As Introduced

136th General Assembly
Regular Session
2025-2026

S. B. No. 145

Senators Reynolds, Craig

To amend sections 9.47, 9.66, 107.03, 107.21, 117.55, 121.02, 121.03, 121.35, 122.01, 122.011, 122.012, 122.013, 122.014, 122.02, 122.03, 122.04, 122.041, 122.042, 122.05, 122.06, 122.07, 122.071, 122.073, 122.075, 122.077, 122.08, 122.081, 122.082, 122.083, 122.085, 122.086, 122.087, 122.088, 122.089, 122.0810, 122.0811, 122.0812, 122.0813, 122.0814, 122.0815, 122.0816, 122.0817, 122.09, 122.10, 122.11, 122.121, 122.131, 122.132, 122.133, 122.134, 122.135, 122.136, 122.14, 122.15, 122.151, 122.152, 122.153, 122.154, 122.155, 122.156, 122.16, 122.17, 122.171, 122.172, 122.173, 122.174, 122.175, 122.176, 122.177, 122.178, 122.179, 122.1710, 122.1711, 122.18, 122.19, 122.20, 122.21, 122.22, 122.23, 122.24, 122.25, 122.26, 122.27, 122.29, 122.291, 122.30, 122.31, 122.32, 122.33, 122.35, 122.36, 122.37, 122.38, 122.401, 122.403, 122.406, 122.4017, 122.4018, 122.4019, 122.4020, 122.4023, 122.4024, 122.4030, 122.4031, 122.4032, 122.4033, 122.4034, 122.4035, 122.4036, 122.4037, 122.4040, 122.4043, 122.4044, 122.4045, 122.4046, 122.4050, 122.4051, 122.4055, 122.4063, 122.4070, 122.4071, 122.4073, 122.4075, 122.4076, 122.4077, 122.41,

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165.20, 166.01, 166.02, 166.03, 166.04, 166.05,
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Department of Housing and Development and to otherwise modify the law related to housing.

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

Section 1. That sections 9.47, 9.66, 107.03, 107.21, 117.55, 121.02, 121.03, 121.35, 122.01, 122.011, 122.012, 122.013, 122.014, 122.02, 122.03, 122.04, 122.041, 122.042, 122.05, 122.06, 122.07, 122.071, 122.073, 122.075, 122.077, 122.08, 122.081, 122.082, 122.083, 122.085, 122.086, 122.087, 122.088, 122.089, 122.0810, 122.0811, 122.0812, 122.0813, 122.0814, 122.0815, 122.0816, 122.0817, 122.09, 122.10, 122.11, 122.121, 122.131, 122.132, 122.133, 122.134, 122.135, 122.136, 122.14, 122.15, 122.151, 122.152, 122.153, 122.154, 122.155, 122.156, 122.16, 122.17, 122.171, 122.172, 122.173, 122.174, 122.175, 122.176, 122.177, 122.178, 122.179, 122.1710, 122.1711, 122.18, 122.19, 122.20, 122.21, 122.22, 122.23, 122.24, 122.25, 122.26, 122.27, 122.29, 122.291, 122.30, 122.31, 122.32, 122.33, 122.35, 122.36, 122.37, 122.38, 122.401, 122.403, 122.406, 122.4017, 122.4018, 122.4019, 122.4020, 122.4023, 122.4024, 122.4030, 122.4031, 122.4032, 122.4033, 122.4034, 122.4035, 122.4036, 122.4037, 122.4040, 122.4043, 122.4044, 122.4045, 122.4046, 122.4050, 122.4051, 122.4055, 122.4063, 122.4070, 122.4071, 122.4073, 122.4075, 122.4076, 122.4077, 122.41, 122.42, 122.43, 122.44, 122.45, 122.451, 122.46, 122.47, 122.48, 122.49, 122.52, 122.53, 122.54, 122.55, 122.56, 122.561, 122.57, 122.571, 122.58, 122.59, 122.60, 122.601, 122.602, 122.603, 122.604, 122.605, 122.61, 122.62, 122.63, 122.631, 122.632, 122.633, 122.64, 122.641, 122.6510, 122.6511, 122.6512, 122.67, 122.68, 122.681, 122.69, 122.70, 122.701, 122.71, 122.72,

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Sec. 9.47. (A) Any person desiring to bid on a contract awarded pursuant to Chapter 153. of the Revised Code by an owner referred to in section 153.01 of the Revised Code or awarded by the director of transportation pursuant to Chapter 5525. of the Revised Code may make application for a certificate of compliance with affirmative action programs. Application shall be made to the department of housing and development. The director of housing and development's designee shall promptly determine whether the person has complied with all federal affirmative action programs to which the person was subject and any state affirmative action program to which the person was subject pursuant to section 153.59 of the Revised Code which state or federal affirmative action program arose out of a contract the person had with the federal government, the state, or a political subdivision of the state. Where the director's designee determines the person has not committed any violation of such prior affirmative action programs during the five years immediately preceding the date of determination, the director's designee shall issue a dated certificate of compliance with affirmative action programs. The director's designee may issue an updated certificate to a person upon request but not more frequently than once every one hundred eighty days. A person who

violates an affirmative action program during the five years preceding the date of determination is ineligible to bid on a contract awarded pursuant to Chapter 153. of the Revised Code by an owner referred to in section 153.01 of the Revised Code or awarded by the director of transportation pursuant to Chapter 5525. of the Revised Code for a period of three years after the date of determination.

(B) Any person denied a certificate or an updated certificate may appeal to the director of housing and development for a review of that determination. The appeal must be filed within ten days of the date of the determination. The director shall, within five days after receipt of the appeal, either affirm or reverse the determination.

(C) Any person dissatisfied with the decision of the director on review may, within thirty days, appeal the decision of the director to the court of common pleas of Franklin county. The court may affirm or reverse the decision of the director. At the hearing before the court, evidence may be introduced for and against the decision of the director. The decision of the court may be appealed as in other cases.

(D) The director of housing and development, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend or rescind, rules to implement this section.

Sec. 9.66. (A) As used in this section:

(1) "Economic development assistance" means all of the following:

(a) The programs and assistance provided or administered by the department of housing and development under Chapters 122. and 166. of the Revised Code and any other section of the

Revised Code under which the department provides or administers economic development assistance;

(b) The programs and assistance provided or administered by a political subdivision under Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code and any other section of the Revised Code under which a political subdivision provides economic development assistance;

(c) Assistance provided under any other section of the Revised Code under which the state or a state agency provides or administers economic development assistance;

(d) The tax credit authorized by section 5725.31, 5729.07, or 5733.42 of the Revised Code.

(2) "Liability" means any of the following:

(a) Any delinquent tax owed the state or a political subdivision of the state;

(b) Any moneys owed the state or a state agency for the administration or enforcement of the environmental laws of the state;

(c) Any other moneys owed the state, a state agency, or a political subdivision of the state that are past due.

"Liability" includes any item described in division (A)(2) of this section that is being contested in a court of law.

(3) "Political subdivision" means any county, municipal corporation, or township of the state.

(4) "State agency" means every organized body, office, or

agency established by the laws of the state for the exercise of any function of state government.

(B) A person who applies to the state, a state agency, or a political subdivision for economic development assistance shall indicate on the application for assistance whether the person has any outstanding liabilities owed to the state, a state agency, or a political subdivision. Such a person also shall authorize the state, state agency, or political subdivision to inspect the personal or corporate financial statements of the applicant, including tax records and other similar information not open to public inspection.

(C)(1) Whoever knowingly makes a false statement under division (B) of this section concerning an application for economic development assistance or who fails to provide any information required by that division is ineligible for the assistance applied for and is ineligible for any future economic development assistance from the state, a state agency, or a political subdivision.

(2) Whoever knowingly makes a false statement under division (B) of this section concerning an application for economic development assistance or who fails to provide any information required by that division shall return any moneys received from the state, a state agency, or a political subdivision in connection with that application.

Sec. 107.03. (A) As used in this section, "transportation budget" means the biennial budget that primarily includes the following:

(1) Motor fuel excise tax-related appropriations for the department of transportation, public works commission, and

department of housing and development;

(2) Other appropriations that pertain to transportation and infrastructure related to transportation.

(B) The governor shall submit a transportation budget to the general assembly not later than four weeks after the general assembly's organization.

(C) The governor shall submit to the general assembly, not later than four weeks after its organization, a state budget containing a complete financial plan for the ensuing fiscal biennium, excluding items of revenue and expenditure described in section 126.022 of the Revised Code. However, in years of a new governor's inauguration, this budget shall be submitted not later than the fifteenth day of March.

(D) In years of a new governor's inauguration, only the new governor shall submit a budget to the general assembly. In addition to other things required by law, each of the governor's budgets shall contain:

(1) A general budget summary by function and agency setting forth the proposed total expenses from each and all funds and the anticipated resources for meeting such expenses; such resources to include any available balances in the several funds at the beginning of the biennium and a classification by totals of all revenue receipts estimated to accrue during the biennium under existing law and proposed legislation.

(2) A detailed statement showing the amounts recommended to be appropriated from each fund for each fiscal year of the biennium for current expenses, including, but not limited to, personal services, supplies and materials, equipment, subsidies and revenue distribution, merchandise for resale, transfers, and

nonexpense disbursements, obligations, interest on debt, and retirement of debt, and for the biennium for capital outlay, to the respective departments, offices, institutions, as defined in section 121.01 of the Revised Code, and all other public purposes; and, in comparative form, the actual expenses by source of funds during each fiscal year of the previous two bienniums for each such purpose. No alterations shall be made in the requests for the legislative and judicial branches of the state filed with the director of budget and management under section 126.02 of the Revised Code. If any amount of federal money is recommended to be appropriated or has been expended for a purpose for which state money also is recommended to be appropriated or has been expended, the amounts of federal money and state money involved shall be separately identified.

(3) A detailed estimate of the revenue receipts in each fund from each source under existing laws during each year of the biennium; and, in comparative form, actual revenue receipts in each fund from each source for each year of the two previous bienniums;

(4) The estimated cash balance in each fund at the beginning of the biennium covered by the budget; the estimated liabilities outstanding against each such balance; and the estimated net balance remaining and available for new appropriations;

(5) A detailed estimate of the additional revenue receipts in each fund from each source under proposed legislation, if enacted, during each year of the biennium;

(6) The most recent report prepared by the department of taxation under section 5703.48 of the Revised Code, which shall be submitted to the general assembly as an appendix to the

governor's budget;

(7) The most recent TANF spending plan prepared by the department of job and family services under section 5101.806 of the Revised Code, which shall be submitted to the general assembly as an appendix to the governor's budget;

(8) The medicaid caseload and expenditure forecast report prepared by the office of budget and management, in consultation with the department of medicaid, under section 126.021 of the Revised Code. The report shall be submitted to the general assembly as a supplemental budget document to provide an in-depth analysis of the governor's budget recommendations for the medicaid budget as a whole and for each of the major medicaid appropriation items. The report shall clearly distinguish a proposed policy change from continuing law or administrative policy and indicate whether the data used throughout the report is proposed, estimated, or actual data for the current or proposed budget biennium. At a minimum, the report shall delineate a part-to-whole mapping of the state and federal shares of the general revenue fund appropriation item 651525, medicaid health care services, or any other equivalent general revenue fund appropriation item, by eligibility group and subgroup, service delivery system, delivery system, medicaid provider, and program.

Sec. 107.21. (A) As used in this section, "Appalachian region" means the following counties in this state that have been designated as part of Appalachia by the federal Appalachian regional commission and that have been geographically isolated and economically depressed: Adams, Ashtabula, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson,

Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Trumbull, Tuscarawas, Vinton, and Washington.

(B) There is hereby created in the department of housing and development the governor's office of Appalachian Ohio. The governor shall designate the director of the governor's office of Appalachian Ohio. The director shall report directly to the office of the governor. On January 1, 1987, the governor shall designate the director to represent this state on the federal Appalachian regional commission. The director may appoint such employees as are necessary to exercise the powers and duties of this office. The director shall maintain local development districts as established within the Appalachian region for the purpose of regional planning for the distribution of funds from the Appalachian regional commission within the Appalachian region.

(C) The governor's office of Appalachian Ohio shall represent the interests of the Appalachian region in the government of this state. The duties of the director of the office shall include, but are not limited to, the following:

(1) To identify residents of the Appalachian region qualified to serve on state boards, commissions, and bodies and in state offices, and to bring these persons to the attention of the governor;

(2) To represent the interests of the Appalachian region in the general assembly and before state boards, commissions, bodies, and agencies;

(3) To assist in forming a consensus on public issues and policies among institutions and organizations that serve the

Appalachian region;

(4) To act as an ombudsperson to assist in resolving differences between state or federal agencies and the officials of political subdivisions or private, nonprofit organizations located within the Appalachian region;

(5) To assist planning commissions, agencies, and organizations within the Appalachian region in distributing planning information and documents to the appropriate state and federal agencies and to assist in focusing attention on any findings and recommendations of these commissions, agencies, and organizations;

(6) To issue reports on the Appalachian region that describe progress achieved and the needs that still exist in the region;

(7) To assist the governor's office in resolving the problems of residents of the Appalachian region that come to the governor's attention.

(D) The amount of money from appropriated state funds allocated each year to pay administrative costs of a local development district existing on ~~the effective date of this amendment~~ October 16, 2009, shall not be decreased due to the creation and funding of additional local development districts. The amount of money allocated to each district shall be increased each year by the average percentage of increase in the consumer price index for the prior year.

As used in this division, "consumer price index" means the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics.

Sec. 117.55. (A) As used in this section:

(1) "Entity" means, whether for profit or nonprofit, a corporation, association, partnership, limited liability company, sole proprietorship, or other business entity. "Entity" does not include an individual who receives state assistance that is not related to the individual's business.

(2) "State award for economic development" means state financial assistance and expenditure in any of the following forms: grants, subgrants, loans, awards, cooperative agreements, or other similar and related forms of financial assistance and contracts, subcontracts, purchase orders, task orders, delivery orders, or other similar and related transactions. It does not include compensation received as an employee of the state or any state financial assistance and expenditure received from the general assembly or any legislative agency, any court or judicial agency, or from the offices of the attorney general, the secretary of state, the auditor of state, or the treasurer of state.

(B) Not later than thirty days after the end of the state fiscal year, the department of housing and development shall send the auditor of state a list of state awards for economic development. The auditor of state shall review each award and determine if an entity is in compliance with the terms and conditions, including performance metrics, of a state award for economic development received by that entity.

(C) The auditor of state shall publish a report of its reviews and determinations not later than ninety days after receipt of the list of state awards from the department of housing and development.

(D) When the auditor of state finds that an entity that receives or has received a state award for economic development is not in compliance with a performance metric that is specified in the terms and conditions of the award, the auditor of state shall report the findings to the attorney general. The attorney general may pursue against and from that entity such remedies and recoveries as are available under law.

(E) If the auditor of state is authorized to conduct an audit of an entity that receives or has received a state award for economic development, the audit shall be conducted in accordance with Chapter 117. of the Revised Code.

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

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

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

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

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

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

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

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

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

(I) The department of children and youth, which shall be administered by the director of children and youth;

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

(K) The department of mental health and addiction services, which shall be administered by the director of mental health and addiction services;

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

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

(N) The department of housing and development, which shall be administered by the director of housing and development;

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

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

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

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

(S) The department of veterans services, which shall be

administered by the director of veterans services;

(T) The department of medicaid, which shall be administered by the medicaid director;

(U) The department of education and workforce, which shall be administered by the director of education and workforce.

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

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

(A) The director of budget and management;

(B) The director of commerce;

(C) The director of transportation;

(D) The director of agriculture;

(E) The director of job and family services;

(F) The director of children and youth;

(G) The director of public safety;

(H) The superintendent of insurance;

(I) The director of housing and development;

(J) The tax commissioner;

(K) The director of administrative services;

(L) The director of natural resources;

(M) The director of mental health and addiction services;

(N) The director of developmental disabilities;

(O) The director of health;

(P) The director of youth services;

(Q) The director of rehabilitation and correction;

(R) The director of environmental protection;

(S) The director of aging;

(T) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;

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

(V) The chancellor of higher education;

(W) The medicaid director;

(X) The director of education and workforce.

Sec. 121.35. (A) Subject to division (B) of this section, the following state agencies shall collaborate to revise and make more uniform the eligibility standards and eligibility determination procedures of programs the state agencies administer:

(1) The department of aging;

(2) The department of housing and development;

(3) The department of developmental disabilities;

(4) The department of education and workforce;

(5) The department of health;

(6) The department of job and family services;

(7) The department of medicaid;

(8) The department of mental health and addiction services;

(9) The opportunities for Ohioans with disabilities agency;

(10) The department of children and youth.

(B) In revising eligibility standards and eligibility determination procedures, a state agency shall not make any program's eligibility standards or eligibility determination procedures inconsistent with state or federal law. To the extent authorized by state and federal law, the revisions may provide for the state agencies to share administrative operations.

Sec. 122.01. (A) As used in the Revised Code, the "development services agency" and the "department of development" means the department of housing and development and the "director of development services" and the "director of development" means the director of housing and development. Whenever the development services agency, department of development, director of development, or director of development services is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department of housing and development or director of housing and development, as the case may be.

(B) As used in this chapter:

(1) "Community problems" includes, but is not limited to,

taxation, fiscal administration, governmental structure and organization, intergovernmental cooperation, education and training, employment needs, community planning and development, air and water pollution, public safety and the administration of justice, housing, mass transportation, community facilities and services, health, welfare, recreation, open space, and the development of human resources.

(2) "Professional personnel" means either of the following:

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

(b) Personnel who serve as or have the working title of director, assistant director, deputy director, assistant deputy director, manager, office chief, assistant office chief, or program director.

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

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

(b) Personnel employed in the director of housing and development's office or the legal office, communications office, finance office, legislative affairs office, or human resources office of the department of housing and development;

(c) Personnel employed in the technology division of the department.

Sec. 122.011. (A) The department of housing and development shall develop and promote plans and programs designed to assure that state resources are efficiently used, economic growth is properly balanced, community growth is

developed in an orderly manner, and local governments are coordinated with each other and the state, and for such purposes may do all of the following:

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

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

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

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

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

(6) Cooperate with and provide technical assistance to state departments, political subdivisions, regional and local planning commissions, tourist associations, councils of government, community development groups, community action agencies, and other appropriate organizations for carrying out

the functions and duties of the department of housing and development or for the solution of community problems;

(7) Coordinate the activities of state agencies that have an impact on carrying out the functions and duties of the department of housing and development;

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

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

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

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

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

(13) Until October 15, 2007, and upon approval by the

controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

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

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

(C) The director shall execute a contract pursuant to section 187.04 of the Revised Code with the nonprofit corporation formed under section 187.01 of the Revised Code, and may execute any additional contracts with the corporation providing for the corporation to assist the director or department in carrying out any duties of the director or department under this chapter, under any other provision of the

Revised Code dealing with economic development, or under a contract with the director, subject to section 187.04 of the Revised Code.

Sec. 122.012. The director of housing and development may designate any governmental entity as an agency of the state to act within a specified region of the state for the purpose of creating and preserving jobs and employment opportunities and financing projects intended to create or preserve jobs and employment opportunities. Any such designation shall be in addition to agency designations made for such purpose by, or by the director pursuant to, Section 56.09 of H.B. 298 of the 119th general assembly, the provisions of which pertaining to such designations, and the designations so made, remain in full force and effect as continuing grants of authority. Each agency designated by or pursuant to Section 56.09 of H.B. 298 of the 119th general assembly or this section may exercise any statutory powers it has under any other section of the Revised Code to accomplish the purposes of this section within the agency's specified region. The regions served by agencies shall not overlap. The director may reduce, expand, or otherwise modify the region served by, or limit the authority of, any such agency.

Sec. 122.013. The department of housing and development shall post the following on the official internet site of the department:

(A) Annual reports of the progress and status of eligible projects made as required under division (E) of section 122.0814 of the Revised Code;

(B) The annual report made by the director of housing and development under section 122.0817 of the Revised Code;

(C) Reports made by the third frontier commission under section 184.15 of the Revised Code;

(D) Information on all support awarded under section 184.11 of the Revised Code.

Sec. 122.014. (A) As used in this section, "gaming activities" means activities conducted in connection with or that include any of the following:

(1) Casino gaming, as authorized and defined in Section 6(C) of Article XV, Ohio Constitution;

(2) Casino gaming, as defined in division (E) of section 3772.01 of the Revised Code; or

(3) The pari-mutuel system of wagering as authorized and described in Chapter 3769. of the Revised Code.

(B) The department of housing and development or any other entity that administers any program or development project established under Chapter 122., 166., or 184. of the Revised Code or in ~~sections~~ section 149.311, 5709.87, or 5709.88 of the Revised Code shall not provide any financial assistance, including loans, tax credits, and grants, staffing assistance, technical support, or other assistance to businesses conducting gaming activities or for project sites on which gaming activities are or will be conducted.

Sec. 122.02. The department of housing and development may apply for, receive, and accept grants, gifts, contributions, loans and any other assistance in any form from public and private sources, including assistance from agencies and instrumentalities of the United States and including the application for, receipt, and acceptance, on behalf of this state, of assistance from agencies and instrumentalities of the

United States for the purposes of Chapter 122. of the Revised Code except that nothing in this section prohibits the minority business development division from exercising its authority under section 122.93 of the Revised Code. The department shall do all things necessary to apply for, receive, and administer such assistance in accordance with the laws of Ohio. It may contract or enter into agreements with any person, governmental agency, or public or private organization, and any local or regional agency or political subdivision of the state may contract with it, to carry out the purposes of Chapter 122. of the Revised Code. The department may require, in all contracts for assistance stipulations that the contractors and any subcontractors comply with requirements as to minimum wages, hours of work, equal employment, and any other conditions which the United States has attached to its financial aid to the projects.

Sec. 122.03. The department of housing and development shall:

(A) Maintain a continuing evaluation of existing research facilities in the state and their relationship to orderly ~~econmic~~ economic growth and the solution of community problems of the state;

(B) Prepare and disseminate information relative to research facilities in the state and their availability to industrial activities and the solution of community problems;

(C) Prepare and recommend programs for the coordination of research activities in the state and to assure the maximum use of such facilities in the development of orderly economic growth and the solution of community problems;

(D) Cooperate with educational institutions in the development of educational programs to train technical personnel in the field of research and those other fields related to the solution of community problems;

(E) Carry out continuing studies and analyses of the problems and opportunities of communities, districts, and regions within the state, and of multi-state regions of which Ohio is a part.

Sec. 122.04. The department of housing and development shall do the following:

(A) Maintain a continuing evaluation of the sources available for the retention, development, or expansion of industrial and commercial facilities in this state through both public and private agencies;

(B) Assist public and private agencies in obtaining information necessary to evaluate the desirability of the retention, construction, or expansion of industrial and commercial facilities in the state;

(C) Facilitate contracts between community improvement corporations organized under Chapter 1724. of the Revised Code or Ohio development corporations organized under Chapter 1726. of the Revised Code and industrial and commercial concerns seeking to locate or expand in the state;

(D) Upon request, consult with public agencies or authorities in the preparation of studies of human and economic needs or advantages relating to economic and community development;

(E) Encourage, promote, and assist trade and commerce between this state and foreign nations;

(F) Promote and encourage persons to visit and travel within this state;

(G) Maintain membership in the national association of state development agencies;

(H) Assist in the development of facilities and technologies that will lead to increased, environmentally sound use of Ohio coal;

(I) Promote economic growth in the state.

Sec. 122.041. The director of housing and development shall do all of the following with regard to the encouraging diversity, growth, and equity program created under section 122.922 of the Revised Code:

(A) Conduct outreach, marketing, and recruitment of EDGE business enterprises, as defined in that section;

(B) Provide business development services to EDGE business enterprises in the developmental and transitional stages of the program, including financial and bonding assistance and management and technical assistance;

(C) Develop a mentor program to bring businesses into a working relationship with EDGE business enterprises in a way that commercially benefits both entities and serves the purpose of the EDGE program;

(D) Establish processes by which an EDGE business enterprise may apply for contract assistance, financial and bonding assistance, management and technical assistance, and mentoring opportunities.

Sec. 122.042. The director of housing and development may found an employment opportunity program that encourages

employers to employ individuals who are members of significantly disadvantaged groups. If the director intends to found such an employment opportunity program, the director shall adopt, and thereafter may amend or rescind, rules under Chapter 119. of the Revised Code to found, and to operate, maintain, and improve, the program. In the rules, the director shall:

(A) Construct, and, as changing circumstances indicate, re-construct, procedures according to which significantly disadvantaged groups are identified as such, an individual is identified as being a member of a significantly disadvantaged group, and an employer is identified as being a potential employer of an individual who is a member of a significantly disadvantaged group;

(B) Describe, and, as experience indicates, re-describe, the kinds of evidence that shall be considered to identify significantly disadvantaged groups, the kinds of evidence an individual shall offer to prove that the individual is a member of a significantly disadvantaged group, and the kinds of evidence an employer shall offer to prove that the employer is a potential employer of an individual who is a member of a significantly disadvantaged group;

(C) Specify, and, as experience indicates, re-specify, strategies and tactics for connecting individuals who are members of significantly disadvantaged groups with potential employers of members of significantly disadvantaged groups; and

(D) Construct, describe, specify, define, and prescribe any other thing that is necessary and proper for the founding, and for the successful and efficient operation, maintenance, and improvement, of the employment opportunity program.

In founding, and in operating, maintaining, and improving, the employment opportunity program under the rules, the director shall proceed so that the resulting program functions as a coherent, efficient system for improving employment opportunities for significantly disadvantaged groups. Examples of significantly disadvantaged groups include individuals who have not graduated from high school, individuals who have been convicted of a crime, individuals who are disabled, and individuals who are chronically unemployed (usually for more than eighteen months).

Sec. 122.05. (A) The director of housing and development may, to carry out the purposes of division (E) of section 122.04 of the Revised Code:

(1) Establish offices in foreign countries as the director considers appropriate and enter into leases of real property, buildings, and office space that are appropriate for these offices;

(2) Appoint personnel, who shall be in the unclassified civil services, necessary to operate such offices and fix their compensation. The director may enter into contracts with foreign nationals to staff the foreign offices established under this section.

(3) The director may establish United States dollar and foreign currency accounts for the payment of expenses related to the operation and maintenance of the offices established under this section. The director shall establish procedures acceptable to the director of budget and management for the conversion, transfer, and control of United States dollars and foreign currency.

(4) Provide export promotion assistance to Ohio businesses and organize or support missions to foreign countries to promote export of Ohio products and services and to encourage foreign direct investment in Ohio. The director may charge fees to businesses receiving export assistance and to participants in foreign missions sufficient to recover the direct costs of those activities. The director shall adopt, as an internal management rule under section 111.15 of the Revised Code, a procedure for setting the fees and a schedule of fees for services commonly provided by the department. The procedure shall require the director to annually review the established fees.

(5) Do all things necessary and appropriate for the operation of the state's foreign offices.

(B) All contracts entered into under division (A)(2) of this section and any payments of expenses under division (A)(3) of this section related to the operation and maintenance of foreign offices established under this section may be paid in the appropriate foreign currency and are exempt from sections 127.16 and 5147.07 and Chapters 124., 125., and 153. of the Revised Code.

Sec. 122.06. The department of housing and development shall:

(A) Assemble, analyze, and make available to governmental agencies and the public, information relative to the human, natural, and economic resources and economic needs of the state;

(B) Prepare and maintain, in cooperation with departments and agencies of the state, comprehensive plans and recommendations for promotion of more desirable patterns of growth and development of the resources of the state;

(C) Assist in the coordination of development plans of federal, state and local governments, regional and local planning authorities, and private agencies;

(D) Provide planning assistance to state departments and agencies, political subdivisions, county planning commissions, regional planning units, councils of government, and local governments of this state. Such planning assistance may be rendered with respect to surveys, land use studies, urban renewal plans, technical services and other planning work. In so doing, the department may contract with municipal subdivisions, with regional planning commissions, and with qualified persons, firms, and agencies.

(E) Cooperate with federal agencies and authorities of other states in the solution of community and development problems which cross state lines;

(F) Recommend guidelines for the development and management of new communities;

(G) Prepare and maintain rules concerning certification of workable programs for impacted cities pursuant to division (C) of section 1728.01 of the Revised Code, provided that the department shall consult with officials of municipalities and representatives of statewide organizations of such officials prior to the preparation, adoption, or change of such rules.

Sec. 122.07. (A) There is hereby created within the department of housing and development 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 housing and development.

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

(1) Promote the state as a destination for living, learning, working, and traveling, and provide related services or otherwise carry out the promotional functions or duties of the department, as necessary;

(2) Perform an annual return-on-investment study analyzing the office's success in promoting Ohio. 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 housing and development ~~services~~ and the director of the office of TourismOhio on strategies for promoting ~~tourism in~~ this state as a destination for living, learning, working, and traveling. The board shall consist of the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code or the chief investment officer's designee, 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 September 28, 2012, appoint to the TourismOhio advisory board one individual who is a representative of convention and visitors' bureaus, one individual who is a representative of the lodging industry, one individual who is a representative of the restaurant industry, one individual who is a representative of attractions, one individual who is a representative of special

events and festivals, one individual who is a representative of agritourism, and three individuals who are representatives of the tourism industry. Of the initial appointments, two individuals shall serve a term of one year, three individuals shall serve a term of two years, and the remainder shall serve a term of three years. Thereafter, terms of office shall be for three years. Each individual appointed to the board shall be a United States citizen.

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

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

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

(3) Members appointed to the board may be reimbursed for

actual and necessary expenses incurred in connection with their official duties.

Sec. 122.073. (A) The department of housing and development ~~services agency~~ may do any of the following:

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

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

(3) Enter into cooperative or contractual agreements, through the director of housing and development ~~services~~, with any individual, organization, or business to create, administer, or otherwise be involved with Ohio ~~tourism-related~~ promotional programs. Compensation under such agreements shall be determined by the director and may include deferred compensation. This compensation is payable from the tourism fund created in section 122.072 of the Revised Code. Any excess revenue generated under such a cooperative or contractual agreement shall be remitted to the fund to be reinvested in ongoing tourism marketing initiatives as authorized by law.

(B) The department of housing and development and the office of TourismOhio shall establish and implement a campaign to promote Ohio as a pro-housing state and to engage and educate Ohioans about the benefits of growth and innovation in housing and economic development.

(C) Records related to tourism market research submitted to or generated by the office of TourismOhio, and any information taken for any purpose from such research, are not

public records for the purposes of section 149.43 of the Revised Code. The ~~agency~~ department may use, however, such tourism market research in a public report if the director determines that issuing and distributing the report would promote or market the state's travel and tourism industry or otherwise advance the purposes of this section.

Sec. 122.075. (A) As used in this section:

(1) "Alternative fuel" has the same meaning as in section 125.831 of the Revised Code.

(2) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats, or any combination of those reagents, and that meets American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

(3) "Diesel fuel" and "gasoline" have the same meanings as in section 5735.01 of the Revised Code.

(4) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources that meet all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.

(5) "Blended biodiesel" means diesel fuel containing at least twenty per cent biodiesel by volume.

(6) "Blended gasoline" means gasoline containing at least

eighty-five per cent ethanol by volume.

(7) "Incremental cost" means either of the following:

(a) The difference in cost between blended gasoline and gasoline containing ten per cent or less ethanol at the time that the blended gasoline is purchased;

(b) The difference in cost between blended biodiesel and diesel fuel containing two per cent or less biodiesel at the time that the blended biodiesel is purchased.

(B) For the purpose of improving the air quality in this state, the director of housing and development ~~services~~ shall establish an alternative fuel transportation program under which the director may make grants and loans to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling or distribution facilities and terminals, for the purchase and use of alternative fuel, to pay the cost of fleet conversion, and to pay the costs of educational and promotional materials and activities intended for prospective alternative fuel consumers, fuel marketers, and others in order to increase the availability and use of alternative fuel.

(C) The director, in consultation with the director of agriculture, shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of the alternative fuel transportation program. The rules shall establish at least all of the following:

(1) An application form and procedures governing the application process for receiving funds under the program;

(2) A procedure for prioritizing the award of grants and loans under the program. The procedures shall give preference to

all of the following:

(a) Publicly accessible refueling facilities;

(b) Entities applying to the program that have secured funding from other sources, including, but not limited to, private or federal incentives;

(c) Entities that have presented compelling evidence of demand in the market in which the facilities or terminals will be located;

(d) Entities that have committed to utilizing purchased or installed facilities or terminals for the greatest number of years;

(e) Entities that will be purchasing or installing facilities or terminals for any type of alternative fuel.

(3) A requirement that the maximum incentive for the purchase and installation of an alternative fuel refueling or distribution facility or terminal be eighty per cent of the cost of the facility or terminal, except that at least twenty per cent of the total cost of the facility or terminal shall be incurred by the recipient and not compensated for by any other source;

(4) A requirement that the maximum incentive for the purchase of alternative fuel be eighty per cent of the cost of the fuel or, in the case of blended biodiesel or blended gasoline, eighty per cent of the incremental cost of the blended biodiesel or blended gasoline;

(5) Any other criteria, procedures, or guidelines that the director determines are necessary to administer the program, including fees, charges, interest rates, and payment schedules.

(D) An applicant for a grant or loan under this section that sells motor vehicle fuel at retail shall agree that if the applicant receives funding, the applicant will report to the director the gallon or gallon equivalent amounts of alternative fuel the applicant sells at retail in this state for a period of three years after the project is completed.

The director shall enter into a written confidentiality agreement with the applicant regarding the gallon or gallon equivalent amounts sold as described in this division, and upon execution of the agreement this information is not a public record.

(E) There is hereby created in the state treasury the alternative fuel transportation fund. The fund shall consist of money transferred to the fund under division (B) of section 125.836 of the Revised Code, money that is appropriated to it by the general assembly, money as may be specified by the general assembly from the advanced energy fund created by section 4928.61 of the Revised Code, and all money received from the repayment of loans made from the fund or in the event of a default on any such loan. Money in the fund shall be used to make grants and loans under the alternative fuel transportation program and by the director in the administration of that program.

Sec. 122.077. For the purpose of promoting the use of energy efficient products to reduce greenhouse gas emissions in this state, the director of housing and development shall establish an energy star rebate program under which the director may provide rebates to consumers for household devices carrying the energy star label indicating that the device meets the energy efficiency criteria of the energy star program

established by the United States department of energy and the United States environmental protection agency. The director shall adopt rules under Chapter 119. of the Revised Code that are necessary for successful and efficient administration of the energy star rebate program and shall specify in the rules that grant availability is limited to federal stimulus funds or any other funds specifically appropriated for such a program.

Sec. 122.08. (A) There is hereby created within the department of housing and development ~~services agency~~ an office to be known as the office of small business and entrepreneurship. The office shall be under the supervision of a manager appointed by the director of housing and development ~~services~~.

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

(1) Act as liaison between the small business community and state governmental agencies;

(2) Furnish information and technical assistance to persons and small businesses concerning the establishment and maintenance of a small business, and concerning state laws and rules relevant to the operation of a small business. In conjunction with these duties, the office shall keep a record of all proposed and currently effective state agency rules affecting small businesses, and may testify before the joint committee on agency rule review concerning any proposed rule affecting small businesses.

(3) Prepare and publish the small business register under section 122.081 of the Revised Code;

(4) Receive complaints from small businesses concerning governmental activity, compile and analyze those complaints, and

periodically make recommendations to the governor and the general assembly on changes in state laws or agency rules needed to eliminate burdensome and unproductive governmental regulation to improve the economic climate within which small businesses operate;

(5) Receive complaints or questions from small businesses and direct those businesses to the appropriate governmental agency. If, within a reasonable period of time, a complaint is not satisfactorily resolved or a question is not satisfactorily answered, the office shall, on behalf of the small business, make every effort to secure a satisfactory result. For this purpose, the office may consult with any state governmental agency and may make any suggestion or request that seems appropriate.

(6) Utilize, to the maximum extent possible, the printed and electronic media to disseminate information of current concern and interest to the small business community and to make known to small businesses the services available through the office. The office shall publish such books, pamphlets, and other printed materials, and shall participate in such trade association meetings, conventions, fairs, and other meetings involving the small business community, as the manager considers appropriate.

(7) Prepare a description of the activities of the office for inclusion in the ~~development services agency's~~ department's annual report to the governor and general assembly;

(8) Operate the Ohio first-stop business connection to assist individuals in identifying and preparing applications for business licenses, permits, and certificates and to serve as a public distributor for all forms, applications, and other

information related to business licensing. Each state agency, board, and commission shall cooperate in providing assistance, information, and materials to enable the connection to perform its duties under this division.

(9) Provide information to individuals about the resources available on the OhioMeansJobs web site and through the local OhioMeansJobs one-stop systems established under section 6301.08 of the Revised Code that connect businesses with job seekers. As used in this division, "OhioMeansJobs" has the same meaning as in section 6301.01 of the Revised Code.

(C) The office may, upon the request of a state agency, assist the agency with the preparation of any rule that will affect small businesses.

(D) The director of housing and development ~~services~~ shall assign employees and furnish equipment and supplies to the office as the director considers necessary for the proper performance of the duties assigned to the office.

Sec. 122.081. (A) The office of small business and entrepreneurship in the department of housing and development ~~services agency~~ shall prepare and publish a "small business register" or contract with any person as provided in this section to prepare and publish the register. The small business register shall contain the following information regarding each proposed rule recorded by the office of small business and entrepreneurship:

(1) The title and administrative code rule number of the proposed rule;

(2) A brief summary of the proposed rule;

(3) The date on which the proposed rule was recorded by

the office of small business and entrepreneurship; and

(4) The name, address, and telephone number of an individual or office within the ~~agency~~ department that proposed the rule who can provide information about the proposed rule.

(B) The small business register shall be published on a weekly basis. The information required under division (A) of this section shall be published in the register no later than two weeks after the proposed rule to which the information relates is recorded by the office of small business and entrepreneurship. The office shall furnish the small business register, on a single copy or subscription basis, to any person who requests it and pays a single copy price or subscription rate fixed by the office. The office shall furnish the chairpersons of the standing committees of the senate and house of representatives having jurisdiction over small businesses with free subscriptions to the small business register.

(C) Upon the request of the office of small business and entrepreneurship, the director of administrative services shall, in accordance with the competitive selection procedure of Chapter 125. of the Revised Code, let a contract for the compilation, printing, and distribution of the small business register.

(D) The office of small business and entrepreneurship shall adopt, and may amend or rescind, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to enable it to properly carry out this section.

Sec. 122.082. The department of housing and development shall provide for low-interest loans to small businesses, as defined by rules adopted pursuant to the "Small Business Act,"

72 Stat. 384 (1972), 15 U.S.C.A. 632, as amended, that are engaged in the export of goods produced in this state. In carrying out the purposes of this section, the department shall develop operating procedures that are essentially the same as those of the United States export-import bank.

Sec. 122.083. (A) The director of housing and development shall administer a shovel ready sites program to provide grants for projects to port authorities and development entities approved by the director. Grants may be used to pay the costs of any or all of the following:

(1) Acquisition of property, including options;

(2) Preparation of sites, including brownfield clean-up activities;

(3) Construction of road, water, telecommunication, and utility infrastructure;

(4) Payment of professional fees the amount of which shall not exceed twenty per cent of the grant amount for a project.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures and requirements necessary for the administration of the program, including a requirement that a recipient of a grant enter into an agreement with the director governing the use of the grant.

Sec. 122.085. As used in sections 122.085 to 122.0820 of the Revised Code:

(A)(1) "Allowable costs" includes costs related to the following:

(a) Acquisition of land and buildings;

(b) Building construction;

(c) Making improvements to land and buildings, including the following:

(i) Expanding, reconstructing, rehabilitating, remodeling, renovating, enlarging, modernizing, equipping, and furnishing buildings and structures, including leasehold improvements;

(ii) Site preparation, including wetland mitigation.

(d) Planning or determining feasibility or practicability;

(e) Indemnity or surety bonds and premiums on insurance;

(f) Remediation, in compliance with state and federal environmental protection laws, of environmentally contaminated property on which hazardous substances exist under conditions that have caused or would likely cause the property to be identified as contaminated by the Ohio environmental protection agency or the United States environmental protection agency;

(g) Infrastructure improvements, including the following:

(i) Demolition of buildings and other structures;

(ii) Installation or relocation of water, storm water and sanitary sewer lines, water and waste water treatment facilities, pump stations, and water storage mechanisms and other similar equipment or facilities;

(iii) Construction of roads, bridges, traffic control devices, and parking lots and facilities;

(iv) Construction of utility infrastructure such as natural gas, electric, and telecommunications, including broadband and hookups;

(v) Water and railway access improvements;

(vi) Costs of professional services.

(2) "Allowable costs" do not include administrative costs assessed by or fees paid to the recipient of a grant.

(B) "District public works integrating committees" means those committees established under section 164.04 of the Revised Code.

(C) "Eligible applicant" includes any political subdivision or ~~non-profit~~ nonprofit economic development organization, and, with prior approval of the director of housing and development, private, for-profit entities. "Eligible applicant" does not include public or private institutions of higher education.

(D) "Eligible project" includes projects that, upon completion, will be sites and facilities primarily intended for commercial, industrial, or manufacturing use. "Eligible projects" do not include sites and facilities intended primarily for residential, retail, or government use.

(E) "Professional services" includes legal, environmental, archeological, engineering, architectural, surveying, design, or other similar services performed in conjunction with an eligible project. "Professional services" also includes designs, plans, specifications, surveys, estimates of costs, and other work products.

Sec. 122.086. (A) There is hereby created the job ready site program to provide grants to pay for allowable costs of eligible applicants for eligible projects. The program shall be administered by the department of housing and development. All grants shall be awarded through one of the following two processes:

(1) The annual competitive process under sections 122.087 to 122.0811, 122.0814, and 122.0815 of the Revised Code;

(2) The discretionary process under sections 122.0812 to 122.0815 of the Revised Code.

(B) The annual competitive process shall be administered by the department of housing and development pursuant to rules adopted by the director of housing and development under Chapter 119. of the Revised Code. The rules shall not establish criteria that have the effect of excluding applications for grants from any county of the state.

(C) The discretionary process shall be administered by the department of housing and development pursuant to guidelines established by the director of housing and development.

Sec. 122.087. The director of housing and development shall establish an annual competitive process for making grants described in section 122.086 of the Revised Code in accordance with rules adopted under that section. At least two-thirds of the amounts that may be distributed as grants each year under the job ready site program shall be distributed under the annual competitive process.

Sec. 122.088. In order to be considered for a grant under the annual competitive process, an eligible applicant shall fill out an application provided by the department of housing and development and shall file it with the district public works integrating committee with jurisdiction over the area in which the eligible project is located.

Sec. 122.089. An eligible applicant shall provide all of the following on the annual competitive process application:

(A) Contact information for the eligible applicant;

(B) A legal description of the property for which the grant is requested;

(C) A summary of the proposed eligible project that includes all of the following:

(1) A general description of the eligible project, including individuals, organizations, or other entities that will play a critical role in the implementation of the project;

(2) An explanation of the need for the eligible project, and the predicted economic impact;

(3) An explanation of the need for a grant from the job ready site program;

(4) The commitments required pursuant to division (A)(3) of section 122.0815 of the Revised Code.

(D) A detailed summary of costs for the eligible project, including supporting documents for cost estimates;

(E) Sources of funding for the eligible project, including documentation verifying the status of those funds;

(F) Summary results of preliminary engineering studies and environmental reviews, if any have been conducted;

(G) A comprehensive marketing plan detailing how the eligible project will be marketed upon completion, if appropriate;

(H) Copies of resolutions or ordinances related to the eligible project, including resolutions or ordinances adopted by the political subdivision with jurisdiction over the geographic area in which the eligible project is located;

(I) Any other information the director of housing and

development requests on the application form.

Sec. 122.0810. (A) Each application for a grant pursuant to the annual competitive process received by a district public works integrating committee shall be evaluated by the executive committee of the district committee. In conducting the evaluation, the executive committee shall determine whether the application for the proposed eligible project is complete and whether the project meets the requirements of section 122.0815 of the Revised Code. If the application is complete and the eligible project meets the requirements of section 122.0815 of the Revised Code, the executive committee shall prioritize the eligible project pursuant to section 122.0816 of the Revised Code and pursuant to local priorities, as those priorities are determined by the executive committee, with all other eligible projects with complete applications that meet the requirements of section 122.0815 of the Revised Code. If the application is incomplete or the project does not meet the requirements of section 122.0815 of the Revised Code, the executive committee shall notify the applicant of the deficiencies and the period of time the applicant has to correct the deficiencies and submit the corrections to the executive committee. Failure to correct deficiencies within the time designated by the executive committee shall disqualify the project from consideration for a grant during the annual competitive process for that year.

The executive committee, by the affirmative vote of a majority of all its members, shall select up to three eligible projects from the projects it has prioritized each year pursuant to the annual competitive process. The executive committee shall forward the applications and any accompanying information for each of the selected eligible projects to the department of housing and development in the time and manner required by the

rules governing the annual competitive process for the job ready site program.

(B) For a district public works integrating committee that does not have an executive committee, the full committee shall perform the functions assigned to the executive committee under section 122.0816 of the Revised Code and division (A) of this section.

(C) An executive committee, or a district committee that does not have an executive committee, may appoint a working group of committee members and staff to perform the functions of those committees as provided in this section.

Sec. 122.0811. The department of housing and development shall evaluate each eligible project selected pursuant to section 122.0810 of the Revised Code to determine whether the application for the proposed eligible project is complete and whether it meets the requirements of section 122.0815 of the Revised Code. If the application is complete and the project meets the requirements of section 122.0815 of the Revised Code, the department shall notify the eligible applicant that the application is complete and shall prioritize the eligible project pursuant to section 122.0816 of the Revised Code with all other eligible projects with complete applications that meet the requirements. If the application is incomplete or the project does not meet the requirements of section 122.0815 of the Revised Code, the department shall notify the applicant of the deficiencies and the period of time the applicant has to correct the deficiencies and submit the corrections to the department. Failure to correct deficiencies within the time designated by the department shall disqualify the project from consideration for a grant during the annual competitive process

for that year.

The director, on completion of the evaluations and prioritization, shall make a recommendation to the controlling board asking for approval to make grants for the eligible projects selected by the director. The director shall take into consideration the geographic diversity of awards when making the selection of eligible projects to receive grants.

Sec. 122.0812. The director of housing and development shall establish a discretionary process that permits the director to make grants described in section 122.086 of the Revised Code in situations that include those in which the timing of a proposed eligible project is such that the annual competitive process is not suitable. The director, as part of the guidelines established for the discretionary process for the job ready site program, shall establish all the procedures and requirements governing application for the discretionary grants.

Sec. 122.0813. On receipt of an application for a discretionary grant for an eligible project, the director of housing and development shall evaluate it to determine whether the application for the proposed eligible project is complete and whether the eligible project meets the requirements of section 122.0815 of the Revised Code. If the application is complete and the project meets the requirements of section 122.0815 of the Revised Code, the director shall make a recommendation to the controlling board asking for approval to make the discretionary grant for the eligible project. If the application is incomplete or the project does not meet the requirements of section 122.0815 of the Revised Code, the department shall notify the applicant of the deficiencies and work with the applicant to correct the deficiencies. If the

deficiencies are corrected, the director shall make a recommendation to the controlling board asking for approval to make the discretionary grant for the eligible project.

Sec. 122.0814. If the controlling board approves a grant for an eligible project pursuant to the annual competitive process or the discretionary process, the director of housing and development shall enter into an agreement with the eligible applicant to provide the grant for the project. The agreement shall be executed prior to the payment or disbursement of any funds under the grant and shall contain the following provisions:

(A) A designation of a single officer or employee of the eligible applicant who will serve as the manager of the eligible project;

(B) A detailed description of the scope of the work required under the eligible project, including anticipated sources and uses of funds;

(C) A designation of the percentage of the estimated total cost of the project for which the grant will provide funding, which shall not exceed seventy-five per cent of the cost;

(D) Provisions for the recovery by the department of housing and development of grant funds for failure to meet the terms of the agreement;

(E) A requirement that annual reports be made by the eligible applicant on the progress of the eligible project and any other information about the status of the project as required by the guidelines and rules established for the job ready site program;

(F) Any other provisions the director determines

necessary.

Sec. 122.0815. (A) A project shall meet the following requirements in order to be considered for a grant under the annual competitive process:

(1) The application for the grant is made by an eligible applicant.

(2) The project for which the application is made is an eligible project.

(3) The eligible applicant commits to all the following:

(a) To use the grant to pay only allowable costs for the eligible project;

(b) Not to use the grant to fund more than seventy-five per cent of the total cost of the eligible project;

(c) Not to use more than ten per cent of the grant amount to pay the costs of professional services under the eligible project.

(4) The grant amount requested does not exceed five million dollars.

(5) The eligible applicant and the eligible project comply with any other criteria the director of housing and development determines is necessary.

(B) A project shall meet the requirements described in divisions (A)(1) to (4) of this section in order to be considered for a grant under the discretionary process.

Sec. 122.0816. The department of housing and development and the executive committees of district public works integrating committees shall apply the following factors to

eligible projects under the annual competitive process to determine a priority order for the eligible projects subject to that process:

(A) The potential economic impact of the eligible project;

(B) The potential impact of the eligible project on economic distress;

(C) The amount of local, federal, and private funding available for the eligible project;

(D) The demonstrated need for the eligible project;

(E) The strength of the eligible project's marketing plan, if appropriate;

(F) The level of financial need;

(G) Any other factor the director of housing and development determines should be considered.

Sec. 122.0817. In accordance with the guidelines established to govern the discretionary process and the rules adopted to govern the annual competitive process for the job ready site program, the director of housing and development shall publish an annual report that includes the following:

(A) Details on each grant awarded pursuant to the program;

(B) The status of projects funded in previous years;

(C) The amount of grants awarded for projects in economically distressed areas and, to the extent possible, the impact of those grants in those areas.

Sec. 122.09. (A) As used in this section:

(1) "Development costs" means expenditures paid or

incurred by the property owner in completing a certified transformational mixed use development project, including architectural or engineering fees paid or incurred in connection with the project and expenses incurred before the date the project is certified by the tax credit authority under division (C) of this section. In the case of a certified transformational mixed use development project that is part of a larger contiguous project that is planned to be completed in phases, "development costs" include only expenditures associated with the portion of the project that is certified by the tax credit authority and do not include expenditures incurred for other phases of the project.

(2) "Owner" means a person or persons holding a fee simple or leasehold interest in real property, including interests in real property acquired through a capital lease arrangement. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code. For the purpose of this division, "fee simple interest," "leasehold interest," and "capital lease" shall be construed in accordance with generally accepted accounting principles.

(3) "Transformational mixed use development" means a project that consists of new construction or the redevelopment, rehabilitation, expansion, or other improvement of vacant buildings or structures, or a combination of the foregoing, and that:

(a) Will have a transformational economic impact on the development site and the surrounding area;

(b) Integrates some combination of retail, office, residential, recreation, structured parking, and other similar uses into one mixed use development; and

(c) Satisfies one of the following criteria:

(i) If the development site is located within ten miles of a major city, the project includes at least one new or previously vacant building that is fifteen or more stories in height or has a floor area of at least three hundred fifty thousand square feet, or after completion will be the site of employment accounting for at least four million dollars in annual payroll, or includes two or more buildings that are connected to each other, are located on the same parcel or on contiguous parcels, and that collectively have a floor area of at least three hundred fifty thousand square feet;

(ii) If the development site is not located within ten miles of a major city, the project includes at least one new or previously vacant building that is two or more stories in height or has a floor area of at least seventy-five thousand square feet or two or more new buildings that are located on the same parcel or on contiguous parcels and that collectively have a floor area of at least seventy-five thousand square feet.

"Transformational mixed use development" may include a portion of a larger contiguous project that is planned to be completed in phases as long as the phases collectively meet the criteria described in division (A)(3) of this section.

(4) "Increase in tax collections" means the difference, if positive, of the amount of state and local taxes derived from economic activity occurring within the development site and the surrounding area during a period of time minus the amount of such taxes that are estimated to be derived from such economic activity in that site and surrounding area during the same period if the transformational mixed use project were not completed.

(5) "Completion period" means the time period beginning on the day after a transformational mixed use development is certified by the tax credit authority and ending on the fifth anniversary of the day the project is completed.

(6) "Insurance company" means a person subject to the tax imposed under section 5725.18 or 5729.03 of the Revised Code.

(7) "Contribute capital" means to invest, loan, or donate cash in exchange for an equity interest in an asset, a debt instrument, or no consideration.

(8) "Major city" means a municipal corporation that has a population greater than one hundred thousand.

(9) "Tax credit authority" means the tax credit authority created under section 122.17 of the Revised Code.

(10) "Adjusted development costs" means the development costs attributed to a complete transformational mixed use development project minus the sum of the capital contributions of any insurance companies that are preliminarily approved for a tax credit in connection with the same project.

(11) A "property owner's share" of the increase in tax collections equals the product obtained by multiplying the total increase in tax collections since the date the transformational mixed use development project was certified by a fraction, the numerator of which is the adjusted development costs and the denominator of which is the actual development costs attributed to the project.

(12) An "insurance company's share" of the increase in tax collections equals the product obtained by multiplying the total increase in tax collections since the date the transformational mixed use development project was certified by a fraction, the

numerator of which is the insurance company's capital contribution to the project and the denominator of which is the actual development costs attributed to the project.

(B) The owner of one or more parcels of land in this state within which a transformational mixed use development is planned or an insurance company that contributes capital to be used in the planning or construction of such a development may apply to the tax credit authority for certification of the development and preliminary approval of a tax credit. Each application shall be filed in the form and manner prescribed by the director of housing and development and shall, at minimum, include a development plan comprised of all of the following information:

(1) The location of the development site and an indication of whether it is located within ten miles of a major city;

(2) A detailed description of the proposed transformational mixed use development including site plans, construction drawings, architectural renderings, or other means sufficient to convey the appearance, size, purposes, capacity, and scope of the project and, if applicable, previously completed and future phases of the project;

(3) A viable financial plan that estimates the development costs that have been or will be incurred in the completion of the project and that designates a source of financing or a strategy for obtaining financing;

(4) An estimated schedule for the progression and completion of the project including, if applicable, previously completed and future phases of the project;

(5) An assessment of the projected economic impact of the project on the development site and the surrounding area;

(6) Evidence that the increase in tax collections during the completion period will exceed ten per cent of the estimated development costs reported under division (B)(3) of this section;

(7) If the applicant is an insurance company that is not the property owner, the amount of the insurance company's capital contribution to the development and the date on which it was or will be made;

(8) Evidence that the project will not be completed unless the applicant receives the credit.

(C)(1) In determining whether to certify a project that is the subject of an application submitted under division (B) of this section, the tax credit authority shall consider the potential impact of the transformational mixed use development on the development site and the surrounding area in terms of architecture, accessibility to pedestrians, retail entertainment and dining sales, job creation, property values, connectivity, and revenue from sales, income, lodging, and property taxes. The tax credit authority shall not certify a project unless it satisfies the following conditions:

(a) The project qualifies as a transformational mixed use development and satisfies all other criteria prescribed by this section or by rule of the director of housing and development;

(b) The estimated increase in tax collections during the completion period exceeds ten per cent of the estimated development costs for the project reported under division (B)(3) of this section;

(c) The project will not be completed unless the applicant receives the credit;

(d) If the development site is located within ten miles of a major city, the estimated development costs to complete the project plus, if applicable, the estimated expenditures that have been or will be incurred to complete all other contiguous phases of the project, exceed fifty million dollars.

In making its determination of whether or not to approve an application, the tax credit authority may conduct an interview of the applicant.

(2) If the tax credit authority approves an application, the authority shall issue a statement certifying the associated transformational mixed use development project and preliminarily approving a tax credit. The statement shall stipulate that receipt of a tax credit certificate is contingent upon completion of the transformational mixed use development as described in the development plan. The statement shall specify the estimated amount of the tax credit, but state that the amount of the credit is dependent upon determination of the actual development costs attributed to the project and, unless the tax credit authority grants a request by the property owner under division (F) of this section, of the increase in tax collections during the completion period.

(3) Except as otherwise provided in this division, if the applicant is an insurance company that is not the property owner, the estimated amount of the tax credit shall equal ten per cent of the insurance company's capital contribution to the project as reported in the development plan pursuant to division (B)(7) of this section. Except as otherwise provided in this division, if the applicant is the property owner, the estimated amount of the tax credit shall equal ten per cent of the estimated development costs for the project as reported in the

development plan pursuant to division (B)(3) of this section minus any estimated credit amounts that have been preliminarily approved for insurance companies contributing capital to the project. The estimated credit amounts may be reduced by the tax credit authority as a condition of certifying the project if such a reduction is necessary to comply with the limitations on the amount of credits that may be preliminarily approved as prescribed by division (C)(5) of this section. The estimated credit amounts shall not be adjusted after the statement described in division (C)(2) of this section has been issued.

(4) If the tax credit authority denies an application, the authority shall notify the applicant of the reason or reasons for such determination. The authority's determination is final, but an applicant may revise and resubmit a previously denied application.

(5)(a) The tax credit authority shall not certify any transformational mixed use development projects after June 30, 2025.

(b) The tax credit authority may not preliminarily approve more than one hundred million dollars of estimated tax credits in each of fiscal years 2022, 2023, 2024, and 2025.

(c) Not more than eighty million dollars of estimated tax credits in each such fiscal year may be preliminarily approved in connection with projects that are located within ten miles of a major city.

(d) Not more than forty million dollars of estimated tax credits may be preliminarily approved in connection with the same transformational mixed use development project.

(6) If the dollar amount of tax credits applied for under

division (B) of this section in connection with projects that are located within ten miles of a major city exceeds eighty million dollars for a fiscal year, the tax credit authority shall rank those applications and certify the associated projects in order, starting with the project that presents the best combination of economic value and transformational impact. If the dollar amount of tax credits applied for in connection with projects not located within ten miles of a major city exceeds twenty million dollars for a fiscal year, the tax credit authority shall rank those applications and certify the associated projects in order, starting with the project that presents the best combination of economic value and transformational impact. In either case, the authority shall consider the following factors in ranking the applications:

(a) The projected increase in tax collections during the completion period as a percentage of the total amount of estimated tax credits that would be preliminarily approved in connection with the project;

(b) The economic impact of the project on the development site and the surrounding area and the impact of the project in terms of architecture, accessibility to pedestrians, retail entertainment and dining sales, job creation, property values, and connectivity;

(c) The expeditiousness of the schedule for completing the project, realizing the increase in tax collections, and attaining the economic and other impacts on the development site and the surrounding area.

(D) Within twelve months of the date a project is certified, the property owner shall provide the tax credit authority with an updated schedule for the progression and

completion of the project and documentation sufficient to demonstrate that construction of the project has begun. If the property owner does not provide the schedule and documentation or if construction of the project has not begun within the time prescribed by this division, the tax credit authority shall rescind certification of the project and send notice of the rescission to the property owner and each insurance company that is preliminarily approved for a tax credit in connection with the project. A property owner that receives notice of rescission may submit a new application concerning the same project under division (B) of this section.

(E) An applicant that is the property owner and is preliminarily approved for a tax credit under this section may sell or transfer the rights to that credit to one or more persons for the purpose of raising capital for the certified project. The applicant shall notify the tax credit authority upon selling or transferring the rights to the credit. The notice shall identify the person or persons to which the credit was sold or transferred and the credit amount sold or transferred to each such person. Only an applicant that owns the property may sell or transfer a credit under this division. A credit may be divided among multiple purchasers through more than one transaction but once a particular credit amount is acquired by a person other than the applicant it may not be sold or transferred again.

(F) After a transformational mixed use development project is certified and before it is completed, the property owner may request that the value of the tax credit certificates awarded in connection with the project be computed using the alternative method described in division (I) of this section. The tax credit authority shall grant the request if the authority determines,

and a third party engaged by the authority at the expense of the property owner affirms, that it is reasonably certain that the increase in tax collections will exceed ten per cent of the estimated development costs within one year after the project is completed. Otherwise, the authority shall deny the request and the amount of each credit awarded in connection with the project shall be computed under division (H) of this section. The authority's determination under this division shall be delivered in writing and is final and not appealable.

(G)(1) The property owner shall notify the tax credit authority upon completion of a certified transformational mixed use development project. The notification shall include a report prepared by a third-party certified public accountant that contains a detailed accounting of the actual development costs attributed to the project.

(2) Upon receiving such a notice, unless the tax credit authority has previously granted a request by the property owner under division (F) of this section, the authority shall determine the increase in tax collections since the date the project was certified by consulting with the tax commissioner and with the tax administrator of any municipal corporation that levies an income tax within the project site and the surrounding area. The tax commissioner and the tax administrators that are consulted pursuant to this division shall provide the tax credit authority with any information that is necessary to determine the increase in tax collections.

(3) After determining the increase in tax collections under division (G)(2) of this section, if required, and computing the value of the tax credit under division (H) or (I) of this section, as applicable, the tax credit authority shall

issue a tax credit certificate to each applicant that is preliminarily approved for a credit associated with the project or to the person or persons to which such an applicant sold or transferred the rights to the credit under division (E) of this section. If the amount of the tax credit awarded to the property owner is less than the credit amount estimated under division (C) of this section and the property owner sold or transferred the rights to the credit, the tax credit authority shall reduce the amount of each tax credit certificate issued to each purchaser or recipient on a pro rata basis unless the property owner requests an alternative allocation of the credit.

(H)(1) Unless the tax credit authority granted a request by the property owner under division (F) of this section, the aggregate value of the tax credit certificates issued under division (G) of this section to the property owner and to any persons to whom the property owner sold or transferred the rights to the credit shall equal the lesser of the following:

(a) Ten per cent of the adjusted development costs;

(b) Five per cent of the adjusted development costs plus any amount by which the property owner's share of the increase in tax collections since the date the project was certified exceeds five per cent of the adjusted development costs;

(c) The estimated credit amount specified in the tax credit authority's statement certifying the project and preliminarily approving the tax credit under division (C) of this section.

(2) The value of a tax credit certificate issued under division (G) of this section to an insurance company that contributed capital to the project shall equal the lesser of the

following:

(a) Ten per cent of the insurance company's actual capital contribution;

(b) Five per cent of such capital contribution plus any amount by which the insurance company's share of the increase in tax collections since the date the project was certified exceeds five per cent of the insurance company's capital contribution;

(c) The estimated credit amount specified in the tax credit authority's statement certifying the project and preliminarily approving the tax credit under division (C) of this section.

(I) If the tax credit authority granted a request by the property owner under division (F) of this section, the value of the tax credit certificates issued in connection with the transformational mixed use development project shall be computed as follows:

(1) For the property owner or any person to which the property owner sold or transferred the rights to the credit, ten per cent of the actual development costs attributed to the project. If the amount of the credit is less than the credit amount estimated under division (C) of this section and the property owner sold or transferred the rights to the credit to more than one person, the authority shall reduce the amount of each tax credit certificate on a pro rata basis unless the property owner requests an alternative allocation of the credit.

(2) For an insurance company that contributed capital to the project, ten per cent of the insurance company's actual capital contribution.

(J) If the value of a tax credit certificate was computed

under division (H) of this section for a project, the property owner, on or before the thirtieth day following the first, second, third, fourth, and fifth anniversaries of the date the certified transformational mixed use development project is completed, may request in writing that the tax credit authority update the increase in tax collections during the completion period. Upon receiving such a request, the tax credit authority shall update the increase in tax collections in the same manner described by division (G) of this section. If the tax credit authority determines that the value of the tax credit certificates computed under division (H) of this section would be greater if computed based on the updated increase in tax collections, the authority shall issue an additional tax credit certificate to each person that previously received a certificate for the project under those divisions. The value of each additional tax credit certificate shall equal the amount by which the tax credit certificate computed under division (H) of this section upon completion of the project would have been greater had the value of such certificate been computed based on the updated increase in tax collections, less the value of any additional tax credit certificates previously issued under this division to the same person respecting the same project.

(K) The aggregate value of all tax credit certificates issued under this section for the same transformational mixed use development project shall not exceed (1) ten per cent of the actual development costs of that project or (2) the sum of all estimated credit amounts preliminarily approved by the tax credit authority in connection with the project.

(L) Issuance of a tax credit certificate under this section does not represent a verification or certification by the tax credit authority of the actual development costs of the

project or the capital contributions to the project by an insurance company. Such amounts are subject to inspection and examination by the superintendent of insurance.

(M) Upon the issuance of a tax credit certificate under division (G) or (J) of this section, the tax credit authority shall certify to the superintendent of insurance (1) the name of each person that was issued a tax credit certificate, (2) whether the person is the property owner, an insurance company that contributed capital to the development, or a person that acquired the rights to the tax credit certificate from the property owner, (3) the credit amount shown on each tax credit certificate, and (4) any other information required by the rules adopted under this section. A person that holds the rights to a tax credit certificate issued under this section and that is an insurance company may claim a tax credit under section 5725.35 or 5729.18 of the Revised Code.

(N) The tax credit authority shall publish information about each transformational mixed use development on the web site of the department of housing and development not later than the first day of August following certification of the project. The tax credit authority shall update the published information annually until the project is complete and the credit or credits are fully claimed. The published information shall include all of the following:

(1) The location of the transformational mixed use development and the name by which it is known;

(2) The estimated schedule for progression and completion of the project included in the development plan pursuant to division (B)(4) of this section;

(3) The assessment of the projected economic impact of the project included in the development plan pursuant to division (B)(5) of this section;

(4) The evidence supporting the estimated increase in tax collections included in the development plan pursuant to division (B)(6) of this section, except that the tax credit authority may omit any proprietary or sensitive information included in such evidence;

(5) The estimated development costs that have been or will be incurred in completion of the project and, if applicable, the amount of the insurance company's capital contribution to the development and the date on which it was made, as reported in the development plan pursuant to divisions (B)(3) and (7) of this section;

(6) A copy of each report submitted to the tax credit authority by the applicant under division (D) of this section.

(O) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Forms and procedures by which applicants may apply for a transformational investment tax credit, and any deadlines for applying;

(2) Criteria and procedures for reviewing, evaluating, ranking, and approving applications within the limitations prescribed by this section, including rules prescribing the timing and frequency by which the tax credit authority must rank applications and preliminarily approve tax credits under division (C) of this section;

(3) Eligibility requirements for obtaining a tax credit

certificate under this section;

(4) The form of the tax credit certificate;

(5) Reporting requirements and monitoring procedures;

(6) Procedures for computing the increase in tax collections within the project site and the surrounding area;

(7) Forms and procedures by which property owners may request the alternative method of computing the value of tax credit certificates under division (I) of this section that are awarded in connection with a project and criteria for evaluating and making a determination on such requests;

(8) Any other rules necessary to implement and administer this section.

Sec. 122.10. Each department, bureau, institution, agency, commission, or office of the state government, shall, upon request, furnish to the department of housing and development any information it has available.

The department of housing and development shall cooperate with each department, bureau, institution, agency, commission, or office of the state government and shall furnish any information it has available to such departments, bureaus, institutions, agencies, commissions, or office upon their request.

The department shall coordinate its services and activities with those of state departments, bureaus, agencies, commissions, and offices to the fullest extent possible in order to avoid duplication.

Sec. 122.11. The director of housing and development may employ and fix the compensation of technical and professional

personnel, who shall be in the unclassified civil service, and may employ other personnel, who shall be in the classified civil service, as necessary to carry out the provisions of sections 122.011 to 122.11, 122.17, and 122.18 of the Revised Code.

Sec. 122.121. (A) A local organizing committee, endorsing municipality, or endorsing county that has entered into a joinder undertaking with a site selection organization may apply to the director of housing and development ~~services~~, on a form and in the manner prescribed by the director, for a grant from the sports event grant fund created under section 122.122 of the Revised Code with respect to a game to which either of the following applies:

(1) The organization accepts competitive bids to host the game.

(2) The game is a one-time centennial commemoration of the founding of a national football organization, association, or league.

The amount of the grant shall be based on the projected incremental increase in the receipts from the tax imposed under section 5739.02 of the Revised Code within the market area designated under division (C) of this section, for the two-week period that ends at the end of the day after the date on which the game will be held, that is directly attributable, as determined by the director, to the preparation for and presentation of the game. The director shall determine the projected incremental increase in the tax imposed under section 5739.02 of the Revised Code by using a formula approved by the director in consultation with the tax commissioner. The application shall include an estimate of the committee's, municipality's, or county's qualifying costs under the game

support contract. The local organizing committee, endorsing municipality, or endorsing county is eligible to receive a grant under this section only if the projected incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code, as determined by the director, exceeds two hundred fifty thousand dollars. The amount of the grant shall be not less than fifty per cent of the projected incremental increase in receipts, as determined by the director, but shall not exceed the lesser of two million dollars or the amount of the committee's, municipality's, or county's qualifying costs under the game support contract. The director shall disburse the grant to the local organizing committee, endorsing municipality, or endorsing county from the sports event grant fund.

(B) If the director of housing and development ~~services~~ approves an application for a local organizing committee, endorsing municipality, or endorsing county and that local organizing committee, endorsing municipality, or endorsing county enters into a joinder agreement with a site selection organization, the local organizing committee, endorsing municipality, or endorsing county shall file a copy of the joinder agreement with the director. The grant shall be used exclusively by the local organizing committee, endorsing municipality, or endorsing county to pay its qualifying costs under the game support contract.

(C) For the purposes of division (A) of this section, the director of housing and development ~~services~~, in consultation with the tax commissioner, shall designate the market area for a game. The market area shall consist of the combined statistical area, as defined by the United States office of management and budget, in which an endorsing municipality or endorsing county is located.

(D) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the director of housing and development ~~services~~ and tax commissioner to enable the director and commissioner to fulfill their duties under this section, including annual audited statements of any financial records required by a site selection organization; data obtained by the local organizing committee, endorsing municipality, or endorsing county relating to attendance at a game and to the economic impact of the game; and financial records from the committee, municipality, or county verifying its qualifying costs under the game support contract. A local organizing committee, an endorsing municipality, or an endorsing county shall provide an annual audited financial statement if so required by the director and commissioner, not later than the end of the fourth month after the date the period covered by the financial statement ends.

(E) Within thirty days after the game, the local organizing committee, endorsing municipality, or endorsing county shall certify to the director of housing and development ~~services~~ a statement of its qualifying costs under the game support contract and a report about the economic impact of the game. The certification shall be in the form and substance required by the director, including, but not limited to, a final income statement for the event showing total revenue and expenditures and revenue and expenditures in the market area for the game, and ticket sales for the game and any related activities for which admission was charged. The director shall determine, based on the reported information and the exercise of reasonable judgment, the incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code directly attributable to the game and the committee's,

municipality's, or county's qualifying costs under the game support contract. If the actual incremental increase in sales tax receipts is less than the projected incremental increase in such receipts, or if the actual qualifying costs are less than the estimated qualifying costs, the director may require the local organizing committee, endorsing municipality, or endorsing county to refund to the state all or a portion of the grant. Any refund remitted under this division shall be credited to the sports event grant fund.

(F) No disbursement may be made under this section if the director of housing and development ~~services~~ determines that it would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(G) This section may not be construed as creating or requiring a state guarantee of obligations imposed on an endorsing municipality or endorsing county under a game support contract or any other agreement relating to hosting one or more games in this state.

Sec. 122.131. There is hereby created the employee ownership assistance program to be administered by the director of housing and development. The director may employ any professional and technical personnel and other employees that are necessary to comply with sections 122.13 to 122.136 of the Revised Code. The director shall assist an individual or group of individuals, who seek assistance in the establishment of an employee-owned corporation. The director shall inform local government, business organizations, labor organizations, and others in the state of the availability of the program and its services established pursuant to sections 122.13 to 122.136 of the Revised Code.

Sec. 122.132. The director of housing and development shall do all of the following:

(A) Develop, collect, and disseminate information useful to individuals and organizations throughout the state in undertaking or promoting the establishment and successful operation of employee-owned corporations;

(B) Assist in the evaluation of the feasibility and economic vitality of employee-owned corporation proposals received in the employee ownership assistance program;

(C) Provide technical assistance and counseling services to individuals who seek to form an employee-owned corporation;

(D) Provide assistance and counseling in the operation of an employee-owned corporation;

(E) Assist individuals in obtaining financing for the purchase and operation of an employee-owned corporation;

(F) Promote and coordinate the efforts of local, state, federal, or private organizations to assist in the formation or operation of employee-owned corporations;

(G) Recommend appropriate legislative or executive actions to enhance opportunities for employee-owned corporations in this state;

(H) Prescribe all forms for assistance requests and publish materials describing the employee ownership assistance program's services;

(I) Adopt rules under Chapter 119. of the Revised Code for the conduct of the employee ownership assistance program.

Sec. 122.133. The director of housing and development

shall publicize the availability of the employee ownership assistance program and its services to local governments and to business and labor organizations and shall coordinate with local governments, business and labor organizations, and other state agencies in obtaining information relating to the possible relocation of operations or closing of a business establishment.

Sec. 122.134. If the director of housing and development becomes aware that a business establishment is closing or relocating operations, the director, pursuant to a request received under section 122.135 of the Revised Code, may conduct an initial study of the feasibility of the employees of the business establishment establishing an employee-owned corporation to continue the operations of the business establishment, or to operate another business, and may hold an informational meeting of representatives of the local community, the business establishment, representatives of any employee organization, and affected employees to explain the services available from the department of housing and development relative to the formation of an employee-owned corporation.

Sec. 122.135. Any individual, group of individuals, employees, organization of employees, or local community affected by any closing or relocation of a business establishment's operations or the proposed closing or relocation of a business establishment's operations may request, in a manner prescribed by the director of housing and development, assistance in efforts to study the feasibility of the establishment of an employee-owned corporation and any other assistance the director may provide pursuant to sections 122.13 to 122.136 of the Revised Code.

Sec. 122.136. The director of housing and development

~~services~~ shall prepare and submit a report to the governor and the general assembly annually on or before the first day of August of the services and activities of the employee ownership assistance program for the preceding calendar year. The director shall include in the report information regarding the number, names, and locations of business establishments that have been or likely will be assisted as employee-owned corporations; recommendations on how to better operate the program; information regarding the effectiveness of the program in maintaining and improving employment in the state; and the number of individuals affected by the activities of the program.

Sec. 122.14. (A) There is hereby created in the state treasury the roadwork development fund. The fund shall consist of the investment earnings of the security deposit fund created by section 4509.27 of the Revised Code and revenue transferred to it by the director of budget and management from the highway operating fund created in section 5735.051 of the Revised Code. The fund shall be used by the department of housing and development ~~services agency~~ in accordance with Section 5a of Article XII, Ohio Constitution, to make road improvements associated with retaining or attracting business for this state, including both of the following:

(1) Construction, reconstruction, maintenance, or repair of public roads that provide access to a public airport or are located within a public airport;

(2) Construction, reconstruction, maintenance, or repair of public roads that provide or improve access to tourism attractions.

(B) All investment earnings of the fund shall be credited to the fund.

Sec. 122.15. As used in this section and sections 122.151 to 122.156 of the Revised Code:

(A) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. For the purposes of this division, a person is "controlled by" another person if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(B) "Border county" means a county in this state that borders another state.

(C) "Closing date" means the date on which a rural business growth fund has collected all of the amounts specified by divisions (G)(1) and (2) of section 122.151 of the Revised Code.

(D) "Credit-eligible capital contribution" means an investment of cash by a person subject to the tax imposed by section 3901.86, 5725.18, 5729.03, or 5729.06 of the Revised Code in a rural business growth fund that equals the amount specified on a notice of tax credit allocation issued by the department of housing and development under division (I)(1) of section 122.151 of the Revised Code. The investment shall purchase an equity interest in the fund or purchase, at par value or premium, a debt instrument issued by the fund that meets all of the following criteria:

(1) The debt instrument has an original maturity date of at least five years after the date of issuance.

(2) The debt instrument has a repayment schedule that is

not faster than a level principal amortization over five years.

(3) The debt instrument has no interest, distribution, or payment features dependent on the fund's profitability or the success of the fund's growth investments.

(E) "Eligible investment authority" means the amount stated on the notice issued under division (F) of section 122.151 of the Revised Code certifying the rural business growth fund. Sixty per cent of a fund's eligible investment authority shall be comprised of credit-eligible capital contributions.

(F) "Full-time equivalent employee" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment over the preceding twelve-month period by two thousand eighty.

(G) "Growth investment" means any capital or equity investment in a rural business concern or any loan to a rural business concern with a stated maturity of at least one year. A secured loan or the provision of a revolving line of credit to a rural business concern is a growth investment only if the rural business growth fund obtains an affidavit from the president or chief executive officer of the rural business concern attesting that the rural business concern sought and was denied similar financing from a commercial bank.

(H) "Operating company" means any business that has its principal business operations in this state, has fewer than two hundred fifty employees and not more than fifteen million dollars in net income for the preceding taxable year, and that is none of the following:

(1) A country club;

(2) A racetrack or other facility used for gambling;

(3) A store the principal purpose of which is the sale of alcoholic beverages for consumption off premises;

(4) A massage parlor;

(5) A hot tub facility;

(6) A suntan facility;

(7) A business engaged in the development or holding of intangibles for sale;

(8) A private or commercial golf course;

(9) A business that derives or projects to derive fifteen per cent or more of its net income from the rental or sale of real property, except any business that is a special purpose entity principally owned by a principal user of that property formed solely for the purpose of renting, either directly or indirectly, or selling real property back to such principal user if such principal user does not derive fifteen per cent or more of its gross annual revenue from the rental or sale of real property;

(10) A publicly traded business.

For the purposes of this division, "net income" means federal gross income as required to be reported under the Internal Revenue Code less federal and state taxes imposed on or measured by income.

(I) "Population" means that shown by the most recent decennial census or the most recent annual population estimate published or released by the United States census bureau, whichever is more recent.

(J) A business's "principal business operations" are in

this state if at least eighty per cent of the business's employees reside in this state, the individuals who receive eighty per cent of the business's payroll reside in this state, or the business has agreed to use the proceeds of a growth investment to relocate at least eighty per cent of its employees to this state or pay at least eighty per cent of its payroll to individuals residing in this state. For the purpose of growth investments by a program two rural business growth fund, a business's "principal business operations" are also in this state if it is headquartered in a border county and at least sixty-five per cent of the business's employees reside in this state, the individuals who receive sixty-five per cent of the business's payroll reside in this state, or the business has agreed to use the proceeds of a growth investment to relocate at least sixty-five per cent of its employees to this state or pay at least sixty-five per cent of its payroll to individuals residing in this state.

(K) "Program one" refers to rural business growth funds certified by the department of housing and development under section 122.151 of the Revised Code before ~~the effective date of this amendment~~ September 30, 2021.

(L) "Program two" refers to rural business growth funds certified by the department of housing and development under section 122.151 of the Revised Code on or after ~~the effective date of this amendment~~ September 30, 2021.

(M) "Rural area" means any county in this state having a population less than two hundred thousand.

(N) "Rural business concern" means an operating company that has its principal business operations located in a rural area.

(O) "Rural business growth fund" and "fund" mean an entity certified by the department of housing and development under section 122.151 of the Revised Code.

(P) "Taxable year" means the calendar year ending on the thirty-first day of December next preceding the day the annual statement is required to be returned under section 5725.18 or 5729.02 of the Revised Code.

(Q) "Tier one rural area" means any county in this state having a population less than two hundred thousand and more than one hundred fifty thousand.

(R) "Tier two rural area" means any county in this state having a population of more than seventy-five thousand but not more than one hundred fifty thousand.

(S) "Tier three rural area" means any county in this state having a population of not more than seventy-five thousand.

Sec. 122.151. (A) A person that has developed a business plan to invest in rural business concerns in this state and has successfully solicited private investors to make credit-eligible capital contributions in support of the plan may apply to the department of housing and development for certification as a rural business growth fund. The application shall include all of the following:

(1) The total eligible investment authority sought by the applicant under the business plan;

(2) Documents and other evidence sufficient to prove, to the satisfaction of the agency, that the applicant meets all of the following criteria:

(a) The applicant or an affiliate of the applicant is

licensed as a rural business investment company under 7 U.S.C. 2009cc, or as a small business investment company under 15 U.S.C. 681.

(b) As of the date the application is submitted, the applicant has invested more than one hundred million dollars in operating companies, including at least fifty million dollars in operating companies located in rural areas. In computing investments under this division, the applicant may include investments made by affiliates of the applicant and investments made in businesses that are not operating companies but would qualify as operating companies if the principal business operations were located in this state.

(3) The industries in which the applicant proposes to make growth investments and the percentage of the growth investments that will be made in each industry. The applicant shall identify each industry by using the codes utilized by the north American industry classification system.

(4) An estimate of the number of new full-time equivalent employees and retained full-time equivalent employees that will result from the applicant's growth investments;

(5) A revenue impact assessment for the applicant's proposed growth investments prepared by a nationally recognized third-party independent economic forecasting firm using a dynamic economic forecasting model. The revenue impact assessment shall analyze the applicant's business plan over the ten years following the date the application is submitted to the agency.

(6) A signed affidavit from each investor successfully solicited by the applicant to make a credit eligible capital

contribution in support of the business plan. Each affidavit shall include information sufficient for the agency and the superintendent of insurance to identify the investor and shall state the amount of the investor's credit-eligible capital contribution.

(7) A nonrefundable application fee of five thousand dollars.

(B)(1) Except as provided in division (B)(2) of this section, the agency shall review and make a determination with respect to each application submitted under division (A) of this section within sixty days of receipt. The agency shall review and make determinations on the applications in the order in which the applications are received by the agency. Applications received by the agency on the same day shall be deemed to have been received simultaneously. The agency shall approve not more than seventy-five million dollars in eligible investment authority and not more than forty-five million dollars in credit-eligible capital contributions under this section for program one rural business growth funds. The agency shall approve not more than seventy-five million dollars in eligible investment authority and not more than forty-five million dollars in credit-eligible contributions under this section for program two rural business growth funds.

(2) If the agency denies an application for certification as a fund, and approving a subsequently submitted application would result in exceeding the dollar limitation on eligible investment authority or credit-eligible contributions prescribed by division (B)(1) of this section assuming the previously denied application were completed, clarified, or cured under division (D) of this section, the agency shall refrain from

making a determination on the subsequently submitted application until the previously denied application is reconsidered or the fifteen-day period for submitting additional information respecting that application has passed, whichever comes first.

(C) The agency shall deny an application submitted under this section if any of the following are true:

(1) The application is incomplete.

(2) The application fee is not paid in full.

(3) The applicant does not satisfy all the criteria described in division (A)(2) of this section.

(4) The revenue impact assessment submitted under division (A)(5) of this section does not demonstrate that the applicant's business plan will result in a positive economic impact on this state over a ten-year period that exceeds the cumulative amount of tax credits that would be issued under section 122.152 of the Revised Code if the application were approved.

(5) The credit-eligible capital contributions described in affidavits submitted under division (A)(6) of this section do not equal sixty per cent of the total amount of eligible investment authority sought under the applicant's business plan.

(6) The agency has already approved the maximum total eligible investment authority and credit-eligible capital contributions allowed under division (B) of this section.

(D) If the agency denies an application under division (C) of this section, the agency shall send notice of its determination to the applicant. The notice shall include the reason or reasons that the application was denied. If the application was denied for any reason other than the reason

specified in division (C)(6) of this section, the applicant may provide additional information to the agency to complete, clarify, or cure defects in the application. The additional information must be submitted within fifteen days after the date the notice of denial was dispatched by the agency. If the person submits additional information within fifteen days, the agency shall reconsider the application within thirty days after receiving the additional information. The application shall be reviewed and considered before any pending application submitted after the original submission date of the reconsidered application. If the person does not submit additional information within fifteen days after dispatch of the notice of denial, the person may submit a new application with a new submission date at any time.

(E) If approving multiple simultaneously submitted applications would result in exceeding the overall eligible investment limit prescribed by division (B) of this section, the agency shall proportionally reduce the eligible investment authority and the credit-eligible capital contributions for each approved application as necessary to avoid exceeding the limit.

(F) The agency shall not deny a rural business growth fund application or reduce the requested eligible investment authority for reasons other than those described in divisions (C) and (E) of this section. If the agency approves such an application, the agency shall issue a written notice to the applicant certifying that the applicant qualifies as a rural business growth fund and specifying the amount of the applicant's eligible investment authority.

(G) A fund shall do all of the following within sixty days after receiving the certification issued under division (F) of

this section:

(1) Collect the credit-eligible capital contributions from each investor whose affidavit was included in the application. If the rural business growth fund's requested eligible investment authority is proportionally reduced under division (E) of this section, the investor's required credit-eligible capital contribution shall be reduced by the same proportion.

(2) Collect one or more investments of cash that, when added to the contributions collected under division (G)(1) of this section, equal the fund's eligible investment authority. At least ten per cent of the fund's eligible investment authority shall be comprised of equity investments contributed directly or indirectly by affiliates of the fund, including employees, officers, and directors of such affiliates.

(H) Within sixty-five days after receiving the certification issued under division (F)(1) of this section, the fund shall send to the agency documentation sufficient to prove that the amounts described in divisions (G)(1) and (2) of this section have been collected. The fund shall identify any affiliate of an investor described in division (G)(1) of this section that will seek to claim the credit allowed by section 122.152 of the Revised Code. If the fund fails to fully comply with division (G) of this section, the fund's certification shall lapse.

Eligible investment authority and corresponding credit-eligible capital contributions that lapse under this division do not count toward limits on total eligible investment authority and credit-eligible capital contributions prescribed by division (B) of this section. Once eligible investment authority has lapsed, the agency shall first award lapsed authority pro rata

to each fund that was awarded less than the requested eligible investment authority because of the operation of division (E) of this section. Any remaining eligible investment authority may be awarded by the agency to new applicants.

(I) After receiving documentation sufficient to prove that the amounts described in divisions (G)(1) and (2) of this section have been collected, the agency shall issue the following notices:

(1) To each investor or affiliate identified in division (H) of this section, a notice of the amount and utilization schedule of the tax credits allocated to that investor or affiliate as a result of its credit-eligible capital contribution;

(2) To the superintendent of insurance, a notice of the amount and utilization schedule of the tax credits allocated to each investor described in division (G)(1) of this section and any affiliate of such investor who will seek to claim the credit allowed by section 122.152 of the Revised Code.

(J) Application fees submitted to the agency pursuant to division (A)(7) of this section shall be credited to the tax incentives operating fund created under section 122.174 of the Revised Code, and shall be used by the agency to administer sections 122.15 to 122.156 of the Revised Code.

Sec. 122.152. (A) There is hereby allowed a nonrefundable tax credit for owners of tax credit certificates issued by the department of housing and development ~~services agency~~ under division (B) of this section. The credit may be claimed against the tax imposed by section 3901.86, 5725.18, 5729.03, or 5729.06 of the Revised Code.

(B) On the closing date, a taxpayer that made a credit-eligible capital contribution to a rural business growth fund shall be eligible for a credit equal to the amount specified in the notice issued under division (I)(1) of section 122.151 of the Revised Code. On or before the third, fourth, fifth, and sixth anniversary dates of the closing date, the ~~agency~~ department shall issue a tax credit certificate to the taxpayer specifying the corresponding anniversary date and a credit amount equal to one-fourth of the total credit authorized under this section. The taxpayer or its identified affiliate may claim the credit amount for the taxable year that includes the date specified on the certificate. The taxpayer making a credit-eligible capital contribution and the issuance of a tax credit certificate by the ~~agency~~ department does not represent a verification or certification by the ~~agency~~ department of compliance with the recapture provisions of section 122.153 of the Revised Code. The tax credit issued under this division is subject to recapture under section 122.153 of the Revised Code.

(C) The credit shall be claimed in the order required under section 5725.98 or 5729.98 of the Revised Code as applicable. If the amount of the credit for a taxable year exceeds the tax otherwise due for that year, the excess may be carried forward for not more than four ensuing taxable years. A taxpayer claiming a credit under this section shall submit a copy of the tax credit certificate with the taxpayer's annual statement for each taxable year in which the credit is claimed.

Sec. 122.153. (A) The department of housing and development shall not be required to issue a tax credit certificate under section 122.152 of the Revised Code if either of the following applies:

(1) The credit-eligible capital contribution was made in a program one rural business growth fund that fails to:

(a) Invest fifty per cent of its eligible investment authority in growth investments within one year of the closing date; and

(b) Invest one hundred per cent of its eligible investment authority in growth investments in this state within two years of the closing date.

(2) The credit eligible contribution was made in a program two rural business growth fund that fails to:

(a) Invest twenty-five per cent of its eligible investment authority in growth investments within one year of the closing date;

(b) Invest fifty per cent of its eligible investment authority in growth investments within two years of the closing date; and

(c) Invest one hundred per cent of its eligible investment authority in growth investments within three years of the closing date, including seventy-five per cent of its eligible investment authority in rural business concerns that have their principal business operations in tier two or tier three rural areas, and twenty-five per cent of its eligible investment authority in rural business concerns that have their principal business operations in tier three rural areas. The amount by which a rural business growth fund's growth investments in rural business concerns that have their principal business operations in tier one rural areas exceeds twenty-five per cent of the fund's eligible investment authority shall not count towards the satisfaction of the requirements prescribed by division (A)(2)

(c) of this section.

(B) The agency shall recapture tax credits claimed under section 122.152 of the Revised Code if any of the following occur with respect to the rural business growth fund:

(1) The fund, after investing one hundred per cent of its eligible investment authority in growth investments in this state, fails to maintain that investment until the sixth anniversary of the closing date. For the purposes of this division, an investment is maintained even if the investment is sold or repaid so long as the fund reinvests an amount equal to the capital returned or recovered by the fund from the original investment, exclusive of any profits realized, in other growth investments in this state within one year of the receipt of such capital.

(2) The fund makes a distribution or payment after the fund complies with division (G) of section 122.151 of the Revised Code and before the fund decertifies under division (D) of this section that results in the fund having less than one hundred per cent of its eligible investment authority invested in growth investments in this state.

(3) The fund makes a growth investment in a rural business concern that directly or indirectly through an affiliate owns, has the right to acquire an ownership interest, makes a loan to, or makes an investment in the fund, an affiliate of the fund, or an investor in the fund. Division ~~(A)(3)~~ (B)(3) of this section does not apply to investments in publicly traded securities by a rural business concern or an owner or affiliate of a rural business concern.

Before recapturing one or more tax credits under this

division, the agency shall notify the fund of the reasons for the pending recapture. If the fund corrects the violations outlined in the notice to the satisfaction of the agency within thirty days of the date the notice was dispatched, the agency shall not recapture the tax credits.

(C)(1) The amount by which one or more growth investments by a program one rural business growth fund in the same rural business concern exceeds twenty per cent of the fund's eligible investment authority shall not be counted as a growth investment for the purposes of this section. The amount by which one or more growth investments by a program two rural business growth fund in the same business concern exceeds five million dollars shall not be counted as a growth investment for the purposes of this section. A growth investment returned or repaid by a rural business concern to a program one or program two rural business growth fund and then reinvested by the fund in the same rural business concern does not count as an investment in the same rural business concern for the purposes of the limitations prescribed by division (C)(1) of this section.

(2) The aggregate amount of growth investments by all rural business growth funds in the same rural business concern, including amounts reinvested in a rural business concern following a returned or repayment of a growth investment, shall not exceed fifteen million dollars.

(3) A growth investment in an affiliate of a rural business concern shall be treated as a growth investment in that rural business concern for the purposes of division (C) of this section.

(D) If the agency recaptures a tax credit under this section, the agency shall notify the superintendent of insurance

of the recapture. The superintendent shall make an assessment under Chapter 5725. or 5729. of the Revised Code for the amount of the credit claimed by each certificate owner associated with the fund before the recapture was finalized. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the superintendent shall make the assessment within one year after the date the agency notifies the superintendent of the recapture. Following the recapture of a tax credit under this section, no tax credit certificate associated with the fund may be utilized. Notwithstanding division (B) of section 122.152 of the Revised Code, if a tax credit is recaptured under this section the agency shall not issue future tax credit certificates to taxpayers that made credit-eligible capital contributions to the fund.

(E)(1) On or after the sixth anniversary of the closing date, a fund that has not committed any of the acts described in division (B) of this section may apply to the agency to decertify as a rural business growth fund. The agency shall respond to the application within sixty days after receiving the application. In evaluating the application, the fact that no tax credit has been recaptured with respect to the fund shall be sufficient evidence to prove that the fund is eligible for decertification. The agency shall not unreasonably deny an application submitted under this division.

(2) The agency shall send notice of its determination with respect to an application submitted under division (E)(1) of this section to the fund. If the application is denied, the notice shall include the reason or reasons for the determination.

(3) The agency shall not recapture a tax credit due to any actions of a fund that occur after the date the fund's application for decertification is approved. Division (E)(3) of this section does not prohibit the agency from recapturing a tax credit due to the actions of a fund that occur before the date the fund's application for decertification is approved, even if those actions are discovered after that date.

Sec. 122.154. (A) Each rural business growth fund shall submit a report to the department of housing and development on or before the first day of each March following the end of the calendar year that includes the closing date until the calendar year after the fund has decertified. The report shall provide an itemization of the fund's growth investments and shall include the following documents and information:

(1) A bank statement evidencing each growth investment;

(2) The name, location, and industry class of each business that received a growth investment from the fund and evidence that the business qualified as a rural business concern at the time the investment was made. If the fund obtained a written opinion from the agency on the business's status as a rural business concern under section 122.156 of the Revised Code, or if the fund makes a written request for such an opinion and the agency failed to respond within thirty days as required by that section, a copy of the agency's favorable opinion or a dated copy of the fund's unanswered request, as applicable, shall be sufficient evidence that the business qualified as a rural business concern at the time the investment was made.

(3) The number of employment positions that existed at each business described in division (A)(2) of this section on the date the business received the growth investment;

(4) The number of new full-time equivalent employees resulting from each of the fund's growth investments made or maintained in the preceding calendar year;

(5) Any other information required by the agency.

(B) Each fund shall submit a report to the agency on or before the fifth business day after the first, second, and for program two funds, third anniversaries of the closing date that provides documentation sufficient to prove that the fund has met the investment thresholds described in division (A) of section 122.153 of the Revised Code and has not implicated any of the other recapture provisions described in division (B) of that section.

(C) Each certified rural business growth fund shall pay the agency an annual fee of twenty thousand dollars. The initial annual fee required of a fund shall be due and payable to the agency along with the submission of documentation required under division (H) of section 122.151 of the Revised Code. Each subsequent annual fee is due and payable on the last day of February following the first and each ensuing anniversary of the closing date. If the fund is required to submit an annual report under division (A) of this section, the annual fee shall be submitted along with the report. No fund shall be required to pay an annual fee after the fund has decertified under section 122.153 of the Revised Code. Annual fees paid to the agency under this section shall be credited to the tax incentives operating fund created under section 122.174 of the Revised Code.

(D) The director of housing and development, after consultation with the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, may adopt

rules necessary to implement sections 122.15 to 122.156 of the Revised Code.

Sec. 122.155. (A)(1) For each calendar year in which a rural business growth fund makes or maintains a growth investment in a rural business concern in this state, the fund shall determine the number of new full-time equivalent employees produced at the business concern as a result of the investment. New full-time equivalent employees shall be computed by subtracting the number of full-time equivalent employees at the rural business concern on the date of the fund's initial growth investment in the rural business concern from the number of full-time equivalent employees at the rural business concern on the last day of the calendar year. If the computation results in a number less than zero, the number of new full-time equivalent employees, produced by the fund's growth investment for that calendar year period shall be zero. Only employees with an hourly wage rate of at least one hundred fifty per cent of the federal minimum wage may be considered in computing the number of new full-time equivalent employees for the purposes of this section.

(2) A fund may determine and include, for the purposes of this section and section 122.154 of the Revised Code, the number of new full-time equivalent employees produced at a rural business concern after the year in which the fund's growth investment is repaid or redeemed. The new full-time equivalent employees shall be computed in the same manner as in division (A)(1) of this section based on reporting information provided by the rural business concern to the fund.

