreements approved and executed during the 5957
calendar year for which the report is submitted, the total number 5958
of agreements in effect on the thirty-first day of December of the 5959
preceding calendar year, the number of agreements that expired 5960
during the calendar year for which the report is submitted, and 5961
the number of agreements scheduled to expire during the calendar 5962
year in which the report is submitted. For each agreement that 5963
expired during the calendar year for which the report is 5964
submitted, the municipal corporation or county shall include the 5965
amount of taxes exempted and the estimated dollar value of any 5966
other incentives provided under the agreement. 5967

(3) The number of agreements receiving compliance reviews by 5968
the tax incentive review council in the municipal corporation or 5969
county under section 5709.883 of the Revised Code during the 5970
calendar year for which the report is submitted, including all of 5971
the following information: 5972

(a) The number of agreements the terms of which an enterprise 5973
has complied with, indicating separately for each such agreement 5974
the value of the real and personal property exempted pursuant to 5975
the agreement and a comparison of the stipulated and actual 5976
schedules for hiring new employees, for retaining existing 5977
employees, for the amount of payroll of the enterprise 5978
attributable to these employees, and for remediating and investing 5979
in establishing, expanding, renovating, or occupying a facility; 5980

(b) The number of agreements the terms of which an enterprise 5981
has failed to comply with, indicating separately for each such 5982
agreement the value of the real and personal property exempted 5983

pursuant to the agreement and a comparison of the stipulated and 5984
actual schedules for hiring new employees, for retaining existing 5985
employees, for the amount of payroll of the enterprise 5986
attributable to these employees, and for remediating and investing 5987
in establishing, expanding, renovating, or occupying a facility; 5988

(c) The number of agreements about which the tax incentive 5989
review council made recommendations to the legislative authority 5990
of the municipal corporation or county, and the number of such 5991
recommendations that have not been followed; 5992

(d) The number of agreements rescinded during the calendar 5993
year for which the report is submitted. 5994

(4) The number of enterprises that are subject to agreements 5995
and the number of new employees hired and existing employees 5996
retained by each such enterprise; 5997

(5)(a) The number of enterprises that are subject to 5998
agreements and that closed or reduced employment at any place of 5999
business within the state for the primary purpose of remediating 6000
and establishing, expanding, renovating, or occupying a facility, 6001
indicating separately for each such enterprise the political 6002
subdivision in which the enterprise closed or reduced employment 6003
at a place of business and the number of full-time employees 6004
transferred and retained by each such place of business; 6005

(b) The number of enterprises that are subject to agreements 6006
and that closed or reduced employment at any place of business 6007
outside the state for the primary purpose of remediating and 6008
establishing, expanding, renovating, or occupying a facility. 6009

(B) Upon the failure of a municipal corporation or county to 6010
comply with division (A) of this section, both of the following 6011
apply: 6012

(1) Beginning on the first day of April of the calendar year 6013
in which the municipal corporation or county fails to comply with 6014

that division, the municipal corporation or county shall not enter 6015
into any agreements with an enterprise under section 5709.88 of 6016
the Revised Code until the municipal corporation or county has 6017
complied with division (A) of this section; 6018

(2) On the first day of each ensuing calendar month until the 6019
municipal corporation or county complies with that division, the 6020
director of development services shall either order the proper 6021
county auditor to deduct from the next succeeding payment of taxes 6022
to the municipal corporation or county under section 321.31, 6023
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 6024
five hundred dollars for each calendar month the municipal 6025
corporation or county fails to comply with that division, or order 6026
the county auditor to deduct such an amount from the next 6027
succeeding payment to the municipal corporation or county from the 6028
undivided local government fund under section 5747.51 of the 6029
Revised Code. At the time such a payment is made, the county 6030
auditor shall comply with the director's order by issuing a 6031
warrant, drawn on the fund from which such money would have been 6032
paid, to the director of development services, who shall deposit 6033
the warrant into the contaminated sites development program 6034
administration fund created in division (C) of this section. 6035

(C) The director, by rule, shall establish the state's 6036
application fee for applications submitted to a municipal 6037
corporation or county to enter into an agreement under section 6038
5709.88 of the Revised Code. In establishing the amount of the 6039
fee, the director shall consider the state's cost of administering 6040
this section and section 5709.88 of the Revised Code. The director 6041
may change the amount of the fee at such times and in such 6042
increments as ~~he~~ the director considers necessary. Any municipal 6043
corporation or county that receives an application shall collect 6044
the application fee and remit the fee for deposit in the state 6045
treasury to the credit of the contaminated sites development 6046

program administration fund, which is hereby created. Money 6047
credited to the fund shall be used by the ~~department of~~ 6048
development services agency to pay the costs of administering this 6049
section and section 5709.88 of the Revised Code. 6050

Sec. 6103.052. (A) ~~A board of county commissioners may apply~~ 6051
~~to the water and sewer commission, created by division (C) of~~ 6052
~~section 1525.11 of the Revised Code, for an advance of moneys from~~ 6053
~~the water and sewer fund, created by division (A) of section~~ 6054
~~1525.11 of the Revised Code, in an amount equal to that portion of~~ 6055
~~the costs of an improvement authorized under sections 6103.02 to~~ 6056
~~6103.30 of the Revised Code which is to be financed by assessments~~ 6057
~~whose collection is deferred pursuant to division (B) of this~~ 6058
~~section. The application for such an advance of moneys shall be~~ 6059
~~made in the manner prescribed by rules of the commission.~~ 6060

~~(B)~~ At any time prior to the expiration of the five-day 6061
period provided by section 6103.05 of the Revised Code for the 6062
filing of written objections, any owner of property which is 6063
classified on the general tax list of the county auditor as 6064
agricultural land and has been assessed for the extension of a 6065
main water line over or along such property under sections 6103.02 6066
to 6103.30 of the Revised Code may file with the board of county 6067
commissioners a request in writing for deferment of the collection 6068
of ~~his~~ the owner's assessment if the main water line ~~serves a~~ 6069
~~purpose set forth in section 1525.13 of the Revised Code for which~~ 6070
~~the water and sewer fund may be used~~ provides water facilities to 6071
aid in the establishment of new industrial plants, the expansion 6072
of existing industrial plants, or such other industrial 6073
development, or provides water facilities to aid in the 6074
establishment of commercial and residential developments. Such 6075
request shall identify the property in connection with which the 6076
request for deferment is made, shall describe its present use and 6077
present classification on the general tax list of the county 6078

auditor, shall state its estimated market value, showing 6079
separately the value of the land and the value of the buildings 6080
thereon, shall state the reasons, if any, why a portion of the 6081
benefit of the improvement will not be realized until the use of 6082
the land is changed, and shall state the amount to be deferred. 6083
The board shall promptly consider such request and may order the 6084
deferment of the collection of that portion of the assessment 6085
representing a benefit from the improvement that will not be 6086
realized until the use of the land is changed. The board may, upon 6087
request of an owner whose property has been assessed for the 6088
extension of a main water line over or along such property under 6089
sections 6103.02 to 6103.31 of the Revised Code, defer all or any 6090
part of the assessment on property which is classified on the 6091
general tax list of the county auditor as agricultural land, by 6092
attributing the amount of such assessment or part thereof as 6093
tap-in charges, if the main water line ~~serves a purpose set forth~~ 6094
~~in section 1525.13 of the Revised Code for which the water and~~ 6095
~~sewer fund may be used. A deferment under this section may be~~ 6096
~~conditioned upon the approval of the advance of moneys applied for~~ 6097
~~pursuant to division (A) of this section, and a maximum length of~~ 6098
~~the deferment may be fixed to coincide with the maximum time~~ 6099
~~within which the advance must be repaid. The decision on the~~ 6100
~~request for deferment of collection of assessments shall be made~~ 6101
~~pursuant to standards established by rules of the commission~~ 6102
provides water facilities to aid in the establishment of new 6103
industrial plants, the expansion of existing industrial plants, or 6104
such other industrial development, or provides water facilities to 6105
aid in the establishment of commercial and residential 6106
developments. Upon determination and approval of final 6107
assessments, the board of county commissioners shall certify all 6108
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6109
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6110
~~the Revised Code attributable to the two per cent of the amount of~~ 6111

the deferred assessments to the county auditor. For purposes of 6112
this section, "assessment," "deferred assessment," or "assessment 6113
deferred under this section" mean the fee and the deferred 6114
assessment certified to the county auditor. The county auditor 6115
shall record an assessment deferred under this section in the 6116
water works record. Such record shall be kept until such time as 6117
the assessments are paid in full or certified for collection in 6118
installments as provided in this section. During the time when the 6119
assessment is deferred there shall be a lien on the property 6120
assessed, which lien shall arise at the time of recordation by the 6121
county auditor and shall be in force until the assessments are 6122
paid in full or certified for collection in installments. 6123