(B) After a fund's application for decertification is approved under section 122.153 of the Revised Code, the fund

shall determine the state reimbursement amount. The state reimbursement amount shall equal the amount by which the fund's credit-eligible capital contributions exceed the product obtained by multiplying thirty thousand dollars by the aggregate number of new full-time equivalent employees for the fund. If that product is greater than the fund's credit-eligible capital contributions, the state reimbursement amount shall equal zero. In the absence of additional information provided by the fund or discovered by the agency, the number of new full-time equivalent employees for the purposes of this division equals the sum of all new full-time equivalent employees reported by the fund on the annual reports required under section 122.154 of the Revised Code.

(C) After the state reimbursement amount is computed under division (B) of this section, the fund shall not be permitted to make further distributions to equity holders of the fund, including investors that are equity holders of the funds without first remitting the state reimbursement amount to the agency. All amounts received by the agency under this division shall be credited to the general revenue fund.

(D) The director of housing and development ~~services~~, upon the request of a fund, may waive all or a portion of the remission required under division (C) of this section if the director determines, based on an affidavit of the chief executive officer or president of a rural business concern, that the growth investments of the fund resulted in the retention of employment positions that would have otherwise been eliminated at rural business concerns in this state. The amount waived shall not exceed the product of thirty thousand dollars multiplied by the number of retained employment positions multiplied by the number of years in which the fund made or

maintained a growth investment in the rural business concern that retained the employment positions.

Sec. 122.156. A rural business growth fund, before investing in a business, may request a written opinion from the department of housing and development as to whether the business qualifies as a rural business concern based on the criteria prescribed by section 122.15 of the Revised Code. The request shall be submitted in a form prescribed by rule of the agency. The agency shall issue a written opinion to the fund within thirty business days of receiving such a request. Notwithstanding division (J) of section 122.15 of the Revised Code, if the agency determines that the business qualifies as a rural business concern or if the agency fails to timely issue the written opinion as required under this section, the business shall be considered a rural business concern for the purposes of sections 122.15 to 122.156 of the Revised Code.

Sec. 122.16. (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand according to the most recent federal decennial census published by the United States census bureau, or a county, that meets at least two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which local area unemployment statistics published by the United States bureau of labor statistics are available, as of the date the most recent federal decennial census was published, is equal to or greater than one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b)(i) In the case of a county, its per capita personal income is equal to or less than eighty per cent of the per capita personal income of the United States as determined by the most recently available data from the United States department of commerce, bureau of economic analysis as of the date the most recent federal decennial census was published.

(ii) In the case of a municipal corporation, its per capita income is equal to or less than eighty per cent of the per capita income of the United States as determined by the most recently available five-year estimates published in the American community survey as of the date the most recent federal decennial census was published.

(c)(i) In the case of a county, its ratio of personal current transfer receipts to total personal income is equal to or greater than twenty-five per cent, as determined by the most recently available data from the United States department of commerce, bureau of economic analysis as of the date the most recent federal decennial census was published.

(ii) In the case of a municipal corporation, the percentage of its residents with incomes below the official poverty line is equal to or greater than twenty per cent as determined by the most recently available five-year estimates published in the American community survey as of the date the most recent federal decennial census was published.

If a federal agency ceases to publish the applicable data described in division (A)(1) of this section, the director of housing and development shall designate, on the department of housing and development's web site, an alternative source of the applicable data published by a federal agency or, if no such source is available, another reliable source.

(2) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01 of the Revised Code, and any costs incurred during the qualifying period in performing both a phase I and phase II property assessment, as defined in the rules adopted under section 3746.04 of the Revised Code, provided that the performance of the phase I and phase II property assessment resulted in the implementation of the remedy or remedial activities.

(4) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(5) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(6) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state if the limited liability

company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(8) "Partnership" includes a limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(9) "Qualifying period" means the period that begins July 1, 1996, and ends June 30, 1999.

(10) "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under the Internal Revenue Code;

(11) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the economy of the county or municipal corporation. In order for a county or municipal corporation to be designated as a situational distress area, the governing body of the county or municipal corporation shall submit a petition to the director of housing and development in the form prescribed by the director. A county or municipal corporation may be designated as a situational distress area for a period not exceeding thirty-six months.

The petition shall include written documentation that demonstrates all of the following:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the director of job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.

(16) "American community survey" means the supplementary statistics collected and published annually by the United States census bureau in accordance with 13 U.S.C. 141 and 193.

(B)(1) A taxpayer, partnership, or S corporation that has been issued, under section 3746.12 of the Revised Code, a

covenant not to sue for a site by the director of environmental protection during the qualifying period may apply to the director of housing and development, in the manner prescribed by the director, to enter into an agreement under which the applicant agrees to economically redevelop the site in a manner that will create employment opportunities and a credit will be granted to the applicant against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The application shall state the eligible costs associated with a voluntary action incurred by the applicant. The application shall be accompanied by proof, in a form prescribed by the director of housing and development, that the covenant not to sue has been issued.

The applicant shall request the certified professional that submitted the no further action letter for the eligible site under section 3746.11 of the Revised Code to submit an affidavit to the director of housing and development verifying the eligible costs associated with the voluntary action at that site.

The director shall review the applications in the order they are received. If the director determines that the applicant meets the requirements of this section, the director may enter into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. In making the determination, the director may consider the extent to which political subdivisions and other units of government will cooperate with the applicant to redevelop the eligible site. The agreement shall state the amount of the tax credit and the reporting requirements described in division (F) of this section.

(2) The maximum annual amount of credits the director of

housing and development may grant under such agreements shall be as follows:

1996 $5,000,000

1997 $10,000,000

1998 $10,000,000

1999 $5,000,000

For any year in which the director of housing and development does not grant tax credits under this section equal to the maximum annual amount, the amount not granted for that year shall be added to the maximum annual amount that may be granted for the following year. However, the director shall not grant any tax credits under this section after June 30, 1999.

(C)(1) If the covenant not to sue was issued in connection with a site that is not located in an eligible area, the credit amount is equal to the lesser of five hundred thousand dollars or ten per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(2) If a covenant not to sue was issued in connection with a site that is located in an eligible area, the credit amount is equal to the lesser of seven hundred fifty thousand dollars or fifteen per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(3) A taxpayer, partnership, or S corporation that has been issued covenants not to sue under section 3746.12 of the Revised Code for more than one site may apply to the director of housing and development to enter into more than one agreement

granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) For each year for which a taxpayer, partnership, or S corporation has been granted a credit under an agreement entered into under this section, the director of housing and development shall issue a certificate to the taxpayer, partnership, or S corporation indicating the amount of the credit the taxpayer, the partners of the partnership, or the shareholders of the S corporation may claim for that year, not including any amount that may be carried forward from previous years under section 5733.34 of the Revised Code.

(D)(1) Each agreement entered into under this section shall incorporate a commitment by the taxpayer, partnership, or S corporation not to permit the use of an eligible site to cause the relocation of employment positions to that site from elsewhere in this state, except as otherwise provided in division (D)(2) of this section. The commitment shall be binding on the taxpayer, partnership, or S corporation for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer, partnership, or S corporation is entitled to claim the tax credit under the agreement.

(2) An eligible site may be the site of employment positions relocated from elsewhere in this state if the director of housing and development determines both of the following:

(a) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(b) That the governing body of the county, township, or

municipal corporation from which the employment positions would be relocated has been notified of the possible relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) A taxpayer, partnership, or S corporation that has entered into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code that subsequently recovers in a lawsuit or settlement of a lawsuit at least seventy-five per cent of the eligible costs associated with a voluntary action shall not claim any credit amount remaining, including any amounts carried forward from prior years, beginning with the taxable year in which the judgment in the lawsuit is entered or the settlement is finally agreed to.

Any amount of credit that a taxpayer, partnership, or S corporation may not claim by reason of this division shall not be considered to have been granted for the purpose of determining the total amount of credits that may be issued under division (B)(2) of this section.

(F) Each year for which a taxpayer, partnership, or S corporation claims a credit under section 5733.34 of the Revised Code, the taxpayer, partnership, or S corporation shall report the following to the director of housing and development:

(1) The status of all cost recovery litigation described

in division (E) of this section to which it was a party during the previous year;

(2) Confirmation that the covenant not to sue has not been revoked or has not been voided;

(3) Confirmation that the taxpayer, partnership, or S corporation has not permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of this section;

(4) Any other information the director of housing and development requires to perform the director's duties under this section.

(G) The director of housing and development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the calendar year that includes that first day of January.

(H) The director of housing and development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing forms required for administering this section.

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

(1) "Payroll" means the total taxable income paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to each employee or each home-based employee employed in the project to the extent such payroll is not used to determine the credit under section 122.171 of the Revised Code. "Payroll" excludes amounts paid before the day the taxpayer becomes eligible for the credit and retirement or other benefits paid or contributed

by the employer to or on behalf of employees.

(2) "Baseline payroll" means Ohio employee payroll, except that the applicable measurement period is the twelve months immediately preceding the date the tax credit authority approves the taxpayer's application or the date the tax credit authority receives the recommendation described in division (C)(2)(a) of this section, whichever occurs first, multiplied by the sum of one plus an annual pay increase factor to be determined by the tax credit authority.

(3) "Ohio employee payroll" means the amount of compensation used to determine the withholding obligations in division (A) of section 5747.06 of the Revised Code and paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to the following:

(a) An employee employed in the project who is a resident of this state including a qualifying work-from-home employee not designated as a home-based employee by an applicant under division (C)(1) of this section;

(b) An employee employed at the project location who is not a resident and whose compensation is not exempt from the tax imposed under section 5747.02 of the Revised Code pursuant to a reciprocity agreement with another state under division (A)(3) of section 5747.05 of the Revised Code;

(c) A home-based employee employed in the project.

"Ohio employee payroll" excludes any such compensation to the extent it is used to determine the credit under section 122.171 of the Revised Code, and excludes amounts paid before the day the taxpayer becomes eligible for the credit under this

section.

(4) "Excess payroll" means Ohio employee payroll minus baseline payroll.

(5) "Home-based employee" means an employee whose services are performed primarily from the employee's residence in this state exclusively for the benefit of the project and whose rate of pay is at least one hundred thirty-one per cent of the federal minimum wage under 29 U.S.C. 206.

(6) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" excludes hours that are counted for a credit under section 122.171 of the Revised Code.

(7) "Metric evaluation date" means the date by which the taxpayer must meet all of the commitments included in the agreement.

(8) "Qualifying work-from-home employee" means an employee who is a resident of this state and whose services are supervised from the employer's project location and performed primarily from a residence of the employee located in this state.

(9) "Resident" or "resident of this state" means an individual who is a resident as defined in section 5747.01 of the Revised Code.

(10) "Reporting period" means a period corresponding to the annual report required under division (D)(6) of this section.

(11) "Megaproject" means a project in this state that meets all of the following requirements:

(a) At least one of the following applies:

(i) The project requires unique sites, extremely robust utility service, and a technically skilled workforce.

(ii) The megaproject operator of the project has its corporate headquarters in the United States, incurs more than fifty per cent of its research and development expenses in the United States in the year preceding the date the tax credit authority approves the project for a credit under this section, and builds and operates semiconductor wafer manufacturing factories in this state or intends to do so by the metric evaluation date applicable to the megaproject operator.

(b) The megaproject operator of the project agrees, in an agreement with the tax credit authority under division (D) of this section, that, on and after the metric evaluation date applicable to the megaproject operator and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator will compensate the project's employees at an average hourly wage of at least three hundred per cent of the federal minimum wage under 29 U.S.C. 206, exclusive of employee benefits, as determined at the time the tax credit authority approves the project for a credit under this section.

(c) The megaproject operator agrees, in an agreement with the tax credit authority under division (D) of this section, to satisfy either of the following by the metric evaluation date applicable to the project:

(i) The megaproject operator makes at least one billion

dollars, as adjusted under division (V)(1) of this section, in fixed-asset investments in the project.

(ii) The megaproject operator creates at least seventy-five million dollars, as adjusted under division (V)(1) of this section, in Ohio employee payroll at the project.

(d) The megaproject operator agrees, in an agreement with the tax credit authority under division (D) of this section, that if the project satisfies division (A)(11)(c)(ii) of this section, then, on and after the metric evaluation date and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator will maintain at least the amount in Ohio employee payroll at the project required under that division for each year in that period.

(12) "Megaproject operator" means a taxpayer that, separately or collectively with other taxpayers, undertakes and operates a megaproject. Such a taxpayer becomes a megaproject operator effective the first day of the calendar year in which the taxpayer and the tax credit authority enter into an agreement under division (D) of this section with respect to the megaproject. More than one taxpayer may be designated by the tax credit authority as a megaproject operator for the same megaproject.

(13) "Megaproject supplier" means a supplier in this state that meets either or both of the following requirements:

(a) The supplier sells tangible personal property directly to a megaproject operator of a megaproject that satisfies the criteria described in division (A)(11)(a)(ii) of this section for use at a megaproject site, provided that such property was

subject to substantial manufacturing, assembly, or processing in this state at a facility owned or operated by the supplier;

(b) The supplier sells tangible personal property directly to a megaproject operator for use at a megaproject site, provided that the supplier agrees, in an agreement with the tax credit authority under division (D) of this section, to meet all of the following requirements:

(i) By the metric evaluation date applicable to the supplier, makes at least one hundred million dollars, as adjusted under division (V)(2) of this section, in fixed-asset investments in this state;

(ii) By the metric evaluation date applicable to the supplier, creates at least ten million dollars, as adjusted under division (V)(2) of this section, in Ohio employee payroll;

(iii) On and after the metric evaluation date applicable to the supplier, until the end of the last year for which the supplier qualifies for the credit authorized under this section, maintains at least the amount in Ohio employee payroll required under division (A)(13)(b)(ii) of this section for each year in that period.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. With respect to taxes imposed under section 5726.02, 5733.06, or 5747.02 or

Chapter 5751. of the Revised Code, the credit shall be claimed in the order required under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the excess payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority.

(C)(1) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section.

An application shall not propose to include both home-based employees and employees who are not home-based employees in the computation of Ohio employee payroll for the purposes of the same tax credit agreement, except that a qualifying work-from-home employee shall not be considered to be a home-based employee unless so designated by the applicant. If a taxpayer or potential taxpayer employs both home-based employees and employees who are not home-based employees in a project, the taxpayer shall submit separate applications for separate tax credit agreements for the project, one of which shall include home-based employees in the computation of Ohio employee payroll and one of which shall include all other employees in the computation of Ohio employee payroll.

The director of <u>housing and </u>development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

(a) The taxpayer's project will increase payroll;

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

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

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

(b) The authority shall consider any taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section. If the authority determines that the taxpayer does not meet all of the criteria set forth in division (C)(1) of this section, the authority and the department of housing and development shall proceed in accordance with rules adopted by the director pursuant to division (I) of this section.

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

(1) A detailed description of the project that is the

subject of the agreement;

(2)(a) The term of the tax credit, which, except as provided in division (D)(2)(b) or (C) of this section, shall not exceed fifteen years, and the first taxable year, or first calendar year that includes a tax period, for which the credit may be claimed;

(b) If the tax credit is computed on the basis of home-based employees, the term of the credit shall expire on or before the last day of the taxable or calendar year ending before the beginning of the seventh year after September 6, 2012, the effective date of H.B. 327 of the 129th general assembly.

(c) If the taxpayer is a megaproject operator or a megaproject supplier that meets the requirements described in division (A)(13)(b) of this section, the term of the tax credit shall not exceed thirty years.

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

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

(5) The pay increase factor to be applied to the taxpayer's baseline payroll;

(6) A requirement that the taxpayer annually shall report to the director of housing and development full-time equivalent employees, payroll, Ohio employee payroll, investment, the provision of health care benefits and tuition reimbursement if

required in the agreement, and other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of housing and development annually review the information reported under division (D)(6) of this section and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year. If the taxpayer is a megaproject supplier, the director shall issue such a certificate to the megaproject supplier and to any megaproject operator (a) to which the megaproject supplier directly sells tangible personal property and (b) that is authorized to claim the credit pursuant to division (D)(10) of this section.

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

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment position in the first political subdivision is replaced. The movement of a qualifying work-from-home employee to a different residence located in this state or to the project location shall not be considered a relocation of an employment position.

(9) If the tax credit is computed on the basis of home-based employees, that the tax credit may not be claimed by the taxpayer until the taxable year or tax period in which the taxpayer employs at least two hundred employees more than the number of employees the taxpayer employed on June 30, 2011;

(10) If the taxpayer is a megaproject supplier, the percentage of the annual tax credit certified under division (D)(7) of this section, up to one hundred per cent, that may be claimed by each megaproject operator to which the megaproject supplier directly sells tangible personal property, rather than by that megaproject supplier, on the condition that the megaproject operator continues to qualify as a megaproject operator;

(11) If the taxpayer is a megaproject operator or megaproject supplier, a requirement that the taxpayer meet and maintain compliance with all thresholds and requirements to which the taxpayer agreed, pursuant to division (A)(11) or (13) of this section, respectively, as a condition of the operator's project qualifying as a megaproject or the supplier qualifying as a megaproject supplier until the end of the last year for which the taxpayer qualifies for the credit authorized under this section. In each year that a megaproject operator or megaproject supplier is subject to an agreement with the tax credit authority under this section and meets the requirements of this division, the director of housing and development shall issue a certificate to the megaproject operator or megaproject supplier stating that the megaproject operator or megaproject supplier continues to meet those requirements.

(12) If the taxpayer is a megaproject operator, a requirement that the megaproject operator submit, in a form

acceptable to the director of housing and development, an economic impact report with respect to each megaproject for which the megaproject operator is designated, summarizing all of the following for the reporting year:

(a) The aggregate amount of purchases made by the megaproject operator for such megaproject from megaproject suppliers;

(b) The aggregate amount of purchases made by the megaproject operator for such megaproject from suppliers other than megaproject suppliers;

(c) A summary of the construction activity for any facilities at the site of the megaproject in that year;

(d) The aggregate amount expended by the megaproject operator on research and development at the site of the megaproject in that year;

(e) The number of employees working at the site of the megaproject and the counties in which those employees reside;

(f) A summary of the supply chain activity in support of the megaproject, including a list of the twenty-five suppliers with a physical presence in Ohio from which the megaproject operator made the most purchases in that year.

The economic impact report shall be due on or before the first day of July of each year, beginning in the year specified in the agreement with the tax credit authority. The information required in the report shall be certified as true and correct by an officer of the megaproject operator. If there is more than one megaproject operator designated for a single megaproject, all of the megaproject operators designated for the megaproject may jointly submit a single report. Any information contained in

the report is a public record for purposes of section 149.43 of the Revised Code and shall be published on the department of housing and development's web site.

(E)(1) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(2) If the tax credit authority determines that a taxpayer that is a megaproject operator of a megaproject described in division (A)(11)(a)(ii) of this section is not fully compliant with the requirements of the agreement, the authority may impose a recoupment payment on the taxpayer in accordance with the following:

(a) If, on the metric evaluation date, the taxpayer fails to substantially meet the capital investment, full-time equivalent employee, or payroll requirements included in the agreement, an amount determined at the discretion of the authority, not to exceed the sum of the following for all years prior to the metric evaluation date: (i) the amount of taxes that would have been imposed under Chapters 5739. and 5741. of the Revised Code in the absence of the agreement, and (ii) the amount of taxes that would have been imposed under Chapter 5751. of the Revised Code on receipts realized from sales to the taxpayer in the absence of the agreement;

(b) If the taxpayer fails to substantially maintain the capital investment, full-time equivalent employee, or payroll requirements included in the agreement in any year after the metric evaluation date, an amount determined at the discretion

of the authority, not to exceed the sum of the following for the calendar year in which taxpayer failed to meet the requirements: (i) the amount of taxes that would have been imposed under Chapters 5739. and 5741. of the Revised Code in the absence of the agreement, and (ii) the amount of taxes that would have been imposed under Chapter 5751. of the Revised Code on receipts realized from sales to the taxpayer in the absence of the agreement.

(3) The tax credit authority may, subject to any requirements of the tax credit agreement, take into consideration the taxpayer's prior performance and any market conditions impacting the taxpayer when determining the amount of the recoupment payment described in division (E)(2) of this section.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project consisting of the nonretail facilities is eligible for a tax credit and only the excess payroll from the nonretail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase retail facilities for the purposes of this division, and are eligible for tax credits under this section.

(G) Financial statements and other information submitted to the department of housing and development or the tax credit

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

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner or, if the taxpayer is an insurance company, to the superintendent of insurance, a copy of the director of housing and development's certificate of verification under division (D)(7) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within the time prescribed by section 5703.0510 of the Revised Code or within thirty days after the commissioner or superintendent requests it.

(I) The director of housing and development, after consultation with the tax commissioner and the superintendent of

insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules that establish a procedure to be followed by the tax credit authority and the department of housing and development in the event the authority considers a taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section but does not approve it. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. For the purposes of these rules, a qualifying work-from-home employee shall be considered to be an employee employed at the applicant's project location. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (D)(6) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the

credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(K)(1) If the director of housing and development determines that a taxpayer who has received a credit under this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the 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:

(a) If the taxpayer fails to comply with the requirement under division (D)(3) of this section, an amount determined in accordance with the following:

(i) 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;

(ii) 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.

(b) If, on the metric evaluation date, the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the agreement, an amount determined at the discretion of the authority;

(c) If the taxpayer fails to substantially maintain the

number of new full-time equivalent employees or amount of payroll required under the agreement at any time during the term of the agreement after the metric evaluation date, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (K)(1)(a), (b), or (c) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) 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 5726., 5733., 5736., 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. Within ninety days after certifying the amount to be refunded, if circumstances have changed, the authority may adjust the amount to be refunded and certify the adjusted amount to the commissioner or superintendent. The authority may only adjust

the amount to be refunded one time and only if the amount initially certified by the authority has not been repaid, in whole or in part, by the taxpayer or certified to the attorney general for collection under section 131.02 of the Revised Code.

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

(M) There is hereby created the tax credit authority, which consists of the director of housing and development and four other members appointed as follows: the governor, the president of the senate, and the speaker of the house of representatives each shall appoint one member who shall be a specialist in economic development; the governor also shall appoint a member who is a specialist in taxation. Terms of office shall be for four years. Each member shall serve on the authority until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Members may be reappointed to the authority. Members of the authority shall receive their necessary and actual expenses while engaged in the business of the authority. The director of housing and development shall

serve as chairperson of the authority, and the members annually shall elect a vice-chairperson from among themselves. Three members of the authority constitute a quorum to transact and vote on the business of the authority. The majority vote of the membership of the authority is necessary to approve any such business, including the election of the vice-chairperson.

The director of housing and development may appoint a professional employee of the department of housing and development to serve as the director's substitute at a meeting of the authority. The director shall make the appointment in writing. In the absence of the director from a meeting of the authority, the appointed substitute shall serve as chairperson. In the absence of both the director and the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

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

(O) On or before the first day of March of each of the five calendar years beginning with 2014, each taxpayer subject to an agreement with the tax credit authority under this section on the basis of home-based employees shall report the number of home-based employees and other employees employed by the taxpayer in this state to the department of housing and development.

(P) On or before the first day of January of 2019, the director of housing and development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the effect of agreements entered

into under this section in which the taxpayer included home-based employees in the computation of income tax revenue, as that term was defined in this section prior to the amendment of this section by H.B. 64 of the 131st general assembly. The report shall include information on the number of such agreements that were entered into in the preceding six years, a description of the projects that were the subjects of such agreements, and an analysis of nationwide home-based employment trends, including the number of home-based jobs created from July 1, 2011, through June 30, 2017, and a description of any home-based employment tax incentives provided by other states during that time.

(Q) The director of housing and development may require any agreement entered into under this section for a tax credit computed on the basis of home-based employees to contain a provision that the taxpayer makes available health care benefits and tuition reimbursement to all employees.

(R) Original agreements approved by the tax credit authority under this section in 2014 or 2015 before September 29, 2015, may be revised at the request of the taxpayer to conform with the amendments to this section and sections 5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by H.B. 64 of the 131st general assembly, upon mutual agreement of the taxpayer and the department of housing and development, and approval by the tax credit authority.

(S)(1) As used in division (S) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Income tax revenue" has the same meaning as under this section as it existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (S)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of that section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of that section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (S)(3) of this section shall not apply unless

all of the following apply for the reporting period with respect to the eligible agreement:

(a) The taxpayer has achieved one hundred per cent of the new employment commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the new payroll commitment identified in the agreement.

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (S)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (S) of this section for an ensuing reporting period.

(T) For reporting periods ending in calendar year 2020 or thereafter, any taxpayer may include qualifying work-from-home employees in its report required under division (D)(6) of this section, and the compensation of such employees shall qualify as Ohio employee payroll under division (A)(3)(a) of this section, even if the taxpayer's application to the tax credit authority to enter into an agreement for a tax credit under this section was approved before September 29, 2017, the effective date of the amendment of this section by H.B. 49 of the 132nd general assembly.

(U) The director of housing and development shall notify the tax commissioner if the director determines that a megaproject operator or megaproject supplier is not in compliance with the agreement pursuant to a review conducted

under division (D)(11) of this section.

(V) Beginning in 2025 and in each fifth calendar year thereafter, the tax commissioner shall adjust the following amounts in September of that year:

(1) The fixed-asset investment threshold described in division (A)(11)(c)(i) of this section and the Ohio employee payroll threshold described in division (A)(11)(c)(ii) of this section by completing the following calculations:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the fifth preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by the fixed-asset investment threshold and the Ohio employee payroll threshold for the current year;

(c) Add the resulting products to the corresponding fixed-asset investment threshold and Ohio employee payroll threshold for the current year;

(d) Round the resulting fixed-asset investment sum to the nearest multiple of ten million dollars and the Ohio employee payroll sum to the nearest multiple of one million dollars.

(2) The fixed-asset investment threshold described in division (A)(13)(b)(i) of this section and the Ohio employee payroll threshold described in division (A)(13)(b)(ii) of this section by completing the calculations described in divisions (V)(1)(a) to (c) of this section and rounding the resulting fixed-asset investment sum to the nearest multiple of one million dollars and the Ohio employee payroll sum to the nearest

multiple of one hundred thousand dollars.

The commissioner shall certify the amount of the adjustments under divisions (V)(1) and (2) of this section to the director of housing and development and to the tax credit authority not later than the first day of December of the year the commissioner computes the adjustment. Each certified amount applies to the ensuing calendar year and each calendar year thereafter until the tax commissioner makes a new adjustment. The tax commissioner shall not calculate a new adjustment in any year in which the resulting amount from the adjustment would be less than the corresponding amount for the current year.

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

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

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

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

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

(2) "Eligible business" means a taxpayer and its related members with Ohio operations that had a capital investment project reviewed and approved by the tax credit authority as

provided in divisions (C), (D), and (E) of this section and that satisfies either of the following requirements:

(a) If engaged at the project site primarily in significant corporate administrative functions, as defined by the director of housing and development by rule, the taxpayer meets both of the following criteria:

(i) The taxpayer either is located in a foreign trade zone, employs at least five hundred full-time equivalent employees, or has an annual Ohio employee payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(ii) The taxpayer makes or causes to be made payments for the capital investment project of at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

(b) If engaged at the project site primarily as a manufacturer, the taxpayer makes or causes to be made payments for the capital investment project at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted, in an amount that in the aggregate equals or exceeds the lesser of the following:

(i) Fifty million dollars;

(ii) Five per cent of the net book value of all tangible personal property used at the project site as of the last day of the three-year period in which the capital investment payments

are made.

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) "Ohio employee payroll" has the same meaning as in section 122.17 of the Revised Code.

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

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

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

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

(9) "Foreign trade zone" means a general purpose foreign trade zone or a special purpose subzone for which, pursuant to 19 U.S.C. 81a, as amended, a permit for foreign trade zone status has been granted and remains active, including special

purpose subzones for which a permit has been granted and remains active.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant a nonrefundable tax credit to an eligible business under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the determination of the director of budget and management, tax commissioner, and the superintendent of insurance in the case of an insurance company, the recommendation and determination of the director of housing and development under division (C)(1) of this section, and a review of the criteria described in division (C)(2) of this section, the tax credit authority may grant the credit against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 5747.02, or 5751.02 of the Revised Code.

The credit authorized in this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5736.02 or 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the Ohio employee payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority. The credit shall be claimed in the order required under section 5725.98, 5726.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the Ohio employee payroll for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin,

and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement.

If a credit allowed under this section for a taxable year or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.

(C)(1) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of housing and development 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 superintendent of insurance in the case of an insurance company, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations to the authority. The authority shall also forward a copy of the application to the director of housing and development, who shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of the director's determinations and recommendations to the authority.

(2) The director of housing and development, in reviewing applications and making recommendations to the tax credit authority, and the authority, in selecting taxpayers with which to enter into an agreement under division (D) of this section, shall give priority to applications that meet one or more of the following criteria, with greater priority given to applications that meet more of the criteria: (a) Within the preceding five years, the applicant has not received a credit under this section or section 122.17 of the Revised Code for a project at the same project site as that proposed in the application.

(b) The applicant is not currently receiving a credit under this section or section 122.17 of the Revised Code.

(c) The applicant has operated at the project site for at least the preceding ten years.

(d) The project involves a significant upgrade of the project site, rather than only routine maintenance of existing facilities, such as an increase in capacity of a facility, new product development, or technology upgrades or other facility modernization.

(e) The applicant intends to use machinery, equipment, and materials supplied by Ohio businesses in the project when possible.

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

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

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

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

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

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

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated Ohio employee payroll to be generated.

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

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

(4)(a) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, a requirement that the taxpayer either retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, maintain an

annual Ohio employee payroll of at least thirty-five million dollars for the entire term of the credit, or remain located in a foreign trade zone for the entire term of the credit;

(b) If the taxpayer is engaged at the project site primarily as a manufacturer, a requirement that the taxpayer maintain at least the number of full-time equivalent employees specified in the agreement pursuant to division (E)(1) of this section at the project site and within this state for the entire term of the credit.

(5) A requirement that the taxpayer annually report to the director of housing and development full-time equivalent employees, Ohio employee payroll, capital investment, and other information the director needs to perform the director's duties under this section.

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

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of housing and development determines that the taxpayer notified the legislative authority of the county, township, or municipal

corporation from which the employment positions would be relocated.

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

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

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

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

commissioner, or the superintendent of insurance in the case of an insurance company, the chairperson of the authority shall provide to the commissioner or superintendent any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of housing and development's certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within the time prescribed by section 5703.0510 of the Revised Code or within thirty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)(5) of this section. The election applies to and is irrevocable for the credit for

which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J)(1) If the director of housing and development determines that a taxpayer that received a certificate under division (E)(6) of this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, to refund to the state all or a portion of the credit claimed in previous years, as follows:

(a) If the taxpayer fails to comply with the requirement under division (E)(3) of this section, an amount determined in accordance with the following:

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

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

(b) If the taxpayer fails to substantially, satisfy the

employment, payroll, or location requirements required under the agreement, as prescribed under division (E)(4)(a) or (b), as applicable to the taxpayer, at any time during the term of the agreement or during the post-term reporting period, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (J)(1)(a) or (b) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) In determining the portion of the credit to be refunded to this state, the 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 the superintendent of insurance. If the taxpayer, or any related member or members who claimed the tax credit under division (N) of this section, is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded. Within ninety days after certifying the amount to be

refunded, if circumstances have changed, the authority may adjust the amount to be refunded and certify the adjusted amount to the commissioner or superintendent. The authority may only adjust the amount to be refunded one time and only if the amount initially certified by the authority has not been repaid, in whole or in part, by the taxpayer or certified to the attorney general for collection under section 131.02 of the Revised Code.

(K) The director of housing and development, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

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

(1) For 2010, thirteen million dollars;

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

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

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

(N) This division applies only to an eligible business that is part of an affiliated group that includes a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company, as those terms are defined in section 5726.01 of the Revised Code. Notwithstanding any contrary provision of the agreement between such an eligible business and the tax credit authority, any credit granted under this section against the tax imposed by section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code to the eligible business, at the election of the eligible business and without any action by the tax credit authority, may be shared with any member or members of the affiliated group that includes the eligible business, which member or members may claim the credit against the taxes imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code. Credits shall be claimed by the eligible business in sequential order, as applicable, first claiming the credits to the fullest

extent possible against the tax that the certificate holder is subject to, then against the tax imposed by, sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and lastly 5726.02 of the Revised Code. The credits may be allocated among the members of the affiliated group in such manner as the eligible business elects, but subject to the sequential order required under this division. This division applies to credits granted before, on, or after March 27, 2013, the effective date of H.B. 510 of the 129th general assembly. Credits granted before that effective date that are shared and allocated under this division may be claimed in those calendar years in which the remaining taxable years specified in the agreement end.

As used in this division, "affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

(O)(1) As used in division (O) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Reporting period" means a period corresponding to the annual report required under division (E)(5) of this section.

(c) "Income tax revenue" has the same meaning as under

division (S) of section 122.17 of the Revised Code.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (O)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of this section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of this section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (O)(3) of this section shall not apply unless all of the following apply with respect to the eligible agreement:

(a) If applicable, the taxpayer has achieved one hundred

per cent of the job retention commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the payroll retention commitment identified in the agreement."

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (O)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (O) of this section for an ensuing reporting period.

Sec. 122.172. (A) As used in this section, "tax liability" means the tax owed under section 5733.06 or 5747.02 of the Revised Code after allowance of all nonrefundable credits and prior to the allowance of all refundable credits. The tax owed under section 5733.06 of the Revised Code shall take into account any adjustments to such tax required by division (G) of section 5733.01 of the Revised Code that apply prior to allowance of refundable credits.

(B)(1) The director of housing and development shall administer the manufacturing equipment grant program to provide grants for new manufacturing machinery and equipment qualifying for the grant under section 122.173 of the Revised Code. Except as provided in division (C) of this section, the grants apply to the taxes imposed by sections 5733.06 and 5747.02 of the Revised Code for taxable years ending on or after July 1, 2005.

(2) To claim a grant, a taxpayer satisfying the

requirements of section 122.173 of the Revised Code shall complete a grant request form, as prescribed by the director in consultation with the tax commissioner, and shall file the form with the tax return for the taxable year for which the grant is claimed. In no event shall the grant reduce a taxpayer's tax liability below the minimum tax owed for the taxable year. The grant request form shall provide the information required to allow the grant for the taxable year and is subject to audit by the director and the commissioner. Any portion of the grant in excess of the taxpayer's tax liability shall not be refundable but may be carried forward as provided in section 122.173 of the Revised Code. Upon the director's request, the commissioner shall provide completed grant request forms filed under this section to the director in a mutually agreed upon format.

(C) If a taxpayer is required to repay any credit allowed under section 5733.33 of the Revised Code for a taxable year ending prior to July 1, 2005, for a reason not specified in Chapter 5733. or 5747. of the Revised Code, a grant shall be available for that taxable year under section 122.173 of the Revised Code to the extent provided in that section.

(D) Any tax liability under section 5733.06 or 5747.02 of the Revised Code that is underpaid as the result of an improper claim for a grant under this section may be assessed by the tax commissioner in the manner provided by section 5733.11 or 5747.11 of the Revised Code.

Sec. 122.173. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include

property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the

county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends June 30, 2005.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.

(6) "Partnership" includes a limited liability company formed under former Chapter 1705. ~~or~~ of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706. of the Revised Code, or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under former Chapter 1705. ~~or~~ of the Revised Code as that chapter existed prior to February 11, 2022, Chapter

1706. of the Revised Code, or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" has the same meaning as in section 122.16 of the Revised Code.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area, for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of housing and development. The petition shall include written documentation

that demonstrates all of the following adverse effects on the local economy:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a grant claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a grant claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a grant claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;

(d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;

(e) Calendar years 1996, 1997, and 1998, with regard to a

grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;

(f) Calendar years 1997, 1998, and 1999, with regard to a grant claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;

(g) Calendar years 1998, 1999, and 2000, with regard to a grant claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;

(h) Calendar years 1999, 2000, and 2001, with regard to a grant claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code.

(B)(1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a grant may be claimed under this section in excess of one million dollars only if the cost of all

manufacturing machinery and equipment owned in this state by the taxpayer claiming the grant on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the grant is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the grant applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of housing and development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the grant is necessary to increase or retain employees in this state, and that the grant has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the grant.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the grant amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C)(2) of this section, "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the grant amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the grant amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a grant for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those grants each year.

(4) Except as provided in division (J) of this section, the taxpayer shall claim one-seventh of the grant amount for the taxable year ending in the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer grant amount is allowed for each of the six ensuing taxable years. Except for carried-forward amounts, the taxpayer is not allowed any grant amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward grant amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward grant amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity that transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section applies only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any grant amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the grant allowed by this section in the manner provided by section 122.172 of the Revised Code. Any portion of the grant in excess of the taxpayer's tax liability for the taxable year shall not be refundable but may be carried forward for the next three consecutive taxable years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the grant shall file, with the director of housing and development, a notice of intent to claim the grant on a form prescribed by the director of housing and development. The director of housing and development shall

inform the tax commissioner of the notice of intent to claim the grant. No grant may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005, but a notice filed on or before such date under division (E) of section 5733.33 of the Revised Code of the intent to claim the credit under that section also shall be considered a notice of the intent to claim a grant under this section.

(F) The director of housing and development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax grant for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31 or 5733.311 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the grant under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a grant claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the grant.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period

described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the grant available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The grant shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. The election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any grant attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any grant attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment.

(J) Except as provided in division (B) of section 122.172

of the Revised Code, no grant under this section may be claimed for any taxable year for which a credit is allowed under section 5733.33 of the Revised Code. If the tax imposed by section 5733.06 of the Revised Code for which a grant is allowed under this section has been prorated under division (G)(2) of section 5733.01 of the Revised Code, the grant shall be prorated by the same percentage as the tax.

Sec. 122.174. There is hereby created in the state treasury the tax incentives operating fund. The fund shall consist of any amounts appropriated to it and money credited to the fund pursuant to section 122.151, 122.154, 122.17, 122.171, 122.175, 122.85, 122.86, 3735.672, 5709.68, or 5725.33 of the Revised Code. The director of housing and development services shall use money in the fund to pay expenses related to the administration of (A) the business services division of the department of housing and development ~~services agency~~ and (B) the programs described in those sections.

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

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

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

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

(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 one or more computer data center businesses, as determined by the tax credit authority.

(3) "Computer data center business" means, as may be further determined by the tax credit authority, a business that provides electronic information services as defined in division (Y)(1)(c) of section 5739.01 of the Revised Code, or that leases a facility to one or more such businesses. "Computer data center business" does not include providing electronic publishing as defined in that section.

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

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

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

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

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

(a) One or more taxpayers operating a computer data center business at the project site will, in the aggregate, make payments for a capital investment project of at least one hundred million dollars at the project site during one of the

following cumulative periods:

(i) For projects beginning in 2013, six consecutive calendar years;

(ii) For projects beginning in 2014, four consecutive calendar years;

(iii) For projects beginning in or after 2015, three consecutive calendar years.

(b) One or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least one million five hundred thousand dollars to employees employed at the project site for each year of the agreement beginning on or after the first day of the twenty-fifth month after the agreement was entered into under this section.

(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 authorizing a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment purchased by the applicant or any other taxpayer that operates a computer data center business at the project site and used or to be used at the eligible computer data center. The director of housing and 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 and the tax commissioner, 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. The authority shall also forward a copy of the application to the director of housing and development ~~services~~ who shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

(D) Upon review and consideration of such determinations and recommendations, the tax credit authority may enter into an agreement with the applicant and any other taxpayer that operates a computer data center business at the project site 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 an eligible computer data

center if the authority determines all of the following:

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

(2) The applicant is economically sound and has the ability to complete or effect the completion of the proposed capital investment project.

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

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

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

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

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

which the exemption applies.

(3) A requirement that the computer data center remain an eligible computer data center during the term of the agreement and that the applicant maintain operations at the eligible computer data center during that term. An applicant does not violate the requirement described in division (E)(3) of this section if the applicant ceases operations at the eligible computer data center during the term of the agreement but resumes those operations within eighteen months after the date of cessation. The agreement shall provide that, in such a case, the applicant and any other taxpayer that operates a computer data center business at the project site shall not claim the tax exemption authorized in the agreement for any purchase of computer data center equipment made during the period in which the applicant did not maintain operations at the eligible computer data center.

(4) A requirement that, for each year of the term of the agreement beginning on or after the first day of the twenty-fifth month after the date the agreement was entered into, one or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least one million five hundred thousand dollars to employees at the eligible computer data center.

(5) A requirement that each taxpayer subject to the agreement annually report to the director of housing and development ~~services~~ employment, tax withholding, capital investment, and other information required by the director to perform the director's duties under this section.

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

(7) A provision providing that the taxpayers subject to the agreement may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of housing and development ~~services~~ determines that the appropriate taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. For purposes of this paragraph, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) The term of an agreement under this section shall be determined by the tax credit authority, and the amount of the

exemption shall not exceed one hundred per cent of such taxes that would otherwise be owed in respect to the exempted computer data center equipment.

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

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

(I) The tax commissioner shall issue a direct payment permit under section 5739.031 of the Revised Code to each taxpayer subject to an agreement under this section. Such direct

payment permit shall authorize the taxpayer to pay any sales and use taxes due on purchases of computer data center equipment used or to be used in an eligible computer data center and to pay any sales and use taxes due on purchases of tangible personal property or taxable services other than computer data center equipment used or to be used in an eligible computer data center directly to the tax commissioner. Each such taxpayer shall pay pursuant to such direct payment permit all sales tax levied on such purchases under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and all use tax levied on such purchases under sections 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, consistent with the terms of the agreement entered into under this section.

During the term of an agreement under this section each taxpayer subject to the agreement shall submit to the tax commissioner a return that shows the amount of computer data center equipment purchased for use at the eligible computer data center, the amount of tangible personal property and taxable services other than computer data center equipment purchased for use at the eligible computer data center, the amount of tax under Chapter 5739. or 5741. of the Revised Code that would be due in the absence of the agreement under this section, the exemption percentage for computer data center equipment specified in the agreement, and the amount of tax due under Chapter 5739. or 5741. of the Revised Code as a result of the agreement under this section. Each such taxpayer shall pay the tax shown on the return to be due in the manner and at the times as may be further prescribed by the tax commissioner. Each such taxpayer shall include a copy of the director of ~~development services'~~ housing and development's certificate of verification issued under division (E)(6) of this section. Failure to submit

a copy of the certificate with the return does not invalidate the claim for exemption if the taxpayer submits a copy of the certificate to the tax commissioner within the time prescribed by section 5703.0510 of the Revised Code.

(J) If the director of housing and development ~~services~~ determines that one or more taxpayers received an exemption from taxes due on the purchase of computer data center equipment purchased for use at a computer data center that no longer complies with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority and, if applicable, the taxpayer that applied to enter the agreement for the exemption under division (C) of this section of the noncompliance. After receiving such a notice, and after giving each taxpayer subject to the agreement an opportunity to explain the noncompliance, the authority may terminate the agreement and require each such taxpayer to pay to the state all or a portion of the taxes that would have been owed in regards to the exempt equipment in previous years, all as determined under rules adopted pursuant to division (K) of this section. In determining the portion of the taxes that would have been owed on the previously exempted equipment to be paid to this state by a taxpayer, the authority shall consider the effect of market conditions on the eligible computer data center, whether the taxpayer continues to maintain other operations in this state, and, with respect to agreements involving multiple taxpayers, the taxpayer's level of responsibility for the noncompliance. After making the determination, the authority shall certify to the tax commissioner the amount to be paid by each taxpayer subject to the agreement. The tax commissioner shall make an assessment for that amount against each such taxpayer under Chapter 5739. or 5741. of the Revised Code. The time limitations

on assessments under those chapters do not apply to an assessment under this division, but the tax commissioner shall make the assessment within one year after the date the authority certifies to the tax commissioner the amount to be paid by the taxpayer.

(K) The director of housing and development ~~services~~, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax exemptions under this section to be charged fees to cover administrative costs incurred in the administration of this section. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(M) A taxpayer may be made a party to an existing agreement entered into under this section by the tax credit authority and another taxpayer or group of taxpayers. In such a case, the taxpayer shall be entitled to all benefits and bound by all obligations contained in the agreement and all requirements described in this section. When an agreement includes multiple taxpayers, each taxpayer shall be entitled to a direct payment permit as authorized in division (I) of this section.

Sec. 122.176. (A) For purposes of this section:

(1) "Vacant commercial space" means space that has been unoccupied and available for use in a trade or business for the twelve months immediately preceding the lease or purchase date described in division (B) of this section, located in either of the following:

(a) A building, seventy-five per cent or more of the square footage of which has been unoccupied and available for use in a trade or business for the twelve months immediately preceding the initial lease or purchase date described in division (B) of this section;

(b) A business park, seventy-five per cent or more of the square footage of which has been unoccupied and available for use in a trade or business for the twelve months immediately preceding the initial lease or purchase date described in division (B) of this section.

For the purpose of determining whether a building, the construction of which is not complete, has been unoccupied for the required length of time, the building first becomes "unoccupied" when its construction discontinues as determined by

the person who owned the property at that time.

(2) "Business park" means two or more buildings located on the same or adjacent parcels held under common ownership.

(3) "Building" means a building as defined in section 3781.06 of the Revised Code the construction of which is at least eighty-five per cent complete and that may be lawfully occupied.

(4) "Qualifying employee" means an employee employed by an employer, provided the employee is employed at the vacant commercial space for a minimum of forty hours per week and has been so employed for at least one year, the employer pays the employee at a wage rate equal to or greater than the minimum wage rate applicable under Chapter 4111. of the Revised Code, employment of the employee increases the employer's payroll above the employer's base employment threshold, and the employee had not been employed by the employer within sixty days before the date the employer purchases or enters into a lease for a vacant commercial space.

(5) "Base employment threshold" means the total payroll of the employer on the date the employer purchases or enters into a lease for a vacant commercial space.

(B) This section does not apply to the federal government, the state, the state's political subdivisions, or nonprofit organizations.

An employer required to deduct and withhold income tax from an employee's compensation under section 5747.06 and remit such amounts under section 5747.07 of the Revised Code may apply to the director of housing and development for a grant from the vacant facilities grant fund, provided that, on or after ~~the~~

~~effective date of this section as enacted by H.B. 18 of the 129th general assembly~~ August 6, 2012, the employer occupies under a lease or purchases vacant commercial space at which the employer employs at least fifty employees or at least fifty per cent of its employees who are employed in this state. An employer may qualify for the grant only once. The amount of the grant awarded under this section shall be five hundred dollars for each qualifying employee. No grant application shall be accepted by the director three years or later after ~~the effective date of this section~~ August 6, 2012.

An employer does not qualify for a grant under this section if, during the year of the employer's application, the employer is eligible to claim a tax credit or other incentive under an agreement with the tax credit authority.

The director shall prescribe application materials and explanations. An employer applying for a grant under this section shall submit the following with the employer's application to the director:

(1) An affidavit from the person who, in the case of a lease of vacant commercial space, owns the property or, in the case of a purchase, is the most recent owner of the property indicating that the building meets the requirements of a vacant commercial space;

(2) Payroll records indicating, for each qualifying employee, that the employee was employed for one year or longer at the vacant commercial space;

(3) Quarterly reports of wage information submitted by the employer to the department of job and family services pursuant to section 4141.20 of the Revised Code indicating the employer's

qualifying employees and the employer's base employment threshold;

(4) A statement that the employer agrees to provide to the director any receipts, invoices, or similar documents demonstrating that the employer used the grant for the activities described in division (C) of this section.

Upon receipt of an application, the director shall review the application and attached materials and approve the application if, to the director's satisfaction, the employer fulfills all the grant requirements of this section, and if, in the judgment of the director, the unencumbered balance in the vacant facilities grant fund is sufficient to fund the amount of the grant. Upon approval of a grant application, the director shall authorize the award of the grant from the vacant facilities grant fund to the employer.

(C) An employer receiving a grant under this section from the vacant facilities grant fund must use the grant for the acquisition, construction, enlargement, improvement, or equipment of property, structures, equipment, and facilities used by the employer in business at the vacant commercial space occupied by the employer.

(D) An employer may claim a grant under this section with respect to a building, the construction of which is not complete, only if the employer submits both of the following with the employer's application:

(1) A copy of a certificate of occupancy from the appropriate building authority indicating that the building may lawfully be occupied pursuant to ~~chapters~~ Chapters 3781. and 3791. of the Revised Code;

(2) An affidavit from the person who owned the property at the time construction discontinued indicating the date construction discontinued.

(E) There is hereby created in the state treasury the vacant facilities grant fund, which shall consist of money appropriated to the fund by the general assembly. Money in the fund shall be used solely for the purposes of this section.

Sec. 122.177. (A) As used in this section:

(1) "Business" means a sole proprietorship, a corporation for profit, or a pass-through entity as defined in section 5733.04 of the Revised Code.

(2) "Career exploration internship" means a paid employment relationship between a student intern and a business in which the student intern acquires education, instruction, and experience relevant to the student intern's career aspirations.

(3) "Student intern" means an individual who, at the time the business applies for a grant under division (B) of this section, meets both of the following criteria:

(a) The individual is entitled to attend school in this state.

(b) The individual is either between sixteen and eighteen years of age or is enrolled in grade eleven or twelve.

(B) There is hereby created in the department of housing and development ~~services agency~~ the career exploration internship program to award grants to businesses that employ a student intern in a career exploration internship. To qualify for a grant under the program, the career exploration internship shall be at least twenty weeks in duration and include at least

two hundred hours of paid work and instruction in this state. To obtain a grant, the business shall apply to the department of housing and development ~~services agency~~ before the starting date of the career exploration internship. The application shall include all of the following:

(1) A brief description of the career exploration internship;

(2) A signed statement by the student intern briefly describing the student intern's career aspirations and how the student intern believes this career exploration internship may help achieve those aspirations;

(3) A signed statement by a principal or guidance counselor at the student intern's school or, in the case of a home schooled student, an individual responsible for administering instruction to the student intern, acknowledging that the employment opportunity qualifies as a career exploration internship and expressing intent to advise the student intern as provided in division (E) of this section;

(4) The name, address, and telephone number of the business;

(5) Any other information required by the department of housing and development ~~services agency~~.

(C)(1) The department of housing and development ~~services agency~~ shall review and make a determination with respect to each application submitted under division (B) of this section in the order in which the application is received. The ~~agency~~ department shall not approve any application under this section that is received by the ~~agency~~ department later than June 25, 2017, or that was submitted by a business that does not have

substantial operations in this state. The ~~agency~~ department may not otherwise deny an application unless the application is incomplete, the proposed employment relationship does not qualify as a career exploration internship for which a grant may be awarded under this section, the business is ineligible to receive a grant under division (D)(1) of this section, or the ~~agency~~ department determines that approving the application would cause the amount that could be awarded to exceed the amount of money in the career exploration internship fund.

(2) The ~~agency~~ department shall send written notice of its determination to the applicant within thirty days after receiving the application. If the ~~agency~~ department determines that the application shall not be approved, the notice shall include the reasons for such determination.

(3) The ~~agency's~~ department's determination is final and may not be appealed for any reason. A business may submit a new or amended application under division (B) of this section at any time before or after receiving notice under division (C)(2) of this section.

(D)(1) In any calendar year, the department of housing and development ~~services agency~~ shall not award grants under this section to any business that has received grants for three career exploration internships in that calendar year. The ~~agency~~ department shall not award a grant to a business unless the ~~agency~~ department receives a report from the business within thirty days after the end of the career exploration internship or thirteen months after the approval of the application, whichever comes first, that includes all of the following:

(a) The date the student intern began the internship;

(b) The date the internship ended or a statement that the student will continue to be employed by the business;

(c) The total number of hours during the internship that the student intern was employed by the business;

(d) The total wages paid by the business to the student intern during the internship;

(e) A signed statement by the student intern briefly describing the duties performed during the internship and the skills and experiences gained throughout the internship;

(f) Any other information required by the ~~agency~~department.

(2) If the ~~agency~~ department receives the report and determines that it contains all of the information and the statement required by division (D)(1) of this section and that the career exploration internship described in the report complies with all the provisions of this section, the ~~agency~~ department shall award a grant to the business. The amount of the grant shall equal the lesser of the following:

(a) Fifty per cent of the wages paid by the business to the student intern for the first twelve months following the date the application was approved;

(b) Five thousand dollars.

(E) The student intern and the principal, guidance counselor, or other qualified individual who signed the statement described in division (B)(3) of this section shall meet at least once in the thirty days following the end of the career exploration internship or in the thirteenth month following the start of the career exploration internship,

whichever comes first. The purpose of the meeting is to discuss the student intern's experiences during the career exploration internship, consider the practical applications of these experiences to the student intern's career aspirations, and to establish or confirm goals for the student intern. If practicable, the meeting shall be in person. Otherwise, the meeting may be conducted over the telephone.

(F) A business that receives a grant under this section may submit a new application under division (B) of this section for another career exploration internship with the same student intern. Such an application does not have to include the statements otherwise required by divisions (B)(2) and (3) of this section.

(G) Annually, on the first day of August until August 2017, the department of housing and development ~~services agency~~ shall compile a report indicating the number of career exploration internships approved by the ~~agency~~ department under this section, the statements issued by the student interns under divisions (B)(2) and (D)(1)(e) of this section, the number of student interns that continued employment with the business after the termination of the career exploration internship, and the total amount of grants awarded under this section. The report shall not disclose any student interns' personally identifiable information. The ~~agency~~ department shall provide copies of the report to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate.

(H) The department of housing and development ~~services agency~~ may adopt rules necessary to administer this section in accordance with Chapter 119. of the Revised Code.

(I) The career exploration internship fund is hereby created in the state treasury. The fund shall consist of a portion of the proceeds from the upfront license fees paid for the casino facilities authorized under Section 6(C) of Article XV, Ohio Constitution. Money in the fund shall be used by the department of housing and development ~~services agency~~ to provide grants under this section.

Sec. 122.178. (A) As used in this section, "microcredential" means an industry-recognized credential or certificate that an applicant may complete in not more than one year and that is approved by the chancellor of higher education.

(B) There is hereby created the TechCred program to reimburse employers from appropriations made for that purpose for training costs for prospective and incumbent employees to earn a microcredential. The department of housing and development, in consultation with the governor's office of workforce transformation and the department of higher education, shall develop the program.

(C)(1) An employer seeking to participate in the program shall submit an application to the director of housing and development during an application period established by the director. The employer shall include in the application all of the following information:

(a) Proof that the employer is registered to do business in this state;

(b) Proof that the employer is current on all tax obligations to the state;

(c) Proof that the employer is in compliance with all environmental regulations applicable to the employer;

(d) The name of the training provider from which a prospective or incumbent employee will receive the training and earn the microcredential;

(e) The cost of the training;

(f) The positions for which earning the microcredential will make a prospective or incumbent employee qualified or the occupational skill set that the prospective or incumbent employee will acquire on completing the training;

(g) The address of the facility or location at which the prospective or incumbent employee is expected to be employed after completing the training;

(h) Any other information the director requires.

(2) In addition to the information required under division (C)(1) of this section, an employer seeking to participate in the program also may submit any of the following information the employer wishes to provide to the director:

(a) The estimated wage after completing the training and earning the microcredential;

(b) The employer's certification as a minority business enterprise under section 122.921 of the Revised Code or certification as an EDGE business enterprise under section 122.922 of the Revised Code if applicable;

(c) The demographic information of the employer, including race and gender;

(d) Any demographic information of a prospective or incumbent employee that the employee provides to the employer, including race and gender;

(e) Any other information the employer wishes to provide to the director.

(D)(1) The director shall consider all applications submitted during an application period after the application period ends. The director shall consider the following factors in determining whether to approve an application:

(a) The duration of the training program;

(b) The cost of the training;

(c) A prospective or incumbent employee's estimated wage after completing the training and earning the microcredential;

(d) Whether approving an application will promote regional diversity in apportioning reimbursements uniformly across the state;

(e) Any other factors the director considers relevant in determining whether to approve an application.

(2) The chancellor of higher education shall establish a list of approved microcredentials. The director shall not approve an application submitted under division (C) of this section unless the microcredentials identified in the application are included in the chancellor's list. Not later than ninety days after April 14, 2020, the director shall create a list of training providers that offer a microcredential included in the chancellor's list. Thereafter, the director shall annually update the list of training providers.

(3) If the director approves an employer's application for participation in the program, the approval is valid as long as the employer maintains accurate application information under division (C)(1) of this section with the director. The employer

shall submit the updated information to the director at the beginning of the third fiscal year the employer participates in the program and every other subsequent fiscal year thereafter.

(4) The director shall not approve an application for participation in the program if the employer has violated Chapter 4111. of the Revised Code within the four fiscal years immediately preceding the date of application.

(E)(1) Each participating employer seeking reimbursement for training costs for a prospective or incumbent employee shall submit an application to the director that includes all of the following information for each prospective or incumbent employee:

(a) The prospective or incumbent employee's name and position, if applicable, at the time of submitting the application;

(b) The actual amount the employer paid to the training provider for the training;

(c) Evidence that the prospective or incumbent employee earned a microcredential;

(d) Evidence that the prospective or incumbent employee is a resident of this state.

(2) The amount of the reimbursement shall be not more than two thousand dollars for each microcredential a prospective or incumbent employee receives.

(F) No participating employer shall require a prospective or incumbent employee who receives a microcredential because the employer participated in and received a reimbursement through the employer's participation in the TechCred program to accept

or continue employment with the employer.

(G) For the purposes of determining regional diversity under this section, the following constitute the regions of the state:

(1) The counties of Allen, Crawford, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot are one region;

(2) The counties of Ashland, Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne are one region;

(3) The counties of Auglaize, Champaign, Clark, Clinton, Darke, Fayette, Greene, Mercer, Miami, Montgomery, Preble, and Shelby are one region;

(4) The counties of Delaware, Fairfield, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, and Union are one region;

(5) The counties of Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Meigs, Pike, Ross, Scioto, and Vinton are one region;

(6) The counties of Belmont, Carroll, Coshocton, Guernsey, Harrison, Holmes, Jefferson, Monroe, Morgan, Muskingum, Noble, Perry, and Washington are one region;

(7) The counties of Brown, Butler, Clermont, Hamilton, and Warren are one region.

(H)(1) The director shall do both of the following regarding the operation of the program:

(a) Create an application to participate in the program and an application for reimbursement;

(b) Create an internet web site with the applications for and information regarding the program created in this section.

(2) The governor's office of workforce transformation shall include on the office's internet web site either of the following:

(a) The applications for and information regarding the program created in this section;

(b) An internet link to the internet web site created under division (H)(1)(b) of this section.

(I) The director may adopt rules in accordance with Chapter 119. of the Revised Code regarding the operation of the program as the director considers necessary to administer the program, including establishing priority guidelines for approving applications under division (D) of this section.

Sec. 122.179. (A) As used in this section:

"Charitable organization" has the same meaning as in section 1716.01 of the Revised Code.

"Independent college or university" means a nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code.

"Industry sector partnership" means a workforce collaborative that organizes key leaders and stakeholders of an industry cluster into a working group that focuses on achieving a shared goal of meeting the industry cluster's human resources needs.

"Ohio technical center" has the same meaning as in section 3333.94 of the Revised Code.

"Sector partnership network" means a regional or statewide workforce collaborative that organizes multiple industry sector partnerships into a working group that focuses on achieving a shared goal of meeting the human resources needs of a region or statewide.

"State board" and "local board" have the same meanings as in section 6301.01 of the Revised Code.

"State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) A collaboration of multiple employers of an industry cluster may organize and lead an industry sector partnership by convening or acting in partnership with representatives of businesses, employers, or other institutions of an industry cluster, including small- and medium-sized employers where practicable, and a collaboration of multiple industry sector partnerships may convene or act in partnership together as a sector partnership network. An industry sector partnership may include representatives of one or more of the following:

(1) A school district;

(2) A state institution of higher education;

(3) An Ohio technical center;

(4) An independent college or university;

(5) The state or a local government;

(6) A state or local economic or workforce development agency;

(7) A state board or local board;

(8) The department of job and family services;

(9) A business, trade, or industry association;

(10) A charitable organization;

(11) An economic development organization;

(12) A nonprofit or community-based organization or intermediary;

(13) The Ohio state university extension division established under section 3335.16 of the Revised Code or the central state university extension program;

(14) Any other organization that the industry sector partnership considers necessary to further the shared goal of meeting the industry cluster's human resources needs.

(C) The director of housing and development ~~services~~, in consultation with the governor's office of workforce transformation, shall develop a grant program to support industry sector partnerships and sector partnership networks. An industry sector partnership or sector partnership network may use a grant awarded under this section to do any of the following:

(1) Hire employees to coordinate industry sector partnership or sector partnership network activities;

(2) Develop curricula or other educational resources to support the industry sector partnership or sector partnership network;

(3) Market the industry sector partnership or sector partnership network and opportunities the industry sector

partnership or sector partnership network creates for workforce development activities;

(4) Any other activity the director has approved in rules adopted under division (E) of this section.

(D) The director shall do both of the following:

(1) Establish a system for evaluating and scoring grant applications, which prioritizes collaborative community-based solutions, including sector partnership networks;

(2) Award a grant to an industry sector partnership or a sector partnership network that submits a complete application for funding describing the activities in division (C) of this section the partnership or network will use the funds to support and meets the scoring criteria established under division (D)(1) of this section.

(E) The director may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the grant program.

Sec. 122.1710. (A) As used in this section:

(1) "Low-income individual" has the same meaning as "low-income person" in section 122.66 of the Revised Code.

(2) "Microcredential" has the same meaning as in section 122.178 of the Revised Code.

(3) "OhioMeansJobs web site" has the same meaning as in section 6301.01 of the Revised Code.

(4) "Partially unemployed" and "totally unemployed" have the same meanings as in section 4141.01 of the Revised Code.

(5) "Training provider" means all of the following:

(a) A state institution of higher education as defined in section 3345.011 of the Revised Code;

(b) An Ohio technical center as defined in section 3333.94 of the Revised Code;

(c) A private business or institution that offers training to allow an individual to earn one or more microcredentials.

(B) There is hereby created the individual microcredential assistance program to reimburse training providers for training costs for individuals to earn a microcredential. The department of housing and development, in consultation with the governor's office of workforce transformation, shall administer the program.

(C) A training provider seeking to participate in the program shall submit an application to the director of housing and development. The training provider shall include in the application all of the following information:

(1) The number of microcredentials the training provider will seek a reimbursement for and the names of the microcredentials;

(2) The cost of the training for each microcredential;

(3) The total amount of the reimbursement the training provider will seek;

(4) The training provider's plan to provide opportunities for individuals who are low income, partially unemployed, or totally unemployed to participate in a training program and receive a microcredential;

(5) Any other information the director requires.

(D)(1) The director shall consider the following factors in determining whether to approve an application submitted under division (C) of this section:

(a) The duration of the training program;

(b) The cost of the training;

(c) Whether approving an application will promote regional diversity in apportioning reimbursements uniformly across the state;

(d) The training provider's commitment to providing opportunities for individuals who are low income, partially unemployed, or totally unemployed to participate in a training program and receive a microcredential.

(2) In determining regional diversity under division (D)(1)(c) of this section, the director shall use the regions established under division (G) of section 122.178 of the Revised Code.

(3) The director shall not approve an application submitted under this section if either of the following apply:

(a) The microcredentials identified in the application are not included in the list the chancellor of higher education establishes under section 122.178 of the Revised Code.

(b) The training provider has violated Chapter 4111. of the Revised Code within the four fiscal years immediately preceding the date of application.

(4) The director shall notify a training provider in writing of the director's decision to approve or deny the training provider's application to participate in the program.

(E) A participating training provider shall not charge an individual participating in a training program to earn a microcredential for which the training provider is seeking a reimbursement for either of the following:

(1) Any costs associated with the individual's participation in the training program;

(2) Any costs to the training provider resulting from an individual not completing the training program.

(F)(1) Each participating training provider seeking reimbursement for training costs for one or more microcredentials earned by one or more individuals in a training program shall submit an application to the director after the individual or individuals have earned a microcredential. The training provider shall include in the reimbursement application all of the following information:

(a) The actual cost for the training provider to provide each individual with the training;

(b) Evidence that each individual earned a microcredential;

(c) Any demographic information of each individual that the individual provides to the training provider, including race and gender.

(2) The amount of the reimbursement shall be not more than three thousand dollars for each microcredential an individual receives. A participating training provider may not receive a reimbursement for any additional individual who earns a microcredential beyond the number of microcredentials included in the application under division (C) of this section. A participating training provider may receive a total

reimbursement of five hundred thousand dollars in a fiscal year.

(3) A training provider may request that an individual participating in the training provider's program provide demographic information to the training provider, including race and gender. An individual is not required to provide that information.

(G) The director shall do both of the following regarding the operation of the program:

(1) Create an application to participate in the program and an application for reimbursement;

(2) Create and distribute a survey to each individual who successfully earned a microcredential because of a reimbursement to a training provider under this section inquiring as to the individual's occupation and wages at the time of completing the survey.

(H) The director shall include on the internet web site maintained by the department, and the governor's office of workforce transformation shall include on the office's internet web site and the OhioMeansJobs web site, all of the content created under division (G) of this section.

(I) The director may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to implement this section, including establishing priority guidelines for approving applications under division (D) of this section.

(J) Any personal information of an individual the director receives in connection with the individual microcredential assistance program created under this section is not a public record for purposes of section 149.43 of the Revised Code.

However, the director may use the information as necessary to complete the reports required under section 122.1711 of the Revised Code.

Sec. 122.1711. (A) Beginning on the first day of August immediately following ~~the effective date of this section~~ April 14, 2020, and every August first thereafter, the director of housing and development ~~services~~ shall submit to the general assembly a written report that compiles and includes information required in this section regarding the programs created under sections 122.178, 122.179, and 122.1710 of the Revised Code.

(1) For the TechCred program created under section 122.178 of the Revised Code, the director shall include in the report required under division (A) of this section all of the following information:

(a) The average per cent rate change of wages during the previous year, if any, for prospective or incumbent employees who earned a microcredential categorized by microcredentials earned in each region and statewide;

(b) The average per cent rate change of wages during the previous years, if any, for prospective or incumbent employees who earned a microcredential categorized by the region in which employees reside and statewide;

(c) The average annual wages paid to positions for which holding a microcredential or having the occupational skills acquired through obtaining a microcredential is required, categorized by each region and statewide;

(d) The rate of change during the previous year of unemployment categorized by each region and statewide;

(e) A list of the microcredentials established by the

chancellor of higher education under section 122.178 of the Revised Code categorized by each region and statewide;

(f) A demographic analysis of employees who earned a microcredential under the TechCred program based on the race and gender of each employee;

(g) A demographic analysis of employers who received a reimbursement through the TechCred program based on the race and gender of each employer;

(h) Any other information the director wishes to include.

(2) For the individual microcredential assistance program created under section 122.1710 of the Revised Code, the director shall include in the report required under division (A) of this section all of the following information:

(a) The information required under divisions (A)(1)(a) to (c) of this section, except that the information shall represent the individuals who successfully earned a microcredential because of a reimbursement to a training provider under the individual microcredential assistance program;

(b) A demographic analysis of individuals who earned a microcredential under the individual microcredential assistance program based on the race and gender of each individual;

(c) An analysis of the results of the surveys the director distributed under division (G) of section 122.1710 of the Revised Code categorized by each region and statewide;

(d) The rate of completion for each approved microcredential categorized by region and statewide;

(e) Any other information the director wishes to include.

(3) For the grant program to support industry sector partnerships and sector partnership networks created under section 122.179 of the Revised Code, the director shall include in the report required under division (A) of this section all of the following information:

(a) A list, categorized by region and statewide, of each industry sector partnership and sector partnership network to which a grant was awarded under section 122.179 of the Revised Code;

(b) A list detailing the member composition of each industry sector partnership and sector partnership network to which a grant was awarded under section 122.179 of the Revised Code, including each employer and representative of an industry cluster;

(c) Information regarding the activities described in division (C) of section 122.179 of the Revised Code for which industry sector partnerships and sector partnership networks used grants awarded under that section.

(B) In reporting on regional information under this section, the director shall use the regions established under section 122.178 of the Revised Code.

(C) The director shall include in the report under division (A) of this section any information the director receives under division (C)(2)(b), (c), or (d) of section 122.178 of the Revised Code or division (F)(1)(c) of section 122.1710 of the Revised Code.

(D) The director shall market the programs created under sections 122.178, 122.179, and 122.1710 of the Revised Code.

Sec. 122.18. (A) As used in this section:

(1) "Facility" means all real property and interests in real property owned by either of the following:

(a) A landlord and leased to a tenant pursuant to a project that is the subject of an agreement under this section;

(b) The United States or any department, agency, or instrumentality of the United States.

(2) "Full-time employee" has the same meaning as under section 122.17 of the Revised Code.

(3) "Landlord" means a county or municipal corporation, or a corporate entity that is an instrumentality of a county or municipal corporation and that is not subject to the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) "New employee" means a full-time employee first employed by, or under or pursuant to a contract with, the tenant in the project that is the subject of the agreement after a landlord enters into an agreement with the tax credit authority under this section.

(5) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the tenant or tenants at a facility during a year from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code.

(6) "Retained income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code from employees retained at an existing facility recommended for closure to the base realignment and closure commission in the United States department of defense.

(7) "Tenant" means the United States, any department,

agency, or instrumentality of the United States, or any person under contract with the United States or any department, agency, or instrumentality of the United States.

(B) The tax credit authority may enter into an agreement with a landlord under which an annual payment equal to the new income tax revenue or retained income tax revenue, as applicable, or the amount called for under division (D)(3) or (4) of this section shall be made to the landlord from moneys of this state that were not raised by taxation, and shall be credited by the landlord to the rental owing from the tenant to the landlord for a facility.

(C) A landlord that proposes a project to create new jobs in this state or retain jobs in this state at an existing facility recommended for closure or realignment to the base realignment and closure commission in the United States department of defense may apply to the tax credit authority to enter into an agreement for annual payments under this section. The director of housing and development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the landlord for annual payments under this section if it determines all of the following:

(1) The project will create new jobs in this state or retain jobs at a facility recommended for closure or realignment to the base realignment and closure commission in the United States department of defense.

(2) The project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state.

(3) Receiving the annual payments will be a major factor in the decision of the landlord and tenant to go forward with the project.

(D) An agreement with a landlord for annual payments shall include all of the following:

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

(2) The term of the agreement, which shall not exceed twenty years;

(3) Based on the estimated new income tax revenue or retained income tax revenue, as applicable, to be derived from the facility at the time the agreement is entered into, provision for a guaranteed payment to the landlord commencing with the issuance by the landlord of any bonds or other forms of financing for the construction of the facility and continuing for the term approved by the authority;

(4) Provision for offsets to this state of the annual payment in years in which such annual payment is greater than the guaranteed payment of amounts previously paid by this state to the landlord in excess of the new income tax revenue or retained income tax revenue, as applicable, by reason of the guaranteed payment;

(5) A specific method for determining how many new employees are employed during a year;

(6) A requirement that the landlord annually shall obtain from the tenant and report to the director of housing and development the number of new employees and the new income tax revenue withheld in connection with the new employees, or the number of retained employees and the retained income tax revenue

withheld in connection with the retained employees, as applicable, and any other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of housing and development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the landlord stating that the amounts have been verified.

(E) The director of housing and development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section.

Sec. 122.19. As used in sections 122.19 to 122.22 of the Revised Code:

(A) "Distressed area" has the same meaning as in section 122.16 of the Revised Code.

(B) "Eligible applicant" means any of the following that are designated by the legislative authority of a county, township, or municipal corporation as provided in division (B)(1) of section 122.22 of the Revised Code:

(1) A port authority as defined in division (A) of section 4582.01 or division (A) of section 4582.21 of the Revised Code;

(2) A community improvement corporation as described in section 1724.01 of the Revised Code;

(3) A community-based organization or action group that provides social services and has experience in economic development;

(4) Any other nonprofit economic development entity;

(5) A county, township, or municipal corporation if it designates itself.

(C) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area, as designated annually by the director of housing and development under division (A) of section 122.21 of the Revised Code.

(D) "Governing body" means, in the case of a county, the board of county commissioners; in the case of a municipal corporation, the legislative authority; and in the case of a township, the board of township trustees.

(E) "Infrastructure improvements" includes site preparation, including building demolition and removal; retention ponds and flood and drainage improvements; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications hook-ups; and waterway and railway access improvements.

(F) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level, or other census block tracts contiguous to such census block tracts.

(G) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(H) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(I) "Redevelopment plan" means a plan that includes all of the following: a plat; a land use description; identification of all utilities and infrastructure needed to develop the property, including street connections; highway, rail, air, or water access; utility connections; water and sewer treatment facilities; storm drainage; and parking, and any other elements required by a rule adopted by the director of housing and development under division (B) of section 122.21 of the Revised Code.

(J) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of housing and development. The petition shall include documentation that demonstrates all of the following:

(1) The number of jobs lost by the closing or downsizing;

(2) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the Ohio department of job and family services;

(3) The annual payroll associated with the job loss;

(4) The amount of state and local taxes associated with the job loss;

(5) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

Sec. 122.20. (A) The urban and rural initiative grant program is hereby created to promote economic development and improve the economic welfare of the people of the state, which shall be accomplished by the department of housing and development awarding grants to eligible applicants for use in an eligible area for any of the following purposes:

(1) Land acquisition;

(2) Infrastructure improvements;

(3) Voluntary actions undertaken on property eligible for the voluntary action program created under Chapter 3746. of the Revised Code;

(4) Renovation of existing structures.

(B) The total amount of grants awarded under the program shall not exceed two million dollars. No grant shall be awarded without the prior approval of the controlling board.

(C) As a condition of receiving a grant under this section, and except as provided in division (D) of this section, an applicant shall agree not to permit the use of a site that is developed or improved with such grant moneys to cause the relocation of jobs to that site from elsewhere in this state.

(D) A site developed or improved with grant moneys awarded under this section may be the site of jobs relocated from elsewhere in this state if the director of housing and development does all of the following:

(1) Makes a written determination that the site from which the jobs would be relocated is inadequate to meet market or industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(2) Provides a copy of the determination required by division (D)(1) of this section to the members of the general assembly whose legislative districts include the site from which the jobs would be relocated, and to the joint legislative committee on tax incentives;

(3) Determines that the governing body of the area from which the jobs would be relocated has been notified in writing by the relocating company of the possible relocation.

(E) No eligible applicant that receives from the program any grant of money for land acquisition, infrastructure improvements, or renovation of existing structures in order to develop an industrial park site for a distressed area, labor surplus area, or situational distress area as defined in section 122.19 of the Revised Code that also is a distressed area, labor surplus area, or situational distress area as defined in section 122.23 of the Revised Code shall use the money to compete against any existing Ohio industrial parks.

(F) An eligible applicant that receives a grant from the program shall not be precluded from being considered for or participating in other financial assistance programs offered by the department of housing and development, the Ohio environmental protection agency, or the Ohio water development authority.

Sec. 122.21. In administering the urban and rural initiative grant program created under section 122.20 of the Revised Code, the director of housing and development shall do all of the following:

(A) Designate, within three months after the publication of each decennial census by the United States census bureau, the

entities that constitute the eligible areas in this state;

(B) Adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and forms by which eligible applicants in eligible areas may apply for a grant, which procedures shall include a requirement that the applicant file a redevelopment plan; standards and procedures for reviewing applications and awarding grants; procedures for distributing grants to recipients; procedures for monitoring the use of grants by recipients; requirements, procedures, and forms by which recipients who have received grants shall report their use of that assistance; and standards and procedures for terminating and requiring repayment of grants in the event of their improper use. The rules adopted under this division shall comply with sections 122.19 to 122.22 of the Revised Code and shall include a rule requiring that an eligible applicant who receives a grant from the program provide a matching contribution of at least twenty-five per cent of the amount of the grant awarded to the eligible applicant.

The rules shall require that any eligible applicant for a grant for land acquisition demonstrate to the director that the property to be acquired meets all state environmental requirements and that utilities for that property are available and adequate. The rules shall require that any eligible applicant for a grant for property eligible for the voluntary action program created under Chapter 3746. of the Revised Code receive disbursement of grant moneys only after receiving a covenant not to sue from the director of environmental protection under section 3746.12 of the Revised Code and shall require that those moneys be disbursed only as reimbursement of actual expenses incurred in the undertaking of the voluntary action. The rules shall require that whenever any money is

granted for land acquisition, infrastructure improvements, or renovation of existing structures in order to develop an industrial park site for a distressed area, labor surplus area, or situational distress area as defined in section 122.19 of the Revised Code that also is a distressed area, labor surplus area, or situational distress area as defined in section 122.23 of the Revised Code, a substantial portion of the site be used for manufacturing, distribution, high technology, research and development, or other businesses in which a majority of the product or service produced is exported out of the state. Any retail use at the site shall not constitute a primary use but only a use incidental to other eligible uses. The rules shall require that whenever any money is granted for land acquisition, infrastructure improvements, and renovation of existing structures in order to develop an industrial park site for a distressed area, labor surplus area, or situational distress area as defined in section 122.19 of the Revised Code that also is a distressed area, labor surplus area, or situational distress area as defined in section 122.23 of the Revised Code, the applicant for the grant shall verify to the department of housing and development the existence of a local economic development planning committee in a municipal corporation, county, or township whose territory includes the eligible area. The committee shall consist of members of the public and private sectors who live in that municipal corporation, county, or township. The local economic development planning committee shall prepare and submit to the department a five-year economic development plan for that municipal corporation, county, or township that identifies, for the five-year period covered by the plan, the economic development strategies of a municipal corporation, county, or township whose territory includes the proposed industrial park site. The economic development plan

shall describe in detail how the proposed industrial park would complement other current or planned economic development programs for that municipal corporation, county, or township, including, but not limited to, workforce development initiatives, business retention and expansion efforts, small business development programs, and technology modernization programs.

(C) Report to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives by the first day of August of each year on the activities carried out under the program during the preceding calendar year. The report shall include the total number of grants made that year, and, for each individual grant awarded, the following: the amount and recipient, the eligible applicant, the purpose for awarding the grant, the number of firms or businesses operating at the awarded site, the number of employees employed by each firm or business, any excess capacity at an industrial park site, and any additional information the director declares to be relevant.

(D) Inform local governments and others in the state of the availability of grants under section 122.20 of the Revised Code;

(E) Annually compile, pursuant to rules adopted by the director of housing and development in accordance with Chapter 119. of the Revised Code, using pertinent information submitted by any municipal corporation, county, or township, a list of industrial parks located in the state. The list shall include the following information, expressed if possible in terms specified in the director's rules adopted under this division: location of each industrial park site, total acreage of each

park site, total occupancy of each park site, total capacity for new business at each park site, total capacity of each park site for sewer, water, and electricity, a contact person for each park site, and any additional information the director declares to be relevant. Once the list is compiled, the director shall make it available to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives.

Sec. 122.22. (A) In order to be eligible for a grant under section 122.20 of the Revised Code, the applicant shall demonstrate both of the following to the director of housing and development:

(1) That the applicant is proposing to carry out the purposes described in section 122.20 of the Revised Code in an entity that has been designated as an eligible area by the director of housing and development under division (A) of section 122.21 of the Revised Code;

(2) The applicant's capacity to undertake and oversee the project, as evidenced by documentation of the applicant's past performance in economic development projects.

(B) In order for an applicant to be eligible for a grant under section 122.20 of the Revised Code, the governing body of the entity that has been designated as an eligible area by the director of housing and development in accordance with division (A) of section 122.21 of the Revised Code shall, by resolution or ordinance, do all of the following:

(1) Designate the applicant that will carry out the purposes described in section 122.20 of the Revised Code and that qualifies as one of the five categories of eligible

applicant listed in division (B) of section 122.19 of the Revised Code;

(2) Specify the eligible area's financial participation in the project;

(3) Include a marketing strategy to be utilized in administering the project that includes details used in past successful projects;

(4) Identify a management plan for the project.

(C) A governing body may designate the political subdivision it governs to be an eligible applicant.

(D) In order to be eligible for a grant under section 122.20 of the Revised Code for land acquisition, infrastructure improvements, or renovation of existing structures in order to develop an industrial park site for a distressed area, labor surplus area, or situational distress area as defined in section 122.19 of the Revised Code that also is a distressed area, labor surplus area, or situational distress area as defined in section 122.23 of the Revised Code, an applicant must be approved as a grant applicant by resolution of the legislative authority of each county containing any area that has been designated as an eligible area by the director of housing and development under division (A) of section 122.21 of the Revised Code and whose governing body has designated the applicant to seek a grant for any of these purposes on behalf of the eligible area. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria for the legislative authority to use in determining whether to approve a qualified applicant.

Sec. 122.23. As used in sections 122.23 to 122.27 of the

Revised Code:

(A) "Distressed area" means a county with a population of less than one hundred twenty-five thousand according to the most recent federal decennial census published by the United States census bureau that meets at least two of the following criteria:

(1) Its average rate of unemployment, during the most recent five-year period for which local area unemployment statistics published by the United States bureau of labor statistics are available, as of the date the most recent federal decennial census was published, is equal to or greater than one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(2) It has a per capita personal income equal to or less than eighty per cent of the per capita personal income of the United States as determined by the most recently available data from the United States department of commerce, bureau of economic analysis as of the date the most recent federal decennial census was published.

(3) Its ratio of personal current transfer receipts to total personal income is equal to or greater than twenty-five per cent, as determined by the most recently available data from the United States department of commerce, bureau of economic analysis as of the date the most recent federally decennial census was published.

If a federal agency ceases to publish the applicable data described in division (A) of this section, the director of housing and development shall designate, on the department of housing and development's web site, an alternative source of the applicable data published by a federal agency or, if no such

source is available, another reliable source.

(B) "Eligible applicant" means any of the following that is designated by the governing body of an eligible area as provided in division (B)(1) of section 122.27 of the Revised Code:

(1) A port authority as defined in division (A) of section 4582.01 or division (A) of section 4582.21 of the Revised Code;

(2) A community improvement corporation as defined in section 1724.01 of the Revised Code;

(3) A community-based organization or action group that provides social services and has experience in economic development;

(4) Any other nonprofit economic development entity;

(5) A private developer that previously has not received financial assistance under section 122.24 of the Revised Code in the current biennium and that has experience and a successful history in industrial development.

(C) "Eligible area" means a distressed area, a labor surplus area, a rural area, or a situational distress area, as designated by the director of housing and development pursuant to division (A) of section 122.25 of the Revised Code.

(D) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(E) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(F) "Situational distress area" means a county that has a population of less than one hundred twenty-five thousand, or a

municipal corporation in such a county, that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of housing and development. The petition shall include documentation that demonstrates all of the following:

(1) The number of jobs lost by the closing or downsizing;

(2) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the director of job and family services;

(3) The annual payroll associated with the job loss;

(4) The amount of state and local taxes associated with the job loss;

(5) The impact that the closing or downsizing has on the suppliers located in the rural county or municipal corporation.

(G) "Governing body" means, in the case of a county, the board of county commissioners; in the case of a municipal corporation, the legislative authority; and in the case of a township, the board of township trustees.

(H) "Infrastructure improvements" includes site preparation, including building demolition and removal; retention ponds and flood and drainage improvements; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications hook-ups; and waterway and railway access improvements.

(I) "Private developer" means any individual, firm, corporation, or entity, other than a nonprofit entity, limited profit entity, or governmental entity.

(J) "Rural area" means any Ohio county that was an eligible area immediately prior to September 30, 2021, and any other Ohio county that is not designated as part of a metropolitan statistical area by the United States office of management and budget.

Sec. 122.24. To promote economic development in rural areas and to improve the economic welfare of the people of the state, the director of housing and development shall administer the rural industrial park loan program, which is hereby established in accordance with Ohio Constitution, Article VIII, Section 13, to assist eligible applicants in financing the development and improvement of industrial parks by providing financial assistance in the form of loans and loan guarantees for land acquisition; constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, or improving industrial park buildings; and infrastructure improvements.

This program shall not be used to compete against existing Ohio industrial parks.

An eligible applicant receiving assistance under the rural industrial park program is not precluded from further participation in this or any other department of housing and development financial program, except that a private developer that previously has received financial assistance under this section is precluded from further participation in the rural industrial park loan program.

Sec. 122.25. (A) In administering the program established

under section 122.24 of the Revised Code, the director of housing and development shall do all of the following:

(1) Designate, within three months after the publication of each decennial census by the United States census bureau, the entities that constitute the eligible areas in this state as defined in section 122.23 of the Revised Code;

(2) Inform local governments and others in the state of the availability of the program and financial assistance established under sections 122.23 to 122.27 of the Revised Code;

(3) Report to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives by the first day of August of each year on the activities carried out under the program during the preceding calendar year. The report shall include the number of loans made that year and the amount and recipient of each loan.

(4) Work in conjunction with conventional lending institutions, local revolving loan funds, private investors, and other private and public financing sources to provide loans or loan guarantees to eligible applicants;

(5) Establish fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions for loans and loan guarantees provided under the program;

(6) Require each applicant to demonstrate the suitability of any site for the assistance sought; that the site has been surveyed, that the site has adequate or available utilities, and that there are no zoning restrictions, environmental regulations, or other matters impairing the use of the site for

the purpose intended;

(7) Require each applicant to provide a marketing plan and management strategy for the project;

(8) Adopt rules establishing all of the following:

(a) Forms and procedures by which eligible applicants may apply for assistance;

(b) Criteria for reviewing, evaluating, and ranking applications, and for approving applications that best serve the goals of the program;

(c) Reporting requirements and monitoring procedures;

(d) Guidelines regarding situations in which industrial parks would be considered to compete against one another for the purposes of division (B)(2) of section 122.27 of the Revised Code;

(e) Any other rules necessary to implement and administer the program.

(B) The director may adopt rules establishing requirements governing the use of any industrial park site receiving assistance under section 122.24 of the Revised Code, such that a certain portion of the site must be used for manufacturing, distribution, high technology, research and development, or other businesses wherein a majority of the product or service produced is exported out of the state.

(C) As a condition of receiving assistance under section 122.24 of the Revised Code, and except as provided in division (D) of this section, an applicant shall agree, for a period of five years, not to permit the use of a site that is developed or improved with such assistance to cause the relocation of jobs to

that site from elsewhere in the state.

(D) A site developed or improved with assistance under section 122.24 of the Revised Code may be the site of jobs relocated from elsewhere in the state if the director does all of the following:

(1) Makes a written determination that the site from which the jobs would be relocated is inadequate to meet market or industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(2) Provides a copy of the determination required by division (D)(1) of this section to the members of the general assembly whose legislative districts include the site from which the jobs would be relocated;

(3) Determines that the governing body of the area from which the jobs would be relocated has been notified in writing by the relocating company of the possible relocation.

(E) The director shall obtain the approval of the controlling board for any loan or loan guarantee provided under sections 122.23 to 122.27 of the Revised Code.

Sec. 122.26. The rural industrial park loan fund is hereby created in the state treasury for the purposes of the program established under section 122.24 of the Revised Code. The director of housing and development ~~services~~ shall deposit money received for the purposes of that section to the credit of the fund.

Sec. 122.27. (A) In order to be eligible for financial assistance under section 122.24 of the Revised Code, an applicant shall demonstrate to the director of housing and development the applicant's capacity to undertake and oversee

the project, as evidenced by documentation of the applicant's past performance in economic development projects.

(B) In order for an applicant to be eligible for financial assistance under section 122.24 of the Revised Code, both of the following apply:

(1) The governing body of the entity that has been designated as an eligible area by the director of housing and development under division (A) of section 122.25 of the Revised Code, by resolution or ordinance, shall designate the applicant that will carry out the project for the purposes described in section 122.24 of the Revised Code and specify the eligible area's financial participation in the project.

(2) The board of county commissioners of a county that has been designated as an eligible area by the director of housing and development under division (A)(1) of section 122.25 of the Revised Code shall certify, by resolution, that no existing industrial park is located in the county that would compete against an industrial park that would be developed and improved in the county through the use of financial assistance provided to the applicant under the rural industrial park loan program. Guidelines regarding situations in which industrial parks would be considered to compete against one another shall be established by rule in accordance with division (A)(8)(d) of section 122.25 of the Revised Code. However, an existing industrial park owner's consent to the new industrial park is sufficient to demonstrate noncompetition.

(C) Solely for the purpose of applying for assistance for infrastructure improvements, a governing body may designate itself as an eligible applicant.

Sec. 122.29. (A) The Ohio river commission is created within the department of housing and development to develop and promote economic development, marine cargo terminal operations, and travel and tourism on the Ohio river and its tributaries. The commission consists of the following members:

(1) The director of housing and development, or the director's designee, who shall serve as chairperson of the commission;

(2) The director of transportation, or the director's designee;

(3) The director of natural resources, or the director's designee;

(4) Six members representing the general public, three of whom shall be appointed by the president of the senate and three of whom shall be appointed by the speaker of the house of representatives.

The appointed members may represent private industry associated or affiliated with marine cargo terminal operations on the Ohio river and private industry possessing experience in marine cargo terminal operations or travel and tourism on the Ohio river.

(B)(1) Each appointed member of the commission shall be a resident of this state or a designee of a business licensed or registered in this state.

(2) All members shall be reimbursed for actual expenses incurred in the performance of their duties.

(C)(1) Within sixty days after ~~the effective date of this section~~April 3, 2025, the speaker of the house of

representatives and the senate president shall make initial appointments to the commission.

(2) Terms of office for appointed members shall be for four years.

(3) Vacancies shall be filled in the manner provided for original appointments.

(4) Each term shall end on the same day of the same month as did the term that it succeeds. Each appointed member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or for a period of sixty days, whichever occurs first. All members are eligible for reappointment.

(D) Five members of the commission constitute a quorum. The affirmative vote of a majority of the quorum is necessary for any action taken by the commission. No vacancy in the membership of the commission impairs the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(E) All members of the commission are subject to Chapter 102. of the Revised Code.

(F) The department of housing and development may assist the commission in furtherance of the commission's purposes. The department of housing and development and the department of transportation, upon the request of the commission, shall

cooperate in the implementation of this section. The department of housing and development shall provide meeting and office space for the commission.

(G) Expenditures by the department of housing and development, the commission, or any other state agency for capital improvements to promote economic development, marine cargo terminal operations, and travel and tourism on the Ohio river and its tributaries are subject to the approval of the controlling board.

Sec. 122.291. (A) The Ohio river commission may do all of the following, subject to available funding through appropriations made directly by the general assembly or the controlling board to the commission:

(1) Employ an executive director who shall have appropriate experience as determined by the commission, and a secretary-treasurer and other employees that the commission considers appropriate. The commission may fix the compensation of the employees.

(2) Adopt and, from time to time, ratify, amend, and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules to implement and make effective its powers and duties;

(3) Receive, promote, support, and consider recommendations, from public or private planning organizations, and develop a master plan for Ohio river infrastructure and transportation projects;

(4) Coordinate with port authorities, private port operators, metropolitan planning organizations, regional transportation planning organizations, local development

districts, Ohio river service entities, utility service providers, and agricultural, tourism, and recreational interests, regarding Ohio river infrastructure and transportation;

(5) In conjunction with applicable state agencies, coordinate with state agencies, local governments and communities, other states, and the federal government regarding Ohio river issues;

(6) Collect, track, and maintain key statistics and data regarding commerce on the Ohio river and make an annual report to the general assembly;

(7) Ensure the monitoring of federal, state, and local policies, programs, and priorities pertaining to the development and operation of marine cargo terminals and travel and tourism on the Ohio river;

(8) Prioritize policies, programs, and issues identified in the Ohio maritime strategy prepared by the department of transportation and in the department's "Economic Impact of the Ohio River Maritime Activity" study, as those or similar documents or reports are published and updated from time to time by the department;

(9) Evaluate policies, programs, programs of research, and priorities to offset the continued decline in coal production and consumption within the Ohio river basin and promote prosperity in the Appalachian region of this state;

(10) Administer development funds and seek, support, and assist the Ohio river industry in the utilization of available grants, loans, and other finance mechanisms in support of Ohio river projects;

(11) Represent the interests of this state in regional, national, and international forums pertaining to economic development, marine cargo terminals, and travel and tourism on the Ohio river and its tributaries;

(12) Coordinate, for dissemination and publication, information regarding the commission and its related activities in connection with the Ohio river;

(13) Raise funds through direct solicitation or other fundraising events alone, or with other groups, and accept gifts, grants, and bequests from individuals, corporations, foundations, governmental agencies, and public and private organizations and institutions. The funds, gifts, grants, or bequests received pursuant to this section shall be deposited to the Ohio river commission fund created in section 122.292 of the Revised Code.

(B) The commission, or the department of housing and development, on behalf of the commission, may apply for and receive from the United States government grants in accordance with any federal law or program, for the benefit of Ohio river infrastructure, transportation, or recreation and tourism.

Sec. 122.30. The director of housing and development ~~services~~ is vested with the powers and duties provided in sections 122.28 and 122.30 to 122.36 of the Revised Code, to promote the welfare of the people of the state through the interaction of the business and industrial community and educational institutions in the development of new technology and enterprise.

(A) It is necessary for the state to establish the programs created pursuant to sections 122.28 and 122.30 to

122.36 of the Revised Code to accomplish the following purposes which are determined to be essential:

(1) Improve the existing industrial and agricultural base of the state;

(2) Improve the economy of the state by providing employment, increasing productivity, and slowing the rate of inflation;

(3) Develop markets worldwide for the products of the state's natural resources and agricultural and manufacturing industries;

(4) Maintain a high standard of living for the people of the state.

(B) The director shall do all of the following:

(1) Receive applications for assistance under sections 122.28 and 122.30 to 122.36 of the Revised Code;

(2) Make a determination whether to approve the application for assistance;

(3) Transmit determinations to approve assistance exceeding forty thousand dollars to the controlling board, together with any information the controlling board requires, for the board's review and decision as to whether to approve the assistance;

(4) Gather and disseminate information and conduct hearings, conferences, seminars, investigations, and special studies on problems and programs concerning industrial research and new technology and their commercial applications in the state;

(5) Establish an annual program to recognize the accomplishments and contributions of individuals and organizations in the development of industrial research and new technology in the state;

(6) Stimulate both public and industrial awareness and interest in industrial research and development of new technology primarily in the areas of industrial processes, implementation, energy, agribusiness, medical technology, avionics, and food processing;

(7) Develop and implement comprehensive and coordinated policies, programs, and procedures promoting industrial research and new technology;

(8) Propose appropriate legislation or executive actions to stimulate the development of industrial research and new technology by enterprises and individuals;

(9) Encourage and facilitate contracts between industry, agriculture, educational institutions, federal agencies, and state agencies, with special emphasis on industrial research and new technology by small businesses and agribusiness;

(10) Participate with any state agency in developing specific programs and goals to assist in the development of industrial research and new technology and monitor performance;

(11) Assist enterprises in obtaining alternative forms of governmental or commercial financing for industrial research and new technology;

(12) Assist enterprises or individuals in the implementation of new programs and policies and the expansion of existing programs to provide an atmosphere conducive to increased cooperation among and participation by individuals,

enterprises, and educational institutions engaged in industrial research and the development of new technology;

(13) Advertise, prepare, print, and distribute books, maps, pamphlets, and other information;

(14) Include in the director's annual report to the governor and the general assembly a report on the activities for the preceding calendar year under sections 122.28 and 122.30 to 122.36 of the Revised Code;

(15) Approve the expenditure of money appropriated by the general assembly for the purpose of sections 122.28 and 122.30 to 122.36 of the Revised Code;

(16) Identify and implement federal research and development programs which would link Ohio's industrial base, research facilities, and natural resources;

(17) Employ and fix the compensation of technical and professional personnel, who shall be in the unclassified civil service, and employ other personnel, who shall be in the classified civil service, as necessary to carry out the provisions of sections 122.28 and 122.30 to 122.36 of the Revised Code.

Sec. 122.31. All expenses and obligations incurred by the director of housing and development ~~services~~ in carrying out the director's powers and duties under sections 122.28 and 122.30 to 122.36 of the Revised Code, are payable from revenues or other receipts or income from grants, gifts, contributions, compensation, reimbursement, and funds established in accordance with those sections or general revenue funds appropriated by the general assembly for operating expenses of the director.