~~(C)~~(B) The board of county commissioners shall defer the 6124
collection of an assessment, except the amount of such assessment 6125
or part thereof attributable as tap-in charges, which has been 6126
deferred pursuant to division ~~(D)~~(A) of this section on or before 6127
January 1, 1987, beyond the expiration of the maximum time for the 6128
original deferment if the property owner requests in writing, no 6129
later than six months prior to the expiration of the original 6130
deferment, that the assessment be further deferred and as long as 6131
the property owner's land could qualify for placement in an 6132
agricultural district pursuant to section 929.02 of the Revised 6133
Code. 6134

The board shall regularly review the use and ownership of the 6135
property for which the collection of assessments has been deferred 6136
pursuant to this division, and upon finding that the land could no 6137
longer qualify for placement in an agricultural district pursuant 6138
to section 929.02 of the Revised Code, the board shall immediately 6139
collect, without interest, the full amount of the assessment 6140
~~deferred and repay the commission the amount of any moneys~~ 6141
~~advanced by it in regard to such assessment. The board shall pay~~ 6142
~~all such amounts to the commission in one annual payment or longer~~ 6143

~~period as approved by the commission. The board shall pay, from 6144
the general funds of the county, interest annually at the interest 6145
rate per annum equal to that rate of interest published as the 6146
20 bond index rate in "The Bond Buyer" minus four per cent per 6147
annum or at five per cent per annum, whichever is greater, for any 6148
moneys not repaid to the commission pursuant to this division 6149
within one year of the date of the disqualification of the 6150
property for the continual deferment which requires such 6151
repayment. The interest rate for any moneys not repaid to the 6152
commission shall be calculated one year from the date of the 6153
disqualification of the property for the continual deferment which 6154
requires such repayment, and annually thereafter. 6155~~

~~(D)(C)~~ The board of county commissioners shall send a notice 6156
by regular or certified mail to all owners of property on which 6157
assessments have been deferred pursuant to division ~~(B)(A)~~ of this 6158
section, which lists the expiration of the deferment, not later 6159
than two hundred ten days prior to the expiration of the deferment 6160
of those assessments. 6161

~~(E)(D)~~ The board shall collect the assessments, without 6162
interest, which have been deferred pursuant to division ~~(B)(A)~~ of 6163
this section upon expiration of the maximum time for which 6164
deferments were made ~~and repay the commission the amount of any 6165
moneys advanced by it in regard to such assessments; provided,~~ 6166
that for a property owner who requests in writing, no later than 6167
six months prior to the expiration of the deferment period, that 6168
payment of ~~his~~ the owner's deferred assessments be in 6169
installments, the board of county commissioners upon expiration of 6170
the deferment period may by resolution further certify for 6171
collection pursuant to section 6103.16 of the Revised Code, such 6172
deferred assessments in installments over not more than twenty 6173
years, as determined by the board, together with interest thereon 6174
each year on the unpaid balance at the same rate borne by bonds of 6175

the county which shall be issued in anticipation thereof as 6176
provided in Chapter 133. of the Revised Code, ~~and the proceeds of~~ 6177
~~the bond issue used to repay such deferred assessments to the~~ 6178
~~commission.~~ 6179

Assessments which have been deferred by attribution as tap-in 6180
charges under division ~~(B)~~(A) of this section shall be collected 6181
as deferred assessments at that time. ~~As the board collects tap-in~~ 6182
~~charges which are deferred assessments under division (B) of this~~ 6183
~~section, it shall repay the commission the amount thereof which~~ 6184
~~was advanced by it in regard to such assessments.~~ An owner of 6185
property for which assessments have been deferred under division 6186
~~(B)~~(A) of this section, in requesting a tap-in may, subject to the 6187
approval of the board, designate a part of an entire assessed 6188
tract as the part which the tap-in is to serve, and the board 6189
shall collect the deferred assessment on that tract in the 6190
proportion that the part bears to the entire tract, on a front 6191
foot or other basis approved by the commission, but if in the 6192
judgment of the board the tap-in is reasonably intended to serve 6193
the entire tract or substantially all of the tract, it shall 6194
collect the deferred assessment for the entire tract. 6195

Prior to the expiration of the maximum time of deferment, the 6196
board shall regularly review the use of the property for which the 6197
collection of assessments has been deferred and upon finding, 6198
~~pursuant to the rules of the commission,~~ that the use of the land 6199
has changed from the use at the time of the deferment so that the 6200
benefit of the improvement can then be realized, the board shall 6201
immediately collect the full amount of the assessment for the 6202
portion of the property for which the use has so changed, without 6203
interest, ~~and repay the commission the amount of any moneys~~ 6204
~~advanced by it in regard to such assessment. The board shall pay~~ 6205
~~all such amounts to the commission in one annual payment or longer~~ 6206
~~period as approved by the commission. The board of county~~ 6207

~~commissioners shall pay, from the general funds of the county, 6208
interest annually at the interest rate per annum equal to that 6209
rate of interest published as the 20 bond index rate in "The Bond 6210
Buyer" minus four per cent per annum or at five per cent per 6211
annum, whichever is greater, for any moneys not repaid to the 6212
commission pursuant to this division within one year of the date 6213
of the change in the use of property requiring such repayment, or 6214
of the date upon which payment of a tap in charge is required by 6215
law to be made, whichever date is applicable. The interest rate 6216
for any moneys not repaid to the commission shall be calculated 6217
one year from the date of the change in the use of property 6218
requiring such repayment or from the date upon which payment of a 6219
tap in charge is required by law to be made, whichever date is 6220
applicable, and annually thereafter. 6221~~

~~Sec. 6117.062. (A) A board of county commissioners may apply 6222
to the water and sewer commission, created by division (C) of 6223
section 1525.11 of the Revised Code, for an advance of moneys from 6224
the water and sewer fund, created by division (A) of section 6225
1525.11 of the Revised Code, in an amount equal to that portion of 6226
the costs of an improvement authorized under sections 6117.01 to 6227
6117.45 of the Revised Code which is to be financed by assessments 6228
whose collection is deferred pursuant to division (B) of this 6229
section. The application for such an advance of moneys shall be 6230
made in the manner prescribed by rules of the commission. 6231~~

~~(B) At any time prior to the expiration of the five-day 6232
period provided by section 6117.06 of the Revised Code for the 6233
filing of written objections, any owner of property which is 6234
classified on the general tax list of the county auditor as 6235
agricultural land and has been assessed for the extension of a 6236
trunk sewer line over or along such property under sections 6237
6117.01 to 6117.45 of the Revised Code may file with the board of 6238
county commissioners a request in writing for deferment of the 6239~~

collection of ~~his~~ the assessment if the trunk sewer line ~~serves a~~ 6240
~~purpose, as set forth in section 1525.13 of the Revised Code, for~~ 6241
~~which the fund may be used~~ provides sewer facilities to aid in the 6242
establishment of new industrial plants, the expansion of existing 6243
industrial plants, or such other industrial development, or 6244
provides sewer facilities to aid in the establishment of 6245
commercial and residential developments. Such request shall 6246
identify the property in connection with which the request for 6247
deferment is made, shall describe its present use and present 6248
classification on the general tax list of the county auditor, 6249
shall state its estimated market value, showing separately the 6250
value of the land and the value of the buildings thereon, shall 6251
state the reasons, if any, why a portion of the benefit of the 6252
improvement will not be realized until the use of the land is 6253
changed, and shall state the amount to be deferred. The board 6254
shall promptly consider such request and may order the deferment 6255
of the collection of that portion of the assessment representing a 6256
benefit from the improvement which will not be realized until the 6257
use of the land is changed. The board may, upon request of an 6258
owner whose property has been assessed for the extension of a 6259
trunk sewer line over or along such property under sections 6260
6117.01 to 6117.45 of the Revised Code, defer all or any part of 6261
the assessment on property which is classified on the general tax 6262
list as agricultural land, by attributing the amount of such 6263
assessment or part thereof as tap-in charges, if the trunk sewer 6264
line ~~serves a purpose set forth in section 1525.13 of the Revised~~ 6265
~~Code for which the fund may be used. A deferment under this~~ 6266
~~section may be conditioned upon the approval of the advance of~~ 6267
~~moneys applied for pursuant to division (A) of this section, and a~~ 6268
~~maximum length of the deferment may be fixed to coincide with the~~ 6269
~~maximum time within which the advance must be repaid. The decision~~ 6270
~~on the request for deferment of collection of assessments shall be~~ 6271
~~made pursuant to standards established by rules of the commission~~ 6272

provides sewer facilities to aid in the establishment of new 6273
industrial plants, the expansion of existing industrial plants, or 6274
such other industrial development, or provides sewer facilities to 6275
aid in the establishment of commercial and residential 6276
developments. Upon determination and approval of final 6277
assessments, the board of county commissioners shall certify all 6278
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6279
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6280
~~the Revised Code attributable to the deferred payments~~ two per 6281
cent of the amount of the deferred assessments to the county 6282
auditor. For purposes of this section, "assessment," "deferred 6283
assessment," or "assessment deferred under this section" mean the 6284
fee and the deferred assessment certified to the county auditor. 6285
The county auditor shall record an assessment deferred under this 6286
section in the sewer improvement record. Such record shall be kept 6287
until such time as the assessments are paid in full or certified 6288
for collection in installments as provided in this section. During 6289
the time when the assessment is deferred there shall be a lien on 6290
the property assessed, which lien shall arise at the time of 6291
recordation by the county auditor and which shall be in force 6292
until the assessments are paid in full or certified for collection 6293
in installments. 6294

~~(C)~~(B) The board of county commissioners shall defer the 6295
collection of an assessment, except the amount of such assessment 6296
or part thereof attributable as tap-in charges, which has been 6297
deferred pursuant to division ~~(B)~~(A) of this section on or before 6298
January 1, 1987, beyond the expiration of the maximum time for the 6299
original deferment if the property owner requests in writing, no 6300
later than six months prior to the expiration of the original 6301
deferment, that the assessment be further deferred and as long as 6302
the property owner's land could qualify for placement in an 6303
agricultural district pursuant to section 929.02 of the Revised 6304
Code. 6305

The board shall regularly review the use and ownership of the property for which the collection of assessments has been deferred pursuant to this division, and upon finding that the land could no longer qualify for placement in an agricultural district pursuant to section 929.02 of the Revised Code, the board shall immediately collect, without interest, the full amount of the assessment deferred ~~and repay the commission the amount of any moneys advanced by it in regard to such assessment. The board shall pay all such amounts to the commission in one annual payment or longer period as approved by the commission. The board shall pay, from the general funds of the county, interest annually at the interest rate per annum equal to that rate of interest published as the 20 bond index rate in "The Bond Buyer" minus four per cent per annum or at five per cent per annum, whichever rate is greater, for any moneys not repaid to the commission pursuant to this division within one year of the date of the disqualification of the property for the continual deferment which requires such repayment. The interest rate for any moneys not repaid to the commission shall be calculated one year from the date of the disqualification of the property for the continual deferment which requires such repayment, and annually thereafter.~~

~~(D)~~(C) The board of county commissioners shall send a notice by regular or certified mail to all owners of property on which assessments have been deferred pursuant to division ~~(B)~~(A) of this section, which lists the expiration of the deferment, not later than two hundred ten days prior to the expiration of the deferment of those assessments.

~~(E)~~(D) The board shall collect assessments, without interest, which have been deferred pursuant to division ~~(B)~~(A) of this section upon expiration of the maximum time for which deferments were made ~~and repay the commission the amount of any moneys advanced by it in regard to such assessments;~~ provided that for a

property owner who requests in writing, no later than six months 6338
prior to the expiration of the deferment period, that payment of 6339
~~his~~ the deferred assessments be in installments, the board of 6340
county commissioners upon expiration of the deferment period may 6341
by resolution further certify for collection pursuant to section 6342
6117.33 of the Revised Code, such deferred assessments in 6343
installments over not more than twenty years, as determined by the 6344
board, together with interest thereon each year on the unpaid 6345
balance at the same rate borne by bonds of the county which shall 6346
be issued in anticipation thereof as provided in Chapter 133. of 6347
the Revised Code, ~~and the proceeds of the bond issue used to repay~~ 6348
~~such deferred assessments to the commission.~~ Prior to the 6349
expiration of the maximum time of deferment, the board shall 6350
regularly review the use of the property for which the collection 6351
of assessments has been deferred and upon finding, ~~pursuant to the~~ 6352
~~rules of the commission,~~ that the use of the land has changed from 6353
the use at the time of the deferment so that the benefit of the 6354
improvement can then be realized, the board shall immediately 6355
collect the full amount of the assessment for the portion of the 6356
property for which the use has so changed, without interest, ~~and~~ 6357
~~repay the commission the amount of any moneys advanced by it in~~ 6358
~~regard to such assessment. The board shall pay all such amounts to~~ 6359
~~the commission in one annual payment or longer period as approved~~ 6360
~~by the commission. The board shall pay, from the general funds of~~ 6361
~~the county, interest annually at the interest rate per annum equal~~ 6362
~~to that rate of interest published as the 20 bond index rate in~~ 6363
~~"The Bond Buyer" minus four per cent per annum or at five per cent~~ 6364
~~per annum, whichever is greater, for any moneys not repaid to the~~ 6365
~~commission pursuant to this division within one year of the date~~ 6366
~~of the change in the use of property requiring such repayment, or~~ 6367
~~of the date upon which payment of a tap in charge is required by~~ 6368
~~law to be made, whichever date is applicable. The interest rate~~ 6369
~~for any moneys not repaid to the commission shall be calculated~~ 6370

~~one year from the date of the change in the use of property 6371
requiring such repayment or from the date upon which payment of a 6372
tap in charge is required by law to be made, whichever date is 6373
applicable, and annually thereafter. 6374~~

Section 2. That existing sections 9.981, 102.03, 121.02, 6375
121.03, 121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 6376
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 6377
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 6378
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 6379
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 6380
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 6381
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 6382
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6117.062 and 6383
sections 122.40, 1525.11, 1525.12, 1525.13, and 6111.034 of the 6384
Revised Code are hereby repealed. 6385

Section 3. In enacting this act, it is the intent of the 6386
General Assembly that changing the name of the "Department of 6387
Development" to the Development Services Agency and the name of 6388
the "Director of Development" to the Director of Development 6389
Services does not do either of the following: 6390

(A) Make substantive changes in statutory law; 6391

(B) Cause unnecessary expense. The letterhead, forms, printed 6392
materials, and signage displaying the former name of the 6393
Department may be used until they are replaced. 6394

Section 4. Upon the effective date of this act, all 6395
references to the Department of Development or Director of 6396
Development in other uncodified sections of law in Am. Sub. H.B. 6397
153 of the 129th General Assembly and Am. Sub. H.B. 114 of the 6398
129th General Assembly, shall be deemed to refer to the 6399
Development Services Agency or the Director of Development 6400