Sec. 122.32. The director of housing and development—

~~services~~, on behalf of the programs authorized pursuant to sections 122.28 and 122.30 to 122.36 of the Revised Code, may receive and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, from the United States or any agency of the United States, and from any political subdivision of the state. The director may agree to repay any contribution of money or to return any property contributed or its value at times, in amounts, and on terms and conditions excluding the payment of interest as the director determines at the time the contribution is made. The director may evidence the obligation by written contracts, subject to section 122.31 of the Revised Code, provided that the director shall not thereby incur indebtedness of or impose liability upon the state or any political subdivision.

Sec. 122.33. The director of housing and development ~~services~~ shall administer the following programs:

(A) The industrial technology and enterprise development grant program, to provide capital to acquire, construct, enlarge, improve, or equip and to sell, lease, exchange, and otherwise dispose of property, structures, equipment, and facilities within the state.

Such funding may be made to enterprises that propose to develop new products or technologies when the director finds all of the following factors to be present:

(1) The undertaking will benefit the people of the state by creating or preserving jobs and employment opportunities or improving the economic welfare of the people of the state, and

promoting the development of new technology.

(2) There is reasonable assurance that the potential royalties to be derived from the sale of the product or process described in the proposal will be sufficient to repay the funding pursuant to sections 122.28 and 122.30 to 122.36 of the Revised Code and that, in making the agreement, as it relates to patents, copyrights, and other ownership rights, there is reasonable assurance that the resulting new technology will be utilized to the maximum extent possible in facilities located in Ohio.

(3) The technology and research to be undertaken will allow enterprises to compete more effectively in the marketplace. Grants of capital may be in such form and conditioned upon such terms as the director deems appropriate.

(B) The industrial technology and enterprise resources program to provide for the collection, dissemination, and exchange of information regarding equipment, facilities, and business planning consultation resources available in business, industry, and educational institutions and to establish methods by which small businesses may use available facilities and resources. The methods may include, but need not be limited to, leases reimbursing the educational institutions for their actual costs incurred in maintaining the facilities and agreements assigning royalties from development of successful products or processes through the use of the facilities and resources. The director shall operate this program in conjunction with the board of regents.

(C) The Thomas Alva Edison grant program to provide grants to foster research, development, or technology transfer efforts involving enterprises and educational institutions that will

lead to the creation of jobs.

(1) Grants may be made to a nonprofit organization or a public or private educational institution, department, college, institute, faculty member, or other administrative subdivision or related entity of an educational institution when the director finds that the undertaking will benefit the people of the state by supporting research in advanced technology areas likely to improve the economic welfare of the people of the state through promoting the development of new commercial technology.

(2) Grants may be made in a form and conditioned upon terms as the director considers appropriate.

(3) Grants made under this program shall in all instances be in conjunction with a contribution to the project by a cooperating enterprise which maintains or proposes to maintain a relevant research, development, or manufacturing facility in the state, by a nonprofit organization, or by an educational institution or related entity; however, funding provided by an educational institution or related entity shall not be from general revenue funds appropriated by the Ohio general assembly. No grant made under this program shall exceed the contribution made by the cooperating enterprise, nonprofit organization, or educational institution or related entity. The director may consider cooperating contributions in the form of state of the art new equipment or in other forms provided the director determines that the contribution is essential to the successful implementation of the project. The director may adopt rules or guidelines for the valuation of contributions of equipment or other property.

(4) The director may determine fields of research from

which grant applications will be accepted under this program.

Sec. 122.35. All moneys received under sections 122.28 and 122.30 to 122.36 of the Revised Code are trust funds to be held and applied solely as provided in those sections and section 166.03 of the Revised Code. All moneys, except when deposited with the treasurer of the state, shall be kept and secured in depositories as selected by the director of housing and development ~~services~~ in the manner provided in sections 135.01 to 135.21 of the Revised Code, insofar as those sections are applicable. All moneys held by the director in trust to carry out the purposes of sections 122.28 and 122.30 to 122.36 of the Revised Code shall be used as provided in sections 122.28 and 122.30 to 122.36 of the Revised Code and at no time be part of other public funds.

Sec. 122.36. Any materials or data submitted to, made available to, or received by the director of housing and development ~~services~~ or the controlling board, to the extent that the material or data consist of trade secrets, as defined in section 1333.61 of the Revised Code, or commercial or financial information, regarding projects are not public records for the purposes of section 149.43 of the Revised Code.

Sec. 122.37. (A) There is hereby created in the department of housing and development ~~services agency~~ the steel futures program, for the purpose of preserving and improving the existing industrial base of the state, improving the economy of the state by providing employment, increased productivity, and ensuring continued technological development consistent with these goals, and maintaining a high standard of living for the people of this state. The steel futures program may be supplemental to any other enterprise assistance program

administered by the director of housing and development~~—services~~, and shall be administered so as to provide financial and technical assistance to increase the competitiveness of existing steel and steel-related industries in this state, and to encourage establishment and development of new industries of this type within the state.

The director shall develop a strategy for financial and technical assistance to steel and steel-related industries in the state, which shall include investment policies with regard to these industries.

(B) In administering the program, the director may consult with appropriate representatives of steel and steel-related industries, appropriate representatives of any union that represents workers in these industries, and other persons with expert knowledge in these industries.

(C) The director of housing and development ~~services~~ shall consult with the chairperson of the public utilities commission to foster development of public and private cooperative efforts that result in energy savings and reduced energy costs for steel and steel-related industries.

(D) Assistance may be made available to steel and steel-related industries undertaking projects the director determines to have long-term implications for and broad applicability to the economy of this state when the director finds:

(1) The undertaking of projects by the industries will benefit the people of the state by creating or preserving jobs and employment opportunities or improving the economic welfare of the people of this state, and promoting development of new technology or improving application of existing steel and steel-

related technology.

(2) The undertaking of projects by the industries will allow them to compete more effectively in the marketplace.

(E) Projects eligible to receive assistance under the steel futures program may include, but are not limited to, the following areas:

(1) Research and development specifically related to steel and steel-related industries and feasibility studies for business development within these industries;

(2) Employee training;

(3) Labor and management relations; and

(4) Technology-driven capital investment.

(F) Financial and technical assistance may be in the form and conditioned upon terms as the director considers appropriate.

(G) No later than the first day of August of each year, the director shall submit a report to the general assembly describing projects of the steel futures program, results obtained from completed projects of the program, and program projects for the next fiscal year.

Sec. 122.38. (A) As used in this section:

(1) "Small business enterprise" means any person with a principal place of business or research in the state, who meets the definition of a "small business concern" as defined in 13 C.F.R. 121.7 (a), as amended.

(2) "Eligible educational institution" means any educational institution that disseminates information, conducts

educational or technical seminars and meetings, or provides other services of value or interest to small business enterprises.

(3) "Eligible organization" means any organization, representing the interest of small business enterprises or areas of technological research, that disseminates information, conducts educational or technical seminars and meetings, or provides other services of value or interest to small business enterprises.

(B) There is hereby created in the department of housing and development the small business innovation research grant program for the purpose of providing educational, technical, and financial assistance to:

(1) Any small business enterprise engaging in or intending to engage in technological research that the director of housing and development determines to be innovative and in the broad and long-term interest of the economy of the state;

(2) Any eligible educational institution;

(3) Any eligible organization.

(C) The director may provide educational, technical, and financial assistance to small business enterprises, eligible educational institutions, and eligible organizations. Any assistance shall be in the form and conditioned upon terms the director considers appropriate.

(D) The director shall:

(1) Establish the procedures by which small business enterprises, eligible educational institutions, and eligible organizations may apply for assistance under this section;

(2) Collect, prepare, and disseminate information, describing the types of assistance offered under the program and describing revelant federal programs and services to small business enterprises, eligible educational institutions, and eligible organizations as the director considers appropriate;

(3) Adopt rules for the administration of this section, in accordance with Chapter 119. of the Revised Code.

Sec. 122.401. There is hereby established the Ohio residential broadband expansion grant program within the department of housing and development ~~services agency~~. The ~~agency~~ department shall administer and provide staff assistance for the program. The ~~agency~~ department shall be responsible for receiving and reviewing applications for program grants and for sending completed applications to the broadband expansion program authority for final review and award of program grants.

Sec. 122.403. (A)(1) There is hereby created, within the department of housing and development, the broadband expansion program authority, which shall consist of the director of housing and development or the director's designee, the director of the office of InnovateOhio or the director's designee, and three other members as follows: one member appointed by the president of the senate, one member appointed by the speaker of the house of representatives, and one member appointed by the governor.

(2) Appointed members shall have expertise in broadband infrastructure and technology. Appointed members may not be affiliated with or employed by the broadband industry or in a position to benefit from a program grant.

(B) Appointed members shall serve four year terms and are

eligible for reappointment.

(C) Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term.

(D)(1)(a) Beginning on January 1, 2022, and ending on December 31, 2025, appointed members shall receive a monthly stipend as calculated under section 145.016 of the Revised Code in an amount that will qualify each member for one year of retirement service credit under the Ohio public employees retirement system for each year of service as a member of the authority during that period.

(b) Notwithstanding the requirement of section 145.58 of the Revised Code that eligibility for health care coverage provided under that section be based on years and types of service credit in accordance with rules adopted by the public employees retirement board, if the board provides health care coverage under that section, no service credit earned for service as a member of the authority shall be considered for purposes of determining eligibility for coverage under that section.

(c) Members shall receive reimbursement for their necessary and actual expenses incurred in performing the business of the authority. The reimbursements constitute, as applicable, administrative costs of the Ohio residential broadband expansion grant program.

(2) An appointed member of the authority who is currently serving as an administrative department head under section

121.03 of the Revised Code is not eligible to receive a stipend under division (A) of this section.

(3) The ~~agency~~ department of housing and development shall be responsible for paying all reimbursements for meals and expenses under this section and, for the period beginning on January 1, 2022, and ending on December 31, 2025, all stipends under this section.

(E) The director of housing and development, or the director's designee, shall serve as chairperson of the authority. The members of the authority annually shall elect a vice-chairperson from the members of the authority. Three members of the authority constitute a quorum to transact and vote on the business of the authority. An affirmative vote of three members is necessary to approve any business, including the election of the vice-chairperson.

(F) The assignment of designees by the director of housing and development and the director of InnovateOhio shall be made in writing. If the director of housing and development assigns a designee to serve on the authority, the director shall appoint a professional employee of the department of housing and development to serve as the director's designee at authority meetings. In the absence of the director of housing and development or the director's designee, the vice-chairperson of the authority shall serve as chairperson of authority meetings.

(G) The authority is not an agency for purposes of sections 101.82 to 101.87 of the Revised Code.

Sec. 122.406. The broadband expansion program authority shall consider each application for a program grant that the department of housing and development ~~services agency~~ has

reviewed and sent to it. The authority shall score all applications according to the scoring system established under section 122.4040 of the Revised Code and award program grants based on that system according to sections 122.4043 and 122.4044 of the Revised Code.

Sec. 122.4017. (A) The broadband expansion program authority shall award program grants under the Ohio residential broadband expansion grant program using funds from the Ohio residential broadband expansion grant program fund created in section 122.4037 of the Revised Code and other funds appropriated by the general assembly.

(B) If an appropriation for the program includes funds that are not state funds or if the director of housing and development receives funds that are in the form of a gift, grant, or contribution to the broadband expansion grant program fund, the broadband expansion program authority shall award those funds as described in sections 122.40 to 122.4077 of the Revised Code, except as provided in division (C) of this section.

(C) If the use of the funds described in division (B) of this section is contingent upon meeting application, scoring, or other requirements that are different from program requirements under sections 122.40 to 122.4077 of the Revised Code, the department of housing and development shall adopt the requirements and publish a description of the different requirements with the program application as required under section 122.4040 of the Revised Code.

Sec. 122.4018. (A) Each fiscal year, the department of housing and development ~~services agency~~ shall fund program grants until funds for that fiscal year are no longer available.

(B) Any application pending at the end of the fiscal year shall be deemed denied, but may be refiled in a subsequent fiscal year provided that all information in the application is still current or has been updated.

Sec. 122.4019. (A)(1) Each fiscal year, the department of housing and development shall accept applications for program grants.

(2) To apply for a program grant, a broadband provider shall submit an application to the department on a form prescribed by the department and shall provide the information required under section 122.4020 of the Revised Code. The form shall include a statement informing the applicant that failure to comply with the program or to meet the required tier two broadband service proposed in the application may require the refund of all or a portion of the program grant awarded for the project.

(3) Applications may be submitted in person or by certified mail or electronic mail, or uploaded to a designated department web site for applications.

(B) Applications shall be accepted during a submission period specified by the broadband expansion program authority. Each submission period shall be at least sixty but not more than ninety days. Each fiscal year there shall be not more than two submission periods.

(C) The department shall publish information from submitted applications on the department's web site as follows:

(1) Not later than five days after the close of the submission period in which the application is made, the department shall publish, for each completed application, the

list of eligible addresses included with the completed applications under division (A)(1)(a) of section 122.4020 of the Revised Code.

(2) Not later than thirty-five days after the close of the submission period in which the application is made, the department shall publish all information from each completed application that it determines is not confidential under section 122.4023 of the Revised Code.

(D) If an application is incomplete, the department shall notify the broadband provider that submitted the application. The notification shall list what information is incomplete and shall describe the procedure for refiling a completed application.

(E) The department shall review an application determined incomplete under division (D) of this section as provided in sections 122.4019 to 122.4036 of the Revised Code if the application is completed and refiled:

(1) Before the end of the submission period described under division (B) of this section; or

(2) Not later than fourteen days after the end of the submission period described under division (B) of this section, if the department, for good cause shown, has granted the broadband provider an extension period of not more than fourteen days in which to file the completed application.

(F) The department shall deny an incomplete application if the broadband provider fails to complete and refile it within the applicable submission period or extension period. Applications that are denied shall not be published on the department's web site.

(G) To facilitate the challenge process, after publication of all applications, the department shall publish a provisional scoring for applications based on the scoring criteria in section 122.4041 of the Revised Code. The department shall publish the provisional scoring on its web site not later than fifteen business days after all applications have been accepted as complete under this section. The authority shall neither vote on, nor make awards based on, the provisional scoring.

Sec. 122.4020. (A) An application for a program grant under the Ohio residential broadband expansion grant program shall include, at a minimum, the following information for an eligible project:

(1) The location and description of the project, including:

(a) The residential addresses in the unserved or tier one areas where tier two broadband service will be available following completion of the project;

(b) A notarized letter of intent that the broadband provider will provide access to tier two broadband service to all of the residential addresses listed in the project;

(c) A notarized letter of intent by the broadband provider that none of the funds provided by the program grant will be used to extend or deploy facilities to any residential addresses other than those in the unserved or tier one areas that are part of the project.

(2) The amount of the broadband funding gap and the amount of state funds requested;

(3) The amount of any financial or in-kind contributions to be used towards the broadband funding gap and identification

of the contribution sources, which may include, but are not limited to, any combination of the following:

(a) Funds that the broadband provider is willing to contribute to the broadband funding gap;

(b) Funds received or approved under any other federal or state government grant or loan program;

(c) General revenue funds of a municipal corporation, township, or county comprising the area of the eligible project;

(d) Other discretionary funds of the municipal corporation, township, or county comprising the area of the eligible project;

(e) Any alternate payment terms that the broadband provider and any legislative authority in which the project is located have negotiated and agreed to pursuant to section 122.4025 of the Revised Code;

(f) Contributions or grants from individuals, organizations, or companies;

(g) Property tax assessments made by the municipal corporation under Chapter 727. of the Revised Code, township under section 505.881 of the Revised Code, or county under section 303.251 of the Revised Code.

(4) The source and amount of any financial or in-kind contributions received or approved for any part of the overall eligible project cost, but not applied to the broadband funding gap;

(5) A description of, or documentation demonstrating, the broadband provider's managerial and technical expertise and experience with broadband service projects;

(6) Whether the broadband provider plans to use wired, wireless, or satellite technology to complete the project;

(7) A description of the scalability of the project;

(8) The megabit-per-second broadband download and upload speeds planned for the project;

(9) A description of the broadband provider's customer service capabilities, including any locally based call centers or customer service offices;

(10) A copy of the broadband provider's general customer service policies, including any policy to credit customers for service outages or the provider's failure to keep scheduled appointments for service;

(11) The length of time that the broadband provider has been operating in the state;

(12) Proof that the broadband provider has the financial stability to complete the project;

(13) A projected construction timetable, including the anticipated date of the provision of tier two broadband service access within the project;

(14) A description of anticipated or preliminary government authorizations, permits, and other approvals required in connection with the project, and an estimated timetable for the acquisition of such approvals;

(15) A notification from the broadband provider informing the department of housing and development of any information contained in the application, or within related documents submitted with it, that the provider considers proprietary or a trade secret;

(16) A notarized statement that the broadband provider accepts the condition that noncompliance with Ohio residential broadband expansion grant program requirements may require the provider to refund all or part of any program grant the provider receives;

(17) A brief description of any arrangements, including any subleases of infrastructure or joint ownership arrangements that the broadband provider that submitted the application has entered into, or plans to enter into, with another broadband provider, an electric cooperative, or an electric distribution utility, to enable the offering of tier two broadband service under the project;

(18) Other relevant information that the department determines is necessary and prescribes by rule;

(19) Any other information the broadband provider considers necessary.

(B) To meet the requirement to provide proof of financial responsibility in the application, the broadband provider may submit publicly available financial statements with its application.

Sec. 122.4023. Pursuant to rules adopted under section 122.4077 of the Revised Code, the department of housing and development ~~services agency~~ shall evaluate the information and documents submitted by a broadband provider in an application under section 122.4013 of the Revised Code or by a challenging provider under section 122.4030 of the Revised Code. The evaluation shall determine whether the information and documents are proprietary or constitute a trade secret. Upon receipt of the information and documents, the ~~agency~~ department shall keep

them confidential and shall not publish them on the ~~agency's~~ department's web site, unless the ~~agency~~ department finds that any information or document is not proprietary or a trade secret. Any information or document found not to be proprietary or a trade secret under this section shall not be considered confidential and shall be published on the ~~agency~~ department web site as is required for an application under division (C)(2) of section 122.4019 of the Revised Code.

Sec. 122.4024. The department of housing and development ~~services agency~~ shall establish an automatic notification process through which interested parties may receive electronic mail notifications when the ~~agency~~ department publishes application and other information on its web site pursuant to sections 122.40 to 122.4077 of the Revised Code.

Sec. 122.4030. (A) As used in section 122.4023 and sections 122.4030 to 122.4035 of the Revised Code, "challenging provider" means either of the following:

(1) A broadband provider that provides tier two broadband service within or directly adjacent to an eligible project;

(2) A municipal electric utility that provides tier two broadband service to an area within the eligible project that is within the geographic area served by the municipal electric utility.

(B)(1)(a) A challenging provider may challenge, in writing, all or part of a completed application for a program grant for the project not later than sixty-five days after the provisional application scoring has been published on the web site as required under section 122.4019 of the Revised Code.

(b) The department of housing and development, for good

cause shown, may grant the broadband provider an extension of not more than fourteen days in which to submit a challenge.

(2) The challenging provider shall provide its complete challenge to the department, by electronic mail or such other means as may be established by the department. Within ten business days of its receipt of a challenge, the department shall provide, by electronic mail or such other means as may be established by the department, a complete copy of such challenge to the applicant whose application is the subject of a challenge.

(C) No challenge to an application may be accepted before the completed application is published in its entirety on the department's web site pursuant to division (C)(2) of section 122.4019 of the Revised Code.

Sec. 122.4031. (A) To successfully challenge an application, a challenging provider shall provide sufficient evidence to the department of housing and development demonstrating that all or part of a project under the application is ineligible for a grant. The challenge shall, at minimum, include the following information:

(1) Sufficient evidence disputing the notarized letter of intent submitted with the application that the eligible project contains eligible addresses;

(2) Sufficient evidence attesting to the challenging provider's existing or planned offering of tier two broadband service to all or part of the eligible project, which evidence shall include the following:

(a) With regard to existing tier two broadband service, a signed, notarized statement submitted by the challenging

provider that sufficiently identifies the part of the eligible project to which the challenging provider offers broadband service and the aggregate number of eligible addresses to which the challenging provider offers tier two broadband service;

(b) With regard to the planned provision of tier two broadband service by a challenging provider as described in division (B) of section 122.4016 of the Revised Code, both of the following:

(i) A signed, notarized statement submitted by the challenging provider that sufficiently identifies the part of the eligible project to which the challenging provider will offer tier two broadband service;

(ii) A summary of the construction efforts that includes the dates when tier two broadband construction is expected to be completed and when tier two broadband service will first be offered to the part of the eligible project being challenged.

(B) To demonstrate that all or part of a project under the application is ineligible for a grant, a challenging provider shall present shapefile data and residential addresses identifying each challenged residential address and the basis for such challenge. Census block or census tract level data shall not be acceptable as evidence of ineligibility of all or part of a project.

(C) The department shall reject any challenge regarding a residential address where the provision of tier two broadband service is planned to be provided if the challenging provider has also submitted an application for funding for the same residential address.

Sec. 122.4032. If an application filed during an

application submission period established by the department of housing and development under section 122.4019 of the Revised Code is not challenged pursuant to sections 122.4030 to 122.4035 of the Revised Code, the lack of a challenge does not do either of the following:

(A) Create a presumption that residential addresses included in an application submitted in a subsequent submission period are eligible addresses under the Ohio residential broadband expansion grant program;

(B) Prohibit a challenging provider from filing a challenge to an application that is being refiled during a subsequent submission period.

Sec. 122.4033. (A) Not later than thirty days after receipt of a challenge under sections 122.4030 to 122.4035 of the Revised Code, the broadband expansion program authority may do either of the following:

(1) Suspend, subject to division (B) of this section, all or part of the application;

(2) Reject the challenge, approve the application, and proceed with the application process.

(B) The authority shall allow the broadband provider that submitted the application being challenged to revise the application consistent with sections 122.40 to 122.4077 of the Revised Code, if the authority upholds a challenge to all or part of the application.

(C) The authority shall notify both the broadband provider that submitted the application and the challenging provider of any decision made under this section by providing a copy of the decision by certified mail or electronic mail. The authority

shall update the status of the application on the department of housing and development ~~services agency~~ web site.

Sec. 122.4034. (A) If the broadband expansion program authority suspends all or part of an application, the broadband provider that submitted the application may revise and resubmit the application not later than fourteen days after receiving the suspension notification sent by the authority pursuant to section 122.4033 of the Revised Code. The broadband provider may request, and the authority may grant for good cause shown, an extension period of not more than fourteen days in which the broadband provider may resubmit the application.

(B) When revising the application, the broadband provider shall not expand the scope or impact of the original application, nor shall the provider add any new residential addresses to the eligible project.

(C) The broadband provider shall provide a copy of the revised application to the authority by electronic mail or by uploading it to the department of housing and development's designated web site for applications. The department shall publish the revised application on the department's public web site and provide the application to the challenging provider by electronic mail or such other means as may be established by the department, provided that any information determined to be proprietary or a trade secret under section 122.4023 of the Revised Code is redacted.

(D) Any failure to respond to the notification or properly revise the application to the authority's satisfaction shall be considered a withdrawal of the application.

Sec. 122.4035. Upon receipt of a revised application under

section 122.4034 of the Revised Code, the broadband expansion program authority shall review the revised application and decide whether to accept it or uphold the challenge under sections 122.4030 to 122.4035 of the Revised Code within fourteen days. The authority shall provide a copy of its decision to both the broadband provider that submitted the revised application and the challenging provider by certified mail or electronic mail and shall update the status of the application on the ~~development services agency's~~ department of housing and development's web site. The decision shall be considered final, and further challenges to the revised application are prohibited.

Sec. 122.4036. If the broadband expansion program authority upholds a challenge to an application under sections 122.4030 to 122.4035 of the Revised Code and the challenging provider fails to provide tier two broadband service as described in the challenge, the challenging provider, after a reasonable opportunity to be heard, may be required to do either or both of the following, in addition to being subject to other remedies available under the law:

(A) Pay to the department of housing and development ~~services agency~~ the amount of the original broadband funding gap described in section 122.4020 of the Revised Code for the application that was challenged;

(B) Comply with the requirements of any other penalties prescribed by ~~agency~~ department rule and imposed after consultation with the authority.

Sec. 122.4037. Any gift, grant, and contribution received by the director of housing and development for the Ohio residential broadband expansion grant program and any money

collected under section 122.4036 of the Revised Code shall be deposited into the Ohio residential broadband expansion grant program fund, which is hereby created in the state treasury. All amounts in the fund, including interest earned on those amounts, shall be used by the department of housing and development exclusively for grants under sections 122.40 to 122.4077 of the Revised Code.

Sec. 122.4040. The department of housing and development, in consultation with the broadband expansion program authority, shall establish a scoring system to evaluate and select applications for program grants. The scoring system shall be available on the department's web site at least thirty days before the beginning of the application submission period set by the department by rule. A description of any differences in application, scoring system, or other program requirements adopted under division (C) of section 122.4017 of the Revised Code shall be available with the application on the department's web site at least thirty days before the beginning of the application submission period.

Sec. 122.4043. (A) The broadband expansion program authority shall award program grants under the Ohio residential broadband expansion grant program after reviewing applications sent to the authority by the department of housing and development ~~services agency~~. Awards shall be granted after the authority scores applications based on the scoring system under sections 122.4040 and 122.4041 of the Revised Code.

(B) In awarding program grants, the authority shall consider all regulatory obligations under applicable law. The authority may not consider any of the following:

(1) Proposed project conditions that require open access

networks or that establish a specific rate, service, or other obligation not specified for the Ohio residential broadband expansion grant program;

(2) Factors that would constrain a broadband provider that receives a grant from offering or providing tier two broadband service in the same manner as the service is offered by broadband providers in other areas of the state without funding from the Ohio residential broadband expansion grant program.

(C) Upon making the program grant awards, the authority shall notify the broadband providers that submitted applications of the award decisions. The authority shall publish the program grant awards on the ~~agency's~~ department's web site.

Sec. 122.4044. After the broadband expansion program authority awards a program grant under section 122.4043 of the Revised Code, the department of housing and development ~~services agency~~ shall disburse the program grant as follows:

(A) A portion of the program grant, not to exceed thirty per cent, shall be disbursed before construction of the project begins.

(B) A portion of the program grant, not to exceed sixty per cent, shall be disbursed through periodic payments over the course of construction of the eligible project as determined by the ~~agency~~ department by rules adopted under section 122.4077 of the Revised Code.

(C) The remaining portion shall be disbursed not later than sixty days after the broadband provider notifies the authority that it has completed construction of the project.

Sec. 122.4045. (A) The department of housing and development may, through an independent third party, conduct

speed verification tests of an eligible project that receives a program grant. Such tests shall occur as follows:

(1) After the construction is complete, but prior to the final disbursement made under division (C) of section 122.4044 of the Revised Code to verify that tier two broadband service is being offered;

(2) At any time during the reporting period required under division (B) of section 122.4070 of the Revised Code, after receiving a complaint concerning a residential address that is part of the eligible project.

(B) To evaluate compliance with tier two broadband service standards, speed verification tests conducted under this section shall be conducted on at least two different days and at two different times on each of those days.

(C) The ~~agency~~ department may withhold payments under this section for failure to meet at least the minimum speeds required under division (A)(8) of section 122.4020 of the Revised Code. Payments may be held until such speeds are achieved.

Sec. 122.4046. (A) If the department of housing and development ~~services agency~~ determines that a broadband provider that has been awarded a program grant under the Ohio residential broadband expansion grant program has not complied with the requirements of the program, the ~~agency~~ department shall notify the provider of the noncompliance. In accordance with rules adopted by the ~~agency~~ department under section 122.4077 of the Revised Code, the ~~agency~~ department shall give the provider an opportunity to explain or cure the noncompliance.

(B) After reviewing the broadband provider's explanation or effort to cure the noncompliance, the following shall apply:

(1) The ~~agency~~ department may require the provider to refund an amount equal to all, or a portion of, the amount of the program grant awarded to the provider, as determined by the ~~agency~~department.

(2) The ~~agency~~ department may require the broadband provider to refund to the appropriate municipal corporation, township, or county the entire amount of general revenue funds or other discretionary funds that it contributed toward the broadband funding gap under division (A)(3)(c) or (d) of section 122.4020 of the Revised Code.

(C) Not more than thirty days after the ~~agency's~~ department's decision requiring a refund for program noncompliance or a failure to explain or cure it, the broadband provider shall pay the refund required under division (B) of this section. Payments shall be made directly to the municipal corporation, township, or county that contributed funds toward the broadband funding gap.

Sec. 122.4050. Upon adoption of a resolution, a board of county commissioners may request the department of housing and development ~~services agency~~ to solicit applications from broadband providers for program grants under the Ohio residential broadband expansion grant program for eligible projects in the municipal corporations and townships of the county.

A request made by a county shall identify, to the extent possible, the residential addresses in unserved or tier one areas of the county and provide a point of contact at the county and the municipal corporations and townships in which the addresses are located. The request may include any relevant information, documents, or materials that may be helpful for an

application.

Sec. 122.4051. Upon receipt of a request from a board of county commissioners pursuant to section 122.4050 of the Revised Code, the department of housing and development ~~services agency~~ shall solicit, on behalf of the county, applications for program grants for eligible projects under the Ohio residential broadband expansion grant program. Not later than seven days after receipt of the request, the ~~agency~~ department shall make the request, and any accompanying information submitted with the request, available for review on the ~~agency's~~ department's web site. The request shall remain available on the web site for a period not to exceed two years.

Sec. 122.4055. The department of housing and development ~~services agency~~ shall not be responsible for any failure by a broadband provider to respond to a request made by the ~~agency~~ department pursuant to section 122.4051 of the Revised Code or to submit an application for a program grant under the Ohio residential broadband expansion grant program.

Sec. 122.4063. (A) Nothing in sections 122.40 to 122.4077 of the Revised Code entitles the state of Ohio, the department of housing and development ~~services agency~~, the broadband expansion program authority, or any other governmental entity to any ownership or other rights to broadband infrastructure constructed by a broadband provider pursuant to a program grant awarded to an eligible project.

(B) Nothing in sections 122.40 to 122.4077 of the Revised Code prevents an assignment, sale, change in ownership, or other similar transaction associated with broadband infrastructure constructed by a broadband provider pursuant to a program grant awarded to an eligible project. No assignment, sale, change in

ownership, or other similar transaction relieves the successor of any obligation under sections 122.40 to 122.4077 of the Revised Code.

Sec. 122.4070. (A) Each broadband provider that receives a program grant shall submit to the department of housing and development ~~services agency~~ an annual progress report on the status of the deployment of the broadband network described in the eligible project for which the program grant award was made.

(B) The broadband provider shall submit an operational report with the ~~agency~~ department not later than sixty days after the completion of the project and annually thereafter for a period of four years.

Sec. 122.4071. (A) The reports required under section 122.4070 of the Revised Code and except as provided in section 122.4075 of the Revised Code, all information and documents in them shall be in a format specified by the department of housing and development and shall be publicly available on the department's web site.

(B) In each report, the broadband provider shall include an account of how program grant funds have been used and the project's progress toward fulfilling the objectives for which the program grant was awarded. The reports, at a minimum, shall include the following:

(1) The number of residential addresses that have access to tier two broadband services as a result of the eligible project;

(2) The number of residential addresses that are not funded directly by the grant program but have access to tier two broadband service as a result of the eligible project;

(3) The upstream and downstream speed of the broadband service provided;

(4) The average price of broadband service;

(5) The number of broadband service subscriptions attributable to the program grant.

Sec. 122.4073. The department of housing and development ~~services agency~~ may set a due date for the reports required under section 122.4070 of the Revised Code and, for good cause shown, may grant extensions of the report due dates.

Sec. 122.4075. Reports required under section 122.4070 of the Revised Code, and all information and documents in them, shall be maintained on a confidential basis by the department of housing and development ~~services agency~~ and shall not be published on the ~~agency's~~ department's web site until the ~~agency~~ department determines what information or documents are not confidential pursuant to section 122.4023 of the Revised Code.

Sec. 122.4076. (A) The broadband expansion program authority shall complete an annual report for the Ohio residential broadband expansion grant program. The report shall evaluate the success of the program grants awarded under section 122.4043 of the Revised Code in making tier two broadband services available to unserved and tier one areas. The report shall include the following information:

(1) The number of applications received;

(2) The number of applications that received program grants;

(3) The amount of broadband infrastructure constructed for eligible projects;

(4) The number of residential addresses receiving, for that year, tier two broadband service for the first time under the program;

(5) Findings and recommendations that have been agreed to by a majority of the authority members.

(B) The report shall be published on the department of housing and development's web site and shall be included as part of the department's annual report filed under section 121.18 of the Revised Code. The authority shall present the report annually to the governor and the general assembly not later than the first of December of each calendar year.

Sec. 122.4077. (A) The department of housing and development ~~services agency~~ shall adopt rules for the Ohio residential broadband expansion grant program. The rules shall establish an application form and application procedures for the program and procedures for periodic program grant disbursements.

(B) The rules may include the following:

(1) Requirements for a program application in addition to the requirements described in section 122.4020 of the Revised Code;

(2) Procedures for and circumstances under which partial funding of applications is permitted;

(3) Procedures for broadband expansion program authority meetings, extension periods for applications and application challenges, hearings, and opportunities for public comment.

(C) The ~~agency~~ department may adopt rules and procedures to implement sections 122.4051, 122.4053, and 122.4055 of the Revised Code.

(D) Rules adopted under this section are not subject to section 121.95 of the Revised Code.

(E) The ~~agency~~ department and the authority are not subject to division (F) of section 121.95 of the Revised Code regarding the development and adoption of rules pursuant to this section.

Sec. 122.41. The director of housing and development ~~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 insurance as provided in section 122.451 of the Revised Code. It is hereby determined that the accomplishment of such purposes is essential so that the people of the state may maintain their present high standards in comparison with the people of other states and so that opportunities for employment and for favorable markets for the products of the state's natural resources, agriculture, and manufacturing shall be improved and that it is necessary for the state to establish the programs authorized pursuant to Chapter 122. of the Revised Code and invest the director of housing and development ~~services~~ with the powers and duties provided in Chapter 122. of the Revised Code. The powers granted to the director by Chapter 165. of the Revised Code are independent of and in addition and alternate to, and are not limited or

restricted by, Chapter 122. of the Revised Code.

Sec. 122.42. (A) The director of housing and development shall do all of the following:

(1) Receive applications for assistance under sections 122.39 and 122.41 to 122.62 of the Revised Code;

(2) Make a final determination whether to approve the application for assistance;

(3) Transmit determinations to approve assistance to the controlling board together with any information the controlling board requires for the board's review and decision as to whether to approve the assistance;

(4) Issue revenue bonds of the state through the treasurer of state, as necessary, payable solely from revenues and other sources as provided in sections 122.39 and 122.41 to 122.62 of the Revised Code.

(B) The director may do all of the following:

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for the loans and guarantees and to make provisions for the operation of the funds established by the director in accordance with this section and sections 122.54, 122.55, 122.56, and 122.57 of the Revised Code;

(2) Loan moneys from the fund established in accordance with section 122.54 of the Revised Code pursuant to and in compliance with sections 122.39 and 122.41 to 122.62 of the Revised Code;

(3) Acquire in the name of the director any property of

any kind or character in accordance with sections 122.39 and 122.41 to 122.62 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper;

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

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

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

(b) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an

improvement shall contain the full name of every person interested in it and meet the requirements of section 153.54 of the Revised Code.

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

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

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

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

(8) Assist qualified persons in the coordination and formation of a small business development company, having a statewide area of operation, conditional upon the company's agreeing to seek to obtain certification from the federal small business administration as a certified statewide development company and participation in the guaranteed loan program administered by the small business administration pursuant to

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

Persons chosen by the director to receive assistance in the formation of a statewide small business development company pursuant to division (B)(8) of this section shall make a special effort to use their participation in the federal guaranteed loan program to assist small businesses which are minority business enterprises as defined in division (E) of section 122.71 of the Revised Code. The director, with the assistance of the minority business development division of the department of housing and development, shall provide technical and financial expertise, legal and managerial assistance, and other services in such a manner to enable the development company to provide assistance to small businesses which are minority business enterprises, and shall make available to the development company information pertaining to assistance available to minority business enterprises under programs established pursuant to sections 122.71 to 122.83, 122.87 to 122.89, 122.92 to 122.94, 122.921, and 125.081 of the Revised Code.

(9) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made, from individuals, private and

public corporations, from the United States or any agency of the United States, from the state or any agency of the state, and from any political subdivision of the state, and may agree to repay any contribution of money or to return any property contributed or the value of the property at such times, in such amounts, and on such terms and conditions, excluding the payment of interest, as the director determines at the time such contribution is made, and may evidence such obligations by notes, bonds, or other written instruments;

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

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

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

(D) Financial statements and financial data submitted to the director by any corporation, partnership, or person in connection with a loan application, or any information taken

from such statements or data for any purpose, shall not be open to public inspection.

Sec. 122.43. The director of housing and development~~—services~~, with controlling board approval, may lend funds which are obtained from the sale of revenue bonds issued by the treasurer of state pursuant to sections 122.39 and 122.41 to 122.62 of the Revised Code, from revenues or other receipts or income of the director, or funds established in accordance with sections 122.39 and 122.41 to 122.62 of the Revised Code, and from grants, gifts, and contributions subject to any provisions of resolutions authorizing the revenue bonds or of trust agreements securing such bonds, to community improvement corporations and Ohio development corporations and other corporations, partnerships, and persons for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, and to community improvement corporations and Ohio development corporations for the purpose of loaning funds to other corporations, partnerships, and persons for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, if the director finds that:

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

(B) The proposed borrower, if other than a community improvement corporation or an Ohio development corporation, is unable to finance the proposed project through ordinary

financial channels upon reasonable terms and at comparable interest rates, or the borrower, if a community improvement corporation or an Ohio development corporation, should not, in the opinion of the director, be required to finance the proposed project without a loan from the director;

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

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

(E) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project, and by mortgages, leases, liens, assignments, or pledges on or of such other property or contracts as the director shall require and that such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (C) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

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

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

Sec. 122.45. The director of housing and development, with controlling board approval, may lend funds to any county, municipal corporation, or township or any other political subdivision of the state for the purpose of expediting the creation, location, or expansion of industrial, distribution, commercial, or research facilities in the state by the construction or installation of streets, sidewalks, storm sewers, sanitary sewers and sewage disposal works, water lines, and water supply facilities which such subdivisions are authorized by law to construct or install, and the acquisition of lands or easements for such purposes, if the director finds that:

(A) A plan for the use of the money so loaned in connection with the creation, location, or expansion of such a facility is economically sound and will benefit the people of the state by increasing opportunities for employment and strengthening the economy;

(B) The proposed borrower is unable to procure the money for the aforesaid use within the time required in order to secure the desired creation, location, or expansion of such facilities;

(C) An agreement for repayment of the money loaned with interest thereon has been made by such subdivision evidenced by its notes, bonds, or by written contract, payable, however, only from moneys payable to such subdivision by a community improvement corporation, an Ohio development corporation, or other corporation, partnership, or person, or any combination thereof;

(D) There is adequate assurance that the moneys payable by such corporation or person to such subdivision will be paid as they fall due and will be payable at such times as are necessary to provide such subdivision with moneys sufficient to pay its loan to the director as it falls due.

The rates of interest and times of payment of interest and principal and other terms, conditions, and provisions of the loans shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The funds used in making such loans shall be disbursed upon order of the director.

Any subdivision intending to borrow funds from the director pursuant to this section may agree with a community improvement corporation, an Ohio development corporation, partnership, or other corporation or person, or any combination thereof, to construct any one or more of the improvements for which such funds are to be borrowed in return for a commitment, satisfactory to both such subdivision and the director, to make available to such subdivision sufficient moneys to discharge its

loan from the director as it falls due.

Any subdivision to which such a loan is made may issue to the director its notes or bonds for the repayment of such loan, or may by written contract agree to repay such loan provided that the obligation to pay is limited to the moneys received by the subdivision from such corporation, partnership, or person and is not an obligation for which the faith or credit or taxing power of the subdivision is pledged.

Any subdivision ~~receivng~~ receiving such a loan may construct or cause to be constructed the improvements for which such loan is made in the manner provided by law or charter for the making of contracts for such improvements, and may, if no special assessments are to be levied against benefited properties, dispense with all notices to the public or to property owners and all hearings otherwise required with respect to the making of such improvements, and in such case no resolution or order determining to make the improvement shall be subject to any appeal.

Sec. 122.451. Upon application of any person, partnership, or corporation, or upon application of any community improvement corporation organized as provided in section 1724.01 of the Revised Code, the director of housing and development, with controlling board approval, may, pledging therefor moneys in the mortgage insurance fund created by section 122.561 of the Revised Code, insure or make advance commitments to insure not more than ninety per cent of any mortgage payments required. Before insuring any such mortgage payments the director shall determine that:

(A) The project, in accordance with Section 13 of Article VIII, Ohio Constitution, will create or preserve jobs and

employment opportunities, or improve the economic welfare of the people of the state, or be an air quality facility, waste water facility, or solid waste facility, as defined in section 3706.01, 6121.01, or 6123.01 of the Revised Code.

(B) The principal obligation, including initial service charges and appraisal, inspection, and other fees approved by the director, does not exceed one hundred per cent of the cost of the project.

(C) The mortgage has a satisfactory maturity date in no case later than twenty-five years from the date of the insurance.

(D) The mortgagor is responsible and able to meet the payments under the mortgage.

(E) The mortgage contains complete amortization provisions satisfactory to the director requiring periodic payments by the mortgagor which may include principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, and hazard insurance on the property and such mortgage insurance premiums as are required under section 122.561 of the Revised Code, all as the director from time to time prescribes or approves.

(F) The mortgage is in such form and contains such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the director may prescribe.

The director may take assignments of insured mortgages and other forms of security and may take title by foreclosure or

conveyance to any project when an insured mortgage loan thereon is clearly in default and when in the opinion of the director such acquisition is necessary to safeguard the mortgage insurance fund, and may sell, or on a temporary basis lease or rent, such project.

Sec. 122.46. The director of housing and development may purchase real property, and personal property in connection therewith, in the state from funds available ~~to him~~ for that purpose if ~~he~~ the director finds that:

(A) Such property is owned by the United States, or an agency or instrumentality thereof, or by the state or an agency, instrumentality, or subdivision thereof;

(B) Such property is, or after improvement will be, useful for industrial, commercial, distribution, or research facilities in the state;

(C) Utilization of such property in the creation, location, or expansion of such facilities is economically sound and will benefit the people of the state by increasing opportunities for employment and strengthening the economy.

The conveyance of such property by an agency, instrumentality, or subdivision of the state may be made without advertising for bids and on the terms and in the manner established by such agency, instrumentality, or subdivision and provided further that if the property is to be conveyed by the state of Ohio, the director of the department of the state having jurisdiction or supervision of such property shall determine if the property is required by such department and if determined not to be required, shall, with the approval of the governor and the controlling board, convey such property to the

director of housing and development at its fair market value as fixed by an appraisal by three disinterested persons appointed by the director of administrative services and the deed therefor shall be prepared and recorded pursuant to section 5301.13 of the Revised Code and the proceeds from such sale shall be paid into the state treasury to the credit of the appropriate fund. Such a conveyance shall transfer all interest of the state in the property.

The director may improve any property acquired under this section and may construct and equip buildings, structures, and other facilities thereon for industrial, commercial, distribution, or research facilities. It is not intended hereby to authorize the director ~~himself~~ to operate any such industrial, commercial, distribution, or research facilities.

Such property, or parts thereof, may be sold by the director or may be leased by ~~it~~the director at such times and in such manner as the director determines and at such price or on such rentals as the director determines to be fair and reasonable.

Such lease may provide for improvements to be made by the lessee at its expense, all of which shall immediately become the property of the director. Movable personal property of the lessee shall remain its property.

The director shall determine the amount to be paid in the acquisition and improvement of such property, the price and terms of sale, and the rents and other terms of any lease including an option to purchase the leased property. Disbursement of funds shall be made upon order of the director. All leases, contracts, agreements, and deeds shall be executed by the director in the manner and by ~~his~~ the director's agents

as ~~he~~ the director provides.

Sec. 122.47. At the request of the director of housing and development, the treasurer of state shall issue revenue bonds of the state for the purpose of acquiring moneys for the purposes of this chapter, which moneys shall be credited by the treasurer of state as the director of housing and development shall determine to and among the funds established in accordance with or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, and 122.57 of the Revised Code. The principal of and interest on such revenue bonds shall be payable solely from the sinking funds established in accordance with section 122.57 of the Revised Code at the times and in the order and manner provided in the bond issuing proceedings or in any trust agreements securing such bonds, and shall be secured by the revenue bond guaranty fund established in accordance with section 122.571 of the Revised Code and shall also be secured by moneys in the other funds established by the director to the extent and on the terms ~~he~~ the director specifies and by covenants of the director ~~that he will~~ to so manage the loans and leases and fix interest rates, charges, and rentals so as to assure receipt of net income and revenue sufficient to provide for the payment of the principal of and the interest on the revenue bonds.

Sec. 122.48. Each issue of revenue bonds issued by the treasurer of state pursuant to sections 122.39 and 122.41 to 122.62 of the Revised Code, shall be dated, shall bear interest at a rate or rates or at a variable rate, as provided in or authorized by the proceedings authorizing or providing for the terms and conditions of the revenue bonds, shall mature at such time or times, not to exceed forty years from date, as determined by the director of housing and development ~~services~~

and may be made redeemable before maturity at the option of the director at such price or prices and under such terms and conditions as are fixed by the director prior to the issuance of the bonds. The director shall determine the form of the bonds, including any interest coupons to be attached thereto, and the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state.

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

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

for the best interest of the state.

Prior to the preparation of definitive bonds, the treasurer of state may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The treasurer of state may also provide for the replacement of any bonds which become mutilated or are destroyed, stolen, or lost. Bonds may be issued under sections 122.39 and 122.41 to 122.62 of the Revised Code, without obtaining the consent of any department, division, commission, board, bureau, or agency of the state, and without any other proceeding or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by such sections.

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

Provision shall be made by the director of housing and development ~~services~~ for the payment of the expenses of the director in operating the assistance programs authorized under

this chapter in such manner and to such extent as shall be determined by the director.

Sec. 122.52. The director of housing and development ~~services~~ may provide for the issuance of revenue refunding bonds of the state by the treasurer of state, payable solely from the sinking funds established in accordance with section 122.51 of the Revised Code at the times and in the order and manner provided by the director and in any trust agreement securing such bonds and shall also be secured by moneys in the other funds established pursuant to sections 122.39 and 122.41 to 122.62 of the Revised Code to the extent and on the terms specified by the director, for the purpose of refunding any revenue bonds then outstanding which have been issued under sections 122.39 and 122.41 to 122.62 of the Revised Code, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the director and treasurer of state in respect to such bonds shall be governed by such sections insofar as they are applicable.

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

Any such trust agreement may pledge or assign payments of principal of and interest on loans, charges, fees, and other revenue to be received by the director of housing and

development ~~services~~, all rentals received under leases made by the director, and all proceeds of the sale or other disposition of property held by the director, and may provide for the holding in trust by the trustee to the extent provided for in the proceedings authorizing such bonds, of all such moneys and moneys otherwise payable into the mortgage guarantee fund created by section 122.56 of the Revised Code, and all moneys otherwise payable into the mortgage insurance fund created by section 122.561 of the Revised Code, and of moneys payable into the sinking fund or funds referred to in section 122.57 of the Revised Code, but shall not convey or mortgage any of the real or personal property held by the director or any part thereof. Any such trust agreement, or any proceedings providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the director in relation to the acquisition of property, and the construction, improvement, maintenance, repair, operation, and insurance of facilities, the making of loans and leases and the terms and provisions thereof, and the custody, safeguarding, investment, and application of all moneys, and provisions for the employment of consulting engineers or other consultants in connection with the making of loans and leases and the construction or operation of any facility. Any bank or trust company incorporated under the laws of this state which may act as trustee or as depository of the proceeds of bonds or of revenue may furnish such indemnifying bonds or may pledge such securities as are required by the treasurer of state. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust

agreements or trust indentures securing bonds or debentures of corporations. Such trust agreement may contain such other provisions as the treasurer of state deems reasonable and proper for the security of the bondholders. All expenses incurred by the treasurer of state in carrying out the provisions of any such trust agreement shall be treated as a part of the cost of the operation of the assistance programs authorized pursuant to Chapter 122. of the Revised Code. Any such trust agreement may provide the method whereby general administrative overhead expense of the director with respect to those assistance programs shall be allocated among the funds established pursuant to Chapter 122. of the Revised Code with respect to the operating expenses of the director payable out of the income of the assistance programs.

Sec. 122.54. The direct loan program fund is hereby created within the state treasury, to consist of money appropriated for the purpose of making loans authorized under sections 122.43 and 122.45 of the Revised Code, money from the proceeds of the sale of any issue of its revenue bonds to the extent and subject to the conditions provided in the proceedings authorizing such bonds or in the trust agreement securing such bonds, all grants, gifts, and contributions made to the director of housing and development for such purpose, and all other moneys designated by ~~him~~ the director for the purpose of making loans or required to be used for such purpose by the provisions of any proceedings authorizing an issue of revenue bonds or trust agreement securing such bonds. All moneys received from repayments of loans authorized pursuant to sections 122.43 and 122.45 of the Revised Code or received in the event of a default on any such loans shall be deposited in the general revenue fund.

Sec. 122.55. The purchase fund of the director of housing and development is hereby created to consist of all money allocated by the director for the purchase and improvement of property authorized to be purchased under section 122.46 of the Revised Code from the proceeds of the sale of any issue of revenue bonds to the extent and subject to the conditions provided in the proceedings authorizing such bonds or in the trust agreements securing such bonds, all grants, gifts, and contributions made to the director for such purpose, and all other moneys designated by ~~him~~ the director for the purpose of the acquisition and improvement of property.

Sec. 122.56. The mortgage guarantee fund of the director of housing and development is hereby created to consist of all grants, gifts, and contributions of moneys or rights to moneys made to the director for such fund, all moneys and rights to moneys lawfully designated for or deposited in such fund, all guarantee fees charged and collected as provided in this section, and all moneys and rights to moneys lawfully allocated by the director to such fund from the proceeds of the sale of any issue of revenue bonds. Moneys or rights to ~~money~~ moneys shall be used for the guaranty of the payment of the loans made under sections 122.43 and 122.45 of the Revised Code, or for the guaranty of the payment of the rentals payable under the lease made under the authority of section 122.46 of the Revised Code, or for the guaranty of the payment of rentals payable under a lease made under authority of section 165.02 of the Revised Code, or of rentals payable under a lease made under authority of section 761.02 of the Revised Code, or a sublease made pursuant to such lease, to the extent and subject to the conditions provided in the proceedings authorizing such guaranty or the proceedings authorizing such bonds or in the trust

agreement securing such bonds. The director shall fix charges for the guaranty of payment of the loans made under sections 122.43 and 122.45 of the Revised Code and for the guaranty of the payment of the rentals payable under the leases made by the authority under section 122.46 of the Revised Code. Such charges shall be payable at such times and place and in such manner as may be prescribed by the director. In the event that the principal obligation of any loan is paid in full prior to the maturity date or in the event that purchase option of any lease is exercised prior to the end of the term thereof, the director may require the payment of an adjusted charge in such amount as ~~he~~ the director determines to be equitable, and may refund from the mortgage guarantee fund such portion of charges theretofore paid as the director determines to be equal to the unearned portion thereof.

Sec. 122.561. The mortgage insurance fund of the director of housing and development ~~services~~ is hereby created to consist of all money allocated by the director from the proceeds of the sale of any issue of revenue bonds, to the extent and subject to the conditions provided in the proceedings authorizing such bonds or in the trust agreements securing such bonds, for the purpose of insuring mortgage payments pursuant to section 122.451 of the Revised Code, all grants and contributions made to the director for such purpose, all moneys deposited or credited to the mortgage insurance fund pursuant to section 169.05 of the Revised Code, all other moneys and property designated by the director and by law for such purpose, all mortgage insurance premiums charged and collected as provided in this section, and all receipts and proceeds from the sale, disposal, lease, or rental of real or personal property which the director may hold as a result of a default in an insured

mortgage. The director shall fix mortgage insurance premiums for the insurance of mortgage payments pursuant to section 122.451 of the Revised Code, to be computed as a percentage of the principal obligation of the mortgage outstanding at the beginning of each mortgage year. Such insurance premiums shall not be more than three per cent per annum of the outstanding principal obligation, and shall be calculated on the basis of all pertinent available data. Such premiums shall be payable by the mortgagors or the mortgagees in such manner as is prescribed by the director. The amount of premium need not be uniform among the various mortgages insured. The director may provide for the custody, investment, and use of the unclaimed funds trust fund created by section 169.05 of the Revised Code and all mortgage insurance premiums, including the payment therefrom of the expenses and costs of the director in insuring mortgage payments pursuant to section 122.451 of the Revised Code. Any financial statements or financial data submitted to the director or the controlling board in connection with any application for the insurance of mortgage payments, or any information taken from such statements or data, is not open to public inspection.

Sec. 122.57. All payments of principal of and interest on the loans made by the director of housing and development—~~services~~, all rentals received under leases made by the director, and all proceeds of the sale or other disposition of property held by the director shall be placed in separate sinking funds to the extent provided in the proceedings authorizing revenue bonds which are hereby pledged to and charged with the payment of interest on, principal of and redemption premium on, the revenue bonds issued pursuant to sections 122.39 and 122.41 to 122.62 of the Revised Code to the extent provided in the proceedings authorizing and the trust

agreements securing such bonds. The moneys therein in excess of the amounts required by the bond proceedings and trust agreements and all payments not so required to be paid into such sinking funds shall be retained or placed in such fund or in the other funds provided for by sections 122.35, 122.42, 122.54, ~~122.42,~~ 122.55, 122.56, 122.561, and 122.57 of the Revised Code as the director shall determine, and shall be available for the uses for which such funds are established.

Sec. 122.571. In addition to the separate sinking funds created under section 122.57 of the Revised Code, there is hereby created the revenue bond guaranty fund to consist of all money allocated by the director of housing and development to guarantee payment of interest on, principal of and redemption premium on, the revenue bonds issued by the director under Chapter 122. of the Revised Code, all grants, gifts, and contributions made to the director for such purpose, and all money and property provided by law for such purpose.

Sec. 122.58. Moneys in the funds established pursuant to Chapter 122. of the Revised Code, except as otherwise provided in any proceedings authorizing revenue bonds or in any trust agreement securing such bonds, in excess of current needs, may be invested in notes, bonds, or other obligations which are direct obligations of or are guaranteed by the United States, in certificates of deposit or other withdrawable accounts of banks, trust companies, and building and loan or savings and loan associations organized under the laws of the state or the United States, or in the manner provided in any agreement entered into pursuant to section 169.05 of the Revised Code.

Income from all such investments of moneys in any fund shall be credited to such funds as the director of housing and

development determines subject to the provisions of any bond issuance proceedings or trust agreement, and such investments may be sold at such time as the director shall determine, provided certificates of deposit or other withdrawable accounts may be sold only in accordance with division (B) of section 169.05 or divisions (E) and (F) of section 169.08 of the Revised Code.

Sec. 122.59. In the event of a default with respect to any loan or lease, the director of housing and development shall take such action as ~~he~~the director deems proper in the circumstances to enforce and protect the rights of the director, and such action as may be required by the provisions of any proceedings authorizing the revenue bonds or of any trust agreement securing such bonds, which may include any appropriate action at law or in equity, enforcement or waiver of any provision of any mortgage or security agreement or lease, or reinstatement of any forfeited or cancelled right, title, or privilege. Notwithstanding any such action, the director shall transfer from the mortgage guarantee fund created by section 122.56 of the Revised Code to the sinking fund or funds referred to in section 122.57 of the Revised Code amounts not greater than the amounts which would have been paid upon such loan or under such lease but for such default, at the time or times when such amounts would have been paid but for such defaults, to the extent provided in the proceedings authorizing and the trust agreements securing such bonds, to be held and applied as other moneys in the sinking fund, and shall make such other transfers and take such other action as shall be required of the director by any such bond issuance proceedings or trust agreement.

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

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

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

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

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

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

(F) "Participating financial institution" means a financial institution that has a valid, current participation agreement with the department of housing and development.

(G) "Participation agreement" means the agreement between a financial institution and the department under which a financial institution may participate in the program.

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

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

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

Sec. 122.601. There is hereby created in the state treasury the capital access loan program fund. The fund shall consist of money deposited into it from the minority business enterprise loan fund pursuant to section 122.80 of the Revised Code and the facilities establishment fund pursuant to section 166.03 of the Revised Code and all money deposited into it pursuant to section 122.602 of the Revised Code. The total amount of money deposited into the fund from the minority business enterprise loan fund or the facilities establishment fund shall not exceed three million dollars during any particular fiscal year of the department of housing and development.

The department shall disburse money from the fund only to pay the operating costs of the program, including the

administrative costs incurred by the department in connection with the program, and only in keeping with the purposes specified in sections 122.60 to 122.605 of the Revised Code.

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

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

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

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

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

Revised Code.

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

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

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

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

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

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

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

housing.

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

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

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

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

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

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

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

Sec. 122.603. (A)(1) Upon approval by the director of

housing and development and after entering into a participation agreement with the department of housing and development a participating financial institution making a capital access loan shall establish a program reserve account. The account shall be an interest-bearing account and shall contain only moneys deposited into it under the program and the interest payable on the moneys in the account.

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

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

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

(D)(1)(a) Upon receipt of each of the first three certifications from a participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount not to exceed fifty per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account. Thereafter, upon receipt of a certification from that participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount equal to ten per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account.

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

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

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

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

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

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

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

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

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

Sec. 122.604. (A) If a participating financial institution determines that a portion or all of a capital access loan is uncollectible, it may submit a claim to the department of housing and development for approval of the release of moneys from its program reserve account.

(B) The claim may include the amount of principal plus accrued interest owed. The amount of principal included in the claim may not exceed the principal amount covered by the program. The amount of accrued interest included in the claim may not exceed the accrued interest attributable to the covered principal amount.

(C) The participating financial institution shall determine the timing and amount of delinquency on a capital access loan in a manner consistent with the participating financial institution's normal method for making these determinations on similar nonprogram loans.

(D) If the participating financial institution files two or more claims at the same time or approximately the same time and there are insufficient funds in its program reserve account at that time to cover the entire amount of the claims, the participating financial institution may specify an order of priority in which the department shall approve the release of funds from the account in relation to the claims.

(E) If subsequent to the payment of a claim, a

participating financial institution recovers from an eligible business any amount covered by the paid claim, the participating financial institution shall promptly deposit the amount recovered into its program reserve account, less any reasonable expenses incurred.

Sec. 122.605. Each participating financial institution shall submit an annual report to the department of housing and development on or before the thirty-first day of March of each year. The report shall include or be accompanied by all of the following:

(A) Information regarding the participating financial institution's outstanding capital access loans, its capital access loan losses, and other related matters that the department considers appropriate;

(B) A statement of the total amount of the participating financial institution's capital access loans for which the department has made disbursements from the fund under the program;

(C) A copy of the participating financial institution's most recent financial statement.

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 housing and development ~~services~~ shall not be required to pay any taxes upon any property or assets held by the director, or upon any property acquired or used by 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.

Sec. 122.62. All moneys received under sections 122.39 and 122.41 to 122.62 of the Revised Code as proceeds from the sale of bonds are trust funds. All moneys received under those sections shall be held and applied solely as provided in such sections and section 166.03 of the Revised Code. All such moneys, except as otherwise provided in any proceedings authorizing revenue bonds or in any trust agreement securing such bonds or except when deposited with the treasurer of state, or except as they may be invested pursuant to section 122.58 of the Revised Code, shall be kept in depositories as selected by the director of housing and development ~~services~~ in the manner provided in sections 135.01 to 135.21 of the Revised Code, insofar as such sections are applicable, and the deposits shall be secured as provided in sections 135.01 to 135.21 of the Revised Code. The proceedings authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any official to whom, or any bank or trust company to which, such moneys are paid, shall act as trustee of such moneys and hold and apply them for the purposes of sections 122.39 and 122.41 to 122.62 of the Revised Code, subject to such rules as such sections and such bond issuance proceedings or trust agreement provide.

Sec. 122.63. The department of housing and development shall:

(A) Provide technical assistance to sponsors, homeowners, private developers, contractors, and other appropriate persons on matters relating to housing needs and the development, construction, financing, operation, management, and evaluation of housing developments;

(B) Carry out continuing studies and analyses of the housing needs of this state and, after conducting public hearings, prepare annually a plan of housing needs, primarily for the use of the department. The plan, copies of which shall be filed with the speaker of the house of representatives and the president of the senate for distribution to the members of the general assembly, shall:

(1) Establish areawide housing needs, including existing and projected needs for the provision of an adequate supply of decent, safe, and sanitary housing for low- and moderate-income persons, including housing that may require utilization of state or federal assistance;

(2) Establish priorities for housing needs, taking into account the availability of and need for conserving land and other natural resources;

(3) Be coordinated with other housing and related planning of the state and of regional planning agencies.

(C) Carry out the provisions of Chapter 3735. of the Revised Code relating to metropolitan housing authorities;

(D) Carry out the provisions of sections 174.01 to 174.07 of the Revised Code relating to the low- and moderate-income housing trust fund.

Sec. 122.631. (A) As used in sections 122.631 to 122.633 of the Revised Code:

(1) "Electing subdivision," "county land reutilization corporation," and "land reutilization program" have the same meanings as in section 5722.01 of the Revised Code.

(2) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code, and "mobile home" has the same meaning as in section 4501.01 of the Revised Code.

(3) "Qualifying residential property" means ~~single-family residential property, including a~~ a single unit of single-family residential property that has at least eight hundred square feet of habitable space and is either a stand-alone unit or in a multi-unit property containing not more than ten single-family residential units. "Qualifying residential property" excludes mobile homes but includes both of the following:

(a) A manufactured home;

(b) A single unit in a multi-unit property ~~containing not more than ten units but excluding manufactured homes, that has at least one thousand square feet of habitable space per unit~~that has other nonresidential units or uses. Such nonresidential units or uses are not qualifying residential property.

(4) "Qualifying median income" means ~~eighty~~ one hundred twenty per cent of median income for the county where qualifying residential property is located, as determined by the director of housing and development pursuant to section 174.04 of the Revised Code.

(5) "Qualifying financial literacy counseling" means a homeownership course with a curriculum that includes basic home

maintenance training and financial literacy.

(6) "Qualifying counseling provider" means an individual, business, nonprofit organization, or political subdivision, including an agency or instrumentality thereof, that is licensed, certified, or authorized to provide homeownership counseling and financial literacy as one of its primary functions, including housing counselors certified by the United States department of housing and urban development or the Ohio housing financing agency.

(B) There is created in the department of housing and development the welcome home Ohio (WHO) program to administer the grants authorized by this section and section ~~163.632~~ 122.632 of the Revised Code and the tax credits authorized by section 122.633 of the Revised Code. The department shall create and maintain a list of qualifying residential property ~~to~~ for which ~~the deed restriction~~ a mortgage described in division (D)(4) of this section, division (B)(4) of section 122.632, or division (C)(4) of section 122.633 of the Revised Code ~~applies~~is held. That list is not a public record for purposes of section 149.43 of the Revised Code.

(C) An electing subdivision or county land reutilization corporation may apply to the director of housing and development for a grant from the welcome home Ohio fund, which is created in the state treasury, to pay or defer the cost of purchasing qualifying residential property for incorporation into the electing subdivision's or county land reutilization corporation's land reutilization program. Up to two thousand dollars of each grant may be used to fund the qualifying financial literacy counseling required under division (D)(6) of this section. To the extent that funding is available in that

fund, the director may award grants to electing subdivisions and county land reutilization corporations that make such an application and agree to comply with division (D) of this section.

(D) The director of housing and development shall require all applicants for a grant authorized by division (C) of this section to agree, as part of the application, to all of the following:

(1) That grant funds shall only be used to pay the cost of purchasing qualifying residential property;

(2) That qualifying residential property on which grant funds are spent shall be held until sold to an individual or individuals who, inclusively:

(a) Have annual income that is not more than the qualifying median income;

(b) Demonstrate the financial means to purchase the qualifying residential property;

(c) Agree to maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least ~~five~~ three years following the date of purchase;

(d) Agree not to sell the qualifying residential property, within ~~twenty~~ fifteen years after the date of the sale, to any purchaser except an individual or individuals who have annual income that is not more than the qualifying median income;

(e) Agree to pay a penalty to the director of housing and development for violation of the agreement required by division

(D)(2)(c) of this section that~~, subject to divisions (F)(2) and (3) of this section,~~ equals ~~ninety thousand dollars~~the amount of the grant attributable to the property, less ~~eighteen thousand dollars~~ one-third of that amount multiplied by the number of full years the individual or individuals owned the property;

(f) Agree that the director of housing and development is a third-party beneficiary of the purchase agreement;

(g) Agree to participate in the applicant's qualifying financial literacy program;

(h) Agree to ~~annually~~ certify to the director of housing and development~~ or the director's designee~~, upon the request of the director anytime during the period described by division (D)(2)(c) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That qualifying residential property on which grant funds are spent shall be sold for not more than ~~one~~ two hundred ~~eighty~~ twenty thousand dollars per property.

(4) That qualifying residential property on which grant funds are spent shall not be sold without a ~~deed restriction prohibiting~~ promissory note, secured by a mortgage, both executed by the purchaser in favor of the director of housing and development. The note shall require a payment to the director of housing and development upon the sale of the property to a person that is not an individual or individuals who have annual income that is not more than the qualifying median income for ~~twenty~~ fifteen years after the date of the property's first transfer from the applicant following the use

of grant funds. The payment shall be the amount of the grant attributable to the property, less one-fifteenth of that amount multiplied by the number of full years the individual or individuals owned the property. The mortgage shall be subordinate to any mortgage securing a note executed by the purchaser to purchase the property. The director of housing and development may execute any documents necessary to recognize that subordination or wholly or partially forgive amounts due on a note executed pursuant to this division if doing so does not grant a purchaser an undue windfall or hinder the WHO program's objectives of increasing the supply of safe and affordable owner-occupied housing. The director shall allow a subsequent purchaser that is an individual or individuals who have annual income that is not more than the qualifying median income to assume liability on the note when purchasing the property.

(5) That the applicant shall repay all grant funds not expended to purchase qualifying residential property or to fund the qualifying financial literacy counseling required by division (D)(6) of this section and all grant funds expended to purchase qualifying residential property that is not sold to an individual or individuals who meet the requirements described in division (D)(2) of this section or that is sold without the ~~deed restriction~~ promissory note and mortgage described in division (D)(4) of this section.

(6) That the applicant shall provide qualifying financial literacy counseling, ~~over a minimum of one year,~~ delivered by a qualifying counseling provider, to each purchaser of qualifying residential property on which grant funds are spent. An applicant may provide information regarding its qualifying financial literacy program to the director of housing and development for review as part of the application or prior to

application. ~~Financial~~ Qualifying financial literacy counseling provided by the applicant to the same purchaser, in accordance with division (B)(6) of section 122.632 of the Revised Code or division (C)(5) of section 122.633 of the Revised Code, satisfies the requirements of division (D)(6) of this section.

(7) That the applicant shall report to the department of housing and development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(E) ~~The director of development has authority and standing to sue for the enforcement of a deed restriction described in division (D)(4) of this section.~~

~~(F)(1)~~ An electing subdivision or county land reutilization corporation may apply for, and the director of housing and development may award both a grant under this section for the purchase of qualifying residential property, and either a grant under section 122.632 of the Revised Code, or a tax credit under section 122.633 of the Revised Code, to rehabilitate or construct the same qualifying residential property.

~~(2) If an electing subdivision or county land reutilization is awarded a grant under this section and a grant under section 122.632 of the Revised Code for the same qualifying residential property, and the individual or individuals who purchase the property violate both of the agreements required by division (D)(2)(c) of this section and division (B)(2)(c) of section 122.632 of the Revised Code, only the penalty described by division (B)(2)(c) of section 122.632 of the Revised Code applies.~~

~~(3) If an electing subdivision or county land reutilization is awarded a grant under this section and a tax credit under section 122.633 of the Revised Code for the same qualifying residential property, and the individual or individuals who purchase the property violate both of the agreements required by division (D)(2)(c) of this section and division (C)(2)(a) of section 122.633 of the Revised Code, only the greater of the penalties described in divisions (D)(2)(c) of this section and division (C)(2)(c) of section 122.633 of the Revised Code applies.~~

~~(G)(1)~~ (F)(1) The director may adopt rules in accordance with Chapter 119. Of the Revised Code as necessary to administer the grant program. Such rules may include the following:

(a) Application forms, deadlines, and procedures;

(b) Criteria for evaluating and prioritizing applications;

(c) Guidelines for promoting an even geographic distribution of grants throughout the state;

(d) Guidelines to determine the value of qualifying residential property located in a building with other uses and the total value of that building.

(2) Any grants repaid under this section shall be credited to the welcome home Ohio fund.

Sec. 122.632. (A) An electing subdivision or county land reutilization corporation may apply to the director of housing and development for a grant from the welcome home Ohio fund created in section 122.631 of the Revised Code to pay or defer the cost to rehabilitate or construct qualifying residential property held by the electing subdivision's or county land reutilization corporation's land reutilization program. To the

extent that funding is available, in that fund the director may award grants to electing subdivisions and county land reutilization corporations that make such an application and agree to comply with division (B) of this section, with a maximum grant of ~~thirty~~ ninety thousand dollars per qualifying residential property.

(B) The director of housing and development shall require all applicants for a grant authorized by division (A) of this section to agree, as part of the application, to all of the following:

(1) That grant funds shall ~~only~~ be used to pay the cost of rehabilitation or construction of qualifying residential property and all work will be completed according to all applicable construction and design standards~~;~~. Up to two thousand dollars of each grant may be used to fund the qualifying financial literacy counseling required under division (B)(6) of this section. If grant funds are spent to construct or rehabilitate a qualifying residential property described in division (A)(3)(b) of section 122.631 of the Revised Code, then no portion of the funds shall be spent to construct or rehabilitate portions of the building that are for nonresidential uses, except for common areas used by the residential units and improvements that serve both the residential units and the other portions of the building.

(2) That qualifying residential property on which grant funds are spent shall be held until sold to an individual or individuals who, inclusively:

(a) Have annual income that is not more than the qualifying median income;

(b) Demonstrate the financial means to purchase the qualifying residential property;

(c) Agree to maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least ~~five~~ three years following the date of purchase;

(d) Agree not to sell the qualifying residential property, within ~~twenty~~ fifteen years after the date of the sale, to any purchaser except an individual or individuals who have annual income that is not more than the qualifying median income;

(e) Agree to pay a penalty to the director of housing and development for violation of the agreement required by division (B)(2)(c) of this section that~~, subject to division (F)(2) of section 122.631 of the Revised Code,~~ equals ~~ninety thousand dollars~~the amount of the grant attributable to the property, less ~~eighteen thousand dollars~~ one-third of that amount multiplied by the number of full years the individual or individuals owned the property.

(f) Agree that the director of housing and development is a third-party beneficiary of the purchase agreement;

(g) Agree to participate in the applicant's qualifying financial literacy program;

(h) Agree to ~~annually~~ certify to the director of housing and development~~ or the director's designee~~, upon the request of the director anytime during the period described by division (B)(2)(c) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as

a dwelling.

(3) That qualifying residential property on which grant funds are spent shall be sold for not more than ~~one~~ two hundred ~~eighty~~ twenty thousand dollars per property.

(4) That qualifying residential property on which grant funds are spent shall not be sold without a ~~deed restriction prohibiting~~ promissory note, secured by a mortgage, both executed by the purchaser in favor of the director of housing and development. The note shall require a payment to the director of housing and development upon the sale of the property to a person that is not an individual or individuals who have annual income that is not more than the median income for ~~twenty~~ fifteen years after the date of the property's first transfer from the applicant following the use of grant funds~~;~~. The payment shall be the amount of the grant attributable to the property, less one-fifteenth of that amount multiplied by the number of full years the individual or individuals owned the property. The mortgage shall be subordinate to any mortgage securing a note executed by the purchaser to purchase the property. The director of housing and development may execute any documents necessary to recognize that subordination or wholly or partially forgive amounts due on a note executed pursuant to this division if doing so does not grant a purchaser an undue windfall or hinder the WHO program's objectives of increasing the supply of safe and affordable owner-occupied housing. The director shall allow a subsequent purchaser that is an individual or individuals who have annual income that is not more than the qualifying median income to assume liability on the note when purchasing the property.

(5) That the applicant shall repay all grant funds

expended on any expenses other than the construction or rehabilitation of qualifying residential property or financial literacy counseling required under division (B)(6) of this section, or on qualifying residential property that is not sold to an individual or individuals who meet the requirements described in division (B)(2) of this section or that is sold without the ~~deed restriction~~ promissory note and mortgage described in division (B)(4) of this section;

(6) That the applicant shall provide financial qualifying literacy counseling, ~~over a minimum of one year,~~ delivered by the qualifying counseling provider, to each purchaser of qualifying residential property on which grant funds are spent. An applicant may provide information regarding its qualifying financial literacy program to the director of housing and development for review as part of the application or prior to application;

(7) That the applicant shall report to the department of housing and development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(8) That, if grant funds are received, the qualifying residential property that is the subject of the application shall not be the subject of an application for a tax credit under section 122.633 of the Revised Code.

~~(C) The director of development is granted authority and standing to sue for the enforcement of a deed restriction described in division (B)(4) of this section.~~

~~(D)(1)~~ (C)(1) The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer

the grant program. Such rules may include the following:

(a) Application forms, deadlines, and procedures;

(b) Criteria for evaluating and prioritizing applications;

(c) Guidelines for promoting an even geographic distribution of grants throughout the state;

(d) Guidelines to determine the value of qualifying residential property located in a building with other uses and the total value of that building.

(2) Any grants repaid under this section shall be credited to the welcome home Ohio fund.

Sec. 122.633. (A) As used in this section, "eligible developer" means any of the following:

(1) A nonprofit corporation, as defined in section 1702.01 of the Revised Code, based in this state with a primary activity of the development and preservation of affordable housing;

(2) A limited partnership or domestic limited partnership, as defined in section 1782.01 of the Revised Code, in which a general partner is a nonprofit corporation based in this state, a primary activity of which is the development and preservation of affordable housing;

(3) A limited liability company, as defined in section 1706.01 of the Revised Code, in which the manager is a nonprofit corporation based in this state, a primary activity of which is the development and preservation of affordable housing;

(4) A community improvement corporation, as defined in section 1724.01 of the Revised Code, or a community urban redevelopment corporation, as defined in section 1728.01 of the

Revised Code.

(B) An electing subdivision or eligible developer that rehabilitates or constructs a unit of qualifying residential property and sells the property to an individual or individuals for the individual's or individuals' occupancy may apply to the director of housing and development for a nonrefundable credit against the tax levied under section 5726.02 or 5747.02 of the Revised Code, provided the rehabilitation or construction and the sale comply with division (C) of this section. The credit application shall be made on forms prescribed by the director. The credit shall equal ninety thousand dollars or ~~one-third~~ ninety per cent of the cost to rehabilitate or construct the property, whichever is less.

(C) An application for a credit authorized by division ~~(C)~~ (B) of this section shall certify all of the following:

(1) That the rehabilitation or construction of qualifying residential property that is the subject of the application was completed according to all applicable construction and design standards;

(2) That each qualifying residential property that is the subject of the application was sold to an individual or individuals who have annual income that is not more than the qualifying median income, demonstrated the financial means to purchase the qualifying residential property, and agreed to all of the following in the purchase agreement:

(a) To maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least ~~five~~ three years following the date of

purchase;

(b) Not to sell the qualifying residential property to a purchaser other than an individual or individuals who have annual income that is no more than the qualifying median income for at least ~~twenty~~ fifteen years after the date of purchase;

(c) To pay a penalty to the director of housing and development for violation of the agreement required by division (C)(2)(a) of this section that~~, subject to division (F)(3) of section 122.631 of the Revised Code,~~ equals the total amount of the tax credit authorized by this section and attributable to the qualifying residential property purchased by the individual, reduced by ~~twenty per cent~~ one-third of that amount for each full year the individual or individuals owned the property;

(d) That the director of housing and development is a third-party beneficiary of the purchase agreement;

(e) To participate in the applicant's qualifying financial literacy program;

(f) Agree to ~~annually~~ certify to the director of housing and development~~ or the director's designee~~, upon the request of the director anytime during the period described by division (C)(2)(a) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That the qualifying residential property that is the subject of the application was sold for not more than ~~one~~ two hundred ~~eighty~~ twenty thousand dollars;

(4) That the purchaser of the qualifying residential property that is the subject of the application ~~was transferred~~

~~with a deed restriction prohibiting~~ executed a promissory note, conditional upon the award of a tax credit authorized by division (B) of this section and secured by a mortgage to be recorded only upon such award, in favor of the director of housing and development. The note shall require a payment to the director of housing and development upon the sale of the property to a person other than an individual or individuals who have annual income that is not more than the qualifying median income for at least ~~twenty~~ fifteen years after the date of transfer. The payment shall be the amount of the tax credit attributable to the property, less one-fifteenth of that amount multiplied by the number of full years the individual or individuals owned the property. The mortgage shall be subordinate to any mortgage securing a note executed by the purchaser to purchase the property. The director of housing and development may execute any documents necessary to recognize that subordination or wholly or partially forgive amounts due on a note executed pursuant to this division if doing so does not grant a purchaser an undue windfall or hinder the WHO program's objectives of increasing the supply of safe and affordable owner-occupied housing. The director shall allow a subsequent purchaser that is an individual or individuals who have annual income that is not more than the qualifying median income to assume liability on the note when purchasing the property.

(5) That the applicant provides ~~a minimum of one year of~~ qualifying financial literacy counseling, delivered by a qualifying counseling provider, to each purchaser of qualifying residential property that is the subject of the application. An applicant may provide information regarding its qualifying financial literacy program to the director of housing and development for review as part of the application or prior to

application~~;~~ .

(6) That the applicant shall report to the department of housing and development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(7) That the qualifying residential property that is the subject of the application was not rehabilitated or constructed using grant funds received under section 122.632 of the Revised Code.

~~(D) The director of development is granted authority and standing to sue for the enforcement of a deed restriction described in division (C)(4) of this section.~~

~~(E)(1)~~ (D)(1) Subject to division ~~(E)(2)~~ (D)(2) of this section, if the director determines that the applicant qualifies for a credit under this section, the director shall issue a tax credit certificate to the applicant identified with a unique number and listing the amount of the credit that is eligible to be transferred or claimed pursuant to division ~~(E)(3)~~ (D)(3) or ~~(F)~~ (E) of this section.

(2) The total amount of tax credits issued by the director under this section shall not exceed twenty-five million dollars in any fiscal year, and no tax credits shall be issued after June 30, 2025.

(3) A person granted a certificate pursuant to division ~~(E)(1)~~ (D)(1) of this section may claim the credit against the tax levied under section 5726.02 of the Revised Code or against the person's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year in which the certificate is issued. The taxpayer shall claim the credit in the order

prescribed by section 5726.98 or 5747.98 of the Revised Code, as applicable. Any unused amount may be carried forward for the following five taxable years. If the person is a pass-through entity, any taxpayer that is a direct or indirect investor in the pass-through entity on the last day of the entity's taxable year may claim the taxpayer's proportionate or distributive share of the credit against the taxpayer's aggregate amount of tax levied under section 5747.02 of the Revised Code.

A taxpayer claiming a credit under this section shall submit a copy of the certificate with the taxpayer's return or report.

~~(F)~~ (E) A person granted a certificate pursuant to division ~~(E)(1)~~ (D)(1) of this section may transfer the right to claim all or part of the credit reflected on the certificate to another person.

To effectuate the transfer, the transferor shall notify the tax commissioner, in writing, that the transferor is transferring the right to claim all or part of the remaining credit stated on the certificate. The transferor shall identify in that notification the certificate's number, the name and the tax identification number of the transferee, the amount of the remaining credit transferred to the transferee, and, if applicable, the amount of remaining credit retained by the transferor.

The transferee may claim the amount of the credit received under this division against the tax levied under section 5726.02 of the Revised Code or against the person's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year in the same manner and for the same taxable years as it may be claimed by a person under division ~~(E)(3)~~ (D)(3) of

this section.

Any person to which a credit has been transferred under this division may transfer the right to claim all or part of the transferred credit amount to any other person, in the same manner prescribed by this division for the initial transfer, including that any such transfer be reported by the transferor to the tax commissioner as described in this division.

Transferring a credit under this division does not extend the taxable years for which the credit may be claimed or number of years for which the unclaimed credit amount may be carried forward.

~~(G)~~ (F) The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer the tax credits authorized by this section. Such rules may include the following:

(1) Application forms, deadlines, and procedures;

(2) Criteria for evaluating and prioritizing applications;

(3) Guidelines for promoting an even geographic distribution of credits throughout the state.

Sec. 122.634. (A) For the purposes of this section, "accessory dwelling unit" means a self-contained dwelling unit, to which all of the following apply:

(1) The unit is designed for occupancy by one family for living and sleeping purposes;

(2) The unit provides complete independent living facilities, including its own entrance, kitchen, bathroom, and sleeping area;

(3) The unit is located on the same lot as a larger single-family dwelling that serves as the principal use of the lot;

(4) The use of the unit is subordinate and incidental to the larger single-family dwelling.

(B) The department of housing and development shall create, publish, and maintain the Ohio housing toolkit on the department's publicly accessible web site. The toolkit shall include resources to support local government officials and housing stakeholders in navigating housing development and community planning, including all of the following:

(1) An interface that identifies and links to all local comprehensive plans and zoning codes that apply to a particular address entered by the user;

(2) Expert guidance and best practices for navigating local comprehensive plans and zoning codes, including project checklists and templates for permit applications;

(3) A standardized zoning code framework that may be used by local governments as a model to streamline the zoning process and facilitate the development of housing projects;

(4) Information and guidance specific to alternative forms of housing, such as accessory dwelling units, tiny homes, modular housing, and manufactured housing, including a list of political subdivisions in this state that allow alternative forms of housing, by type, and links to local building, zoning, and fire code provisions specific to alternative forms of housing.

(C) The department shall establish an administrative support hotline to provide guidance, best practices, and

technical support for local governments in adopting, implementing, and managing new or amended zoning codes.

Sec. 122.635. (A) The department of housing and development shall create, publish, and maintain the Ohio housing dashboard on the department's publicly accessible web site. At minimum, the dashboard shall include data for all of the following:

(1) Home prices;

(2) Rental rates and rental vacancy rates;

(3) Housing inventory levels;

(4) Homeownership rates;

(5) Foreclosure rates;

(6) Population growth.

(B) The department shall format the Ohio housing dashboard in a manner that allows users to sort data based on location, age, race and ethnicity, household size, employment status, and household income.

(C) The dashboard shall include a description of the data sources and methodology used to complete the dashboard.

Sec. 122.64. (A) There is hereby established in the department of housing and development ~~services agency~~ a business services division. The division shall be supervised by a deputy director appointed by the director of housing and development ~~services~~.

The division is responsible for the administration of the state economic development financing programs established pursuant to sections 122.17 and 122.18, sections 122.39 and

122.41 to 122.62, and Chapter 166. of the Revised Code.

(B) The director of housing and development ~~services~~ shall:

(1) Receive applications for assistance pursuant to sections 122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. The director shall process the applications.

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

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

(4) Supervise the administrative operations of the division;

(5) On or before the first day of October in each year, make an annual report of the activities and operations under assistance programs authorized pursuant to sections 122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code for the preceding fiscal year to the governor and the general assembly. Each such report shall set forth a complete operating and financial statement covering such activities and operations during the year in accordance with generally accepted accounting principles and shall be audited by a certified public accountant. The director of housing and development ~~services~~ shall transmit a copy of the audited financial report to the

office of budget and management.

Sec. 122.641. (A)(1) There is hereby created the lakes in economic distress revolving loan program to assist businesses and other entities that are adversely affected due to economic circumstances that result in the declaration of a lake as an area under economic distress by the director of natural resources under division (A)(2) of this section. The director of housing and development ~~services~~ shall administer the program.

(2) The director of natural resources shall do both of the following:

(a) Declare a lake as an area under economic distress. The director shall declare a lake as an area under economic distress based solely on environmental or safety issues, including the closure of a dam for safety reasons.

(b) Subsequently declare a lake as an area no longer under economic distress when the environmental or safety issues, as applicable, have been resolved.

(B) There is hereby created in the state treasury the lakes in economic distress revolving loan fund. The fund shall consist of money appropriated to it, all payments of principal and interest on loans made from the fund, and all investment earnings on money in the fund. The director of housing and development ~~services~~ shall use money in the fund to make loans under this section, provided that the loans shall be zero interest loans during the time that an applicable lake has been declared an area under economic distress under division (A)(2)(a) of this section.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised that do both of the following:

(1) Establish requirements and procedures for the making of loans under this section, including all of the following:

(a) Eligibility criteria;

(b) Application procedures;

(c) Criteria for approval or disapproval of loans, including a stipulation that an applicant must demonstrate that the loan will help to achieve long-term economic stability in the area;

(d) Criteria for repayment of the loans, including the establishment of an interest rate that does not exceed two points less than prime after an applicable lake has been declared as an area no longer under economic distress under division (A)(2)(b) of this section.

The eligibility criteria established by the director shall not require applicants to experience a reduction in gross revenue for a defined period of greater than ten per cent.

Any material provided to the department of housing and development ~~services agency~~ by an applicant is not a public record for the purposes of section 149.43 of the Revised Code and shall remain confidential.

(2) Establish any other provisions necessary to administer this section.

(D) In administering the program, the director shall assist businesses and other entities in determining the amount of loans needed.

Sec. 122.6510. (A) As used in this section, "federal act" means the "Small Business Liability Relief and Brownfields Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and

9604.

(B) There is hereby created in the state treasury the Brownfields Revolving Loan Fund. The Fund shall consist of all moneys received by the state from repayments of loans made under the terms of the federal act, and any other money transferred to the Fund. The Fund may be used to make grants and loans by the ~~Director of Development Services~~director of housing and development. All investment earnings of the Fund shall be credited to the Fund.

(C) The Director shall administer moneys received into the Fund and comply with all requirements imposed by the federal act in administering the funds.

(D) The Director may establish a schedule of fees and charges payable by loan recipients to the Director for the administration of this section.

Sec. 122.6511. (A) As used in this section and section 122.6512 of the Revised Code:

(1) "Brownfield" means an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum.

(2) "Lead entity" means a county, township, municipal corporation, port authority, conservancy district, park district or other similar park authority, county land reutilization corporation, or organization for profit.

(3) "Remediation" means any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield. "Remediation" includes the acquisition of a brownfield, demolition performed at a brownfield, and the installation or

upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity.

(4) "County land reutilization corporation" has the same meaning as in section 1724.01 of the Revised Code.

(B)(1) There is hereby created the brownfield remediation program to award grants for the remediation of brownfield sites throughout Ohio. The program shall be administered by the director of housing and development pursuant to this section and rules adopted pursuant to division (B)(2) of this section.

(2) The director shall adopt rules, under Chapter 119. of the Revised Code, for the administration of the program. The rules shall include provisions for determining project and project sponsor eligibility, program administration, and any other provisions the director finds necessary.

(C)(1) There is hereby created in the state treasury the brownfield remediation fund. The fund shall consist of moneys appropriated to it by the general assembly, and investment earnings on moneys in the fund shall be credited to the fund.

The director shall reserve funds from each appropriation to the fund to each county in the state. The amount reserved shall be one million dollars per county, or, if an appropriation is less than eighty-eight million dollars, a proportionate amount to each county. Amounts reserved pursuant to this section are reserved for one calendar year from the date of the appropriation. After one calendar year, the funds shall be available pursuant to division (D) of this section.

(2) A lead entity may submit an initial grant application for the use of funds reserved under division (C)(1) of this

section to the director. The lead entity may later submit an amended application to the director, and the director may accept and approve that application for use of funds up to the amount reserved for that county.

(D) Funds from an appropriation not reserved under division (C)(1) of this section shall be available for grants to projects located anywhere in the state, and grants from those funds shall be awarded to qualifying projects on a first-come, first-served basis.

(E) The amendments to this section by ~~this act~~ H.B. 315 of the 135th general assembly apply to new projects that are applied for and awarded funding by the director of housing and development on and after ~~the effective date of this amendment~~July 1, 2025. Projects that are applied for or were applied for under this section prior to ~~that date~~ July 1, 2025, shall be governed by this section as it existed prior to ~~that date~~July 1, 2025.

Sec. 122.6512. (A)(1) There is hereby created the building demolition and site revitalization program to award grants for the demolition of commercial and residential buildings and revitalization of surrounding properties on sites that are not brownfields. The program shall be administered by the director of housing and development pursuant to this section and rules adopted pursuant to division (A)(2) of this section.

(2) The director shall adopt rules, under Chapter 119. of the Revised Code, for the administration of the program. The rules shall include provisions for determining project and project sponsor eligibility, program administration, and any other provisions the director finds necessary.

(3) The director shall ensure that the program is operational and accepting proposals for grants not later than ninety days after September 30, 2021.

(4) To streamline funding through the program, each county shall have one lead entity designated in accordance with the following:

(a) If the county has a population of less than one hundred thousand according to the most recent federal decennial census, the director shall select the lead entity from a list of recommendations made by the board of county commissioners of the county. The board shall submit a lead entity letter of intent and any other documentation required by the director in order for the director to select a lead entity for that county.

(b) If the county has a population of one hundred thousand or more according to the most recent federal decennial census and the county does not have a county land reutilization corporation, the director shall select the lead entity from a list of recommendations made by the board of county commissioners of the county. The board shall submit a lead entity letter of intent and any other documentation required by the director in order for the director to select a lead entity for that county.

(c) If the county has a population of one hundred thousand or more according to the most recent federal decennial census and the county has a county land reutilization corporation, the county land reutilization corporation is the lead entity for that county.

(5) The lead entity of each county shall submit all grant applications for that county. The lead entity shall submit with

a grant application any agreements executed between the lead entity with other recipients that will receive grant money through the lead entity, if applicable. Such recipients may include local governments, nonprofit organizations, community development corporations, regional planning commissions, county land reutilization corporations, and community action agencies.

(B)(1) There is hereby created in the state treasury the building demolition and site revitalization fund. The fund shall consist of moneys appropriated to it by the general assembly, and investment earnings on moneys in the fund shall be credited to the fund.

(2) The director shall reserve funds from each appropriation to the fund to each county in the state. The amount reserved shall be five hundred thousand dollars per county, or, if an appropriation is less than forty-four million dollars, a proportionate amount to each county. Amounts reserved pursuant to this section are reserved for one calendar year from the date of the appropriation. After one calendar year, the funds shall be available pursuant to division (B)(3) of this section.

(3) Funds from an appropriation not reserved under division (B)(2) of this section shall be available for grants to projects located anywhere in the state, and grants from those funds shall be awarded to qualifying projects on a first-come, first-served basis. Grants awarded pursuant to this division shall be limited to seventy-five per cent of a project's total cost.

Sec. 122.67. There is hereby created in the department of housing and development ~~services agency~~ the community services division. The director of housing and development ~~services~~ shall

employ and fix the compensation of professional and technical unclassified personnel as necessary to carry out the provisions of sections 122.66 to 122.701 of the Revised Code.

Sec. 122.68. The community services division shall:

(A) Administer all federal funds appropriated to the state from the "Community Services Block Grant Act," 95 Stat. 511, 42 U.S.C.A. 9901, and comply with requirements imposed by that act in its application for, and administration of, the funds;

(B) Designate community action agencies to receive community services block grant funds;

(C)(1) Subject to division (C)(2) of this section, disburse at least ninety-one per cent of the funds received in the state from the "Community Services Block Grant Act" to community action agencies that comply with the requirements of section 122.69 of the Revised Code and migrant and seasonal farm worker organizations that are not designated community action agencies but which provide the services described in division (B)(1) of section 122.69 of the Revised Code;

(2) Disburse at least four and one-half per cent of the funds received in the state from the "Community Services Block Grant Act" to one or more nonprofit organizations to which both of the following apply:

(a) The organization or organizations were incorporated under the laws of this state before January 1, 2015.

(b) The primary purpose of the organization or organizations is to provide training and technical assistance to community action agencies that comply with the requirements of section 122.69 of the Revised Code.

(D) Provide technical assistance to community action agencies to improve program planning, development, and administration;

(E) Conduct yearly performance assessments, according to criteria determined by department of housing and development ~~services agency~~ rule, to determine whether community action agencies are in compliance with section 122.69 of the Revised Code;

(F) Annually prepare and submit to the United States secretary of health and human services, the governor, the president of the Ohio senate, and the speaker of the Ohio house of representatives, a comprehensive report that includes:

(1) Certification that all community action agencies designated to receive funds from the "Community Services Block Grant Act" are in compliance with section 122.69 of the Revised Code;

(2) A program plan for the next federal fiscal year that has been made available for public inspection and that details how community services block grant funds will be disbursed and used during that fiscal year;

(3) Information detailing how funds were expended for the current fiscal year;

(4) An audit of community services block grant expenditures for the preceding federal fiscal year that is conducted in accordance with generally accepted accounting principles by an independent auditing firm that has no connection with any community action agency receiving community services block grant funds or with any employee of the division.

(G) Serve as a statewide advocate for social and economic

opportunities for low-income persons.

Sec. 122.681. (A) Except as permitted by this section, or when required by federal law, no person or government entity shall solicit, release, disclose, receive, use, or knowingly permit or participate in the use of any information regarding an individual receiving assistance pursuant to a community services division program under sections 122.66 to 122.702 of the Revised Code for any purpose not directly related to the administration of a division assistance program.

(B) To the extent permitted by federal law, the division, and any entity that receives division funds to administer a division program to assist individuals, shall release information regarding an individual assistance recipient to the following:

(1) A government entity responsible for administering the assistance program for purposes directly related to the administration of the program;

(2) A law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of the assistance program;

(3) A government entity responsible for administering a children's protective services program, for the purpose of protecting children;

(4) Any appropriate person in compliance with a search warrant, subpoena, or other court order.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the division, and any entity administering a division program, shall provide access to information regarding an individual assistance recipient to all

of the following:

(1) The individual assistance recipient;

(2) The authorized representative of the individual assistance recipient;

(3) The legal guardian of the individual assistance recipient;

(4) The attorney of the individual assistance recipient.

(D) To the extent permitted by federal law, the division, and any entity administering a division program, may do either of the following:

(1) Release information about an individual assistance recipient if the recipient gives voluntary, written authorization;

(2) Release information regarding an individual assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need.

(E) The community services division, or an entity administering a division program, shall provide, at no cost, a copy of each written authorization to the individual who signed it.

(F) The department of housing and development ~~services agency~~ may adopt rules defining who may serve as an individual assistance recipient's authorized representative for purposes of division (C)(2) of this section.

Sec. 122.69. (A) Any nonprofit agency or organization seeking designation as a community action agency by the

community services division shall obtain the endorsement of the chief elected officials of at least two-thirds of the municipal corporations and the counties within the community to be served by the agency or organization.

(B) Any nonprofit agency or organization that receives the endorsement provided for in division (A) of this section shall be designated by the division as the community action agency for the community it serves and shall receive community services block grant funds for any period of time that the nonprofit agency or organization:

(1) Provides a range of services and opportunities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem. These activities may include but shall not be limited to:

(a) Providing activities designed to assist low-income persons, including low-income persons who are elderly and who have disabilities, to:

(i) Secure and maintain meaningful employment, training, work experience, and unsubsidized employment;

(ii) Attain an adequate education;

(iii) Make better use of available income;

(iv) Obtain and maintain adequate housing and a suitable living environment;

(v) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

(vi) Remove obstacles and solve personal and family problems that block the achievement of self-sufficiency;

(vii) Achieve greater participation in the affairs of the community;

(viii) Undertake family planning, consistent with personal and family goals and religious and moral convictions;

(ix) Obtain energy assistance, conservation, and weatherization services.