Services, respectively. 6401

Section 5. (A) There is hereby established a five-year pilot 6402
program to test a new funding mechanism for the state's travel and 6403
tourism marketing. The funding mechanism shall begin operation in 6404
fiscal year 2014 and be calculated as follows: 6405

(1)(a) Not later than the twentieth day of October of each 6406
year, starting in 2013 and ending in 2017, the Tax Commissioner 6407
shall calculate the growth in fiscal year sales tax revenue from 6408
certain defined categories that are related to tourism and certify 6409
that amount to the Director of Budget and Management. 6410

(b) Not later than the twentieth day of October of each year, 6411
starting in 2013 and ending in 2017, the Commissioner shall 6412
calculate and certify to the Director the difference, if greater 6413
than zero, between the revenue collected from the tax imposed 6414
under section 5739.02 of the Revised Code during the twelve-month 6415
period ending on the last day of the preceding June and the 6416
revenue collected during the same twelve-month period one year 6417
earlier, for all vendors classified under the industry codes 6418
identified in division (A)(2) of this section. On or before the 6419
last day of October of each year, starting in 2013 and ending in 6420
2017, the Director of Budget and Management shall transfer from 6421
the General Revenue Fund to the Tourism Fund created in section 6422
122.072 of the Revised Code the amount certified by the 6423
Commissioner under this division, except that the transfer shall 6424
not exceed ten million dollars for any fiscal year. 6425

(c) Each fiscal year, beginning in fiscal year 2015, the Tax 6426
Commissioner shall adjust the ten million annual dollar limit on 6427
transfers to the Tourism Fund. The adjustment shall be made by 6428
adding to the annual limit the product of multiplying the limit 6429
for the preceding fiscal year by the sum of one plus the 6430

percentage increase in the Consumer Price Index for all urban 6431
consumers for the Midwest region, as determined by the United 6432
States Bureau of Labor Statistics, for the twelve-month period 6433
corresponding to the preceding fiscal year. The result shall be 6434
rounded to the nearest one thousand dollars. The calculation of 6435
the percentage increase in the Consumer Price Index shall be done 6436
by taking the average index value over the twelve months of the 6437
last completed fiscal year and comparing that to the average index 6438
value over the twelve months of the immediately preceding fiscal 6439
year. 6440

(2) The following industries included in the industrial 6441
classification system used by the Tax Commissioner shall be used 6442
in the computations under division (A)(1) of this section: air 6443
transportation; water transportation; interurban and rural bus 6444
transportation; taxi service; limousine service; other transit and 6445
ground passenger transportation; scenic and sightseeing 6446
transportation; support activities for air transportation; 6447
automotive equipment rental and leasing; travel arrangement and 6448
reservation services; performing arts companies; spectator sports; 6449
independent artists, writers, and performers; museums, historical 6450
sites, and similar institutions; amusement parks and arcades; 6451
gambling industries; hotels and motels; casino hotels; 6452
bed-and-breakfast inns; other travel accommodations; recreational 6453
vehicle parks and recreational camps; full-service restaurants; 6454
limited-service eating places; drinking places (alcoholic 6455
beverages). 6456

(B) The pilot program shall terminate when the last transfer 6457
of funds made in accordance with division (A)(1)(b) of this 6458
section occurs in fiscal year 2018, specifically in October 2017. 6459
At that time, the Director of Development Services, the Director 6460
of Budget and Management, and the Tax Commissioner shall jointly 6461
review the pilot program and make recommendations to the Governor 6462

and the General Assembly on whether to make the funding mechanism 6463
permanent and, if so, whether any changes should be made to it. If 6464
the recommendation is to make the funding mechanism permanent, the 6465
Director of Development Services, the Director of Budget and 6466
Management, and the Tax Commissioner shall also study and make 6467
recommendations to the Governor and the General Assembly as to 6468
whether the Office of TourismOhio and its functions should be 6469
removed from the Development Services Agency and established as a 6470
private nonprofit corporation or a subsidiary corporation of 6471
JobsOhio. 6472

Section 6. (A) As used in this section, "federal act" means 6473
the "Small Business Liability Relief and Brownfields 6474
Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and 6475
9604. 6476

(B) There is hereby created in the state treasury the 6477
Brownfields Revolving Loan Fund. The Fund shall consist of all 6478
moneys received by the state from the United States Department of 6479
Environmental Protection under the federal act. The Fund shall be 6480
used to make grants and loans by the Director of Development 6481
Services. 6482

(C) The Director shall administer moneys received into the 6483
Fund and comply with all requirements imposed by the federal act 6484
in its application for, and administration of, the funds as grants 6485
and loans. 6486

(D) The Director shall establish a schedule of fees and 6487
charges payable by grant and loan recipients to the Director for 6488
the administration of this section. 6489

Section 7. That Sections 261.10.40, 261.10.70, 261.20.40, 6490
261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 6491
261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 6492

and 261.40.10 of Am. Sub. H.B. 153 of the 129th General Assembly 6493
be amended to read as follows: 6494

Sec. 261.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND 6495
REGIONAL OFFICES DEVELOPMENT SERVICES 6496

The foregoing appropriation item 195415, ~~Strategic Business~~ 6497
~~Investment Division and Regional Offices~~ Development Services, 6498
shall be used for the operating expenses of the ~~Strategic Business~~ 6499
~~Investment Services~~ Division and the regional economic development 6500
offices and for grants for cooperative economic development 6501
ventures. 6502

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION 6503

The foregoing appropriation item 195426, Clean Ohio 6504
Implementation, shall be used to fund the costs of administering 6505
the Clean Ohio Revitalization program and other urban 6506
revitalization programs that may be implemented by the ~~Department~~ 6507
~~of~~ Development Services Agency. 6508

Sec. 261.20.40. SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS 6509

The Director of Development Services may assess ~~divisions~~ 6510
offices of the ~~department~~ agency for the cost of central service 6511
operations. An assessment shall contain the characteristics of 6512
administrative ease and uniform application. A division's payments 6513
shall be credited to the Supportive Services Fund (Fund 1350) 6514
using an intrastate transfer voucher. 6515

~~ECONOMIC DEVELOPMENT CONTINGENCY 6516~~

~~The foregoing appropriation item 195677, Economic Development 6517~~
~~Contingency, may be used to award funds directly to either (1) 6518~~
~~business entities considering Ohio for expansion or new site 6519~~
~~location opportunities or (2) political subdivisions to assist 6520~~
~~with necessary costs involved in attracting a business entity. In 6521~~

~~addition, the Director of Development may award funds for 6522
alternative purposes when appropriate to satisfy an economic 6523
development opportunity or need deemed extraordinary in nature by 6524
the Director. 6525~~

~~DIRECT COST RECOVERY DEVELOPMENT SERVICES REIMBURSABLE 6526
EXPENDITURES 6527~~

The foregoing appropriation item 195636, ~~Direct Cost Recovery 6528
Development Services Reimbursable Expenditures, shall be used for 6529
reimbursable costs incurred by the agency. Revenues to the General 6530
Reimbursement Fund (Fund 6850) shall consist of moneys charged for 6531
administrative costs that are not central service costs. 6532~~

Sec. 261.20.50. HEAP WEATHERIZATION 6533

Up to fifteen per cent of the federal funds deposited to the 6534
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 6535
may be expended from appropriation item 195614, HEAP 6536
Weatherization, to provide home weatherization services in the 6537
state as determined by the Director of Development Services. Any 6538
transfers or increases in appropriation for the foregoing 6539
appropriation items 195614, HEAP Weatherization, or 195611, Home 6540
Energy Assistance Block Grant, shall be subject to approval by the 6541
Controlling Board. 6542

Sec. 261.20.60. STATE SPECIAL PROJECTS 6543

The State Special Projects Fund (Fund 4F20), may be used for 6544
the deposit of private-sector funds from utility companies and for 6545
the deposit of other miscellaneous state funds. State moneys so 6546
deposited ~~shall~~ may also be used to match federal housing grants 6547
for the homeless ~~and to market economic development opportunities 6548
in the state~~. Private-sector moneys shall be deposited for use in 6549
appropriation item 195699, Utility ~~Provided Funds~~ Community 6550
Assistance, and shall be used to (1) pay the expenses of verifying 6551

the income-eligibility of HEAP applicants, (2) leverage additional 6552
federal funds, (3) fund special projects to assist ~~homeless~~ 6553
~~individuals~~ income-eligible veterans and families with services 6554
and energy assistance programs, (4) fund special projects to 6555
assist with the energy efficiency of households eligible to 6556
participate in the Percentage of Income Payment Plan, and (5) 6557
assist with training programs for agencies that administer 6558
low-income customer assistance programs. 6559

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 6560

All repayments from the Minority Development Financing 6561
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 6562
Program shall be deposited in the State Treasury to the credit of 6563
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 6564
costs of administering the Minority Business Enterprise Loan Fund 6565
may be paid from the Minority Business Enterprise Loan Fund (Fund 6566
4W10). 6567

MINORITY BUSINESS BONDING FUND 6568

Notwithstanding Chapters 122., 169., and 175. of the Revised 6569
Code, the Director of Development Services may, upon the 6570
recommendation of the Minority Development Financing Advisory 6571
Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal 6572
year 2013 biennium of unclaimed funds administered by the Director 6573
of Commerce and allocated to the Minority Business Bonding Program 6574
under section 169.05 of the Revised Code. The transfer of any cash 6575
by the Director of Budget and Management from the ~~Department of~~ 6576
~~Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department 6577
of Commerce to the ~~Department of Development's~~ Minority Business 6578
Bonding Fund (Fund 4490) used by the Development Services Agency 6579
shall occur, if requested by the Director of Development Services, 6580
only if such funds are needed for payment of losses arising from 6581
the Minority Business Bonding Program, and only after proceeds of 6582

the initial transfer of \$2,700,000 by the Controlling Board to the 6583
Minority Business Bonding Program has been used for that purpose. 6584
Moneys transferred by the Director of Budget and Management from 6585
the Department of Commerce for this purpose may be moneys in 6586
custodial funds held by the Treasurer of State. If expenditures 6587
are required for payment of losses arising from the Minority 6588
Business Bonding Program, such expenditures shall be made from 6589
appropriation item 195623, Minority Business Bonding Contingency 6590
in the Minority Business Bonding Fund, and such amounts are hereby 6591
appropriated. 6592

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS 6593

(A) On July 1, 2011, or as soon as possible thereafter, the 6594
Director of Budget and Management shall transfer up to \$20,000,000 6595
cash from the Economic Development Programs Fund (Fund 5JC0) used 6596
by the Board of Regents to the Ohio Incumbent Workforce Job 6597
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 6598
Services Agency. 6599

On July 1, 2012, or as soon as possible thereafter, the 6600
Director of Budget and Management shall transfer up to \$30,000,000 6601
cash from the Economic Development Programs Fund (Fund 5JC0) used 6602
by the Board of Regents to the Ohio Incumbent Workforce Job 6603
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 6604
Services Agency. 6605

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 6606
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 6607
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 6608
be used to support the Ohio Incumbent Workforce Training Voucher 6609
Program. The Director of Development Services and the Chief 6610
Investment Officer of JobsOhio may enter into an agreement to 6611
operate the program pursuant to the contract between the 6612
~~Department of~~ Development Services Agency and JobsOhio under 6613

section 187.04 of the Revised Code. The agreement may include a 6614
provision for granting, loaning, or transferring funds from 6615
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 6616
Vouchers, to JobsOhio to provide training for incumbent workers. 6617

(C) Regardless of any agreement between the Director and the 6618
Chief Investment Officer under division (B) of this section, the 6619
Ohio Incumbent Workforce Training Voucher Program shall conform to 6620
guidelines for the operation of the program, including, but not 6621
limited to, the following: 6622

(1) A requirement that a training voucher under the program 6623
shall not exceed \$6,000 per worker per year; 6624

(2) A provision for an employer of an eligible employee to 6625
apply for a voucher on behalf of the eligible employee; 6626

(3) A provision for an eligible employee to apply directly 6627
for a training voucher with the pre-approval of the employee's 6628
employer; and 6629

(4) A requirement that an employee participating in the 6630
program, or the employee's employer, shall pay for not less than 6631
thirty-three per cent of the training costs under the program. 6632

DEFENSE DEVELOPMENT ASSISTANCE 6633

On July 1 of each fiscal year, or as soon as possible 6634
thereafter, the Director of Budget and Management shall transfer 6635
\$5,000,000 in cash from the Economic Development Projects Fund 6636
(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 6637
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 6638
Development Services Agency. The transferred funds are hereby 6639
appropriated in appropriation item 195622, Defense Development 6640
Assistance. 6641

The foregoing appropriation item 195622, Defense Development 6642
Assistance, shall be used for economic development programs and 6643

the creation of new jobs to leverage and support mission gains at 6644
Department of Defense facilities in Ohio by working with future 6645
base realignment and closure activities and ongoing Department of 6646
Defense efficiency initiatives, assisting efforts to secure 6647
Department of Defense support contracts for Ohio companies, 6648
assessing and supporting regional job training and workforce 6649
development needs generated by the Department of Defense and the 6650
Ohio aerospace industry, and for expanding job training and 6651
economic development programs in human performance related 6652
initiatives. These funds shall be matched by private industry 6653
partners or the Department of Defense in an aggregate amount of 6654
\$6,000,000 over the FY 2012-FY 2013 biennium. 6655

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS 6656

The foregoing appropriation item 195660, Advanced Energy Loan 6657
Programs, shall be used to provide financial assistance to 6658
customers for eligible advanced energy projects for residential, 6659
commercial, and industrial business, local government, educational 6660
institution, nonprofit, and agriculture customers, and to pay for 6661
the program's administrative costs as provided in sections 4928.61 6662
to 4928.63 of the Revised Code and rules adopted by the Director 6663
of Development Services. 6664

On July 1 of each fiscal year, or as soon as possible 6665
thereafter, the Director of Budget and Management shall transfer 6666
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 6667
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 6668

VOLUME CAP ADMINISTRATION 6669

The foregoing appropriation item 195654, Volume Cap 6670
Administration, shall be used for expenses related to the 6671
administration of the Volume Cap Program. Revenues received by the 6672
Volume Cap Administration Fund (Fund 6170) shall consist of 6673
application fees, forfeited deposits, and interest earned from the 6674

custodial account held by the Treasurer of State. 6675

Sec. 261.30.20. INNOVATION OHIO LOAN FUND 6676

The foregoing appropriation item 195664, Innovation Ohio, 6677
shall be used to provide for innovation Ohio purposes, including 6678
loan guarantees and loans under Chapter 166. and particularly 6679
sections 166.12 to 166.16 of the Revised Code. 6680

RESEARCH AND DEVELOPMENT 6681

The foregoing appropriation item 195665, Research and 6682
Development, shall be used to provide for research and development 6683
purposes, including loans, under Chapter 166. and particularly 6684
sections 166.17 to 166.21 of the Revised Code. 6685

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 6686

Appropriation item 195698, Logistics and Distribution 6687
Infrastructure, shall be used for eligible logistics and 6688
distribution infrastructure projects as defined in section 166.01 6689
of the Revised Code. Any unexpended and unencumbered portion of 6690
the appropriation item at the end of fiscal year 2011 is hereby 6691
reappropriated for the same purpose in fiscal year 2012, and any 6692
unexpended and unencumbered portion of the appropriation item at 6693
the end of fiscal year 2012 is hereby reappropriated for the same 6694
purpose in fiscal year 2013. 6695

After all encumbrances have been paid, the Director of Budget 6696
and Management shall transfer the remaining cash balance in the 6697
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 6698
Facilities Establishment Fund (Fund 7037). 6699