(b) Providing, on an emergency basis, supplies and services, nutritious foodstuffs, and related services necessary to counteract conditions of starvation and malnutrition among low-income persons;

(c) Coordinating and establishing links between government and other social services programs to assure the effective delivery of services to low-income individuals;

(d) Providing child care services, nutrition and health services, transportation services, alcoholism and narcotic addiction prevention and rehabilitation services, youth development services, and community services to persons who are elderly and who have disabilities;

(e) Encouraging entities in the private sector to participate in efforts to ameliorate poverty in the community.

(2) Annually submits to the division a program plan and budget for use of community services block grant funds for the next federal fiscal year. At least ten days prior to its submission to the division, a copy of the program plan and budget shall be made available to the chief elected officials of the municipal corporations and counties within the service area

in order to provide them the opportunity to review and comment upon such plan and budget.

(3) Composes its board of directors in compliance with section (c)(3) of section 675 of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9904, except that the board shall consist of not less than fifteen nor more than thirty-three members;

(4) Complies with the prohibitions against discrimination and political activity, as provided in the "Community Services Block Grant Act";

(5) Complies with fiscal and program requirements established by department of housing and development ~~services agency~~ rule.

Sec. 122.70. The board of directors of a community action agency shall:

(A) Select, appoint, and may remove the executive director of the community action agency;

(B) Approve contracts, annual program budgets, and policies of the community action agency;

(C) Advise the elected officials of any political subdivision located within its service area, and state and federal elected officials who represent its service area, of the nature and extent of poverty within its community, and advise them of any needed changes;

(D) Convene public meetings to provide community members the opportunity to comment on public policies and programs to reduce poverty;

(E) Annually evaluate the policies and programs of the

community action agency according to criteria determined by department of housing and development ~~services agency~~ rule;

(F) Submit the results of the evaluation required by division (E) of this section, along with recommendations for improved administration of the community action agency, to the community services division;

(G) Adopt a code of ethics for the board of directors and the employees of the community action agency;

(H) Adopt written policies describing all of the following:

(1) How the community action agency is to expend and distribute the community services block grant funds that it receives from the division under sections 122.68 and 122.69 of the Revised Code;

(2) The salary, benefits, travel expenses, and any other compensation that persons are to receive for serving on the community action agency's board of directors;

(3) The operating procedures to be used by the board to conduct its meetings, to vote on all official business it considers, and to provide notice of its meetings.

(I) Provide for the posting of notices in a conspicuous place indicating that the code of ethics described in division (G) of this section and the policies described in division (H) of this section are available for public inspection at the community action agency during normal business hours.

Sec. 122.701. (A) Prior to designating a new community action agency or rescinding a community action agency's designation, the community services division shall:

(1) Determine whether a community action agency is in compliance with section 122.69 of the Revised Code;

(2) Consult with the chief elected officials of political subdivisions located within a community action agency's service area, and, in designating a new community action agency, obtain their endorsement of the agency in accordance with division (A) of section 122.69 of the Revised Code;

(3) Hold at least one public meeting within a community action agency's service area for the purpose of allowing citizens to comment on the community action agency's delivery of services;

(4) Evaluate the proposed service area of the community action agency, and, as may be necessary, modify the boundaries of the service area so that low-income persons in the area are adequately and efficiently served.

(B) After providing notice and hearing pursuant to sections 119.01 to 119.13 of the Revised Code, the director of housing and development ~~services~~:

(1) May rescind the designation of a community action agency after finding that the agency is not in compliance with any or all of the provisions of section 122.69 of the Revised Code;

(2) Shall rescind the designation of a community action agency upon notification from the chief elected officials of more than one-half of the municipal corporations and the counties within a community currently served by a community action agency that such agency is not endorsed by them and after finding that the agency is not in compliance with section 122.69 of the Revised Code.

Any agency whose designation is rescinded pursuant to this section may appeal from an order rescinding such designation pursuant to section 119.12 of the Revised Code.

Sec. 122.71. As used in sections 122.71 to 122.83 of the Revised Code:

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

(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 the aid provided under sections 122.71 to 122.83 of the Revised Code, for industrial, commercial, distribution, and research development of the state.

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

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

(E)(1) "Minority business enterprise" means an individual who is a United States citizen and owns and controls a business,

or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians.

(2) "Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in division (E)(1) of this section, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a minority business enterprise, a business shall have been owned and controlled by those persons at least one year prior to being awarded a contract pursuant to this section.

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

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

(H) "Minority contractors business assistance organization" means an entity engaged in the provision of management and technical business assistance to minority business enterprise entrepreneurs.

(I) "Minority business supplier development council" means a nonprofit organization established as an affiliate of the national minority supplier development council.

(J) "Regional economic development entity" means an entity

that is under contract with the director of housing and development to administer a loan program under this chapter in a particular area of the state.

(K) "Community development corporation" means a corporation organized under Chapter 1702. of the Revised Code that consists of residents of the community and business and civic leaders and that has as a principal purpose one or more of the following: the revitalization and development of a low- to moderate-income neighborhood or community; the creation of jobs for low- to moderate-income residents; the development of commercial facilities and services; providing training, technical assistance, and financial assistance to small businesses; and planning, developing, or managing low-income housing or other community development activities.

Sec. 122.72. (A) There is hereby created the minority development financing advisory board to assist in carrying out the programs created pursuant to sections 122.71 to 122.83 and 122.87 to 122.89 of the Revised Code.

(B) The board shall consist of ten members. The director of housing and development or the director's designee shall be a voting member on the board. Seven members shall be appointed by the governor with the advice and consent of the senate and selected because of their knowledge of and experience in industrial, business, and commercial financing, suretyship, construction, and their understanding of the problems of minority business enterprises; one member also shall be a member of the senate and appointed by the president of the senate, and one member also shall be a member of the house of representatives and appointed by the speaker of the house of representatives. With respect to the board, all of the following

apply:

(1) Not more than four of the members of the board appointed by the governor shall be of the same political party.

(2) Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

(3) The terms of office for the seven members appointed by the governor shall be for seven years, commencing on the first day of October and ending on the thirtieth day of September of the seventh year, except that of the original seven members, three shall be appointed for three years and two shall be appointed for five years.

(4) Any member of the board is eligible for reappointment.

(5) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

(6) Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(7) Before entering upon official duties as a member of the board, each member shall take an oath as provided by Section 7 of Article XV, Ohio Constitution.

(8) The governor may, at any time, remove any member appointed by the governor pursuant to section 3.04 of the Revised Code.

(9) Notwithstanding section 101.26 of the Revised Code,

members shall receive their necessary and actual expenses while engaged in the business of the board and shall be paid at the per diem rate of step 1 of pay range 31 of section 124.15 of the Revised Code.

(10) Six members of the board constitute a quorum and the affirmative vote of six members is necessary for any action taken by the board.

(11) In the event of the absence of a member appointed by the president of the senate or by the speaker of the house of representatives, either of the following persons may serve in the member's absence:

(a) The president of the senate or the speaker of the house of representatives, whoever appointed the absent member;

(b) A member of the senate or of the house of representatives of the same political party as the absent member, as designated by the president of the senate or the speaker of the house of representatives, whoever appointed the absent member.

(12) The board shall annually elect one of its members as chairperson and another as vice-chairperson.

Sec. 122.73. (A) The minority development financing advisory board and the director of housing and development are invested with the powers and duties provided in sections 122.71 to 122.83 and 122.87 to 122.89 of the Revised Code, in order to promote the welfare of the people of the state by encouraging the establishment and expansion of minority business enterprises; 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. It is hereby determined that the accomplishment of those purposes is essential so that the people of the state may maintain their present high standards of living in comparison with the people of other states and so that opportunities for employment and for favorable markets for the products of the state's natural resources, agriculture, and manufacturing shall be improved. It further is determined that it is necessary for the state to establish the programs authorized under sections 122.71 to 122.83 and 122.87 to 122.89 of the Revised Code to establish the minority development financing advisory board, and to invest it and the director of housing and development with the powers and duties provided in those sections.

(B) The minority development financing advisory board shall do all of the following:

(1) Make recommendations to the director as to applications for assistance pursuant to sections 122.71 to 122.83 and 122.87 to 122.89 of the Revised Code. The board may revise its recommendations to reflect any changes in the proposed assistance made by the director.

(2) Advise the director in the administration of sections 122.71 to 122.83 and 122.87 to 122.89 of the Revised Code.

(3) Adopt bylaws to govern the conduct of the business of the board.

Sec. 122.74. (A)(1) The director of housing and development shall do all of the following:

(a) Receive applications for assistance under sections

122.71 to 122.83 and 122.87 to 122.89 of the Revised Code and applications from surety companies for bond guarantees under section 122.90 of the Revised Code, and, after processing but subject to division (A)(2) of this section, forward them to the minority development financing advisory board together with necessary supporting information;

(b) Receive the recommendations of the board and make a final determination whether to approve the application for assistance;

(c) Receive recommendations from a regional economic development entity for loans made under section 122.76 of the Revised Code and make a final determination, notwithstanding divisions (A)(1) and (2) of this section, whether to approve the proposed loan;

(d) Transmit the director's determinations to approve assistance to the controlling board unless such assistance falls under section 122.90 of the Revised Code and has been previously approved by the controlling board, together with any information the controlling board requires for its review and decision as to whether to approve the assistance.

(2) The director is not required to submit any determination, data, terms, or any other application materials or information to the minority development financing advisory board when provision of the assistance has been recommended to the director by a regional economic development entity or when an application for a surety company for bond guarantees under section 122.90 of the Revised Code has been previously approved by the controlling board.

(B) The director may do all of the following:

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned or guaranteed by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for them and make provisions for the operation of the funds established by the director in accordance with this section and sections 122.80, 122.88, and 122.90 of the Revised Code;

(2) Loan and guarantee moneys from the fund established in accordance with section 122.80 of the Revised Code pursuant to and in compliance with sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code.

(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper;

(4) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code;

(5) Maintain, protect, repair, improve, and insure any property that the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on the terms and in the manner as the director considers proper, but the director shall not operate any such property as a business except as the lessor of it;

(6)(a) When the cost of any contract for the maintenance, protection, repair, or improvement of any property held by the director, other than compensation for personal services,

involves an expenditure of more than fifty thousand dollars, the director shall make a written contract with the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code after advertisement for not less than two consecutive weeks in a newspaper of general circulation in the county where such contract, or some substantial part of it, is to be performed, and in such other publications as the director determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids.

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

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

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

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

contract.

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

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

(9) Establish with the treasurer of state the funds provided in sections 122.80 and 122.88 of the Revised Code in addition to such funds as the director determines are necessary or proper;

(10) Adopt rules under Chapter 119. of the Revised Code necessary to implement sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code.

(11) Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised

Code.

(C)(1) All expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code shall be payable solely from revenues or other receipts or income of the director, from grants, gifts, and contributions, or funds established in accordance with such sections. Such sections do not authorize the director to incur indebtedness or to impose liability on the state or any political subdivision of the state.

(2) Financial statements and other data submitted to the director by any corporation, partnership, or person in connection with financial assistance provided under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection.

Sec. 122.75. The director of housing and development shall, for the minority business development loan program, the minority business bonding program, and the minority business bond guarantee program under sections 122.87 to 122.90 of the Revised Code, do all of the following:

(A) Hire employees, consultants, and agents and fix their compensation;

(B) Adopt bylaws and rules for the regulation of the business of the minority development financing advisory board;

(C) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which the grants, gifts, and contributions are made, from individuals, private and

public corporations, the United States or any agency of the United States, the state or any agency of the state, and any political subdivision of the state. The director may agree to repay any contribution of money or to return any property contributed or its value at such times, in amounts, and on terms and conditions, excluding the payment of interest, as the director determines at the time the contribution is made. The director may evidence the obligations by written contracts, subject to section 122.76 of the Revised Code; provided, that the director shall not thereby incur indebtedness of or impose liability upon the state or any political subdivision.

(D) Establish funds with the treasurer of state in addition to the minority business bonding fund created under section 122.88 of the Revised Code;

(E) Invest money in the funds the director establishes pursuant to division (D) of this section that is in excess of current needs, in notes, bonds, or other obligations that are direct obligations of or are guaranteed by the United States, or in certificates of deposit or withdrawable accounts of banks, trust companies, or savings and loan associations organized under the laws of this state or the United States, and may credit the income or sell the investments at the director's discretion;

(F) Acquire any property of any kind or character in accordance with sections 122.71 to 122.83 of the Revised Code, by purchase, purchase at foreclosure, or exchange on terms and in a manner the director considers proper;

(G)(1) Maintain, protect, repair, improve, and insure any property the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on terms and in a

manner the director considers proper. The director may not operate any property as a business except as a lessor of the property. When the cost of any contract for the maintenance, protection, repair, or improvement of any property of the advisory board connected with the minority business development loan program, other than compensation for personal services, involves an expenditure of more than one thousand dollars, the director shall enter into a written contract with the lowest and best bidder after advertisement for not less than four consecutive weeks in a newspaper of general circulation in the county where the contract, or some substantial part of it, is to be performed, and in other publications as the director determines. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications for the work and materials may be examined, and the time and place of receiving bids.

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

(3) Each bid for a contract, except as provided in division (G)(2) of this section, shall contain the full name of every person interested in it and shall be accompanied by a bond or certified check on a solvent bank, in the amount of ten per cent of the bid, that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The director may reject any or all bids. A bond with good and sufficient surety, approved by the director, shall be required of all contractors in an amount equal to at least one hundred

per cent of the contract price, conditioned upon faithful performance of the contract.

(H) Expend money appropriated to the department of housing and development by the general assembly for the purposes of sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code;

(I) Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code.

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

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

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

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

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

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

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

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and

that support is available through the director, the minority business development division of the department of housing and development, or other identified and acceptable sources. In determining whether a minority business enterprise borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the department of higher education as providing financial, technical, or managerial skills related to the operation of the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

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

Sec. 122.77. (A) The director of housing and development with controlling board approval may make loan guarantees to small businesses and corporations for the purpose of guaranteeing loans made to small businesses by financial institutions for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, if the director determines, in the director's sole discretion, that all of the following apply:

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

(2) The proposed small business borrower is unable to finance the proposed project through ordinary financial channels

at comparable terms.

(3) The value of the project is, or upon completion of it will be, at least equal to the total amount of the money expended in the procurement or improvement of the project and of which amount one or more financial institutions or other governmental entities have loaned not less than thirty per cent.

(4) The amount to be guaranteed by the director will not exceed eighty per cent of the total amount expended in the procurement or improvement of the project.

(5) The amount to be guaranteed by the director will be adequately secured by a first or second mortgage upon the project, or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director shall require and that such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) The proposed small business borrower shall not have defaulted on a previous loan or guarantee from the director, and no full or limited partner, or major shareholder, or holder of any equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan or guarantee from the director.

(C) The proposed small business borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that

support is available through the director, the minority business development division of the department of housing and development, or other identified and acceptable sources. In determining whether a small business borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the department of higher education as providing financial, technical, or managerial skills related to the operation of the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

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

Sec. 122.78. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans and guarantees made by the director of housing and development pursuant to sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans and guarantees are made, but the mortgage lien securing any money loaned or guaranteed by the director may be subordinate to the mortgage lien securing any money loaned or invested by a financial institution, but shall be superior to that securing any money loaned or expended by any other corporation or person. The funds used in making these loans or guarantees shall be disbursed upon order of the director.

Sec. 122.79. The exercise of the powers granted by

sections 122.71 to 122.83 and 122.87 to 122.90 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, for the increase and expansion of minority business enterprises, and for the improvement of conditions of employment, and will constitute the performance of essential governmental functions; therefore, the director of housing and development shall not be required to pay any taxes upon any property or assets held by the director, or upon any property acquired or used by the director under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, or upon the income from it, provided that this 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, in which case such tax liability shall accrue to the private person, partnership, or corporation.

Sec. 122.80. There is hereby created in the state treasury the minority business enterprise loan fund. The fund shall consist of money deposited into the fund from the facilities establishment fund pursuant to section 166.03 of the Revised Code and all money deposited into the fund pursuant to section 122.81 of the Revised Code. The director of housing and development shall use the fund to pay operating costs of the minority development financing advisory board, make loans to minority business enterprises as authorized in division (A) of section 122.76 of the Revised Code, loan guarantees to small businesses as authorized in division (A) of section 122.77 of the Revised Code, and for transfer to the capital access loan program fund established in section 122.601 of the Revised Code to be used solely for minority business enterprises or minority businesses certified by the minority business supplier

development council for deposits specified by division (D)(1)(b) of section 122.603 of the Revised Code.

Sec. 122.81. In the event of a default with respect to any loan, guarantee, or lease, the director of housing and development shall take such action as ~~he~~ the director considers proper in the circumstances to enforce and protect the rights of the director, and such actions as may be required, which may include any appropriate action at law or in equity, enforcement or waiver of any provision of any mortgage or security agreement or lease, or reinstatement of any forfeited or canceled right, title, or privilege.

Any moneys received from the repayment of a loan, guarantee, or lease authorized pursuant to sections 122.77 and 122.78 of the Revised Code, and any moneys recovered in the event of a default with respect to any such loan, guarantee, or lease, shall immediately be deposited in the minority business enterprise loan fund.

Sec. 122.82. All moneys, funds, properties, and assets acquired by the director of housing and development shall be held by the director in trust to carry out the director's powers and duties, shall be used as provided in sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, and shall at no time be part of other public funds.

Sec. 122.84. (A) As used in this section:

(1) "Ohio qualified opportunity fund" means a qualified opportunity fund that holds one hundred per cent of its invested assets in qualified opportunity zone property situated in an Ohio opportunity zone.

In the case of qualified opportunity zone property that is

qualified opportunity zone stock or qualified opportunity zone partnership interest, the stock or interest is situated in an Ohio opportunity zone only if, during all of the qualified opportunity fund's holding period for such stock or interest, all of the use of the corporation's or partnership's tangible property was in an Ohio opportunity zone. In the case of qualified opportunity zone property that is qualified opportunity zone business property, the property is situated in an Ohio opportunity zone only if, during all of the fund's holding period for such property, all of the use of the property was in an Ohio opportunity zone.

All terms used in division (A) of this section have the same meaning as in 26 U.S.C. 1400Z-2, except that "all" shall be substituted for "substantially all" wherever "substantially all" appears in the definition of those terms or in the definition of terms used in those terms.

(2) "Ohio opportunity zone" means a qualified opportunity zone designated in this state under 26 U.S.C. 1400Z-1 before, on, or after October 17, 2019, the effective date of the enactment of this section by H.B. 166 of the 133rd general assembly.

(3) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(4) "Investment period" means the six-month period from the first day of January to the thirtieth day of June, or from the first day of July to the thirty-first day of December.

(B) A person that invests in one or more Ohio qualified opportunity funds may apply to the director of housing and

development for a nonrefundable credit against the tax levied under section 5725.18, 5726.02, 5729.03, or 5747.02 of the Revised Code. The application shall be made on forms prescribed by the director. The director shall accept and review applications submitted under this section during two annual periods, the first of which begins on the tenth day of January and ends after the first day of February, and the second of which begins on the tenth day of July and ends after the first day of August. If any of those dates fall on a day that is not a business day, then the application period begins on or ends after the next business day, as applicable. The credit shall equal ten per cent of the amount of the person's investment in the fund that the fund invested during the immediately preceding investment period in projects located in Ohio opportunity zones.

The person shall include the following information with the person's application:

(1) The amount of the person's investment in Ohio qualified opportunity funds, arranged according to the amount invested in each such fund if the person invested in more than one such fund;

(2) A statement from an employee or officer of each Ohio qualified opportunity fund identified by the person under division (B)(1) of this section certifying the amount of the person's investment in the fund and the amount of that investment the fund invested in projects located in Ohio opportunity zones during the immediately preceding investment period. The statement shall describe each project funded by the investment and state each project's location and the portion of the person's investment invested in each such project. Unless the fund demonstrates otherwise to the director's satisfaction,

the amount of a person's investment that the fund invested in a project located in an Ohio opportunity zone equals the same proportion of the amount of the fund's investment in the project as the person's investment in the fund bears to the total investment by all investors in that fund on the date the fund makes the investment in the project.

The director shall review and process applications in the order in which applications are received.

(C)(1) Subject to division (C)(2) of this section, if the director determines that the applicant qualifies for a credit under this section, the director shall issue, within sixty days after the last day on which an application may be submitted for that application period, a tax credit certificate to the person identified with a unique number and listing the amount of credit the director determines is eligible to be claimed or transferred.

(2) The total amount of tax credits issued by the director shall not exceed:

(a) Seventy-five million dollars for the fiscal biennium beginning July 1, 2021, and ending June 30, 2023;

(b) Fifty million dollars for fiscal year 2024;

(c) Twenty-five million dollars for each fiscal year thereafter.

The director shall not issue certificates to a single applicant in any fiscal biennium in an amount that exceeds two million dollars.

The director may not issue a certificate under this section on the basis of any investment for which a small

business investment certificate has been issued under section 122.86 of the Revised Code.

(3) The credit may be claimed by a person under section 5725.38, 5726.61, 5729.21, or 5747.86 of the Revised Code, as applicable. A person that is not subject to taxation under section 5725.18, 5726.02, 5729.03, or 5747.02 of the Revised Code shall not claim the credit but if the person is the applicant to which the certificate was initially issued, the person may transfer the right to claim the credit under division (D) of this section.

(D) A taxpayer claiming a credit under this section shall submit a copy of the certificate with the taxpayer's return or report.

(E) A person that holds a wholly or partially unclaimed certificate issued under this section may transfer the right to claim all or part of the remaining credit to any other person. To effectuate the transfer, the transferor must notify the tax commissioner, in writing, that the transferor is transferring the right to claim all or part of the remaining credit stated on the certificate. The transferor shall identify in that notification the certificate's number, the name and the tax identification number of the transferee, the amount of remaining credit transferred to the transferee, and, if applicable, the amount of remaining credit retained by the transferor. The transferee may claim the amount of credit received under this division pursuant to and in the manner required under divisions (C)(3) and (D) of this section. Transferring a credit under this division does not extend the taxable year or calendar year for which the credit may be claimed or number of years for which the unclaimed credit amount may be carried forward under section

5725.38, 5726.61, 5729.21, or 5747.86 of the Revised Code, as applicable.

Any person to which a credit has been transferred under this division may transfer the right to claim all or part of the transferred credit amount to any other person, in the same manner prescribed by this division for the initial transfer, including that any such transfer be reported by the transferor to the tax commissioner as described in this division.

(F) On or before the first day of August each year, the director of housing and development shall submit a report to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on the tax credit program authorized under this section. The report shall include the following information:

(1) The number of projects funded by investments for which a tax credit application was submitted under this section during the preceding year, the Ohio opportunity zone in which each such project is located, the number of projects funded by investments for which certificates were allocated during the preceding year, a description of each such project, and the composition of an Ohio qualified opportunity fund's investments in each project funded by investments for which a tax credit application was submitted under this section;

(2) The number of persons that invested in an Ohio qualified opportunity fund and applied for a tax credit based on the fund's investment in a project during the preceding year, the name of the fund in which each such investment was made, the number of persons allocated a credit for such investments under this section, and the dollar amount of those credits;

(3) A map that shows the location of each Ohio opportunity zone and that indicates which zones include existing or pending projects that are, or will be, funded by tax credit-eligible investments.

Sec. 122.85. (A) As used in this section and in sections 5726.55, 5733.59, 5747.66, and 5751.54 of the Revised Code:

(1) "Tax credit-eligible production" means a motion picture or broadway theatrical production certified by the director of housing and development under division (B) of this section as qualifying the production company for a tax credit under section 5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code.

(2) "Certificate owner" means a production company to which a tax credit certificate is issued.

(3) "Production company" means an individual, corporation, partnership, limited liability company, or other form of business association that is registered with the secretary of state and that is producing a motion picture or broadway theatrical production.

(4) "Eligible expenditures" means expenditures made after June 30, 2009, for goods or services purchased and consumed in this state by a production company directly for the production of a tax credit-eligible production, for postproduction activities, or for advertising and promotion of the production.

"Eligible expenditures" do not include qualified expenditures for which a production company receives a tax credit under section 122.852 of the Revised Code.

"Eligible expenditures" include expenditures for cast and crew wages, accommodations, costs of set construction and

operations, editing and related services, photography, sound synchronization, lighting, wardrobe, makeup and accessories, film processing, transfer, sound mixing, special and visual effects, music, location fees, and the purchase or rental of facilities and equipment.

(5) "Motion picture" means entertainment content created in whole or in part within this state for distribution or exhibition to the general public, including, but not limited to, feature-length films; documentaries; long-form, specials, miniseries, series, and interstitial television programming; interactive web sites; sound recordings; videos; music videos; interactive television; interactive games; video games; commercials; any format of digital media; and any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in either a product or a motion picture by any means and media in any digital media format, film, or videotape, provided the motion picture qualifies as a motion picture. "Motion picture" does not include any television program created primarily as news, weather, or financial market reports, a production featuring current events or sporting events, an awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service or in-house corporate advertising or other similar productions, a production for purposes of political advocacy, or any production for which records are required to be maintained under 18 U.S.C. 2257 with respect to sexually explicit content.

(6) "Broadway theatrical production" means a prebroadway production, long run production, or tour launch that is directed, managed, and performed by a professional cast and crew

and that is directly associated with New York city's broadway theater district.

(7) "Prebroadway production" means a live stage production that is scheduled for presentation in New York city's broadway theater district after the original or adaptive version is performed in a qualified production facility.

(8) "Long run production" means a live stage production that is scheduled to be performed at a qualified production facility for more than five weeks, with an average of at least six performances per week.

(9) "Tour launch" means a live stage production for which the activities comprising the technical period are conducted at a qualified production facility before a tour of the original or adaptive version of the production begins.

(10) "Qualified production facility" means a facility located in this state that is used in the development or presentation to the public of theater productions.

(B) For the purpose of encouraging and developing strong film and theater industries in this state, the director of housing and development may certify a motion picture or broadway theatrical production produced by a production company as a tax credit-eligible production. In the case of a television series, the director may certify the production of each episode of the series as a separate tax credit-eligible production. A production company shall apply for certification of a motion picture or broadway theatrical production as a tax credit-eligible production on a form and in the manner prescribed by the director. Each application shall include the following information:

(1) The name and telephone number of the production company;

(2) The name and telephone number of the company's contact person;

(3) A list of the first preproduction date through the last production and postproduction dates in Ohio and, in the case of a broadway theatrical production, a list of each scheduled performance in a qualified production facility;

(4) The Ohio production office or qualified production facility address and telephone number;

(5) The total production budget;

(6) The total budgeted eligible expenditures and the percentage that amount is of the total production budget of the motion picture or broadway theatrical production;

(7) In the case of a motion picture, the total percentage of the production being shot in Ohio;

(8) The level of employment of cast and crew who reside in Ohio;

(9) A synopsis of the script;

(10) In the case of a motion picture, the shooting script;

(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;

(12) Documentation of financial ability to undertake and complete the motion picture or broadway theatrical production, including documentation that shows that the company has secured funding equal to at least fifty per cent of the total production budget;

(13) Estimated value of the tax credit based upon total budgeted eligible expenditures;

(14) Estimated amount of state and local taxes to be generated in this state from the production;

(15) Estimated economic impact of the production in this state;

(16) Any other information considered necessary by the director.

Within ninety days after certification of a motion picture or broadway theatrical production as a tax credit-eligible production, and any time thereafter upon the request of the director, the production company shall present to the director sufficient evidence of reviewable progress. If the production company fails to present sufficient evidence, the director may rescind the certification. If the production of a motion picture or broadway theatrical production does not begin within ninety days after the date it is certified as a tax credit-eligible production, the director shall rescind the certification unless the director finds that the production company shows good cause for the delay, meaning that the production was delayed due to unforeseeable circumstances beyond the production company's control or due to action or inaction by a government agency. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for certification.

(C)(1) A production company whose motion picture or broadway theatrical production has been certified as a tax

credit-eligible production may apply to the director of housing and development on or after July 1, 2009, for a refundable credit against the tax imposed by section 5726.02, 5733.06, 5747.02, or 5751.02 of the Revised Code. The director in consultation with the tax commissioner shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.

The credit is determined as follows:

(a) If the total budgeted eligible expenditures stated in the application submitted under division (B) of this section or the actual eligible expenditures as finally determined under division (D) of this section, whichever is least, is less than or equal to three hundred thousand dollars, no credit is allowed;

(b) If the total budgeted eligible expenditures stated in the application submitted under division (B) of this section or the actual eligible expenditures as finally determined under division (D) of this section, whichever is least, is greater than three hundred thousand dollars, the credit equals thirty per cent of the least of such budgeted or actual eligible expenditure amounts.

(2) Except as provided in division (C)(4) of this section, if the director of housing and development approves a production company's application for a credit, the director shall issue a tax credit certificate to the company. The director in consultation with the tax commissioner shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate

shall state the amount of the eligible expenditures on which the credit is based and the amount of the credit. Upon the issuance of a certificate, the director shall certify to the tax commissioner the name of the production company to which the certificate was issued, the amount of eligible expenditures shown on the certificate, the amount of the credit, and any other information required by the rules adopted to administer this section.

(3) The amount of eligible expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Once the eligible expenditures are finally determined under section 5703.19 of the Revised Code and division (D) of this section, the credit amount is not subject to adjustment unless the director determines an error was committed in the computation of the credit amount.

(4) No tax credit certificate may be issued before the completion of the tax credit-eligible production. The amount of tax credit allowed per fiscal year shall not exceed the sum of (a) fifty million dollars, (b) the difference between the maximum credit amount for that fiscal year under section 122.852 of the Revised Code and the amount the director of housing and development elects to allow under this section pursuant to division (D)(1) of section 122.852 of the Revised Code, and (c) the difference between the maximum amount of credits that could have been awarded in the previous fiscal year under this section and the amount actually awarded. Out of that sum, five million dollars shall be reserved for broadway theatrical productions, and the balance may be allowed for any tax credit-eligible production. For any fiscal year in which less than five million

dollars of tax credits are allowed for broadway theatrical productions, the amount of the five million dollars not allowed and added to the maximum annual amount for the following fiscal year shall be reserved for broadway theatrical productions in the following fiscal year.

(5) The director shall review and approve applications for tax credits in two rounds each fiscal year. The first round of credits shall be awarded not later than the last day of July of the fiscal year, and the second round of credits shall be awarded not later than the last day of the ensuing January. The amount of credits awarded in the first round of applications each fiscal year shall not exceed one-half of the maximum allowance for the fiscal year calculated under division (C)(4) of this section, two million five hundred thousand dollars of which shall be reserved for broadway theatrical productions. For each round, the director shall rank applications on the basis of the extent of positive economic impact each tax credit-eligible production is likely to have in this state and the effect on developing a permanent workforce in motion picture or theatrical production industries in the state. For the purpose of such ranking, the director shall give priority to tax-credit eligible productions that are television series or miniseries due to the long-term commitment typically associated with such productions. The economic impact ranking shall be based on the production company's total expenditures in this state directly associated with the tax credit-eligible production. The effect on developing a permanent workforce in the motion picture or theatrical production industries shall be evaluated first by the number of new jobs created and second by amount of payroll added with respect to employees in this state.

The director shall approve productions in the order of

their ranking, from those with the greatest positive economic impact and workforce development effect to those with the least positive economic impact and workforce development effect.

(D) A production company whose motion picture or broadway theatrical production has been certified as a tax credit-eligible production shall engage, at the company's expense, an independent certified public accountant to examine the company's production, postproduction, and advertising and promotion expenditures to identify the expenditures that qualify as eligible expenditures. The certified public accountant shall issue a report to the company and to the director of housing and development certifying the company's eligible expenditures and any other information required by the director. Upon receiving and examining the report, the director may disallow any expenditure the director determines is not an eligible expenditure. If the director disallows an expenditure, the director shall issue a written notice to the production company stating that the expenditure is disallowed and the reason for the disallowance. Upon examination of the report and disallowance of any expenditures, the director shall determine finally the lesser of the total budgeted eligible expenditures stated in the application submitted under division (B) of this section or the actual eligible expenditures for the purpose of computing the amount of the credit.

(E) No credit shall be allowed under section 5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code unless the director has reviewed the report and made the determination prescribed by division (D) of this section.

(F) This state reserves the right to refuse the use of this state's name in the credits of any tax credit-eligible

motion picture production or program of any broadway theatrical production.

(G)(1) The director of housing and development in consultation with the tax commissioner shall adopt rules for the administration of this section, including rules setting forth and governing the criteria for determining whether a motion picture or broadway theatrical production is a tax credit-eligible production; activities that constitute the production or postproduction of a motion picture or broadway theatrical production; reporting sufficient evidence of reviewable progress; expenditures that qualify as eligible expenditures; a schedule and deadlines for applications to be submitted and reviewed; a competitive process for approving credits based on likely economic impact in this state and development of a permanent workforce in motion picture or theatrical production industries in this state; consideration of geographic distribution of credits; and implementation of the program described in division (H) of this section. The rules shall be adopted under Chapter 119. of the Revised Code.

(2) To cover the administrative costs of the program, the director shall require each applicant to pay an application fee equal to the lesser of ten thousand dollars or one per cent of the estimated value of the tax credit as stated in the application. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. All grants, gifts, fees, and contributions made to the director for marketing and promotion of the motion picture industry within this state shall also be credited to the fund.

(H) The director of housing and development shall establish a program for the training of Ohio residents who are

or wish to be employed in the film or multimedia industry. Under the program, the director shall:

(1) Certify individuals as film and multimedia trainees. In order to receive such a certification, an individual must be an Ohio resident, have participated in relevant on-the-job training or have completed a relevant training course approved by the director, and have met any other requirements established by the director.

(2) Accept applications from production companies that intend to hire and provide on-the-job training to one or more certified film and multimedia trainees who will be employed in the company's tax credit-eligible production;

(3) Upon completion of a tax-credit eligible production, and upon the receipt of any salary information and other documentation required by the director, authorize a reimbursement payment to each production company whose application was approved under division (H)(2) of this section. The payment shall equal fifty per cent of the salaries paid to film and multimedia trainees employed in the production.

Sec. 122.851. (A) As used in this section:

(1) "Venture capital operating company" has the same meaning as in 29 C.F.R. 2510.3-101.

(2) "Ohio venture capital operating company" means a venture capital operating company certified by the director of housing and development as having met the requirements prescribed by division (B) of this section. A venture capital operating company is an Ohio venture capital operating company only for so long as the certification is valid.

(3) "Ohio business" means a business that, in either the

calendar year in which a capital gain from the business is recognized by the Ohio venture capital operating company or its direct or indirect investors or the calendar year in which the Ohio venture capital operating company distributes an equity interest or security in the business, has its headquarters in this state and employs more than one-half of the total number of its full-time equivalent employees in this state. For the purpose of this section, an employee is employed in this state if the business is required to withhold income tax under section 5747.06 of the Revised Code for fifty per cent or more of the compensation paid to the employee in either the calendar year in which the Ohio venture capital operating company or its direct or indirect investors recognize a capital gain from the business or the calendar year in which the Ohio venture capital operating company distributes an equity interest or security in the business, as applicable.

(4) "Qualifying interest" means a direct or indirect ownership interest acquired through an investment of cash or cash equivalent made in, or the provision of services to, a venture capital operating company during the period for which it was certified as an Ohio venture capital operating company.

(B)(1) A venture capital operating company may apply to the director of housing and development for certification as an Ohio venture capital operating company if it manages, or has capital commitments of, at least fifty million dollars in active assets and at least two-thirds of its managing and general partners are residents of Ohio under division (I) of section 5747.01 of the Revised Code. The director, in consultation with the tax commissioner, shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.

(2) The director shall review and make a determination with respect to each application submitted under this division within sixty days of receipt. The director shall grant certification to any applicant that meets the criteria prescribed by this division. The director shall decline certification of any applicant that does not meet such criteria. The director shall notify the applicant and the tax commissioner of the director's determination in writing.

(C)(1) Certification as an Ohio venture capital operating company is valid for as long as the company continues to qualify as a venture capital operating company and meets the criteria prescribed by division (B)(1) of this section.

(2) A company that no longer qualifies as a venture capital operating company or no longer meets the criteria prescribed by division (B)(1) of this section shall notify the director within thirty days of the date the company ceases to qualify.

(3) Upon receiving such a notification or upon otherwise discovering that an Ohio venture capital operating company no longer qualifies for certification, the director shall issue a written notice of revocation to the venture capital operating company and the tax commissioner. The notice shall state the effective date of the revocation, which shall be the date the company ceased to qualify for certification as an Ohio venture capital operating company.

(4) An Ohio venture capital operating company receiving such a notice may contest the director's decision to revoke its certification or the effective date of that revocation by submitting additional information or documentation to the director and requesting reconsideration in writing within thirty

days of the notice of revocation based on that information or documentation. The director shall review and evaluate any such requests within thirty days of receipt. The director shall notify the company and tax commissioner in writing of the director's decision on the request, which shall not be subject to appeal or further review.

(D)(1) On or after the first day of January and on or before the first day of February of each year, a company that is certified as an Ohio venture capital operating company shall provide the following information, on forms prescribed by the director of housing and development, to the director and the tax commissioner:

(a) The name, social security or federal employer identification number, and ownership percentage of each person with a qualifying interest in the company;

(b) The amount of capital gains generated during the portion of the previous calendar year during which the company was certified as an Ohio venture capital operating company;

(c) A description of the company's investments that generated the capital gains described in division (D)(1)(b) of this section, including the date of sale and whether the investment was in an Ohio business;

(d) The amount of, and basis in, any equity interests or securities distributed to each investor, arranged by entity, while the company was certified as an Ohio venture capital operating company and whether the entity is an Ohio business;

(e) Any other information the director, in consultation with the tax commissioner, considers relevant and necessary to administer the deduction allowed under division (A)(35) of

section 5747.01 of the Revised Code.

(2) The director shall review the information submitted under division (D)(1) of this section by an Ohio venture capital operating company within sixty days of receipt. If the company generated capital gains that qualify for the deduction allowed under division (A)(35) of section 5747.01 of the Revised Code or distributed equity interests or securities that, when sold, will qualify for the deduction once income is recognized from its disposition, the director shall issue a certificate to the company. The certificate shall include a unique number and the following information:

(a) The total amount of capital gains generated during the portion of the year during which the company was certified as an Ohio venture capital operating company;

(b) The portion of the capital gains attributable to the company's investments in Ohio businesses; and

(c) The total amount of, and basis in, any equity interests or securities distributed during the portion of the year during which the company was certified as an Ohio venture capital operating company;

(d) The portion of the distributed equity interests or securities attributable to the company's investments in Ohio businesses;

(e) The portion of the amounts described in divisions (D)(2)(a) and (b) of this section attributable to each individual with a qualifying interest in the company;

(f) Any other information the director or tax commissioner considers necessary for the administration of the deduction allowed under division (A)(35) of section 5747.01 of the Revised

Code.

(E) An Ohio venture capital operating company shall provide each person with a qualifying interest in the company with a copy of the certificate issued under division (D) of this section and any other documentation necessary to compute the adjustments under division (A)(35) of section 5747.01 of the Revised Code. A pass-through entity that receives a certificate issued under this division from an Ohio venture capital operating company shall provide its investors with a copy of the certificate and any other documentation necessary to compute the adjustments under division (A)(35) of section 5747.01 of the Revised Code.

A taxpayer claiming a deduction under division (A)(35)(a) of section 5747.01 of the Revised Code shall provide, upon request of the tax commissioner, a copy of that certificate. The taxpayer shall retain a copy of the certificate for four years from the later of the final filing date of the return on which the deduction was claimed or the date the return on which the deduction was claimed is filed.

(F) The director of housing and development, in consultation with the tax commissioner, may adopt rules in accordance with Chapter 119. of the Revised Code as are necessary to administer this section.

Sec. 122.852. (A) As used in this section:

(1) "Capital improvement project" means a project that consists of acquiring, constructing, rehabilitating, repairing, redeveloping, expanding, or improving facilities located, or equipment used in this state for production and postproduction of motion pictures or broadway theatrical productions.

(2) "Qualified expenditures" means expenditures incurred by a production company after June 30, 2023, for goods and services purchased and consumed directly for a capital improvement project. "Qualified expenditures" include accounting or auditing expenditures incurred in connection with the report required by division (F) of this section if paid to an independent certified public accountant certified, or an accounting firm registered under Chapter 4701. of the Revised Code. "Qualified expenditures" do not include eligible expenditures for which a production company received a tax credit under section 122.85 of the Revised Code.

(3) "Certificate owner" means a production company to which a tax credit certificate is issued under division (H) of this section or a person to which all or part of a tax credit is transferred under division (I) of this section.

(4) "Production company," "eligible expenditures," "motion picture," and "broadway theatrical production" have the same meanings as in section 122.85 of the Revised Code.

(B) For the purpose of encouraging and developing strong film and theater industries in this state, the director of housing and development may award a refundable credit against the tax imposed by section 5726.02, 5747.02, or 5751.02 of the Revised Code to a production company that completes a capital improvement project expected to have a positive economic impact in this state as a whole, or in any community in this state in which the facilities or equipment involved in the project are or will be located. A production company may apply to the director for a credit on a form and in the manner prescribed by rules adopted under division (J) of this section. An application may be submitted before, during, or after completion of the capital

improvement project, but not sooner than July 1, 2024, and shall include all of the following information:

(1) The name, address, telephone number, and taxpayer identification number of the production company;

(2) A detailed description of the capital improvement project including the location of the facilities or equipment involved in the project and an explanation of how those facilities or equipment are intended to be used in the production or postproduction of motion pictures or broadway theatrical productions in this state;

(3)(a) If the capital improvement project is complete at the time the application is submitted, a schedule documenting the progression of the project from its commencement to its completion;

(b) If the capital improvement project is not complete at the time the application is submitted, a schedule for the progression, completion, and, if applicable, commencement of the project.

(4) An estimate of the amount of the project's qualified expenditures that have been or will be incurred by the production company and, if the project is not complete at the time the application is submitted, documentation of the company's financial ability to complete the project, including documentation that shows the company has secured funding, other than the tax credit authorized by this section, equal to at least fifty per cent of the total cost of the project;

(5) The estimated credit amount, which shall equal the lesser of five million dollars or twenty-five per cent of the production company's estimated qualified expenditures;

(6) The estimated economic impact of the capital improvement project in this state as a whole, and in any community in this state in which the facilities or equipment involved in the project are or will be located;

(7) Any other information considered necessary by the director.

(C) The director shall review, evaluate, and approve applications in one round per fiscal year. For each round, the director shall rank applications on the basis of the capital improvement project's likely positive economic impact and effect on developing a permanent workforce in motion picture or theatrical production industries in the state as a whole, and in any community in this state in which the facilities or equipment involved in the project are or will be located. The effect on developing a permanent workforce in the motion picture or theatrical production industries shall be evaluated first by the number of new jobs created and second by amount of payroll added with respect to employees in this state. Subject to division (D)(2) of this section, the director shall approve applications in the order of their ranking, from those with the greatest positive economic impact and workforce development effect to those with the least positive economic impact and workforce development effect. The director shall not approve an application or issue a tax credit certificate for a capital improvement project that is not likely to have a positive economic impact or workforce development impact in either the state as a whole, or any community in this state in which the facilities or equipment involved in the project are or will be located.

(D)(1) The director shall not approve more than twenty-

five million dollars in estimated tax credits in total per fiscal year provided that, for any fiscal year in which the amount of estimated credits approved under this section is less than the maximum annual amount, the amount not approved for that fiscal year shall be added to the maximum annual amount that may be approved for the following fiscal year.

If the director rescinds approval of a capital improvement project under division (E)(2) of this section, the estimated credit amount attributed to that project shall be added back to the maximum total annual credit amount for that fiscal year. If the actual credit amount computed under division (H) of this section is less than the estimated credit amount approved by the director, the difference shall be added back to the maximum total annual credit amount for that fiscal year.

In any fiscal year, the director may reduce the maximum amount calculated under division (D)(1) of this section and increase the maximum amount calculated under division (C)(4) of section 122.85 of the Revised Code by the amount of that reduction.

(2) The director shall not approve more than five million dollars in estimated tax credits per fiscal year for capital improvement projects located in any single county.

(E)(1) Within ninety days after the director of <u>housing and</u> development approves a capital improvement project that was not complete at the time of the production company's application, the production company shall submit sufficient evidence of reviewable progress to the director. The director may request additional updates from the production company regarding the progression of the project as often as the director considers necessary until the project is complete or

approval of the project is rescinded. The production company shall respond to each such request within thirty days.

(2) The director may rescind approval of a capital improvement project if the production company fails to timely submit evidence of reviewable progress or respond to the director's request for a project update, as required by division (E)(1) of this section, or if the director determines that the progression of the project is significantly behind the schedule submitted in the tax credit application. The director shall rescind approval of a project that does not begin within ninety days after the date the application is approved unless the production company shows good cause for the delay, meaning that the project was delayed due to unforeseeable circumstances beyond the production company's control or due to action or inaction by a government agency.

(3) The director shall notify the production company upon rescinding approval of a capital improvement project. Nothing in this section prohibits the production company from reapplying for approval of the same capital improvement project.

(F)(1) A production company whose capital improvement project is approved by the director of housing and development shall engage, at the company's expense, an independent certified public accountant to examine the company's qualified expenditures. Within ninety days after the director approves the project or within ninety days after a project approved by the director is complete, whichever is later, the certified public accountant shall issue a report to the company and to the director that includes all of the following:

(a) The amount of the company's actual qualified expenditures;

(b) Completed copies of all accounting and auditing forms required by the director in connection with the capital improvement project;

(c) An itemized review of all contract and expense items of ten thousand dollars or more that are reported as qualified expenditures;

(d) An itemized review of at least one-half of the contract and expense items of less than ten thousand dollars that are reported as qualified expenditures, both in terms of the total number of such contracts and items and the total amount of qualified expenditures reported for such contracts and items;

(e) Certification that all goods and services reported as qualified expenditures were purchased and consumed in this state.

(2) Upon receiving and examining the report, the director may disallow any expenditure the director determines is not a qualified expenditure. If the director disallows an expenditure, the director shall issue a written notice to the production company stating that the expenditure is disallowed and the reason for the disallowance. Upon examination of the report and disallowance of any expenditures, the director shall determine the production company's actual qualified expenditures for the purpose of computing the amount of the credit.

(3) Qualified expenditures reported by the production company are subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Once the qualified expenditures are finally determined under division

(F)(2) of this section, the credit amount is not subject to adjustment unless the director determines an error was committed in the computation of the credit amount.

(G) After reviewing the report and making the determination prescribed by division (F) of this section, the director of housing and development shall issue a tax credit certificate to the production company. The director, in consultation with the tax commissioner, shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate shall state the amount of the credit and the amount of the qualified expenditures upon which the credit is based. Upon issuance of a certificate, the director shall certify to the tax commissioner the name of the production company to which the certificate was issued, the amount of qualified expenditures shown on the certificate, the amount of the credit, and any other information required by the rules adopted to administer this section.

(H) The credit amount stated on the tax credit certificate shall equal the lesser of the following:

(1) Twenty-five per cent of the production company's actual qualified expenditures, as determined by the director of housing and development under division (F) of this section;

(2) The estimated credit amount specified in the production company's tax credit application under division (B)(5) of this section;

(3) Five million dollars.

(I)(1) A production company to which a tax credit certificate is issued under division (H) of this section may transfer the authority to claim all or a portion of the amount of the tax credit the production company is authorized to claim pursuant to that certificate under section 5726.59, 5747.67, or 5751.55 of the Revised Code to one or more other persons. Within thirty days after a transfer under this division, the production company shall submit the following information to the director of housing and development, on a form prescribed by the director:

(a) Information necessary for the director to identify the certificate that is the basis for the transfer;

(b) The portion or amount of the tax credit transferred to each transferee;

(c) The portion or amount of the tax credit that the production company retains the authority to claim;

(d) The tax identification number of each transferee;

(e) The date of the transfer;

(f) Any other information required by the director;

(g) Any information required by the tax commissioner.

The director shall deliver a copy of any submission received under division (I)(1) of this section to the tax commissioner.

(2) A transferee may not claim a credit under section 5726.59, 5747.67, or 5751.55 of the Revised Code unless and until the transferring production company complies with division (I)(1) of this section. A transferee may claim the transferred amount of any credit or portion of a credit for the same taxable

year or tax period for which the transferring production company was authorized to claim the credit or portion of a credit pursuant to the certificate. A production company shall make no transfer under division (I)(1) of this section after the last day of the tax period or taxable year for which the production company is required to claim the credit pursuant to the certificate.

A production company may make not more than one transfer under division (I)(1) of this section for each tax credit certificate, but pursuant to that transaction, may allocate the authority to claim a portion of the credit to more than one transferee. A production company may not authorize more than one transferee to claim the same portion of a credit. No transferee may transfer the right to claim the credit to another person.

(J) The director of housing and development, in consultation with the tax commissioner, shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration of this section, including rules setting forth and governing the criteria for reporting sufficient evidence of reviewable progress; expenditures that are qualified expenditures; a schedule and deadlines for applications to be submitted and reviewed; a competitive process for approving credits based on likely economic impact and development of a permanent workforce in motion picture or theatrical production industries; and consideration of geographic distribution of credits.

To cover the administrative costs of the program, the director shall require each applicant to pay an application fee equal to the lesser of ten thousand dollars or one per cent of the estimated value of the tax credit as stated in the

application. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code.

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

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

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

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

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

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

(iv) Is not engaged in any illegal activity.

(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.

(c) At the time of a qualifying investment and for the two-year period immediately preceding the qualifying investment, 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.

(d) The enterprise, within six months after an eligible investor's qualifying investment is made, incurs cost for one or more of the following:

(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, including the installation of such tangible personal property;

(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;

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

(iv) Leasehold improvements and construction costs for property located in this state that is used in the business from the time its improvement or construction was completed until the end of the holding period;

(v) Compensation for new employees of the enterprise hired after the date the qualifying investment is made for whom the enterprise is required to withhold income tax under section

5747.06 of the Revised Code.

(2) "Qualifying investment" means an investment of money made on or after July 1, 2019, to acquire capital stock or other equity interest in a small business enterprise. "Qualifying investment" does not include either of the following:

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

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

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

(4) "Holding period" means the two-year period beginning on the day a qualifying investment is made.

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

(B) An eligible investor that makes a qualifying investment in a small business enterprise on or after July 1, 2019, may apply to the director of housing and development ~~services~~ to obtain an allocation for a small business investment certificate from the director. Alternatively, a small business

enterprise may apply on behalf of eligible investors to obtain the allocation for those investors. The application must be submitted to the director within sixty days after the date of the qualifying investment, but within the same biennium as the qualifying investment. The director, in consultation with the tax commissioner, shall prescribe the form or manner in which an applicant shall apply for the certificate, devise the form of the certificate, and prescribe any records or other information an applicant shall furnish with the application to evidence the qualifying investment. The applicant shall pay an application fee equal to the greater of one-tenth of one per cent of the amount of the intended investment or one hundred dollars.

The director of housing and development ~~services~~ may reserve small business investment allocations to qualifying applicants in the order in which the director receives applications. An application is completed when the director has validated that an eligible investor has made a qualified investment and receives all required documentation needed to demonstrate the small business enterprise satisfies the requirements of division (A)(1) of this section. To qualify for an allocation, an eligible investor must satisfy both of the following, subject to the limitation on the amount of qualifying investments for which allocations may be issued under division (C) of this section:

(1) The eligible investor makes a qualifying investment on or after July 1, 2019.

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

(C)(1) The amount of any eligible investor's qualifying

investments for which small business investment allocations may be issued for a fiscal biennium shall not exceed ten million dollars.

(2) The director of housing and development ~~services~~ shall not issue a small business investment allocation to an eligible investor representing an amount of qualifying investment in excess of the amount of the investment indicated on the investor's application.

(3) For any fiscal biennium beginning before July 1, 2019, the director of housing and development ~~services~~ shall not issue small business investment allocations in a total amount that would cause the tax credits claimed in that biennium to exceed one hundred million dollars. For any fiscal biennium beginning on or after July 1, 2019, the director shall not issue small business investment allocations in a total amount that would cause the tax credits claimed in that biennium to exceed fifty million dollars.

(4) The director of housing and development ~~services~~ may issue a small business investment allocation only if both of the following apply at the time of issuance:

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

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

(5) The director shall not issue a small business investment allocation on the basis of any investment for which an Ohio opportunity zone investment certificate has been issued under section 122.84 of the Revised Code.

(D) Before the end of the applicable holding period of a qualifying investment, each enterprise in which a qualifying investment was made for which a small business investment allocation has been issued, upon the request of the director of housing and development ~~services~~, shall provide to the director records or other evidence satisfactory to the director that the enterprise is a small business enterprise for the purposes of this section. Each enterprise shall also provide annually to the director records or evidence regarding the number of jobs created or retained in the state. The director shall compile and maintain a register of small business enterprises qualifying under this section and shall certify the register to the tax commissioner. The director shall also compile and maintain a record of the number of jobs created or retained as a result of qualifying investments made pursuant to this section.

(E) After the conclusion of the applicable holding period for a qualifying investment, a person to whom a small business investment allocation has been issued under this section shall receive a small business investment certification, which entitles the person to claim a credit as provided under section 5747.81 of the Revised Code. However, no certificate may be issued if the director finds that any requirement under this section is not met.

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

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

(2) Any information a small business enterprise shall

provide for the purposes of this section and section 5747.81 of the Revised Code;

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

(4) Verification of a small business enterprise's investment;

(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.

(G) Application fees paid under division (B) of this section shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code.

Sec. 122.88. (A) There is hereby created in the state treasury the minority business bonding fund, consisting of moneys deposited or credited to it pursuant to section 169.05 of the Revised Code; all grants, gifts, and contributions received pursuant to division (B)(9) of section 122.74 of the Revised Code; all moneys recovered following defaults; and any other moneys obtained by the director of housing and development for the purposes of sections 122.87 to 122.90 of the Revised Code. The fund shall be administered by the director. Moneys in the fund shall be held in trust for the purposes of sections 122.87 to 122.90 of the Revised Code.

(B) Any claims against the state arising from defaults shall be payable from the minority business bonding program administrative and loss reserve fund as provided in division (C) of this section or from the minority business bonding fund. Nothing in sections 122.87 to 122.90 of the Revised Code grants or pledges to any obligee or other person any state moneys other

than the moneys in the minority business bonding program administrative and loss reserve fund or the minority business bonding fund, or moneys available to the minority business bonding fund upon request of the director in accordance with division (B) of section 169.05 of the Revised Code.

(C) There is hereby created in the state treasury the minority business bonding program administrative and loss reserve fund, consisting of all premiums charged and collected in accordance with section 122.89 of the Revised Code and any interest income earned from the moneys in the minority business bonding fund. All expenses of the director and the minority development financing advisory board in carrying out the purposes of sections 122.87 to 122.90 of the Revised Code shall be paid from the minority business bonding program administrative and loss reserve fund.

Any moneys to the credit of the minority business bonding program administrative and loss reserve fund in excess of the amount necessary to fund the appropriation authority for the minority business bonding program administrative and loss reserve fund shall be held as a loss reserve to pay claims arising from defaults on surety bonds underwritten in accordance with section 122.89 of the Revised Code or guaranteed in accordance with section 122.90 of the Revised Code. If the balance of funds in the minority business bonding program administrative and loss reserve fund is insufficient to pay a claim against the state arising from default, then such claim shall be payable from the minority business bonding fund.

Sec. 122.89. (A) The director of housing and development may execute bonds as surety for minority businesses as principals, on contracts with the state, any political

subdivision or instrumentality thereof, or any person as the obligee. The director as surety may exercise all the rights and powers of a company authorized by the department of insurance to execute bonds as surety but shall not be subject to any requirements of a surety company under Title XXXIX of the Revised Code nor to any rules of the department of insurance.

(B) The director, with the advice of the minority development financing advisory board, shall adopt rules under Chapter 119. of the Revised Code establishing procedures for application for surety bonds by minority businesses and for review and approval of applications. The board shall review each application in accordance with the rules and, based on the bond worthiness of each applicant, shall refer all qualified applicants to the director. Based on the recommendation of the board, the director shall determine whether or not the applicant shall receive bonding.

(C) The rules of the board shall require the minority business to pay a premium in advance for the bond to be established by the director, with the advice of the board after the director receives advice from the superintendent of insurance regarding the standard market rates for premiums for similar bonds. All premiums paid by minority businesses shall be paid into the minority business bonding program administrative and loss reserve fund.

(D) The rules of the board shall provide for a retainage of money paid to the minority business or EDGE business enterprise of fifteen per cent for a contract valued at more than fifty thousand dollars and for a retainage of twelve per cent for a contract valued at fifty thousand dollars or less.

(E) The penal sum amounts of all outstanding bonds issued

by the director shall not exceed the amount of moneys in the minority business bonding fund and available to the fund under division (B) of section 169.05 of the Revised Code.

(F) The superintendent of insurance shall provide such technical and professional assistance as is considered necessary by the director, including providing advice regarding the standard market rates for bond premiums as described under division (C) of this section.

(G) Notwithstanding any provision of the Revised Code to the contrary, a minority business or EDGE business enterprise may bid or enter into a contract with the state or with any instrumentality of the state without being required to provide a bond as follows:

(1) For the first contract that a minority business or EDGE business enterprise enters into with the state or with any particular instrumentality of the state, the minority business or EDGE business enterprise may bid or enter into a contract valued at twenty-five thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after October 16, 2009;

(2) After the state or any particular instrumentality of the state has accepted the first contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a second contract with the state or with that particular instrumentality of the state valued at fifty thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating

in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after October 16, 2009;

(3) After the state or any particular instrumentality of the state has accepted the second contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a third contract with the state or with that particular instrumentality of the state valued at one hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after October 16, 2009;

(4) After the state or any particular instrumentality of the state has accepted the third contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a fourth contract with the state or with that particular instrumentality of the state valued at three hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after October 16, 2009;

(5) After the state or any instrumentality of the state has accepted the fourth contract as completed and all subcontractors and suppliers on the contract have been paid, upon a showing that with respect to a contract valued at four hundred thousand dollars or less with the state or with any particular instrumentality of the state, that the minority business or EDGE business enterprise either has been denied a

bond by two surety companies or that the minority business or EDGE business enterprise has applied to two surety companies for a bond and, at the expiration of sixty days after making the application, has neither received nor been denied a bond, the minority business or EDGE business enterprise may repeat its participation in the unbonded state contractor program. Under no circumstances shall a minority business or EDGE business enterprise be permitted to participate in the unbonded state contractor program more than twice.

(H) Notwithstanding any provision of the Revised Code to the contrary, a minority business or EDGE business enterprise may bid or enter into a contract with any political subdivision of the state or with any instrumentality of a political subdivision without being required to provide a bond as follows:

(1) For the first contract that the minority business or EDGE business enterprise enters into with any particular political subdivision of the state or with any particular instrumentality of a political subdivision, the minority business or EDGE business enterprise may bid or enter into a contract valued at twenty-five thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after October 16, 2009;

(2) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the first contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a second contract with

that particular political subdivision of the state or with that particular instrumentality of a political subdivision valued at fifty thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after October 16, 2009;

(3) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the second contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a third contract with that particular political subdivision of the state or with that particular instrumentality of a political subdivision valued at one hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after October 16, 2009;

(4) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the third contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a fourth contract with that particular political subdivision of the state or with that particular instrumentality of a political subdivision valued at two hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after October 16, 2009;

(5) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the fourth contract as completed and all subcontractors and suppliers on the contract have been paid, upon a showing that with respect to a contract valued at three hundred thousand dollars or less with any political subdivision of the state or any instrumentality of a political subdivision, that the minority business or EDGE business enterprise either has been denied a bond by two surety companies or that the minority business or EDGE business enterprise has applied to two surety companies for a bond and, at the expiration of sixty days after making the application, has neither received nor been denied a bond, the minority business or EDGE business enterprise may repeat its participation in the unbonded political subdivision contractor program. Under no circumstances shall a minority business or EDGE business enterprise be permitted to participate in the unbonded political subdivision contractor program more than twice.

(I) Notwithstanding any provision of the Revised Code to the contrary, if a minority business or EDGE business enterprise has entered into two or more contracts with the state or with any instrumentality of the state, the minority business or EDGE business enterprise may bid or enter into a contract with a political subdivision of the state or with any instrumentality of a political subdivision valued at the level at which the minority business or EDGE business enterprise would qualify if entering into an additional contract with the state.

(J) The director of housing and development shall coordinate and oversee the unbonded state contractor program described in division (G) of this section, the unbonded political subdivision contractor program described in division

(H) of this section, and the approval of a qualified contractor assistance program. The director shall prepare an annual report and submit it to the governor and the general assembly on or before the first day of August that includes the following: information on the director's activities for the preceding calendar year regarding the unbonded state contractor program, the unbonded political subdivision contractor program, and the qualified contractor assistance program; a summary and description of the operations and activities of these programs; an assessment of the achievements of these programs; and a recommendation as to whether these programs need to continue.

(K) As used in this section:

(1) "EDGE business enterprise" means an EDGE business enterprise certified under section 122.922 of the Revised Code.

(2) "Qualified contractor assistance program" means an educational program or technical assistance program for business development that is designed to assist a minority business or EDGE business enterprise in becoming eligible for bonding and has been approved by the director of housing and development for use as required under this section.

(3) "Successfully completed a qualified contractor assistance program" means the minority business or EDGE business enterprise completed such a program on or after October 16, 2009.

(4) "Unbonded state contractor program" means the program described in division (G) of this section.

(5) "Unbonded political subdivision contractor program" means the program described in division (H) of this section.

Sec. 122.90. (A) The director of housing and development

may guarantee bonds executed by sureties for minority businesses and EDGE business enterprises certified under section 122.922 of the Revised Code as principals on contracts with the state, any political subdivision or instrumentality, or any person as the obligee. The director, as guarantor, may exercise all the rights and powers of a company authorized by the department of insurance to guarantee bonds under Chapter 3929. of the Revised Code but otherwise is not subject to any laws related to a guaranty company under Title XXXIX of the Revised Code nor to any rules of the department of insurance.

(B) The director shall adopt rules under Chapter 119. of the Revised Code to establish procedures for the application for bond guarantees and the review and approval of applications for bond guarantees submitted by sureties that execute bonds eligible for guarantees under division (A) of this section.

(C) In accordance with rules adopted pursuant to this section, the director may guarantee up to ninety per cent of the loss incurred and paid by sureties on bonds guaranteed under division (A) of this section.

(D) The penal sum amounts of all outstanding guarantees made by the director under this section shall not exceed three times the difference between the amount of moneys in the minority business bonding fund and available to the fund under division (B) of section 169.05 of the Revised Code and the amount of all outstanding bonds issued by the director in accordance with division (A) of section 122.89 of the Revised Code.

(E) The director of housing and development, with controlling board approval, may approve one application per fiscal year from each surety bond company for bond guarantees in

an amount requested to support one fiscal year of that company's activity under this section. A surety bond company that applies for a bond guarantee under this division, whether or not the guarantee is approved, is not restricted from also applying for individual bond guarantees under division (A) of this section.

Sec. 122.91. (A) As used in this section:

(1) "Qualifying individual" means an individual who holds a valid commercial driver's license or who is eligible to obtain such a license.

(2) "Commercial driver's license" and "commercial motor vehicle" have the same meanings as in section 4506.01 of the Revised Code.

(3) "Training expense" means any cost customarily incurred by an employer to train an employee who is a qualifying individual to obtain a commercial driver's license or to operate a commercial motor vehicle. "Training expense" shall not include such an employee's wages.

(4) "Tax credit-eligible training expense" means any training expense certified under division (B) of this section.

(5) "Director" means the director of housing and development.

(B)(1) For calendar years 2023 through 2026, an employer may apply to the director, on or before the first day of December of each year and on a form prescribed by the director, to certify training expenses that an employer estimates the employer will incur during the following calendar year as tax credit-eligible training expenses. Within thirty days after receiving such an application, the director shall certify to each applicant the amount of the applicant's submitted expenses

the director finds to be tax credit-eligible training expenses. The director shall not certify more than fifty thousand dollars of training expenses per year as tax credit-eligible training expenses for any employer.

(2) The director shall not certify more than three million dollars in tax credit-eligible training expenses for each calendar year, increased by the sum of tax credit-eligible expenses the director was authorized to certify within the limit described in division (B)(2) of this section for preceding years that were not the basis of a tax credit certificate issued under division (C)(2) of this section in the current year or any preceding year.

(C)(1) An employer that incurs tax credit-eligible training expenses in a calendar year that were certified for that year under division (B) of this section may apply to the director for a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code. The credit shall equal one-half of the tax credit-eligible training expenses actually incurred by the employer in, and certified for, the preceding calendar year. The application may be submitted after the first day and before the twenty-first day of January of the year following the year for which the director certified the expenses. The application shall be submitted on a form prescribed by the director and shall, at a minimum, include an itemized list of tax credit-eligible training expenses incurred by the employer for each employee and the identities of those employees.

(2) If the director approves an application described in division (C)(1) of this section, the director, within sixty days after receipt of the application, shall issue a tax credit

certificate to the applicant. The director in consultation with the tax commissioner shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate shall state the amount of the tax credit-eligible training expenses on which the credit is based, the amount of the credit, and the date the certificate is issued. Upon issuance of a certificate, the director shall certify to the tax commissioner the name of the applicant, the amount of tax credit-eligible training expenses stated on the certificate, and any other information required by the rules adopted under this section.

(D)(1) An employer that has been issued a tax credit certificate under division (C)(2) of this section during the preceding calendar year shall file a form with the director identifying all employees, the training of which is the basis of that tax credit, whose employment with the employer was terminated during the preceding calendar year, the amount of the tax credit that is attributable to those employees, and any other information requested by the director. The form shall be prescribed by the director, and shall be filed on or before the twenty-first day of January of the year following the issuance year stated on the certificate.

(2) The director shall annually submit to the general assembly a report in accordance with division (B) of section 101.68 of the Revised Code that includes the total number of employees described in division (D)(1) of this section and reported to the director for the preceding calendar year, the total amount of tax credits attributable to those employees, and any other information the director finds pertinent.

(E) The director in consultation with the tax commissioner shall adopt rules under Chapter 119. of the Revised Code for the administration of this section. Such rules shall set forth any applicable fees, any penalties for noncompliance with the reporting requirements prescribed in division (D) of this section, and the types of expenses that qualify as training expenses for purposes of this section.

Sec. 122.92. There is hereby created in the department of housing and development a minority business development division. The division shall do all of the following:

(A) Provide technical, managerial, and counseling services and assistance to minority business enterprises;

(B) Provide procurement and bid packaging assistance to minority business enterprises;

(C) Provide bonding technical assistance to minority business enterprises;

(D) Participate with other state departments and agencies as appropriate in developing specific plans and specific program goals for programs to assist in the establishment and development of minority business enterprises and establish regular performance monitoring and reporting systems to ensure that those goals are being achieved;

(E) Implement state law and policy supporting minority business enterprise development, and assist in the coordination of plans, programs, and operations of state government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprises;

(F) Assist in the coordination of activities and resources of state agencies and local governments, business and trade

associations, universities, foundations, professional organizations, and volunteer and other groups, to promote the growth of minority business enterprises;

(G) Establish a center for the development, collection, and dissemination of information that will be helpful to persons in establishing or expanding minority business enterprises in this state;

(H) Design, implement, and assist in experimental and demonstration projects designed to overcome the special problems of minority business enterprises;

(I) Coordinate reviews of all proposed state training and technical assistance activities in direct support of minority business enterprise programs to ensure consistency with program goals and to preclude duplication of efforts by other state agencies;

(J) Recommend appropriate legislative or executive actions to enhance minority business enterprise opportunities in the state;

(K) Assist minority business enterprises in obtaining governmental or commercial financing for business expansion, establishment of new businesses, or industrial development projects;

(L) Assist minority business enterprises in contract procurement from government and commercial sources;

(M) Establish procedures to identify groups who have been disadvantaged because of racial, cultural, or ethnic circumstances without regard to the individual qualities of the members of the group;

(N) Establish procedures to identify persons who have been economically disadvantaged;

(O) Provide grant assistance to nonprofit entities that promote economic development, development corporations, community improvement corporations, and incubator business entities, if the entities or corporations focus on business, technical, and financial assistance to minority business enterprises to assist the enterprises with fixed asset financing;

(P) Implement the minority business enterprise program described in section 122.921 of the Revised Code, the encouraging diversity, growth, and equity program described in section 122.922 of the Revised Code, the women-owned business enterprise program described in section 122.924 of the Revised Code, and the veteran-friendly business enterprise program described in section 122.925 of the Revised Code.

(Q) Do all acts and things necessary or proper to carry out the powers expressly granted and duties imposed by sections 122.92 to 122.94 of the Revised Code.

Sec. 122.921. (A) As used in this section, "minority business enterprise" has the same meaning as in division (E)(1) of section 122.71 of the Revised Code.

(B)(1) The director of housing and development shall make rules in accordance with Chapter 119. of the Revised Code establishing procedures by which minority businesses may apply to the department of housing and development for certification as minority business enterprises.

(2) The director shall approve the application of any minority business enterprise that complies with the rules

adopted under this division. Any person adversely affected by an order of the director denying certification as a minority business enterprise may appeal as provided in Chapter 119. of the Revised Code. The director shall prepare and maintain a list of certified minority business enterprises.

(C) Every state agency authorized to enter into contracts for construction or contracts for purchases of equipment, materials, supplies, insurance, or services, and every port authority shall file a report every ninety days with the department of housing and development. The report shall be filed at a time and in a form prescribed by the director of housing and development. The report shall include the name of each minority business enterprise that the state agency or port authority entered into a contract with during the preceding ninety-day period and the total value and type of each such contract. No later than thirty days after the end of each fiscal year, the director shall notify in writing each state agency and port authority that has not complied with the reporting requirements of this division for the prior fiscal year. A copy of this notification regarding a state agency shall be submitted to the director of budget and management. No later than thirty days after the notification, the state agency or port authority shall submit to the director the information necessary to comply with the reporting requirements of this division.

If, after the expiration of this thirty-day period, a state agency has not complied with the reporting requirements of this division, the director of housing and development shall certify to the director of budget and management that the state agency has not complied with the reporting requirements. A copy of this certification shall be submitted to the state agency. Thereafter, no funds of the state agency shall be expended

during the fiscal year for construction or purchases of equipment, materials, supplies, contracts of insurance, or services until the director of housing and development certifies to the director of budget and management that the state agency has complied with the reporting requirements of this division for the prior fiscal year.

If any port authority has not complied with the reporting requirement after the expiration of the thirty-day period, the director of housing and development shall certify to the speaker of the house of representatives and the president of the senate that the port authority has not complied with the reporting requirements of this division. A copy of this certification shall be submitted to the port authority. Upon receipt of the certification, the speaker of the house of representatives and the president of the senate shall take such action or make such recommendations to the members of the general assembly as they consider necessary to correct the situation.

(D)(1) Any person who has been certified as a minority business enterprise under this section may present the person's certification to a political subdivision as evidence that that person is eligible to participate in any public initiatives or strategies that the political subdivision has established to increase minority participation, representation, or inclusion in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to any of the economically disadvantaged groups listed in division (E)(1) of section 122.71 of the Revised Code.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that

the person is both of the following:

(a) A member of the economically disadvantaged group indicated on the certification;

(b) An owner of at least fifty-one per cent of the business, including corporate stock if a corporation, and has control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to the person's percentage of ownership.

Sec. 122.922. (A) As used in this section, "EDGE business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture certified as a participant in the encouraging diversity, growth, and equity program by the director of housing and development under this section of the Revised Code.

(B) The director of housing and development shall establish a business assistance program known as the encouraging diversity, growth, and equity program and shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program that do all of the following:

(1) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture may apply for certification as an EDGE business enterprise;

(2) Except as provided in division (B)(14) of this section, establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the availability of eligible program participants by region or

geographic area, as determined by the director, and by standard industrial code or equivalent code classification.

(a) Goals established under division (B)(2) of this section shall be based on a percentage level of participation and a percentage of contractor availability.

(b) Goals established under division (B)(2) of this section shall be applied at the contract level, relative to an overall dollar goal for each state agency, in accordance with the following certification categories: construction, architecture, and engineering; professional services; goods and services; and information technology services.

(3) Establish a system of certifying EDGE business enterprises based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the director:

(a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;

(b) Social disadvantage based on any of the following:

(i) A rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, location in an area of high unemployment;

(ii) Some other demonstration of personal disadvantage not common to other small businesses;

(iii) By business location in a qualified census tract.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.

(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;

(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;

(6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;

(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section;

(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;

(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;

(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;

(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate

the qualifications of an EDGE business enterprise;

(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;

(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio facilities construction commission created in section 123.20 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.

(C) Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

Sec. 122.923. (A) As used in this section:

(1) "Minority business enterprise" has the same meaning as in section 122.921 of the Revised Code.

(2) "EDGE business enterprise" has the same meaning as in section 122.922 of the Revised Code.

(3) "Women-owned business enterprise" has the same meaning as in section 122.924 of the Revised Code.

"Veteran-friendly business enterprise" has the same meaning as in section 122.925 of the Revised Code.

(B) Not later than the first day of October in each year, the director of housing and development shall submit a written report to the governor and to each member of the general assembly describing the progress made by state agencies in advancing the minority business enterprise program, the encouraging diversity, growth, and equity program, the women-owned business enterprise program, and the veteran-friendly business enterprise program. The report shall highlight the initiatives implemented to encourage participation of minority-owned, socially and economically disadvantaged, women-owned businesses, and veteran-friendly businesses in programs funded by state money or federal money received by the state. The report shall also include the total number of procurement contracts each agency has entered into with certified minority business enterprises, EDGE business enterprises, women-owned business enterprises, and veteran-friendly business enterprises.

Sec. 122.924. (A) As used in this section:

"Women-owned business enterprise" means any individual, partnership, corporation, or joint venture of any kind that is owned and controlled by women who are United States citizens and residents of this state or of a reciprocal state.

"Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if it is a corporation, is owned by women and that such owners have control over the day-to-day operations of the business and an interest

in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a women-owned business, a business shall have been owned by such owners at least one year.

(B) The director of housing and development shall establish a business assistance program known as the women-owned business enterprise program and shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program that do all of the following:

(1) Establish procedures by which a business enterprise may apply for certification as a women-owned business enterprise;

(2) Establish standards to determine when a women-owned business enterprise no longer qualifies for women-owned business enterprise certification;

(3) Establish a system to make publicly available a list of women-owned business enterprises certified under this section;

(4) Establish a process to mediate complaints and to review women-owned business enterprise certification appeals;

(5) Implement an outreach program to educate potential participants about the women-owned business enterprise program;

(6) Establish a system to assist state agencies in identifying and utilizing women-owned business enterprises in their contracting processes;

(7) Implement a system of self-reporting by women-owned business enterprises as well as an on-site inspection process to validate the qualifications of women-owned business enterprises.

(C) Business and personal financial information and trade secrets submitted by women-owned business enterprise applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

(D) The director of housing and development, upon approval of the attorney general, may enter into a reciprocal agreement with the appropriate officials of one or more states, when the other state has a business assistance program or programs substantially similar to the women-owned business enterprise program of this state. The agreement shall provide that a business certified by the other state as a women-owned business enterprise, which is owned and controlled by a resident or residents of that other state, shall be considered a women-owned business enterprise in this state under this section. The agreement shall provide that a women-owned business enterprise certified under this section, which is owned and controlled by a resident or residents of this state, shall be considered certified in the other state and eligible for programs of that state that provide an advantage or benefit to such businesses.

(E)(1) Any person who has been certified as a women-owned business enterprise under this section may present the person's certification to a political subdivision as evidence that that person is eligible to participate in any public initiatives or strategies that the political subdivision has established to increase the participation, representation, or inclusion of women in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to women-owned business

enterprises.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person is a woman, that the person owns and controls the person's business, and that the person has owned the person's business for at least one year.

Sec. 122.925. (A) As used in this section:

"Armed forces" means the armed forces of the United States, including the army, navy, air force, marine corps, space force, coast guard, or any reserve component of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; and the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

"State agency" has the meaning defined in section 1.60 of the Revised Code.

"Veteran" means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been honorably discharged or discharged under honorable conditions from the armed forces or who has been transferred to the reserve with evidence of satisfactory service.

"Veteran-friendly business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the director of housing and development and the director of transportation under this section.

(B) The director of housing and development and the director of transportation shall establish and maintain the veteran-friendly business procurement program. The director of housing and development shall adopt rules to administer the program for all state agencies except the department of transportation, and the director of transportation shall adopt rules to administer the program for the department of transportation. The rules shall be adopted under Chapter 119. of the Revised Code. The rules, as adopted separately by but with the greatest degree of consistency possible between the two directors, shall do all of the following:

(1) Establish criteria, based on the percentage of an applicant's employees who are veterans, that qualifies an applicant for certification as a veteran-friendly business enterprise;

(2) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture may apply for certification as a veteran-friendly business enterprise;

(3) Establish procedures for certifying a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture as a veteran-friendly business enterprise;

(4) Establish standards for determining when a veteran-friendly business enterprise no longer qualifies for certification as a veteran-friendly business enterprise;

(5) Establish procedures, to be used by state agencies or the department of transportation, for the evaluation and ranking of proposals, which provide preference or bonus points to each

certified veteran-friendly business enterprise that submits a bid or other proposal for a contract with the state or an agency of the state other than the department of transportation, or with the department of transportation, for the rendering of services, or the supplying of materials, or for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement;

(6) Implement an outreach program to educate potential participants about the veteran-friendly business procurement program; and

(7) Establish a process for monitoring overall performance of the veteran-friendly business procurement program.

(C)(1) Any person who has been certified as a veteran-friendly business enterprise under this section may present the person's certification to a political subdivision as evidence that the person is eligible to participate in any public initiatives or strategies that the political subdivision has established to reward veteran-friendly businesses or to increase the participation, representation, or inclusion of veteran-friendly businesses in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to veteran-friendly business enterprises.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person meets the criteria established under division (B)(1) of this section.

Sec. 122.94. The director of housing and development

~~services~~ shall:

(A) Promulgate rules in accordance with Chapter 119. of the Revised Code for the conduct of the minority business development division's business and for carrying out the purposes of sections 122.92 to 122.94 of the Revised Code;

(B) Prepare an annual report to the governor and the general assembly on or before the first day of August of its activities for the preceding calendar year.

Sec. 122.941. (A) On or before the first day of August in each year, the director of housing and development ~~services~~ shall make an annual report of the activities and operations under the assistance programs of the department of housing and development ~~services agency~~ for the preceding fiscal year to the governor and general assembly. The annual report shall include a detailing of those grants, guarantees, loans, and other forms of state assistance to women-owned businesses.

(B) As used in this section:

(1) "Women-owned business" means any individual, partnership, corporation, or joint venture of any kind that is owned and controlled by women who are United States citizens and residents of this state.

(2) "Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if it is a corporation, is owned by women and that such owners have control over the day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a women-owned business, a business shall have been owned by such owners at least one year.

Sec. 122.942. (A) The director of housing and 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 department of housing and development ~~services agency~~, make all of the following information available to the public within thirty days after the ~~agency~~ department enters into a contract with the recipient:

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

(a) A breakdown of the sources of the funds for each aspect of the project, such as state or federal programs, the operating company or entity itself, or any private financing, and a complete description of how each type of funds is to be used;

(b) The total amount of assistance awarded;

(c) A brief description of the project;

(d) The following information regarding the project:

(i) The operating company or entity that is awarded the assistance;

(ii) The products or services provided by the operating company or entity;

(iii) The number of new jobs, at-risk jobs, and retained jobs anticipated; the hourly wages and hourly benefits of those jobs; and the dollar amount of assistance per job affected.

(e) The strengths and weaknesses of the project;

(f) The location of the project, the location of the operating company or entity, and whether relocation is involved;

(g) The Ohio house district and Ohio senate district in which the project is located;

(h) The payment terms and conditions of the assistance awarded;

(i) The collateral or security required;

(j) The recommendation of the staff assigned to the project.

(2) A comprehensive report that provides a description of the operating company or entity; all relevant information regarding the project; an analysis of the operating company or entity and the goods or services it provides; the explicit terms of any collateral or security required; and the reasoning behind the staffs' recommendation.

(3) Any other relevant information the controlling board may request, or the director may consider necessary to more fully describe the details of the assistance or the operating company or entity, that is provided before the controlling board approves the assistance.

(B)(1) As used in this division, "tax incentive" means any exemption, either in whole or in part, of the income, goods, services, or property of a taxpayer from the effect of taxes levied by or under the Revised Code. "Tax incentive" includes, but is not limited to, tax exemptions, deferrals, exclusions, allowances, credits, deductions, reimbursements, and preferential tax rates.

(2) The director of housing and development ~~services~~ shall estimate the total revenue that will be forgone by the state as a result of each tax incentive approved by the tax credit authority created under section 122.17 of the Revised Code. The

estimate shall be based on the monetary value of the tax incentive and not on potential economic growth. The director shall make each estimate, along with the name and address of the taxpayer that will receive the tax incentive, available to the public within thirty days after the date the tax incentive is approved by the tax credit authority.

Nothing in this division precludes the director of housing and development ~~services~~ from making other information regarding tax incentives available to the public unless disclosure of such information is prohibited by any other section of the Revised Code.

(3) The director may adopt rules in accordance with Chapter 119. of the Revised Code to effectuate this division.

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

Sec. 122.951. (A) If the director of housing and development ~~services~~ determines that a grant may create new jobs or preserve existing jobs and employment opportunities in an eligible county, the director may grant up to seven hundred fifty thousand dollars to the eligible county for the purpose of acquiring commercial or industrial land or buildings and making improvements to commercial or industrial areas within the eligible county, including, but not limited to:

(1) Expanding, remodeling, renovating, and modernizing buildings, structures, and other improvements;

(2) Remediating environmentally contaminated property on which hazardous substances exist under conditions that have caused or would cause the property to be identified as

contaminated by the Ohio or United States environmental protection agency; and

(3) Infrastructure improvements, including, but not limited to, site preparation, including building demolition and removal; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications, including broadband, hook-ups; and water and railway access improvements.

A grant awarded under this section shall provide not more than seventy-five per cent of the estimated total cost of the project for which an application is submitted under this section. In addition, not more than ten per cent of the amount of the grant shall be used to pay the costs of professional services related to the project.

(B) An eligible county may apply to the director for a grant under this section in the form and manner prescribed by the director. The eligible county shall include on the application all information required by the director. The application shall require the eligible county to provide a detailed description of how the eligible county would use a grant to improve commercial or industrial areas within the eligible county, and to specify how a grant will lead to the creation of new jobs or the preservation of existing jobs and employment opportunities in the eligible county. The eligible county shall specify in the application the amount of the grant for which the eligible county is applying.

(C) An eligible county may designate a port authority, community improvement corporation as defined in section 122.71 of the Revised Code, or other economic development entity that is located in the county to apply for a grant under this

section. If a port authority, community improvement corporation, or other economic development entity is so designated, references to an eligible county in this section include references to the authority, corporation, or other entity.

Sec. 122.9511. (A) As used in this section:

(1) "Eligible applicant" means a person or a political subdivision.

(2) "Eligible project" means a project that, upon completion, will be a site and facility primarily intended for commercial, industrial, or manufacturing use. "Eligible projects" do not include sites and facilities intended primarily for residential, retail, or government use.

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

(4) "Political subdivision" means a municipal corporation, township, county, school district, or any other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(5) "SiteOhio certification program" means the program created under this section.

(B) There is hereby created the SiteOhio certification program to certify and market eligible projects in the state. The program shall be administered by the department of housing and development.

(C) An eligible applicant may apply to the director of housing and development on forms prescribed by the director for the director to certify an eligible project. In addition to the application, the applicant shall submit any additional materials

required by the director. The director shall establish scoring criteria, scoring instruments, and materials for use by the department of housing and development in reviewing applications under the SiteOhio certification program. The content of the scoring criteria, scoring instruments, and materials shall be at the discretion of the director and may include, where practicable, evaluation of certain quality of life indicators and community assets. The scoring criteria, scoring instruments, and materials shall be published and made available with the application.

Subject to any limitations imposed under division (E)(2) of this section, the director shall approve an application and certify the applicant's eligible project if the applicant meets all of the scoring criteria established by the director.

(D) After the director of housing and development certifies an eligible project, the project shall be listed on the department's web site. The director shall market certified eligible projects to interested persons.

(E) The director of housing and development shall adopt rules under Chapter 119. of the Revised Code necessary to implement and operate the SiteOhio certification program. The rules may provide for eligible applicants for certification to be charged fees to cover administrative costs incurred by the department in the administration of this section. Any fees collected under this section shall be credited to the SiteOhio administration fund. The director may do either of the following:

(1) Contract with one or more persons to administer all or part of the SiteOhio certification program.

(2) Limit the number of eligible projects the director certifies according to the available resources and capabilities of the department.

Sec. 122.9512. There is hereby created in the state treasury the SiteOhio administration fund. Money collected from the fees remitted by applicants for certification under section 122.9511 of the Revised Code shall be credited to the fund. The director of housing and development shall use the fund to pay the department's administrative expenses for administering the SiteOhio certification program under section 122.9511 of the Revised Code.

Sec. 122.96. The director of housing and development may delegate to officers and employees of the department of housing and development any of the powers, duties, and functions of the director, other than the promulgation of rules or the making of reports to the governor or the general assembly, in connection with the issuance of bonds, notes, or other obligations, the making or entering into of loans, guarantees, inducement agreements, and other contracts, agreements, assignments, certifications, and undertakings pursuant to Chapters 122., 140., 165., and 166. of the Revised Code, except that the authority to adopt resolutions thereunder and to sign bonds and notes may be delegated only to the assistant director or to a deputy director of the department. Each such delegation shall be in writing, shall state the functions delegated, the individuals to whom or the offices or employment positions to which delegated, and the duration, not exceeding one year, of the delegation, and shall be entered in the journal of the director. Any such delegation may be extended or revoked prospectively by writing signed by the director and entered in ~~his~~ the director's journal.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code and provided elsewhere by law, shall exercise the following powers:

(1) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of a state agency;

(2) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

(3) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

(4) To procure, by lease, storage accommodations for a state agency;

(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses may be granted to any person or entity, shall be for a period not to exceed fifteen years, unless a longer period is authorized by division (A)(5) of this section, and shall be executed for the state by the director of administrative services. The director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university

land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.17 of the Revised Code. The director may grant perpetual easements to public utilities, as defined in section 4905.02 of the Revised Code or described in section 4905.03 of the Revised Code.

(6) To lease space for the use of a state agency;

(7) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

(8) To exercise general custodial care of all real property of the state;

(9) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

(10) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials,

and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;

(ii) Details to scale and full sized, so drawn and represented as to be easily understood;

(iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction;

(iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needed information;

(v) A full and accurate estimate of each item of expense and of the aggregate cost thereof.

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall

comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the

builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(11) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code as that section existed before its repeal by Amended Substitute House Bill 95 of the 125th general assembly;

(12) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans

shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

(a) The best interests of the state will be promoted by entering into a lease with the developer;

(b) The development plans are satisfactory;

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and stipulations as the director considers necessary to preserve the best interest of the state. Moneys received by the state pursuant to this lease shall be paid into the general revenue fund. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements shall become the property of the state without cost.

(13) To manage the use of space owned and controlled by

the department by doing all of the following:

(a) Biennially implementing, by state agency location, a census of agency employees assigned space;

(b) Periodically in the discretion of the director of administrative services:

(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department;

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.

(14) To adopt rules to ensure that energy efficiency and conservation is considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. The department may require minimum energy efficiency standards for purchased products and equipment based on federal testing and

labeling if available or on standards developed by the department. When possible, the rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code.

(15) To ensure energy efficient and energy conserving purchasing practices by doing all of the following:

(a) Identifying available energy efficiency and conservation opportunities;

(b) Providing for interchange of information among purchasing agencies;

(c) Identifying laws, policies, rules, and procedures that should be modified;

(d) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by the government;

(e) Providing technical assistance and training to state employees involved in the purchasing process;

(f) Working with the department of housing and development to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation.

(16) To require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures to ensure that all of the passenger automobiles they acquire in

each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.

Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing the total number of passenger vehicles acquired during the fiscal year, except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by a sum of terms, each of which is a fraction created by dividing the number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year by the fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.

As used in division (A)(16) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.

(17) To correct legal descriptions or title defects, or release fractional interests in real property, as necessary to cure title clouds reflected in public records, including those

resulting from boundary disputes, ingress or egress issues, title transfers precipitated through retirement of bond requirements, and the retention of fractional interests in real estate otherwise disposed of in previous title transfers.

(18)(a) To, with controlling board approval, sell state-owned real property that is not held for the benefit of an institution of higher education and is appraised at not more than one hundred thousand dollars by an independent third-party appraiser.

(b) To sell state-owned real property that is held for the benefit of an institution of higher education, provided all of the following are true:

(i) The board of trustees of the institution of higher education, or, in the case of a university branch district, any other managing authority, adopts a resolution approving the sale;

(ii) The real property is appraised at not more than ten million dollars by an independent third-party appraiser;

(iii) The controlling board approves the sale.

Notwithstanding any provision of law to the contrary, net proceeds from any disposition of real property made pursuant to division (A)(18) of this section shall, at the direction of the director of budget and management, be credited to a fund or funds in the state treasury, or to accounts held by an institution of higher education for purposes to be determined by the institution.

As used in division (A)(18) of this section, "institution of higher education" has the same meaning as in section 3345.12 of the Revised Code.

(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department;

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to

be made repairs to all property owned or under the control of the patrol;

(4) The power of the division of liquor control in the leasing or purchasing of retail outlets and warehouse facilities for the use of the division;

(5) The power of the director of housing and development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code;

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code;

(7) The power of the department of public safety under section 5502.01 of the Revised Code to direct security measures and operations for the Vern Riffe center and the James A. Rhodes state office tower. The department of administrative services shall implement all security measures and operations at the Vern Riffe center and the James A. Rhodes state office tower as directed by the department of public safety.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the opportunities for Ohioans with disabilities agency, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health and addiction services, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of

boards of trustees; and purchases or leases for, and the custody and repair of, office space used for the purposes of any agency of the legislative branch of state government are not subject to the control and jurisdiction of the department of administrative services.

An agency of the legislative branch of state government that uses office space in a building under the management and control of the department of administrative services may exercise the agency's authority to improve the agency's office space as authorized under this division only if, upon review, the department of administrative services concludes the proposed improvements do not adversely impact the structural integrity of the building.

If an agency of the legislative branch of state government, except the capitol square review and advisory board, so requests, the agency and the director of administrative services may enter into a contract under which the department of administrative services agrees to perform any services requested by the agency that the department is authorized under this section to perform. In performing such services, the department shall not use competitive selection. As used in this division, "competitive selection" has the meaning defined in section 125.01 of the Revised Code and includes any other type of competitive process for the selection of persons producing or dealing in the services to be provided.

(D) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 123.22. (A) As used in this section:

(1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter.

(2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a facility by its occupants and the external energy load imposed by climatic conditions.

(3) "Facility" means a building or other structure, or part of a building or other structure, that includes provision for a heating, refrigeration, ventilation, cooling, lighting, hot water, or other major energy consuming system, component, or equipment.

(4) "Life-cycle cost analysis" means a general approach to economic evaluation that takes into account all dollar costs related to owning, operating, maintaining, and ultimately disposing of a project over the appropriate study period.

(5) "Political subdivision" means a county, township, municipal corporation, board of education of any school district, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(6) "State funded" means funded in whole or in part through appropriation by the general assembly or through the use of any guarantee provided by this state.

(7) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(8) "Cogeneration" means the simultaneous production of thermal energy and electricity for use primarily within a building or complex of buildings.

(B) The Ohio facilities construction commission shall develop energy efficiency and conservation programs for new construction design and review and for existing building audit and retrofit.

The commission may accept and administer grants from public and private sources for carrying out any of its duties under this section.

(C) No state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution shall construct or cause to be constructed, within the limits prescribed in this section, a state-funded facility without a proper life-cycle cost analysis as computed or prepared by a qualified architect or engineer in accordance with the rules required by division (D) of this section.

Construction shall proceed only upon the disclosure to the commission, for the facility chosen, of the life-cycle costs as determined in this section and the capitalization of the initial construction costs of the building. The results of life-cycle cost analysis shall be a primary consideration in the selection of a building design. That analysis shall be required only for construction of buildings with an area of twenty thousand square feet or greater, except the commission may waive this requirement or may require an analysis for buildings with an area of less than twenty thousand square feet. For projects with an estimated construction cost exceeding fifty million dollars, the analysis shall include a review of cogeneration as an energy source.

Nothing in this section shall deprive or limit any state agency that has review authority over design or construction plans from requiring a life-cycle cost analysis or energy

consumption analysis.

(D) For the purposes of assisting the commission in its responsibility for state-funded facilities pursuant to section 123.21 of the Revised Code and of cost-effectively reducing the energy consumption of those and any other state-funded facilities, thereby promoting fiscal, economic, and environmental benefits to this state, the commission shall promulgate rules specifying cost-effective, energy efficiency and conservation standards that may govern the design, construction, operation, and maintenance of all state-funded facilities, except facilities of state institutions of higher education or facilities operated by a political subdivision. The department of housing and development ~~services agency~~ shall cooperate in providing information and technical expertise to the commission to ensure promulgation of rules of maximum effectiveness. The standards prescribed by rules promulgated under this division may draw from or incorporate, by reference or otherwise and in whole or in part, standards already developed or implemented by any competent, public or private standards organization or program. The rules also may include any of the following:

(1) Specifications for a life-cycle cost analysis that shall determine, for the economic life of such state-funded facility, the reasonably expected costs of facility ownership, operation, and maintenance including labor and materials. Life-cycle cost may be expressed as an annual cost for each year of the facility's use.

A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section.

(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment.

A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national institute of standards and technology, the United States department of energy or other federal agencies, professional societies, and directions developed by the department.

(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state.

(4) A process by which a manager of a specified state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, may receive a waiver of compliance with any provision of the rules required by divisions (D)(1) to (3) of this section.

(E) Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education shall comply with any applicable provision of this section or of a rule promulgated pursuant to division (D) of this section.

Sec. 125.08. Any person who is certified by the director of housing and development in accordance with the rules adopted under division (B)(1) of section 122.921 of the Revised Code as a minority business enterprise may have that person's name placed on a special minority business enterprise notification

list to be used in connection with contracts awarded under section 125.081 of the Revised Code. The minority business enterprise notification list shall be used for bidding on contracts set aside for minority business enterprises only.

Sec. 125.081. (A) From the purchases that the department of administrative services is required by law to make through competitive selection, the director of administrative services shall select a number of such purchases, the aggregate value of which equals approximately fifteen per cent of the estimated total value of all such purchases to be made in the current fiscal year. The director shall set aside the purchases selected for competition only by minority business enterprises, as defined in division (E)(1) of section 122.71 of the Revised Code. The competitive selection procedures for such purchases set aside shall be the same as for all other purchases the department is required to make through competitive selection, except that only minority business enterprises certified by the director of housing and development in accordance with the rules adopted under division (B)(1) of section 122.921 of the Revised Code and listed under section 125.08 of the Revised Code shall be qualified to compete.

(B) To the extent that any agency of the state, other than the department of administrative services, the legislative and judicial branches, boards of elections, and the adjutant general, is authorized to make purchases, the agency shall set aside a number of purchases, the aggregate value of which equals approximately fifteen per cent of the aggregate value of such purchases for the current fiscal year for competition by minority business enterprises only. The procedures for such purchases shall be the same as for all other such purchases made by the agency, except that only minority business enterprises

certified by the director of housing and development in accordance with rules adopted under division (B)(1) of section 123.151 of the Revised Code shall be qualified to compete.

(C) In the case of purchases set aside under division (A) or (B) of this section, if no bid is submitted by a minority business enterprise, the purchase shall be made according to usual procedures. The contracting agency shall from time to time set aside such additional purchases for which only minority business enterprises may compete, as are necessary to replace those purchases previously set aside for which no minority business enterprises bid and to ensure that, in any fiscal year, the aggregate amount of contracts awarded to minority business enterprises will equal approximately fifteen per cent of the total amount of contracts awarded by the agency.

(D) The provisions of this section shall not preclude any minority business enterprise from competing for any other state purchases that are not specifically set aside for minority business enterprises.

(E) No funds of any state agency shall be expended in any fiscal year for any purchase for which competitive selection is required, until the director of the department of administrative services certifies to the clerk of the senate and the clerk of the house of representatives of the general assembly that approximately fifteen per cent of the aggregate amount of the projected expenditure for such purchases in the fiscal year has been set aside as provided for in this section.

(F) Any person who intentionally misrepresents self as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining contracts, subcontracts, or any other benefits under this section shall be

guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

Sec. 125.111. (A) Every contract for or on behalf of the state or any of its political subdivisions for any purchase shall contain provisions similar to those required by section 153.59 of the Revised Code in the case of construction contracts by which the contractor agrees to both of the following:

(1) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates;

(2) That no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

(B) All contractors from whom the state or any of its political subdivisions make purchases shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code. Annually, each such contractor shall file a description of the affirmative action program and a progress report on its implementation with the department of housing and development.

Sec. 125.20. ~~(A)~~ Within one hundred eighty days after ~~the effective date of this section~~ October 16, 2009, the director of administrative services shall establish an electronic site accessible through the internet to publish the following:

~~(1)~~(A) A database containing each state employee's gross pay from the most recent pay period. The database shall contain the name of the agency, position title, and employee name.

~~(2)~~(B) A database containing tax credits issued by the director of housing and development to business entities that shall contain the name under which the tax credit is known, the name of the entity receiving the credit, and the county in which the credit recipient's principal place of business in this state is located.

(C) The director of administrative services may adopt rules governing the means by which information is submitted and databases are updated.

Sec. 125.836. (A) As used in this section:

(1) "Biodiesel," "blended biodiesel," and "diesel fuel" have the same meanings as in section 125.831 of the Revised Code.

(2) "Incremental cost" means the difference in cost between blended biodiesel and conventional petroleum-based diesel fuel at the time the blended biodiesel is purchased.

(B) There is hereby created in the state treasury the "biodiesel revolving fund," to which shall be credited moneys appropriated to the fund by the general assembly and any other moneys obtained or accepted by the department of housing and development ~~services agency~~ for crediting to the fund. Moneys credited to the fund shall be used to pay for the incremental

cost of biodiesel for use in vehicles owned or leased by the state that use diesel fuel. The director of housing and development ~~services~~ may direct the director of budget and management to transfer available moneys in the biodiesel revolving fund to the alternative fuel transportation fund created in section 122.075 of the Revised Code to be used by the department of housing and development ~~services agency~~ for the purposes specified in that section.

Sec. 125.901. (A) There is hereby established the Ohio geographically referenced information program council within the department of administrative services to coordinate the property owned by the state. The department of administrative services shall provide administrative support for the council.

(B) The council shall consist of the following fourteen members:

(1) The state chief information officer, or the officer's designee, who shall serve as the council chair;

(2) The director of natural resources, or the director's designee;

(3) The director of transportation, or the director's designee;

(4) The director of environmental protection, or the director's designee;

(5) The director of housing and development, or the director's designee;

(6) The attorney general, or the attorney general's designee;

(7) The chancellor of higher education or the chancellor's

designee;

(8) The chief of the division of oil and gas resources management in the department of natural resources or the chief's designee;

(9) The director of public safety or the director's designee;

(10) The executive director of the county auditors' association or the executive director's designee;

(11) The executive director of the county commissioners' association or the executive director's designee;

(12) The executive director of the county engineers' association or the executive director's designee;

(13) The executive director of the Ohio municipal league or the executive director's designee;

(14) The executive director of the Ohio townships association or the executive director's designee.

(C) Members of the council shall serve without compensation.

Sec. 126.023. Whenever, pursuant to section 126.06 of the Revised Code, the department of housing and development files with the director of budget and management its estimate of proposed expenditures for the succeeding biennium, the department shall request, and the director of budget and management shall approve the request for, the following general revenue fund appropriations for operating the construction compliance section of the department of housing and development:

(A) For the first fiscal year of the biennium, an

appropriation equal to fifty-three one-thousandths of one per cent of the total new capital appropriations provided for in the most recently enacted main capital appropriations act;

(B) For the second fiscal year of the biennium, an appropriation equal to the amount computed under division (A) of this section, adjusted for anticipated changes in operating costs based upon the inflation/deflation factor used by the director of budget and management for that fiscal year.

The amounts of the appropriations requested pursuant to divisions (A) and (B) of this section shall be in addition to the amounts provided for staff in the construction compliance section of the equal employment opportunity office of the department of administrative services as of January 1, 1988.

Sec. 126.32. (A) Any officer of any state agency may authorize reimbursement for travel, including the costs of transportation, for lodging, and for meals to any person who is interviewing for a position that is classified in pay range 13 or above in schedule E-1 or is classified in schedule E-2 of section 124.152 of the Revised Code.

(B) If a person is appointed to a position listed in section 121.03 of the Revised Code, to the position of chairperson of the industrial commission, adjutant general, chancellor of the Ohio board of regents, superintendent of public instruction, chairperson of the public utilities commission of Ohio, or director of the state lottery commission, to a position holding a fiduciary relationship to the governor, to a position of an appointing authority of the department of mental health and addiction services, developmental disabilities, or rehabilitation and correction, to a position of superintendent in the department of youth services, or to a

position under section 122.05 of the Revised Code, and if that appointment requires a permanent change of residence, the appropriate state agency may reimburse the person for the person's actual and necessary expenses, including the cost of in-transit storage of household goods and personal effects, of moving the person and members of the person's immediate family residing in the person's household, and of moving their household goods and personal effects, to the person's new location.

Until that person moves the person's permanent residence to the new location, but not for a period that exceeds thirty consecutive days, the state agency may reimburse the person for the person's temporary living expenses at the new location that the person has incurred on behalf of the person and members of the person's immediate family residing in the person's household. In addition, the state agency may reimburse that person for the person's travel expenses between the new location and the person's former residence during this period for a maximum number of trips specified by rule of the director of budget and management, but the state agency shall not reimburse the person for travel expenses incurred for those trips by members of the person's immediate family. With the prior written approval of the director, the maximum thirty-day period for temporary living expenses may be extended for a person appointed to a position under section 122.05 of the Revised Code.

The director of housing and development ~~services~~ may reimburse a person appointed to a position under section 122.05 of the Revised Code for the person's actual and necessary expenses of moving the person and members of the person's immediate family residing in the person's household back to the United States and may reimburse a person appointed to such a

position for the cost of storage of household goods and personal effects of the person and the person's immediate family while the person is serving outside the United States, if the person's office outside the United States is the person's primary job location.

(C) All reimbursement under division (A) or (B) of this section shall be made in the manner, and at rates that do not exceed those, provided by rule of the director of budget and management in accordance with section 111.15 of the Revised Code. Reimbursements may be made under division (B) of this section directly to the persons who incurred the expenses or directly to the providers of goods or services the persons receive, as determined by the director of budget and management.

Sec. 126.62. (A) The all Ohio future fund is hereby created in the state treasury. The fund shall consist of money credited to it and any donations, gifts, bequests, or other money received for deposit in the fund. All investment earnings of the fund shall be credited to the fund. Money in the fund shall be used to promote economic development throughout the state, ~~including~~ by funding the installation or improvement of infrastructure ~~projects and other infrastructure improvements~~that is a critical component for either of the following:

(1) Site-readiness and preparation;

(2) Housing to accommodate a growing workforce.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish requirements and procedures to provide financial assistance from the all Ohio future fund. The director shall consult with JobsOhio in

adopting the rules.

(C) No money shall be expended from the all Ohio future fund, pursuant to appropriation, until it has been released by the controlling board.

Sec. 140.01. As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the board of county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the

case of a state or municipal university or college, its board of trustees or board of directors; in the case of a nonprofit hospital agency, the board of trustees or other body having general management of the agency; and, in the case of the state, the director of housing and development or the Ohio higher educational facility commission.

(E) "Hospital facilities" means buildings, structures and other improvements, additions thereto and extensions thereof, furnishings, equipment, and real estate and interests in real estate, used or to be used for or in connection with one or more hospitals, emergency, intensive, intermediate, extended, long-term, or self-care facilities, diagnostic and treatment and out-patient facilities, facilities related to programs for home health services, clinics, laboratories, public health centers, research facilities, and rehabilitation facilities, for or pertaining to diagnosis, treatment, care, or rehabilitation of persons who are sick, ill, injured, infirm, or impaired or who have disabilities, or the prevention, detection, and control of disease, and also includes education, training, and food service facilities for health professions personnel, housing facilities for such personnel and their families, and parking and service facilities in connection with any of the foregoing; and includes any one, part of, or any combination of the foregoing; and further includes site improvements, utilities, machinery, facilities, furnishings, and any separate or connected buildings, structures, improvements, sites, utilities, facilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, any one or more of such hospital facilities.

(F) "Costs of hospital facilities" means the costs of

acquiring hospital facilities or interests in hospital facilities, including membership interests in nonprofit hospital agencies, costs of constructing hospital facilities, costs of improving one or more hospital facilities, including reconstructing, rehabilitating, remodeling, renovating, and enlarging, costs of equipping and furnishing such facilities, and all financing costs pertaining thereto, including, without limitation thereto, costs of engineering, architectural, and other professional services, designs, plans, specifications and surveys, and estimates of cost, costs of tests and inspections, the costs of any indemnity or surety bonds and premiums on insurance, all related direct or allocable administrative expenses pertaining thereto, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisors, attorneys, accountants, consultants and rating services in connection therewith, capitalized interest on the obligations, amounts necessary to establish reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by the hospital agency or others or borrowed from others for the payment of any item or items of costs of such facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of such facilities, the financing thereof, and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses, and means the costs of refinancing obligations issued by, or reimbursement of money advanced by, nonprofit hospital agencies

or others the proceeds of which were used for the payment of costs of hospital facilities, if the governing body of the public hospital agency determines that the refinancing or reimbursement advances the purposes of this chapter, whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional hospital facilities.

(G) "Hospital receipts" means all moneys received by or on behalf of a hospital agency from or in connection with the ownership, operation, acquisition, construction, improvement, equipping, or financing of any hospital facilities, including, without limitation thereto, any rentals and other moneys received from the lease, sale, or other disposition of hospital facilities, and any gifts, grants, interest subsidies, or other moneys received under any federal program for assistance in financing the costs of hospital facilities, and any other gifts, grants, and donations, and receipts therefrom, available for financing the costs of hospital facilities.

(H) "Obligations" means bonds, notes, or other evidences of indebtedness or obligation, including interest coupons pertaining thereto, issued or issuable by a public hospital agency to pay costs of hospital facilities.

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.

(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.

(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.

(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.

(M) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:

(1) A hospital;

(2) A nursing home or residential care facility;

(3) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;

(4) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(5) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code that is not a residential facility described in division (M)(4) of this section;

(6) A facility licensed to operate an opioid treatment program under section 5119.37 of the Revised Code;

(7) A community addiction services provider, as defined in section 5119.01 of the Revised Code;

(8) A residential facility licensed under section 5123.19

of the Revised Code or a facility providing services under a contract with the department of developmental disabilities under section 5123.18 of the Revised Code;

(9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.

Sec. 145.035. Notwithstanding section 145.03 of the Revised Code, an individual employed by, or otherwise compensated with state funds appropriated to, the department of housing and development who is principally located outside of the United States and is or intends to become a member of a foreign government's retirement or social security system in lieu of becoming a member of the public employees retirement system may choose to be exempted from membership in the public employees retirement system by signing a written application for exemption within the first month after being employed and filing such application with the public employees retirement board. The application, when approved as to form by the board and filed with the employer, shall be irrevocable while the individual is continuously employed as described in this section and such individual shall forever be barred from claiming or purchasing membership rights or credit for the particular period covered by the exemption. Any individual who is or becomes a member of the public employees retirement system shall continue the membership as long as ~~he~~ the individual is a public employee, even though ~~he~~ the individual may be in or transferred to employment described in this section.

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

(1) "Historic building" means a building, including its structural components, that is located in this state and that is

either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

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

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

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

(c) New building construction costs.

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

(4) "Qualified lessee" means a person subject to a lease agreement for an historic building and eligible for the federal

rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" does not include the state or a state agency or political subdivision as defined in section 9.23 of the Revised Code.

(5) "Certificate owner" means the owner or qualified lessee of an historic building to which a rehabilitation tax credit certificate was issued under this section.

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

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

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

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

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

(9) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the

governor under 16 U.S.C. 470a.

(10) "Catalytic project" means the rehabilitation of an historic building, the rehabilitation of which will foster economic development within two thousand five hundred feet of the historic building.

(B) The owner or qualified lessee of an historic building may apply to the director of housing and development for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred by such owner or qualified lessee after April 4, 2007, for rehabilitation of an historic building. If the owner of an historic building enters a pass-through agreement with a qualified lessee for the purposes of the federal rehabilitation tax credit under 26 U.S.C. 47, the qualified rehabilitation expenditures paid or incurred by the owner after April 4, 2007, may be attributed to the qualified lessee.

The form and manner of filing such applications shall be prescribed by rule of the director. Each application shall state the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred and shall indicate whether the historic building was used as a theater before, and is intended to be used as a theater after, the rehabilitation. The director may require applicants to furnish documentation of such estimates.

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

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

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

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

(4) The form of rehabilitation tax credit certificates;

(5) Reporting requirements and monitoring procedures;

(6) Procedures and criteria for conducting cost-benefit analyses of historic buildings that are the subjects of applications filed under this section. The purpose of a cost-benefit analysis shall be to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used.

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

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

(1) That the building that is the subject of the application is an historic building and the applicant is the owner or qualified lessee of the building;

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

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

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

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

(4) The historic building that is the subject of the application is not, and will not upon completion of the rehabilitation project be, part of a qualified low-income housing project allocated a tax credit pursuant to section 42 of the Internal Revenue Code.

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

(D)(1) If the director determines that an application meets the criteria in division (C) of this section, the director shall conduct a cost-benefit analysis for the historic building that is the subject of the application to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used. The director shall consider the results of the cost-benefit analysis in determining whether to approve the application. The director shall also consider the potential economic impact and the regional distributive balance of the credits throughout the state. The director shall not consider whether the historic building is located in or will benefit an economically distressed area, including by weighting preference based on the

poverty rate in the jurisdiction or census tract in which the building is located. The director may approve an application only after completion of the cost-benefit analysis.

(2) A rehabilitation tax credit certificate shall not be issued for an amount greater than the estimated amount furnished by the applicant on the application for such certificate and approved by the director. The director shall not approve more than a total of one hundred twenty million dollars of rehabilitation tax credits for each of fiscal years 2023 and 2024, and sixty million dollars of rehabilitation tax credits for each fiscal year thereafter but the director may reallocate unused tax credits from a prior fiscal year for new applicants and such reallocated credits shall not apply toward the dollar limit of this division.

(3) For rehabilitations with a rehabilitation period not exceeding twenty-four months as provided in division (A)(8)(a) of this section, a rehabilitation tax credit certificate shall not be issued before the rehabilitation of the historic building is completed.

(4) For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A)(8)(b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner.

(5) The director shall require the applicant to provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of the historic building when qualified rehabilitation expenditures exceed two hundred thousand dollars.

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

(6) The director may approve the application of, and issue a rehabilitation tax credit certificate to, the owner of a catalytic project, provided the application otherwise meets the criteria described in divisions (C) and (D) of this section. The director may not approve more than one application for a rehabilitation tax credit certificate under division (D)(6) of this section during each state fiscal biennium. The director shall not approve an application for a rehabilitation tax credit

certificate under division (D)(6) of this section during the state fiscal biennium beginning July 1, 2017, or during any state fiscal biennium thereafter. The director shall consider the following criteria in determining whether to approve an application for a certificate under division (D)(6) of this section:

(a) Whether the historic building is a catalytic project;

(b) The effect issuance of the certificate would have on the availability of credits for other applicants that qualify for a credit certificate within the credit dollar limit described in division (D)(2) of this section;

(c) The number of jobs, if any, the catalytic project will create.

(7)(a) The owner or qualified lessee of a historic building may apply for a rehabilitation tax credit certificate under both divisions (B) and (D)(6) of this section. In such a case, the director shall consider each application at the time the application is submitted.

(b) The director shall not issue more than one certificate under this section with respect to the same qualified rehabilitation expenditures.

(8) The director shall give consideration for tax credits awarded under this section to rehabilitations of historic buildings used as a theater before, and intended to be used as a theater after, the rehabilitation. In determining whether to approve an application for such a rehabilitation, the director shall consider the extent to which the rehabilitation will increase attendance at the theater and increase the theater's gross revenue.

(9) The director shall rescind the approval of any application if the building that is the subject of the application is part of a qualified low-income housing project allocated a tax credit pursuant to section 42 of the Internal Revenue Code at any time before the building's rehabilitation is complete.

(E) Issuance of a certificate represents a finding by the director of the matters described in divisions (C)(1), (2), and (3) of this section only; issuance of a certificate does not represent a verification or certification by the director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code. The amount of qualified rehabilitation expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Upon the issuance of a certificate, the director shall certify to the tax commissioner, in the form and manner requested by the tax commissioner, the name of the applicant, the amount of qualified rehabilitation expenditures shown on the certificate, and any other information required by the rules adopted under this section.

(F)(1) On or before the first day of August each year, the director and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a report on the tax credit program established under this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The report shall present an overview of the program and shall include information on the number of rehabilitation tax credit

certificates issued under this section during the preceding fiscal year, an update on the status of each historic building for which an application was approved under this section, the dollar amount of the tax credits granted under sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and any other information the director and commissioner consider relevant to the topics addressed in the report.

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

(G) There is hereby created in the state treasury the historic rehabilitation tax credit operating fund. The director is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. Any such fees collected shall be credited to the fund and used to pay reasonable costs incurred by the department of housing and development in administering this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code.

The Ohio historic preservation office is authorized to charge reasonable fees in connection with its review and

approval of applications under this section. Any such fees collected shall be credited to the fund and used to pay administrative costs incurred by the Ohio historic preservation office pursuant to this section.

(H) Notwithstanding sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, the certificate owner of a tax credit certificate issued under division (D)(6) of this section may claim a tax credit equal to twenty-five per cent of the dollar amount indicated on the certificate for a total credit of not more than twenty-five million dollars. The credit claimed by such a certificate owner for any calendar year, tax year, or taxable year under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code shall not exceed five million dollars. If the certificate owner is eligible for more than five million dollars in total credits, the certificate owner may carry forward the balance of the credit in excess of the amount claimed for that year for not more than five ensuing calendar years, tax years, or taxable years. If the credit claimed in any calendar year, tax year, or taxable year exceeds the tax otherwise due, the excess shall be refunded to the taxpayer.

(I) Notwithstanding sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, the following apply to a tax credit approved under this section after September 13, 2022, and before July 1, 2024:

(1) The certificate holder may claim a tax credit equal to thirty-five per cent of the dollar amount indicated on the tax credit certificate if any county, township, or municipal corporation within which the project is located has a population of less than three hundred thousand according to the 2020

decennial census. The tax credit equals twenty-five per cent of the dollar amount indicated on the certificate if the project is not located within such a county, township, or municipal corporation.

(2) The total tax credit claimed under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code for any one project shall not exceed ten million dollars for any calendar year, tax year, or taxable year.

(3) If the credit claimed in any calendar year, tax year, or taxable year exceeds the tax otherwise due, the excess shall be refunded to the taxpayer, subject to division (I)(2) of this section.

(J) The director of housing and development, in consultation with the director of budget and management, shall develop and adopt a system of tracking any information necessary to anticipate the impact of credits issued under this section on tax revenues for current and future fiscal years. Such information may include the number of applications approved, the estimated rehabilitation expenditures and rehabilitation period associated with such applications, the number and amount of tax credit certificates issued, and any other information the director of budget and management requires for the purposes of this division.

(K) For purposes of this section and Chapter 122:19-1 of the Ohio Administrative Code, a tax credit certificate issued under this section is effective on the date that all historic buildings rehabilitated by the project are "placed in service," as that term is used in section 47 of the Internal Revenue Code.

Sec. 150.02. (A) There is hereby created the Ohio venture

capital authority, which shall exercise the powers and perform the duties prescribed by this chapter. The exercise by the authority of its powers and duties is hereby declared to be an essential state governmental function. The authority is subject to all laws generally applicable to state agencies and public officials, including, but not limited to, Chapter 119. and sections 121.22 and 149.43 of the Revised Code, to the extent those laws do not conflict with this chapter.

(B) The authority shall consist of three members appointed by the governor, one of whom the governor shall select from a list of three nominees provided by the president of the senate, and one of whom the governor shall select from a list of three nominees provided by the speaker of the house of representatives. If the governor rejects all the nominees provided in either list, the governor shall request that the president of the senate or speaker of the house, as the case may be, provide another list of three nominees, and the president or speaker, as the case may be, shall provide another list of three nominees. All nominated and appointed members shall have experience in the field of banking, investments, commercial law, or industry relevant to the purpose of the Ohio venture capital program as stated in section 150.01 of the Revised Code. The director of housing and development and tax commissioner or their designees shall serve as advisors to the authority but shall not be members and shall not vote on any matter before the authority.

Initial appointees to the authority shall serve staggered terms, with one term expiring on January 31, 2004, two terms expiring on January 31, 2005, two terms expiring on January 31, 2006, and two terms expiring on January 31, 2007. The terms of all members serving on the authority on January 31, 2010, expire

on that date, and the three appointees appointed pursuant to the amendment of this section by H.B. 1 of the 128th general assembly shall begin their terms February 1, 2010, with one term expiring January 31, 2012, one term expiring January 31, 2013, and one term expiring January 31, 2014. Thereafter, terms of office for all appointees shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. A vacancy on the authority shall be filled in the same manner as the original appointment, except that a person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any appointed member of the authority is eligible for reappointment.

A member of the authority may be removed by the member's appointing authority for misfeasance, malfeasance, willful neglect of duty, or other cause, after notice and a public hearing, unless the notice and hearing are waived in writing by the member.

(C) Members of the authority shall serve without compensation, but shall receive their reasonable and necessary expenses incurred in the conduct of authority business. The governor shall designate a member of the authority to serve as chairperson. A majority of the members of the authority constitutes a quorum, and the affirmative vote of a majority of the members present is necessary for any action taken by the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

(D) The department of housing and development shall provide the authority with office space and such technical assistance as the authority requires.

(E) The authority and an issuer may cooperate in promoting the public purposes of the Ohio venture capital program as stated in section 150.01 of the Revised Code and may enter into such agreements as the authority and the issuer deem appropriate, with a view to cooperative action and safeguarding of the respective interests of the parties thereto. Such agreements may provide for the rights, duties, and responsibilities of the parties and any limitations thereon, the terms on which any tax credits that may be issued to a trustee for the benefit of the issuer pursuant to division (E) of section 150.07 of the Revised Code are to be issued and claimed, and such other terms as may be mutually satisfactory to the parties including, but not limited to, requirements for reporting, and a plan, prepared by a program administrator and acceptable to the authority and the issuer, designed to evidence and ensure compliance with division (D) of section 150.03 of the Revised Code and Section 2p of Article VIII, Ohio Constitution.

Sec. 151.40. (A) As used in this section:

(1) "Bond proceedings" includes any trust agreements, and any amendments or supplements to them, as authorized by this section.

(2) "Costs of revitalization projects" includes related direct administrative expenses and allocable portions of the direct costs of those projects of the department of housing and development or the environmental protection agency.

(3) "Issuing authority" means the treasurer of state.

(4) "Obligations" means obligations as defined in section 151.01 of the Revised Code issued to pay the costs of projects for revitalization purposes as referred to in division (A)(2) of

Section 2o of Article VIII, Ohio Constitution and division (A)(2) of Section 2q of Article VIII, Ohio Constitution.

(5) "Pledged liquor profits" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as it was in effect on May 2, 1980, to be paid into the state treasury.

(6) "Pledged receipts" means, as and to the extent provided in bond proceedings:

(a) Pledged liquor profits. The pledge of pledged liquor profits to obligations is subject to the priority of the pledge of those profits to obligations issued and to be issued pursuant to Chapter 166. of the Revised Code.

(b) Moneys accruing to the state from the lease, sale, or other disposition or use of revitalization projects or from the repayment, including any interest, of loans or advances made from net proceeds;

(c) Accrued interest received from the sale of obligations;

(d) Income from the investment of the special funds;

(e) Any gifts, grants, donations, or pledges, and receipts therefrom, available for the payment of debt service;

(f) Additional or any other specific revenues or receipts lawfully available to be pledged, and pledged, pursuant to

further authorization by the general assembly, to the payment of debt service.

(B)(1) The issuing authority shall issue obligations of the state to pay costs of revitalization projects pursuant to division (B)(2) of Section 2o of Article VIII, Ohio Constitution, division (B)(2) of Section 2q of Article VIII, Ohio Constitution, section 151.01 of the Revised Code as applicable to this section, and this section. Not more than four hundred million dollars principal amount of obligations issued under this section for revitalization purposes may be outstanding at any one time. Not more than fifty million dollars principal amount of obligations, plus the principal amount of obligations that in any prior fiscal year could have been, but were not issued within the fifty-million-dollar fiscal year limit, may be issued in any fiscal year.

(2) The provisions and authorizations in section 151.01 of the Revised Code apply to the obligations and the bond proceedings except as otherwise provided or provided for in those obligations and bond proceedings.

(C) Net proceeds of obligations shall be deposited in the general revenue fund.

(D) There is hereby created the revitalization projects bond service fund, which shall be in the custody of the treasurer of state, but shall be separate and apart from and not a part of the state treasury. All money received by the state and required by the bond proceedings, consistent with section 151.01 of the Revised Code and this section, to be deposited, transferred, or credited to the bond service fund, and all other money transferred or allocated to or received for the purposes of that fund, shall be deposited and credited to the bond

service fund, subject to any applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during the time that any obligations are outstanding in accordance with their terms, so long as moneys in the bond service fund are insufficient to pay debt service when due on those obligations payable from that fund, except the principal amounts of bond anticipation notes payable from the proceeds of renewal notes or bonds anticipated, and due in the particular fiscal year, a sufficient amount of pledged receipts is committed and, without necessity for further act of appropriation, shall be paid to the bond service fund for the purpose of paying that debt service when due.

(E) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of the debt service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions in the bond proceedings with respect to pledged receipts as authorized by this section, which provisions are controlling notwithstanding any other provisions of law pertaining to them.

(F) The issuing authority may covenant in the bond proceedings, and such covenants shall be controlling notwithstanding any other provision of law, that the state and applicable officers and state agencies, including the general assembly, so long as any obligations issued under this section are outstanding, shall maintain statutory authority for and cause to be charged and collected wholesale or retail prices for spirituous liquor sold by the state or its agents so that the available pledged receipts are sufficient in time and amount to

meet debt service payable from pledged liquor profits and for the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings.

(G) Obligations may be further secured, as determined by the issuing authority, by a trust agreement between the state and a corporate trustee, which may be any trust company or bank having a place of business within the state. Any trust agreement may contain the resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement of that type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, or other instrument comprising part of the bond proceedings until the state has fully paid or provided for the payment of debt service on the obligations secured by it;

(2) In the event of default in any payments required to be made by the bond proceedings, enforcement of those payments or agreements by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of them;

(3) The rights and remedies of the holders or owners of obligations and of the trustee and provisions for protecting and enforcing them, including limitations on rights of individual holders and owners.

(H) The obligations shall not be general obligations of the state and the full faith and credit, revenue, and taxing power of the state shall not be pledged to the payment of debt service on them. The holders or owners of the obligations shall have no right to have any moneys obligated or pledged for the

payment of debt service except as provided in this section and in the applicable bond proceedings. The rights of the holders and owners to payment of debt service are limited to all or that portion of the pledged receipts, and those special funds, pledged to the payment of debt service pursuant to the bond proceedings in accordance with this section, and each obligation shall bear on its face a statement to that effect.

Sec. 153.59. Every contract for or on behalf of the state, or any township, county, or municipal corporation of the state, for the construction, alteration, or repair of any public building or public work in the state shall contain provisions by which the contractor agrees to both of the following:

(A) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;

(B) That no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.

The department of housing and development shall ensure that no capital moneys appropriated by the general assembly for any purpose shall be expended unless the project for which those

moneys are appropriated provides for an affirmative action program for the employment and effective utilization of disadvantaged persons whose disadvantage may arise from cultural, racial, or ethnic background, or other similar cause, including, but not limited to, race, religion, sex, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

In awarding contracts for capital improvement projects, the department shall ensure that equal consideration be given to contractors, subcontractors, or joint venturers who qualify as a minority business enterprise. As used in this section, "minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons who are residents of this state. "Socially or economically disadvantaged persons" means persons, regardless of marital status, who are members of groups whose disadvantage may arise from discrimination on the basis of race, religion, sex, disability or military status as defined in section 4112.01 of the Revised Code, national origin, ancestry, or other similar cause.

Sec. 164.02. (A) There is hereby created the Ohio public works commission consisting of seven members who shall be appointed as follows: two persons shall be appointed by the speaker of the house of representatives; one person shall be appointed by the minority leader of the house of representatives; two persons shall be appointed by the president of the senate; one person shall be appointed by the minority leader of the senate; and one person from the private sector, who shall have experience in matters of public finance, shall be appointed alternately by the speaker of the house of representatives and the president of the senate, with the

speaker of the house making the first appointment. The director of transportation, the director of environmental protection, the director of housing and development, the director of natural resources, and the chairperson of the Ohio water development authority shall be nonvoting, ex officio members of the commission. Terms of office shall be for four years, each term ending on the date that is four years from the date of appointment. Members may be reappointed, to a subsequent ~~four-year~~ four-year term, one time. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term, and may be reappointed for up to two subsequent ~~four year~~ four-year terms. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The commission shall elect a chairperson, vice-chairperson, and other officers as it considers advisable. Four voting members constitute a quorum. Members of the commission shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(B) The Ohio public works commission shall:

(1) Review and evaluate persons who will be recommended to the governor for appointment to the position of director of the Ohio public works commission, and, when the commission considers it appropriate, recommend the removal of a director;

(2) Provide the governor with a list of names of three

persons who are, in the judgment of the commission, qualified to be appointed to the position of director. The commission shall provide the list, which may include the name of the incumbent director to the governor, not later than sixty days prior to the expiration of the term of such incumbent director. A director shall serve a two-year term upon initial appointment, and four-year terms if subsequently reappointed by the governor; however, the governor may remove a director at any time following the commission's recommendation of such action. Upon the expiration of a director's term, or in the case of the resignation, death, or removal of a director, the commission shall provide such list of the names of three persons to the governor within thirty days of such expiration, resignation, death, or removal. Nothing in this section shall prevent the governor, in the governor's discretion, from rejecting all of the nominees of the commission and requiring the commission to select three additional nominees. However, when the governor has requested and received a second list of three additional names, the governor shall make the appointment from one of the names on the first list or the second list. Appointment by the governor is subject to the advice and consent of the senate.

In the case of the resignation, removal, or death of the director during the director's term of office, a successor shall be chosen for the remainder of the term in the same manner as is provided for an original appointment.

(3) Provide oversight to the director and advise in the development of policy guidelines for the implementation of this chapter, and report and make recommendations to the general assembly with respect to such implementation;

(4) Adopt bylaws to govern the conduct of the commission's

business;

(5) Appoint the members of the Ohio small government capital improvements commission in accordance with division (C) of this section.

(C)(1) There is hereby created the Ohio small government capital improvements commission. The commission shall consist of ten members, including the director of transportation, the director of environmental protection, and the chairperson of the Ohio water development authority as nonvoting, ex officio members and seven voting members appointed by the Ohio public works commission. Each such appointee shall be a member of a district public works integrating committee who was appointed to the integrating committee pursuant to the majority vote of the chief executive officers of the villages of the appointee's district or by a majority of the boards of township trustees of the appointee's district.

(2) Two of the initial appointments shall be for terms ending two years after March 29, 1988. The remaining initial appointments shall be for terms ending three years after March 29, 1988. Thereafter, terms of office shall be for two years, with each term ending on the same date of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member is appointed. Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring before the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office after the expiration of the member's term until the member's successor takes office or until a period of

sixty days has elapsed, whichever occurs first. Members of the commission may be reappointed. No more than two members of the commission may be members of the same district public works integrating committee.

(3) The Ohio small government capital improvements commission shall elect one of its appointed members as chairperson and another as vice-chairperson. Four voting members of the commission constitute a quorum, and the affirmative vote of four appointed members is required for any action taken by vote of the commission. No vacancy in the membership of the commission shall impair the right of a quorum by an affirmative vote of four appointed members to exercise all rights and perform all duties of the commission. Members of the commission shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(D) The Ohio small government capital improvements commission shall:

(1) Advise the general assembly on the development of policy guidelines for the implementation of this chapter, especially as it relates to the interests of small governments and the use of the portion of bond proceeds set aside for the exclusive use of townships and villages;

(2) Advise the township and village subcommittees of the various district public works integrating committees concerning the selection of projects for which the use of such proceeds will be authorized;

(3) Affirm or overrule the recommendations of its administrator made in accordance with section 164.051 of the

Revised Code concerning requests from townships and villages for financial assistance for capital improvement projects.

(E) Membership on the Ohio public works commission or the Ohio small government capital improvements commission does not constitute the holding of a public office. No appointed member shall be required, by reason of section 101.26 of the Revised Code, to resign from or forfeit membership in the general assembly.

Notwithstanding any provision of law to the contrary, a county, municipal, or township public official may serve as a member of the Ohio public works commission or the Ohio small government capital improvements commission.

Members of the commissions established by this section do not have an unlawful interest in a public contract under section 2921.42 of the Revised Code solely by virtue of the receipt of financial assistance under this chapter by the local subdivision of which they are also a public official or appointee.

Sec. 165.01. As used in this chapter:

"Bonds" means bonds, notes, or other forms of evidences of obligation issued in temporary or definitive form, including notes issued in anticipation of the issuance of bonds and renewal notes. The funding of bond anticipation notes with bonds or renewal notes and the exchange of definitive bonds for temporary bonds are not subject to section 165.07 of the Revised Code.

"Bond proceedings" means the resolution or ordinance or the trust agreement or indenture of mortgage, or combination thereof, authorizing or providing for the terms and conditions applicable to bonds issued under authority of this chapter.

"Issuer" means the state or a county, township, or municipal corporation of the state.

"Issuing authority" means in the case of the state, the director of housing and development ~~services~~; in the case of a municipal corporation, the legislative authority thereof; in the case of a township, the board of township trustees; and in the case of a county, the board of county commissioners or whatever officers, board, commission, council, or other body might succeed to the legislative powers of the commissioners.

"Pledged facilities" means the project or projects mortgaged or the rentals, revenues, and other income, charges, and moneys from which are pledged, or both, for the payment of the principal of and interest on the bonds issued under authority of section 165.03 of the Revised Code, and includes a project for which a loan has been made under authority of this chapter, in which case, references in this chapter to revenues of such pledged facilities or from the disposition thereof includes payments made or to be made to or for the account of the issuer pursuant to such loan.

"Project" means real or personal property, or both, including undivided and other interests therein, acquired by gift or purchase, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, by an issuer, or by others in whole or in part from the proceeds of a loan made by an issuer, for industry, commerce, distribution, or research and located within the boundaries of the issuer. "Project" includes sanitary facilities, drainage facilities, and prevention or replacement facilities as defined in section 6117.01 of the Revised Code. A project as defined in this division is hereby determined to qualify as facilities described

in Section 13 of Article VIII, Ohio Constitution.

"Revenues" means the rentals, revenues, payments, repayments, income, charges, and moneys derived or to be derived from the use, lease, sublease, rental, sale, including installment sale or conditional sale, or other disposition of pledged facilities, or derived or to be derived pursuant to a loan made for a project, bond proceeds to the extent provided in the bond proceedings for the payment of principal of, or premium, if any, or interest on the bonds, proceeds from any insurance, condemnation or guaranty pertaining to pledged facilities or the financing thereof, and income and profit from the investment of the proceeds of bonds or of any revenues.

"Security interest" means a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to all or any part of pledged facilities, revenues, reserve funds, or other funds established under the bond proceedings, or on, of, or with respect to, a lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or any other agreement pertaining to the lease, sublease, sale, or other disposition of a project or pertaining to a loan made for a project, or any guaranty or insurance agreement made with respect thereto, or any interest of the issuer therein, or any other interest granted, assigned, or released to secure payments of the principal of, premium, if any, or interest on any bonds or to secure any other payments to be made by an issuer under the bond proceedings. Any security interest under this chapter may be prior or subordinate to or on a parity with any other mortgage, lien, encumbrance, pledge, assignment, or other security interest.

Sec. 165.03. (A) An issuer may issue bonds for the purpose

of providing moneys to acquire by purchase, construct, reconstruct, enlarge, improve, furnish, or equip one or more projects or parts thereof, or for any combination of such purposes, including providing moneys to make loans to others for such purposes. The issuing authority shall provide by resolution or ordinance for the issuance of such bonds. The bond proceedings may contain determinations by the issuing authority that the project to be financed thereunder is a project as defined in this chapter and is consistent with the purposes of Section 13 of Article VIII, Ohio Constitution, and such determinations shall be conclusive as to the validity and enforceability of the bonds issued under such bond proceedings and of such bond proceedings and security interests given and leases, subleases, sale agreements, loan agreements, and other agreements made in connection therewith, all in accordance with their terms.

The principal of and interest on the bonds and all other payments required to be made by the bond proceedings shall be payable solely from the revenues and secured by security interests as provided in such bond proceedings. Bond anticipation notes may be secured, solely or additionally, by a covenant of the issuer that it will do all things necessary for the issuance of the bonds anticipated or renewal notes in appropriate amount and either exchange such bonds or renewal notes for such notes or apply the proceeds therefrom to the extent necessary to make full payment of the principal of and interest on such notes. The bond proceedings shall not obligate or pledge moneys raised by taxation.

Bonds may be issued at one time or from time to time, shall be dated, shall mature at such time or times not exceeding thirty years from date of issue, and may be redeemable before

maturity at such price or prices and under such terms and conditions, all as provided in the bond proceedings. The bonds shall bear interest at such rate or rates, or at a variable rate or rates changing from time to time in accordance with a base or formula, as provided in or authorized by the bond proceedings. The issuing authority shall determine the form of the bonds, fix their denominations and method of execution, and establish within or without the state a place or places for the payment of principal or interest.

(B) The issuing authority may provide for sales of bonds at public or private sale as it deems most advantageous and for such prices, whether above or below the par value thereof, as it determines or within such limit or limits as it determines.

(C) If the state is the issuer, then before the authorization of the bonds, the issuing authority of the state shall have received a written request for the issuance of the bonds from either the board of directors of a port authority created pursuant to the authority of section 4582.02 or 4582.22 of the Revised Code if the project is within the jurisdiction of the port authority, from the issuing authority of the municipal corporation if the project is within the boundaries of a municipal corporation, or from the issuing authority of the township or county if the project is within the unincorporated portion of the township or county.

(D) If the issuer is a county, township, or municipal corporation, then, before the delivery of bonds issued under authority of this section, the issuing authority shall have caused a written notice to have been mailed by certified mail to the director of housing and development ~~services~~ of the state advising such director of the proposed delivery of the bonds,

the amount thereof, the proposed lessee, and a general description of the project or projects to be financed.

(E) In case any officer who has signed any bonds or coupons pertaining thereto, or caused the officer's facsimile signature to be affixed thereto, ceases to be such officer before such bonds or coupons have been delivered, such bonds or coupons may, nevertheless, be issued and delivered as though the person who had signed the bonds or coupons or caused the person's facsimile signature to be affixed thereto had not ceased to be such officer. Any bonds or coupons may be executed on behalf of the issuer by an officer who, on the date of execution, is the proper officer although on the date of such bonds or coupons such person was not the proper officer.

(F) All bonds issued under authority of this chapter, regardless of form or terms and regardless of any other law to the contrary, shall have all qualities and incidents of negotiable instruments, subject to provisions for registration, and may be issued in coupon, fully registered, or other form, or any combination thereof, as the issuing authority determines. Provision may be made for the registration of any coupon bonds as to principal alone or as to both principal and interest, and for the conversion into coupon bonds of any fully registered bonds or bonds registered as to both principal and interest.

Sec. 165.20. In accordance with Section 13 of Article VIII, Ohio Constitution, the state, acting through the director of housing and development, or through the board of trustees of any state university or any housing commission created by section 3347.01 of the Revised Code, and its political subdivision, taxing districts, or public authorities, or its or their agencies, institutions, or instrumentalities, may by

resolution or ordinance designate a corporation organized under Chapter 1702. or 1724. of the Revised Code as its or their agency to acquire, construct, reconstruct, enlarge, improve, furnish, or equip and to sell, lease, exchange, or otherwise dispose of property and facilities within the state for industry, commerce, distribution, and research; may approve such corporation and obligations of the corporation issued by it for one or more such purposes; and may have a beneficial interest in such corporation including the right to the property financed by such obligations on the retirement of such obligations, or by acquiring such property for endowment or similar uses or benefits or for ultimate direct use by it, subject to any lease or mortgage securing such obligations.

Sec. 166.01. As used in this chapter:

(A) "Allowable costs" means all or part of the costs of project facilities, eligible projects, eligible innovation projects, eligible research and development projects, eligible advanced energy projects, or eligible logistics and distribution projects, including costs of acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping, or furnishing project facilities, eligible projects, eligible innovation projects, eligible research and development projects, eligible advanced energy projects, or eligible logistics and distribution projects, site clearance and preparation, supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies, and estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project, an eligible innovation project, an eligible research and development project, an eligible advanced energy project, or an eligible

logistics and distribution project, or providing project facilities or facilities related to an eligible project, an eligible innovation project, an eligible research and development project, an eligible advanced energy project, or an eligible logistics and distribution project, architectural, engineering, and legal services fees and expenses, the costs of conducting any other activities as part of a voluntary action, and such other expenses as may be necessary or incidental to the establishment or development of an eligible project, an eligible innovation project, an eligible research and development project, an eligible advanced energy project, or an eligible logistics and distribution project, and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs.

(B) "Allowable innovation costs" includes allowable costs of eligible innovation projects and, in addition, includes the costs of research and development of eligible innovation projects; obtaining or creating any requisite software or computer hardware related to an eligible innovation project or the products or services associated therewith; testing (including, without limitation, quality control activities necessary for initial production), perfecting, and marketing of such products and services; creating and protecting intellectual property related to an eligible innovation project or any products or services related thereto, including costs of securing appropriate patent, trademark, trade secret, trade dress, copyright, or other form of intellectual property protection for an eligible innovation project or related products and services; all to the extent that such expenditures could be capitalized under then-applicable generally accepted accounting principles; and the reimbursement of moneys advanced

or applied by any governmental agency or other person for allowable innovation costs.

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

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

"Eligible project" does not include project facilities to be acquired, established, expanded, remodeled, rehabilitated, or modernized for industry, commerce, distribution, or research, or any combination of industry, commerce, distribution, or research, if the project facilities consist solely of point-of-final-purchase retail facilities. If the project facilities consist of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project facilities consisting of nonretail facilities is an eligible project. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not an eligible project. Catalog distribution facilities are not considered point-of-final-purchase retail facilities for purposes of this paragraph, and are eligible projects.

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

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

(G) "Governmental action" means any action by a governmental agency relating to the establishment, development, or operation of an eligible project, eligible innovation

project, eligible research and development project, eligible advanced energy project, or eligible logistics and distribution project, and project facilities that the governmental agency acting has authority to take or provide for the purpose under law, including, but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies.

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

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

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

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

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

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

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

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

(O) "Property" means real and personal property and

interests therein.

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

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

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

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

(T) "Project financing obligations" means obligations issued pursuant to section 166.08 of the Revised Code other than

obligations for which the bond proceedings provide that bond service charges shall be paid from receipts of the state representing gross profit on the sale of spirituous liquor as referred to in division (B)(4) of section ~~4310.10~~ 4301.10 of the Revised Code.

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

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

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

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development programs provided for in this chapter will constitute deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state.

Accordingly, it is declared to be the public policy of the state, through the operations of this chapter and other applicable laws adopted pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

(B) In furtherance of such public policy and to implement such purpose, the director of housing and development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible projects and make provision therein for project facilities and governmental actions, as authorized by this chapter and other applicable laws, subject to any required actions by the general assembly or the controlling board and subject to applicable local government laws and regulations;

(2) Provide for the guarantees and loans as provided for in sections 166.06 and 166.07 of the Revised Code;

(3) Subject to release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, project facilities the allowable costs of which are to be paid for or reimbursed from moneys in the facilities establishment fund, and contract for the operation of such project facilities;

(4) Subject to release thereof by the controlling board,

from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of sections 166.01 to 166.11 of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in the director's judgment and fix the compensation for their services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any governmental agency for the taking or provision by that governmental agency of any governmental action;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter;

(9) Adopt rules to implement any of the provisions of this chapter applicable to the director.

(C) The determinations by the director that facilities constitute eligible projects, that facilities are project facilities, that costs of such facilities are allowable costs, and all other determinations relevant thereto or to an action taken or agreement entered into shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under this chapter.

(D) Except as otherwise prescribed in this chapter, all expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under this chapter, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, the logistics and distribution infrastructure fund, or moneys appropriated for such purpose by the general assembly. This chapter does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded indebtedness of the state or any political subdivision thereof, or to obligate or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to this chapter.

(E) Any governmental agency may enter into an agreement with the director, any other governmental agency, or a person to be assisted under this chapter, to take or provide for the purposes of this chapter any governmental action it is authorized to take or provide, and to undertake on behalf and at

the request of the director any action which the director is authorized to undertake pursuant to divisions (B)(3), (4), and (5) of this section or divisions (B)(3), (4), and (5) of section 166.12 of the Revised Code. Governmental agencies of the state shall cooperate with and provide assistance to the director of housing and development and the controlling board in the exercise of their respective functions under this chapter.

Sec. 166.03. (A) There is hereby created the facilities establishment fund within the state treasury, consisting of proceeds from the issuance of obligations as specified under section 166.08 of the Revised Code; the moneys received by the state from the sources specified in section 166.09 of the Revised Code; service charges imposed under sections 166.06 and 166.07 of the Revised Code; any grants, gifts, or contributions of moneys received by the director of housing and development to be used for loans made under section 166.07 of the Revised Code or for the payment of the allowable costs of project facilities; and all other moneys appropriated or transferred to the fund. Moneys in the loan guarantee fund in excess of the loan guarantee reserve requirement, but subject to the provisions and requirements of any guarantee contracts, may be transferred to the facilities establishment fund by the treasurer of state upon the order of the director of housing and development. Moneys received by the state under Chapter 122. of the Revised Code, to the extent allocable to the utilization of moneys derived from proceeds of the sale of obligations pursuant to section 166.08 of the Revised Code, shall be credited to the facilities establishment fund. All investment earnings on the cash balance in the fund shall be credited to the fund.

(B) All moneys appropriated or transferred to the facilities establishment fund may be released at the request of

the director of housing and development for payment of allowable costs or the making of loans under section 166.07 of the Revised Code, for transfer to the loan guarantee fund established in section 166.06 of the Revised Code, or for use for the purpose of or transfer to the funds established by sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, 122.601, and 122.80 of the Revised Code and, until July 1, 2003, the fund established by section 166.031 of the Revised Code, and, until July 1, 2007, the fund established by section 122.26 of the Revised Code, but only for such of those purposes as are within the authorization of Section 13 of Article VIII, Ohio Constitution, in all cases subject to the approval of the controlling board.

(C) The department of housing and development, in the administration of the facilities establishment fund, is encouraged to utilize and promote the utilization of, to the maximum practicable extent, the other existing programs, business incentives, and tax incentives that department is required or authorized to administer or supervise.

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

validity and enforceability of such agreement and any loan guarantees, loans, or other agreements entered into pursuant to such agreement to provide assistance.

(B) Whenever a person applies for financial assistance under sections 166.02, 166.06, and 166.07 of the Revised Code and the project for which assistance is requested is to relocate facilities that are currently being operated by the person and that are located in another county, municipal corporation, or township, the person shall provide written notification of the relocation to the appropriate local governmental bodies. Prior to entering into an agreement to provide the assistance, the director shall verify that such notification has been provided.

(C) As used in division (B) of this section, "appropriate local governmental bodies" means:

(1) The board of county commissioners or legislative authority of the county in which the facility to be replaced is located;

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

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

(1) The director of housing and development ~~services~~ shall take into consideration all of the following:

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

(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;

(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;

(d) The needs, and degree of needs, of the area in which the eligible project is to be located;

(e) The needs of any private sector enterprise to be assisted;

(f) The competitive effect of the assistance on other enterprises providing jobs for people of the state;

(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;

(h) The impact of the eligible project and its operations on local government services, including school services, and on public facilities;

(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.

(j) The length of time the operator of the project has

been operating facilities within the state.

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

(B) Prior to granting final approval of the assistance to be provided, the director shall determine that the benefits to be derived by the state and local area from the establishment or development, and operation, of the eligible project will exceed the cost of providing such assistance and shall submit to the controlling board a copy of that determination including the basis for the determination.

(C) Financial statements and other data submitted to the director of housing and development ~~services~~ or the controlling board by any private sector person in connection with financial assistance under sections 166.02, 166.06, and 166.07 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection.

Sec. 166.06. (A) Subject to any limitations as to aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, the director of housing and development may, on behalf of the state, enter into contracts to guarantee the repayment or payment of not more than ninety per cent of the unpaid principal amount of loans made, including bonds, notes, or other certificates issued or given to provide funds, to pay allowable costs of eligible projects. Such guarantees shall be secured solely by and payable solely from the loan guarantee fund created by this section and unencumbered and available moneys in the facilities establishment fund in the

manner and to the extent provided in such guarantee contracts consistent with this section. Such guarantees shall not constitute general obligations of the state or of any political subdivision, and moneys raised by taxation shall not be obligated or pledged for the payment of such guarantees.

(B) Before guaranteeing any such repayments or payments the director shall determine that:

(1) The project is an eligible project and is economically sound;

(2) The principal amount to be guaranteed does not exceed ninety per cent of the allowable costs of the eligible project as determined by the director. To assist the director in making this determination, the director may, in the director's discretion, engage an independent engineer, architect, appraiser, or other professional pursuant to a contract to be paid solely from the facilities establishment fund, subject to controlling board approval.

(3) The principal amount to be guaranteed has a satisfactory maturity date or dates, which in no case shall be later than twenty years from the effective date of the guarantee;

(4) The rate of interest on the loan to be guaranteed and on any other loan made by the same parties or related persons for the eligible project is not excessive;

(5) The principal obligor, or primary guarantor, is responsible and is reasonably expected to be able to meet the payments under the loan, bonds, notes, or other certificates;

(6) The loan or documents pertaining to the bonds, notes, or other certificates to be guaranteed contains provisions for

payment by the principal obligor, and is in such form and contains such terms and provisions for the protection of the lenders as are generally consistent with commercial practice, including, where applicable, provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, default remedies, acceleration of maturity, prior, additional and secondary liens, and other matters as the director may approve.

(C) The contract of guarantee may make provision for the conditions of, time for and manner of fulfillment of the guarantee commitment, subrogation of the state to the rights of the parties guaranteed and exercise of such parties' rights by the state, giving the state the options of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the loan guarantee fund and the facilities establishment fund, any other terms or conditions customary to such guarantees and as the director may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, including, at the discretion of the director, a lien provided for under section 9.661 of the Revised Code, and may contain covenants on behalf of the state for the maintenance of the loan guarantee fund created by this section and of receipts to it permitted by this chapter, including covenants on behalf of the state to issue obligations under section 166.08 of the Revised Code to provide moneys to the loan guarantee fund to fulfill such guarantees and covenants authorized by division (R)(1) of section 166.08 of the Revised Code, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 166.08 of the Revised Code, and terms pertinent to either, to better secure

the parties guaranteed.

(D) The "loan guarantee fund" of the economic development program is hereby created as a special revenue fund and a trust fund which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury to consist of all grants, gifts, and contributions of moneys or rights to moneys lawfully designated for or deposited in such fund, all moneys and rights to moneys lawfully appropriated and transferred to such fund, including moneys received from the issuance of obligations under section 166.08 of the Revised Code, and moneys deposited to such fund pursuant to division (F) of this section; provided that the loan guarantee fund shall not be comprised, in any part, of moneys raised by taxation.

(E) The director may fix service charges for making a guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(F) The treasurer of state shall serve as agent for the director in the making of deposits and withdrawals and maintenance of records pertaining to the loan guarantee fund. Prior to the director's entry into a contract providing for the making of a guarantee payable from the loan guarantee fund, the treasurer of state shall cause to be transferred from the facilities establishment fund to the loan guarantee fund an amount sufficient to make the aggregate balance therein, taking into account the proposed loan guarantee, equal to the loan guarantee reserve requirement. Thereafter, the treasurer of state shall cause the balance in the loan guarantee fund to be at least equal to the loan guarantee reserve requirement. Funds

from the loan guarantee fund shall be disbursed under a guarantee made pursuant to this section to satisfy a guaranteed repayment or payment which is in default. The treasurer of state shall first withdraw and transfer moneys then on deposit in the loan guarantee fund. Whenever these moneys are inadequate to meet the requirements of a guarantee, the treasurer of state shall, without need of appropriation or further action by the director, provide for a withdrawal and transfer to the loan guarantee fund and then to the guaranteed party of moneys in such amount as is necessary to meet the guarantee from unencumbered and available moneys in the facilities establishment fund. Such disbursements shall be made in the manner and at the times provided in such guarantees. Within ninety days following a disbursement of moneys from the loan guarantee fund, the treasurer of state, without need of appropriation or further action by the director, shall provide for a withdrawal and transfer to the loan guarantee fund from unencumbered and available moneys in the facilities establishment fund, including moneys from the repayment of loans made from that fund, of an amount sufficient to cause the balance in the loan guarantee fund to be at least equal to the loan guarantee reserve requirement.

(G) Any guaranteed parties under this section, except to the extent that their rights are restricted by the guarantee documents, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the director and the treasurer of state required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply

to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of the state or governmental agencies of the state to the payment of such guarantee. Each duty of the director and the treasurer of state and their officers and employees, and of each governmental agency and its officers, members, or employees, required or undertaken pursuant to this section or a guarantee made under authority of this section, is hereby established as a duty of the director and the treasurer of state, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director and treasurer of state, or their officers or employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

(H) The determinations of the director under divisions (B) and (C) of this section shall be conclusive for purposes of the validity of a guarantee evidenced by a contract signed by the director, and such guarantee shall be incontestable as to moneys advanced under loans to which such guarantees are by their terms applicable.

Sec. 166.07. (A) The director of housing and development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend moneys in the facilities establishment fund to persons for the purpose of

paying allowable costs of an eligible project if the director determines that:

(1) The project is an eligible project and is economically sound;

(2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms;

(3) The amount to be lent from the facilities establishment fund will not exceed seventy-five per cent of the total allowable costs of the eligible project, except that if any part of the amount to be lent from the facilities establishment fund is derived from the issuance and sale of project financing obligations the amount to be lent will not exceed ninety per cent of the total allowable costs of the eligible project;

(4) The eligible project could not be achieved in the local area in which it is to be located if the portion of the project to be financed by the loan instead were to be financed by a loan guaranteed under section 166.06 of the Revised Code;

(5) The repayment of the loan from the facilities establishment fund will be adequately secured by a mortgage, assignment, pledge, or lien provided for under section 9.661 of the Revised Code, at such level of priority as the director may require;

(6) The borrower will hold at least a ten per cent equity interest in the eligible project at the time the loan is made.

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the

director.

(C) ~~there~~ There is hereby established the micro-lending program for the purpose of paying the allowable costs of eligible projects of eligible small businesses. From any amount that the general assembly designates for the purpose of the micro-lending program, the director of housing and development shall, either directly or indirectly, make loans under this section to eligible small businesses. The director shall establish eligibility criteria and loan terms for the program that supplement eligibility criteria and loan terms otherwise prescribed for loans under this section, and may prescribe reduced service charges and fees. For the purpose of lending under the micro-lending program, the director of housing and development shall give precedence to projects of eligible small businesses that foster the development of small entrepreneurial enterprises, notwithstanding the considerations prescribed by divisions (A)(1)(a) and (b) of section 166.05 of the Revised Code to the extent those considerations otherwise may have the effect of disqualifying projects of eligible small businesses. The director may enter into agreements with for-profit or ~~non-profit~~ nonprofit organizations in this state to originate and administer loans made.

Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for loans made from the facilities establishment fund pursuant to this section shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making such loans shall be disbursed from the facilities establishment fund upon order of the director. The director shall give special consideration in setting the required job creation ratios and

interest rates for loans that are for voluntary actions.

(D) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section, including any action authorized by section 9.661 of the Revised Code.

(E) The director may fix service charges for the making of a loan. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

Sec. 166.08. (A) As used in this chapter:

(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations issued pursuant to this section, and the provisions contained in such obligations.

(2) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.

(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the economic development bond service fund created by division (S) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of such officer.

(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.

(6) "Pledged receipts" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury; moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, and from the repayment, including interest, of loans made from proceeds received from the sale of obligations; accrued interest received from the sale of obligations; income from the investment of the special funds; and any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges.

(7) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings, and the economic development bond service fund created by division (S) of this section to the extent provided in the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

(B) Subject to the limitations provided in section 166.11 of the Revised Code, the issuing authority, upon the

certification by the director of housing and development or, prior to ~~the effective date of this amendment~~ September 29, 2017, upon certification by the Ohio air quality development authority regarding eligible advanced energy projects, to the issuing authority of the amount of moneys or additional moneys needed in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan fund, the innovation Ohio loan guarantee fund, the research and development loan fund, the logistics and distribution infrastructure fund, the advanced energy research and development fund, or the advanced energy research and development taxable fund, as applicable, for the purpose of paying, or making loans for, allowable costs from the facilities establishment fund, allowable innovation costs from the innovation Ohio loan fund, allowable costs from the research and development loan fund, allowable costs from the logistics and distribution infrastructure fund, allowable costs from the advanced energy research and development fund, or allowable costs from the advanced energy research and development taxable fund, as applicable, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing moneys for the loan guarantee fund or the innovation Ohio loan guarantee fund, as provided in this chapter or needed for the purposes of funds established in accordance with or pursuant to sections 122.35,

122.42, 122.54, 122.55, 122.56, 122.561, 122.57, and 122.80 of the Revised Code which are within the authorization of Section 13 of Article VIII, Ohio Constitution, or, prior to ~~the effective date of this amendment~~ September 29, 2017, with respect to certain eligible advanced energy projects, Section 2p of Article VIII, Ohio Constitution, shall issue obligations of the state under this section in the required amount; provided that such obligations may be issued to satisfy the covenants in contracts of guarantee made under section 166.06 or 166.15 of the Revised Code, notwithstanding limitations otherwise applicable to the issuance of obligations under this section. The proceeds of such obligations, except for the portion to be deposited in special funds, including reserve funds, as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited by the director of housing and development to the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, or the logistics and distribution infrastructure fund, or be deposited by the Ohio air quality development authority prior to ~~the effective date of this amendment~~ September 29, 2017, to the advanced energy research and development fund or the advanced energy research and development taxable fund. Bond proceedings for project financing obligations may provide that the proceeds derived from the issuance of such obligations shall be deposited into such fund or funds provided for in the bond proceedings and, to the extent provided for in the bond proceedings, such proceeds shall be deemed to have been deposited into the facilities establishment fund and transferred to such fund or funds. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and

attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are allowable costs payable from the facilities establishment fund or the research and development loan fund, allowable innovation costs payable from the innovation Ohio loan fund, allowable costs payable from the logistics and distribution infrastructure fund, or allowable costs payable prior to ~~the effective date of this amendment~~ September 29, 2017, from the advanced energy research and development fund or the advanced energy research and development taxable fund, as applicable.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation obligated or pledged, and moneys raised by taxation shall not be obligated or pledged, for the payment of bond service charges. Such holders or owners shall have no rights to payment of bond service charges from any moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, or from payment of the principal of or interest on loans made, or fees charged for guarantees made, or from any money or property received by the director, treasurer of state, or the state under Chapter 122. of the Revised Code, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations and except as otherwise expressly provided in the applicable bond proceedings pursuant to written directions by the director. The right of such holders and owners to payment of bond service charges is limited to all

or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by resolution or order of the issuing authority and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code are applicable to obligations issued under this section, subject to any applicable limitation under section 166.11 of the Revised Code. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings also shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the issuing authority may determine, of the pledged receipts and the applicable special fund or funds to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts and special funds so pledged and thereafter received by the state are immediately subject to the lien of such pledge without any physical delivery thereof or

further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement or other document with respect thereto; and the pledge of such pledged receipts and special funds is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(E) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the issuing authority at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;

(5) The deposit, investment and application of special funds, and the safeguarding of moneys on hand or on deposit,

without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority;

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision that may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under section 122.43, 166.07, or 166.16 of the Revised Code.

(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. If the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery

thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the former issuing authority had remained the issuing authority until such delivery; and if the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(G) All obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

Obligations issued to provide moneys for the loan guarantee fund or the innovation Ohio loan guarantee fund may, as determined by the issuing authority, be sold at private sale, and without publication of a notice of sale.

(I) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(J) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee which may be any trust company or bank having a place of business within the state. Any such agreement or indenture may contain the resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or

qualifications relating to any of the foregoing.

(K) Any holders of obligations or trustees under the bond proceedings, except to the extent that their rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority, the director of housing and development, the Ohio air quality development authority, or the division of liquor control required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority, the director of housing and development, the Ohio air quality development authority, or the division of liquor control in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the custody of the treasurer of state, which are pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the issuing authority or the state or governmental agencies of the state to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or lease, lease-purchase agreement, or loan made under authority of this chapter, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority, or the issuing authority's officers or employees, are not liable in their personal capacities on any obligations issued by the issuing authority or any agreements of or with the issuing authority.

(L) The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued by the issuing authority. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and any allowable costs including expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this division

to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section; provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to this section with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this division to refund, fund, advance refund or retire such prior obligations.

(M) The authority to issue obligations under this section includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such bonds or renewal notes, or both, as the issuing authority provides in the resolution or order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such resolution or order. For such purpose, the issuing authority may issue bonds or renewal

notes in such principal amount and upon such terms as may be necessary to provide funds to pay when required the principal of and interest on such notes, notwithstanding any limitations prescribed by or for purposes of this section. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof, and for purposes of any limitation on bond service charges prescribed under division (A) of section 166.11 of the Revised Code, the amount of bond service charges on such bond anticipation notes is deemed to be the bond service charges for the bonds anticipated thereby as set forth in the bond proceedings applicable to such notes, but this provision does not modify any authority in this section to pledge receipts and special funds to, and covenant to issue bonds to fund, the payment of principal of and interest and any premium on such notes.

(N) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the

school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(O) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuing authority only in notes, bonds, or other obligations of the United States, or of any agency or instrumentality of the United States, obligations guaranteed as to principal and interest by the United States, obligations of this state or any political subdivision of this state, and certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of banks. If the law or the instrument creating a trust pursuant to division (J) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in common trust funds established in accordance with section 1111.20 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(4) of that section. The income from such investments shall be credited to such funds as the issuing

authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

(P) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established pursuant to this section shall be disbursed on the order of the treasurer of state, provided that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(Q) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(R) The issuing authority may covenant in the bond proceedings, and any such covenants are controlling notwithstanding any other provision of law, that the state and applicable officers and governmental agencies of the state, including the general assembly, so long as any obligations are outstanding, shall:

(1) Maintain statutory authority for and cause to be charged and collected wholesale and retail prices for spirituous

liquor sold by the state or its agents so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in contracts of guarantee made under section 166.06 of the Revised Code;

(2) Take or permit no action, by statute or otherwise, that would impair the exemption from federal income taxation of the interest on the obligations.

(S) There is hereby created the economic development bond service fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All moneys received by or on account of the issuing authority or state agencies and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to a bond service fund or the economic development bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited and credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the pertinent bond service funds are insufficient to pay all bond services charges on such obligations becoming due in each year, a sufficient amount of the gross profit on the sale of spirituous liquor included in pledged receipts are committed and shall be paid to the bond service fund or economic development bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity

for further act of appropriation for such purpose and notwithstanding anything to the contrary in Chapter 4301. of the Revised Code. The economic development bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(T) The obligations, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Sec. 166.09. There shall be credited to the facilities establishment fund the moneys received by the state from the repayment of loans and recovery on loan guarantees, including interest thereon, made from the facilities establishment fund or from the loan guarantee fund and from the sale, lease, or other disposition of property acquired or constructed from moneys in the facilities establishment fund with moneys derived from the proceeds of the sale of obligations under section 166.08 of the Revised Code. Such moneys shall be applied as provided in this chapter pursuant to appropriations made by the general assembly. Notwithstanding the foregoing, any amounts recovered on loan guarantees shall be deposited to the credit of the loan guarantee fund to the extent necessary to restore that fund to the level required by any guarantee contract, and the other moneys referred to in the first sentence of this section may be deposited to the credit of separate accounts within the facilities establishment fund or in the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such pledge and transferred to the facilities

establishment fund or other account therein, all as and to the extent provided in the bond proceedings pursuant to written directions by the director of housing and development. Accounts may be established by the director in the facilities establishment fund for particular projects or otherwise. Income from the investment of moneys in the facilities establishment fund shall be credited to that fund and, as may be provided in bond proceedings, to particular accounts therein. The treasurer of state may withdraw from the facilities establishment fund or, subject to provisions of the applicable bond proceedings, from any special funds established pursuant to the bond proceedings, or from any accounts in such funds, any amounts of investment income required to be rebated and paid to the federal government in order to maintain the exemption from federal income taxation of interest on obligations issued under this chapter, which withdrawal and payment may be made without necessity for appropriation.

Sec. 166.12. (A) The general assembly finds that in order to maintain and enhance the competitiveness of the Ohio economy and to improve the economic welfare of all of the people of the state, it is necessary to ensure that high-value jobs based on research, technology, and innovation will be available to the people of this state. Further, the general assembly finds that the attraction of such jobs and their presence in this state will materially contribute to the economic welfare of all of the people of the state. Accordingly, it is declared to be the public policy of this state, through the operations under sections 166.01 and 166.12 to 166.16 of the Revised Code, and the loan and loan guarantee provisions contained in those sections, applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in

the general assembly, to assist in and facilitate the establishment or development of eligible innovation projects or assist and cooperate with any governmental agency in achieving that purpose.

(B) In furtherance of that public policy and to implement that purpose, the director of housing and development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible innovation projects and make provision therein for project facilities and governmental actions, as authorized by sections 166.01 and 166.12 to 166.16 of the Revised Code and other applicable laws;

(2) Provide for innovation Ohio loan guarantees and loans under sections 166.15 and 166.16 of the Revised Code;

(3) Subject to the release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, eligible innovation projects the allowable innovation costs of which are to be paid for or reimbursed from moneys in the innovation Ohio loan fund, and contract for the operation of such eligible innovation projects;

(4) Subject to release thereof by the controlling board, from moneys in the innovation Ohio loan fund, acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, innovation

property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, innovation property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to, and as the director determines to be appropriate to satisfy the objectives of, Chapter 166. of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in the director's judgment and fix the compensation for their services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any governmental agency for the taking or provision by that governmental agency of any governmental action with respect to innovation projects;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of sections 166.01 and 166.12 to 166.16 of the Revised Code;

(9) With respect to property, including but not limited to

innovation property, take such interests, including but not limited to mortgages, security interests, assignments, and exclusive or non-exclusive licenses, as may be necessary or appropriate under the circumstances, to ensure that innovation property is used within this state and that products or services associated with that innovation property are produced or, in the case of services, delivered, by persons employed within this state;

(10) Adopt rules necessary to implement any of the provisions of sections 166.01 and 166.12 to 166.16 of the Revised Code applicable to the director.

(C) The determinations by the director that facilities or property constitute eligible innovation projects and that costs of such facilities or property are allowable innovation costs, and all other determinations relevant thereto or to an action taken or agreement entered into, shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under sections 166.01 and 166.12 to 166.16 of the Revised Code.

Sec. 166.13. (A) Prior to entering into each agreement to provide innovation financial assistance under sections 166.12, 166.15, and 166.16 of the Revised Code, the director of housing and development services shall determine whether the assistance will conform to the requirements of sections 166.12 to 166.16 of the Revised Code. Such determination, and the facts upon which it is based, shall be set forth by the director in submissions made to the controlling board when the director seeks a release of moneys under section 166.12 of the Revised Code. An agreement to provide assistance under sections 166.12, 166.15, and 166.16 of the Revised Code shall set forth the determination, which

shall be conclusive for purposes of the validity and enforceability of the agreement and any innovation loan guarantees, innovation loans, or other agreements entered into pursuant to the agreement to provide innovation financial assistance.

(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 person shall provide written notification to the appropriate local governmental bodies and state officials. The director may not enter into an agreement to provide innovation financial assistance until the director determines that the appropriate local government bodies and state officials have been notified.

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

(c) The legislative authority of the municipal corporation

or the board of township trustees of the township in which the eligible innovation project to be replaced is located.

(2) "State officials" means:

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

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

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

(1) The director of housing and development ~~services~~ shall take into consideration all of the following:

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

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

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

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

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

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

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

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

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

(B) Financial statements and other data submitted to the director of housing and development ~~services~~ or the controlling board by any private sector person in connection with innovation financial assistance under sections 166.12, 166.15, and 166.16 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection.

Sec. 166.15. (A) Subject to any limitations as to

aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, the director of housing and development may, on behalf of the state, enter into contracts to guarantee the repayment or payment of the unpaid principal amount of loans made, including bonds, notes, or other certificates issued or given to provide funds, to pay allowable innovation costs of eligible innovation projects. The guarantees shall be secured solely by and payable solely from the innovation Ohio loan guarantee fund and unencumbered and available moneys in the innovation Ohio loan fund, in the manner and to the extent provided in guarantee contracts consistent with this section. The guarantees shall not constitute general obligations of the state or of any political subdivision, and moneys raised by taxation shall not be obligated or pledged for the payment of the guarantees.

(B) Before guaranteeing any such repayments or payments, the director shall determine that:

(1) The project is an eligible innovation project and is economically sound.

(2) The principal amount to be guaranteed does not exceed ninety per cent of the allowable innovation costs of the eligible innovation project as determined by the director. In making this determination, the director may, in the director's discretion, engage an independent engineer, architect, appraiser, or other professional to make it, pursuant to a contract to be paid solely from the innovation Ohio loan fund, subject to approval of the controlling board.

(3) The principal amount to be guaranteed has a satisfactory maturity date or dates, which in no case shall be

later than twenty years from the effective date of the guarantee.

(4) The principal obligor, or primary guarantor, is responsible and is reasonably expected to be able to meet the payments under the loan, bonds, notes, or other certificates.

(5) The loan or documents pertaining to the bonds, notes, or other certificates to be guaranteed contains provisions for payment by the principal obligor satisfactory to the director and is in such form and contains such terms and provisions for the protection of the lenders as are generally consistent with commercial practice for the type of eligible innovation project that is the subject of the assistance, including, where applicable, provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, default remedies, acceleration of maturity, prior, additional, and secondary liens, and other matters as the director may approve.

(C) The contract of guarantee may make provision for the conditions of, time for, and manner of fulfillment of the guarantee commitment, subrogation of this state to the rights of the parties guaranteed and exercise of such parties' rights by this state, giving this state the options of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the innovation Ohio loan guarantee fund, and any other terms or conditions customary to such guarantees and as the director may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, covenants on behalf of this state for the maintenance of the loan guarantee fund created by this section and of receipts to it permitted by this chapter,

including covenants on behalf of this state to issue obligations under section 166.08 of the Revised Code to provide moneys to the innovation Ohio loan guarantee fund to fulfill such guarantees, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 166.08 of the Revised Code, and terms pertinent to either, to better secure the parties guaranteed.

(D) The innovation Ohio loan guarantee fund is hereby created as a special revenue fund and a trust fund which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury and shall consist of all grants, gifts, and contributions of moneys or rights to moneys lawfully designated for or deposited in such fund, all moneys and rights to moneys lawfully appropriated and transferred to such fund, including moneys received from the issuance of obligations under section 166.08 of the Revised Code, and moneys deposited to such fund pursuant to division (F) of this section. The innovation Ohio loan guarantee fund shall not be comprised, in any part, of moneys raised by taxation.

(E) The director may fix service charges for making a guarantee. The charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(F) The treasurer of state shall serve as agent for the director in the making of deposits and withdrawals and maintenance of records pertaining to the innovation Ohio loan guarantee fund. Prior to the director's entry into a contract providing for the making of a guarantee payable from the innovation Ohio loan guarantee fund, the treasurer of state

shall cause to be transferred from the innovation Ohio loan fund to the innovation Ohio loan guarantee fund an amount sufficient to make the aggregate balance therein, taking into account the proposed loan guarantee equal to the innovation Ohio loan guarantee reserve requirement. Thereafter, the treasurer of state shall cause the balance in the innovation Ohio loan guarantee fund to be at least equal to the innovation Ohio loan guarantee reserve requirement. Funds from the innovation Ohio loan guarantee fund shall be disbursed under a guarantee made pursuant to this section to satisfy a guaranteed repayment or payment which is in default. After withdrawing moneys from the innovation Ohio loan guarantee fund, the treasurer of state shall transfer moneys in the innovation Ohio loan fund to the innovation Ohio loan guarantee fund to satisfy any repayment obligations. Whenever these moneys are inadequate to meet the requirements of a guarantee, the treasurer of state shall, without need of appropriation or further action by the director, provide for a withdrawal and transfer to the innovation Ohio loan guarantee fund and then to the guaranteed party of moneys in such amount as is necessary to meet the guarantee, from unencumbered and available moneys in the innovation Ohio loan fund. The disbursements shall be made in the manner and at the times provided in the guarantees. Within ninety days following a disbursement of money from the innovation Ohio loan guarantee fund, the treasurer of state, without need of appropriation or further action by the director, shall provide for a withdrawal and transfer to the innovation Ohio loan guarantee fund from unencumbered and available moneys in the innovation Ohio loan fund, including moneys from the repayment of loans made from that fund, of an amount sufficient to cause the balance in the innovation Ohio loan guarantee fund to be at least equal to the innovation Ohio loan guarantee reserve requirement.

(G) Any guaranteed parties under this section, except to the extent that their rights are restricted by the guarantee documents, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the director and the treasurer of state required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of this state or governmental agencies of the state to the payment of such guarantee. Each duty of the director and the treasurer of state and their officers and employees, and of each governmental agency and its officers, members, or employees, required or undertaken pursuant to this section or a guarantee made under authority of this section, is hereby established as a duty of the director and the treasurer of state, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director and treasurer of state, or their officers or employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

(H) The determinations of the director under divisions (B)

and (C) of this section shall be conclusive for purposes of the validity of a guarantee evidenced by a contract signed by the director, and such guarantee shall be incontestable as to money advanced under loans to which such guarantees are by their terms applicable.

Sec. 166.16. (A) The director of housing and development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend moneys in the innovation Ohio loan fund to persons for the purpose of paying allowable innovation costs of an eligible innovation project if the director determines that:

(1) The project is an eligible innovation project and is economically sound.

(2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms.

(3) The amount to be lent from the innovation Ohio loan fund will not exceed ninety per cent of the total costs of the eligible innovation project.

(4) The repayment of the loan from the innovation Ohio loan fund will be secured by a mortgage, lien, assignment, or pledge, or other interest in property or innovation property at such level of priority and value as the director may determine necessary, provided that, in making such a determination, the director may take into account the value of any rights granted by the borrower to the director to control the use of any property or innovation property of the borrower under the circumstances described in the loan documents.

(B) The determinations of the director under division (A)

of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director.

(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for loans made from the innovation Ohio loan fund shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making the loans shall be disbursed from the innovation Ohio loan fund upon order of the director. Unless otherwise specified in any indenture or other instrument securing obligations under division (D) of section 166.08 of the Revised Code, any payments of principal and interest from loans made from the innovation Ohio loan fund shall be paid to the innovation Ohio loan fund and used for the purpose of making loans.

(D) There is hereby created in the state treasury the innovation Ohio loan fund. The fund shall consist of grants, gifts, and contributions of moneys or rights to moneys lawfully designated for or deposited in such fund, all moneys and rights to moneys lawfully appropriated and transferred to such fund, including moneys received from the issuance of obligations for purposes of allowable innovation costs under section 166.08 of the Revised Code, and moneys deposited to such fund pursuant to divisions (C) and (G) of this section. All investment earnings on the cash balance in the fund shall be credited to the fund. The fund shall not be comprised, in any part, of moneys raised by taxation.

(E) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this

section.

(F) The director may fix service charges for the making of a loan. The charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(G)(1) There shall be credited to the innovation Ohio loan fund the moneys received by this state from the repayment of innovation Ohio loans and recovery on loan guarantees, including interest thereon, made from the innovation Ohio loan fund or from the innovation Ohio loan guarantee fund and from the sale, lease, or other disposition of property acquired or constructed with moneys in the innovation Ohio loan fund with moneys derived from the proceeds of the sale of obligations under section 166.08 of the Revised Code. Such moneys shall be applied as provided in this chapter pursuant to appropriations made by the general assembly.

(2) Notwithstanding division (G)(1) of this section, any amounts recovered on innovation Ohio loan guarantees shall be deposited to the credit of the innovation Ohio loan guarantee fund to the extent necessary to restore that fund to the innovation Ohio loan guarantee reserve requirement or any level in excess thereof required by any guarantee contract. Money in the innovation Ohio loan guarantee fund in excess of the innovation Ohio loan guarantee reserve requirement, but subject to the provisions and requirements of any guarantee contracts, may be transferred to the innovation Ohio loan fund by the treasurer of state upon the order of the director of housing and development.

(3) In addition to the requirements of division (G)(1) of this section, moneys referred to in that division may be deposited to the credit of separate accounts within the

innovation Ohio loan fund or in the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such pledge and transferred to the innovation Ohio loan fund, all as and to the extent provided in the bond proceedings pursuant to written directions by the director of housing and development. Accounts may be established by the director in the innovation Ohio loan fund for particular projects or otherwise. The director may withdraw from the innovation Ohio loan fund or, subject to provisions of the applicable bond proceedings, from any special funds established pursuant to the bond proceedings, or from any accounts in such funds, any amounts of investment income required to be rebated and paid to the federal government in order to maintain the exemption from federal income taxation of interest on obligations issued under this chapter, which withdrawal and payment may be made without necessity for appropriation.

Sec. 166.17. (A) The general assembly finds that in order to enhance the economic opportunities available to and improve the economic welfare of all the people of the state, and to maintain and enhance the competitiveness of the Ohio economy, it is necessary to ensure that the people of the state will continue to have access to high-value jobs in technology, and that, to facilitate such continued access, it is necessary to provide incentives to retain and attract businesses that will develop new or improved technologies, processes, and products, or apply existing technologies in new ways. Further, the general assembly finds that the attraction of such jobs and their presence in this state will materially contribute to the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of this state, through

operations under sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code and the provisions for financial assistance contained in those sections, other applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible research and development projects or assist and cooperate with any governmental agency in achieving that purpose.

(B) In furtherance of that public policy and to implement that purpose, the director of housing and development may do any of the following:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies, to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or develop eligible research and development projects, or to enable governmental agencies to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or develop eligible research and development projects for lease to persons engaged in industry, commerce, distribution, or research;

(2) Provide for loans under section 166.21 of the Revised Code to finance eligible research and development projects;

(3) Subject to the release of moneys in the research and development loan fund by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, eligible research and development projects, the allowable costs of which are to be

paid for or reimbursed from such moneys, and contract for the operation of those projects;

(4) From moneys in the research and development loan fund, subject to release thereof by the controlling board, acquire or contract to acquire property by gift, exchange, or purchase, including by obtaining and exercising purchase options, and convey or otherwise dispose of, or provide for the conveyance or disposition of, that property by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to, and as the director determines to be appropriate to satisfy the objectives of, Chapter 166. of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, employees, agents, and independent contractors as are necessary in the director's judgment, and fix the compensation for their services;

(6) Receive and accept from any person, grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into arrangements and agreements with any governmental agency for the agency to take or provide any governmental action with respect to eligible research and development projects;

(8) Do all other acts, enter into contracts, execute all instruments, and make all certifications necessary or appropriate to carry out sections 166.01, 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code;

(9) With respect to property that is the subject of or related to research and development financial assistance, take such interests, including, but not limited to, mortgages, security interests, leasehold interests, assignments, and exclusive or nonexclusive licenses, as may be necessary or appropriate under the circumstances, to ensure that the property is used within this state and that products or services associated with that property are produced or, in the case of services, delivered, by persons employed within this state;

(10) Adopt rules necessary to implement any of the provisions of sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code that are applicable to the director.

(C) The determination by the director that facilities or property constitute an eligible research and development project and that the costs of such facilities or property are allowable costs related to the project, and all other determinations relevant thereto, or to an action taken or agreement entered into, shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code.

Sec. 166.18. (A) Prior to entering into each agreement to provide research and development financial assistance, the director of housing and development ~~services~~ shall determine whether the assistance will conform to the requirements of sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised

Code. Such determination, and the facts upon which it is based, shall be set forth by the director in submissions made to the controlling board when the director seeks a release of moneys under section 166.17 of the Revised Code. An agreement to provide research and development financial assistance under section 166.17 or 166.21 of the Revised Code shall set forth the determination, which shall be conclusive for purposes of the validity and enforceability of the agreement, and any loans or other agreements entered into pursuant to the agreement, to provide research and development financial assistance.

(B) Whenever a person applies for research and development financial assistance, and the eligible research and development project for which that assistance is requested is to relocate an eligible research and development project that is currently being operated by the person and that is located in another county, municipal corporation, or township within the state, the person shall provide written notification to the appropriate local governmental bodies and state officials. The director may not enter into an agreement to provide research and development financial assistance until the director determines that the appropriate local government bodies and state officials have been notified.

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

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

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

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

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

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

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

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

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

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

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

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

(e) The needs of any private sector enterprise to be assisted, taking into consideration 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 research and development project or with respect to any providers of research and development property to be included as part of the project;

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

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

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

(B) Financial statements and other data submitted to the director of housing and development ~~services~~ or the controlling board by any private sector person in connection with research and development financial assistance, or any information taken from such statements or data for any purpose, shall not be open to public inspection.

Sec. 166.20. There is hereby created in the state treasury the research and development loan fund. The fund shall consist of moneys received from the issuance of obligations for research and development purposes under section 166.08 of the Revised Code; moneys deposited to the fund pursuant to divisions (C) and (G) of section 166.21 of the Revised Code; service charges imposed under section 166.21 of the Revised Code; and any grants, gifts, or contributions of money received by the director of housing and development to be used for making loans under section 166.21 of the Revised Code. All investment earnings on the cash balance in the fund shall be credited to the fund. The fund shall not be comprised, in any part, of moneys raised by taxation.

Sec. 166.21. (A) The director of housing and development ~~services~~, with the approval of the controlling board and subject to other applicable provisions of this chapter, may lend moneys in the research and development loan fund to persons for the purpose of paying allowable costs of eligible research and development projects, if the director determines that all of the following conditions are met:

(1) The project is an eligible research and development project and is economically sound;

(2) The amount to be lent from the research and development loan fund will not exceed seventy-five per cent of the total costs of the eligible research and development project;

(3) The repayment of the loan from the research and development loan fund will be secured by a mortgage, assignment, pledge, lien provided for under section 9.661 of the Revised Code, or other interest in property or other assets of the

borrower, at such level of priority and value as the director considers necessary, provided that, in making such a determination, the director shall take into account the value of any rights granted by the borrower to the director to control the use of any assets of the borrower under the circumstances described in the loan documents.

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director.

(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms and conditions of, and security for, loans made from the research and development loan fund shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making loans shall be disbursed from the fund upon order of the director. Unless otherwise specified in any indenture or other instrument securing obligations under division (D) of section 166.08 of the Revised Code, any payments of principal and interest from loans made from the fund shall be paid to the fund and used for the purpose of making loans under this section.

(D)(1) As used in this division, "qualified research and development loan payments" means payments of principal and interest on a loan made from the research and development loan fund.

(2) Each year, the director may, upon request, issue a certificate to a borrower of moneys from the research and development loan fund indicating the amount of the qualified research and development loan payments made by or on behalf of

the borrower during the calendar year immediately preceding the tax year, as defined in section 5733.04 of the Revised Code, or taxable year, as defined in section 5747.01 of the Revised Code, for which the certificate is issued. In addition to indicating the amount of qualified research and development loan payments, the certificate shall include a determination of the director that as of the thirty-first day of December of the calendar year for which the certificate is issued, the borrower is not in default under the loan agreement, lease, or other instrument governing repayment of the loan, including compliance with the job creation and retention commitments that are part of the qualified research and development project. If the director determines that a borrower is in default under the loan agreement, lease, or other instrument governing repayment of the loan, the director may reduce the amount, percentage, or term of the credit allowed under section 5733.352, 5747.331, or 5751.52 of the Revised Code with respect to the certificate issued to the borrower. The director shall not issue a certificate in an amount that exceeds one hundred fifty thousand dollars.

(E) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section.

(F) The director may fix service charges for the making of a loan. The charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(G)(1) There shall be credited to the research and development loan fund moneys received by this state from the repayment of loans, including interest thereon, made from the fund, and moneys received from the sale, lease, or other disposition of property acquired or constructed with moneys in

the fund derived from the proceeds of the sale of obligations under section 166.08 of the Revised Code. Moneys in the fund shall be applied as provided in this chapter pursuant to appropriations made by the general assembly.

(2) In addition to the requirements in division (G)(1) of this section, moneys referred to in that division may be deposited to the credit of separate accounts established by the director of housing and development ~~services~~ within the research and development loan fund or in the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such pledge and transferred to the research and development loan fund, all as and to the extent provided in the bond proceedings pursuant to written directions of the director. Accounts may be established by the director in the research and development loan fund for particular projects or otherwise. The director may withdraw from the fund or, subject to provisions of the applicable bond proceedings, from any special funds established pursuant to the bond proceedings, or from any accounts in such funds, any amounts of investment income required to be rebated and paid to the federal government in order to maintain the exemption from federal income taxation of interest on obligations issued under this chapter, which withdrawal and payment may be made without the necessity for appropriation.

Sec. 166.25. (A) The director of housing and development ~~services~~, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend money in the logistics and distribution infrastructure fund to persons for the purpose of paying allowable costs of eligible logistics and distribution projects.

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

(C) 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.

Sec. 166.27. (A) As used in this section, "minority" has the same meaning as in section 184.17 of the Revised Code, except that the individual must be a resident of this state. The term also includes an economically disadvantaged individual who is a resident of this state.

(B) The director of housing and development shall conduct outreach activities in Ohio that seek to include minorities in the loan program for logistics and distribution projects established under section 166.25 of the Revised Code. The outreach activities shall include the following, when appropriate:

(1) Identifying and partnering with historically black colleges and universities;

(2) Working with all institutions of higher education in

the state to support minority faculty and students involved in logistics and distribution fields;

(3) Developing a plan to contact by telephone minority-owned businesses and entrepreneurs and other economically disadvantaged businesses to notify them of opportunities to participate in the loan program for logistics and distribution projects;

(4) Identifying minority professional and technical trade associations and economic development assistance organizations and notifying them of the loan program for logistics and distribution projects;

(5) Partnering with regional councils to foster local efforts to support minority-owned businesses or otherwise identify networks of minority-owned businesses, entrepreneurs, and individuals operating locally;

(6) Identifying minority firms and notifying them of the opportunities that exist within the investment community, including the Ohio venture capital authority created under section 150.02 of the Revised Code.

(C) The director shall publish an annual report that includes all of the following:

(1) Details of loans awarded for logistics and distribution projects;

(2) The status of loan recipients' projects funded in previous years;

(3) The amount of loans awarded for projects in economically distressed areas, and if possible to ascertain, the impact of the loans to those areas.

(D) To the extent possible, outreach activities described in this section shall be conducted in conjunction with the EDGE program created in section 122.922 of the Revised Code.

Sec. 167.02. (A) Membership in the regional council shall be the counties, municipal corporations, townships, special districts, school districts, and other political subdivisions entering into the agreement establishing the council or admitted to membership subsequently pursuant to the agreement establishing the council or the bylaws of the council. Representation on the council may be in the manner as provided in the agreement establishing the council.

(B) If the agreement establishing the council does not set forth the manner for determining representation on the council such representation shall consist of one representative from each county, municipal corporation, township, special district, school district, or other political subdivision entering into the agreement, or subsequently admitted to membership in the council. The representative from each member county, municipal corporation, township, special district, school district, or other political subdivision shall be elected chief executive thereof, or, if such county, municipal corporation, township, special district, school district, or other political subdivision does not have an elected chief executive, a member of its governing body chosen by such body to be its representative.

(C) Records containing the names of the political subdivisions that are members of a regional council of governments or the names of the representatives from those political subdivisions who serve on the council are public records within the meaning of section 149.43 of the Revised

Code, and those names are not considered to be trade secrets under section 1333.61 of the Revised Code.

(D) The director of housing and development ~~services~~ shall assist the council in securing the cooperation of all appropriate agencies of the state or of the United States to aid in promoting the orderly growth and development of the area, solving the problems of local government, and discharging the responsibilities and duties of local government in the most efficient possible manner.

(E) Any county, municipal corporation, township, special district, school district, or other political subdivision which has become a member of the council may withdraw by formal action of its governing board and upon sixty days notice to council after such action, or in the manner provided in the agreement establishing the council, provided no such procedure relative to withdrawals in the agreement establishing the council shall require the political subdivision desiring to withdraw to retain its membership in the council for a period in excess of two years.

Sec. 169.05. (A) Every holder required to file a report under section 169.03 of the Revised Code shall, at the time of filing, pay to the director of commerce ten per cent of the aggregate amount of unclaimed funds as shown on the report, except for aggregate amounts of fifty dollars or less in which case one hundred per cent shall be paid. The funds may be deposited by the director in the state treasury to the credit of the unclaimed funds trust fund, which is hereby created, or placed with a financial organization. Any interest earned on money in the trust fund shall be credited to the trust fund. The remainder of the aggregate amount of unclaimed funds as shown on

the report, plus earnings accrued to date of payment to the director, shall, at the option of the director, be retained by the holder or paid to the director for deposit as agent for the mortgage funds with a financial organization as defined in section 169.01 of the Revised Code, with the funds to be in income-bearing accounts to the credit of the mortgage funds, or the holder may enter into an agreement with the director specifying the obligations of the United States in which funds are to be invested, and agree to pay the interest on the obligations to the state. Holders retaining any funds not in obligations of the United States shall enter into an agreement with the director specifying the classification of income-bearing account in which the funds will be held and pay the state interest on the funds at a rate equal to the prevailing market rate for similar funds. Moneys that the holder is required to pay to the director rather than to retain may be deposited with the treasurer of state, or placed with a financial organization.

Securities and other intangible property transferred to the director shall, within a reasonable time, be converted to cash and the proceeds deposited as provided for other funds.

One-half of the funds evidenced by agreements, in income-bearing accounts, or on deposit with the treasurer of state shall be allocated on the records of the director to the mortgage insurance fund created by section 122.561 of the Revised Code. Out of the remaining half, after allocation of sufficient moneys to the minority business bonding fund to meet the provisions of division (B) of this section, the remainder shall be allocated on the records of the director to the housing development fund created by division (A) of section 175.11 of the Revised Code.

(B) The director shall serve as agent for the director of housing and development and as agent for the Ohio housing finance agency in making deposits and withdrawals and maintaining records pertaining to the minority business bonding fund created by section 122.88 of the Revised Code, the mortgage insurance fund, and the housing development fund created by section 175.11 of the Revised Code. Funds from the mortgage insurance fund are available to the director of housing and development when those funds are to be disbursed to prevent or cure, or upon the occurrence of, a default of a mortgage insured pursuant to section 122.451 of the Revised Code. Funds from the housing development fund are available upon request to the Ohio housing finance agency, in an amount not to exceed the funds allocated on the records of the director, for the purposes of section 175.05 of the Revised Code. Funds from the minority business bonding fund are available to the director of housing and development upon request to pay obligations on bonds the director writes pursuant to section 122.88 of the Revised Code; except that, unless the general assembly authorizes additional amounts, the total maximum amount of moneys that may be allocated to the minority business bonding fund under this division is ten million dollars.

When funds are to be disbursed, the appropriate agency shall call upon the director to transfer the necessary funds to it. The director shall first withdraw the funds paid by the holders and deposited with the treasurer of state or in a financial institution as agent for the funds. Whenever these funds are inadequate to meet the request, the director shall provide for a withdrawal of funds, within a reasonable time and in the amount necessary to meet the request, from financial institutions in which the funds were retained or placed by a

holder and from other holders who have retained funds, in an equitable manner as the director prescribes. In the event that the amount to be withdrawn from any one holder is less than five hundred dollars, the amount to be withdrawn is at the director's discretion. The director shall then transfer to the agency the amount of funds requested.

Funds deposited in the unclaimed funds trust fund are subject to call by the director when necessary to pay claims the director allows under section 169.08 of the Revised Code, in accordance with the director's rules, to defray the necessary costs of making publications this chapter requires and to pay other operating and administrative expenses the department of commerce incurs in the administration and enforcement of this chapter.

The unclaimed funds trust fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures the director of commerce prescribes. The assessment shall be paid from the unclaimed funds trust fund to the division of administration fund.

(C) Earnings on the accounts in financial organizations to the credit of the mortgage funds shall, at the option of the financial organization, be credited to the accounts at times and at rates as earnings are paid on other accounts of the same classification held in the financial organization or paid to the director. The director shall be notified annually, and at other times as the director may request, of the amount of the earnings credited to the accounts. Interest on unclaimed funds a holder retains shall be paid to the director or credited as specified in the agreement under which the organization retains the funds.

Interest payable to the director under an agreement to invest unclaimed funds in income-bearing accounts or obligations of the United States shall be paid annually by the holder to the director. Any earnings or interest the director receives under this division shall be deposited in and credited to the mortgage funds.

Sec. 173.08. (A) The resident services coordinator program is established in the department of aging to fund resident services coordinators. The coordinators shall provide information to low-income and special-needs tenants, including the elderly, who live in financially assisted rental housing complexes, and assist those tenants in identifying and obtaining community and program services and other benefits for which they are eligible.

(B) The resident services coordinator program fund is hereby created in the state treasury to support the resident services coordinator program established pursuant to this section. The fund consists of all moneys the department of housing and development sets aside pursuant to division (A)(3) of section 174.02 of the Revised Code and moneys the general assembly appropriates to the fund.

Sec. 174.01. As used in this chapter:

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

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

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

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

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

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

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

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

(I) "Loan subsidy" means any deposit of funds into a

lending institution with the authorization or direction that the income or revenues the deposit earns, or could have earned at competitive rates, be applied directly or indirectly to the benefit of housing assistance or financial assistance.

(J) "Low- and moderate-income persons" means individuals and families who qualify as low- and moderate-income persons pursuant to guidelines the department establishes.

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

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

Sec. 174.02. (A) The low- and moderate-income housing trust fund is hereby created in the state treasury. The fund consists of all appropriations made to the fund, housing trust fund fees collected by county recorders pursuant to section 317.36 of the Revised Code and deposited into the fund pursuant to section 319.63 of the Revised Code, and all grants, gifts, loan repayments, and contributions of money made from any source to the department of housing and development for deposit in the fund. All investment earnings of the fund shall be credited to the fund. The director of housing and development shall allocate a portion of the money in the fund to an account of the Ohio housing finance agency. The department shall administer the fund. The Ohio housing finance agency shall use money allocated to it for implementing and administering its programs and duties under sections 174.03 and 174.05 of the Revised Code, and the department shall use the remaining money in the fund for implementing and administering its programs and duties under

sections 174.03 to 174.06 of the Revised Code. Use of all money drawn from the fund is subject to the following restrictions:

(1)(a) Not more than five per cent of the current year appropriation authority for the fund shall be allocated between grants to community development corporations for the community development corporation grant program and grants and loans to the Ohio community development finance fund, a private nonprofit corporation.