FACILITIES ESTABLISHMENT FUND 6700

The foregoing appropriation item 195615, Facilities 6701
Establishment (Fund 7037), shall be used for the purposes of the 6702
Facilities Establishment Fund under Chapter 166. of the Revised 6703
Code. 6704

Notwithstanding Chapter 166. of the Revised Code, an amount 6705
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 6706
transferred from the Facilities Establishment Fund (Fund 7037) to 6707
the ~~Economic Development Financing Operating~~ Business Assistance 6708
Fund (Fund 4510). The transfer is subject to Controlling Board 6709
approval under division (B) of section 166.03 of the Revised Code. 6710

Notwithstanding Chapter 166. of the Revised Code, the 6711
Director of Budget and Management may transfer an amount not to 6712
exceed \$2,500,000 in cash in each fiscal year from the Facilities 6713
Establishment Fund (Fund 7037) to the Minority Business Enterprise 6714
Loan Fund (Fund 4W10). 6715

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 6716
Director of Budget and Management shall transfer the unexpended 6717
and unencumbered cash balance in the Urban Development Loans Fund 6718
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 6719

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 6720
Director of Budget and Management shall transfer the unexpended 6721
and unencumbered cash balance in the Rural Industrial Park Loan 6722
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 6723

CAPITAL ACCESS LOAN PROGRAM 6724

The foregoing appropriation item 195628, Capital Access Loan 6725
Program, shall be used for operating, program, and administrative 6726
expenses of the program. Funds of the Capital Access Loan Program 6727
shall be used to assist participating financial institutions in 6728
making program loans to eligible businesses that face barriers in 6729
accessing working capital and obtaining fixed-asset financing. 6730

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES 6731

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ 6732
Program, shall be used by the ~~Department of~~ Development Services 6733
Agency in administering Clean Ohio Revitalization Fund (Fund 7003) 6734

projects pursuant to sections 122.65 to 122.658 of the Revised Code. 6735
6736

Sec. 261.30.40. THIRD FRONTIER OPERATING 6737

The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the ~~Department of~~ Development Services Agency in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014). 6738
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Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM 6749

The foregoing appropriation item 195688, Job Ready Site ~~Operating~~ Program, shall be used for operating expenses incurred by the ~~Department of~~ Development Services Agency in administering Job Ready Site Development Fund (Fund 7012) projects pursuant to sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain qualified expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third-party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional. 6750
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Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE 6762

On July 1, 2011, or as soon as possible thereafter, the 6763

Director of Budget and Management shall transfer any unexpended 6764
and unencumbered portion of appropriation item 898604, Coal 6765
Research and Development Fund, used by the Ohio Air Quality 6766
Development Authority, to a new capital appropriation item in the 6767
~~Department of~~ Development Services Agency, to be determined by the 6768
Director. The Director also shall cancel all outstanding 6769
encumbrances against appropriation item 898604, Coal Research and 6770
Development Fund, and reestablish them against the foregoing new 6771
capital appropriation item. The amounts of the transfer and the 6772
reestablished encumbrances, plus \$2,283,264, are hereby 6773
appropriated for fiscal year 2012 in the foregoing new 6774
appropriation item and shall be used to provide funding for coal 6775
research and development purposes. 6776

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 6777
COMMERCIALIZATION SUPPORT 6778

The General Assembly and the Governor recognize the role that 6779
the biomedical industry has in job creation, innovation, and 6780
economic development throughout Ohio. It is the intent of the 6781
General Assembly, the Governor, the Director of Development 6782
Services, and the Director of Budget and Management to work 6783
together in continuing to provide comprehensive state support for 6784
the biomedical industry. 6785

Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER 6786

(A) Notwithstanding division (A) of section 169.05 of the 6787
Revised Code, upon the request of the Director of Budget and 6788
Management, the Director of Commerce, before June 30, 2012, shall 6789
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 6790
amount not to exceed \$25,000,000 in cash of the unclaimed funds 6791
that have been reported by the holders of unclaimed funds under 6792
section 169.05 of the Revised Code, regardless of the allocation 6793

of the unclaimed funds described under that section. 6794

Notwithstanding division (A) of section 169.05 of the Revised 6795
Code, upon the request of the Director of Budget and Management, 6796
the Director of Commerce, before June 30, 2013, shall transfer to 6797
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 6798
exceed ~~\$15,000,000~~ 18,600,000 in cash of the unclaimed funds that 6799
have been reported by the holders of unclaimed funds under section 6800
169.05 of the Revised Code, regardless of the allocation of the 6801
unclaimed funds described under that section. 6802

(B) Notwithstanding division (A) of section 169.05 of the 6803
Revised Code, upon the request of the Director of Budget and 6804
Management, the Director of Commerce, before June 30, 2012, shall 6805
transfer to the State Special Projects Fund (Fund 4F20) an amount 6806
not to exceed \$5,000,000 in cash of the unclaimed funds that have 6807
been reported by the holders of unclaimed funds under section 6808
169.05 of the Revised Code, regardless of the allocation of the 6809
unclaimed funds described under that section. 6810

Sec. 261.40.10. WORKFORCE DEVELOPMENT 6811

The Director of Development Services and the Director of Job 6812
and Family Services may enter into one or more interagency 6813
agreements between the two departments and take other actions the 6814
directors consider appropriate to further integrate workforce 6815
development into a larger economic development strategy, to 6816
implement the recommendations of the Workforce Policy Board, and 6817
to complete activities related to the transition of the 6818
administration of employment programs identified by the board. 6819
Subject to the approval of the Director of Budget and Management, 6820
the ~~Department of~~ Development Services Agency and the Department 6821
of Job and Family Services may expend moneys to support the 6822
recommendations of the Workforce Policy Board in the area of 6823
integration of employment functions as described in this paragraph 6824

and to complete implementation and transition activities from the 6825
 appropriations to those departments. 6826

Section 8. That existing Sections 261.10.40, 261.10.70, 6827
 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 6828
 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 6829
 261.30.90, and 261.40.10 of Am. Sub. H.B. 153 of the 129th General 6830
 Assembly are hereby repealed. 6831

Section 9. That Sections 261.10 and 261.20.93 of Am. Sub. 6832
 H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 6833
 371 of the 129th General Assembly, be amended to read as follows: 6834

Sec. 261.10. DEV ~~DEPARTMENT OF~~ DEVELOPMENT SERVICES AGENCY 6835

General Revenue Fund 6836

GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0 6837

GRF 195402 Coal ~~Development~~ \$ 260,983 \$ 261,205 6838

Office Research

Operating

GRF 195404 Small Business \$ 1,565,770 \$ 0 6839

Development

GRF 195405 Minority Business \$ 1,118,528 \$ 0 6840

Enterprise Division

GRF 195407 Travel and Tourism \$ 5,000,000 \$ ~~5,000,000~~ 6841

GRF 195412 Rapid Outreach Grants \$ 9,000,000 \$ 0 6842

GRF 195415 ~~Strategic~~ Business \$ 4,500,000 \$ ~~2,413,387~~ 6843

~~Investment Division~~

~~and Regional Offices~~

Development Services

GRF 195416 Governor's Office of \$ 3,700,000 \$ ~~3,700,000~~ 0 6844

Appalachia

GRF 195422 Technology Action \$ 547,341 \$ 0 6845

GRF 195426 Clean Ohio \$ 468,365 \$ ~~468,365~~ 6846

		Implementation				
GRF	195432	Global Markets	\$	3,500,000	\$	0 6847
GRF	195434	Industrial Training	\$	10,000,000	\$	0 6848
		Grants				
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	0 1,015,000 6849
GRF	195501	Appalachian Local	\$	391,482	\$	391,482 0 6850
		Development Districts				
GRF	195502	Appalachian Regional	\$	195,000	\$	195,000 0 6851
		Commission Dues				
GRF	195528	Economic Development	\$	0	\$	26,943,518 6852
		Projects				
<u>GRF</u>	<u>195532</u>	<u>Technology Programs</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>13,547,341</u> 6853
		<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> 6854
<u>GRF</u>	<u>195535</u>	<u>Appalachia Assistance</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>4,286,482</u> 6855
GRF	195901	Coal Research &	\$	7,861,100	\$	5,577,700 6856
		Development General				
		Obligation Debt				
		Service				
GRF	195905	Third Frontier	\$	29,323,300	\$	63,640,300 6857
		Research &				
		Development General				
		Obligation Debt				
		Service				
GRF	195912	Job Ready Site	\$	9,859,200	\$	15,680,500 6858
		Development General				
		Obligation Debt				
		Service				
TOTAL GRF		General Revenue Fund	\$	103,126,423	\$	116,389,705 6859
						<u>117,789,745</u>
		General Services Fund Group				6860
1350	195684	Supportive	\$	11,700,000	\$	11,700,000 6861
		<u>Development Services</u>				