(b) In any year in which the amount in the fund exceeds one hundred thousand dollars and at least that much is allocated for the uses described in this section, not less than one hundred thousand dollars shall be used to provide training, technical assistance, and capacity building assistance to nonprofit development organizations.

(2) Not more than ten per cent of any current year appropriation authority for the fund shall be used for the emergency shelter housing grants program to make grants to private, nonprofit organizations and municipal corporations, counties, and townships for emergency shelter housing for the homeless and emergency shelter facilities serving unaccompanied youth seventeen years of age and younger. The grants shall be distributed pursuant to rules the director adopts and qualify as matching funds for funds obtained pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 11371 to 11378.

(3) In any fiscal year in which the amount in the fund exceeds the amount awarded pursuant to division (A)(1)(b) of this section by at least two hundred fifty thousand dollars, at least two hundred fifty thousand dollars from the fund shall be provided to the department of aging for the resident services coordinator program as established in section 173.08 of the

Revised Code.

(4) Of all current year appropriation authority for the fund, not more than five per cent shall be used for administration.

(5) Not less than forty-five per cent of the funds awarded during any one fiscal year shall be for grants and loans to nonprofit organizations under section 174.03 of the Revised Code.

(6) Not less than fifty per cent of the funds awarded during any one fiscal year, excluding the amounts awarded pursuant to divisions (A)(1), (2), and (7) of this section, shall be for grants and loans for activities that provide housing and housing assistance to families and individuals in rural areas and small cities that are not eligible to participate as a participating jurisdiction under the "HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 U.S.C. 12701 note, 12721.

(7) No money in the fund shall be used to pay for any legal services other than the usual and customary legal services associated with the acquisition of housing.

(8) Money in the fund may be used as matching money for federal funds received by the state, counties, municipal corporations, and townships for the activities listed in section 174.03 of the Revised Code.

(B) If, after the second quarter of any year, it appears to the director that the full amount of the money in the fund designated in that year for activities that provide housing and housing assistance to families and individuals in rural areas and small cities under division (A) of this section will not be

used for that purpose, the director may reallocate all or a portion of that amount for other housing activities. In determining whether or how to reallocate money under this division, the director may consult with and shall receive advice from the housing trust fund advisory committee.

Sec. 174.03. (A) The department of housing and development and the Ohio housing finance agency shall each develop programs under which, in accordance with rules adopted under this section, they may make grants, loans, loan guarantees, and loan subsidies to counties, municipal corporations, townships, local housing authorities, and nonprofit organizations and may make loans, loan guarantees, and loan subsidies to private developers and private lenders to assist in activities that provide housing and housing assistance for specifically targeted low- and moderate-income families and individuals. There is no minimum housing project size for awards under this division for any project that is developed for a special needs population and that is supported by a social service agency where the housing project is located. Activities for which grants, loans, loan guarantees, and loan subsidies may be made under this section include all of the following:

(1) Acquiring, financing, constructing, leasing, rehabilitating, remodeling, improving, and equipping publicly or privately owned housing;

(2) Providing supportive services related to housing and the homeless, including housing counseling. Not more than twenty per cent of the current year appropriation authority for the low- and moderate-income housing trust fund that remains after the award of funds made pursuant to divisions (A)(1) and ~~(A)~~(2) of section 174.02 of the Revised Code, shall be awarded in any

fiscal year for supportive services.

(3) Providing rental assistance payments or other project operating subsidies that lower tenant rents;

(4) Improving the quality of life of tenants by providing education for tenants and residents of manufactured home communities regarding their rights and responsibilities, planning and implementing activities designed to improve conflict resolution and the capacity of tenants to negotiate and mediate with landlords, and developing tenant and resident councils and organizations;

(5) Promoting capacity building initiatives related to the creation of county housing trust funds.

(B) Grants, loans, loan guarantees, and loan subsidies may be made to counties, municipal corporations, townships, and nonprofit organizations for the additional purposes of providing technical assistance, design and finance services and consultation, and payment of pre-development and administrative costs related to any of the activities listed above.

(C) In developing programs under this section, the department and the agency shall invite, accept, and consider public comment, and recommendations from the housing trust fund advisory committee created under section 174.06 of the Revised Code, on how the programs should be designed to most effectively benefit low- and moderate-income families and individuals. The programs developed under this section shall respond collectively to housing and housing assistance needs of low- and moderate-income families and individuals statewide.

(D) The department and the agency, in accordance with Chapter 119. of the Revised Code, shall each adopt rules to

administer programs developed under this section. The rules shall prescribe procedures and forms that counties, municipal corporations, townships, local housing authorities, and nonprofit organizations shall use in applying for grants, loans, loan guarantees, and loan subsidies and that private developers and private lenders shall use in applying for loans, loan guarantees, and loan subsidies; eligibility criteria for the receipt of funds; procedures for reviewing and granting or denying applications; procedures for paying out funds; conditions on the use of funds; procedures for monitoring the use of funds; and procedures under which a recipient shall be required to repay funds that are improperly used. The rules shall do both of the following:

(1) Require each recipient of a grant or loan made from the low- and moderate-income housing trust fund for activities that provide, or assist in providing, a rental housing project, to reasonably ensure that the rental housing project will remain affordable to those families and individuals targeted for the rental housing project for the useful life of the rental housing project or for thirty years, whichever is longer;

(2) Require each recipient of a grant or loan made from the low- and moderate-income housing trust fund for activities that provide, or assist in providing, a housing project to prepare and implement a plan to reasonably assist any families and individuals displaced by the housing project in obtaining decent affordable housing.

(E) In prescribing eligibility criteria and conditions for the use of funds, neither the department nor the agency is limited to the criteria and conditions specified in this section and each may prescribe additional eligibility criteria and

conditions that relate to the purposes for which grants, loans, loan guarantees, and loan subsidies may be made. However, the department and agency are limited by the following specifically targeted low- and moderate-income guidelines:

(1) Not less than seventy-five per cent of the money granted and loaned under this section in any fiscal year shall be for activities that provide affordable housing and housing assistance to families and individuals whose incomes are equal to or less than fifty per cent of the median income for the county in which they live, as determined by the department under section 174.04 of the Revised Code.

(2) Any money granted and loaned under this section in any fiscal year that is not granted or loaned pursuant to division (F)(1) of this section shall be for activities that provide affordable housing and housing assistance to families and individuals whose incomes are equal to or less than eighty per cent of the median income for the county in which they live, as determined by the department under section 174.04 of the Revised Code.

(F) In making grants, loans, loan guarantees, and loan subsidies under this section, the department and the agency shall give preference to viable projects and activities that benefit those families and individuals whose incomes are equal to or less than thirty-five per cent of the median income for the county in which they live, as determined by the department under section 174.04 of the Revised Code.

(G) The department and the agency shall monitor the programs developed under this section to ensure that money granted and loaned under this section is not used in a manner that violates division (H) of section 4112.02 of the Revised

Code or discriminates against families with children.

Sec. 174.04. (A) The department of housing and development shall make an annual determination of the median income for persons in each county.

(B) The director of housing and development shall determine appropriate income limits for identifying or classifying low- and moderate-income persons for the purposes of sections 174.01 to 174.07 of the Revised Code. In making the determination, the director shall take into consideration the amount of income available for housing, family size, the cost and condition of available housing, ability to pay the amounts the private market charges for decent, safe, and sanitary housing without federal subsidy or state assistance, and the income eligibility standards of federal programs. Income limits may vary from area to area within the state.

Sec. 174.05. (A) Annually, the department of housing and development shall submit a report to the president of the senate and the speaker of the house of representatives describing the activities of the department under sections 174.01 to 174.07 of the Revised Code during the previous state fiscal year.

(B) Annually, the Ohio housing finance agency shall submit a report to the president of the senate and the speaker of the house of representatives describing the activities of the agency under sections 174.02, 174.03, and 174.05 of the Revised Code during the previous state fiscal year.

Sec. 174.06. (A) There is hereby created the housing trust fund advisory committee. The committee consists of the following ~~seven~~ :

(1) Seven members, appointed by the governor, with advice

and consent of the ~~Senate~~ senate, who possess knowledge and experience with respect to the housing needs of low- and moderate-income persons:

~~(1)~~ (a) One member to represent lenders;

~~(2)~~ (b) One member to represent affordable housing developers;

~~(3)~~ (c) One member to represent organizations working to address the housing and other needs of homeless Ohioans;

~~(4)~~ (d) Two members to represent counties or other local government entities;

~~(5)~~ (e) One member to represent real estate brokers licensed under Chapter 4735. of the Revised Code~~.~~;

~~(6)~~ (f) A county recorder.

(2) Two members of the senate, appointed by the president of the senate.

(3) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(B)(1) Terms of office for members appointed by the governor are ~~for~~ four years, with each term ending on the same day of the same month as did the term that it succeeds. Each legislative member shall serve for the biennium in which the member was appointed by the speaker of the house of representatives or the president of the senate, ending on the thirty-first day of December of each even-numbered year.

(2) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner prescribed

for the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of a term shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of a term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

~~(2)~~ (3) The governor may remove a member the governor appointed for misfeasance, malfeasance, or willful neglect of duty. Each legislative member serves at the pleasure of the member's appointing authority.

(C)(1) The committee shall select a chairperson from among its members. The committee shall meet at least once each calendar year and upon the call of the chair. Members of the committee serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in the discharge of duties.

(2) The department of housing and development shall provide the committee with a meeting place, supplies, and staff assistance as the committee requests.

(D) The committee shall assist the department and the Ohio housing finance agency in defining housing needs and priorities, recommend to the department and agency at least annually how the programs developed under section 174.02 of the Revised Code should be designed to most effectively benefit low- and moderate-income persons, consider an allocation of funds for projects of fifteen units or less, and advise the director of housing and development on whether and how to reallocate money in the low- and moderate-income housing trust fund under division (B) of section 174.02 of the Revised Code.

Sec. 174.07. The department of housing and development, on its own and on the behalf of the Ohio housing finance agency and the Ohio department of aging, shall obtain controlling board approval prior to making any grant, loan, loan guarantee, or loan subsidy greater than fifty thousand dollars from or allocated from the low- and moderate-income housing trust fund.

Sec. 175.03. (A)(1) The Ohio housing finance agency consists of ~~eleven~~ fifteen voting members and four nonvoting members. The governor, with the advice and consent of the senate, shall appoint nine of the voting members. The speaker of the house of representatives shall appoint two of the voting members from among the members of the house of representatives. The president of the senate shall appoint two of the voting members from among the members of the senate. The other two voting members are the director of commerce and the director of housing and development or their respective designees. The four nonvoting members shall be two members of the house of representatives, one from each major political party, to be appointed by the speaker of the house of representatives, and two members of the senate, one from each major political party, to be appointed by the president of the senate.

(2) The governor shall appoint one member with experience in residential housing construction; one with experience in residential housing mortgage lending, loan servicing, or brokering at an institution insured by the federal deposit insurance corporation; one with experience in the licensed residential housing brokerage business; one with experience with the housing needs of senior citizens; one with a background in labor representation in the construction industry; one to represent the interests of nonprofit multifamily housing development organizations; one to represent the interests of

for-profit multifamily housing development organizations; and two who are public members.

(3) The governor shall receive recommendations from the Ohio housing council for appointees to represent the interests of nonprofit multifamily housing development organizations and for-profit multifamily housing development organizations.

(4) Not more than six of the ~~appointed~~ voting members of the agency appointed by the governor may be of the same political party.

(B)(1) ~~Of the initial appointments the governor makes, one member representing the public has an initial term ending January 31, 2010, the other member representing the public has an initial term ending January 31, 2008, the member with a background in labor representation in the construction industry has an initial term ending January 31, 2011, the member with experience in residential housing mortgage lending, loan servicing, or brokering has an initial term ending January 31, 2008, the member with experience with the housing needs of senior citizens has an initial term ending January 31, 2006, the member representing the interests of nonprofit multifamily housing development organizations has an initial term ending January 31, 2007, the member representing the interests of for-profit multifamily housing development organizations has an initial term ending January 31, 2006, and the member with experience in residential housing construction and the member with experience in licensed residential housing brokerage each has an initial term ending January 31, 2009. Thereafter, each~~ Each voting member appointed ~~voting member~~ by the governor shall serve for a term of six years with each term ending on the thirty-first day of January, six years following the termination

date of the term it succeeds. Each legislative member shall serve for the biennium in which the member was appointed by the speaker of the house of representatives or the president of the senate, ending on the thirty-first day of December of each even-numbered year. There is no limit on the number of terms a member may serve.

(2) Each appointed voting member shall hold office from the date of appointment until the end of the term for which the member is appointed. Each nonvoting member shall hold office until the end of that member's term as a member of the general assembly. Any member appointed to fill a vacancy occurring prior to the expiration of a term continues in office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until sixty days have elapsed, whichever occurs first.

(3) The governor may remove ~~an~~ any voting member the governor appointed ~~voting member from office~~ for misfeasance, nonfeasance, or malfeasance in office. The speaker of the house of representatives may remove a member that is a member of the house of representatives, and the president of the senate may remove a member that is a senator. Each legislative member serves at the pleasure of the member's appointing authority.

(C)(1) Except as otherwise provided in this section, members and agency employees shall comply with Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(2) An agency member who is a director, officer, employee, or owner of a lending institution is not in violation of Chapter 102. and is not subject to section 2921.42 of the Revised Code with respect to a loan to an applicant from the lending

institution or a contract between the agency and the lending institution for the purchase, administration, or servicing of loans if the member abstains from participation in any matter that affects the interests of the member's lending institution.

(3) An agency member who represents multifamily housing interests is not in violation of division (D) or (E) of section 102.03 or division (A) of section 2921.42 of the Revised Code in regard to a contract the agency enters into if both of the following apply:

(a) The contract is entered into for a loan, grant, or participation in a program the agency administers or funds and the contract is awarded pursuant to rules or guidelines the agency adopts.

(b) The member does not participate in the discussion or vote on the contract if the contract secures a grant or loan that directly benefits the member, a family member, or a business associate of the member.

(4)(a) Each ~~appointed~~ voting agency member appointed by the governor shall receive compensation at the rate of two hundred fifty dollars per agency meeting attended in person, not to exceed a maximum of four thousand dollars per year.

(b) The compensation rate for ~~appointed~~ voting members appointed by the governor applies until six years after July 1, 2005, at which time the members may increase the compensation for members who are appointed or reappointed after that time. ~~All~~

(c) All voting members are entitled to reimbursement in accordance with section 126.31 of the Revised Code for expenses incurred in the discharge of official duties.

Sec. 175.04. (A) The governor shall appoint a chairperson from among the voting members. The agency members shall elect a voting member as vice-chairperson. The agency members may appoint other officers, who need not be members of the agency, as the agency deems necessary.

(B) ~~Six~~ Eight voting members of the agency constitute a quorum and the affirmative vote of ~~six~~ eight voting members is necessary for any action the agency takes. No vacancy in agency membership impairs the right of a quorum to exercise all of the agency's rights and perform all the agency's duties. Agency meetings may be held at any place within the state. Meetings shall comply with section 121.22 of the Revised Code.

(C) The agency shall maintain accounting records in accordance with generally accepted accounting principals and other required accounting standards.

(D) The agency shall develop policies and guidelines for the administration of its programs and annually shall conduct at least one public hearing to obtain input from any interested party regarding the administration of its programs. The hearing shall be held at a time and place as the agency determines and when a quorum of the agency is present.

(E) The agency shall appoint committees and subcommittees comprised of members of the agency to handle matters it deems appropriate.

(1) The agency shall adopt an annual plan to address this state's housing needs. The agency shall appoint an annual plan committee to develop the plan and present it to the agency for consideration.

(2) The annual plan committee shall select an advisory

board from a list of interested individuals the executive director provides or on its own recommendation. The advisory board shall provide input on the plan at committee meetings prior to the annual public hearing. At the public hearing, the committee shall discuss advisory board comments. The advisory board may include, but is not limited to, persons who represent state agencies, local governments, public corporations, nonprofit organizations, community development corporations, housing advocacy organizations for low- and moderate-income persons, realtors, syndicators, investors, lending institutions as recommended by a statewide banking organization, and other entities participating in the agency's programs.

Each agency program that allows for loans to be made to finance housing for owner occupancy that benefits other than low- and moderate-income households, or for loans to be made to individuals under bonds issued pursuant to division (B) of section 175.08 of the Revised Code, shall be presented to the advisory board and included in the annual plan as approved by the agency before the program's implementation.

(F) The agency shall prepare an annual financial report describing its activities during the reporting year and submit that report in accordance with division (H) of this section and to the governor, the speaker of the house of representatives, and the president of the senate within three months after the end of the reporting year. The report shall include the agency's audited financial statements, prepared in accordance with generally accepted accounting principles and appropriate accounting standards.

(G) The agency shall prepare an annual report of its programs describing how the programs have met this state's

housing needs. The agency shall submit the report in accordance with division (H) of this section and to the governor, the speaker of the house of representatives, and the president of the senate within three months after the end of the reporting year.

(H)(1) The agency shall submit, within a time frame agreed to by the agency and the chairs, the annual financial report described in division (F) of this section and the annual report of programs described in division (G) of this section to the chairs of the committees dealing with housing issues in the house of representatives and the senate.

(2) Within forty-five days of issuance of the annual financial report, the agency's executive director shall request to appear in person before the committees described in division (H)(1) of this section to testify in regard to the financial report and the report of programs. The testimony shall include each of the following:

(a) An overview of the annual plan adopted pursuant to division (E)(1) of this section;

(b) An evaluation of whether the objectives in the annual plan were met through a comparison of the annual plan with the annual financial report and report of programs;

(c) A complete listing by award and amount of all business and contractual relationships in excess of one hundred thousand dollars between the agency and other entities and organizations that participated in agency programs during the fiscal year reported by the agency's annual financial report and report of programs;

(d) A complete listing by award and amount of the low-

income housing tax credit syndication and direct investor entities for projects that received tax credit reservations and IRS Form 8609 during the fiscal year.

Sec. 175.06. (A) The Ohio housing finance agency shall do all of the following related to carrying out its programs:

(1) Upon the governor's designation, serve as the housing credit agency for the state and perform all responsibilities of a housing credit agency pursuant to Section 42 of the Internal Revenue Code and similar applicable laws;

(2) Require that housing that benefits from the agency's assistance be available without discrimination in accordance with Chapter 4112. of the Revised Code and applicable provisions of federal law;

(3) Demonstrate measurable and objective transparency;

(4) Efficiently award funding to maximize affordable housing production using cost-effective strategies;

(5) Encourage national equity investment in low-income housing tax credit projects;

(6) Utilize resources to provide competitive homebuyer programs to serve low- and moderate-income persons.

(B) The Ohio housing finance agency may do any of the following related to carrying out its programs:

(1) Issue bonds, provide security for assets, make deposits, purchase or make loans, provide economic incentives for the development of housing, and provide financial assistance for emergency housing;

(2) Serve as a public housing agency and contract with the

United States department of housing and urban development to administer the department's rent subsidy program, housing subsidy program, and monitoring programs for low- and moderate-income persons. The agency shall ensure that any contract into which it enters provides for sufficient compensation to the agency for its services.

(3) Develop and administer programs under which the agency uses moneys from the housing trust fund as allocated by the department of housing and development to extend financial assistance pursuant to sections 174.01 to 174.07 of the Revised Code;

(4) Make financial assistance available;

(5) Guarantee and commit to guarantee the repayment of financing that a lending institution extends for housing, guaranteeing that debt with any of the agency's reserve funds not raised by taxation and not otherwise obligated for debt service, including the housing development fund established pursuant to section 175.11 of the Revised Code and any fund created under division (B)(14) of section 175.05 of the Revised Code;

(6) Make, commit to make, and participate in making financial assistance, including federally insured mortgage loans, available to finance the construction and rehabilitation of housing or to refinance existing housing;

(7) Invest in, purchase, and take from lenders the assignment of notes or other evidence of debt including federally insured mortgage loans, or participate with lenders in notes and loans for homeownership, development, or refinancing of housing;

(8) Sell at public or private sale any mortgage or mortgage backed securities the agency holds;

(9) Issue bonds to carry out the agency's purposes as set forth in this chapter;

(10) Extend or otherwise make available housing assistance on terms the agency determines.

(C) The Ohio housing finance agency may issue bonds and extend financial assistance from any fund the agency administers for the prompt replacement, repair, or refinancing of damaged housing if both of the following apply:

(1) The governor declares that a state of emergency exists with respect to a county, region, or political subdivision of this state, or declares that a county, region, or political subdivision has experienced a disaster as defined in section 5502.21 of the Revised Code.

(2) The agency determines that the emergency or disaster has substantially damaged or destroyed housing in the area of the emergency or disaster.

(D) The agency shall establish guidelines for extending financial assistance for emergency housing. The guidelines shall include eligibility criteria for assistance and the terms and conditions under which the agency may extend financial assistance.

Sec. 175.15. The Ohio housing finance agency and the ~~Ohio~~ department of housing and development ~~services agency~~ shall include pregnancy as a priority in its housing assistance programs and local emergency shelter programs. In consultation with the ~~Ohio~~ department of housing and development ~~services agency~~, the Ohio housing finance agency may adopt rules in

accordance with Chapter 119. of the Revised Code that are necessary to implement the requirements of this section.

Sec. 176.01. (A) Any municipal corporation, county, or township may, alone or jointly with one or more contiguous or overlapping other municipal corporations, counties, or townships, establish or designate a housing advisory board.

(B) The purposes of a housing advisory board are:

(1) To receive and review comprehensive plans for the development and maintenance of affordable housing submitted to the housing advisory board pursuant to division (A)(2) of section 176.04 of the Revised Code by any such political subdivision it serves;

(2) To receive and review written descriptions submitted to the housing advisory board pursuant to division (A)(3) of section 176.04 of the Revised Code by any subdivision it serves of the purposes to which such subdivision proposes to apply the proceeds of general obligations such subdivision proposes to issue or the moneys raised by taxation that such subdivision proposes to expend pursuant to Section 16 of Article VIII, Ohio Constitution;

(3) To advise the subdivisions it serves regarding the plans and descriptions it receives pursuant to divisions (B)(1) and (2) of this section; and

(4) To perform such other advisory functions for any subdivision it serves related to such subdivision's programs to provide, or assist in providing, housing as such subdivision may request it to perform.

(C) Every housing advisory board shall include balanced representation of each of the following groups located within

the political subdivisions served by the board:

(1) Institutions that lend money for housing;

(2) Nonprofit builders and developers of housing;

(3) For-profit builders and developers of housing;

(4) For-profit builders and developers of rental housing;

(5) Real estate brokers licensed under Chapter 4735. of the Revised Code;

(6) Other persons with professional knowledge regarding local housing needs and fair housing issues within the subdivisions served by the board;

(7) Residents of areas of the subdivisions served by the board that could receive housing assistance from such subdivisions;

(8) Any metropolitan housing authority operating within the subdivisions served by the board;

(9) The elected officials of the political subdivisions served by the board;

(10) Such other groups or individuals that the appointing authority determines are necessary to provide balanced advice on housing plans and programs.

(D) The board of county commissioners shall do one of the following:

(1) Appoint the members of a county housing advisory board;

(2) Designate an existing board, commission, or committee of the county to serve as the county housing advisory board and,

if necessary to achieve the balanced representation required by division (C) of this section, appoint additional members to serve with or in an advisory capacity to the existing board, commission, or committee when it meets as a county housing advisory board.

Subject to the requirements of division (C) of this section and any requirements governing membership in an existing county board, commission, or committee that is designated to serve as the county housing advisory board, the number of members of a county housing advisory board and the length of their terms shall be determined by the board of county commissioners.

(E) The mayor of a municipal corporation, with the consent of the legislative authority of the municipal corporation, shall do one of the following:

(1) Appoint the members of a municipal corporation housing advisory board;

(2) Designate an existing board, commission, or committee of the municipal corporation to serve as the municipal corporation housing advisory board and, if necessary to achieve the balanced representation required by division (C) of this section, appoint additional members to serve with or in an advisory capacity to the existing board, commission, or committee when it meets as a municipal corporation housing advisory board.

Subject to the requirements of division (C) of this section and any requirements governing membership in an existing municipal corporation board, commission, or committee that is designated to serve as the municipal corporation housing

advisory board, the number of members of the municipal corporation housing board and the length of their terms shall be determined by the legislative authority of the municipal corporation.

(F) The board of township trustees shall do one of the following:

(1) Appoint the members of a township housing advisory board;

(2) Designate an existing board, commission, or committee of the township to serve as the township housing advisory board and, if necessary to achieve the balanced representation required by division (C) of this section, appoint additional members to serve with or in an advisory capacity to the existing board, commission, or committee when it meets as a township housing advisory board.

Subject to the requirements of division (C) of this section and any requirements governing membership in an existing township board, commission, or committee that is designated to serve as the township housing advisory board, the number of members of the township advisory board and the length of their terms shall be determined by the board of township trustees.

(G) Whenever any municipal corporation enters into an agreement to use the services of a county housing advisory board pursuant to section 176.02 of the Revised Code and the municipal corporation has a population of fifty thousand or greater, the board shall include at least one member who is a resident of the municipal corporation. The board of county commissioners shall appoint each such member from a list of names submitted to the board of county commissioners by the legislative authority of

the municipal corporation to be represented.

(H) Any housing advisory board established or designated under this section shall, within thirty days after its first meeting, notify the department of housing and development in writing of the formation of the board and of its initial members. Thereafter, each housing advisory board shall provide to the department such reports and information regarding the board's activities as the department may require.

Sec. 176.07. The director of housing and development, in consultation with the public and the housing trust fund advisory committee created under section 174.06 of the Revised Code, shall develop regulations applicable to all existing and future state housing loan, loan guarantee, loan subsidy, and grant programs. The regulations shall require recipients of financing from state housing programs, that provide or assist in providing multi-family rental housing, to do both of the following:

(A) Reasonably ensure that the multi-family rental housing will be affordable to those families and individuals targeted for the multi-family rental housing for the useful life of the multi-family rental housing or thirty years, whichever is longer;

(B) Prepare and implement a plan to reasonably assist any families and individuals displaced by the multi-family housing in obtaining decent affordable housing.

The department of housing and development shall distribute a copy of these regulations to each local housing advisory board to serve as a guideline for carrying out the requirements of divisions (D)(2) and (3) of section 176.04 of the Revised Code.

Sec. 184.01. (A) There is hereby created the third

frontier commission in the department of housing and development. The purpose of the commission is to coordinate and administer science and technology programs to promote the welfare of the people of the state and to maximize the economic growth of the state through expansion of both of the following:

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

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

(B)(1) The commission shall consist of eleven members: the director of housing and development, the chancellor of higher education, the governor's science and technology advisor, the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code, and seven persons appointed by the governor with the advice and consent of the senate.

(2) Of the seven persons appointed by the governor, one shall represent the central region, which is composed of the counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, and Union; one shall represent the west central region, which is composed of the counties of Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, and Shelby; one shall represent the northeast region, which is composed of the counties of Ashland, Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall represent the northwest region, which is composed of the counties of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam,

Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot; one shall represent the southeast region, which shall represent the counties of Adams, Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Pike, Scioto, Vinton, and Washington; one shall represent the southwest region, which is composed of the counties of Butler, Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one shall represent the public at large. Of the initial appointments, two shall be for one year, two shall be for two years, and two shall be for three years as assigned by the governor. Thereafter, appointments shall be for three-year terms. Members may be reappointed and vacancies shall be filled in the same manner as appointments. A person must have a background in business or research in order to be eligible for appointment to the commission.

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

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

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

(E) The department shall provide office space and facilities for the commission. Administrative costs associated

with the operation of the commission or with any program or activity administered by the commission shall be paid from amounts appropriated to the commission or to the department for such purposes.

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

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

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

Sec. 184.151. The third frontier commission shall conduct public meetings twice each year at which a representative of the department of housing and development shall testify regarding the number of applicants for support for research and development projects and the other information contained in the most recent report made by the commission under section 184.15 of the Revised Code. The representative shall also testify regarding the monitoring activities of, and data obtained by, the department pursuant to section 184.16 of the Revised Code. In addition to oral testimony, the representative shall provide a written report of all the information for which testimony is required under this section.

Sec. 184.16. The department of housing and development shall monitor each research and development project receiving support under section 184.11 of the Revised Code to ensure the

following:

(A) Fiscal accountability, so that the support is used in accordance with the agreement entered into under section 184.113 of the Revised Code;

(B) Operating progress, so that the project is managed to achieve the requirements of the agreement entered into under section 184.113 of the Revised Code and so that problems may be promptly identified and remedied;

(C) Desired outcomes, including job creation and other anticipated economic impacts.

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

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

(E) A provision for the appointment of a chief investment

officer of the corporation by the recommendation of the board and approval of the governor. The chief investment officer shall serve at the pleasure of the board and shall have the power to execute contracts, spend corporation funds, and hire employees on behalf of the corporation. If the position of chief investment officer becomes vacant for any reason, the vacancy shall be filled in the same manner as provided in this division.

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

(1) Adopt one or more resolutions providing for compensation of the chief investment officer;

(2) Approve an employee compensation plan recommended by the chief investment officer;

(3) Approve a contract with the director of housing and development ~~services~~ for the corporation to assist the director and the department of housing and development ~~services agency~~ with providing services or otherwise carrying out the functions or duties of the agency, including the operation and management of programs, offices, divisions, or boards, as may be determined by the director of housing and development ~~services~~ in consultation with the governor;

(4) Approve all major contracts for services recommended by the chief investment officer;

(5) Establish an annual strategic plan and standards of measure to be used in evaluating the corporation's success in executing the plan;

(6) Establish a conflicts of interest policy that, at a minimum, complies with section 187.06 of the Revised Code;

(7) Hold a minimum of four board of directors meetings per year at which a quorum of the board is physically present, and such other meetings, at which directors' physical presence is not required, as may be necessary. Meetings at which a quorum of the board is required to be physically present are subject to divisions (C), (D), and (E) of section 187.03 of the Revised Code.

(8) Establish a records retention policy and present the policy, and any subsequent changes to the policy, at a meeting of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F)(7) of this section;

(9) Adopt standards of conduct for the directors.

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

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

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

(J) A provision establishing an audit committee to be comprised of directors. The articles shall require that the audit committee hire a firm of independent certified public accountants, selected in consultation with the auditor of state, to perform, once each year, a financial audit of the corporation and of any nonprofit entity the sole member of which is JobsOhio. The articles also shall require all of the following:

(1) Commencing with JobsOhio's fiscal year beginning July 1, 2012, the financial statements to be audited are to be prepared in accordance with accounting principles and standards set forth in all applicable pronouncements of the governmental accounting standards board;

(2) The firm of independent certified public accountants hired is to conduct a supplemental compliance and control review pursuant to a written agreement by and among the firm, the auditor of state, JobsOhio, and any nonprofit entity the sole member of which is JobsOhio; and

(3) A copy of each financial audit report and each report of the results of the compliance and control review are to be provided to the governor, the auditor of state, the speaker of the house of representatives, and the president of the senate.

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

Sec. 187.03. (A) JobsOhio may perform such functions as

permitted and shall perform such duties as prescribed by law and as set forth in any contract entered into under section 187.04 of the Revised Code, but shall not be considered a state or public department, agency, office, body, institution, or instrumentality for purposes of section 1.60 or Chapter 102., 121., 125., or 149. of the Revised Code. JobsOhio and its board of directors are not subject to the following sections of Chapter 1702. of the Revised Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this division shall be construed to impair the powers and duties of the Ohio ethics commission described in section 102.06 of the Revised Code to investigate and enforce section 102.02 of the Revised Code with regard to individuals required to file statements under division (B)(2) of this section.

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

(2) The chief investment officer, any other officer or employee with significant administrative, supervisory, contracting, or investment authority, and any director of JobsOhio shall file, with the Ohio ethics commission, a financial disclosure statement pursuant to section 102.02 of the Revised Code that includes, in place of the information required by divisions (A)(2)(b), (g), (h), and (i) of that section, the information required by divisions (A) and (B) of section 102.022 of the Revised Code. The governor shall comply with all applicable requirements of section 102.02 of the Revised Code.

(3) Actual or in-kind expenditures for the travel, meals, or lodging of the governor or of any public official or employee designated by the governor for the purpose of this division shall not be considered a violation of section 102.03 of the Revised Code if the expenditures are made by the corporation, or on behalf of the corporation by any person, in connection with the governor's performance of official duties related to JobsOhio. The governor may designate any person, including a person who is a public official or employee as defined in section 102.01 of the Revised Code, for the purpose of this division if such expenditures are made on behalf of the person in connection with the governor's performance of official duties related to JobsOhio. A public official or employee so designated by the governor shall comply with all applicable requirements of section 102.02 of the Revised Code.

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

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

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

(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) of this section.

(F) Not later than the first day of July of each year, the chief investment officer of JobsOhio shall prepare and submit a report of the corporation's activities for the preceding year to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The annual report shall include the following:

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

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

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

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

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

Sec. 187.04. (A) The director of housing and development—

~~services~~, as soon as practical after February 18, 2011, shall execute a contract with JobsOhio for the corporation to assist the director and the department of housing and development ~~services agency~~ with providing services or otherwise carrying out the functions or duties of the agency, including the operation and management of programs, offices, divisions, or boards, as may be determined by the director in consultation with the governor. The approval or disapproval of awards involving public money shall remain functions of the agency. All contracts for grants, loans, and tax incentives involving public money shall be between the agency and the recipient and shall be enforced by the agency. JobsOhio may not execute contracts obligating the agency for loans, grants, tax credits, or incentive awards recommended by JobsOhio to the agency. Prior to execution, all contracts between the director and JobsOhio entered into under this section that obligate the agency to pay JobsOhio for services rendered are subject to controlling board approval.

The term of an initial contract entered into under this section shall not extend beyond June 30, 2013. Thereafter, the director and JobsOhio may renew the contract for subsequent fiscal biennia, but at no time shall a particular contract be effective for longer than a fiscal biennium of the general assembly.

JobsOhio's provision of services to the agency as described in this section shall be pursuant to a contract entered into under this section. If at any time the director determines that the contract with JobsOhio may not be renewed for the subsequent fiscal biennium, the director shall notify JobsOhio of the director's decision not later than one hundred twenty days prior to the end of the current fiscal biennium. If

the director does not provide such written notice to JobsOhio prior to one hundred days before the end of the current fiscal biennium, the contract shall be renewed upon such terms as the parties may agree, subject to the requirements of this section.

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

(1) Terms assigning to the corporation the duties of advising and assisting the director in the director's evaluation of the agency and the formulation of recommendations under section 187.05 of the Revised Code;

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

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

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

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

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

(d) A copy of the report for each financial audit of the corporation and of each supplemental compliance and control

review of the corporation performed by a firm of independent certified public accountants pursuant to division (J) of section 187.01 of the Revised Code.

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

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

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

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

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

(C)(1) Records created by JobsOhio are not public records for the purposes of Chapter 149. of the Revised Code, regardless of who may have custody of the records, unless the record is designated to be available to the public by the contract under division (B)(2) of this section.

(2) Records received by JobsOhio from any person or entity that is not subject to section 149.43 of the Revised Code are not public records for purposes of Chapter 149. of the Revised Code, regardless of who may have custody of the records, unless the record is designated to be available to the public by the contract under division (B)(2) of this section.

(3) Records received by JobsOhio from a public office as defined in section 149.011 of the Revised Code that are not public records under section 149.43 of the Revised Code when in the custody of the public office are not public records for the purposes of section 149.43 of the Revised Code regardless of who has custody of the records.

(4) Division (B) of section 4701.19 of the Revised Code applies to any work papers of the firm of independent certified public accountants engaged to perform the annual financial audit and the supplemental compliance and control review described in division (J) of section 187.01 of the Revised Code, and to the financial audit report and any report of the supplemental compliance and control review, unless the record is designated to be available to the public by the contract under division (B)(2) of this section.

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

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

(1) Promoting and advocating for the state;

(2) Making recommendations to the agency;

(3) Performing research for the agency;

(4) Establishing and managing programs or offices on behalf of the 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 agency from compensating JobsOhio from funds currently appropriated to the agency to perform the functions described in division (E) of this section.

Sec. 187.05. The director of housing and development ~~services~~, as soon as practical after February 18, 2011, shall, in consultation with the governor, evaluate all powers, functions, and duties of the department of housing and development ~~services agency~~. Within six months after 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 ~~agency~~ department and to transfer specified powers, functions, and duties of the ~~agency~~ department 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 ~~agency~~ department 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;

(2) Complete an annual course or program of study on ethics. The course or program of study shall be reviewed and approved by the board of directors.

(3) Comply with the gift policy prescribed by the board of directors.

(B) Prior to the renewal of the contract between the director of housing and development ~~services~~ and JobsOhio as described in section 187.04 of the Revised Code, the board of directors shall submit to the controlling board a comprehensive review of the ethics policies and procedures that have been adopted by JobsOhio.

Sec. 191.02. There is hereby established the Ohio broadband pole replacement and undergrounding program within the department of housing and development to advance the provision of qualifying broadband service access to residences and businesses in an unserved area by reimbursing certain costs of pole replacements, mid-span pole installations, and undergrounding.

The department shall administer and provide staff assistance for the program. The department shall be responsible for receiving and reviewing program applications and for sending completed applications to the broadband expansion program authority for final review and award of program reimbursements.

Sec. 191.03. (A) The department of housing and development shall establish an administrative process to award program

reimbursements under the Ohio broadband pole replacement and undergrounding program according to the provisions of sections 191.03 to 191.45 of the Revised Code.

(B) The broadband expansion program authority shall award program reimbursements after reviewing program applications and determining whether the applications meet the program's requirements for reimbursement.

Sec. 191.10. In accordance with sections 191.10 to 191.45 of the Revised Code, a provider may submit an application for a program reimbursement under the Ohio broadband pole replacement and undergrounding program, if the provider has deployed qualifying broadband infrastructure in an unserved area and has paid any of the following costs in connection with the deployment of such broadband infrastructure:

(A) Pole replacement costs;

(B) Mid-span pole installation costs;

(C) Undergrounding costs.

The application shall be submitted on a form prescribed by the department of housing and development.

Sec. 191.13. (A) Not later than sixty days after the pole replacement fund created in section 191.27 of the Revised Code receives funds for the purpose of providing program reimbursements under the Ohio broadband pole replacement and undergrounding program, the department of housing and development shall develop and publish an application form for the program and post the form on the department web site.

(B) An application shall include the following information:

(1) The number, cost, and locations of pole replacements, mid-span pole installations, and undergrounding for which reimbursement is requested;

(2) Documentation sufficient to establish that the pole replacements, mid-span pole installations, and undergrounding described in the application have been completed;

(3) Documentation sufficient to establish how the costs for which reimbursement is requested comport with the reimbursement requirements under the program;

(4) The reimbursement amount requested under the program;

(5) Documentation of any broadband grant funding awarded or received for the area described in the application;

(6) Accounting information that is sufficient to demonstrate that costs for which a program reimbursement is requested are eligible for a program reimbursement pursuant to division (C) of section 191.21 of the Revised Code, if the applicant has received any grant funding described in division (B)(5) of this section;

(7) A notarized statement, from an officer or agent of the applicant, that the contents of the application are true and accurate and that the applicant accepts the requirements of the program as a condition of receiving a program reimbursement;

(8) Any information necessary to demonstrate the applicant's compliance, and agreement to comply, with any conditions associated with the reimbursement awarded to the applicant;

(9) Any other information the department considers necessary for final review and for the award and payment of

program reimbursements.

(C) If any federal funds are used for any awards under the program, the application form shall identify and describe any additional federal conditions required in connection with the use of the federal funds.

Sec. 191.15. (A) Before receiving a program reimbursement under the Ohio broadband pole replacement and undergrounding program, each applicant shall agree to do the following:

(1) Not later than ninety days after receipt of a program reimbursement, activate qualifying broadband service to end users utilizing the broadband infrastructure for which the applicant has received reimbursement for pole replacement, mid-span pole installation, or undergrounding costs;

(2) Certify the application's compliance with the requirements of sections 191.10 to 191.24 of the Revised Code;

(3) Comply with any federal requirements associated with the funding used by the broadband expansion program authority in connection with the award;

(4) Refund all or any portion of reimbursements received under the program as specified in section 191.30 of the Revised Code, if pursuant to that section the applicant is found to have materially violated any of the requirements of sections 191.10 to 191.24 of the Revised Code.

(B) For an application regarding a pole replacement or mid-span pole installation, the applicant shall do the following if the applicant is the pole owner, or affiliate of the pole owner:

(1) Comply with division (A) of this section;

(2) Commit that the pole owner will comply with all applicable pole attachment regulations and requirements imposed by the state or federal government;

(3) Commit that the pole owner will exclude from its costs used to calculate its rates or charges for access to its utility poles for which the applicant has been reimbursed as follows:

(a) Under the Ohio broadband pole replacement and undergrounding program or any other broadband grant program;

(b) By a provider, for make-ready charges;

(4)(a) Commit that the pole owner will maintain and make available, upon reasonable request, to the department of housing and development or to a party subject to the rates and charges described in division (B)(3) of this section, accounting documentation sufficient to demonstrate compliance with division (B)(3) of this section;

(b) Division (B)(4)(a) of this section does not apply to an electric distribution utility as defined in section 4928.01 of the Revised Code, unless the electric distribution utility is the applicant.

Sec. 191.17. (A) Not later than sixty days after receiving an application forwarded by the department of housing and development, the broadband expansion program authority shall award program reimbursements to the applicant for costs described in divisions (A) and (B) of section 191.21 of the Revised Code after reviewing the application, and establishing the applicant's eligibility for reimbursement under the Ohio broadband pole replacement and undergrounding program.

(B) For pole replacement or mid-span pole installation costs described under division (A) of section 191.21 of the

Revised Code, reimbursements shall be in an amount equal to the lesser of either of the following:

(1) Seven thousand five hundred dollars multiplied by the number of pole replacements and mid-span pole installations in an application;

(2) Seventy-five per cent of the total eligible costs therein.

(C) For undergrounding costs described under division (B) of section 191.21 of the Revised Code, reimbursements shall be in an amount not to exceed seventy-five per cent of the total eligible costs therein, except that the reimbursements may not exceed the reimbursement amount that would be available under division (B) of this section, if the applicant did a pole replacement or mid-span pole installation instead of undergrounding that infrastructure.

Sec. 191.19. (A) The department of housing and development, at the direction of the broadband expansion program authority, shall issue program reimbursements awarded for applications approved under the Ohio broadband pole replacement and undergrounding program. The reimbursements shall be made using money available for this purpose in the broadband pole replacement fund created in section 191.27 of the Revised Code. The authority shall award, and the department shall fund, reimbursements until funds available for that purpose are no longer available.

(B) If, upon the exhaustion of the fund, there are any applications pending, the applications shall be denied. Applications that have been denied pursuant to this division may be resubmitted to the department, and, if sufficient money is

later deposited in the fund, reimbursements may be awarded according to the application and award process under sections 191.10 to 191.24 of the Revised Code.

Sec. 191.27. There is hereby created in the state treasury the broadband pole replacement fund consisting of money credited or transferred to the fund, money appropriated by the general assembly, including from available federal funds, or money authorized for expenditure by the state controlling board under section 131.35 of the Revised Code from available federal funds, and grants, gifts, and contributions made directly to the fund. Money in the fund shall be used by the department of housing and development to provide reimbursements awarded under the Ohio broadband pole replacement and undergrounding program and by the director of housing and development to administer the program.

Sec. 191.30. (A) The department of housing and development shall direct an applicant that has been awarded a program reimbursement under the Ohio broadband pole replacement and undergrounding program to refund, with interest, all or any portion of the reimbursements the applicant received under the program, if the department finds, upon substantial evidence and after notice and the opportunity to respond, that the applicant materially violated any of the requirements agreed to under sections 191.10 to 191.24 of the Revised Code with respect to all or any portion of the reimbursements received. The interest included with a refund under this section shall be at the applicable federal funds rate as specified in division (B) of section 1304.84 of the Revised Code.

(B) At the direction of the department, refunds submitted under division (A) of this section shall be deposited into the broadband pole replacement fund created in section 191.27 of the

Revised Code or the general revenue fund.

Sec. 191.33. Not later than sixty days after the first amount of money is deposited to the credit of the broadband pole replacement fund created in section 191.27 of the Revised Code, the department of housing and development shall publish and regularly update on its web site the following program information:

(A) The number of program applications received, processed, and rejected by the broadband expansion program authority;

(B) The number, reimbursement amount, and status of program reimbursements awarded by the authority;

(C) The number of providers receiving reimbursements;

(D) The balance remaining in the fund at the time of the latest program update on the web site.

Sec. 191.35. Beginning not later than one year after the first amount of money is deposited to the credit of the broadband pole replacement fund created in section 191.27 of the Revised Code and annually thereafter, the auditor of state shall audit the fund and its administration by the broadband expansion program authority and the department of housing and development for compliance with the requirements of sections 191.02 to 191.45 of the Revised Code.

Sec. 191.37. Not later than one year after each time money in the broadband pole replacement fund created in section 191.27 of the Revised Code is exhausted, the broadband expansion program authority shall identify, examine, and report on the deployment of qualifying broadband infrastructure under the Ohio broadband pole replacement and undergrounding program and the

technology facilitated by the program reimbursements the authority has awarded. The report shall be published on the department of housing and development web site.

Sec. 191.40. Not later than ninety days after ~~the effective date of this section~~ October 3, 2023, the director of housing and development shall adopt rules under Chapter 119. of the Revised Code that are necessary for successful and efficient administration of the broadband pole replacement and undergrounding program.

Sec. 191.44. The department of housing and development in coordination with the Ohio broadband expansion program authority shall do the following, for the period ending six months after the date described in section 191.43 of the Revised Code:

(A) Complete the review of any program applications that were submitted prior to the date described in section 191.43 of the Revised Code and pay program reimbursements for the approved applications;

(B) Complete the review of any program applications submitted not later than four months after the date described in section 191.43 of the Revised Code and pay program reimbursements for the approved applications, if the reimbursements are for costs that were incurred prior to the date described in section 191.43 of the Revised Code.

Sec. 191.45. If there is an outstanding balance in the broadband pole replacement fund after the Ohio broadband pole replacement program reimbursements are paid pursuant to section 191.44 of the Revised Code, the remaining balance shall be returned to the original funding sources as determined by the department of housing and development.

Sec. 308.21. (A) The board of trustees of a regional airport authority, the board of directors of a port authority, or the legislative authority of a municipal corporation that owns, operates, or maintains a qualifying airport may, by resolution adopted before January 1, 2024, create an airport development district for the purpose of developing and implementing plans for public infrastructure improvements that benefit the qualifying airport and to finance expenditures to attract or retain airlines, increase the number of scheduled flights to and from the qualifying airport, or increase use of the airport by aircraft having greater passenger capacity or greater first-class seating availability. The resolution shall include a development plan for the district that, at minimum, specifies all of the following:

(1) The manner in which the nonprofit corporation that is to govern the district will be formed, operated, and organized;

(2) The manner in which the board of directors of the nonprofit corporation that is to govern the district are appointed;

(3) A plan for the public infrastructure improvements and other expenditures to be financed by the district;

(4) A description of the territory of the district, which shall consist of all parcels of real property that are located within five miles of the qualifying airport. For the purpose of this division, a parcel is located within five miles of a qualifying airport if the distance between any portion of the parcel and any portion of the qualifying airport is five miles or less.

(B) After adopting a resolution under division (A) of this

section, the board of trustees of the regional airport authority, board of directors of the port authority, or legislative authority of the municipal corporation shall submit a copy to the director of housing and development.

(C) An airport development district is not a political subdivision for any purpose prescribed in the Revised Code. A district shall be considered a public agency under section 102.01 of the Revised Code and a public authority under section 4115.03 of the Revised Code. Districts are subject to sections 121.22 and 121.23 of the Revised Code, but are not subject to sections 121.81 to 121.82 of the Revised Code.

Sec. 321.261. (A) In each county treasury there shall be created the treasurer's delinquent tax and assessment collection fund and the prosecuting attorney's delinquent tax and assessment collection fund. Except as otherwise provided in this division, two and one-half per cent of all delinquent real property, personal property, and manufactured and mobile home taxes and assessments collected by the county treasurer shall be deposited in the treasurer's delinquent tax and assessment collection fund, and two and one-half per cent of such delinquent taxes and assessments shall be deposited in the prosecuting attorney's delinquent tax and assessment collection fund. The board of county commissioners shall appropriate to the county treasurer from the treasurer's delinquent tax and assessment collection fund, and shall appropriate to the prosecuting attorney from the prosecuting attorney's delinquent tax and assessment collection fund, money to the credit of the respective fund, and except as provided in division (D) of this section, the appropriation shall be used only for the following purposes:

(1) By the county treasurer or the county prosecuting attorney in connection with the collection of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, including proceedings related to foreclosure of the state's lien for such taxes against such property;

(2) With respect to any portion of the amount appropriated from the treasurer's delinquent tax and assessment collection fund for the benefit of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, the county land reutilization corporation. Upon the deposit of amounts in the treasurer's delinquent tax and assessment collection fund, any amounts allocated at the direction of the treasurer to the support of the county land reutilization corporation shall be paid out of such fund to the corporation upon a warrant of the county auditor.

If the balance in the treasurer's or prosecuting attorney's delinquent tax and assessment collection fund exceeds three times the amount deposited into the fund in the preceding year, the treasurer or prosecuting attorney, on or before the twentieth day of October of the current year, may direct the county auditor to forgo the allocation of delinquent taxes and assessments to that officer's respective fund in the ensuing year. If the county auditor receives such direction, the auditor shall cause the portion of taxes and assessments that otherwise would be credited to the fund under this section in that ensuing year to be allocated and distributed among taxing units' funds as otherwise provided in this chapter and other applicable law.

(B) During the period of time that a county land reutilization corporation is functioning as such on behalf of a

county, the board of county commissioners, upon the request of the county treasurer, may designate by resolution that an additional amount, not exceeding five per cent of all collections of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, shall be deposited in the treasurer's delinquent tax and assessment collection fund and be available for appropriation by the board for the use of the corporation. Any such amounts so deposited and appropriated under this division shall be paid out of the treasurer's delinquent tax and assessment collection fund to the corporation upon a warrant of the county auditor.

(C) Annually by the first day of December, the county treasurer and the prosecuting attorney each shall submit a report to the board of county commissioners regarding the use of the moneys appropriated from their respective delinquent tax and assessment collection funds. Each report shall specify the amount appropriated from the fund during the current calendar year, an estimate of the amount so appropriated that will be expended by the end of the year, a summary of how the amount appropriated has been expended in connection with delinquent tax collection activities or land reutilization, and an estimate of the amount that will be credited to the fund during the ensuing calendar year.

The annual report of a county land reutilization corporation required by section 1724.05 of the Revised Code shall include information regarding the amount and use of the moneys that the corporation received from the treasurer's delinquent tax and assessment collection fund.

(D)(1) In any county, if the county treasurer or prosecuting attorney determines that the balance to the credit

of that officer's corresponding delinquent tax and assessment collection fund exceeds the amount required to be used as prescribed by division (A) of this section, the county treasurer or prosecuting attorney may expend the excess to prevent residential mortgage foreclosures in the county and to address problems associated with other foreclosed real property. The amount used for that purpose in any year may not exceed the amount that would cause the fund to have a reserve of less than twenty per cent of the amount expended in the preceding year for the purposes of division (A) of this section.

Money authorized to be expended under division (D)(1) of this section shall be used to provide financial assistance in the form of loans to borrowers in default on their home mortgages, including for the payment of late fees, to clear arrearage balances, and to augment moneys used in the county's foreclosure prevention program. The money also may be used to assist county land reutilization corporations, municipal corporations, or townships in the county, upon their application to the county treasurer, prosecuting attorney, or the county department of housing and development, in the nuisance abatement of deteriorated residential buildings in foreclosure, or vacant, abandoned, tax-delinquent, or blighted real property, including paying the costs of boarding up such buildings, lot maintenance, and demolition.

(2) In a county having a population of more than one hundred thousand according to the department of housing and development's 2006 census estimate, if the county treasurer or prosecuting attorney determines that the balance to the credit of that officer's corresponding delinquent tax and assessment collection fund exceeds the amount required to be used as prescribed by division (A) of this section, the county treasurer

or prosecuting attorney may expend the excess to assist county land reutilization corporations, townships, or municipal corporations located in the county as provided in division (D)(2) of this section, provided that the combined amount so expended each year in a county shall not exceed five million dollars. Upon application for the funds by a county land reutilization corporation, township, or municipal corporation, the county treasurer or prosecuting attorney may assist the county land reutilization corporation, township, or municipal corporation in abating foreclosed residential nuisances, including paying the costs of securing such buildings, lot maintenance, and demolition. At the prosecuting attorney's discretion, the prosecuting attorney also may apply the funds to costs of prosecuting alleged violations of criminal and civil laws governing real estate and related transactions, including fraud and abuse.

Sec. 321.262. Notwithstanding section 321.261 of the Revised Code, in a county having a population of more than four hundred thousand according to the department of housing and development's 2006 census estimate, if the county treasurer or prosecuting attorney determines that the amount appropriated to the office from the county's delinquent tax and assessment collection fund exceeds the amount required to be used as prescribed by that section, the county treasurer or prosecuting attorney may expend the excess to provide financial assistance in the form of loans to borrowers in default on their home mortgages, including for the payment of late fees, to clear arrearage balances, and to augment moneys used in the county's foreclosure prevention program, provided that the combined amount so expended each year in the county shall not exceed three million dollars.

Sec. 333.03. (A) A person seeking to enter into an agreement and obtain payments under section 333.02 of the Revised Code shall provide both of the following to the board of county commissioners:

(1) A certification by the person's chief financial officer, or the equivalent if that position does not exist, that the criteria listed in division (B) of section 333.01 of the Revised Code will be met; and

(2) An application on a form or in a format acceptable to the board that describes the proposed impact facility, including the projected level of investment in and new jobs to be created at the facility, the rationale used for determining that more than fifty per cent of the facility's visitors live at least fifty miles from the facility, the types of activities to be conducted at the facility, the projected levels of sales to occur at the facility, a calculation of the facility's square footage that will be dedicated to educational or exhibition activities, and any other information the board of county commissioners reasonably requests about the expected operations of the facility.

(B) The board of county commissioners shall request the director of housing and development ~~services~~ to certify that the proposed facility meets the criteria for an impact facility listed in division (B) of section 333.01 of the Revised Code. The board of county commissioners may, but need not, make findings of fact that a proposed facility meets the criteria for an impact facility listed in division (B) of section 333.01 of the Revised Code before or after requesting the certification. If the director of housing and development ~~services~~ certifies a proposed facility as an impact facility under this section, and

if the board makes such findings, the findings and certification are conclusive and not subject to reopening at any time.

Sec. 333.04. (A) After review of the items submitted under division (A) of section 333.03 of the Revised Code, and after receipt of the certification from the director of housing and development ~~services~~ under division (B) of that section, a board of county commissioners, before June 1, 2015, may enter into an agreement under section 333.02 of the Revised Code, provided that the board has determined all of the following:

(1) The proposed impact facility is economically sound;

(2) Construction of the proposed impact facility has not begun prior to the day the agreement is entered into;

(3) The impact facility will benefit the county by increasing employment opportunities and strengthening the local and regional economy; and

(4) Receiving payments from the board of county commissioners is a major factor in the person's decision to go forward with construction of the impact facility.

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

(1) A description of the impact facility that is the subject of the agreement, including the existing investment level, if any, the proposed amount of investments, the scheduled starting and completion dates for the facility, and the number and type of full-time equivalent positions to be created at the facility;

(2) The percentage of the county sales and use tax collected at the impact facility that will be used to make

payments to the person entering into the agreement;

(3) The term of the payments and the first calendar quarter in which the person may apply for a payment under section 333.06 of the Revised Code;

(4) A requirement that the amount of payments made to the person during the term established under division (B)(3) of this section shall not exceed the person's qualifying investment, and that all payments cease when that amount is reached;

(5) A requirement that the person maintain operations at the impact facility for at least the term established under division (B)(3) of this section;

(6) A requirement that the person annually certify to the board of county commissioners, on or before a date established by the board in the agreement, the level of investment in, the number of employees and type of full-time equivalent positions at, and the amount of county sales and use tax collected and remitted to the tax commissioner or treasurer of state from sales made at, the facility;

(7) A provision stating that the creation of the proposed impact facility does not involve the relocation of any full-time equivalent positions or any tangible personal property to the impact facility from another facility owned by the person, or a related member of the person, that is located in another political subdivision of this state, other than the political subdivision in which the impact facility is or will be located;

(8) A detailed explanation of how the person determined that more than fifty per cent of the visitors to the facility live at least fifty miles from the facility.

(C) No payment may be made under this chapter to a person

that is found to be in violation of the provision described in division (B)(7) of this section.

Sec. 333.05. (A) Except as otherwise provided in this division, if a person fails to meet or comply with any provision of an agreement entered into under section 333.02 of the Revised Code, the board of county commissioners may amend the agreement to reduce the percentage or term, or both, of the payments the person is entitled to receive under the agreement. The reduction shall commence in the calendar quarter immediately following the calendar quarter in which the board amends the agreement. If a person fails to comply with the provision described in division (B)(7) of section 333.04 of the Revised Code, no payments may be made under this chapter to that person after the person is found to be in violation.

(B) A board of county commissioners shall submit to the department of housing and development and to the tax commissioner a copy of each agreement entered into under section 333.02 of the Revised Code and any modifications to an agreement within thirty days after finalization or modification of the agreement.

Sec. 340.13. (A) As used in this section:

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(2) "EDGE business enterprise" has the same meaning as in section 122.922 of the Revised Code.

(B) Any minority business enterprise that desires to bid on a contract under division (C) of this section shall first apply to the department of housing and development for certification as a minority business enterprise. Any EDGE

business enterprise that desires to bid on a contract under division (D) of this section shall first apply to the department of housing and development for certification as an EDGE business enterprise. The director of housing and development shall approve the application of any minority business enterprise or EDGE business enterprise that complies with the rules adopted under section 122.71 or 122.922 of the Revised Code, respectively. The director shall prepare and maintain a list of minority business enterprises and EDGE business enterprises certified under those sections.

(C) From the contracts to be awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.036 of the Revised Code, each board of alcohol, drug addiction, and mental health services shall select a number of contracts with an aggregate value of approximately fifteen per cent of the total estimated value of contracts to be awarded in the current fiscal year. The board shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 307.86 of the Revised Code, except that only minority business enterprises certified and listed pursuant to division (B) of this section shall be qualified to submit bids.

(D) To the extent that a board is authorized to enter into contracts for construction, the board shall strive to attain a yearly contract dollar procurement goal the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current fiscal year for EDGE business enterprises only.

(E)(1) In the case of contracts set aside under division (C) of this section, if no bid is submitted by a minority business enterprise, the contract shall be awarded according to normal bidding procedures. The board shall from time to time set aside such additional contracts as are necessary to replace those contracts previously set aside on which no minority business enterprise bid.

(2) If a board, after having made a good faith effort, is unable to comply with the goal of procurement for contracting with EDGE business enterprises pursuant to division (D) of this section, the board may apply in writing, on a form prescribed by the department of administrative services, to the director of mental health and addiction services for a waiver or modification of the goal.

(F) This section does not preclude any minority business enterprise or EDGE business enterprise from bidding on any other contract not specifically set aside for minority business enterprises or subject to procurement goals for EDGE business enterprises.

(G) Within ninety days after the beginning of each fiscal year, each board shall file a report with the department of mental health and addiction services that shows for that fiscal year the name of each minority business enterprise and EDGE business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of contracts awarded under divisions (C) and (D) of this section, the total value of contracts awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.036 of the Revised Code, and the total value of contracts entered into for

construction.

(H) Any person who intentionally misrepresents self as owning, controlling, operating, or participating in a minority business enterprise or an EDGE business enterprise for the purpose of obtaining contracts or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

Sec. 703.34. (A) As used in this section, "condition for the dissolution of a village" means any of the following:

(1) The village has been declared to be in a fiscal emergency under Chapter 118. of the Revised Code and has been in fiscal emergency for at least three consecutive years with little or no improvement on the conditions that caused the fiscal emergency declaration.

(2) The village has failed to properly follow applicable election laws for at least two consecutive election cycles for any one elected office in the village.

(3) The village has been declared during an audit conducted under section 117.11 of the Revised Code to be unauditable under section 117.41 of the Revised Code in at least two consecutive audits.

(4) The village does not provide at least two services typically provided by municipal government, such as police or fire protection, garbage collection, water or sewer service, emergency medical services, road maintenance, or similar services. "Services" does not include any administrative service or legislative action.

(5) The village has failed for any fiscal year to adopt the tax budget required by section 5705.28 of the Revised Code.

(6) A village elected official has been convicted of theft in office, either under section 2921.41 of the Revised Code or an equivalent criminal statute at the federal level, at least two times in a period of ten years. The convicted official with respect to those convictions may be the same person or different persons.

(B) If the auditor of state finds, in an audit report issued under division (A) or (B) of section 117.11 of the Revised Code of a village that has a population of one hundred fifty persons or less and consists of less than two square miles, that the village meets at least two conditions for the dissolution of a village, the auditor of state shall send a certified copy of the report together with a letter to the attorney general requesting the attorney general to institute legal action to dissolve the village in accordance with division (C) of this section. The report and letter shall be sent to the attorney general within ten business days after the auditor of state's transmittal of the report to the village. The audit report transmitted to the village shall be accompanied by a notice to the village of the auditor's intent to refer the report to the attorney general for legal action in accordance with this section.

(C) Within twenty days of receipt of the auditor of state's report and letter, the attorney general may file a legal action in the court of common pleas on behalf of the state to request the dissolution of the village that is the subject of the audit report. If a legal action is filed, the court shall hold a hearing within ninety days after the date the attorney general files the legal action with the court. Notice of the hearing shall be filed with the attorney general, the clerk of the village that is the subject of the action, and each fiscal

officer of a township located wholly or partly within the village.

At the hearing on dissolution, the court shall determine if the village has a population of one hundred fifty persons or less, consists of less than two square miles, and meets at least two conditions for the dissolution of a village. If the court so finds, the court shall order the dissolution of the village, which shall proceed in accordance with sections 703.31 to 703.39 of the Revised Code. The attorney general shall file a certified copy of the court's order of dissolution with the secretary of state and the county recorder of the county in which the village is situated, who shall record it in their respective offices.

(D) For purposes of this section, the population of a village shall be the population determined either at the last preceding federal decennial census or according to population estimates certified by the department of housing and development between decennial censuses.

(E) The procedure in this section is in addition to the procedure of section 703.33 of the Revised Code for the dissolution of a village.

Sec. 709.024. (A) A petition filed under section 709.021 of the Revised Code that requests to follow this section is for the special procedure of annexing land into a municipal corporation for the purpose of undertaking a significant economic development project. As used in this section, "significant economic development project" means one or more economic development projects that can be classified as industrial, distribution, high technology, research and development, or commercial, which projects may include ancillary residential and retail uses and which projects shall satisfy all

of the following:

(1) Total private real and personal property investment in a project shall be in excess of ten million dollars through land and infrastructure, new construction, reconstruction, installation of fixtures and equipment, or the addition of inventory, excluding investment solely related to the ancillary residential and retail elements, if any, of the project. As used in this division, "private real and personal property investment" does not include payments in lieu of taxes, however characterized, under Chapter 725. or 1728. or sections 5709.40 to 5709.43, 5709.45 to 5709.47, 5709.73 to 5709.75, or 5709.78 to 5709.81 of the Revised Code.

(2) There shall be created by the project an additional annual payroll in excess of one million dollars, excluding payroll arising solely out of the retail elements, if any, of the project.

(3) The project has been certified by the state director of housing and development as meeting the requirements of divisions (A)(1) and (2) of this section.

(B) Upon the filing of the petition under section 709.021 of the Revised Code in the office of the clerk of the board of county commissioners, the clerk shall cause the petition to be entered upon the journal of the board at its next regular session. This entry shall be the first official act of the board on the petition. Within five days after the filing of the petition, the agent for the petitioners shall notify in the manner and form specified in this division the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the fiscal officer of each township any portion of which is included within the territory proposed for

annexation, the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed, and the owners of property adjacent to the territory proposed for annexation or adjacent to a road that is adjacent to that territory and located directly across that road from that territory. The notice shall refer to the time and date when the petition was filed and the county in which it was filed and shall have attached or shall be accompanied by a copy of the petition and any attachments or documents accompanying the petition as filed.

Notice to a property owner is sufficient if sent by regular United States mail to the tax mailing address listed on the county auditor's records. Notice to the appropriate government officer shall be given by certified mail, return receipt requested, or by causing the notice to be personally served on the officer, with proof of service by affidavit of the person who delivered the notice. Proof of service of the notice on each appropriate government officer shall be filed with the board of county commissioners with which the petition was filed.

(C)(1) Within thirty days after the petition is filed, the legislative authority of the municipal corporation to which annexation is proposed and each township any portion of which is included within the territory proposed for annexation may adopt and file with the board of county commissioners an ordinance or resolution consenting or objecting to the proposed annexation. An objection to the proposed annexation shall be based solely upon the petition's failure to meet the conditions specified in division (F) of this section. Failure of the municipal corporation or any of those townships to timely file an ordinance or resolution consenting or objecting to the proposed

annexation shall be deemed to constitute consent by that municipal corporation or township to the proposed annexation.

(2) Within twenty days after receiving the notice required by division (B) of this section, the legislative authority of the municipal corporation shall adopt, by ordinance or resolution, a statement indicating what services the municipal corporation will provide or cause to be provided, and an approximate date by which it will provide or cause them to be provided, to the territory proposed for annexation, upon annexation. If a hearing is to be conducted under division (E) of this section, the legislative authority shall file the statement with the clerk of the board of county commissioners at least twenty days before the date of the hearing.

(D) If all parties to the annexation proceedings consent to the proposed annexation, a hearing shall not be held, and the board, at its next regular session, shall enter upon its journal a resolution granting the annexation. There is no appeal in law or in equity from the board's entry of a resolution under this division. The clerk of the board shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code.

(E) Unless the petition is granted under division (D) of this section, a hearing shall be held on the petition. The board of county commissioners shall hear the petition at its next regular session and shall notify the agent for the petitioners of the hearing's date, time, and place. The agent for the petitioners shall give, within five days after receipt of the notice of the hearing from the board, to the parties and property owners entitled to notice under division (B) of this section, notice of the date, time, and place of the hearing. Notice to a property owner is sufficient if sent by regular

United States mail to the tax mailing address listed on the county auditor's records. At the hearing, the parties and any owner of real estate within the territory proposed to be annexed are entitled to appear for the purposes described in division (C) of section 709.032 of the Revised Code.

(F) Within thirty days after a hearing under division (E) of this section, the board of county commissioners shall enter upon its journal a resolution granting or denying the proposed annexation. The resolution shall include specific findings of fact as to whether or not each of the conditions listed in this division has been met. If the board grants the annexation, the clerk of the board shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code.

The board shall enter a resolution granting the annexation if it finds, based upon a preponderance of the substantial, reliable, and probative evidence on the whole record, that each of the following conditions has been met:

(1) The petition meets all the requirements set forth in, and was filed in the manner provided in, section 709.021 of the Revised Code.

(2) The persons who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition and constitute all of the owners of real estate in that territory.

(3) No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or if the street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that

it will assume the maintenance of that street or highway. For the purposes of this division, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(4) The municipal corporation to which the territory is proposed to be annexed has adopted an ordinance or resolution as required by division (C)(2) of this section.

(5) The state director of housing and development has certified that the project meets the requirements of divisions (A)(1) and (2) of this section and thereby qualifies as a significant economic development project. The director's certification is binding on the board of county commissioners.

(G) An owner who signed the petition may appeal a decision of the board of county commissioners denying the proposed annexation under section 709.07 of the Revised Code. No other person has standing to appeal the board's decision in law or in equity. If the board grants the annexation, there shall be no appeal in law or in equity.

(H) Notwithstanding anything to the contrary in section 503.07 of the Revised Code, unless otherwise provided in an annexation agreement entered into pursuant to section 709.192 of the Revised Code or in a cooperative economic development agreement entered into pursuant to section 701.07 of the Revised Code, territory annexed into a municipal corporation pursuant to this section shall not at any time be excluded from the township under section 503.07 of the Revised Code and, thus, remains subject to the township's real property taxes.

(I) A municipal corporation to which annexation is proposed is entitled in its sole discretion to provide to the territory proposed for annexation, upon annexation, services in

addition to the services described in the ordinance or resolution adopted by the legislative authority of the municipal corporation under division (C)(2) of this section.

Sec. 709.192. (A) The legislative authority of one municipal corporation, by ordinance or resolution, and the board of township trustees of one or more townships, by resolution, may enter into annexation agreements under this section.

(B) An annexation agreement may be entered into for any period of time and may be amended at any time in the same manner as it was initially authorized.

(C) Annexation agreements may provide for any of the following:

(1) The territory to be annexed;

(2) Any periods of time during which no annexations will be made and any areas that will not be annexed;

(3) Land use planning matters;

(4) The provision of joint services and permanent improvements within incorporated or unincorporated areas;

(5) The provision of services and improvements by a municipal corporation in the unincorporated areas;

(6) The provision of services and improvements by a township within the territory of a municipal corporation;

(7) The payment of service fees to a municipal corporation by a township;

(8) The payment of service fees to a township by a municipal corporation;

(9) The reallocation of the minimum mandated levies

established pursuant to section 5705.31 of the Revised Code between a municipal corporation and a township in areas annexed after ~~the effective date of this section~~ March 27, 2002;

(10) The issuance of notes and bonds and other debt obligations by a municipal corporation or township for public purposes authorized by or under an annexation agreement and provision for the allocation of the payment of the principal of, interest on, and other charges and costs of issuing and servicing the repayment of the debt;

(11) Agreements by a municipal corporation and township, with owners or developers of land to be annexed, or with both those landowners and land developers, concerning the provision of public services, facilities, and permanent improvements;

(12) The application of tax abatement statutes within the territory covered by the annexation agreement subsequent to its execution;

(13) Changing township boundaries under Chapter 503. of the Revised Code to exclude newly annexed territory from the original township and providing services to that territory;

(14) Payments in lieu of taxes, if any, to be paid to a township by a municipal corporation, which payments may be in addition to or in lieu of other payments required by law to be made to the township by that municipal corporation;

(15) Any other matter pertaining to the annexation or development of publicly or privately owned territory.

(D) Annexation agreements shall not be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, by any other provisions of the Ohio Constitution, or by the provisions of a municipal charter, nor

shall municipal corporations and townships agree to share proceeds of any tax levy, although those proceeds may be used to make payments authorized in an annexation agreement.

(E) If any party to an annexation agreement believes another party has failed to perform its part of any provision of that agreement, including the failure to make any payment of moneys due under the agreement, that party shall give notice to the other party clearly stating what breach has occurred. The party receiving the notice has ninety days from the receipt of that notice to cure the breach. If the breach has not been cured within that ninety-day period, the party that sent the notice may sue for recovery of the money due under the agreement, sue for specific enforcement of the agreement, or terminate the agreement upon giving notice of termination to all the other parties.

(F) In order to promote economic development or to provide appropriate state functions and services to any part of the state, the state may become a party to an annexation agreement upon the approval of the director of housing and development and with the written consent of the legislative authority of the municipal corporation and each of the boards of township trustees that are parties to the agreement.

(G) The board of county commissioners, by resolution, or any person, upon request, may become a party to an annexation agreement, but only upon the approval of the legislative authority of the municipal corporation and each of the boards of township trustees that are parties to the agreement, except that, if the state is a party to the agreement, the director of housing and development is responsible for giving the approval.

(H) The powers granted by this section and any annexation

agreement entered into under this section shall be liberally construed to allow parties to these agreements to carry out the agreements' provisions relevant to government improvements, facilities, and services, and to promote and support economic development and the creation and preservation of economic opportunities.

Sec. 715.70. (A) This section and section 715.71 of the Revised Code apply only to:

(1) Municipal corporations and townships within a county that has adopted a charter under Sections 3 and 4 of Article X, Ohio Constitution;

(2) Municipal corporations and townships that have created a joint economic development district comprised entirely of real property owned by a municipal corporation at the time the district was created under this section. The real property owned by the municipal corporation shall include an airport owned by the municipal corporation and located entirely beyond the municipal corporation's corporate boundary.

(3) Municipal corporations or townships that are part of or contiguous to a transportation improvement district created under Chapter 5540. of the Revised Code and that have created a joint economic development district under this section or section 715.71 of the Revised Code prior to November 15, 1995;

(4) Municipal corporations that have previously entered into a contract creating a joint economic development district pursuant to division (A)(2) of this section, even if the territory to be included in the district does not meet the requirements of that division.

(B)(1) One or more municipal corporations and one or more

townships may enter into a contract approved by the legislative authority of each contracting party pursuant to which they create as a joint economic development district an area or areas for the purpose of facilitating economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the state and in the area of the contracting parties. A municipal corporation described in division (A)(4) of this section may enter into a contract with other municipal corporations and townships to create a new joint economic development district. In a district that includes a municipal corporation described in division (A)(4) of this section, the territory of each of the contracting parties shall be contiguous to the territory of at least one other contracting party, or contiguous to the territory of a township or municipal corporation that is contiguous to another contracting party, even if the intervening township or municipal corporation is not a contracting party. The area or areas of land to be included in the district shall not include any parcel of land owned in fee by a municipal corporation or a township or parcel of land that is leased to a municipal corporation or a township, unless the municipal corporation or township is a party to the contract or unless the municipal corporation or township has given its consent to have its parcel of land included in the district by the adoption of a resolution. As used in this division, "parcel of land" means any parcel of land owned by a municipal corporation or a township for at least a six-month period within a five-year period prior to the creation of a district, but "parcel of land" does not include streets or public ways and sewer, water, and other utility lines whether owned in fee or otherwise.

The district created shall be located within the territory

of one or more of the participating parties and may consist of all or a portion of such territory. The boundaries of the district shall be described in the contract or in an addendum to the contract.

(2) Prior to the public hearing to be held pursuant to division (D)(2) of this section, the participating parties shall give a copy of the proposed contract to each municipal corporation located within one-quarter mile of the proposed joint economic development district and not otherwise a party to the contract, and afford the municipal corporation the reasonable opportunity, for a period of thirty days following receipt of the proposed contract, to make comments and suggestions to the participating parties regarding elements contained in the proposed contract.

(3) The district shall not exceed two thousand acres in area. The territory of the district shall not completely surround territory that is not included within the boundaries of the district.

(4) Sections 503.07 to 503.12 of the Revised Code do not apply to territory included within a district created pursuant to this section as long as the contract creating the district is in effect, unless the legislative authority of each municipal corporation and the board of township trustees of each township included in the district consent, by ordinance or resolution, to the application of those sections of the Revised Code.

(5) Upon the execution of the contract creating the district by the parties to the contract, a participating municipal corporation or township included within the district shall file a copy of the fully executed contract with the county recorder of each county within which a party to the contract is

located, in the miscellaneous records of the county. No annexation proceeding pursuant to Chapter 709. of the Revised Code that proposes the annexation to, merger, or consolidation with a municipal corporation of any unincorporated territory within the district shall be commenced for a period of three years after the contract is filed with the county recorder of each county within which a party to the contract is located unless each board of township trustees whose territory is included, in whole or part, within the district and the territory proposed to be annexed, merged, or consolidated adopts a resolution consenting to the commencement of the proceeding and a copy of the resolution is filed with the legislative authority of each county within which a party to the contract is located or unless the contract is terminated during this period.

The contract entered into between the municipal corporations and townships pursuant to this section may provide for the prohibition of any annexation by the participating municipal corporations of any unincorporated territory within the district beyond the three-year mandatory prohibition of any annexation provided for in division (B)(5) of this section.

(C)(1) After the legislative authority of a municipal corporation and the board of township trustees have adopted an ordinance and resolution approving a contract to create a joint economic development district pursuant to this section, and after a contract has been signed, the municipal corporations and townships shall jointly file a petition with the legislative authority of each county within which a party to the contract is located.

(a) The petition shall contain all of the following:

(i) A statement that the area or areas of the district are

not greater than two thousand acres and are located within the territory of one or more of the contracting parties;

(ii) A brief summary of the services to be provided by each party to the contract or a reference to the portion of the contract describing those services;

(iii) A description of the area or areas to be designated as the district;

(iv) The signature of a representative of each of the contracting parties.

(b) The following documents shall be filed with the petition:

(i) A signed copy of the contract, together with copies of district maps and plans related to or part of the contract;

(ii) A certified copy of the ordinances and resolutions of the contracting parties approving the contract;

(iii) A certificate from each of the contracting parties indicating that the public hearings required by division (D)(2) of this section have been held, the date of the hearings, and evidence of publication of the notice of the hearings;

(iv) One or more signed statements of persons who are owners of property located in whole or in part within the area to be designated as the district, requesting that the property be included within the district, provided that those statements shall represent a majority of the persons owning property located in whole or in part within the district and persons owning a majority of the acreage located within the district. A signature may be withdrawn by the signer up to but not after the time of the public hearing required by division (D)(2) of this

section.

(2) The legislative authority of each county within which a party to the contract is located shall adopt a resolution approving the petition for the creation of the district if the petition and other documents have been filed in accordance with the requirements of division (C)(1) of this section. If the petition and other documents do not substantially meet the requirements of that division, the legislative authority of any county within which a party to the contract is located may adopt a resolution disapproving the petition for the creation of the district. The legislative authority of each county within which a party to the contract is located shall adopt a resolution approving or disapproving the petition within thirty days after the petition was filed. If the legislative authority of each such county does not adopt the resolution within the thirty-day period, the petition shall be deemed approved and the contract shall go into effect immediately after that approval or at such other time as the contract specifies.

(D)(1) The contract creating the district shall set forth or provide for the amount or nature of the contribution of each municipal corporation and township to the development and operation of the district and may provide for the sharing of the costs of the operation of and improvements for the district. The contributions may be in any form to which the contracting municipal corporations and townships agree and may include but are not limited to the provision of services, money, real or personal property, facilities, or equipment. The contract may provide for the contracting parties to share revenue from taxes levied on property by one or more of the contracting parties if those revenues may lawfully be applied to that purpose under the legislation by which those taxes are levied. The contract shall

provide for new, expanded, or additional services, facilities, or improvements, including expanded or additional capacity for or other enhancement of existing services, facilities, or improvements, provided that those services, facilities, or improvements, or expanded or additional capacity for or enhancement of existing services, facilities, or improvements, required herein have been provided within the two-year period prior to the execution of the contract.

(2) Before the legislative authority of a municipal corporation or a board of township trustees passes any ordinance or resolution approving a contract to create a joint economic development district pursuant to this section, the legislative authority of the municipal corporation and the board of township trustees shall each hold a public hearing concerning the joint economic development district contract and shall provide thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the municipal corporation and the township. The board of township trustees may provide additional notice to township residents in accordance with section 9.03 of the Revised Code, and any additional notice shall include the public hearing announcement; a summary of the terms of the contract; a statement that the entire text of the contract and district maps and plans are on file for public examination in the office of the township fiscal officer; and information pertaining to any tax changes that will or may occur as a result of the contract.

During the thirty-day period prior to the public hearing, a copy of the text of the contract together with copies of district maps and plans related to or part of the contract shall be on file, for public examination, in the offices of the clerk of the legislative authority of the municipal corporation and of

the township fiscal officer. The public hearing provided for in division (D)(2) of this section shall allow for public comment and recommendations from the public on the proposed contract. The contracting parties may include in the contract any of those recommendations prior to the approval of the contract.

(3) Any resolution of the board of township trustees that approves a contract that creates a joint economic development district pursuant to this section shall be subject to a referendum of the electors of the township. When a referendum petition, signed by ten per cent of the number of electors in the township who voted for the office of governor at the most recent general election for the office of governor, is presented to the board of township trustees within thirty days after the board of township trustees adopted the resolution, ordering that the resolution be submitted to the electors of the township for their approval or rejection, the board of township trustees shall, after ten days and not later than four p.m. of the ninetieth day before the election, certify the text of the resolution to the board of elections. The board of elections shall submit the resolution to the electors of the township for their approval or rejection at the next general, primary, or special election occurring subsequent to ninety days after the certifying of the petition to the board of elections.

(4) Upon the creation of a district under this section or section 715.71 of the Revised Code, one of the contracting parties shall file a copy of the following with the director of housing and development:

(a) The petition and other documents described in division (C)(1) of this section, if the district is created under this section;

(b) The documents described in division (D) of section 715.71 of the Revised Code, if the district is created under this section.

(E) The district created by the contract shall be governed by a board of directors that shall be established by or pursuant to the contract. The board is a public body for the purposes of section 121.22 of the Revised Code. The provisions of Chapter 2744. of the Revised Code apply to the board and the district. The members of the board shall be appointed as provided in the contract from among the elected members of the legislative authorities and the elected chief executive officers of the contracting parties, provided that there shall be at least two members appointed from each of the contracting parties.

(F) The contract shall enumerate the specific powers, duties, and functions of the board of directors of a district, and the contract shall provide for the determination of procedures that are to govern the board of directors. The contract may grant to the board the power to adopt a resolution to levy an income tax within the district. The income tax shall be used for the purposes of the district and for the purposes of the contracting municipal corporations and townships pursuant to the contract. The income tax may be levied in the district based on income earned by persons working or residing within the district and based on the net profits of businesses located in the district. The income tax shall follow the provisions of Chapter 718. of the Revised Code, except that a vote shall be required by the electors residing in the district to approve the rate of income tax. If no electors reside within the district, then division (F)(4) of this section applies. The rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a party to the contract.

(1) Within one hundred eighty days after the first meeting of the board of directors, the board may levy an income tax, provided that the rate of the income tax is first submitted to and approved by the electors of the district at the succeeding regular or primary election, or a special election called by the board, occurring subsequent to ninety days after a certified copy of the resolution levying the income tax and calling for the election is filed with the board of elections. If the voters approve the levy of the income tax, the income tax shall be in force for the full period of the contract establishing the district. Any increase in the rate of an income tax that was first levied within one hundred eighty days after the first meeting of the board of directors shall be approved by a vote of the electors of the district, shall be in force for the remaining period of the contract establishing the district, and shall not be subject to division (F)(2) of this section.

(2) Any resolution of the board of directors levying an income tax that is adopted subsequent to one hundred eighty days after the first meeting of the board of directors shall be subject to a referendum as provided in division (F)(2) of this section. Any resolution of the board of directors levying an income tax that is adopted subsequent to one hundred eighty days after the first meeting of the board of directors shall be subject to an initiative proceeding to amend or repeal the resolution levying the income tax as provided in division (F)(2) of this section. When a referendum petition, signed by ten per cent of the number of electors in the district who voted for the office of governor at the most recent general election for the office of governor, is filed with the county auditor of each county within which a party to the contract is located within thirty days after the resolution is adopted by the board or when

an initiative petition, signed by ten per cent of the number of electors in the district who voted for the office of governor at the most recent general election for the office of governor, is filed with the county auditor of each such county ordering that a resolution to amend or repeal a prior resolution levying an income tax be submitted to the electors within the district for their approval or rejection, the county auditor of each such county, after ten days and not later than four p.m. of the ninetieth day before the election, shall certify the text of the resolution to the board of elections of that county. The county auditor of each such county shall retain the petition. The board of elections shall submit the resolution to such electors, for their approval or rejection, at the next general, primary, or special election occurring subsequent to ninety days after the certifying of such petition to the board of elections.

(3) Whenever a district is located in the territory of more than one contracting party, a majority vote of the electors, if any, in each of the several portions of the territory of the contracting parties constituting the district approving the levy of the tax is required before it may be imposed pursuant to this division.

(4) If there are no electors residing in the district, no election for the approval or rejection of an income tax shall be held pursuant to this section, provided that where no electors reside in the district, the maximum rate of the income tax that may be levied shall not exceed one per cent.

(5) The board of directors of a district levying an income tax shall enter into an agreement with one of the municipal corporations that is a party to the contract to administer, collect, and enforce the income tax on behalf of the district.

The resolution levying the income tax shall provide the same credits, if any, to residents of the district for income taxes paid to other such districts or municipal corporations where the residents work, as credits provided to residents of the municipal corporation administering the income tax.

(6)(a) The board shall publish or post public notice of any resolution adopted levying an income tax in a newspaper of general circulation within the district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, before the resolution takes effect. In districts in which no newspaper is generally circulated, notice shall be accomplished by posting copies in not less than five of the most public places in the district, as determined by the board, for a period of not less than fifteen days before the effective date of the resolution.

(b) Except as otherwise specified by this division, any referendum or initiative proceeding within a district shall be conducted in the same manner as is required for such proceedings within a municipal corporation pursuant to sections 731.28 to 731.40 of the Revised Code.

(G) Membership on the board of directors does not constitute the holding of a public office or employment within the meaning of any section of the Revised Code or any charter provision prohibiting the holding of other public office or employment, and shall not constitute an interest, either direct or indirect, in a contract or expenditure of money by any municipal corporation, township, county, or other political subdivision with which the member may be connected. No member of a board of directors shall be disqualified from holding any public office or employment, nor shall such member forfeit or be

disqualified from holding any such office or employment, by reason of the member's membership on the board of directors, notwithstanding any law or charter provision to the contrary.

(H) The powers and authorizations granted pursuant to this section or section 715.71 of the Revised Code are in addition to and not in derogation of all other powers granted to municipal corporations and townships pursuant to law. When exercising a power or performing a function or duty under a contract authorized pursuant to this section or section 715.71 of the Revised Code, a municipal corporation may exercise all of the powers of a municipal corporation, and may perform all the functions and duties of a municipal corporation, within the district, pursuant to and to the extent consistent with the contract. When exercising a power or performing a function or duty under a contract authorized pursuant to this section or section 715.71 of the Revised Code, a township may exercise all of the powers of a township, and may perform all the functions and duties of a township, within the district, pursuant to and to the extent consistent with the contract. The district board of directors has no powers except those specifically set forth in the contract as agreed to by the participating parties. No political subdivision shall authorize or grant any tax exemption pursuant to Chapter 1728. or section 3735.67, 5709.62, 5709.63, or 5709.632 of the Revised Code on any property located within the district without the consent of the contracting parties. The prohibition for any tax exemption pursuant to this division shall not apply to any exemption filed, pending, or approved, or for which an agreement has been entered into, before the effective date of the contract entered into by the parties.

(I) Municipal corporations and townships may enter into binding agreements pursuant to a contract authorized under this

section or section 715.71 of the Revised Code with respect to the substance and administration of zoning and other land use regulations, building codes, public permanent improvements, and other regulatory and proprietary matters that are determined, pursuant to the contract, to be for a public purpose and to be desirable with respect to the operation of the district or to facilitate new or expanded economic development in the state or the district, provided that no contract shall exempt the territory within the district from the procedures and processes of land use regulation applicable pursuant to municipal corporation, township, and county regulations, including but not limited to procedures and processes concerning zoning.

(J) A contract creating a joint economic development district under this section or section 715.71 of the Revised Code may designate property as a community entertainment district or may be amended to designate property as a community entertainment district as prescribed in division (D) of section 4301.80 of the Revised Code. A joint economic development district contract or amendment designating a community entertainment district shall include all information and documentation described in divisions (B)(1) through (6) of section 4301.80 of the Revised Code. The public notice required under division (D)(2) of this section and division (C) of section 715.71 of the Revised Code shall specify that the contract designates a community entertainment district and describe the location of that district. Except as provided in division (F) of section 4301.80 of the Revised Code, an area designated as a community entertainment district under a joint economic development district contract shall not lose its designation even if the contract is canceled or terminated.

(K) A contract entered into pursuant to this section or

section 715.71 of the Revised Code may be amended and it may be renewed, canceled, or terminated as provided in or pursuant to the contract. The contract may be amended to add property owned by one of the contracting parties to the district, or may be amended to delete property from the district whether or not one of the contracting parties owns the deleted property. The contract shall continue in existence throughout its term and shall be binding on the contracting parties and on any entities succeeding to such parties, whether by annexation, merger, or otherwise. The income tax levied by the board pursuant to this section or section 715.71 of the Revised Code shall apply in the entire district throughout the term of the contract, notwithstanding that all or a portion of the district becomes subject to annexation, merger, or incorporation. No township or municipal corporation is divested of its rights or obligations under the contract because of annexation, merger, or succession of interests.

(L) After the creation of a joint economic development district described in division (A)(2) of this section, a municipal corporation that is a contracting party may cease to own property included in the district, but such property shall continue to be included in the district and subject to the terms of the contract.

Sec. 715.72. (A) As used in this section:

(1) "Contracting parties" means one or more municipal corporations, one or more townships, and, under division (D) of this section, one or more counties that have entered into a contract under this section to create a joint economic development district.

(2) "District" means a joint economic development district

created under this section.

(3) "Contract for utility services" means a contract under which a municipal corporation agrees to provide to a township or another municipal corporation water, sewer, electric, or other utility services necessary to the public health, safety, and welfare.

(4) "Business" means a sole proprietorship, a corporation for profit, a pass-through entity as defined in section 5733.04 of the Revised Code, the federal government, the state, the state's political subdivisions, a nonprofit organization, or a school district.

(5) "Owner" means a partner of a partnership, a member of a limited liability company, a majority shareholder of an S corporation, a person with a majority ownership interest in a pass-through entity, or any officer, employee, or agent with authority to make decisions legally binding upon a business.

(6) "Record owner" means the person or persons in whose name a parcel is listed on the tax list or exempt list compiled by the county auditor under section 319.28 or 5713.08 of the Revised Code.

(7) A business "operates within" a district if the net profits of the business or the income of employees of the business would be subject to an income tax levied within the district.

(8) An employee is "employed within" a district if any portion of the employee's income would be subject to an income tax levied within the district.

(9) "Mixed-use development" means a real estate project that tends to mitigate traffic and sprawl by integrating some

combination of retail, office, residential, hotel, recreation, and other functions in a pedestrian-oriented environment that maximizes the use of available space by allowing members of the community to live, work, and play in one architecturally expressive area with multiple amenities.

(10) "Water or sewer service plan or agreement" means either of the following:

(a) A state water quality management plan adopted by the Ohio environmental protection agency or another authorized planning agency pursuant to 33 U.S.C. 1288 and 1313 that contemplates that a non-contracting municipal corporation will provide sanitary sewer disposal services to an area within a proposed joint economic development district;

(b) A binding agreement between a municipal corporation and a third-party water or sanitary sewer services provider, including another municipal corporation or other public or private provider, that provides that a non-contracting municipal corporation or another provider that is not a contracting party will provide water or sanitary sewer services to an area within a proposed joint economic development district.

(11) "Non-contracting municipal corporation" means a municipal corporation that is not a contracting party.

(B) This section provides alternative procedures and requirements to those set forth in sections 715.70 and 715.71 of the Revised Code for creating and operating a joint economic development district. ~~This section applies to municipal corporations and townships that are located in the same county or in adjacent counties.~~

(C) One or more municipal corporations, one or more

townships, and, under division (D) of this section, one or more counties may enter into a contract pursuant to which they designate one or more areas as a joint economic development district for the purpose of facilitating economic development and redevelopment, to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people in this state and in the area of the contracting parties.

(1) All or part of the territory of a contracting party that is a municipal corporation or a township shall be located in a county that includes all or part of the territory of at least one other contracting party or in a county adjacent to such a county. Except as otherwise provided in division (C)(2) of this section, the territory of each of the contracting parties shall be contiguous to, or overlap with, the territory of at least one other contracting party, or contiguous to, or overlap with, the territory of a non-contracting township~~,~~ or municipal corporation, ~~or county that~~ the territory of which is contiguous to ~~another~~, or overlaps with, the territory of at least one other contracting party~~, even if the intervening township or municipal corporation is not a contracting party~~.

(2) Contracting parties that have entered into a contract under section 715.70 or 715.71 of the Revised Code creating a joint economic development district prior to November 15, 1995, may enter into a contract under this section even if the territory of each of the contracting parties is not contiguous to the territory of at least one other contracting party, or contiguous to the territory of a township or municipal corporation that is contiguous to another contracting party as otherwise required under division (C)(1) of this section. The contract and district shall meet the requirements of this section.

(D) If, on or after December 30, 2008, but on or before June 30, 2009, one or more municipal corporations and one or more townships enter into a contract or amend an existing contract under this section, one or more counties in which all of those municipal corporations or townships are located also may enter into the contract as a contracting party or parties.

(E)(1) The area or areas to be included in a joint economic development district shall meet all of the following criteria:

(a) The area or areas shall be located within the territory of one or more of the contracting parties and may consist of all of the territory of any or all of the contracting parties.

(b) No electors, except those residing in a mixed-use development, shall reside within the area or areas on the effective date of the contract creating the district.

(c) The area or areas shall not include any parcel of land owned in fee by or leased to a municipal corporation or township, unless the municipal corporation or township is a contracting party or has given its consent to have the parcel of land included in the district by the adoption of an ordinance or resolution.

(d) The area or areas shall not include any parcel of land excluded pursuant to division (J)(2) of this section.

(2) The contracting parties may designate excluded parcels within the boundaries of the joint economic development district. Excluded parcels are not part of the district and persons employed or residing on such parcels shall not be subject to any income tax imposed within the district under

division (F)(5) of this section.

(F)(1) The contract creating a joint economic development district shall provide for the amount or nature of the contribution of each contracting party to the development and operation of the district and may provide for the sharing of the costs of the operation of and improvements for the district. The contributions may be in any form to which the contracting parties agree and may include, but are not limited to, the provision of services, money, real or personal property, facilities, or equipment.

(2) The contract may provide for the contracting parties to share revenue from taxes levied by one or more of the contracting parties if those revenues may lawfully be applied to that purpose under the legislation by which those taxes are levied.

(3) The contract shall include an economic development plan for the district that consists of a schedule for the provision of new, expanded, or additional services, facilities, or improvements. The contract may provide for expanded or additional capacity for or other enhancement of existing services, facilities, or improvements.

(4) The contract shall enumerate the specific powers, duties, and functions of the board of directors of the district described under division (P) of this section and shall designate procedures consistent with that division for appointing members to the board. The contract shall enumerate rules to govern the board in carrying out its business under this section.

(5)(a) The contract may grant to the board the power to adopt a resolution to levy an income tax within the entire

district or within portions of the district designated by the contract. The income tax shall be used to carry out the economic development plan for the district or the portion of the district in which the tax is levied and for any other lawful purpose of the contracting parties pursuant to the contract, including the provision of utility services by one or more of the contracting parties.

(b) An income tax levied under this section shall be based on both the income earned by persons employed or residing within the district and the net profit of businesses operating within the district.

Except as provided in this section, the income tax levied within the district is subject to Chapter 718. of the Revised Code, except that no vote shall be required. The rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a contracting party.

(c) If the board adopts a resolution to levy an income tax, it shall enter into an agreement with a municipal corporation that is a contracting party to administer, collect, and enforce the income tax on behalf of the district.

(d) A resolution levying an income tax under this section shall require the contracting parties to annually set aside a percentage, to be stated in the resolution, of the amount of the income tax collected for the long-term maintenance of the district.

(e) An income tax levied under this section shall apply in the district or the portion of the district in which the contract authorizes an income tax throughout the term of the contract creating the district. The tax shall not apply to any

persons employed or residing on a parcel excluded from the district under division (E)(2) of this section.

(6) If there is unincorporated territory in the district, the contract shall specify that restrictions on annexation proceedings under division (R) of this section apply to such unincorporated territory. The contract may prohibit proceedings under Chapter 709. of the Revised Code proposing the annexation to, merger of, or consolidation with a municipal corporation that is a contracting party of any unincorporated territory within a township that is a contracting party during the term of the contract regardless of whether that territory is located within the district.

(7) The contract may designate property as a community entertainment district, or may be amended to designate property as a community entertainment district, as prescribed in division (D) of section 4301.80 of the Revised Code. A contract or amendment designating a community entertainment district shall include all information and documentation described in divisions (B)(1) to (6) of section 4301.80 of the Revised Code. The public notice required under division (I) of this section shall specify that the contract designates a community entertainment district and describe the location of that district. Except as provided in division (F) of section 4301.80 of the Revised Code, an area designated as a community entertainment district under a joint economic development district contract shall not lose its designation even if the contract is canceled or terminated.

(8) If any part of the district is located either within one-half of one mile of a non-contracting municipal corporation or within an area covered by or subject to a water or sewer service plan or agreement, the contract shall include all of the

following:

(a) A preliminary estimate of the costs of providing public utility services, facilities, and improvements to the district, prepared by a professional engineer;

(b) An analysis of the anticipated sources for funding the costs of the public utilities infrastructure needed to serve the district and a projection of when such funds will be available and when such costs are likely to be incurred;

(c) Evidence or estimates indicating that the construction of the public utility infrastructure needed to serve at least some portion of the district will be completed within five years after the creation of the district.

(G) The contract creating a joint economic development district shall continue in existence throughout its term and shall be binding on the contracting parties and on any parties succeeding to the contracting parties, whether by annexation, merger, or consolidation. Except as provided in division (H) of this section, the contract may be amended, renewed, or terminated with the approval of the contracting parties or any parties succeeding to the contracting parties. If the contract is amended to add or remove an area to or from an existing district, the amendment shall be adopted in the manner prescribed under division (L) of this section.

(H) If two or more contracting parties previously have entered into a separate contract for utility services, then amendment, renewal, or termination of the separate contract for utility services shall not constitute any part of the consideration for the contract creating a joint economic development district. A contract creating a joint economic

development district shall be rebuttably presumed to violate this division if it is entered into within two years prior or five years subsequent to the amendment, renewal, or termination of a separate contract for utility services that two or more contracting parties previously have entered into. The presumption stated in this division may be rebutted by clear and convincing evidence of both of the following:

(1) That other substantial consideration existed to support the contract creating a joint economic development district;

(2) That the contracting parties entered into the contract creating a joint economic development district freely and without duress or coercion related to the amendment, renewal, or termination of the separate contract for utility services.

A contract creating a joint economic development district that violates this division is void and unenforceable.

(I)(1) Before the legislative authority of any of the contracting parties adopts an ordinance or resolution approving a contract to create a district, the legislative authority of each of the contracting parties shall hold a public hearing concerning the contract and district. Each legislative authority shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the municipal corporation, township, or county, as applicable. During the thirty-day period prior to the public hearing and until the date that an ordinance or resolution is adopted under division (K) of this section to approve the joint economic development district contract, all of the following documents shall be available for public inspection in the office of the clerk of the legislative authority of a municipal

corporation and county that is a contracting party and in the office of the fiscal officer of a township that is a contracting party:

(a) A copy of the contract creating the district, including the economic development plan for the district and the schedule for the provision of new, expanded, or additional services, facilities, or improvements described in division (F)(3) of this section;

(b) A description of the area or areas to be included in the district, including a map in sufficient detail to denote the specific boundaries of the area or areas and to indicate any zoning restrictions applicable to the area or areas, and the parcel number, provided for under section 319.28 of the Revised Code, of any parcel located within the boundaries of the joint economic development district and excluded from the district under division (E)(2) of this section;

(c) If the contract authorizes the board of directors of the district to adopt a resolution to levy an income tax within the district or within portions of the district, a schedule for the collection of the tax.

(2) At least thirty days before the first public hearing is to be held by one or more legislative authorities on a proposed district, notice shall be sent in writing to each non-contracting municipal corporation that is located within one-half of one mile of the proposed district or that is identified in a water or sewer service plan or agreement as a future provider of water or sewer services to all or part of the proposed district.

(3) A public hearing held under this division shall allow

for public comment and recommendations on the contract and district. The contracting parties may include in the contract any of those recommendations prior to approval of the contract.

(J)(1) Before any of the contracting parties approves a contract under division (K) of this section, the contracting parties shall circulate one or more petitions to record owners of real property located within the proposed joint economic development district and owners of businesses operating within the proposed district. The petitions shall state that all of the documents described in divisions (I)(1)(a) to (c) of this section are available for public inspection in the office of the clerk of the legislative authority of each municipal corporation and county that is a contracting party or the office of the fiscal officer of each township that is a contracting party. The petitions shall clearly indicate that, by signing the petition, the record owner or owner consents to the proposed joint economic development district.

A contracting party may send written notice of the petitions by certified mail with return receipt requested to the last known mailing addresses of any or all of the record owners of real property located within the proposed district or the owners of businesses operating within the proposed district. The contracting parties shall equally share the costs of complying with this division.

(2) If any portion of property located within the proposed joint economic development district is also either located within one-half of one mile of a non-contracting municipal corporation or covered by or subject to a water or sewer service plan or agreement under which a non-contracting municipal corporation is identified as a future provider of water or sewer

services to all or part of the proposed district, then that property and any property contiguous to that property if owned by the same person shall be excluded from the joint economic development district unless the owner of the property signs the petition.

(K)(1) After the public hearings required under division (I) of this section have been held and the petitions described in division (J) of this section have been signed by the majority of the record owners of real property located within the proposed joint economic development district and by a majority of the owners of businesses, if any, operating within the proposed district, each contracting party may adopt an ordinance or resolution approving the contract to create a joint economic development district. Not later than ten days after all of the contracting parties have adopted ordinances or resolutions approving the district contract, each contracting party shall give notice of the proposed district to all of the following:

(a) Each record owner of real property to be included in the district and in the territory of that contracting party who did not sign the petitions described in division (J) of this section;

(b) An owner of each business operating within the district and in the territory of that contracting party no owner of which signed the petitions described in division (J) of this section.

(2) Such notices shall be given by certified mail and shall specify that the property or business is located within an area to be included in the district and that all of the documents described in divisions (I)(1)(a) to (c) of this section are available for public inspection in the office of the

clerk of the legislative authority of each municipal corporation and county that is a contracting party or the office of the fiscal officer of each township that is a contracting party. The contracting parties shall equally share the costs of complying with division (K) of this section.

(L)(1) The contracting parties may amend the joint economic development district contract to add any area that was not originally included in the district if the area satisfies the criteria prescribed under division (E) of this section. The contracting parties may also amend the district contract to remove any area originally included in the district or exclude one or more parcels located within the district pursuant to division (E)(2) of this section.

(2) An amendment adding an area to a district, removing an area from the district, or excluding one or more parcels from the district may be approved only by a resolution or ordinance adopted by each of the contracting parties. The contracting parties shall conduct public hearings on the amendment and provide notice in the manner required under division (I) of this section for original contracts. The contracting parties shall make available for public inspection a copy of the amendment, a description of the area to be added, removed, or excluded to or from the district, and a map of that area in sufficient detail to denote the specific boundaries of the area and to indicate any zoning restrictions applicable to the area.

(3) Before adopting a resolution or ordinance approving the addition of an area to the district, the contracting parties shall circulate petitions to the record owners of real property located within the proposed addition to the district and owners of businesses operating within the proposed addition to the

district in the same manner required under division (J) of this section for original contracts. The contracting parties may notify such record owners of real property and owners of businesses that the petitions are available for signing in the same manner provided by that division. The contracting parties shall equally share the costs of complying with this division.

(4) The contracting parties to a joint economic development district may vote to approve an amendment to the district contract under this division after the public hearings required under division (L)(2) of this section are completed and, if the amendment adds an area or areas to the district, the petitions required under division (L)(3) of this section have been signed by the majority of record owners of real property located within the area or areas added to the district and by a majority of the owners of businesses, if any, operating within the proposed addition to the district.

(5) Not later than ten days after all of the contracting parties have adopted ordinances or resolutions approving an amendment adding one or more areas to the district, each contracting party shall give notice of the addition to all of the following:

(a) Each record owner of real property to be included in the addition to the district and in the territory of that contracting party who did not sign the petitions described in division (L)(3) of this section;

(b) An owner of each business operating within the addition to the district and in the territory of that contracting party no owner of which signed the petitions described in division (L)(3) of this section.

The contracting parties shall equally share the costs of complying with division (L)(5) of this section.

(M)(1) A board of township trustees that is a party to a contract creating a joint economic development district may choose not to submit its resolution approving the contract to the electors of the township if all of the following conditions are satisfied:

(a) The resolution has been approved by a unanimous vote of the members of the board of township trustees or, if a county is one of the contracting parties under division (D) of this section, the resolution has been approved by a majority vote of the members of the board of township trustees;

(b) The contracting parties have circulated petitions as required under division (J) of this section and obtained the signatures required under division (L) of this section;

(c) The territory to be included in the proposed district is zoned in a manner appropriate to the function of the district.

(2) If the board of township trustees has not invoked its authority under division (M)(1) of this section, the board, at least ninety days before the date of the election, shall file its resolution approving the district contract with the board of elections for submission to the electors of the township for approval at the next succeeding general, primary, or special election.

(3) Any contract creating a district in which a board of township trustees is a party shall provide that the contract is not effective before the thirty-first day after its approval, including approval by the electors of the township if required

by this section.

(4) If the board of township trustees invokes its authority under division (M)(1) of this section and does not submit the district contract to the electors for approval, the resolution of the board of township trustees approving the contract is subject to a referendum of the electors of the township when requested through a petition. When signed by ten per cent of the number of electors in the township who voted for the office of governor at the most recent general election, a referendum petition asking that the resolution be submitted to the electors of the township may be presented to the board of township trustees. Such a petition shall be presented within thirty days after the board of township trustees adopts the resolution approving the district contract. The board of township trustees shall, not later than four p.m. of the tenth day after receipt of the petition, certify the text of the resolution to the board of elections. The board of elections shall submit the resolution to the electors of the township for their approval or rejection at the next general, primary, or special election occurring at least ninety days after certification of the resolution.

(N) The ballot respecting a resolution to create a district or a referendum of such a resolution shall be in the following form:

"Shall the resolution of the board of township trustees approving the contract with ..... (here insert name of every other contracting party) for the creation of a joint economic development district be approved?

FOR THE RESOLUTION AND CONTRACT

AGAINST THE RESOLUTION AND CONTRACT"

If a majority of the electors of the township voting on the issue vote for the resolution and contract, the resolution shall become effective immediately and the contract shall go into effect on the thirty-first day after the election or thereafter in accordance with terms of the contract.

(O) Upon the creation of a district under this section, one of the contracting parties shall file a copy of each of the following documents with the director of housing and development:

(1) All of the documents described in divisions (I)(1)(a) to (c) of this section;

(2) Certified copies of the ordinances and resolutions of the contracting parties relating to the contract and district;

(3) Documentation from each contracting party that the public hearings required by division (I) of this section have been held, the date of the hearings, and evidence that notice of the hearings was published as required by that division;

(4) A copy of the signed petitions required under divisions (J) and (K) of this section.

(P) A board of directors shall govern each district created under this section.

(1) If there are businesses operating and persons employed within the district, the board shall be composed of the following members:

(a) One member representing the municipal corporations that are contracting parties;

(b) One member representing the townships that are contracting parties;

(c) One member representing the owners of businesses operating within the district;

(d) One member representing the persons employed within the district;

(e) One member representing the counties that are contracting parties, or, if no contracting party is a county, one member selected by the members described in divisions (P)(1)(a) to (d) of this section.

The members of the board shall be appointed as provided in the district contract. Of the members initially appointed to the board, the member described in division (P)(1)(a) of this section shall serve a term of one year; the member described in division (P)(1)(b) of this section shall serve a term of two years; the member described in division (P)(1)(c) of this section shall serve a term of three years; and the members described in divisions (P)(1)(d) and (e) of this section shall serve terms of four years. Thereafter, terms for each member shall be for four years, each term ending on the same day of the same month of the year as did the term that it succeeds. A member may be reappointed to the board, but no member shall serve more than two consecutive terms on the board.

The member described in division (P)(1)(e) of this section shall serve as chairperson of the board described under division (P)(1) of this section.

(2) If there are no businesses operating or persons employed within the district, the board shall be composed of the following members:

(a) One member representing the municipal corporations that are contracting parties;

(b) One member representing the townships that are contracting parties;

(c) One member representing the counties that are contracting parties, or if no contracting party is a county, one member selected by the members described in divisions (P)(2)(a) and (b) of this section.

The members of the board shall be appointed as provided in the district contract. Of the members initially appointed to the board, the member described in division (P)(2)(a) of this section shall serve a term of one year; the member described in division (P)(2)(b) of this section shall serve a term of two years; and the member described in division (P)(2)(c) of this section shall serve a term of three years. Thereafter, terms for each member shall be for four years, each term ending on the same day of the same month of the year as did the term that it succeeds. A member may be reappointed to the board, but no member shall serve more than two consecutive terms on the board.

The member described in division (P)(2)(c) of this section shall serve as chairperson of a board described under division (P)(2) of this section.

(3) A board described under division (P)(1) or (2) of this section has no powers except as described in this section and in the contract creating the district.

(4) Membership on the board of directors of a joint economic development district created under this section is not the holding of a public office or employment within the meaning of any section of the Revised Code prohibiting the holding of

other public office or employment. Membership on such a board is not a direct or indirect interest in a contract or expenditure of money by a municipal corporation, township, county, or other political subdivision with which a member may be affiliated. Notwithstanding any provision of law to the contrary, no member of a board of directors of a joint economic development district shall forfeit or be disqualified from holding any public office or employment by reason of membership on the board.

(5) The board of directors of a joint economic development district is a public body for the purposes of section 121.22 of the Revised Code. Chapter 2744. of the Revised Code applies to such a board and the district.

(Q)(1) On or before the date occurring six months after the effective date of the district contract, an owner of a business operating within the district may, on behalf of the business and its employees, file a complaint with the court of common pleas of the county in which the majority of the territory of the district is located requesting exemption from any income tax imposed by the board of directors of the district under division (F)(5) of this section if all of the following apply:

(a) The business operated within an unincorporated area of the district before the effective date of the district contract;

(b) No owner of the business signed a petition described in division (J) of this section;

(c) Neither the business nor its employees has derived or will derive any material benefit from the new, expanded, or additional services, facilities, or improvements described in the economic development plan for the district, or the material

benefit that has, or will be, derived is negligible in comparison to the income tax revenue generated from the net profits of the business and the income of employees of the business.

The legislative authority of each contracting party shall be made a party to the proceedings and the business owner filing the complaint shall serve notice of the complaint by certified mail to each such contracting party. The court shall not accept any complaint filed more than six months after the effective date of the district contract.

(2) Any or all of the contracting parties may submit a written answer to the complaint submitted under division (Q)(1) of this section to the court within thirty days after notice of the complaint was served upon them. Such a contracting party shall submit to the court, along with the answer, documentation sufficient to prove that the contracting party sent copies of the answer to the owner of the business who filed the complaint.

(3) The court shall review each complaint submitted by a business owner under division (Q)(1) of this section and each answer submitted by a contracting party under division (Q)(2) of this section. The court may make a determination on the record and the evidence thus submitted, or it may conduct a hearing and request the presence of the business owner and the contracting parties to present evidence relevant to the complaint. The court shall make a determination on the complaint not sooner than thirty days but not later than sixty days after the complaint is filed by the business owner. The court may make a determination more than sixty days after the complaint is filed if the business owner and all contracting parties to the district consent.

(4) The court shall grant the exemption requested in the complaint if all of the criteria described in divisions (Q)(1)(a) to (c) of this section are met.

(5) If all the criteria described in divisions (Q)(1)(a) to (c) of this section are not met, the court shall deny the complaint and the exemption.

(6) The court shall send notice of the determination with respect to the complaint to the owner of the business and each contracting party. If the court grants the exemption, the net profits of the business from operations within the district and the income of its employees from employment within the district are exempt from any income tax imposed by the board of directors of the district. If the court denies the exemption, the net profits of the business and the income of its employees shall be taxed according to the terms of the district contract and any taxes, penalties, and interest accrued before the date of the court's determination shall be paid in full. In addition, no owner of the business may submit another complaint under division (Q)(1) of this section for the same district contract. The court's determination on a complaint filed under division (Q) of this section is final.

(7) Chapter 2506. of the Revised Code does not apply to the proceedings described in division (Q) of this section.

(R)(1) No proceeding pursuant to Chapter 709. of the Revised Code that proposes the annexation to, merger of, or consolidation with a municipal corporation of any unincorporated territory within a joint economic development district may be commenced at any time between the effective date of the contract creating the district and the date the contract expires, terminates, or is otherwise rendered unenforceable. This

division does not apply if each board of township trustees whose territory is included within the district and whose territory is proposed to be annexed, merged, or consolidated adopts a resolution consenting to the commencement of the proceeding. Each such board of township trustees shall file a copy of the resolution with the clerk of the legislative authority of each county within which a contracting party is located.

(2) The contract creating a joint economic development district may prohibit any annexation proceeding by a contracting municipal corporation of any unincorporated territory within the district or zone beyond the period described in division (R)(1) of this section.

(3) No contracting party is divested or relieved of its rights or obligations under the contract creating a joint economic development district because of annexation, merger, or consolidation.

(S) Contracting parties may enter into agreements pursuant to the contract creating a joint economic development district with respect to the substance and administration of zoning and other land use regulations, building codes, permanent public improvements, and other regulatory and proprietary matters determined to be for a public purpose. No contract, however, shall exempt the territory within the district from the procedures of land use regulation applicable pursuant to municipal corporation, township, and county regulations, including, but not limited to, zoning procedures.

(T) The powers granted under this section are in addition to and not in the derogation of all other powers possessed by or granted to municipal corporations, townships, and counties pursuant to law.

(1) When exercising a power or performing a function or duty under a contract entered into under this section, a municipal corporation may exercise all the powers of a municipal corporation, and may perform all the functions and duties of a municipal corporation, within the district, pursuant to and to the extent consistent with the contract.

(2) When exercising a power or performing a function or duty under a contract entered into under division (D) of this section, a county may exercise all of the powers of a county, and may perform all the functions and duties of a county, within the district pursuant to and to the extent consistent with the contract.

(3) When exercising a power or performing a function or duty under a contract entered into under this section, a township may exercise all the powers of a township, and may perform all the functions and duties of a township, within the district, pursuant to and to the extent consistent with the contract.

(U) No political subdivision shall grant any tax exemption under Chapter 1728. or section 3735.67, 5709.62, 5709.63, or 5709.632 of the Revised Code on any property located within the district without the consent of all the contracting parties. The prohibition against granting a tax exemption under this section does not apply to any exemption filed, pending, or approved before the effective date of the contract entered into under this section.

Sec. 902.04. (A) An issuer may from time to time issue bonds to carry out the lawful purposes set forth in this chapter including, but not limited to, the purchase of loans or other evidence of debt from and the making of loans to or through

lending institutions, the payment of the costs of insurance, letters of credit, certificates of deposit, and purchase agreements related to the bonds or loans, underwriting, legal, accounting, financial consulting, rating, printing, and other services relating to the issuance and sale of the bonds, fees of any trustee, paying agent, bond registrar, depository, transfer agent, and authenticating agent, interest on the bonds, establishment of reserve funds securing the bonds, and any other costs reasonably related to the issuance, sale, marketing, servicing, insuring, guaranteeing, and otherwise securing of the bonds. Any issuer may from time to time, whenever it considers refunding to be expedient, issue bonds to refund any bonds issued under this chapter whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The terms of the issuance and sale of refunding bonds shall be as provided in this chapter for an original issue of bonds.

(B) Bonds, and the issuance of bonds, pursuant to this chapter need not comply with any other law applicable to the issuance of bonds. The deposit, application, safeguarding, and investment of funds of an issuer received or held under bond proceedings of the issuer shall not be subject to Chapters 131. and 135. of the Revised Code.

(C)(1) Bonds issued pursuant to this chapter do not constitute a debt, or the pledge of the faith and credit, of the state or any political subdivision thereof, and the holders or owners of such bonds have no right to have taxes levied by the general assembly or taxing authority of any political subdivision for the payment of the principal thereof or interest thereon. Moneys raised by taxation shall not be obligated or pledged for the payment of principal of or interest on such

bonds, but such bonds shall be payable solely from the revenues and security interests pledged for their payment as authorized by this chapter, unless bonds are issued in anticipation of the issuance of or are refunded by refunding bonds issued pursuant to this chapter, which refunding bonds shall be payable solely from revenues and security interests pledged for their payment as authorized by this chapter. Bond anticipation notes may be secured solely or additionally by a covenant of the issuer that it will do all things necessary for the issuance of the bonds anticipated or renewal notes in appropriate amount and either exchange such bonds or renewal notes for such notes or apply the proceeds therefrom to the extent necessary to make full payment of the principal of and interest on such notes.

(2) Any pledge of revenues to the payment of bonds is valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the issuer are immediately subject to the lien of such pledge without any separation or physical delivery thereof, or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the issuer, irrespective of whether such parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code. Neither the resolution or ordinance nor any trust agreement or indenture by which a pledge is created need be filed or recorded except in the records of the issuer.

(3) All bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any political subdivision thereof, but are payable solely from the revenues and security interests pledged for their payment.

(D)(1) The bonds shall be authorized by one or more resolutions or ordinances of the issuing authority, shall bear such date or dates, and shall mature at such time or times, not exceeding forty years from the date of issue, and have such redemption and purchase provisions as are authorized by or pursuant to such resolutions or ordinances. The bonds shall bear interest at such rate or rates, or at a variable rate or rates, as provided in or authorized by or pursuant to such resolutions or ordinances. The bonds shall be in such denominations, be in such form, either coupon, registered or book entry, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as the issuing authority may authorize. The bonds may be sold by the issuing authority at public or private sale, at not less than such price or prices as the issuer determines. Notwithstanding any other provision of this chapter or Chapter 165., 761., or 1724. of the Revised Code, the commission shall have exclusive power to authorize the issuance and sale of bonds for agricultural purposes under a composite financing arrangement in excess of five hundred thousand dollars; provided that other issuers may issue bonds under composite financing arrangements in such greater amounts and at such times as shall be approved by the commission.

(2) Bonds issued by the agricultural financing commission shall be executed by the chairperson or vice-chairperson of the commission, manually or by a facsimile signature. The official seal of the commission or a facsimile thereof shall be affixed thereto or printed thereon, and any coupons attached thereto shall bear the signature or facsimile signature of the chairperson or vice-chairperson of the commission. Bonds and coupons issued by any other issuer shall be executed by such

officers, in manual or facsimile form, and bear such official seal or a facsimile thereof, as shall be provided in the bond proceedings for the bonds. In case any officer whose signature or a facsimile of whose signature, appears on any bonds or coupons ceases to be such officer before delivery of bonds, such signature or facsimile is nevertheless sufficient for all purposes the same as if the officer had remained in office until such delivery, and in case the seal has been changed after a facsimile has been imprinted on such bonds, such facsimile seal will continue to be sufficient for all purposes. The bonds may also be issued and executed in book entry form in such manner as is appropriate to that form. Neither the members of the issuing authority nor any person executing the bonds is liable personally on the bonds or subject to any personal liability by reason of the issuance thereof.

(E) If the issuer is a county or municipal corporation, then prior to the delivery of bonds issued under authority of this section, the issuing authority shall send written notice to the director of agriculture and the director of housing and development either by certified mail or, if the issuing authority has record of an internet identifier of record associated with the director, by ordinary mail and by that internet identifier of record advising of the proposed delivery of the bonds, the amount thereof, the proposed lessee of the project or person to whom the proceeds of the bonds will be loaned, and a general description of the project or projects to be financed.

(F) All bonds issued under authority of this chapter, regardless of form or terms and regardless of any other law to the contrary, shall have all qualities and incidents of negotiable instruments, subject to provisions for registration,

and may be issued in coupon, fully registered, or other form, or any combination thereof, as the issuing authority determines. Provision may be made for the registration of any coupon bonds as to principal alone or as to both principal and interest, and for the conversion into coupon bonds of any fully registered bonds or bonds registered as to both principal and interest.

(G) As used in this section, "internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

Sec. 991.02. (A) There is hereby created the Ohio expositions commission, which shall consist of the following fifteen members: nine members appointed by the governor with the advice and consent of the senate; the director of housing and development, the director of natural resources, and the director of agriculture, or their designated representatives, who shall be ex officio members with voting rights of the commission; the dean of the college of food, agricultural, and environmental sciences of the Ohio state university as a nonvoting, ex officio member of the commission; and the chairperson of the standing committee in the house of representatives to which matters dealing with agriculture are generally referred and the chairperson of the standing committee in the senate to which matters dealing with agriculture are generally referred, who shall be nonvoting members. If the senate is not in session, recess appointments shall be made by the governor.

(B) Of the nine members of the commission appointed by the governor, not more than five shall be from one political party, at least three members shall receive the major portion of their income from farming, and at least one member shall, at the time of appointment, be a member of the board of directors of an

agricultural society that was organized in compliance with section 1711.01 or 1711.02 of the Revised Code. Terms of office shall be for six years, commencing on the second day of December and ending on the first day of December. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The term of each nonvoting, legislative member of the commission shall be for two years or until the end of the member's legislative term, whichever occurs first.

(C) The commission shall annually, during the month of December, select from among its members a chairperson, a vice-chairperson, who in the absence of the chairperson shall carry out the chairperson's duties, and a secretary, who may be a member or employee of the commission, to record the minutes of its meetings and to carry out such other duties as may be assigned by the commission, its chairperson, or its vice-chairperson.

(D) The director of agriculture, the director of natural resources, and the director of housing and development, or their designated representatives, the dean of the college of food, agricultural, and environmental sciences of the Ohio state university, and the two legislators appointed to the commission, as members of the commission shall serve without compensation.

(E) Each of the members of the commission appointed by the

governor shall be paid the rate established pursuant to division (J) of section 124.15 of the Revised Code. All members of the commission are entitled to their actual and necessary expenses incurred in the performance of their duties as such members, payable from the appropriations for the commission.

(F) The commission shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request therefor signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. Six of the voting members of the commission shall constitute a quorum.

(G) The commission shall employ and prescribe the powers and duties of a general manager who shall serve in the unclassified civil service at a salary fixed pursuant to section 124.14 of the Revised Code. The general manager may employ such assistant managers as the general manager and the commission may approve. At no time shall such assistant managers exceed four in number, one of whom shall be appointed in the classified civil service. The general manager may, subject to the approval of the commission, employ a fiscal officer and such other officers, employees, and consultants with such powers and duties as are necessary to carry out this chapter. With the approval of the commission and in order to implement this chapter, the general manager may employ and fix the compensation of seasonal employees; these employees shall be in the unclassified civil service, and the overtime pay requirements of section 124.18 of the Revised Code do not apply to them. The general manager shall be considered the appointing authority of the commission for

purposes of Chapter 124. of the Revised Code.

(H) The governor may remove any appointed voting member of the commission at any time for inefficiency, neglect of duty, or malfeasance in office.

Sec. 1517.14. (A) The director of natural resources may create wild, scenic, and recreational rivers. The chief of the division of natural areas and preserves shall supervise, operate, protect, and maintain wild, scenic, and recreational rivers so created. In creating wild, scenic, and recreational rivers, the director shall classify each such watercourse as either a wild river, a scenic river, or a recreational river. The chief may prepare and maintain a plan for the establishment, development, use, and administration of those rivers as a part of the comprehensive state plans for water management and outdoor recreation. The chief, with the approval of the director, may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river systems.

(B) The director may propose to create a wild, scenic, or recreational river that consists of a part or parts of any watercourse in this state that in the director's judgment possesses water conservation, scenic, fish, wildlife, historic, or outdoor recreation values that should be preserved.

(C)(1) The director shall publish the intention to declare a watercourse a wild, scenic, or recreational river at least once in a newspaper of general circulation in each county, any part through which the watercourse flows. The director also shall send written notice of the intention to the legislative authority of each county, township, and municipal corporation and to each conservancy district established under Chapter 6101.

of the Revised Code, any part through which the watercourse flows, and to the director of transportation, the director of housing and development, the director of administrative services, and the director of environmental protection. The notices shall include a copy of a map and description of the watercourse to be designated.

(2) The director of natural resources shall post the intention to declare a watercourse a wild, scenic, or recreational river on the division of natural areas and preserves' web site on the date of the initial publication under division (C)(1) of this section.

(3) Any person having an interest in the proposed declaration may file written comments to the proposal within sixty days of the last date of publication or dispatch of written notice as required under division (C)(1) of this section. The director shall post on the division's web site the last date by which written comments may be filed.

(4) After sixty days from the last date of publication or dispatch of written notice as required under division (C)(1) of this section, the director may enter a declaration in the director's journal that the watercourse is a wild river, scenic river, or recreational river. When so entered, the watercourse is a wild, scenic, or recreational river, as applicable. The director, after sixty days' notice as prescribed in this section, may terminate the status of a watercourse as a wild river, scenic river, or recreational river by an entry in the director's journal.

(D) Declaration of a watercourse as a wild, scenic, or recreational river does not do either of the following:

(1) Affect private property rights or authorize the director, chief of the division of natural areas and preserves, or any governmental agency or political subdivision to restrict the use of private land adjacent to the river or to enter upon private land;

(2) Expand or abridge the regulatory authority of any governmental agency or political subdivision over the river.

(E) The director may acquire real property or any estate, right, or interest therein in order to provide for the protection and public recreational use of a wild, scenic, or recreational river. The director may enter into a lease or other agreement with a political subdivision to administer all or part of any publicly owned land that is administered by the division and that is within the watershed of a wild, scenic, or recreational river.

(F) A wild, scenic, or recreational river that was declared as such by the director of natural resources under Chapter 1547. of the Revised Code prior to ~~the effective date of this amendment~~ October 24, 2024, retains its declaration as a wild, scenic, or recreational river for purposes of sections 1517.14 to 1517.19 of the Revised Code on and after that date.

Sec. 1551.01. As used in this chapter:

(A) "Governmental agency" means the United States government or any department, agency, or instrumentality thereof; any department, agency, or instrumentality of a state government; any municipal corporation, county, township, board of education, or other political subdivision or any other body corporate and politic of a state; or any agency, commission, or authority established under an interstate compact or agreement.

(B) "Energy resource development facility" means any energy resource development, research, or conservation facility, including pilot as well as demonstration facilities, and including undivided or other interests therein, acquired or to be acquired, or constructed or to be constructed under this chapter or Chapter 6121. or 6123. of the Revised Code, or acquired or to be acquired, or constructed or to be constructed by a governmental agency or person with all or a part of the cost thereof being paid from a loan or grant under such chapters, including all buildings and facilities that the director of housing and development determines necessary for the operation of the facility, together with all property, rights, easements, and interests that may be required for the operation of the facility, which facilities may include:

(1) Any building, testing facility, testing device, or support facilities which would provide experimental, demonstration, or testing capabilities or services not otherwise available in this state and which are necessary for the accomplishment of the purposes of this chapter;

(2) Any method, process, structure, or equipment that is used to store coal, oil, natural gas, fuel for nuclear reactors, or any other form of energy;

(3) Any method, process, structure, or equipment that is used to recover or convert coal, oil, natural gas, steam, or other form of energy from property located within the state for the purpose of supplying energy for utilization;

(4) Any method, process, structure, or equipment that is designed to result in more efficient recovery, conversion, or utilization of energy resources within the state, including any scrap tire recovery facility for which a registration

certificate or permit has been issued under section 3734.78 of the Revised Code;

(5) Any improvement that is designed to improve the thermal efficiency of a building or structure or reduce the fuel or power needed to heat, cool, light, ventilate, or provide hot water in a building or structure;

(6) Any improvement designed to enable the substitution of coal or alternate fuel, other than natural gas, for natural gas or a petroleum fuel, or the conversion of coal to other fuels;

(7) Any improvement designed to enable the combustion of high sulfur coal in compliance with air or water pollution control or solid waste disposal laws, including, but not limited to, any facility for processing coal to remove sulfur before combustion of the coal, for fluidized bed combustion, or for removal of the sulfur before the products of combustion are emitted or discharged.

(C) "Cost" as applied to an energy resource development facility means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the department of housing and development, the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements for such access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery,

furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to the facility, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such facility, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the facility, the financing of such acquisition or construction, including the amount authorized in the resolution of the Ohio water development authority providing for the issuance of energy resource development revenue bonds to be paid into any special funds from the proceeds of such bonds, and the financing of the placing of such facility in operation. Any obligation, cost, or expense incurred after August 26, 1975, by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a facility may be regarded as a part of the cost of such facility and may be reimbursed out of the proceeds of energy resource development revenue bonds.

(D) "Revenues" means all rentals and other charges received by the Ohio water development authority for the use or services of any energy resource development facility, any contract, gift, or grant received with respect to any energy resource development facility, and moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of an energy resource development facility, moneys received in repayment of and for

interest on any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise, proceeds of energy resource development revenue bonds to the extent that the use thereof for payment of principal of, premium, if any, or interest on the bonds is authorized by the authority, proceeds from any insurance, condemnation, or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of a facility, and income and profit from the investment of the proceeds of energy resource development revenue bonds or of any revenues.

(E) "Construction," unless the context indicates a different meaning or intent, includes construction, reconstruction, enlargement, improvement, or providing furnishings or equipment.

(F) "Energy resource development revenue bonds," unless the context indicates a different meaning or intent, includes energy resource development revenue bonds, energy resource development revenue notes, and energy resource development revenue refunding bonds.

(G) "Energy" means work or heat that is, or can be, produced from any fuel or source whatsoever.

(H) "Energy audit" means any process by which energy usage or costs of heating, cooling, lighting, and climate control in a building or structure are determined.

(I) "Energy conservation" means preservation of energy resources by efficient utilization, and reduction of waste.

(J) "Energy conservation measure" means any modification of a building, structure, machine, appliance, vehicle,

improvement, or process in order to improve its efficiency of energy use or energy costs.

(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.

(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.

Sec. 1551.05. The department of ~~deveopment~~housing and development shall:

(A) Monitor and assess technological advancements in energy conservation and development, and maintain to the extent practicable a capability for independent technology assessment to support formulation of state energy policy;

(B) Review laws, rules, and state agency policies that affect energy utilization, and recommend to the agencies and the general assembly changes to achieve energy conservation and development;

(C) Develop methods for the performance of energy audits of buildings and structures and net energy analyses, employing whenever possible existing knowledge and practices, in order to identify energy cost savings to be realized through energy conservation measures, and prepare or identify curricula or source materials for training of persons conducting energy audits;

(D) Implement a continuing public education effort designed to inform individuals and organizations about specific and appropriate ways to conserve energy;

(E) Provide technical assistance, information on technological advancements in energy production, use, and conservation, energy efficiency information, recommendations to state agencies and local governments, assistance in the identification, evaluation, and implementation of measures to reduce energy consumption and waste, and public information on energy conservation measures, criteria, and alternatives to assist consumers in purchasing appliances, machinery, power tools, and similar products;

(F) Identify, project, and monitor reduction in energy demand due to energy conservation measures in the industrial, commercial, residential, transportation, and energy production sectors and the state as a whole;

(G) Annually apply for, receive, accept, and administer assistance on behalf of the state pursuant to and in compliance with the "Energy Policy and Conservation Act," 89 Stat. 871, 42 U.S.C.A. 6201, as amended.

Sec. 1551.06. The department of housing and development shall be the coordinating agency responsible for involving all other appropriate agencies of state government in developing programs to conserve energy, and shall be responsible for minimizing duplication of effort among state agencies and programs in the state.

All state departments, agencies, institutions, universities, colleges, authorities, boards, and commissions, and all political subdivisions and quasi-governmental agencies of the state shall cooperate and coordinate all such activities with the department to ensure orderly and efficient administration and enforcement.

Sec. 1551.11. (A) To achieve the purposes of sections 1551.01 to 1551.25 of the Revised Code, the director of housing and development may:

(1) Identify, plan, organize, initiate, and sponsor studies, research, and experimental, pilot, and demonstration facilities and projects that would lead to the development and more efficient utilization of present, new, or alternative energy sources in this state, to the conservation of energy, to the attraction of federal and other development funding in emerging and established national or state priority areas, or to the enhancement of the economic development of the state;

(2) Promote, assist, and provide financial assistance for the development of nonprofit corporations organized and established under Chapter 1702. of the Revised Code to further the purposes of this section;

(3) Seek out, apply for, receive, and accept grants, gifts, contributions, loans, and other assistance in any form from public and private sources, including assistance from any governmental agency;

(4) Make grants under division (F) of section 1551.12 of the Revised Code from funds that are appropriated by the general assembly and from gifts or grants obtained under division (A)(3) of this section for the purposes of developing, constructing, or operating experimental, pilot, and demonstration facilities or programs which develop, test, or demonstrate more efficient and environmentally acceptable methods of extracting energy resources; new concepts, programs, or technology for the conservation of energy; new concepts, programs, or technology for the efficient and environmentally acceptable utilization of present, new, or alternative energy sources; or concepts,

programs, or technology which develop resources of the state. Grants may be made, without limitation, for projects and programs such as experimental demonstrations of the use of Ohio coal in processes which would facilitate its widespread use as a source of energy; experimental demonstrations of new or improved coal, natural gas, and natural petroleum extraction techniques and of reclamation techniques at the extraction sites; experimental demonstrations or development of solar heating and cooling and potentially energy-efficient construction in public buildings, schools, offices, commercial establishments, and residential homes; development of programs or experimental demonstrations of the utilization of waste products in energy production and mineral and energy conservation; and development of programs or experimental demonstrations of technologies which would permit utility pricing policies which may reduce the consumer costs of energy.

(5) Enter into agreements with persons and governmental agencies, in any combination, for the purposes of this section.

(B) Any materials or data submitted to, made available by or to, or received by the director under division (A) of this section, division (F) of section 1551.12, or division (B) of section 1551.15 of the Revised Code, and any information taken from those materials or data for any purpose, to the extent that those materials or data consist of trade secrets or other proprietary information, are not public information or public documents and shall not be open to public inspection.

(C) The exercise by the director of the powers conferred by sections 1551.01 to 1551.25 of the Revised Code for the preservation or creation of jobs and employment opportunities for the people of this state through the development and

efficient utilization of energy resources of the state is in all respects for the benefit of the people of the state, and is determined to be an essential government function and public purpose of the state.

Sec. 1551.12. The director of housing and development may:

(A) Seek, solicit, or acquire personal property or any estate, interest, or right in real property, or services, funds, and other things of value of any kind or character by purchase, lease, gift, grant, contribution, exchange, or otherwise from any person or governmental agency to be held, used, and applied in accordance with and for the purposes of sections 1551.01 to 1551.25 of the Revised Code;

(B) Contract for the operation of, and establish rules for the use of, facilities over which the director has supervision or control, which rules may include the limitation of ingress to or egress from such facilities as may be necessary to maintain the security of such facilities and to provide for the safety of those on the premises of such facilities;

(C) Purchase such fire and extended coverage insurance and insurance protecting against liability for damage to property or injury to or death of persons as the director may consider necessary and proper under sections 1551.01 to 1551.25 of the Revised Code;

(D) Sponsor, conduct, assist, and encourage conferences, seminars, meetings, institutes, and other forms of meetings; authorize, prepare, publish, and disseminate any form of studies, reports, and other publications; originate, prepare, and assist proposals for the expenditure or granting of funds by any governmental agency or person for purposes of energy

resource development; and investigate, initiate, sponsor, participate in, and assist with cooperative activities and programs involving governmental agencies and other entities of other states and jurisdictions;

(E) Do all acts and things necessary and proper to carry out the powers granted and the duties imposed by sections 1551.01 to 1551.25 of the Revised Code;

(F) Make grants of funds to any person, organization, or governmental agency of the state for the furnishing of goods or performance of services.

Any person or governmental agency that receives funds from the department of housing and development, or utilizes the facilities of the department under sections 1551.01 to 1551.25 of the Revised Code shall agree in writing that all know-how, trade secrets, and other forms of property, rights, and interest arising out of developments, discoveries, or inventions, including patents, copyrights, or royalties thereon, which result in whole or in part from research, studies, or testing conducted by use of such funds or facilities shall be the sole property of the department, except as may be otherwise negotiated and provided by contract in advance of such research, studies, or testing. However, such exceptions do not apply to the director or employees of the department participating in or performing research, tests, or studies.

Rights retained by the department may be assigned, licensed, transferred, sold, or otherwise disposed of, in whole or in part, to any person or governmental agency. Any and all income, royalties, or proceeds derived or retained from such dispositions shall be paid to the state and credited to the general revenue fund.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of this state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 1551.15. (A) All general revenue fund moneys required by the department of housing and development for purposes of sections 1551.01 to 1551.25 of the Revised Code are subject to appropriation by the general assembly.

(B) The director of housing and development may enter into agreements, make grants, or enter into contracts for the purposes of effecting the construction and operation in this state of experimental, pilot, or demonstration energy resource development facilities. Before making grants or entering contracts, the director shall determine that all of the following criteria are met:

(1) The urgency of public need for the potential results of the experimental, pilot, or demonstration project is high, and there is little likelihood that similar results would be achieved in this state in a timely manner in the absence of state assistance;

(2) The potential opportunities for private interests to recapture the investment in the undertaking through the normal commercial exploitation of proprietary knowledge appear to be inadequate to encourage timely results in this state;

(3) The extent of the problems treated and the objectives sought by the project are consistent with the purposes of sections 1551.01 to 1551.25 of the Revised Code and of general significance to the state.

This determination by the director shall include the facts

or reasons justifying it and shall be journalized by the director.

(C) The director may use funds as appropriated, donated, granted, or received for any of the following purposes:

(1) Construction and related architectural or engineering studies or purchase of physical plant and equipment for an experimental, pilot, or demonstration energy resource development facility;

(2) Acquisition and improvement of land, construction of roads, and provision of other public facilities incidental and necessary to the accomplishment of experimental, pilot, or demonstration energy resource development facilities;

(3) Operation of an energy resource development experimental, pilot, or demonstration project or facility, which could include but not be limited to labor, feedstocks, and repair or replacement parts;

(4) Purchase of all or a portion of the usable output of energy resource development experimental, pilot, or demonstration projects and the disposition of this output for use in the facilities of governmental agencies.

(D) Each grant made pursuant to this section shall be accomplished through written agreements between the department and the person or governmental agency which would effect the construction and operation of the project or facility, and between the department and the persons and governmental agencies which would share the expenses and costs of the project or facility. In addition to such other terms as may be required by law or advised by counsel, each agreement shall provide for each of the following conditions:

(1) The limitation of the department's financial obligations in the project or facility to a specified dollar amount which shall not exceed one-third of the total costs of the project or facility;

(2) The financial participation in the project or facility by the federal government or its agencies, by private corporations doing business in this state, by local governmental agencies, or by other organizations;

(3) The disposition of the assets of the project or facility, should it be terminated or abandoned, in such manner that the department shall be repaid in the same proportion as its share in the total of moneys, property, or other assets expended, contributed, or invested in the project or facility;

(4) The criteria for the identification if and when the project or facility is commercially viable through the profitable disposition of its output;

(5) The termination of the department's financial support at such time the project or facility is commercially viable and the repayment of the department through the future profits, if any, of the project or facility.

Sec. 1551.19. The director of housing and development shall adopt, consistent with the "Energy Policy and Conservation Act of 1975," 89 Stat. 871, 42 U.S.C.A. 6291, as amended:

(A) Mandatory lighting efficiency rules for all existing public buildings above a minimum size established by the director which are owned, leased, or controlled by the state, except by state colleges and universities;

(B) Lighting efficiency recommendations for all other existing public buildings larger than the minimum size

established by the director, including those which are owned, leased, or controlled by state colleges and universities.

For the purposes of this section, "public building" means any building that is open to the public during normal business hours.

Sec. 1551.20. (A) As used in this section, "solar or wind energy system" means any method used directly to provide space heating or cooling, hot water, industrial process heat, or mechanical or electric power by the collection, conversion, or storage of solar or wind energy including, but not limited to, active or passive solar systems. It does not include any equipment that is part of a conventional system for such purposes, that is, a system that does not use solar or wind energy; nor does it include a roof or any windows or walls that would be contained in a similar structure not designed or modified to use solar energy for space heating or cooling, except for those modifications to the design or construction of such roof, windows, or walls that are necessary to their improved use to capture solar energy for space heating or cooling.

As used in this section, "hydrothermal energy system" means any method used directly to provide a heating or cooling effect by causing a thermal exchange with the earth utilizing any water source, including ground or surface water by use of appropriate heat exchange equipment.

(B) The director of <u>housing and </u>development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing guidelines for identifying solar, wind, or hydrothermal energy systems and components thereof, and guidelines for the safety and thermal efficiency of such

systems. The rules shall distinguish such systems from conventional systems and components thereof, and shall distinguish from conventional roof, window, or wall design or construction those modifications to the design or construction of roofs, windows, or walls that are necessary to their improved use to capture solar energy for space heating or cooling. The rules shall determine the eligibility of solar, wind, and hydrothermal energy systems for the tax exemption under section 5709.53 of the Revised Code.

(C) At the request of any person who designs, manufactures, installs, or constructs solar, wind, or hydrothermal energy systems, the director shall review the detailed construction plans and design calculations for any such system to determine whether the system complies with the guidelines adopted under division (B) of this section. If the system complies with the guidelines, the director shall enter the name of the system on a list of solar, wind, or hydrothermal energy systems eligible for the tax exemption under section 5709.53 of the Revised Code.

(D) At the request of any person who desires to design or install a solar, wind, or hydrothermal energy system for ~~his~~ the person's own use, the director shall review the plans for or a narrative description of the system, and the list of components and materials to be incorporated therein to determine whether the system complies with the guidelines adopted under division (B) of this section. If the system complies, the director shall issue a certificate to that effect to the applicant.

Sec. 1551.311. The general assembly hereby finds and declares that the future of the Ohio coal industry lies in the development of clean coal technology and that the

disproportionate economic impact on the state under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants maximum federal assistance to this state for such development. It is therefore imperative that the department of housing and development, its Ohio coal development office, the Ohio coal industry, the Ohio Washington office in the office of the governor, and the state's congressional delegation make every effort to acquire any federal assistance available for the development of clean coal technology, including assisting entities eligible for grants in their acquisition. The Ohio coal development agenda required by section 1551.34 of the Revised Code shall include, in addition to the other information required by that section, a description of such efforts and a description of the current status of the development of clean coal technology in this state and elsewhere.

Sec. 1551.32. (A) There is hereby established within the department of housing and development the Ohio coal development office whose purposes are to do all of the following:

(1) Encourage, promote, and support siting, financing, construction, and operation of commercially available or scaled facilities and technologies, including, without limitation, commercial-scale demonstration facilities and, when necessary or appropriate to demonstrate the commercial acceptability of a specific technology, up to three installations within this state utilizing the specific technology, to more efficiently produce, beneficiate, market, or use Ohio coal;

(2) Encourage, promote, and support the market acceptance and increased market use of Ohio coal through technology and market development;

(3) Assist in the financing of coal development facilities;

(4) Encourage, promote, and support, in state-owned buildings, facilities, and operations, use of Ohio coal and electricity sold by utilities and others in this state that use Ohio coal for generation;

(5) Improve environmental quality, particularly through cleaner use of Ohio coal;

(6) Assist and cooperate with governmental agencies, universities and colleges, coal producers, coal miners, electric utilities and other coal users, public and private sector coal development interests, and others in achieving these purposes.

(B) The office shall give priority to improvement or reconstruction of existing facilities and equipment when economically feasible, to construction and operation of commercial-scale facilities, and to technologies, equipment, and other techniques that enable maximum use of Ohio coal in an environmentally acceptable, cost-effective manner.

Sec. 1551.33. (A) The director of housing and development shall appoint and fix the compensation of the director of the Ohio coal development office. The director shall serve at the pleasure of the director of housing and development.

(B) The director of the office shall do all of the following:

(1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code;

(2) Propose and support policies for the office consistent

with the Ohio coal development agenda and develop means to implement the agenda;

(3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda;

(4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person;

(5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the director of housing and development.

(6) Convene the technical advisory committee established under section 1551.35 of the Revised Code;

(7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public utilities commission a report recommending that the commission

allow the recovery of costs associated with the facility or project under section 4905.304 of the Revised Code and including the reasons for the recommendation.

(8) Establish such policies, procedures, and guidelines as are necessary to achieve the office's purposes.

(C) With the approval of the director of housing and development—, the director of the office may exercise any of the powers and duties that the director of housing and development considers appropriate or desirable to achieve the office's purposes, including, but not limited to, the powers and duties enumerated in sections 1551.11, 1551.12, and 1551.15 of the Revised Code.

Additionally, the director of the office may make loans to governmental agencies or persons for projects to carry out the office's purposes. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans shall be such as the director of the office determines to be appropriate and in furtherance of the purposes for which the loans are made. The mortgage lien securing any moneys lent by the director of the office may be subordinate to the mortgage lien securing any moneys lent or invested by a financial institution, but shall be superior to that securing any moneys lent or expended by any other person. The moneys used in making the loans shall be disbursed upon order of the director of the office.

Sec. 1551.35. (A) There is hereby established a technical advisory committee to assist the director of the Ohio coal development office in achieving the office's purposes. The director of housing and development shall appoint to the committee one member of the public utilities commission and one

representative each of coal production companies, the united mine workers of America, and electric utilities, as well as two people with a background in coal research and development technology, one of whom is employed at the time of the member's appointment by a state university, as defined in section 3345.011 of the Revised Code. The director of environmental protection shall serve on the committee as an ex officio member. Any member of the committee may designate in writing a substitute to serve in the member's absence on the committee. The director of environmental protection may designate in writing the chief of the air pollution control division of the environmental protection agency to represent the agency. Members shall serve on the committee at the pleasure of their appointing authority. Members of the committee appointed by the director of housing and development, when engaged in their official duties as members of the committee, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code, except that the member of the public utilities commission and, while employed by a state university, the member with a background in coal research, shall not be so compensated. Members shall receive their actual and necessary expenses incurred in the performance of their duties.

(B) The technical advisory committee shall review and make recommendations concerning the Ohio coal development agenda required under section 1551.34 of the Revised Code, project proposals, research and development projects submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code, proposals for grants, loans, and loan guarantees for purposes of sections 1555.01 to 1555.06 of the Revised Code, and such other topics as the director of the office considers appropriate.

(C) The technical advisory committee may hold an executive session at any regular or special meeting for the purpose of considering research and development project proposals or applications for assistance submitted to the Ohio coal development office under section 1551.33, or sections 1555.01 to 1555.06, of the Revised Code, to the extent that the proposals or applications consist of trade secrets or other proprietary information.

Any materials or data submitted to, made available to, or received by the department of housing and development or the director of the Ohio coal development office in connection with agreements for assistance entered into under this chapter or Chapter 1555. of the Revised Code, or any information taken from those materials or data for any purpose, to the extent that the materials or data consist of trade secrets or other proprietary information, are not public records for the purposes of section 149.43 of the Revised Code.

As used in this division, "trade secrets" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 1555.02. It is hereby declared to be the public policy of this state through the operations of the Ohio coal development office under this chapter to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of all employees and other inhabitants of this state through research and development directed toward the discovery of new technologies or the demonstration or application of existing technologies to enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner thereby enhancing the marketability and fostering the use of this

state's vast reserves of coal, to assist in the financing of coal research and development and coal research and development projects or facilities for persons doing business in this state and educational and scientific institutions located in this state, to create or preserve jobs and employment opportunities or improve the economic welfare of the people of this state, or to assist and cooperate with such persons and educational and scientific institutions in conducting coal research and development. In furtherance of this public policy, the Ohio coal development office, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of housing and development, may make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by such persons or educational or scientific institutions; may, with the advice of the technical advisory committee and the approval of the director of housing and development, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code to provide funds for making such loans, loan guarantees, and grants; and may, with the advice of the technical advisory committee and the approval of the director of housing and development, expend moneys credited to the coal research and development fund created in section 1555.15 of the Revised Code for the purpose of making such loans, loan guarantees, and grants. Determinations by the director of the Ohio coal development office that coal research and development or a coal research and development facility is a coal research and development project under this chapter and is consistent with the purposes of Section 15 of Article VIII, Ohio Constitution, and this chapter shall be conclusive as to the

validity and enforceability of the coal research and development general obligations issued to finance such project and of the authorizations, trust agreements or indentures, loan agreements, loan guarantee agreements, or grant agreements, and other agreements made in connection therewith, all in accordance with their terms.

Sec. 1555.03. For the purposes of this chapter, the director of the Ohio coal development office may:

(A) With the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of housing and development, make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by any such person or educational or scientific institution and adopt rules under Chapter 119. of the Revised Code for making such loans, guarantees, and grants.

(B) In making loans, loan guarantees, and grants under division (A) of this section and section 1555.04 of the Revised Code, the director of the office shall ensure that an adequate portion of the total amount of those loans, loan guarantees, and grants, as determined by the director with the advice of the technical advisory committee, is used for conducting research on fundamental scientific problems related to the utilization of Ohio coal and shall ensure, to the maximum feasible extent, joint financial participation by the federal government or other investors or interested parties in conjunction with any such loan, loan guarantee, or grant. The director, in each grant agreement or contract under division (A) of this section, loan contract or agreement under this division or section 1555.04 of

the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee and the approval of the director of housing and development, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15 of Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents or copyrights, that result in whole or in part from coal research and development projects conducted under any such contract or agreement, in such amounts and for such period of years as may be negotiated and provided by the contract or agreement in advance of the making of the grant, loan, or loan guarantee. Moneys received by the director of the office under this section may be credited to the coal research and development bond service fund or used to make additional loans, loan guarantees, grants, or agreements under this section.

(E) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, and such other consultants and independent contractors as are necessary in the judgment of the director of the office to carry out this chapter, and fix the compensation thereof.

(F) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction or operation of any coal research and development project or for coal research and development, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made.

(G) Purchase fire and extended coverage and liability insurance for any coal research and development project, insurance protecting the office and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the director of the office determines necessary or proper under this chapter. Any moneys received by the director from the proceeds of any such insurance with respect to a coal research and development project and any moneys received by the director from the proceeds of any settlement, judgment, foreclosure, or other insurance with respect to a coal research and development project or facility shall be credited to the coal research and development bond service fund.

(H) In the exercise of the powers of the director of the office under this chapter, call to the director's assistance, temporarily, from time to time, any engineers, technical

experts, financial experts, and other employees in any state department, agency, or commission, or in the Ohio state university, or other educational institutions financed wholly or partially by this state for purposes of assisting the director of the office with reviewing and evaluating applications for financial assistance under this chapter, monitoring performance of coal research and development projects receiving financial assistance under this chapter, and reviewing and evaluating the progress and findings of those projects. Such engineers, experts, and employees shall not receive any additional compensation over that which they receive from the department, agency, commission, or educational institution by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the director.

(I) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 1555.04. (A) With respect to coal research and development projects financed wholly or partially from a loan or loan guarantee under this chapter, the director of the Ohio coal development office, in addition to other powers under this chapter, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of housing and development, may enter into loan agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take such actions as the director of the office considers

appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale.

(B) The authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter with respect to other projects.

Sec. 1555.05. (A) Subject to any limitations as to aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, and subject to the one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution, the director of the Ohio coal development office, on behalf of this state, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the approval of the director of housing and development, may enter into contracts to guarantee the repayment or payment of the unpaid principal amount of loans made to pay the costs of coal research and development projects.

(B) The contract of guarantee may make provision for the conditions of, time for, and manner of fulfillment of the guarantee commitment, subrogation of this state to the rights of the parties guaranteed and exercise of such parties' rights by the state, giving the state the option of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the source specified in division (A) of this section, and any other terms or conditions customary to such guarantees and as the director of the office

may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, covenants on behalf of this state to issue obligations under section 1555.08 of the Revised Code to provide moneys to fulfill such guarantees and covenants, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 151.07 of the Revised Code, and terms pertinent to either, to better secure the parties guaranteed.

(C) The director of the office may fix service charges for making a guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director. Moneys received from such charges shall be credited to the coal research and development bond service fund.

(D) Any guaranteed parties under this section, by any suitable form of legal proceedings and except to the extent that their rights are restricted by the guarantee documents, may protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the office required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of this state. Each duty of the office and its director and employees required or undertaken under this section

or a guarantee made under this section is hereby established as a duty of the office and of its director and each such employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director of the office, or its employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

Sec. 1555.06. Upon application by the director of the Ohio coal development office with the approval of the director of housing and development, the controlling board, from appropriations available to the board, may provide funds for surveys or studies by the office of any proposed coal research and development project subject to repayment by the office from funds available to it, within the time fixed by the board. Funds to be repaid shall be charged by the office to the appropriate coal research and development project and the amount thereof shall be a cost of the project. This section does not abrogate the authority of the controlling board to otherwise provide funds for use by the office in the exercise of the powers granted to it by this chapter.

Sec. 1555.08. (A) Subject to the limitations provided in Section 15 of Article VIII, Ohio Constitution, the commissioners of the sinking fund, upon certification by the director of the Ohio coal development office of the amount of moneys or additional moneys needed in the coal research and development fund for the purpose of making grants or loans for allowable costs, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded

thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing moneys for loan guarantees, shall issue obligations of the state under this section in amounts authorized by the general assembly; provided that such obligations may be issued to the extent necessary to satisfy the covenants in contracts of guarantee made under section 1555.05 of the Revised Code to issue obligations to meet such guarantees, notwithstanding limitations otherwise applicable to the issuance of obligations under this section except the one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution. The proceeds of such obligations, except for the portion to be deposited in the coal research and development bond service fund as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited in the coal research and development fund. The commissioners of the sinking fund may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in their judgment to carry out this section.

(B) The full faith and credit of the state of Ohio is hereby pledged to obligations issued under this section. The right of the holders and owners to payment of bond service

charges is limited to all or that portion of the moneys pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(C) Obligations shall be authorized by resolution of the commissioners of the sinking fund on request of the director of the Ohio coal development office as provided in section 1555.02 of the Revised Code and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding forty years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code apply to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings shall also provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the commissioners of the sinking fund may determine, of the moneys credited to the coal research and development bond service fund to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The moneys so pledged and thereafter received by the state are immediately subject to the lien of such pledge

without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such moneys is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(D) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the commissioners of the sinking fund at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the obligations may be issued;

(5) The deposit, investment, and application of the coal

research and development bond service fund, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular moneys; provided, that any bank or trust company which acts as depository of any moneys in the fund may furnish such indemnifying bonds or may pledge such securities as required by the commissioners of the sinking fund;

(6) Any other provision of the bond proceedings being binding upon the commissioners of the sinking fund, or such other body or person as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision which may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under this chapter.

(E) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations shall be signed by such members of the commissioners of the sinking fund as are designated in the resolution authorizing the obligations or bear the facsimile signatures of such members. Any coupons attached to the obligations shall bear the facsimile signature of the treasurer of state. Any obligations may be executed by the persons who, on the date of execution, are the commissioners although on the date of such bonds the persons were not the commissioners. Any coupons may be

executed by the person who, on the date of execution, is the treasurer of state although on the date of such coupons the person was not the treasurer of state. In case any officer or commissioner whose signature or a facsimile of whose signature appears on any such obligations or any coupons ceases to be such officer or commissioner before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the individual had remained such officer or commissioner until such delivery; and in case the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(F) All obligations except loan guarantees are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the commissioners of the sinking fund determine. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(G) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

(H) Pending preparation of definitive obligations, the commissioners of the sinking fund may issue interim receipts or

certificates which shall be exchanged for such definitive obligations.

(I) In the discretion of the commissioners of the sinking fund, obligations may be secured additionally by a trust agreement or indenture between the commissioners and a corporate trustee, which may be any trust company or bank having a place of business within the state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the commissioners of the sinking fund made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

(4) The replacement of any obligations that become

mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the commissioners of the sinking fund agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Any holder of obligations or a trustee under the bond proceedings, except to the extent that the holder's rights are restricted by the bond proceedings, may by any suitable form of legal proceedings protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the commissioners of the sinking fund, the department of housing and development, or the Ohio coal development office required by this chapter and Chapter 1551. of the Revised Code or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the commissioners, the department, or the office in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged, other than those in the custody of the treasurer of state, that are pledged to the payment of the bond service charges on such obligations or that are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the commissioners of the sinking fund or the state or governmental agencies of the state to the payment of such principal and interest and excluding the power

to take possession of, mortgage, or cause the sale or otherwise dispose of any project.

Each duty of the commissioners of the sinking fund and their employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any grant, loan, or loan guarantee agreement made under authority of this chapter, and in every agreement by or with the commissioners, is hereby established as a duty of the commissioners, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The persons who are at the time the commissioners of the sinking fund, or their employees, are not liable in their personal capacities on any obligations issued by the commissioners or any agreements of or with the commissioners.

(K) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by

them, and are also acceptable as security for the deposit of public moneys.

(L) If the law or the instrument creating a trust pursuant to division (I) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in collective investment funds established in accordance with section 1111.14 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(1)(c) of that section. The income from such investments shall be credited to such funds as the commissioners of the sinking fund determine, and such investments may be sold at such times as the commissioners determine or authorize.

(M) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Moneys to the credit of the bond service fund shall be disbursed on the order of the treasurer of state; provided, that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(N) The commissioners of the sinking fund may pledge all,

or such portion as they determine, of the receipts of the bond service fund to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions control notwithstanding any other provisions of law pertaining thereto.

(O) The commissioners of the sinking fund may covenant in the bond proceedings, and any such covenants control notwithstanding any other provision of law, that the state and applicable officers and governmental agencies of the state, including the general assembly, so long as any obligations are outstanding, shall:

(1) Maintain statutory authority for and cause to be levied and collected taxes so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in any loan guarantees made under this chapter;

(2) Take or permit no action, by statute or otherwise, that would impair the exemption from federal income taxation of the interest on the obligations.

(P) All moneys received by or on account of the state and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to the coal research and development bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be credited to such fund and to any separate

accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the bond service fund are insufficient to pay all bond service charges on such obligations becoming due in each year, a sufficient amount of moneys of the state are committed and shall be paid to the bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity for further act of appropriation for such purpose. The bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation. All investment earnings of the fund shall be credited to the fund.

(Q) For purposes of establishing the limitations contained in Section 15 of Article VIII, Ohio Constitution, the "principal amount" refers to the aggregate of the offering price of the bonds or notes. "Principal amount" does not refer to the aggregate value at maturity or redemption of the bonds or notes.

(R) This section applies only with respect to obligations issued and delivered prior to September 30, 2000.

Sec. 1555.17. All final actions of the director of the Ohio coal development office shall be journalized and such journal shall be open to inspection of the public at all reasonable times. Any materials or data, to the extent that they consist of trade secrets, as defined in section 1333.61 of the

Revised Code, or other proprietary information, that are submitted or made available to, or received by, the department of housing and development or the director of the Ohio coal development office, in connection with agreements for assistance entered into under this chapter or Chapter 1551. of the Revised Code, or any information taken from those materials or data, are not public records for the purposes of section 149.43 of the Revised Code.

Sec. 1728.01. As used in sections 1728.01 to 1728.13 of the Revised Code:

(A) "Governing body" means, in the case of a municipal corporation, the city council or legislative authority.

(B) "Community urban redevelopment corporation" means a corporation qualified under Chapter 1728. of the Revised Code, to acquire, construct, operate, and maintain a project hereunder, or to acquire, operate, and maintain a project constructed by a corporation so qualified under Chapter 1728. of the Revised Code, and the term "corporation" when used within Chapter 1728. of the Revised Code, shall be understood to be a contraction of the term "community urban redevelopment corporation" except when the context indicates otherwise.

(C) "Impacted city" means a municipal corporation that meets the requirements of either division (C)(1) or (2) of this section:

(1) In attempting to cope with the problems of urbanization, to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people of the municipal corporation, the municipal corporation has at some time:

(a) Taken affirmative action by its legislative body to permit the construction of housing by a metropolitan housing authority organized pursuant to sections 3735.27 to 3735.39 of the Revised Code within its corporate boundaries or to permit such a metropolitan housing authority to lease dwelling units within its corporate boundaries; and

(b) Been certified by the director of the department of housing and development that a workable program for community improvement (which shall include an official plan of action for effectively dealing with the problem of urban slums and blight within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and to prevent the development or spread of, slums and urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated, or slum areas, to undertake such activities or other feasible community activities as may be suitably employed to achieve the objectives of such a program has been adopted. A determination by the United States that the impacted city's workable program meets the federal workable program requirements shall be sufficient for the director's certification.

(2) Been declared a major disaster area, or part of a major disaster area, pursuant to the "Disaster Relief Act of 1970," 84 Stat. 1744, 42 U.S.C.A. 4401, as now or hereafter amended, and has been extensively damaged or destroyed by a major disaster, provided that impacted city status obtained pursuant to division (C)(2) of this section lasts for only a limited period from the date of the declaration, as determined by the rules promulgated pursuant to division (G) of section

122.06 of the Revised Code, but in the event that an impacted city, while qualified under such division, enters into a financial agreement with a community urban redevelopment corporation pursuant to section 1728.07 of the Revised Code, a loss of certification under such rules shall not affect that agreement or the project to which it relates.

(D) "Community development plan" means a plan, as it exists from time to time, for the redevelopment and renewal of a blighted area, which plan shall conform to the general plan for the municipality, and shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in such blighted area, zoning, and any planning changes, land uses, maximum densities, and building requirements.

(E) "Blighted area" has the meaning defined in section 1.08 of the Revised Code.

(F) "Project" means:

(1) As to blighted areas within all municipal corporations, the undertaking and execution of the redevelopment of a blighted area by a community urban redevelopment corporation, in whole or in part, pursuant to a community development plan approved by the governing body of the municipal corporation in which such blighted area is situated and in accordance with an agreement for the sale or lease of all or a portion of the land concerned in such redevelopment to the corporation by a municipal corporation, or agency, or authority including the work to be done in reference thereto, the designation of the particular proposed buildings to be constructed and their uses and purposes, the landscaping of the

premises, the streets and access roads, recreational facilities, if any, the furnishing of the public utilities, the financial arrangements, and the terms and conditions of the proposed municipal corporation and approval; and

(2) In addition as to blighted areas within impacted cities, the undertaking and activities of a community urban redevelopment corporation in a blighted area for the elimination and for the prevention of the development or spread of blight pursuant to a community development plan approved by the governing body of the impacted city and to the extent agreed to by the governing body of the impacted city in the financial agreement provided for in section 1728.07 of the Revised Code and may involve clearance and redevelopment, or rehabilitation or conservation or any combination or part thereof, in accordance with such community development plan, and such aforesaid undertakings and activities may include acquisition of a blighted area or portion by purchase or otherwise, and demolition and removal of buildings and improvements.

(G) "Total project unit cost" or "total project cost" means the aggregate of the following items as related to any unit of a project if the project is to be undertaken in units or to the total project if the project is not to be undertaken in units:

(1) Cost of the land to the community urban redevelopment corporation;

(2) Architects', engineers', and attorneys' fees paid or payable by the corporation in connection with the planning, construction, and financing of the project;

(3) Surveying and testing charges in connection therewith;

(4) Actual construction cost as certified by the architect, including the cost of any preparation of the site undertaken at the corporation's expense;

(5) Insurance, interest, and finance costs during construction;

(6) Cost of obtaining initial permanent financing;

(7) Commissions and other expenses paid or payable in connection with initial leasing;

(8) Real estate taxes and assessments during the construction period;

(9) Developer's overhead based on a percentage of division (G)(4) of this section, to be computed in accordance with the following schedule:

	1	2
A	$500,000 or less	- 10 per cent
B	500,001 through $ 1,000,000	- $50,000 plus 8 per cent on excess above $500,000
C	1,000,001 through 2,000,000	- 90,000 plus 7 per cent on excess above 1,000,000
D	2,000,001 through 3,500,000	- 160,000 plus 5.6667 per cent on excess above 2,000,000
E	3,500,001 through 5,500,000	- 245,000 plus 4.25 per cent on excess above 3,500,000
F	5,500,001 through 10,000,000	- 330,000 plus 3.7778 per cent

		on excess above 5,500,000
G	Over 10,000,000	- 5 per cent

(H) "Annual gross revenue" means the total annual gross rental and other income of a community urban redevelopment corporation from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project, or any operating or maintenance expenses ordinarily paid by a landlord are to be paid by the tenant, such payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The financial agreement provided for in section 1728.07 of the Revised Code shall establish the method of computing such additional revenue, and may establish a method of arbitration where either the landlord or the tenant disputes the amount of such payments so included in the annual gross revenue.

(I) "Major disaster" means any tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, fire, or other catastrophe.

Sec. 1728.07. Every approved project shall be evidenced by a financial agreement between the municipal corporation and the community urban redevelopment corporation. Such agreement shall be prepared by the community urban redevelopment corporation and submitted as a separate part of its application for project approval.

The financial agreement shall be in the form of a contract requiring full performance within twenty years from the date of completion of the project and shall, as a minimum, include the

following:

(A) That all improvements in the project to be constructed or acquired by the corporation shall be exempt from taxation, subject to section 1728.10 of the Revised Code;

(B) That the corporation shall make payments in lieu of real estate taxes not less than the amount as provided by section 1728.11 of the Revised Code; or if the municipal corporation is an impacted city, not less than the amount as provided by section 1728.111 of the Revised Code;

(C) That the corporation, its successors and assigns, shall use, develop, and redevelop the real property of the project in accordance with, and for the period of, the community development plan approved by the governing body of the municipal corporation for the blighted area in which the project is situated and shall so bind its successors and assigns by appropriate agreements and covenants running with the land enforceable by the municipal corporation.

(D) If the municipal corporation is an impacted city, the extent of the undertakings and activities of the corporation for the elimination and for the prevention of the development or spread of blight.

(E) That the corporation or the municipal corporation, or both, shall provide for carrying out relocation of persons, families, business concerns, and others displaced by the project, pursuant to a relocation plan, including the method for the relocation of residents in decent, safe, and sanitary dwelling accommodations, and reasonable moving costs, determined to be feasible by the governing body of the municipal corporation. Where the relocation plan is carried out by the

corporation, its officers, employees, agents, or lessees, the municipal corporation shall enforce and supervise the corporation's compliance with the relocation plan. If the corporation refuses or fails to comply with the relocation plan and the municipal corporation fails or refuses to enforce compliance with such plan, the director of housing and development may request the attorney general to commence a civil action against the municipality and the corporation to require compliance with such relocation plan. Prior to requesting action by the attorney general the director shall give notice of the proposed action to the municipality and the corporation, provide an opportunity to such municipality and corporation for discussions on the matter, and allow a reasonable time in which the corporation may begin compliance with the relocation plan, or the municipality may commence enforcement of the relocation plan.

(F) That the corporation shall submit annually, within ninety days after the close of its fiscal year, its auditor's reports to the mayor and governing body of the municipal corporation;

(G) That the corporation shall, upon request, permit inspection of property, equipment, buildings, and other facilities of the corporation, and also permit examination and audit of its books, contracts, records, documents, and papers by authorized representatives of the municipal corporation;

(H) That in the event of any dispute between the parties the matters in controversy shall be resolved by arbitration in the manner provided therein;

(I) That operation under the financial agreement is terminable by the corporation in the manner provided by Chapter

1728. of the Revised Code;

(J) That the corporation shall, at all times prior to the expiration or other termination of the financial agreement, remain bound by Chapter 1728. of the Revised Code;

(K) Modifications of the financial agreement may from time to time be made by agreement between the governing body of the municipal corporation and the community urban redevelopment corporation.

Sec. 3326.02. There is hereby established the STEM committee of the department of education and workforce consisting of the following members:

(A) The director of education and workforce, or the director's designee;

(B) The chancellor of higher education, or the chancellor's designee;

(C) The director of housing and development, or the director's designee;

(D) Four members of the public, two of whom shall be appointed by the governor, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the president of the senate. Members of the public shall be appointed based on their expertise in business or in STEM fields.

All members of the committee appointed under division (D) of this section shall serve at the pleasure of their appointing authority.

If a member listed in divisions (A) to (C) of this section elects to assign a designee to participate in committee business

on the member's behalf, the member shall assign that designation to a single person for the time period in which the designation is effective.

Members of the committee shall receive no compensation for their services. The department of education and workforce shall provide administrative support for the committee.

Sec. 3327.17. The department of housing and development shall establish a biodiesel school bus program under which the director of housing and development shall make grants to school districts that use biodiesel fuel for pupil transportation to help offset incremental costs incurred by using biodiesel instead of one hundred per cent petroleum diesel.

As used in this section, "biodiesel" has the same meaning as in section 122.075 of the Revised Code.

Sec. 3333.373. (A) The scholarship rules advisory committee is hereby established. The committee shall consist of the chancellor of higher education or the chancellor's designee, the treasurer of state or the treasurer of state's designee, the director of housing and development or the director's designee, one state senator appointed by the president of the senate, one state representative appointed by the speaker of the house of representatives, and two public members appointed by the chancellor of higher education representing the interests of the state-assisted eligible institutions and private nonprofit eligible institutions, respectively.

(B) The committee shall provide recommendations to the chancellor of higher education as to rules, criteria, and guidelines necessary and appropriate to implement the scholarship and fellowship programs created by sections 3333.37

to 3333.375 of the Revised Code.

(C) The committee shall meet at least annually to review the scholarship and fellowship programs guidelines; make recommendations to amend, rescind, or modify the policy guidelines; and approve scholarship and fellowship awards to eligible students.

(D) Sections 101.82 to 101.87 of the Revised Code do not apply to this section.

Sec. 3333.50. The chancellor of higher education, in consultation with the governor and the department of housing and development, shall develop a critical needs rapid response system to respond quickly to critical workforce shortages in the state. Not later than ninety days after a critical workforce shortage is identified, the chancellor shall submit to the governor a proposal for addressing the shortage through initiatives of the department of higher education or institutions of higher education.

Sec. 3366.01. As used in this chapter, the following words and terms have the following meanings unless the context indicates a different meaning or intent:

(A) "Bond proceedings" means the order, trust, agreement, indenture and other agreements, or amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the issuance, security, or liquidity of, obligations and the provisions contained in such obligations.

(B) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any,

required to be paid on obligations.

(C) "Bond service fund" means the applicable fund and accounts therein created in the bond proceedings for and pledged to the payment of bond service charges, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(D) "Costs of attendance" means all costs of a student incurred in connection with a program of study at an eligible institution, as determined by the institution, including tuition; instructional fees; room and board; books, computers, and supplies; and other related fees, charges, and expenses.

(E) "Designated administrator" means, with respect to all obligations issued prior to September 1, 1999, and to all nonfederal education loans, the nonprofit corporation designated on November 10, 1992, under division (D) of section 3351.07 of the Revised Code to operate exclusively for charitable and educational purposes by expanding access to higher education financing programs for students and families in need of student financial aid. For all other purposes, "designated administrator" means the Ohio corporation that is a subsidiary of the nonprofit corporation designated under division (D) of section 3351.07 of the Revised Code and that has agreed to enter into an administration agreement with the issuing authority and the director of housing and development, or any other person that enters into an administration agreement with the issuing authority and the director of housing and development.

(F) "Education loan" means a loan made by an eligible lender pursuant to the policy guidelines to or for the benefit of a student for the purpose of financing part or all of the student's costs of attendance.

(G) "Eligible borrower" means any of the following:

(1) Individuals who are residents of the state, and who are attending and are in good standing in, or who have been accepted for attendance at, any eligible institution located in this state or elsewhere, on a part-time or full-time basis, to pursue an associate, baccalaureate, or advanced degree or a nursing diploma;

(2) Individuals who reside outside the state and who have been accepted for attendance at, or who are attending and are in good standing in, any eligible institution located in this state, on a part-time or full-time basis, to pursue an associate, baccalaureate, or advanced degree or a nursing diploma;

(3) Individuals who are parents or legal guardians of, or other persons, as set forth in the policy guidelines, borrowing under an education loan for the benefit of individuals meeting requirements set forth in division (G)(1) or (2) of this section, in order to assist them in paying costs of attendance.

(H)(1) "Eligible institution" means an institution described in any of divisions (H)(1)(a), (b), (c), or (d) of this section that satisfies all of the requirements set forth in divisions (H)(2), (3), and (4) of this section.

(a) The institution is a state-assisted post-secondary educational institution within this state.

(b) The institution is a nonprofit institution within this state having a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code.

(c) The institution is a post-secondary educational institution similar to one described in division (H)(1)(a) or

(b) of this section that is located outside this state and that is similarly approved by the appropriate agency of that state.

(d) The institution is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

(2) The institution is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls.

(3) The institution satisfies the eligibility requirements for participation in the federal family education loan program authorized under Title IV, Part B, of the "Higher Education Act of 1965," 20 U.S.C.A. 1071 et seq., as amended, as long as that program remains in existence.

(4) The institution satisfies the other conditions set forth in the policy guidelines.

(I) "Eligible lender" means, with respect to lenders making nonfederal education loans, a bank, national banking association, savings bank, savings and loan association, or credit union having an office in this state that satisfies the criteria for eligible lenders established pursuant to the policy guidelines. With respect to lenders making federal education loans, "eligible lender" means any person that is permitted to make loans under the federal family education loan program authorized under Title IV, Part B, of the "Higher Education Act of 1965," 20 U.S.C.A. 1071 et seq., as amended; that has an office in this state; and that satisfies the criteria for eligible lenders established pursuant to the policy guidelines.

(J) "Federal education loan" means an education loan that is originated in compliance with the federal family education

loan program authorized under Title IV, Part B, of the "Higher Education Act of 1965," 20 U.S.C.A. 1071 et seq., as amended.

(K) "Governmental agency" means the state and any state department, division, commission, institution, or authority; the United States or any agency thereof; or any agency, commission, or authority established pursuant to an interstate compact or agreement; or any combination of the foregoing.

(L) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of the treasurer of state.

(M) "Nonfederal education loan" means any education loan that is not a federal education loan.

(N) "Obligations" means the bonds, notes, or securities of this state issued by the issuing authority pursuant to this chapter.

(O) "Person" means any individual, corporation, business trust, estate, trust, partnership, or association, any federal, state, interstate, regional, or local governmental agency, any subdivision of the state, or any combination of these.

(P) "Pledged receipts" means, to the extent the following are pledged by the bond proceedings for the payment of bond service charges: all receipts representing moneys accruing from or in connection with the repayment of education loans, including interest and payments from any guarantee or insurance in respect to such education loans; accrued interest received from the sale of obligations; the balances in the special funds; income from the investment of the special funds; all right, title, and interest of the state and the designated administrator in the education loans and any guarantees or

insurance in respect thereof, and any money representing the proceeds of obligations or any income from or interest on those proceeds; or any other gifts, grants, donations, and pledges and any income and receipts therefrom, available and pledged for the payment of bond service charges.

(Q) "Policy guidelines" means the rules adopted pursuant to division (A) of section 3366.03 of the Revised Code.

(R) "Proceeds loan" means the transfer, pursuant to a loan agreement or agency agreement, of the proceeds of the obligations, or the deposit of the proceeds of the obligations with a trustee in trust under a trust agreement, indenture, or other trust document under the bond proceedings pending their disbursement for the purposes authorized by this chapter.

(S) "Resident" means any student who would qualify as a resident of this state for state subsidy and tuition surcharge purposes under rules adopted by the Ohio board of regents under section 3333.31 of the Revised Code.

(T) "Special funds" or "funds" means the bond service fund and any other funds, including reserve funds, created under the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

(U) "Student" means an individual described in division (G)(1) or (2) of this section who meets requirements established under the policy guidelines. "Student" includes dependent and independent undergraduate, graduate, and professional students.

(V) "Subdivision" has the same meaning as in division (MM) of section 133.01 of the Revised Code.

Sec. 3366.03. (A) In furtherance of the public policy and purpose set forth in section 3366.02 of the Revised Code and to

implement that purpose, the director of housing and development, with the approval of the issuing authority, shall adopt, amend, or rescind rules, pursuant to Chapter 119. of the Revised Code, establishing such policy guidelines as the director considers necessary or appropriate to provide for creating a secondary market for education loans as authorized by this chapter. The policy guidelines shall include such provisions as the director considers appropriate to further the public policy and purpose set forth in section 3366.02 of the Revised Code.

(B) The director of housing and development or the issuing authority or both may:

(1) Enter into agreements with any designated administrator to provide for the proceeds loan for the purchase of education loans on the secondary market;

(2) Enter into agreements with any designated administrator to provide for stimulating the making of education loans through the ~~the~~ acquisition of such loans, in accordance with the policy guidelines; and

(3) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter.

(C) All expenses and obligations incurred by the issuing authority or the director of housing and development in carrying out duties and in exercising powers under this chapter shall be payable solely from, as appropriate, pledged receipts, moneys from the sale of obligations, or any amounts contributed by the designated administrator. This chapter does not authorize the issuing authority to incur debt or bonded indebtedness of the state, or to obligate or pledge any moneys other than pledged

receipts for the payment of any obligations.

(D) The designated administrator, subject to the applicable provisions of this chapter, shall purchase education loans from eligible lenders directly or indirectly, with moneys loaned or otherwise provided to it under this chapter from the proceeds of obligations, which education loans are used by and for students for paying costs of attendance at eligible institutions.

(E) In accordance with the policy guidelines, the designated administrator shall do all of the following:

(1) Specify the terms of and procedures for making, selling, purchasing, servicing, and collecting those education loans eligible for purchase under the guidelines;

(2) Take such actions as may be necessary or appropriate to establish the terms of, purchase, service or otherwise administer, and collect any education loan;

(3) With respect to those loans acquired pursuant to this chapter, establish the fees including, without limitation, origination and loan fees; charges; rates of interest; times of payment of interest and principal; late charges; aggregate amounts of education loans to be issued per year and in total; eligibility and credit criteria of eligible borrowers; refinancing or consolidation provisions; criteria for participation by eligible lenders; criteria for allocating the distribution of education loans among students attending or planning to attend different eligible institutions; terms of sales and purchases of education loans; and other terms, conditions, and provisions of and security for education loans.

The designated administrator shall not purchase any

education loan unless the loan conforms to the policy guidelines.

(F) If the director of housing and development determines that education loans are not being made in the amount or manner anticipated, the designated administrator, with the consent of the director, may enter into special arrangements with certain eligible lenders pursuant to guidelines adopted under this chapter to stimulate the provision of education loans.

(G) The designated administrator may establish additional procedures and set other terms and conditions not inconsistent with the policy guidelines as may be necessary or appropriate in connection with the program authorized under this chapter.

(H) At least annually by a date specified by the director of housing and development, the designated administrator shall provide to the issuing authority and the director of housing and development reports on the use of the proceeds of obligations.

(I) For purposes of this chapter, any designated administrator other than the nonprofit corporation designated under division (D) of section 3351.07 of the Revised Code shall be a person that maintains its principal place of business in the state and that has as its principal business the making, purchasing, holding, or selling of loans made to finance individuals' cost of post-secondary education.

Sec. 3366.04. (A) The issuing authority may issue obligations under this section to provide money to make proceeds loans to the designated administrator for the purpose of acquiring education loans, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying,

redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement facility as defined in division (H) of section 133.01 of the Revised Code, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section. The proceeds thereof shall, as provided in the bond proceedings, be loaned, or otherwise made available as a proceeds loan, to the designated administrator. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary to carry out the provisions of this section. The costs of such services are allowable costs payable from the proceeds of such obligations.

(B) The holders or owners of obligations shall have no right to have taxes levied by the general assembly, or any moneys other than pledged receipts obligated or pledged, and any moneys other than pledged receipts shall not be obligated or pledged, for the payment of bond service charges. The obligations are not debts of the state, bond service charges are payable solely from the revenues and funds pledged as pledged receipts for their payment, and the right of such holders and owners to payment of bond service charges is limited to pledged receipts as provided in the bond proceedings, and each such obligation shall bear on its face a statement to that effect. No

money, including money from the general revenue fund, shall be appropriated, obligated, or used to pay bond service charges or the costs incurred in the administration of this chapter, other than pledged receipts.

(C) Obligations shall be authorized by order of the issuing authority at the request of the designated administrator and with the approval of the director of housing and development, and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner for determining the principal maturity or maturities, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or outside this state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code apply to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose to be served. The bond proceedings shall also provide, subject to the provisions of any other applicable bond proceedings, for the pledge of, and the granting of a security interest in, all, or such part as the issuing authority may determine, of the pledged receipts to the payment of bond service charges, which pledge may be made and security interest granted, subject to the provisions of any applicable prior bond proceedings, either prior to or on a parity with or subordinate to other expenses, claims, or payments, and may be made or granted to secure obligations senior or subordinate to, or on a parity with, obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts so pledged or subject to a security interest and thereafter

received by the issuing authority or the designated administrator on behalf of the issuing authority or otherwise received are immediately subject to such pledge and security interest without any physical delivery thereof or further act, and such pledge and security interest are valid, binding, and enforceable against all parties having claims of any kind against the state or any governmental agency, or against the designated administrator, whether or not such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery or possession of the pledged receipts, or for the filing or recording of the bond proceedings by which such pledge and security interest are created or any certificate, statement, or other document with respect thereto; and the pledge of such pledged receipts and the security interest are effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge made and security interest granted, and every covenant and agreement made with respect thereto in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(D) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;

(5) The investment of the proceeds of obligations and amounts on deposit in the special funds;

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision that may be made in a trust agreement or indenture;

(8) Provisions for the use of the proceeds of repayment of education loans to acquire additional education loans;

(9) Any other or additional agreements with the holders of the obligations, the trustee therefor, or the designated administrator, relating to the obligations or the security therefor, including the assignment of security obtained or to be obtained for education loans.

(E) The obligations and any coupons pertaining to obligations shall be in the form specified in the bond proceedings and shall be signed by or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. In case the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or

facsimile is nevertheless valid and sufficient for all purposes as if that official had remained the issuing authority until such delivery.

(F) All obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(G) Obligations may be sold at public sale or at private sale, as determined by the issuing authority in the bond proceedings.

(H) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee and, if so provided for in the bond proceedings, any other necessary or appropriate party. Any such trustee shall be a trust company, bank, or national banking association authorized to exercise trust powers within the state. Any such agreement or indenture may contain the order authorizing the issuance of the obligations, any provisions that may be contained in any bond

proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, security interest, and trust agreement, indenture, or other instrument comprising part of the bond proceedings until the bond service charges on the obligations secured thereby have been fully paid, or provision therefor has been made in accordance with the bond proceedings;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to the education loans that may be made or acquired pursuant to the trust agreement or indenture.

(J) Any holder of obligations or a trustee under the bond proceedings, except to the extent that rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights

include the right to compel the performance of all duties of the issuing authority or the director of housing and development required by this chapter or the bond proceedings; to enjoin unlawful activities; and, in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority or the director of housing and development in the bond proceedings, to apply to a court having jurisdiction to appoint a receiver to receive and administer the pledged receipts pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay and to provide for payment of bond service charges on such obligations and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge revenues or receipts or other income or moneys, other than pledged receipts, and excluding any power to take possession of, or cause the sale or otherwise dispose of, any property other than the pledged receipts.

Each duty of the issuing authority, of each governmental agency including the director of housing and development, of the designated administrator, and of any of the officers, members, or employees of any of the foregoing, undertaken pursuant to the bond proceedings or any agreement made under authority of this chapter, and each duty in every agreement by or with the issuing authority under this chapter, each governmental agency including the director of housing and development, and the designated administrator, is hereby established as a duty of the issuing authority, the governmental agency, or the designated administrator, respectively, and of each such officer, member, or employee having authority to perform such duty, specifically

enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority or the director of housing and development, or the officers or employees of either of them, are not liable in their personal capacities on any obligations or any agreements of or with the issuing authority or the director of housing and development.

(K) The issuing authority may issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section.

(L) The authority to issue obligations under this section

includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such anticipated bonds or renewal notes, or both, as the issuing authority provides in the order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority and the director of housing and development to the effect that the issuing authority and the director of housing and development will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amounts, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such order. For this purpose, the issuing authority shall issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay, when required, the principal of and interest and any premium on such notes. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof, but this provision does not modify any authority in this section to pledge receipts to, to grant a security interest in those receipts for the purpose of securing, and to covenant to issue bonds to fund, the payment of principal of and interest and any

premium on such notes, or to provide in the bond proceedings authorizing the issuance of the anticipated bonds interest rates and a schedule of principal payments for such bonds and the annual maturity dates thereof which differ from the estimates in the bond proceedings authorizing the issuance of such bond anticipation notes.

(M) Obligations issued under this section are lawful investments for banks; savings banks; savings and loan associations; credit union share guarantee corporations; trust companies; trustees; fiduciaries; insurance companies, including domestic for life and domestic not for life; trustees or other officers having charge of sinking and bond retirement or other special funds of the state and of subdivisions and taxing districts of the state; the commissioners of the sinking fund of the state; the administrator of workers' compensation, subject to the approval of the workers' compensation board; the state teachers retirement system; the public employees retirement system; the school employees retirement system; and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant to those provisions by any agency of the state with respect to investments by them, and are also eligible as security for the repayment of the deposit of public moneys.

(N) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established

pursuant to this section shall be invested and disbursed as provided in the bond proceedings.

(O) The issuing authority shall pledge and grant a security interest in all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(P) The obligations, the transfer thereof, and the interest, accreted amount, and other income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation, direct or indirect, within this state.

Sec. 3735.27. (A) Whenever the director of housing and development has determined that there is need for a housing authority in any portion of any county that comprises two or more political subdivisions or portions of two or more political subdivisions but is less than all the territory within the county, a metropolitan housing authority shall be declared to exist, and the territorial limits of the authority shall be defined, by a letter from the director. The director shall issue a determination from the department of housing and development declaring that there is need for a housing authority within those territorial limits after finding either of the following:

(1) Unsanitary or unsafe inhabited housing accommodations exist in that area;

(2) There is a shortage of safe and sanitary housing

accommodations in that area available to persons who lack the amount of income that is necessary, as determined by the director, to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without congestion.

In determining whether dwelling accommodations are unsafe or unsanitary, the director may take into consideration the degree of congestion, the percentage of land coverage, the light, air, space, and access available to the inhabitants of the dwelling accommodations, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions exist in the dwelling accommodations that endanger life or property by fire or other causes.

The territorial limits of a metropolitan housing authority as defined by the director under this division shall be fixed for the authority upon proof of a letter from the director declaring the need for the authority to function in those territorial limits. Any such letter from the director, any certificate of determination issued by the director, and any certificate of appointment of members of the authority shall be admissible in evidence in any suit, action, or proceeding.

A certified copy of the letter from the director declaring the existence of a metropolitan housing authority and the territorial limits of its district shall be immediately forwarded to each appointing authority. A metropolitan housing authority shall consist of members who are residents of the territory in which they serve.

(B)(1) Except as otherwise provided in division (C), (D), (E), or (F) of this section, the members of a metropolitan housing authority shall be appointed as follows:

(a)(i) In a district in a county in which a charter has been adopted under Article X, Section 3 of the Ohio Constitution, and in which the most populous city is not the city with the largest ratio of housing units owned or managed by the authority to population, one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the board of county commissioners, one member shall be appointed by the chief executive officer of the city that has the largest ratio of housing units owned or managed by the authority to population, and two members shall be appointed by the chief executive officer of the most populous city in the district.

(ii) If, in a district that appoints members pursuant to division (B)(1)(a) of this section, the most populous city becomes the city with the largest ratio of housing units owned or managed by the authority to population, when the term of office of the member who was appointed by the chief executive officer of the city with the largest ratio expires, that member shall not be reappointed, and the membership of the authority shall be as described in division (B)(1)(b) of this section.

(b) In any district other than one described in division (B)(1)(a) of this section, one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the board of county commissioners, and two members shall be appointed by the chief executive officer of the most populous city in the district.

(2) At the time of the initial appointment of the authority, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by

the court of common pleas shall be appointed for three years, the member appointed by the board of county commissioners shall be appointed for two years, one member appointed by the chief executive officer of the most populous city in the district shall be appointed for one year, and the other member appointed by the chief executive officer of the most populous city in the district shall be appointed for five years.

If appointments are made under division (B)(1)(a) of this section, the member appointed by the chief executive officer of the city in the district that is not the most populous city, but that has the largest ratio of housing units owned or managed by the authority to population, shall be appointed for five years.

After the initial appointments, all members of the authority shall be appointed for five-year terms, and any vacancy occurring upon the expiration of a term shall be filled by the appointing authority that made the initial appointment.

(3) For purposes of this division, population shall be determined according to the last preceding federal census.

(C) For any metropolitan housing authority district that contained, as of the 1990 federal census, a population of at least one million, two members of the authority shall be appointed by the legislative authority of the most populous city in the district, two members shall be appointed by the chief executive officer of the most populous city in the district, and one member shall be appointed by the chief executive officer, with the approval of the legislative authority, of the city in the district that has the second highest number of housing units owned or managed by the authority.

At the time of the initial appointment of the authority,

one member appointed by the legislative authority of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year; the member appointed by the chief executive officer of the city with the second highest number of housing units owned or managed by the authority shall be appointed, with the approval of the legislative authority, for three years; and one member appointed by the chief executive officer of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year. Thereafter, all members of the authority shall be appointed for three-year terms, and any vacancy shall be filled by the same appointing power that made the initial appointment. At the expiration of the term of any member appointed by the chief executive officer of the most populous city in the district before March 15, 1983, the chief executive officer of the most populous city in the district shall fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed by the board of county commissioners before March 15, 1983, the chief executive officer of the city in the district with the second highest number of housing units owned or managed by the authority shall, with the approval of the municipal legislative authority, fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed before March 15, 1983, by the court of common pleas or the probate court, the legislative authority of the most populous city in the district shall fill the vacancy by appointment for a three-year term.

After March 15, 1983, at least one of the members appointed by the chief executive officer of the most populous city shall be a resident of a dwelling unit owned or managed by

the authority. At least one of the initial appointments by the chief executive officer of the most populous city, after March 15, 1983, shall be a resident of a dwelling unit owned or managed by the authority. Thereafter, any member appointed by the chief executive officer of the most populous city for the term established by this initial appointment, or for any succeeding term, shall be a person who resides in a dwelling unit owned or managed by the authority. If there is an elected, representative body of all residents of the authority, the chief executive officer of the most populous city shall, whenever there is a vacancy in this resident term, provide written notice of the vacancy to the representative body. If the representative body submits to the chief executive officer of the most populous city, in writing and within sixty days after the date on which it was notified of the vacancy, the names of at least five residents of the authority who are willing and qualified to serve as a member, the chief executive officer of the most populous city shall appoint to the resident term one of the residents recommended by the representative body. At no time shall residents constitute a majority of the members of the authority.

(D)(1) For any metropolitan housing authority district that is located in a county that has, according to the most recent federal decennial census, a population greater than seven hundred thousand but less than nine hundred thousand, the members of the metropolitan housing authority shall be selected as follows:

(a) One member shall be appointed by the probate court.

(b) One member shall be appointed by the court of common pleas.

(c) One member shall be appointed by the board of county commissioners.

(d) Two members shall be appointed by the mayor of the most populous city in the district, subject to approval by city council. At least one of the initial appointments by the mayor shall be a resident of a dwelling unit owned or managed by the authority. Thereafter, any member appointed by the mayor of the most populous city for the term established by the initial appointment, or for any succeeding term, shall be a person who resides in a dwelling unit owned or managed by the authority. If there is an elected, representative body of all residents of the authority, the mayor of the most populous city shall, whenever there is a vacancy in the resident term, provide written notice of the vacancy to the representative body. If the representative body submits to the mayor of the most populous city, in writing and within sixty days after the date on which it was notified of the vacancy, the names of at least five residents of the authority who are willing and qualified to serve as a member, the mayor of the most populous city shall appoint to the resident term one of the residents recommended by the representative body. At no time shall residents constitute a majority of the members of the authority.

(e) One member shall be nominated by the township association of the county. The name of the nominee submitted by the township association of the county shall be sent to the board of county commissioners and the executive director of the metropolitan housing authority, if applicable. The board of county commissioners shall accept or reject the nominee.

(f) One member shall be nominated by the municipal league of the county. The name of the nominee submitted by the

municipal league of the county shall be sent to the board of county commissioners and the executive director of the metropolitan housing authority, if applicable. The nominee shall not be a resident of the district's most populous city and shall represent a city that is substantially impacted as described in division (I) of this section. The board of county commissioners shall accept or reject the nominee.