		<u>Operations</u>				
4W10	195646	Minority Business	\$	2,500,000	\$	2,500,000 6862
		Enterprise Loan				
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000 6863
						<u>18,600,000</u>
5AD0	195677	Economic Development	\$	10,000,000	\$	0 6864
		Contingency				
5W50	195690	Travel and Tourism	\$	50,000	\$	50,000 6865
		Cooperative Projects				
6850	195636	Direct Cost Recovery	\$	750,000	\$	750,000 6866
		<u>Development Services</u>				
		<u>Reimbursable</u>				
		Expenditures				
TOTAL	GSF	General Services Fund				6867
Group			\$	40,000,000	\$	30,000,000 6868
						<u>33,600,000</u>
Federal	Special Revenue Fund	Group				6869
3080	195602	Appalachian Regional	\$	475,000	\$	475,000 6870
		Commission				
3080	195603	Housing and Urban	\$	6,000,000	\$	6,000,000 6871
		Development				
		<u>Assistance Programs</u>				
3080	195605	Federal Projects	\$	85,028,606	\$	85,470,106 0 6872
3080	195609	Small Business	\$	6,438,143	\$	5,511,381 6873
		Administration <u>Grants</u>				
3080	195618	Energy Federal Grants	\$	38,000,000	\$	3,400,000 6874
<u>3080</u>	<u>195670</u>	<u>Home Weatherization</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>72,670,106</u> 6875
		<u>Program</u>				
<u>3080</u>	<u>195671</u>	<u>Brownfield</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>6,800,000</u> 6876
		<u>Redevelopment</u>				
<u>3080</u>	<u>195672</u>	<u>Manufacturing</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>6,000,000</u> 6877
		<u>Extension Partnership</u>				
3350	195610	Energy Conservation	\$	1,100,000	\$	1,100,000 6878

		and Emerging				
		<u>Technology Programs</u>				
3AE0	195643	Workforce Development Initiatives	\$	16,300,000	\$	16,300,000 6879
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	3,000,000	\$	42,485 6880
3EG0	195608	Federal Energy Sector Training Grants	\$	5,000,000	\$	1,344,056 6881
3K80	195613	Community Development Block Grant	\$	76,795,818	\$	65,210,000 6882
3K90	195611	Home Energy Assistance Block Grant	\$	115,743,608	\$	115,743,608 6883
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000 6884
3L00	195612	Community Services Block Grant	\$	27,240,217	\$	27,240,217 6885
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000 6886
TOTAL FED		Federal Special Revenue Fund Group	\$	443,121,392	\$	389,836,853 6888
		State Special Revenue Fund Group				6889
4500	195624	Minority Business Bonding Program Administration	\$	160,110	\$	159,069 6890
4510	195625	Economic Development Financing Operating	\$	3,000,000	\$	3,000,000 0 6891
<u>4510</u>	<u>195649</u>	<u>Business Assistance Programs</u>	\$	0	\$	<u>3,700,800</u> 6892
4F20	195639	State Special Projects	\$	180,437	\$	180,436 6893
4F20	195676	Marketing Initiatives	\$	5,000,000	\$	0 6894
4F20	195699	Utility Provided Funds Community Assistance	\$	500,000	\$	500,000 6895

4S00	195630	Tax Incentive Programs	\$	650,800	\$	650,800 0	6896
5CG0	195679	Alternative Fuel Transportation	\$	750,000	\$	750,000	6897
5HJ0	195604	Motion Picture Tax Credit Program	\$	50,000	\$	50,000 0	6898
5HR0	195526	Ohio Incumbent Workforce Job Training Vouchers	\$	20,000,000	\$	30,000,000	6899
5HR0	195622	Defense Development Assistance	\$	5,000,000	\$	5,000,000	6900
<u>5JR0</u>	<u>195635</u>	<u>Redevelopment Program</u> <u>Support</u>	\$	<u>0</u>	\$	<u>100,000</u>	6901
5JR0	195656	New Market Tax Credit Program	\$	50,000	\$	50,000 0	6902
5KD0	195621	Brownfield Stormwater Loan	\$	50,000	\$	50,000 0	6903
5KN0	195640	Local Government Innovation	\$	175,000	\$	44,825,000	6904
<u>5LK0</u>	<u>195655</u>	<u>Workforce Development</u> <u>Programs</u>	\$	<u>0</u>	\$	<u>10,000,000</u>	6905
5M40	195659	Low Income Energy Assistance (USF)	\$	245,000,000	\$	245,000,000	6906
5M50	195660	Advanced Energy <u>Loan</u> Programs	\$	8,000,000	\$	0	6907
5W60	195691	International Trade Cooperative Projects	\$	160,000	\$	160,000	6908
6170	195654	Volume Cap Administration	\$	94,397	\$	92,768	6909
6460	195638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$	53,000,000	6910
TOTAL SSR	State Special Revenue						6911
Fund Group			\$	341,820,744	\$	383,468,073	6912

393,468,073

Facilities Establishment Fund Group				6913
5S90 195628 Capital Access Loan	\$	1,500,000	\$ 1,500,000	6914
Program				
7009 195664 Innovation Ohio	\$	15,000,000	\$ 15,000,000	6915
7010 195665 Research and	\$	22,000,000	\$ 22,000,000	6916
Development				
7037 195615 Facilities	\$	50,000,000	\$ 50,000,000	6917
Establishment				
TOTAL 037 Facilities				6918
Establishment Fund Group	\$	88,500,000	\$ 88,500,000	6919
Clean Ohio Revitalization Fund				6920
7003 195663 Clean Ohio Operating	\$	950,000	\$ 950,000	6921
<u>Program</u>				
TOTAL 7003 Clean Ohio	\$	950,000	\$ 950,000	6922
Revitalization Fund				
Third Frontier Research & Development Fund Group				6923
7011 195686 Third Frontier	\$	1,149,750	\$ 1,149,750	6924
Operating				
7011 195687 Third Frontier	\$	183,850,250	\$ 133,850,250	6925
Research &				
Development Projects				
7014 195620 Third Frontier	\$	1,700,000	\$ 1,700,000	6926
Operating - Tax				
7014 195692 Research &	\$	38,300,000	\$ 38,300,000	6927
Development Taxable				
Bond Projects				
TOTAL 011 Third Frontier Research &	\$	225,000,000	\$ 175,000,000	6928
Development Fund Group				
Job Ready Site Development Fund Group				6929
7012 195688 Job Ready Site	\$	800,000	\$ 800,000	6930
Operating <u>Program</u>				

TOTAL 012 Job Ready Site Development Fund Group	\$	800,000	\$	800,000	6931
Tobacco Master Settlement Agreement Fund Group					6932
M087 195435 Biomedical Research and Technology Transfer	\$	1,999,224	\$	1,999,224	6933
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	1,999,224	\$	1,999,224	6934
TOTAL ALL BUDGET FUND GROUPS	\$	1,245,317,783	\$	1,186,943,855 <u>1,201,943,895</u>	6935

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 6937

The foregoing appropriation item 195640, Local Government 6938
Innovation, shall be used for the purposes of making loans and 6939
grants to political subdivisions under the Local Government 6940
Innovation Program in accordance with sections 189.01 to 189.10 of 6941
the Revised Code. Of the foregoing appropriation item 195640, 6942
Local Government Innovation, up to \$175,000 in fiscal year 2012 6943
and \$175,000 in fiscal year 2013 shall be used for administrative 6944
costs incurred by the ~~Department of~~ Development Services Agency. 6945

On the effective date of this amendment, or as soon as 6946
possible thereafter, the Director of Budget and Management shall 6947
transfer \$175,000 in cash from the General Revenue Fund to the 6948
Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 6949
as soon as possible thereafter, the Director of Budget and 6950
Management shall transfer \$44,825,000 in cash from the General 6951
Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 6952

Section 10. That existing Sections 261.10 and 261.20.93 of 6953
Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 6954
Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 6955

Section 11. TRAVEL AND TOURISM 6956

The foregoing appropriation item 195407, Travel and Tourism, 6957
shall be used for marketing the state of Ohio as a tourism 6958
destination and to support administrative expenses and contracts 6959
necessary to market Ohio. 6960

Section 12. CDBG OPERATING MATCH 6961

The foregoing appropriation item 195497, CDBG Operating 6962
Match, shall be used as matching funds for grants from the United 6963
States Department of Housing and Urban Development pursuant to the 6964
Housing and Community Development Act of 1974 and regulations and 6965
policy guidelines for the programs pursuant thereto. 6966

Section 13. TECHNOLOGY PROGRAMS AND GRANTS 6967

The foregoing appropriation item 195532, Technology Programs 6968
and Grants, shall be used for the same purposes as funding 6969
previously appropriated for appropriation items 195401, Thomas 6970
Edison Program, and 195422, Technology Action. Of the foregoing 6971
appropriation item 195532, Technology Programs and Grants, up to 6972
\$547,341 in fiscal year 2013 shall be used for operating expenses 6973
incurred in administering the Ohio Third Frontier pursuant to 6974
sections 184.10 to 184.20 of the Revised Code; and up to 6975
\$13,000,000 in fiscal year 2013 shall be used for the Thomas 6976
Edison Program pursuant to sections 122.28 to 122.38 of the 6977
Revised Code, of which not more than ten per cent shall be used 6978
for operating expenses incurred in administering the program. 6979

Section 14. BUSINESS ASSISTANCE 6980

The foregoing appropriation item 195533, Business Assistance, 6981
shall be used as matching funds for grants from the United States 6982
Small Business Administration and other federal agencies, pursuant 6983
to Public Law No. 96-302 as amended by Public Law No. 98-395, and 6984
regulations and policy guidelines for the programs pursuant 6985

thereto. This appropriation item also may be used to provide 6986
grants to local organizations to support economic development 6987
activities that promote minority business development, small 6988
business development, entrepreneurship, and exports of Ohio's 6989
goods and services. 6990

Section 15. APPALACHIA ASSISTANCE 6991

The foregoing appropriation item 195535, Appalachia 6992
Assistance, may be used for the administrative costs of planning 6993
and liaison activities for the Governor's Office of Appalachia, to 6994
provide financial assistance to projects in Ohio's Appalachian 6995
counties, to pay dues for the Appalachian Regional Commission, and 6996
to match federal funds from the Appalachian Regional Commission. 6997

Of the foregoing appropriation item 195535, Appalachia 6998
Assistance, up to \$440,000 in fiscal year 2013 shall be used to 6999
support four local development districts. Of that amount, up to 7000
\$135,000 shall be allocated to the Ohio Valley Regional 7001
Development Commission, up to \$135,000 shall be allocated to the 7002
Ohio Mid-Eastern Government Association, up to \$135,000 shall be 7003
allocated to the Buckeye Hills-Hocking Valley Regional Development 7004
District, and up to \$35,000 shall be allocated to the Eastgate 7005
Regional Council of Governments. Local development districts 7006
receiving funding under this section shall use the funds for the 7007
implementation and administration of programs and duties under 7008
section 107.21 of the Revised Code. 7009

Section 16. LEGACY PROJECTS 7010

The foregoing appropriation item 195633, Legacy Projects, 7011
shall be used to support existing grant commitments to companies 7012
incurred prior to fiscal year 2013. A portion of the appropriation 7013
item may also be used to support administrative expenses and other 7014
costs associated with these projects. 7015

Section 17. BUSINESS ASSISTANCE PROGRAMS 7016

The foregoing appropriation item 195649, Business Assistance 7017
Programs, shall be used for administrative expenses associated 7018
with the operation of tax credit programs, loan servicing, the 7019
Ohio Film Office, and the Office of Strategic Business 7020
Investments, and for payments to the JobsOhio corporation 7021
established in Chapter 187. of the Revised Code for services 7022
provided for the administration of the 166 Direct Loan Program, 7023
Ohio Enterprise Bond Fund, Research and Development Loan Program, 7024
and Innovation Ohio Loan Program. 7025

Section 18. WORKFORCE DEVELOPMENT PROGRAMS 7026

The foregoing appropriation item 195655, Workforce 7027
Development Programs, may be used for the Ohio Workforce Guarantee 7028
Program to promote training through grants to businesses and, in 7029
the case of a business consortium, to the consortium for training 7030
and education providers for the reimbursement of eligible training 7031
expenses. Not more than ten per cent of appropriation item 195655, 7032
Workforce Development Programs, shall be used for administrative 7033
expenses related to the Ohio Workforce Guarantee Program. 7034

Section 19. ASSORTED TRANSFERS FOR RESTRUCTURING 7035

On July 1, 2012, or as soon as possible thereafter, the 7036
Director of Budget and Management shall transfer the unexpended 7037
and unencumbered cash balance in the Water and Sewer Fund (Fund 7038
4440) to the General Reimbursement Fund (Fund 6850). 7039

On July 1, 2012, or as soon as possible thereafter, the 7040
Director of Budget and Management shall transfer the unexpended 7041
and unencumbered cash balance in the Water and Sewer 7042
Administration Fund (Fund 6110) to the General Reimbursement Fund 7043
(Fund 6850). 7044

On July 1, 2012, or as soon as possible thereafter, the 7045
Director of Budget and Management shall transfer the unexpended 7046
and unencumbered cash balance in the Tax Incentive Programs 7047
Operating Fund (Fund 4S00) to the Business Assistance Fund (Fund 7048
4510). 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 Brownfield Stormwater Loan 7052
Fund (Fund 5KD0) to the New Market Tax Credit Program Fund (Fund 7053
5JR0). 7054

Section 20. That Sections 261.10.10, 261.10.20, 261.10.30, 7055
261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 7056
261.20.70, and 261.30.50 of Am. Sub. H.B. 153 of the 129th General 7057
Assembly are hereby repealed. 7058

Section 21. Sections 7 to 20 of this act are not subject to 7059
the referendum under Ohio Constitution, Article II, Section 1d, 7060
and section 1.471 of the Revised Code, and therefore those 7061
sections take effect immediately when this act becomes law. 7062

Section 22. Section 122.42 of the Revised Code is presented 7063
in this act as a composite of the section as amended by both Am. 7064
Sub. H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. 7065
The General Assembly, applying the principle stated in division 7066
(B) of section 1.52 of the Revised Code that amendments are to be 7067
harmonized if reasonably capable of simultaneous operation, finds 7068
that the composite is the resulting version of the section in 7069
effect prior to the effective date of the section as presented in 7070
this act. 7071

Section 23. Section 149.43 of the Revised Code is presented 7072
in this act as a composite of the section as amended by both Sub. 7073
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 7074

General Assembly, applying the principle stated in division (B) of 7075
section 1.52 of the Revised Code that amendments are to be 7076
harmonized if reasonably capable of simultaneous operation, finds 7077
that the composite is the resulting version of the section in 7078
effect prior to the effective date of the section as presented in 7079
this act. 7080