(2) At the time of the initial appointment of the authority described in division (D)(1) of this section, the member appointed by the probate court shall be appointed for a period of four years; the member appointed by the court of common pleas shall be appointed for three years; the member appointed by the board of county commissioners shall be appointed for two years; one member appointed by the mayor of the most populous city in the district shall be appointed for one year, and the other member appointed by the mayor of the most populous city in the district shall be appointed for five years; the member nominated by the township association of the county shall be appointed for the same number of years as the nonresident member of the authority appointed by the mayor of the most populous city in the district; and the member nominated by the municipal league of the county shall be appointed for the same number of years as the resident member of the authority appointed by the mayor of the most populous city in the district.

After the initial appointments, all members of the authority shall be appointed for five-year terms, and any vacancy occurring upon the expiration of a term shall be filled by the authority that made the initial appointment or nomination.

(E)(1) For any metropolitan housing authority district located in a county that had, as of the 2000 federal census, a population of at least four hundred thousand and no city with a population greater than thirty per cent of the total population of the county, one member of the authority shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the chief executive officer of the most populous city in the district, and two members shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan housing authority pursuant to this division, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by the court of common pleas shall be appointed for three years, the member appointed by the chief executive officer of the most populous city shall be appointed for two years, one member appointed by the board of county commissioners shall be appointed for one year, and the other member appointed by the board of county commissioners shall be appointed for five years. Thereafter, all members of the authority shall be appointed for five-year terms, with each term ending on the same day of the same month as the term that it succeeds. Vacancies shall be filled in the manner provided in the original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term shall hold office as a member for the remainder of that term.

(F)(1) One resident member shall be appointed to a metropolitan housing authority when required by federal law. The chief executive officer of the most populous city in the district shall appoint that resident member for a term of five years. Subsequent terms of that resident member also shall be

for five years, and any vacancy in the position of the resident member shall be filled by the chief executive officer of the most populous city in the district. Any member appointed to fill such a vacancy shall hold office as a resident member for the remainder of that term. If, at any time, a resident member no longer qualifies as a resident, another resident member shall be appointed by the appointing authority who originally appointed the resident member to serve for the unexpired portion of that term.

(2) On and after September 29, 2005, any metropolitan housing authority to which two additional members were appointed pursuant to former division (E)(1) of this section as enacted by Amended Substitute House Bill No. 95 of the 125th general assembly shall continue to have those additional members. Their terms shall be for five years, and vacancies in their positions shall be filled in the manner provided for their original appointment under former division (E)(1) of this section as so enacted.

(G) Public officials, other than the officers having the appointing power under this section, shall be eligible to serve as members, officers, or employees of a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

After a metropolitan housing authority district is formed, the director may enlarge the territory within the district to include other political subdivisions, or portions of other

political subdivisions, but the territorial limits of the district shall be less than that of the county.

(H)(1) Any vote taken by a metropolitan housing authority shall require a majority affirmative vote to pass. A tie vote shall constitute a defeat of any measure receiving equal numbers of votes for and against it.

(2) The members of a metropolitan housing authority shall act in the best interest of the district and shall not act solely as representatives of their respective appointing authorities.

(I) "Substantially impacted" as used in division (D)(1)(f) of this section means a city within a metropolitan housing authority that, based on the percentage of housing units that are subsidized housing, is in the top one-third of cities within the county.

Sec. 3735.39. Whenever a metropolitan housing authority desires to discontinue its operations it shall make application to the director of housing and development, for authority to dissolve. If such application is granted, the director shall take possession and dispose of all property belonging to the authority, and, after paying the debts and liabilities of the authority and the expenses of administering the dissolution, the balance remaining shall be paid into the sinking fund of the county in which the authority existed.

Sec. 3735.66. The legislative authority of a political subdivision may survey the housing within the municipal corporation in the case of a municipal corporation, the unincorporated area of the township in the case of a limited home rule township, and the unincorporated area of the county in

the case of a county. After the survey, the legislative authority may adopt a resolution describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation regardless of classification. Whether or not the resolution includes such a stipulation, the classification of the structures or remodeling eligible for exemption in the area shall at all times be consistent with zoning restrictions applicable to the area. For the purposes of sections 3735.65 to 3735.70 of the Revised Code, whether a structure or remodeling composed of multiple units is classified as commercial or residential shall be determined by resolution or ordinance of the legislative authority or, in the absence of such a determination, by the classification of the use of the structure or remodeling under the applicable zoning regulations.

If construction or remodeling classified as residential is eligible for exemption from taxation, the resolution shall specify a percentage, not to exceed one hundred per cent, of the assessed valuation of such property to be exempted. The percentage specified shall apply to all residential construction

or remodeling for which exemption is granted.

Territory of a community reinvestment area designated by a municipal corporation shall include only territory of the municipal corporation. Territory of an area designated by a limited home rule township shall include only unincorporated territory of the township that is not already included in an area designated by a county. Territory of an area designated by a county shall include only unincorporated territory of the county that is not already included in an area designated by a limited home rule township.

Upon the adoption of the resolution, the legislative authority shall send, by certified mail, one copy of the resolution and a map of the community reinvestment area in sufficient detail to denote the specific boundaries of the area, to the director of housing and development.

The resolution adopted pursuant to this section shall be published in a newspaper of general circulation in the political subdivision that adopted the resolution once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, immediately following its adoption.

Each legislative authority adopting a resolution pursuant to this section shall designate a housing officer. The legislative authority or housing officer shall not grant any exemption from taxation under section 3735.67 of the Revised Code until the director assigns to each community reinvestment area a unique designation by which the area shall be identified for purposes of sections 3735.65 to 3735.70 of the Revised Code.

Sec. 3735.671. (A) If construction or remodeling of commercial or industrial property is to be exempted from

taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements described in divisions (B)(1) to (8) of this section. Agreements may include terms not described in those divisions or otherwise prescribed by the model agreement adopted by the director of housing and development under division (B) of this section, but such terms shall in no way derogate from the information and statements described in divisions (B)(1) to (8) of this section.

(1) Except as otherwise provided in division (A)(2) or (3) of this section, an agreement entered into under this section shall not be approved by the legislative authority unless the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves the agreement. For the purpose of obtaining such approval, the legislative authority shall certify a copy of the agreement to the board of education not later than forty-five days prior to approving the agreement, excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement. The legislative authority may approve an

agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the agreement is formally approved by the legislative authority, equals or exceeds twenty-five per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable that year upon the real property had that property not been exempted from taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or of the increased assessed valuation of an existing structure after remodeling began that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

(c) The amount of any cash payment by the owner of the new structure or structure to be remodeled to the school district, the dollar value, as mutually agreed to by the owner and the board of education, of any property or services provided by the owner of the property to the school district, whether by gift,

loan, or otherwise, and any payment by the legislative authority to the school district pursuant to section 5709.82 of the Revised Code.

The estimates of quantities used for purposes of division (A)(2) of this section shall be estimated by the legislative authority. The legislative authority shall certify to the board of education that the estimates have been made in good faith. Departures of the actual quantities from the estimates subsequent to approval of the agreement by the board of education do not invalidate the agreement.

(3) If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under division (A)(1) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's execution of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such execution as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the owner of the property or the legislative authority agree to make any payment to the school district as described in division (A)(2)(c) of this section, the owner or legislative authority shall agree to make payments to the joint

vocational school district within which the property is located at the same rate or amount and under the same terms received by the city, local, or exempted village school district.

(B) The director of housing and development shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing the form of a model agreement that a legislative authority may, in its discretion, use as the basis for an agreement to be executed under this section. The model agreement may include any term necessary for the administration and enforcement of such agreements by the director and legislative authority, but must include all of the following:

(1) A space to include the description of real property to be exempted from taxation under the agreement and to identify the property's owners;

(2) A space to denote the percentage of the assessed valuation of real property exempted from taxation and the period for which the exemption is granted;

(3) A statement requiring the owner to pay real property taxes not exempted under the agreement, as required by law, and requiring rescission of the agreement if the owner fails to pay those taxes beginning in and after the year any such taxes are charged;

(4) A statement that the owner certifies, at the time the agreement is executed, that the owner does not owe any delinquent property taxes or taxes for which the owner is liable under Chapter 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, that the owner is paying the delinquent taxes pursuant to an undertaking enforceable by the state or an agent or instrumentality thereof,

has filed a petition in bankruptcy, or has had a bankruptcy petition filed against the owner;

(5) A statement requiring the owner to provide to the property tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement;

(6) A statement that the agreement is not transferable or assignable without the approval of the legislative authority;

(7) A statement describing the circumstances under which the legislative authority may revoke an agreement for noncompliance;

(8) A statement requiring the owner to provide an estimate of the following for each agreement:

(a) The number of employment opportunities created due to the remodeling or construction, as well as the payroll attributable to those opportunities;

(b) The number of employment opportunities retained due to the remodeling or construction, as well as the payroll attributable to those opportunities.

The model agreement shall also provide that a legislative authority may, but is not required to, include a statement describing the manner by which the legislative authority may recover already-received benefits, which may include an action brought in law or equity, a lien on the exempted property in the amount to be recovered, or other means. In the case of a lien on the exempted property, the lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and otherwise has the same force and effect as a mortgage lien on real property.

Once the director adopts rules prescribing a model agreement under this division, the model agreement may not be changed unless the director adopts, amends, or rescinds those rules in accordance with Chapter 119. of the Revised Code.

(C) If any person that is party to an agreement granting an exemption from taxation discontinues operations at the structure to which that exemption applies prior to the expiration of the term of the agreement, that person, any successor to that person, and any related member shall not enter into an agreement under this section or section 5709.62, 5709.63, or 5709.632 of the Revised Code, and no legislative authority shall enter into such an agreement with such a person, successor, or related member prior to the expiration of three years after the person's discontinuation of operations. As used in this division, "successor" means a person to which the assets or equity of another person has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner. "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

The director of housing and development shall review all agreements submitted to the director under section 3735.672 of the Revised Code for the purpose of enforcing this division. If the director determines there has been a violation of this division, the director shall notify the legislative authority of such violation, and the legislative authority immediately shall revoke the exemption granted under the agreement.

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 housing and development a report on all such agreements in effect during the preceding calendar year. The report shall include the following:

(1) The total number of community reinvestment areas designated by the political subdivision, and the total population of each area according to the most recent data available;

(2) The total number of agreements within each area;

(3) The number of agreements approved and executed during the calendar year for which the report is submitted, the total number of agreements in effect on the thirty-first day of December of the preceding calendar year, the number of agreements that expired during the calendar year for which the report is submitted, and the number of agreements scheduled to expire during the calendar year in which the report is submitted. For each agreement that expired during the calendar year for which the report is submitted, the legislative authority shall include the amount of taxes exempted under the agreement.

(4) The number of agreements the terms of which a party has failed to comply with, indicating separately for each such agreement the value of the real property exempted pursuant to the agreement and a comparison of the estimated and actual amounts described in division (B)(8) of section 3735.671 of the Revised Code;

(5) Any changes to zoning restrictions in any part of a community reinvestment area, including a map of the area indicating the new zoning restrictions in the area;

(6) A copy of any agreement approved and executed or amended during the calendar year for which the report is submitted.

(B) Upon the failure of a political subdivision to comply with division (A) of this section:

(1) Beginning on the first day of April of the calendar year in which the political subdivision fails to comply with that division, the political subdivision shall not enter into any agreements under section 3735.671 of the Revised Code until the political subdivision has complied with division (A) of this section.

(2) On the first day of each ensuing calendar month until the political subdivision complies with that division, the director of housing and development shall either order the proper county auditor to deduct from the next succeeding payment of taxes to the political subdivision under section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount equal to five hundred dollars for each calendar month the political subdivision fails to comply with that division, or order the county auditor to deduct such an amount from the next succeeding payment to the political subdivision from the undivided local government fund under section 5747.51 of the Revised Code. At the time such a payment is made, the county auditor shall comply with the director's order by issuing a warrant, drawn on the fund from which such money would have been paid, to the director of housing and development, who shall deposit the warrant into the tax incentives operating fund created by section 122.174 of the Revised Code.

(C) The department of housing and development shall publish on its web site a list of all community reinvestment

areas within the state, with an accompanying display of their geographical boundaries within each political subdivision. The list shall also include, for each community reinvestment area, a copy of the resolution governing that area and any agreement entered into under section 3735.671 of the Revised Code for any commercial or industrial property within the area. This list shall be updated annually.

Sec. 3735.673. If a person operating in a political subdivision intends to relocate or relocates part or all of its operations to another political subdivision and has entered into or intends to enter into an agreement under section 3735.671 of the Revised Code with that political subdivision, the legislative authority of the political subdivision to which that person intends to relocate or relocates shall serve the legislative authority of the subdivision from which that person intends to relocate or relocates with notice of the person's intention to relocate, accompanied by a copy of the agreement to be entered into or entered into pursuant to section 3735.671 of the Revised Code and a statement of the person's reasons for relocation. The legislative authority also shall serve such notice on the director of housing and development. In both cases, service shall be by personal service or certified mail, return receipt requested, not later than thirty days prior to the day of the first public meeting at which the agreement is deliberated by the legislative authority of the political subdivision to which the person intends to relocate or relocates. With the approval of the director of housing and development, service shall be not later than fifteen days prior to the day of the first public meeting of the legislative authority at which the agreement is deliberated. The legislative authority required to serve notice shall seek such approval by

applying to the director at the earliest possible time prior to that meeting. The director may approve the later service if the director determines that earlier notice is not possible or would be likely to jeopardize realization of the project. If approval for a later notice is applied for, the legislative authority need not serve notice to the director as otherwise required by this section.

If the legislative authority required to serve such notice fails to do so as prescribed by this section, the legislative authority shall not enter into an agreement under that section with that person.

This section applies only to relocations of operations that result or would result in the reduction of employment or the cessation of operations at a place of business in this state.

Sec. 3735.69. (A) A community reinvestment area housing council shall be appointed for each community reinvestment area, as follows:

(1) When the area is designated by a municipal corporation, the council shall be composed of two members appointed by the mayor of the municipal corporation, two members appointed by the legislative authority of the municipal corporation, and one member appointed by the planning commission of the municipal corporation. The majority of the foregoing members shall then appoint two additional members who shall be residents of the municipal corporation.

(2) When the area is designated by a limited home rule township, the council shall be composed of two members appointed by the board of trustees of the township, one member appointed

by the township law director, one member appointed by the township zoning commission or, if the township has not established such a commission, the county planning commission, and one member appointed by the board of county commissioners of the county where the area is located.

(3) When the area is designated by a county, the council shall be composed of one member appointed by each member of the board of county commissioners of the county where the area is located and two members appointed by the county planning commission. The majority of the foregoing members shall then appoint two additional members who shall be residents of the county. Terms of the members of the council shall be for three years.

An unexpired term resulting from a vacancy in the council shall be filled in the same manner as the initial appointment was made.

The council shall make an annual inspection of the properties within the community reinvestment area for which an exemption has been granted under section 3735.67 of the Revised Code. The council shall also hear appeals under section 3735.70 of the Revised Code.

(B) On or before the thirty-first day of March each year, any political subdivision that has created a community reinvestment area under section 3735.66 of the Revised Code shall submit to the director of housing and development a status report summarizing the activities and projects for which an exemption has been granted in that area.

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and

implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members:

(1) A representative of the department of medicaid;

(2) A representative of the bureau of child care in the department of job and family services;

(3) A representative of the department of environmental protection;

(4) A representative of the department of education and workforce;

(5) A representative of the department of housing and development;

(6) A representative of the department of children and youth;

(7) A representative of the Ohio apartment owner's association;

(8) A representative of the Ohio healthy homes network;

(9) A representative of the Ohio environmental health association;

(10) An Ohio representative of the American coatings association;

(11) A representative from Ohio realtors;

(12) A representative of the Ohio housing finance agency;

(13) A physician knowledgeable in the field of lead poisoning prevention;

(14) A certified nurse-midwife, clinical nurse specialist,

or certified nurse practitioner knowledgeable in the field of lead poisoning prevention;

(15) A representative of the public.

(B) The advisory council shall do both of the following:

(1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation;

(2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year.

(C) The advisory council is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 3746.121. Upon receiving a request submitted under section 122.16 of the Revised Code for verification of eligible costs associated with a voluntary action incurred by the applicant for the agreement under that section, a certified professional shall submit to the director of housing and development verification of the eligible costs associated with the voluntary action as defined in section 122.16 of the Revised Code. The verification shall be submitted in the form of an affidavit subject to section 3746.20 of the Revised Code, shall state that the information contained in the verification is true to the best of the knowledge, information, and belief of the certified professional, and shall be accompanied by any receipts, invoices, canceled checks, or other documents evidencing eligible costs associated with the voluntary action that are provided by the applicant. Verification submitted under this section does not constitute a finding or representation by

the certified professional that eligible costs associated with the voluntary action are reasonable.

Sec. 3746.20. (A) All of the following shall be submitted by affidavit:

(1) Any information, data, documents, or reports submitted by any of the following to another person for the purposes of a voluntary action conducted under this chapter and rules adopted under it:

(a) The person undertaking the voluntary action;

(b) A certified professional;

(c) Any other person who performed work that was conducted to support a request for a no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code;

(d) A certified laboratory;

(e) An accredited laboratory.

(2) Any information submitted by an environmental professional to the director of environmental protection for the purposes of complying with rules adopted under division (B)(5)(a) or (c) of section 3746.04 of the Revised Code;

(3) The verification of eligible costs associated with a voluntary action submitted by a certified professional to the director of housing and development pursuant to section 3746.121 of the Revised Code.

(B) No person shall materially falsify, tamper with, or render inaccurate any information, data, documents, or reports generated for the purposes of or used in documenting or preparing a no further action letter under this chapter or rules

adopted under it or verification of eligible costs under section 3746.121 of the Revised Code.

Violation of this division is not falsification under section 2921.13 of the Revised Code.

(C) In accordance with rules adopted under division (B)(5)(f) of section 3746.04 of the Revised Code, the director permanently shall revoke the certification of a certified professional who violates division (B) of this section.

(D) No person, with purpose to deceive a certified professional, accredited laboratory, or a contractor thereof, or the environmental protection agency or a contractor thereof, shall withhold, conceal, or destroy any data, information, records, or documents relating to a voluntary action.

Sec. 3775.04. (A)(1) A type A sports gaming proprietor license authorizes a sports gaming proprietor to offer sports gaming through one or more online sports pools.

(2)(a) Except as otherwise provided under division (A)(2)(b) of this section, the Ohio casino control commission shall license not more than twenty-five type A sports gaming proprietors at any one time.

(b) When twenty-five type A sports gaming proprietors are licensed in this state, the commission may issue additional type A sports gaming proprietor licenses to eligible applicants who demonstrate to the commission that the sports gaming market in this state needs additional type A sports gaming proprietors.

(3) A type A sports gaming proprietor shall meet at least one of the following requirements at all times:

(a) The type A sports gaming proprietor also shall operate

a sports gaming facility under a type B sports gaming proprietor license.

(b) The type A sports gaming proprietor shall maintain at least one operational place of business in this state at which the sports gaming proprietor regularly maintains multiple employees.

(4) The commission shall adopt by rule a procedure allowing the commission to revoke a type A sports gaming proprietor license if the licensee does not offer sports gaming to patrons under the license for a continuous period of one year or more.

(B)(1) A type B sports gaming proprietor license authorizes a sports gaming proprietor to offer sports gaming at one sports gaming facility at a location specified on the license.

(2) The commission shall license not more than forty type B sports gaming proprietors at any one time.

(3)(a)(i) Except as otherwise provided in division (B)(3)(a)(ii) of this section, no sports gaming facility shall be located in a county with a population of less than one hundred thousand, as determined by the 2010 federal decennial census.

(ii) The commission may issue an initial or renewed type B sports gaming proprietor license for one sports gaming facility to be located in a county with a population of fifty thousand or more, but less than one hundred thousand, as determined by the 2010 federal decennial census, at any one time, if the commission determines, in consultation with the department of housing and development, that the county received at least five million visitors for purposes of tourism during the most recent

calendar year for which the necessary data are available.

(b)(i) Except as otherwise provided in division (B)(3)(b)(ii) of this section, not more than one sports gaming facility shall be located in a county with a population of one hundred thousand or more, but less than four hundred thousand, as determined by the 2010 federal decennial census, at any one time.

(ii) Not more than two sports gaming facilities shall be located in a county with a population of one hundred thousand or more, but less than four hundred thousand, as determined by the 2010 federal decennial census, at any one time, if a video lottery sales agent operates video lottery terminals at a facility in the county.

(c) Not more than three sports gaming facilities shall be located in a county with a population of four hundred thousand or more, but less than eight hundred thousand, as determined by the 2010 federal decennial census, at any one time.

(d) Not more than five sports gaming facilities shall be located in a county with a population of eight hundred thousand or more, as determined by the 2010 federal decennial census, at any one time.

(4) The commission shall issue an initial type B sports gaming proprietor license only to a person who conducts significant economic activity in the county in which the sports gaming facility is to be located, as determined by the commission in consultation with the department of housing and development.

(C)(1) A type C sports gaming proprietor license authorizes a sports gaming proprietor to offer sports gaming

through self-service or clerk-operated sports gaming terminals located at one or more type C sports gaming hosts' facilities under section 3770.25 of the Revised Code.

(2) The commission shall license at least two, and not more than twenty, type C sports gaming proprietors at any one time. However, if only one eligible and suitable person applies for a type C sports gaming proprietor license, the commission shall issue the license.

(D) An applicant for an initial or renewed type A, type B, or type C sports gaming proprietor license shall do all of the following:

(1) Submit a written application on a form furnished by the commission.

(a) If the application is for an initial type B sports gaming proprietor license, the application shall specify both of the following:

(i) The intended location of the sports gaming facility or, at a minimum, the county in which the sports gaming facility is to be located if the license is granted;

(ii) The expected overall capital investment in the sports gaming facility, including its size, furnishings, and equipment.

(b) If the application is for a renewed type B sports gaming proprietor license, the application shall specify one of the following, as applicable:

(i) If the sports gaming proprietor does not intend to relocate the sports gaming facility, the location of the sports gaming facility;

(ii) If the sports gaming proprietor intends to relocate

the sports gaming facility, the intended new location of the sports gaming facility or, at a minimum, the county in which the sports gaming facility is to be located if the renewal is granted.

(2) Pay the fee required under division (C)(3) of section 109.572 of the Revised Code, along with a nonrefundable application fee in an amount prescribed by the commission by rule;

(3) Submit an audit of the applicant's financial transactions and the condition of the applicant's total operations for the previous fiscal year prepared by a certified public accountant in accordance with generally accepted accounting principles and state and federal laws;

(4) Satisfy any other requirements for licensure under this chapter and rules adopted under this chapter.

(E) After receiving a sports gaming proprietor license, the sports gaming proprietor shall pay the following nonrefundable license fees, as applicable, not later than the dates indicated, and shall give to the state a surety bond, in an amount and in the form approved by the commission, to guarantee that the sports gaming proprietor faithfully makes all payments required by this chapter and rules adopted under this chapter during the period of the license:

(1) For an initial or renewed type A sports gaming proprietor license:

1	2	3	4	5	6
A	Upon	One year	Two years	Three	Four

		issuance of license	after license issued	after license issued	years after license issued	years after license issued
B	Initial or renewed license - type A sports gaming proprietor that is a professional sports organization and that is not contracting with more than one mobile management services provider	$500,000	$125,000	$125,000	$125,000	$125,000
C	Initial or renewed license - any other type A sports gaming proprietor that is not contracting with more than one mobile management services provider	$750,000	$187,500	$187,500	$187,500	$187,500
D	Initial license - type A sports	$1,666,667	$416,667	$416,667	$416,667	$416,667

	gaming proprietor that is a professional sports organization and that is contracting with two mobile management services providers					
E	Initial license - any other type A sports gaming proprietor that is contracting with two mobile management services providers	$2,500,000	$625,000	$625,000	$625,000	$625,000
F	Renewed license - type A sports gaming proprietor that is a professional sports organization and that is contracting with	$500,000	$125,000	$125,000	$125,000	$125,000

	two mobile management services providers					
G	Renewed license - any other type A sports gaming proprietor that is contracting with two mobile management services providers	$750,000	$187,500	$187,500	$187,500	$187,500

(2) For an initial or renewed type B sports gaming proprietor license:

1		2	3	4	5	6
A		Upon issuance of license	One year after license issued	Two years after license issued	Three years after license issued	Four years after license issued
B	Type B sports gaming proprietor that is also a type A sports gaming proprietor	$100,000	$10,000	$10,000	$10,000	$10,000

C	Type B sports gaming proprietor that is not also a type A sports gaming proprietor	$50,000	$10,000	$10,000	$10,000	$10,000

(3) For a type C sports gaming proprietor license, one hundred thousand dollars upon being issued an initial license and twenty-five thousand dollars upon being issued a renewed license.

(F)(1) A sports gaming proprietor license shall be valid for a term of five years.

(2) Upon the expiration of a sports gaming proprietor license, the sports gaming proprietor may apply to renew the license in the same manner as for an initial license, unless the license is suspended or revoked or the commission determines that the sports gaming proprietor is not in compliance with this chapter and the rules adopted under this chapter.

Sec. 3780.03. Establishment and authority of division of cannabis control; adoption of rules.

(A) There is hereby established a division of cannabis control within the department of commerce.

(B) To ensure the proper oversight and control of the adult use cannabis industry, the division of cannabis control shall have the authority to license, regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed under this chapter.

(C) The division of cannabis control shall adopt, and as advisable and necessary shall amend or repeal, rules on the

following:

(1) Prevention of practices detrimental to the public interest consistent with this chapter, and also ways to educate the public about this chapter;

(2) Establishing application, licensure, and renewal standards and procedures for license applicants or license holders related to adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed, including any additional background check requirements, the disqualifying offenses under section 3780.01 of the Revised Code that prohibit licensure, and any exemption criteria from licensing requirements for institutional or private investors who do not have significant control or influence over a license applicant or license holder, and whose ownership in a license is for investment purposes only;

(3) Establishing reasonable application, licensure, and renewal fees amounts to ensure license applicants and license holders under this chapter pay for the actual costs for administration and licensure for the division of cannabis control;

(4) Establishing standards for provisional licenses for an individual who is required to be licensed and who has exigent circumstances. Such standards for provisional licenses must include submission of a complete application and compliance with a required background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed, at the division of cannabis control's discretion, for an additional three months. In establishing standards with regard to instant background checks the division of cannabis control may use all available resources~~;~~.

(5) Specifying the process and reasons for which a license holder may be fined, suspended either with or without a prior hearing, revoked, or not renewed or issued;

(6) The process and requirements for division of cannabis control approval of any requested change in ownership or transfer of control of an adult use cannabis operator or adult use testing laboratory;

(7) Establishing ~~process~~ processes and standards for expanding the size of the cultivation area for a cultivation facility;

(8) Establishing standards and procedures for the testing of adult use cannabis by an adult use testing laboratory licensed under this chapter. When establishing standards and procedures for the testing of cannabis, the division of cannabis control shall do all of the following:

(a) Specify when testing must be conducted;

(b) Determine the minimum amount of adult use cannabis that must be tested;

(c) Specify the manner in which testing is to be conducted in an effort to ensure uniformity of cannabis products processed ~~for~~ and dispensed; and

(d) Specify the manner in which test results are provided.

(9) The minimum amount of insurance or surety bond that must be maintained by an adult use cannabis operator and adult use testing laboratory;

(10) Requiring the division of cannabis control to adopt reasonable standards for any adult use cannabis samples, and advertising as prescribed in section 3780.21 of the Revised Code;

(11) Requiring that the records, including financial statements, of an adult use cannabis operator or adult use testing laboratory be maintained in the manner up to two years as prescribed by the division of cannabis control and which shall be made available for inspection upon demand by the division of cannabis control, but shall be subject to section 3780.31 of the Revised Code;

(12) Prescribing technical standards and requirements consistent with industry standards that must be met for security and surveillance equipment necessary for the provision of security and surveillance of adult use cannabis operators and adult use testing laboratories;

(13) Prescribing requirements for a license holder's provision of security services for an adult use cannabis operator and adult use testing laboratories which shall include the license holder's option to use armed or unarmed services including through agents of the license holder;

(14) Prescribing standards according to which license holders shall keep accounts and standards according to which adult use cannabis operators and adult use testing laboratories accounts shall be audited, and establish guidance for assisting the department of taxation in levying and collecting the adult use tax levied under section 3780.22 of the Revised Code;

(15) Determining penalties for violation of division of cannabis control rules or this chapter, and a process for imposing such penalties;

(16) Training requirements for employees and agents of adult use cannabis operators and adult use laboratories;

(17) Prescribing standards and procedures to allow for adult use

cannabis delivery to adult use consumers, and online and mobile ordering procedures, which may only be conducted by an adult use dispensary or their agent;

(18) Prescribing cannabis inventory requirements to be maintained in an electronic database consistent with section 3780.05 of the Revised Code;

(19) Prescribing standards and procedures for product packaging and labeling of adult use cannabis products;

(20) Prescribing standards and procedures in coordination with the department of housing and development to administer and enforce the cannabis social equity and jobs program as prescribed under section 3780.19 of the Revised Code;

(21) Establishing a tetrahydrocannabinol content limit for adult use cannabis, which for plant material the content limit shall be ~~no~~ not less than thirty-five per cent and for extracts the content limit shall be ~~no~~ not less than ninety per cent, but that such content limits may be increased or eliminated by the division of cannabis control; and

(22) Prescribing duty to update requirements for license holders.

(D) All rules adopted under this section and chapter shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) In addition to the rules described in division (C) of this section, the division of cannabis control may adopt any other rules it considers necessary for the administration, implementation, and enforcement of this chapter consistent with this chapter.

(F) When adopting rules under this section, the division of

cannabis control shall consider standards and procedures that have been found to be best practices relative to the use and regulation of adult use cannabis and shall harmonize any rules with the rules adopted pursuant to sections 3796.03 and 3796.04 of the Revised Code to minimize duplication of operational requirements and fees as much as possible. If there is a conflict with Chapter 3796. of the Revised Code and related rules, and ~~chapter~~ Chapter 3780. of the Revised Code and related rules, then ~~chapter~~ Chapter 3780. of the Revised Code and related rules shall govern.

Sec. 3780.19. Cannabis social equity and jobs program.

(A) As used in this section, "cannabis social equity and jobs program participant" means a person certified as a participant in the cannabis social equity and jobs program by the department of housing and development under this section ~~of the Revised Code~~.

(B) The department of housing and development shall establish a business assistance program known as the cannabis social equity and jobs program funded by the cannabis social equity and jobs fund, and shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program including the following:

(1) Establish procedures by which a person may apply for certification under the cannabis social equity and jobs program;

(2) Establish a system of certifying cannabis social equity and ~~job~~ jobs program applicants based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the department of housing and development:

(a) Wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business~~.~~;

(b) Social disadvantage based on any of the following:

(i) The business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, or long-term residence in an area of high unemployment;

(ii) The owner or owners, or their spouse, child, or parent, have been arrested for, convicted of, or adjudicated delinquent for a marijuana related offense as determined by rule by the department of housing and development prior to the effective date of this section.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through license awards to businesses located in qualified census tracts.

(3) Establish standards to determine when a cannabis social equity and jobs program participant no longer qualifies for cannabis social equity and jobs program certification;

(4) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the department of housing and development;

(5) Implement an outreach program to educate potential participants about the cannabis social equity and jobs program;

(6) Implement a system of self-reporting by cannabis social equity and jobs program participants on compliance, as well as an on-site inspection process to validate the qualifications of

a cannabis social equity and jobs program;

(7) Establish a process for when there is a transfer of a license from a certified cannabis social equity and jobs program participant to a person or entity that does not qualify as a participant to the cannabis social equity and jobs program, which process shall not undermine the policy goals of the program;

(8) Provide financial assistance, loans, grants, and technical assistance to persons certified by the department under the cannabis social equity and jobs program pursuant to rules adopted under this section. Notwithstanding any other law to the contrary, the cannabis social equity and jobs program fund is not subject to budgetary sweeps, administrative charge-backs, or any other fiscal or budgetary maneuver that would in any way transfer any amounts from the cannabis social equity and jobs program fund into any other fund of the state;

(9) Encourage employment practices, in which an adult use cannabis operator can demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;

(10) Study and fund judicial and criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing related to marijuana;

(11) Study and propose policy reforms to address the social and economic impacts of the enforcement of marijuana laws and to track and prevent underage use of marijuana;

(12) Fund direct investment in disproportionately impacted

communities to enhance education, entrepreneurism, legal aid, youth development, violence prevention, and the arts related to the program; and

(13) Utilize the cannabis social equity and jobs fund exclusively for the purposes of this section and for the implementation of this section.

(C) For certified cannabis social equity and job program participants, the division of cannabis control shall waive at least fifty ~~percent~~ per cent of any license or application fees associated with a license holder's application or license.

(D) Any business or personal financial information, or trade secrets submitted by a cannabis social equity and jobs program applicant to the department of housing and development pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the division of cannabis control or department of housing and development is required to present the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program in which case the agency shall only disclose any required information.

(E) Any license or other preference to persons certified under the cannabis social equity and jobs program under this section shall be based on substantiated evidence that the preference is needed to address the goals of cannabis social equity and ~~job~~ jobs program under this chapter.

(F) The department of housing and development shall create a cannabis social equity and jobs program advisory group promulgated through rule in accordance with Chapter 119. of the Revised Code. The advisory group may develop and submit to the

department of housing and development ~~on~~ any recommendations related to the cannabis social equity and jobs program under sections 3780.18 and 3780.19 of the Revised Code.

Sec. 4121.123. (A) There is hereby created the workers' compensation board of directors nominating committee consisting of the following:

(1) Three individuals who are members of affiliated employee organizations of the Ohio chapter of the American federation of labor-congress of industrial organizations, who are selected by the Ohio chapter of the American federation of labor-congress of industrial organizations and who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees who are members of an employee organization. Terms of office shall be for one year, with each term ending on the same day of the same month as did the term that it succeeds.

(2) Two individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, one of whom shall be an injured worker with a valid, open, and active workers' compensation claim and at least one of these two representatives also shall represent employees who are not members of an employee organization. The president of the senate and the speaker of the house of representatives each shall appoint annually one of these members. The member who is an injured worker shall serve for a full term even if the member's workers' compensation claim is invalidated, closed, or inactivated during the member's term.

(3) The chief executive officer, or the equivalent of the chief executive officer, of the Ohio chamber of commerce, the Ohio manufacturers' association, the Ohio self-insurers'

association, the Ohio council of retail merchants, the national federation of independent business, and the Ohio farm bureau;

(4) The director of housing and development;

(5) The president of the Ohio township association and the president of the Ohio county commissioners association, or if any of the following circumstances apply:

(a) In the event of a vacancy in either presidency, a designee appointed by the governing body authorized to appoint the president. A designee so appointed shall serve on the nominating committee only until the vacancy in the presidency is filled.

(b) In the event that the president of the Ohio township association is unavailable, a designee selected by the president;

(c) In the event that the president of the Ohio county commissioners association is unavailable, a designee selected by the president.

(B) Each member appointed under divisions (A)(1) and (2) of this section shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Such members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any such member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. Such a member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) The nominating committee shall meet at the request of the governor or as the nominating committee determines appropriate in order to make recommendations to the governor for the appointment of members of the bureau of workers' compensation board of directors under section 4121.12 of the Revised Code.

(D) The director of housing and development shall serve as chairperson of the nominating committee and have no voting rights on matters coming before the nominating committee, except that the director may vote in the event of a tie vote of the nominating committee. Annually, the nominating committee shall select a secretary from among its members. The nominating committee may adopt by-laws governing its proceedings.

(E) Members of the nominating committee shall be paid their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members of the nominating committee.

(F) The nominating committee shall:

(1) Review and evaluate possible appointees for the board. In reviewing and evaluating possible appointees for the board, the nominating committee may accept comments from, cooperate with, and request information from any person.

(2) Make recommendations to the governor for the appointment of members to the board as provided in division (C) of section 4121.12 of the Revised Code.

(G) The nominating committee may make recommendations to the general assembly concerning changes in legislation that will assist the nominating committee in the performance of its duties.

Sec. 4164.04. There is hereby created and constituted within the department of housing and development, the Ohio nuclear development authority. The authority's exercise of powers conferred by this chapter is the performance of an essential governmental function and addresses matters of public necessity for which public moneys may be spent.

Sec. 4164.12. For the purpose of carrying out the Ohio nuclear development authority's duties under the Revised Code, the authority may make use of the staff and experts employed at the department of housing and development in such manner as is provided by mutual arrangement between the authority and the department.

Sec. 4301.17. (A)(1) Subject to local option as provided in sections 4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies may be established in each county. One additional store may be established in any county for each twenty thousand of population of that county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal decennial census or according to the population estimates certified by the department of housing and development between decennial censuses. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code. The division shall fix the compensation for such an agent in the manner it considers best, but the compensation shall not exceed seven per cent of the gross sales made by the agent in any one year.

(2) The division shall adopt rules in accordance with

Chapter 119. of the Revised Code governing the allocation and equitable distribution of agency store contracts. The division shall comply with the rules when awarding a contract under division (A)(1) of this section.

(3) Pursuant to an agency store's contract, an agency store may be issued a D-1 permit to sell beer, a D-2 permit to sell wine and mixed beverages, and a D-5 permit to sell beer, wine, mixed beverages, and spirituous liquor.

(4) Pursuant to an agency store's contract, an agency store may be issued a D-3 permit to sell spirituous liquor if the agency store contains at least ten thousand square feet of sales floor area. A D-3 permit issued to an agency store shall not be transferred to a new location. The division shall revoke any D-3 permit issued to an agency store under division (A)(4) of this section if the agent no longer operates the agency store. The division shall not issue a D-3a permit to an agency store.

(5) An agency store to which a D-8 permit has been issued may allow the consumption of tasting samples of spirituous liquor in accordance with section 4301.171 of the Revised Code.

(6) An agency store may sell beer, wine, mixed beverages, and spirituous liquor only between the hours of nine a.m. and eleven p.m.

(B) When an agency contract is proposed, when an existing agency contract is assigned, when an existing agency proposes to relocate, or when an existing agency is relocated and assigned, before entering into any contract, consenting to any assignment, or consenting to any relocation, the division shall notify the legislative authority of the municipal corporation in which the

agency store is to be located, or the board of county commissioners and the board of township trustees of the county and the township in which the agency store is to be located if the agency store is to be located outside the corporate limits of a municipal corporation, of the proposed contract, assignment, or relocation, and an opportunity shall be provided officials or employees of the municipal corporation or county and township for a complete hearing upon the advisability of entering into the contract or consenting to the assignment or relocation. When the division sends notice to the legislative authority of the political subdivision, the division shall notify the chief peace officer of the political subdivision, who may appear and testify, either in person or through a representative, at any hearing held on the advisability of entering into the contract or consenting to the assignment or relocation.

If the proposed agency store, the assignment of an agency contract, or the relocation of an agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing upon the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the division may consent to relocation of the agency store or to the assignment of that contract to operate an agency store at the same location. The division may also consent to the assignment of an existing agency contract simultaneously with the relocation of the agency store. In any such assignment or

relocation, the assignee and the location shall be subject to the same requirements that the existing location met at the time that the contract was first entered into as well as any additional requirements imposed by the division in rules adopted by the superintendent of liquor control. The division shall not consent to an assignment or relocation of an agency store until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing upon the advisability of consenting to the assignment or relocation.

Any hearing provided for in this division shall be held in the central office of the division, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, the board of township trustees, or the authorities in control of the school, church, library, public playground, or township park, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this section shall be in writing and shall contain a clause providing for the termination of the contract at will by the division upon its giving ninety days' notice in writing to the agent of its intention to do so. Any agency contract may include a clause requiring the agent to report to the appropriate law enforcement agency the name and address of any individual under twenty-one years of age who attempts to make an illegal purchase.

The division shall issue a C-1 and C-2 permit to each agent who prior to November 1, 1994, had not been issued both of

these permits, notwithstanding the population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission and notwithstanding the requirements of section 4303.31 of the Revised Code. The location of a C-1 or C-2 permit issued to such an agent shall not be transferred. The division shall revoke any C-1 or C-2 permit issued to an agent under this paragraph if the agent no longer operates an agency store.

The division may enter into agreements with the department of housing and development to implement a minority loan program to provide low-interest loans to minority business enterprises, as defined in section 122.71 of the Revised Code, that are awarded liquor agency contracts or assignments.

(D) If the division closes a state liquor store and replaces that store with an agency store, any employees of the division employed at that state liquor store who lose their jobs at that store as a result shall be given preference by the agent who operates the agency store in filling any vacancies that occur among the agent's employees, if that preference does not conflict with the agent's obligations pursuant to a collective bargaining agreement.

If the division closes a state liquor store and replaces the store with an agency store, any employees of the division employed at the state liquor store who lose their jobs at that store as a result may displace other employees as provided in sections 124.321 to 124.328 of the Revised Code. If an employee cannot displace other employees and is laid off, the employee shall be reinstated in another job as provided in sections 124.321 to 124.328 of the Revised Code, except that the employee's rights of reinstatement in a job at a state liquor

store shall continue for a period of two years after the date of the employee's layoff and shall apply to jobs at state liquor stores located in the employee's layoff jurisdiction and any layoff jurisdiction adjacent to the employee's layoff jurisdiction.

(E) The division shall require every agent to give bond with surety to the satisfaction of the division, in the amount the division fixes, conditioned for the faithful performance of the agent's duties as prescribed by the division.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food

within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges, and shall observe the same hours of operation, as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a

certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may

exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D)(1) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation

licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a municipal corporation, at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code.

(2) The holder of a D-5d permit may sell either of the following:

(a) Beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. In addition, such consumption may occur in the area of the airport terminal that is restricted to persons taking flights to and from the airport, provided all of the following apply:

(i) The airport's governing body authorizes the consumption of beer and intoxicating liquor in that area.

(ii) The D-5d permit holder is located in that area.

(iii) The airport is a public-use airport, as defined in section 4563.30 of the Revised Code, that has commercial flight activity and has one or more passenger or property screening checkpoints or restricted areas used as security measures.

(iv) The beer or intoxicating liquor is served solely in plastic bottles or other plastic containers that clearly identify the D-5d permit holder.

(b) The same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits.

In addition to the privileges authorized in division (D) of this section, the holder of a D-5d permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(3) A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

(4) The fee for the D-5d permit is two thousand three hundred forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

(1) Is permanently docked at one location;

(2) Is designated as an historical riverboat by the Ohio history connection;

(3) Contains not less than fifteen hundred square feet of floor area;

(4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or

in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

In addition to the privileges authorized in this division, the holder of a D-5e permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be

accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited. In addition to the privileges authorized in this division, the holder of a D-5f permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption

on the premises where sold after two-thirty a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. In addition to the privileges authorized in this division, the holder of a D-5g permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing

recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) In addition to the privileges authorized in this division, the holder of a D-5h permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(4) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total

gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink

in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code. The permit shall not be issued to a community entertainment district that is designated under divisions (B) and (C) of section 4301.80 of the Revised Code if the district does not meet one of the following qualifications:

(1) It is located in a municipal corporation with a population of at least one hundred thousand.

(2) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(a) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(b) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) It is located in a township with a population of at least forty thousand.

(4) It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the

community entertainment district's area located in the township.

(5) It is located in a municipal corporation with a population between seven thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year 1880 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(7) It is located in a municipal corporation with a population of at least three thousand, and not less than one hundred fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section,

no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) In addition to the privileges authorized in this division, the holder of a D-5k permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the

individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises to which all of the following apply:

(a) The premises has gross annual receipts from the sale of food and meals that constitute not less than seventy-five per cent of its total gross annual receipts.

(b) The premises is located within a revitalization district that is designated under section 4301.81 of the Revised Code.

(c) The premises is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code.

(d) The premises meets any of the following qualifications:

(i) It is located in a county with a population of one hundred twenty-five thousand or less according to the population estimates certified by the department of housing and development ~~services agency~~ for calendar year 2006.

(ii) It is located in the municipal corporation that has the largest population in a county when the county has a population between two hundred fifteen thousand and two hundred

twenty-five thousand according to the population estimates certified by the department of housing and development ~~services agency~~ for calendar year 2006. Division (L)(2)(d)(ii) of this section applies only to a municipal corporation that is wholly located in a county.

(iii) It is located in the municipal corporation that has the largest population in a county when the county has a population between one hundred forty thousand and one hundred forty-one thousand according to the population estimates certified by the department of housing and development ~~services agency~~ for calendar year 2006. Division (L)(2)(d)(iii) of this section applies only to a municipal corporation that is wholly located in a county.

(iv) It is located in a township with a population density of less than four hundred fifty people per square mile. For purposes of division (L)(2)(d)(iv) of this section, the population of a township is considered to be the population shown by the most recent regular federal decennial census.

(v) It is located in a municipal corporation that is wholly located within the geographic boundaries of a township, provided that the municipal corporation and the unincorporated portion of the township have a combined population density of less than four hundred fifty people per square mile. For purposes of division (L)(2)(d)(v) of this section, the population of a municipal corporation and unincorporated portion of a township is the population shown by the most recent federal decennial census.

(vi) It is located in a county with a population of not less than one hundred seventy-two thousand and not more than one hundred ninety-five thousand. For purposes of division (L)(2)(d)

(vi) of this section, the population of a county is the population shown by the most recent decennial census.

(vii) It is located in a municipal corporation with a population of less than ten thousand and the municipal corporation is located in a county with a population of more than one million. For purposes of division (L)(2)(d)(vii) of this section, the population of a municipal corporation and a county is the population shown by the most recent decennial census.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than fifteen D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) No D-5l permit shall be issued to an adult entertainment establishment as defined in section 2907.39 of the Revised Code.

(6) The fee for a D-5l permit is two thousand three hundred forty-four dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that

is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

(N) Permit D-5n shall be issued to either a casino operator or a casino management company licensed under Chapter 3772. of the Revised Code that operates a casino facility under that chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5n permit may exercise the same privileges, and shall observe the same hours for beer and intoxicating liquor sales, as the holder of a D-5 permit. A D-5n permit shall not be transferred to another location. Only one D-5n permit may be issued per casino facility and not more than four D-5n permits shall be issued in this state. The fee for a permit D-5n shall be twenty thousand dollars. The holder of a D-5n permit may conduct casino gaming on the permit premises

notwithstanding any provision of the Revised Code or Administrative Code.

(O) Permit D-5o may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located within a casino facility for which a D-5n permit has been issued. The holder of a D-5o permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5o permit may exercise the same privileges, and shall observe the same hours for beer and intoxicating liquor sales, as the holder of a D-5 permit. A D-5o permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued. The fee for this permit is two thousand three hundred forty-four dollars.

Sec. 4303.262. The department of housing and development shall designate resort areas, certify the geographical limits of such areas, and certify the tourist population of and the custom and habits of the tourists in such areas. The liquor control commission shall give notice as herein provided of public hearings to be held for the purpose of determining whether class D-7 permits shall be issued within such areas.

When the resort area certified by the department is located in whole or in part within the corporate limits of a municipal corporation, the liquor control commission shall

notify the clerk of the legislative authority of such municipal corporation, by certified mail, of the date of the public hearing to determine whether such area shall be designated a resort area for purposes of issuing D-7 permits.

When the area certified by the department is located in whole or in part outside the corporate limits of a municipal corporation, the liquor control commission shall notify, by certified mail, the clerk of the board of county commissioners of the county in which such resort area is located. Such notice shall state the date of the public hearing to determine whether such area shall be designated a resort area for purposes of issuing D-7 permits.

In addition to the notice to the clerk of the legislative authority or the clerk of the county commissioners, or both, the liquor control commission shall cause public notice of the date of hearing for the purpose of designating such area as a resort area for the purpose of issuing D-7 permits to be published in a newspaper of general circulation within the area to be so designated. The hearing shall be held in a place designated by the liquor control commission.

At the public hearing the department shall testify concerning its findings and conclusions as to the designation of such area as a resort area. The legislative authority and the board of county commissioners shall be given the right to offer testimony either in support of or opposition to the designation of such area as a resort area. In addition, the liquor control commission shall give members of the general public the opportunity to give testimony either in support of or in opposition to such designation. Any member of the general public desiring to give testimony at such hearing shall give notice of

such fact to the liquor control commission within five days of such hearing. The liquor control commission may limit the number of private citizens given the opportunity to testify at such public hearing and limit the length of their presentation. Any such limitation shall include an equal number of speakers in opposition to and in favor of such designation.

Within thirty days of such public hearing the liquor control commission shall approve or deny by order the designation as a resort area and may before approval modify the geographical limits certified to it. In its order the liquor control commission shall consider the testimony presented to it at such hearing and shall take into consideration the transient population during the resort season, the custom and habits of visitors and tourists to the area, and the promotion of the resort and tourist industry within the area. The commission shall revoke or modify the designation as a "resort area" when the area no longer qualifies. No revocation or modification of the designation shall be made unless the notice and hearing procedures provided in this section for the original designation of the area are followed.

Sec. 4503.591. (A) If a professional sports team located in this state desires to have its logo appear on license plates issued by this state, it shall enter into a contract with either a sports commission to permit such display, as permitted by division (E) of this section, or with a community charity, as permitted by division (G) of this section.

(B) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle

and issuance of license plates bearing the logo of a professional sports team that has entered into a contract described in division (A) of this section. The application shall designate the sports team whose logo the owner or lessee desires to appear on the license plates. Failure to designate a participating professional sports team shall result in rejection by the registrar of the registration application. An application made under this section may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance by the applicant with divisions (C) and (D) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of license plates bearing the logo of the professional sports team the owner designated in the application and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, professional sports team license plates shall bear the logo of a participating professional sports team, and shall display county identification stickers that identify the county of registration as required under section 4503.19 of the Revised Code.

(C) The professional sports team license plates and validation sticker, or validation sticker alone, as the case may be, shall be issued upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle license tax levied under Chapter 4504. of the Revised Code, an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for a

professional sports team license plate is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker, or validation sticker alone, shall be issued upon payment of the taxes and fees described in this division plus the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code and compliance with all other applicable laws relating to the registration of motor vehicles.

(D) For each application for registration and registration renewal notice the registrar receives under this section, the registrar shall collect a contribution of twenty-five dollars. The registrar shall transmit this contribution to the treasurer of state for deposit into the license plate contribution fund created by section 4501.21 of the Revised Code.

The registrar shall transmit the additional fee of ten dollars, which is to compensate the bureau of motor vehicles for the additional services required in the issuing of professional sports team license plates, to the treasurer of state for deposit into the state treasury to the credit of the public safety - highway purposes fund created by section 4501.06 of the Revised Code.

(E) If a professional sports team located in this state desires to have its logo appear on license plates issued by this state and it desires to do so pursuant to this division, it shall inform the largest convention and visitors' bureau of the county in which the professional sports team is located of that desire. That convention and visitors' bureau shall create a sports commission to operate in that county to receive the contributions that are paid by applicants who choose to be issued license plates bearing the logo of that professional

sports team for display on their motor vehicles. The sports commission shall negotiate with the professional sports team to permit the display of the team's logo on license plates issued by this state, enter into the contract with the team to permit such display, and pay to the team any licensing or rights fee that must be paid in connection with the issuance of the license plates. Upon execution of the contract, the sports commission shall provide a copy of it to the registrar, along with any other documentation the registrar may require. Upon receipt of the contract and any required additional documentation, and when the numerical requirement contained in section 4503.78 of the Revised Code has been met relative to that particular professional sports team, the registrar shall take the measures necessary to issue license plates bearing the logo of that team.

(F) A sports commission shall expend the money it receives pursuant to section 4501.21 of the Revised Code to attract amateur regional, national, and international sporting events to the municipal corporation, county, or township in which it is located, and it may sponsor such events. Prior to attracting or sponsoring such events, the sports commission shall perform an economic analysis to determine whether the proposed event will have a positive economic effect on the greater area in which the event will be held. A sports commission shall not expend any money it receives under that section to attract or sponsor an amateur regional, national, or international sporting event if its economic analysis does not result in a finding that the proposed event will have a positive economic effect on the greater area in which the event will be held.

A sports commission that receives money pursuant to that section, in addition to any other duties imposed on it by law and notwithstanding the scope of those duties, also shall

encourage the economic development of this state through the promotion of tourism within all areas of this state. A sports commission that receives ten thousand dollars or more during any calendar year shall submit a written report to the director of housing and development, on or before the first day of October of the next succeeding year, detailing its efforts and expenditures in the promotion of tourism during the calendar year in which it received the ten thousand dollars or more.

As used in this division, "promotion of tourism" means the encouragement through advertising, educational and informational means, and public relations, both within the state and outside of it, of travel by persons away from their homes for pleasure, personal reasons, or other purposes, except to work, to this state or to the region in which the sports commission is located.

(G) If a professional sports team located in this state desires to have its logo appear on license plates issued by this state and it does not desire to do so pursuant to division (E) of this section, it shall do so pursuant to this division. The professional sports team shall notify a community charity of that desire. That community charity may negotiate with the professional sports team to permit the display of the team's logo on license plates issued by this state, enter into a contract with the team to permit such display, and pay to the team any licensing or rights fee that must be paid in connection with the issuance of the license plates. Upon execution of a contract, the community charity shall provide a copy of it to the registrar along with any other documentation the registrar may require. Upon receipt of the contract and any required additional documentation, and when the numerical requirement contained in section 4503.78 of the Revised Code has been met

relative to that particular professional sports team, the registrar shall take the measures necessary to issue license plates bearing the logo of that team.

(H)(1) A community charity shall expend the money it receives pursuant to section 4501.21 of the Revised Code solely to provide financial support to a sports commission for the purposes described in division (F) of this section and to nonprofit organizations located in this state that seek to improve the lives of those who are less fortunate and who reside in the region and state in which is located the sports team with which the community charity entered into a contract pursuant to division (G) of this section. Such organizations shall achieve this purpose through activities such as youth sports programs; educational, health, social, and community service programs; or services such as emergency assistance or employment, education, housing, and nutrition services.

The community charity shall not expend any money it receives pursuant to section 4501.21 of the Revised Code if the expenditure will be received by a nonprofit organization that will use the money in a manner or for a purpose that is not described in this division.

(2) The community charity shall provide a written quarterly report to the director of housing and development and the director of job and family services detailing the expenditures of the money it receives pursuant to section 4501.21 of the Revised Code. The report shall include the amount of such money received and an accounting of all expenditures of such money.

(I) For purposes of this section:

(1) The "largest" convention and visitors' bureau of a county is the bureau that receives the largest amount of money generated in that county from excise taxes levied on lodging transactions under sections 351.021, 5739.08, and 5739.09 of the Revised Code.

(2) "Sports commission" means a commission consisting of at least fifteen members that is a nonprofit corporation organized under the laws of this state that is entitled to tax exempt status under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and whose function is to attract, promote, or sponsor sports and athletic events within a municipal corporation, county, or township.

A sports commission may provide all services related to attracting, promoting, or sponsoring such events, including, but not limited to, the booking of athletes and teams, scheduling, and hiring or contracting for staff, ushers, managers, and other persons whose functions are directly related to the sports and athletic events the commission attracts, promotes, or sponsors.

(3) "Community charity" means a nonprofit corporation organized under the laws of this state that is entitled to tax exempt status under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and that enters into a contract with a professional sports team pursuant to division (G) of this section.

(4) "Nonprofit organization" means a nonprofit corporation organized under the laws of this state that is entitled to tax exempt status under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended, and that receives money from a community charity pursuant to

division (H)(1) of this section.

Sec. 4582.58. (A) All final actions of the port authority shall be journalized and the journal and the records of the port authority shall be open to public inspection at all reasonable times. Not later than the first day of April every year, every port authority shall submit a report to the director of housing and development detailing the projects and activities of the port authority during the previous calendar year. The report shall include, but not be limited to, all aspects of those projects and activities, including the progress and status of the projects and their costs, and any other information the director determines should be included in the report.

(B) Financial and proprietary information, including trade secrets, submitted by or on behalf of an employer to a port authority or to a nonprofit corporation engaged by contract to provide economic development services for a port authority, in connection with the relocation, location, expansion, improvement, or preservation of the business of that employer is not a public record subject to section 149.43 of the Revised Code. Any other information submitted by such an employer under those circumstances is not a public record subject to section 149.43 of the Revised Code until that employer commits in writing to proceed with the relocation, location, expansion, improvement, or preservation.

(C) Notwithstanding section 121.22 of the Revised Code, the board of directors of a port authority and the board of trustees of a nonprofit corporation described in division (B) of this section, and any committee or subcommittee of either, when considering information that is not a public record under this section, may close any meeting during the consideration of that

information pursuant to a vote of the majority of the members present on a motion stating that such information is to be considered. No other matters shall be considered during the closed session.

Sec. 4901.021. (A) There is hereby created a public utilities commission nominating council consisting of the following:

(1) The chairperson of the consumers' counsel governing board;

(2) The president of the accountancy board;

(3) The chairperson of the state board of registration for professional engineers and surveyors;

(4) The president of the Ohio state bar association;

(5) The president of the Ohio municipal league;

(6) The director of housing and development or the director's department-employed designee;

(7) A member of the public appointed by the speaker of the house of representatives, to serve at the pleasure of the speaker;

(8) A member of the public appointed by the president of the senate, to serve at the pleasure of the president;

(9) A representative of the regulated public utilities of the state appointed by the governor, to serve at the pleasure of the governor;

(10) A representative of the business community appointed by the governor, to serve at the pleasure of the governor;

(11) A representative of organized labor appointed by the

governor, to serve at the pleasure of the governor;

(12) A senior citizen sixty-five years of age or older appointed by the director of aging, to serve at the pleasure of the director.

(B) At its first meeting each calendar year, the council shall select from among its members a chairperson and secretary. The council may adopt bylaws governing its proceedings.

(C) The council shall keep a record of its proceedings. Special meetings may be called by the chairperson, and shall be called by the chairperson upon receipt of a written request for a meeting signed by two or more members of the council. Written notice of the time and place of each meeting shall be sent to each member of the council. With the approval of the association's or league's governing body, the president of the Ohio state bar association or the president of the Ohio municipal league, respectively, may designate an alternate to represent the president at meetings of the council. With the approval of the board, the president of the accountancy board or the chairperson of the state board of registration for professional engineers and surveyors may designate such an alternate. Six members, or their alternates, constitute a quorum.

(D) The council shall:

(1) Review and evaluate possible appointees for the office of commissioner of the public utilities commission;

(2) Consistent with division (D) of section 4901.02 of the Revised Code, not more than eighty-five nor less than sixty days prior to the expiration of the term of a public utilities commissioner or not more than thirty days after the death of,

resignation of, or termination of service by, a public utilities commissioner, provide the governor with a list of four individuals who are, in the judgment of the council, the most fully qualified to accede to the office of commissioner. The council shall not include the name of an individual upon the list, if the appointment of that individual by the governor would result in more than three members of the commission belonging to or being affiliated with the same political party. The council shall include on the list only the names of attorneys admitted to the practice of law in any state or the District of Columbia if an attorney must be appointed to fulfill the requirement of division (D) of section 4901.02 of the Revised Code. To the extent possible, in its performance of this duty, the council shall continually attempt to ensure that the primary focus of the background of two commissioners is in energy and that the primary focus of the background of two commissioners is in transportation or communications technology.

(E) In reviewing and evaluating possible appointees for the office of public utilities commissioner, the council may accept comments from, cooperate with, and request information from any person. The council may make recommendations to the general assembly concerning changes in legislation to assist the council in the performance of its duties.

(F) Within thirty days of receipt of the council's recommendations, the governor shall fill a vacancy occurring in the office of commissioner by appointment of one of the persons recommended by the council. Nothing in this section shall prevent the governor in the governor's discretion from rejecting all of the nominees of the council and reconvening the council in order to select four additional nominees. However, when the governor has reconvened the council and the council has provided

the governor with a second list of four names, the governor shall make the appointment from one of the names on the first list or the second list. Each appointment by the governor shall be subject to the advice and consent of the senate.

(G) Members of the council shall be compensated on a per diem basis pursuant to the procedures set forth in section 124.14 of the Revised Code plus reasonable travel expenses. All the expenses of the nominating council shall be paid from moneys appropriated to the public utilities commission for that purpose.

Sec. 4906.02. (A)(1) There is hereby created within the public utilities commission the power siting board, composed of the chairperson of the public utilities commission, the director of environmental protection, the director of health, the director of housing and development, the director of natural resources, the director of agriculture, and a representative of the public who shall be an engineer and shall be appointed by the governor, from a list of three nominees submitted to the governor by the office of the consumers' counsel, with the advice and consent of the senate and shall serve for a term of four years. The chairperson of the public utilities commission shall be chairperson of the board and its chief executive officer. The chairperson shall designate one of the voting members of the board to act as vice-chairperson who shall possess during the absence or disability of the chairperson all of the powers of the chairperson. All hearings, studies, and consideration of applications for certificates shall be conducted by the board or representatives of its members.

In addition, the board shall include four legislative members who may participate fully in all the board's

deliberations and activities except that they shall serve as nonvoting members. The speaker of the house of representatives shall appoint one legislative member, and the president of the senate and minority leader of each house shall each appoint one legislative member. Each such legislative leader shall designate an alternate to attend meetings of the board when the regular legislative member appointed by the legislative leader is unable to attend. Each legislative member and alternate shall serve for the duration of the elected term that the legislative member is serving at the time of appointment. A quorum of the board is a majority of its voting members.

The representative of the public and, notwithstanding section 101.26 of the Revised Code, legislative members of the board or their designated alternates, when engaged in their duties as members of the board, shall be paid at the per diem rate of step 1, pay range 32, under schedule B of section 124.15 of the Revised Code and shall be reimbursed for the actual and necessary expenses they incur in the discharge of their official duties.

(2) In all cases involving an application for a certificate or a material amendment to an existing certificate for a utility facility, as defined in section 303.57 of the Revised Code, the board shall include two voting ad hoc members, as described in section 4906.021 of the Revised Code.

(B) The chairperson shall keep a complete record of all proceedings of the board, issue all necessary process, writs, warrants, and notices, keep all books, maps, documents, and papers ordered filed by the board, conduct investigations pursuant to section 4906.07 of the Revised Code, and perform such other duties as the board may prescribe.

(C) The chairperson of the public utilities commission may assign or transfer duties among the commission's staff. However, the board's authority to grant certificates under section 4906.10 of the Revised Code shall not be exercised by any officer, employee, or body other than the board itself.

(D)(1) The chairperson may call to the chairperson's assistance, temporarily, any employee of the environmental protection agency, the department of natural resources, the department of agriculture, the department of health, or the department of housing and development, for the purpose of making studies, conducting hearings, investigating applications, or preparing any report required or authorized under this chapter. Such employees shall not receive any additional compensation over that which they receive from the agency by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the chairperson. All contracts for special services are subject to the approval of the chairperson.

(2) Subject to controlling board approval, the board may contract for the services of any expert or analyst, other than an employee described in division (D)(1) of this section, for the purposes of carrying out the board's powers and duties as described in Chapter 4906. of the Revised Code. Any such expert or analyst shall be compensated from the application fee, or if necessary, supplemental application fees assessed in accordance with division (F) of section 4906.06 of the Revised Code.

(E) The board's offices shall be located in those of the public utilities commission.

Sec. 4928.06. (A) Beginning on the starting date of competitive retail electric service, the public utilities

commission shall ensure that the policy specified in section 4928.02 of the Revised Code is effectuated. To the extent necessary, the commission shall adopt rules to carry out this chapter. Initial rules necessary for the commencement of the competitive retail electric service under this chapter shall be adopted within one hundred eighty days after the effective date of this section. Except as otherwise provided in this chapter, the proceedings and orders of the commission under the chapter shall be subject to and governed by Chapter 4903. of the Revised Code.

(B) If the commission determines, on or after the starting date of competitive retail electric service, that there is a decline or loss of effective competition with respect to a competitive retail electric service of an electric utility, which service was declared competitive by commission order issued pursuant to division (A) of section 4928.04 of the Revised Code, the commission shall ensure that that service is provided at compensatory, fair, and nondiscriminatory prices and terms and conditions.

(C) In addition to its authority under section 4928.04 of the Revised Code and divisions (A) and (B) of this section, the commission, on an ongoing basis, shall monitor and evaluate the provision of retail electric service in this state for the purpose of discerning any noncompetitive retail electric service that should be available on a competitive basis on or after the starting date of competitive retail electric service pursuant to a declaration in the Revised Code, and for the purpose of discerning any competitive retail electric service that is no longer subject to effective competition on or after that date. Upon such evaluation, the commission periodically shall report its findings and any recommendations for legislation to the

standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation. Until 2008, the commission and the consumer's counsel also shall provide biennial reports to those standing committees, regarding the effectiveness of competition in the supply of competitive retail electric services in this state. In addition, until the end of all market development periods as determined by the commission under section 4928.40 of the Revised Code, those standing committees shall meet at least biennially to consider the effect on this state of electric service restructuring and to receive reports from the commission, consumers' counsel, and director of housing and development.

(D) In determining, for purposes of division (B) or (C) of this section, whether there is effective competition in the provision of a retail electric service or reasonably available alternatives for that service, the commission shall consider factors including, but not limited to, all of the following:

(1) The number and size of alternative providers of that service;

(2) The extent to which the service is available from alternative suppliers in the relevant market;

(3) The ability of alternative suppliers to make functionally equivalent or substitute services readily available at competitive prices, terms, and conditions;

(4) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of suppliers of services.

The burden of proof shall be on any entity requesting, under division (B) or (C) of this section, a determination by

the commission of the existence of or a lack of effective competition or reasonably available alternatives.

(E)(1) Beginning on the starting date of competitive retail electric service, the commission has authority under Chapters 4901. to 4909. of the Revised Code, and shall exercise that authority, to resolve abuses of market power by any electric utility that interfere with effective competition in the provision of retail electric service.

(2) In addition to the commission's authority under division (E)(1) of this section, the commission, beginning the first year after the market development period of a particular electric utility and after reasonable notice and opportunity for hearing, may take such measures within a transmission constrained area in the utility's certified territory as are necessary to ensure that retail electric generation service is provided at reasonable rates within that area. The commission may exercise this authority only upon findings that an electric utility is or has engaged in the abuse of market power and that that abuse is not adequately mitigated by rules and practices of any independent transmission entity controlling the transmission facilities. Any such measure shall be taken only to the extent necessary to protect customers in the area from the particular abuse of market power and to the extent the commission's authority is not preempted by federal law. The measure shall remain in effect until the commission, after reasonable notice and opportunity for hearing, determines that the particular abuse of market power has been mitigated.

(F) An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall

provide the commission with such information, regarding a competitive retail electric service for which it is subject to certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.

The commission shall require each electric utility to file with the commission on and after the starting date of competitive retail electric service an annual report of its intrastate gross receipts and sales of kilowatt hours of electricity, and shall require each electric services company, electric cooperative, and governmental aggregator subject to certification to file an annual report on and after that starting date of such receipts and sales from the provision of those retail electric services for which it is subject to certification. For the purpose of the reports, sales of kilowatt hours of electricity are deemed to occur at the meter of the retail customer.

Sec. 4928.43. (A) Each state agency that provides employment assistance and job training programs, including the bureau of employment services and the department of housing and development, shall provide concentrated attention through those programs to assisting employees whose employment is affected by electric industry restructuring under this chapter.

(B) To the extent not prohibited by federal law or any law of this state and except as otherwise provided in a labor contract or other agreement, no unencumbered money in a pension fund for employees of electric utilities shall be used for any

purpose other than to pay allowable pensions or early retirement buyouts for the employees.

Sec. 4928.51. (A) There is hereby established in the state treasury a universal service fund, into which shall be deposited all universal service revenues remitted to the director of housing and development under this section, for the exclusive purposes of providing funding for the low-income customer assistance programs and for the consumer education program authorized under section 4928.56 of the Revised Code, and paying the administrative costs of the low-income customer assistance programs and the consumer education program. Interest on the fund shall be credited to the fund. Disbursements from the fund shall be made to any supplier that provides a competitive retail electric service or a noncompetitive retail electric service to a customer who is approved to receive assistance under a specified low-income customer assistance program and to any authorized provider of weatherization or energy efficiency service to a customer approved to receive such assistance under a specified low-income customer assistance program.

(B) Universal service revenues shall include all of the following:

(1) Revenues remitted to the director after collection by an electric distribution utility beginning July 1, 2000, attributable to the collection from customers of the universal service rider prescribed under section 4928.52 of the Revised Code;

(2) Revenues remitted to the director that have been collected by an electric distribution utility beginning July 1, 2000, as customer payments under the percentage of income payment plan program, including revenues remitted under division

(C) of this section;

(3) Adequate revenues remitted to the director after collection by a municipal electric utility or electric cooperative in this state not earlier than July 1, 2000, upon the utility's or cooperative's decision to participate in the low-income customer assistance programs.

(C)(1) Beginning July 1, 2000, an electric distribution utility shall transfer to the director the right to collect all arrearage payments of a customer for percentage of income payment plan program debt owed to the utility on the day before that date or retain the right to collect that debt but remit to the director all program revenues received by the utility for that customer.

(2) A current or past percentage of income payment plan program customer is relieved of any payment obligation under the percentage of income payment program for any unpaid arrears accrued by the customer under the program as of the effective date of this section if the customer, as determined by the director, meets both of the following criteria:

(a) The customer as of that date has complied with customer payment responsibilities under the program.

(b) The customer is permanently and totally disabled as defined in section 5117.01 of the Revised Code or is sixty-five years of age or older as defined in that section.

(D) The public utilities commission shall complete an audit of each electric utility by July 1, 2000, for the purpose of establishing a baseline for the percentage of income payment plan program component of the low-income assistance programs.

Sec. 4928.52. (A) Beginning July 1, 2000, the universal

service rider shall replace the percentage of income payment plan rider in existence on the effective date of this section and any amount in the rates of an electric utility for the funding of low-income customer energy efficiency programs. The universal service rider shall be a rider on retail electric distribution service rates as such rates are determined by the public utilities commission pursuant to this chapter. The universal service rider for the first five years after the starting date of competitive retail electric service shall be the sum of all of the following:

(1) The level of the percentage of income payment plan program rider in existence on the effective date of this section;

(2) An amount equal to the level of funding for low-income customer energy efficiency programs provided through electric utility rates in effect on the effective date of this section;

(3) Any additional amount necessary and sufficient to fund through the universal service rider the administrative costs of the low-income customer assistance programs and the consumer education program created in section 4928.56 of the Revised Code.

(B) If, during or after the five-year period specified in division (A) of this section, the director of housing and development, after consultation with the public benefits advisory board created under section 4928.58 of the Revised Code, determines that revenues in the universal service fund and revenues from federal or other sources of funding for those programs, including general revenue fund appropriations for the Ohio energy credit program, will be insufficient to cover the administrative costs of the low-income customer assistance

programs and the consumer education program and provide adequate funding for those programs, the director shall file a petition with the commission for an increase in the universal service rider. The commission, after reasonable notice and opportunity for hearing, may adjust the universal service rider by the minimum amount necessary to provide the additional revenues. The commission shall not decrease the universal service rider without the approval of the director, after consultation by the director with the advisory board.

(C) The universal service rider established under division (A) or (B) of this section shall be set in such a manner so as not to shift among the customer classes of electric distribution utilities the costs of funding low-income customer assistance programs.

Sec. 4928.53. (A) Beginning July 1, 2000, the director of housing and development is hereby authorized to administer the low-income customer assistance programs. For that purpose, the public utilities commission shall cooperate with and provide such assistance as the director requires for administration of the low-income customer assistance programs. The director shall consolidate the administration of and redesign and coordinate the operations of those programs within the department to provide, to the maximum extent possible, for efficient program administration and a one-stop application and eligibility determination process at the local level for consumers.

(B)(1) Not later than March 1, 2000, the director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to carry out sections 4928.51 to 4928.58 of the Revised Code and ensure the effective and efficient administration and operation of the low-income customer assistance programs. The

rules shall take effect on July 1, 2000.

(2) The director's authority to adopt rules under this division for the Ohio energy credit program shall be subject to such rule-making authority as is conferred on the director by sections 5117.01 to 5117.12 of the Revised Code, as amended by Sub. S.B. No. 3 of the 123rd general assembly, except that rules initially adopted by the director for the Ohio energy credit program shall incorporate the substance of those sections as they exist on the effective date of this section.

(3) The director's authority to adopt rules under this division for the percentage of income payment plan program shall include authority to adopt rules prescribing criteria for customer eligibility and policies regarding payment and crediting arrangements and responsibilities, procedures for verifying customer eligibility, procedures for disbursing public funds to suppliers and otherwise administering funds under the director's jurisdiction, and requirements as to timely remittances of revenues described in division (B) of section 4928.51 of the Revised Code. The rules shall prohibit the imposition of a waiting period before enrolling an eligible customer in the percentage of income payment plan. The director's authority in division (B)(3) of this section excludes authority to prescribe service disconnection and customer billing policies and procedures and to address complaints against suppliers under the percentage of payment plan program, which excluded authority shall be exercised by the public utilities commission, in coordination with the director. Rules adopted by the director under this division for the percentage of income payment plan program shall specify a level of payment responsibility to be borne by an eligible customer based on a percentage of the customer's income. Rules initially adopted by

the director for the percentage of income payment plan program shall incorporate the eligibility criteria and payment arrangement and responsibility policies set forth in rule 4901:1-18-04(B) of the Ohio Administrative Code in effect on the effective date of this section.

Sec. 4928.54. The director of housing and development ~~services~~ shall aggregate percentage of income payment plan program customers for the purpose of establishing a competitive procurement process for the supply of competitive retail electric service for those customers. The process shall be an auction. Only bidders certified under section 4928.08 of the Revised Code may participate in the auction.

Sec. 4928.543. The director of housing and development ~~services~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 4928.54, 4928.541, and 4928.542 of the Revised Code. The rules shall ensure a fair and unbiased auction process and the performance of the winning bidder or bidders.

Sec. 4928.544. (A) For the purpose of facilitating compliance with sections 4928.54, 4928.541, and 4928.542 of the Revised Code, and upon written request by the director of housing and development ~~services~~, the public utilities commission shall design, manage, and supervise the competitive procurement process required by section 4928.54 of the Revised Code. To the extent reasonably possible, and to minimize costs, the process may be designed based on any existing competitive procurement process for the establishment of the default generation supply price for electric distribution utilities.

This division does not preclude a process design that is based on a competitive procurement process that applies to the

combined certified territories of electric distribution utilities subject to common ownership.

(B) The director of housing and development ~~services~~ shall reimburse the commission for its costs incurred under division (A) of this section. The reimbursements constitute administrative costs of the low-income customer assistance programs for the purpose of division (A) of section 4928.51 of the Revised Code.

Sec. 4928.55. The director of housing and development ~~services~~ shall establish an energy efficiency and weatherization program targeted, to the extent practicable, to high-cost, high-volume use structures occupied by customers eligible for the percentage of income payment plan program, with the goal of reducing the energy bills of the occupants. Acceptance of energy efficiency and weatherization services provided by the program shall be a condition for the eligibility of any such customer to participate in the percentage of income payment plan program.

Sec. 4928.56. The director of housing and development may adopt rules in accordance with Chapter 119. of the Revised Code establishing an education program for consumers eligible to participate in the low-income customer assistance programs. The education program shall provide information to consumers regarding energy efficiency and energy conservation.

Sec. 4928.57. On and after the starting date of competitive retail electric service, the director of housing and development shall provide a report every two years until 2008 to the standing committees of the general assembly that deal with public utility matters, regarding the effectiveness of the low-income customer assistance programs and the consumer education program, and the effectiveness of the advanced energy program

created under sections 4928.61 to 4928.63 of the Revised Code.

Sec. 4928.58. (A) There is hereby created the public benefits advisory board, which has the purpose of ensuring that energy services be provided to low-income consumers in this state in an affordable manner consistent with the policy specified in section 4928.02 of the Revised Code. The advisory board shall consist of twenty-one members as follows: the director of housing and development, the chairperson of the public utilities commission, the consumers' counsel, and the director of the air quality development authority, each serving ex officio and represented by a designee at the official's discretion; two members of the house of representatives appointed by the speaker of the house of representatives, neither of the same political party, and two members of the senate appointed by the president of the senate, neither of the same political party; and thirteen members appointed by the governor with the advice and consent of the senate, consisting of one representative of suppliers of competitive retail electric service; one representative of the residential class of electric utility customers; one representative of the industrial class of electric utility customers; one representative of the commercial class of electric utility customers; one representative of agricultural or rural customers of an electric utility; two customers receiving assistance under one or more of the low-income customer assistance programs, to represent customers eligible for any such assistance, including senior citizens; one representative of the general public; one representative of local intake agencies; one representative of a community-based organization serving low-income customers; one representative of environmental protection interests; one representative of lending institutions; and one person

considered an expert in energy efficiency or renewables technology. Initial appointments shall be made not later than November 1, 1999.

(B) Initial terms of six of the appointed members shall end on June 30, 2003, and initial terms of the remaining seven appointed members shall end on June 30, 2004. Thereafter, terms of appointed members shall be for three years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) Board members shall be reimbursed for their actual and necessary expenses incurred in the performance of board duties. The reimbursements constitute, as applicable, administrative costs of the low-income customer assistance programs for the purpose of division (A) of section 4928.51 of the Revised Code or administrative costs of the advanced energy program for the purpose of division (A) of section 4528.61 of the Revised Code.

(D) The advisory board shall select a chairperson from among its members. Only board members appointed by the governor with the advice and consent of the senate shall be voting members of the board; each shall have one vote in all

deliberations of the board. A majority of the voting members constitute a quorum.

(E) The duties of the advisory board shall be as follows:

(1) Advise the director in the administration of the universal service fund and the low-income customer assistance programs and advise the director on the director's recommendation to the commission regarding the appropriate level of the universal service rider;

(2) Advise the director on the administration of the advanced energy program and the advanced energy fund under sections 4928.61 to 4928.63 of the Revised Code.

(F) The advisory board is not an agency for purposes of sections 101.82 to 101.87 of the Revised Code.

Sec. 4928.581. (A) The public benefits advisory board shall conduct an independent investigation and analysis for the purpose of making the report required under division (B) of this section.

(B) With the approval of a majority of its voting members, the board shall prepare a written report containing all of the following:

(1) For each year since the establishment of the universal service fund and for each electric distribution utility, the annual amount of revenue collected from customers for the purpose of supporting the universal service fund and the low-income customer assistance programs.

(2) For 2016, 2017, and 2018, and for each electric distribution utility, a forecast of the annual amount of revenue that will be collected from customers for the purpose of

supporting the universal service fund and the low-income customer assistance programs, assuming no changes are made to the programs. The forecast shall identify all assumptions, input variables, and values assigned to input variables. The forecast may include alternative outcomes based on variations in the assumptions, variables, and values, so as to show the sensitivity of the forecast to alternative inputs.

(3) A recommendation as to any changes that should be made to the design and implementation of the current universal service fund and the low-income customer assistance programs to ensure that energy services are provided to low-income and other consumers in this state in an affordable manner consistent with the policy specified in section 4928.02 of the Revised Code.

(C) The report required under division (B) of this section may include dissenting views and alternative recommendations.

(D) On or before December 15, 2015, the board shall submit the report required under division (B) of this section to the governor, the president of the senate, the speaker of the house of representatives, each member of the standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation, the director of housing and development ~~services~~, the chairperson of the public utilities commission, the Ohio consumers' counsel, and each member of the public benefits advisory board.

Sec. 4928.582. (A) To discharge the duties under section 4928.581 of the Revised Code, the public benefits advisory board may obtain professional services as the board determines appropriate. The professionals shall be promptly reimbursed by the director of housing and development ~~services~~ for the actual and necessary expenses incurred in the performance of their

duties under section 4928.581 of the Revised Code. The reimbursements constitute administrative costs of the low-income customer assistance programs for the purpose of division (A) of section 4928.51 of the Revised Code.

(B) The chairperson of the board may execute, subject to the advice and consent of the board, any professional-services retention agreements that the board determines appropriate.

Sec. 4928.583. The director of housing and development~~—services~~, the public utilities commission, and each electric distribution utility shall promptly respond to requests by the public benefits advisory board for information needed to prepare the report required under section 4928.581 of the Revised Code.

Sec. 4928.61. (A) There is hereby established in the state treasury the advanced energy fund, into which shall be deposited all advanced energy revenues remitted to the director of housing and development under division (B) of this section, for the exclusive purposes of funding the advanced energy program created under section 4928.62 of the Revised Code and paying the program's administrative costs. Interest on the fund shall be credited to the fund.

(B) Advanced energy revenues shall include all of the following:

(1) Revenues remitted to the director after collection by each electric distribution utility in this state of a temporary rider on retail electric distribution service rates as such rates are determined by the public utilities commission pursuant to this chapter. The rider shall be a uniform amount statewide, determined by the director of housing and development, after consultation with the public benefits advisory board created by

section 4928.58 of the Revised Code. The amount shall be determined by dividing an aggregate revenue target for a given year as determined by the director, after consultation with the advisory board, by the number of customers of electric distribution utilities in this state in the prior year. Such aggregate revenue target shall not exceed more than fifteen million dollars in any year through 2005 and shall not exceed more than five million dollars in any year after 2005. The rider shall be imposed beginning on the effective date of the amendment of this section by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, and shall terminate at the end of ten years following the starting date of competitive retail electric service or until the advanced energy fund, including interest, reaches one hundred million dollars, whichever is first.

(2) Revenues from payments, repayments, and collections under the advanced energy program and from program income;

(3) Revenues remitted to the director after collection by a municipal electric utility or electric cooperative in this state upon the utility's or cooperative's decision to participate in the advanced energy fund;

(4) Revenues from renewable energy compliance payments as provided under division (C)(2) of section 4928.64 of the Revised Code;

(5) Revenue from forfeitures under division (C) of section 4928.66 of the Revised Code;

(6) Funds transferred pursuant to division (B) of Section 512.10 of S.B. 315 of the 129th general assembly;

(7) Interest earnings on the advanced energy fund.

(C)(1) Each electric distribution utility in this state

shall remit to the director on a quarterly basis the revenues described in divisions (B)(1) and (2) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter.

(2) Each participating electric cooperative and participating municipal electric utility shall remit to the director on a quarterly basis the revenues described in division (B)(3) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter. For the purpose of division (B)(3) of this section, the participation of an electric cooperative or municipal electric utility in the energy efficiency revolving loan program as it existed immediately prior to the effective date of the amendment of this section by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, does not constitute a decision to participate in the advanced energy fund under this section as so amended.

(3) All remittances under divisions (C)(1) and (2) of this section shall continue only until the end of ten years following the starting date of competitive retail electric service or until the advanced energy fund, including interest, reaches one hundred million dollars, whichever is first.

(D) Any moneys collected in rates for non-low-income customer energy efficiency programs, as of October 5, 1999, and not contributed to the energy efficiency revolving loan fund authorized under this section prior to the effective date of its amendment by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, shall be used to continue to fund cost-effective, residential energy efficiency programs, be contributed into the universal service fund as a supplement to that required under section 4928.53 of the Revised Code, or be

returned to ratepayers in the form of a rate reduction at the option of the affected electric distribution utility.

Sec. 4928.62. (A) There is hereby created the advanced energy program, which shall be administered by the director of housing and development. Under the program, the director may authorize the use of moneys in the advanced energy fund for financial, technical, and related assistance for advanced energy projects in this state or for economic development assistance, in furtherance of the purposes set forth in section 4928.63 of the Revised Code.

(1) To the extent feasible given approved applications for assistance, the assistance shall be distributed among the certified territories of electric distribution utilities and participating electric cooperatives, and among the service areas of participating municipal electric utilities, in amounts proportionate to the remittances of each utility and cooperative under divisions (B)(1) and (3) of section 4928.61 of the Revised Code.

(2) The funds described in division (B)(6) of section 4928.61 of the Revised Code shall not be subject to the territorial requirements of division (A)(1) of this section.

(3) The director shall not authorize financial assistance for an advanced energy project under the program unless the director first determines that the project will create new jobs or preserve existing jobs in this state or use innovative technologies or materials.

(B) In carrying out sections 4928.61 to 4928.63 of the Revised Code, the director may do all of the following to further the public interest in advanced energy projects and

economic development:

(1) Award grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives;

(2) Acquire in the name of the director any property of any kind or character in accordance with this section, by purchase, purchase at foreclosure, or exchange, on such terms and in such manner as the director considers proper;

(3) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 4928.61 to 4928.63 of the Revised Code;

(4) Employ or enter into contracts with financial consultants, marketing consultants, consulting engineers, architects, managers, construction experts, attorneys, technical monitors, energy evaluators, or other employees or agents as the director considers necessary, and fix their compensation;

(5) Adopt rules prescribing the application procedures for financial assistance under the advanced energy program; the fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives; criteria pertaining to the eligibility of participating lending institutions; and any other matters necessary for the implementation of the program;

(6) Do all things necessary and appropriate for the operation of the program.

(C) The department of housing and development may hold ownership to any unclaimed energy efficiency and renewable

energy emission allowances provided for in Chapter 3745-14 of the Administrative Code or otherwise, that result from advanced energy projects that receive funding from the advanced energy fund, and it may use the allowances to further the public interest in advanced energy projects or for economic development.

(D) Financial statements, financial data, and trade secrets submitted to or received by the director from an applicant or recipient of financial assistance under sections 4928.61 to 4928.63 of the Revised Code, or any information taken from those statements, data, or trade secrets for any purpose, are not public records for the purpose of section 149.43 of the Revised Code.

(E) Nothing in the amendments of sections 4928.61, 4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th general assembly shall affect any pending or effected assistance, pending or effected purchases or exchanges of property made, or pending or effected contracts or agreements entered into pursuant to division (A) or (B) of this section as the section existed prior to the effective date of those amendments, January 4, 2007, or shall affect the exemption provided under division (C) of this section as the section existed prior to that effective date.

(F) Any assistance a school district receives for an advanced energy project, including a geothermal heating, ventilating, and air conditioning system, shall be in addition to any assistance provided under Chapter 3318. of the Revised Code and shall not be included as part of the district or state portion of the basic project cost under that chapter.

Sec. 4928.63. The director of <u>housing and</u> development and

the public benefits advisory board have the powers and duties provided in sections 4928.61 and 4928.62 of the Revised Code, in order to promote the welfare of the people of this state; stabilize the economy; assist in the improvement and development within this state of not-for-profit entity, industrial, commercial, distribution, residential, and research buildings and activities required for the people of this state; improve the economic welfare of the people of this state by reducing energy costs and by reducing energy usage in a cost-efficient manner using, as determined by the director, both the most appropriate national, federal, or other standards for products and the best practices for the use of technology, products, or services in the context of a total facility or building; and assist in the lowering of energy demand to reduce air, water, or thermal pollution. It is hereby determined that the accomplishment of those purposes is essential so that the people of this state may maintain their present high standards in comparison with the people of other states and so that opportunities for improving the economic welfare of the people of this state, for improving the housing of residents of this state, and for favorable markets for the products of this state's natural resources, agriculture, and manufacturing shall be improved; and that it is necessary for this state to establish the program authorized pursuant to sections 4928.61 and 4928.62 of the Revised Code.

Sec. 4928.75. Beginning in fiscal year 2021 and each fiscal year thereafter, the director of housing and development ~~services~~ shall, in each fiscal year, submit a completed waiver request in accordance with section 96.83 of Title 45 of the Code of Federal Regulations to the United States department of health and human services and any other applicable federal agencies for

the state to expend twenty-five per cent of federal low-income home energy assistance programs funds from the home energy assistance block grants for weatherization services allowed by section 96.83(a) of Title 45 of the Code of Federal Regulations to the United States department of health and human services.

Sec. 4929.16. As used in sections 4929.16 to 4929.167 of the Revised Code:

(A) "Infrastructure development" means constructing, upgrading, extending, or any other investment in, or associated with, transmission or distribution facilities that, except as provided for in division (B)(2)(b) of this section, a natural gas company owns and operates.

(B)(1) "Infrastructure development costs" means costs associated with an investment in infrastructure development to which either of the following apply:

(a) The investment is for any deposit required by the natural gas company, as defined in the line-extension provision of the company's tariff, less any contribution in aid of construction received from the owner or developer of the project.

(b) The investment is designed to provide natural gas service to a site or economic development project that is supported by JobsOhio, any JobsOhio network or regional partner, or the department of housing and development.

(2) "Infrastructure development costs" includes all of the following:

(a) Planning, development, and construction costs, including costs incurred prior to the approval of an economic development project pursuant to section 4929.163 of the Revised

Code;

(b) Costs associated with establishing or upgrading any connections with any source of supply to serve an economic development project, including interstate or intrastate pipelines, regardless of ownership of the facilities;

(c) A return on all infrastructure development costs, with such return equal to the natural gas company's return on equity authorized in the natural gas company's most recently approved rate case under section 4909.18 of the Revised Code.

Sec. 4929.161. (A) A natural gas company may file an application with the public utilities commission for approval of an infrastructure development rider to recover prudently incurred infrastructure development costs of one or more economic development projects approved under section 4929.163 of the Revised Code.

(B) The commission shall approve a maximum of one infrastructure development rider per company.

(C) The commission shall not accept an application for infrastructure development costs described under division (B)(1)(b) of section 4929.16 of the Revised Code unless a natural gas company has obtained a notification by JobsOhio, any JobsOhio network or regional partner, or the director of housing and development that the project should be considered. The commission shall not approve an application for an economic development project that includes infrastructure development costs described under division (B)(1)(b) of section 4929.16 of the Revised Code filed beyond six years from March 28, 2024, the effective date of the amendment to this section by H.B. 201 of the 135th general assembly.

(D) Notwithstanding division (C) of this section, recovery of infrastructure development costs pursuant to section 4929.16 of the Revised Code for any approved economic development projects filed within six years of March 28, 2024, the effective date of the amendment to this section by H.B. 201 of the 135th general assembly, shall continue until such time as all costs eligible for recovery under sections 4929.16 to 4929.163 of the Revised Code are recovered.

Sec. 4929.163. (A) A natural gas company may file an application with the public utilities commission for approval of an economic development project for which the company will incur infrastructure development costs.

(B) The company shall file the application for project approval prior to beginning the project.

(C) The application for project approval, to the extent applicable, shall contain a description of each of the following:

(1) The economic development project;

(2) The infrastructure development costs to be expended on the project;

(3) How the project meets the criteria set forth in rules adopted under division (D) of this section;

(4) The support for the project by an economic development entity or chamber of commerce. For purposes of this application requirement, "economic development entity" includes any of the following:

(a) JobsOhio or any JobsOhio network or regional partner;

(b) Department of housing and development;

(c) Port authority created under Chapter 4582. of the Revised Code;

(d) Special improvement district created under Chapter 1710. of the Revised Code;

(e) Community urban redevelopment corporation qualified to operate under Chapter 1728. of the Revised Code;

(f) Community improvement corporation organized under Chapter 1724. of the Revised Code;

(g) New community authority organized under Chapter 349. of the Revised Code;

(h) Joint economic development district created under section 715.70 or 715.71 of the Revised Code;

(i) Development corporation organized under Chapter 1726. of the Revised Code;

(j) Municipal utility district designated under section 715.84 of the Revised Code.

(D)(1) The commission shall adopt rules setting forth the criteria for project approval under this section.

(2) The commission may approve a project under this section that involves infrastructure development costs described in division (B)(1)(a) of section 4929.16 of the Revised Code if the infrastructure development costs, excluding the return set forth in division (B)(2)(c) of section 4929.16 of the Revised Code, are projected to generate a return on the company's investment that is less than the most recently authorized return on equity.

(E) The commission shall adopt rules to provide for an

accelerated review of an application filed under division (A) of this section. The rules shall provide for the automatic approval of the application not later than thirty days after the date of the application filing unless the commission suspends the application for good cause shown. If the application is suspended, the commission shall approve, deny, modify, or hold a hearing on the application not later than forty-five days after the date that the suspension begins.

Sec. 4981.02. (A) There is hereby created the Ohio rail development commission, as an independent agency of the state within the department of transportation, consisting of the following members:

(1) Two members of the Ohio senate, one of whom shall be appointed by and serve at the pleasure of the president of the senate and one of whom shall be appointed by and serve at the pleasure of the minority leader of the senate;

(2) Two members of the Ohio house of representatives, one of whom shall be appointed by and serve at the pleasure of the speaker of the house of representatives and one of whom shall be appointed by and serve at the pleasure of the minority leader of the house of representatives;

(3) Two members representing the general public, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the speaker of the house of representatives;

(4) The director of transportation, or the director's designee, who shall be an ex officio member;

(5) The director of housing and development, or the director's designee, who shall be an ex officio member;

(6) The following members appointed by the governor with the advice and consent of the senate:

(a) One member, who shall serve as chairperson of the commission until October 21, 2025, or an earlier date if the member resigns or otherwise leaves office;

(b) One member, who shall represent the interests of a freight rail company;

(c) One member, who shall represent the interests of passenger rail service;

(d) One member, who shall have expertise in infrastructure financing;

(e) One member, who shall represent the interests of organized labor;

(f) One member, who shall represent the interests of manufacturers;

(g) One member who shall represent the general public, subject to division (B) of this section.

(B) Beginning on October 21, 2025, or at an earlier date if there is a vacancy in the position of chairperson, the director of transportation or the director's designee shall serve as the chairperson of the commission. Upon the director or director's designee assuming the position of chairperson, the governor shall appoint an additional member to the commission to represent the general public.

(C) All members shall be reimbursed for actual expenses incurred in the performance of their duties. The members of the commission from the Ohio senate and the Ohio house of representatives shall serve as nonvoting members. No more than

four members of the seven appointed to the commission by the governor shall be from the same political party. Each member of the commission shall be a resident of this state.

(D) Within sixty days after October 20, 1994, the governor shall make initial appointments to the commission. Of the initial appointments made to the commission, three shall be for a term ending three years after October 20, 1994, and three shall be for a term ending six years after that date. Terms for all other appointments made to the commission shall be for six years. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy shall have the same qualifications as the member's predecessor. Each term shall end on the same day of the same month of the year as did the term which it succeeds. Each appointed member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or for a period of sixty days, whichever occurs first. All members shall be eligible for reappointment.

(E) The commission may employ an executive director, who shall have appropriate experience as determined by the commission, and a secretary-treasurer and other employees that the commission considers appropriate. The commission may fix the compensation of the employees.

(F) Six members of the commission shall constitute a quorum, and the affirmative vote of six members shall be

necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(G) All members of the commission are subject to Chapter 102. of the Revised Code.

(H) The department of transportation may use all appropriate sources of revenue to assist the commission in developing and implementing rail service.

(I) Expenditures by the department of transportation, the Ohio rail development commission, or any other state agency for capital improvements for the development of passenger rail shall be subject to the approval of the controlling board with an affirmative vote of not fewer than five members, including the affirmative vote of a majority of the controlling board members appointed by the president of the senate and a majority of the controlling board members appointed by the speaker of the house of representatives. All public funds acquired by the commission shall be used for developing, implementing, and regulating rail service and not for operating rail service unless the general assembly specifically approves the expenditure of funds for operating rail service.

Sec. 4981.03. (A) The Ohio rail development commission shall do all of the following:

(1) Develop, promote, and support safe, adequate, and efficient rail service throughout the state;

(2) Maintain adequate programs of investigation, research, promotion, planning, and development for rail service, which programs shall include the consideration of recommendations by

public or private planning organizations;

(3) Provide for the participation of private corporations or organizations and the public in the development, construction, operation, and maintenance of rail service, and as franchisees of rail service.

(B) In regard to rail service, the Ohio rail development commission is the successor of the Ohio high speed rail authority and the division of rail transportation of the department of transportation. The commission shall succeed to all federal allotments, entitlements, subsidies, and grants now existing, whether such allotments, entitlements, subsidies, and grants are encumbered or unencumbered, in the same manner and with the same authority as the Ohio high speed rail authority and the division of rail transportation exercised prior to October 20, 1994.

(C) Every authority, commission, department, or other agency of this state shall provide the commission with data, plans, research, and any other information that the commission requests to assist it in performing its duties pursuant to this chapter.

(D) The commission may request and contract with any railroad to provide it with data and information necessary to carry out the purposes of this chapter. All railroads operating within this state shall provide the requested data and information to the commission. The commission shall not disclose any confidential data or information supplied to it.

(E) The commission shall cooperate with the director of housing and development by exercising the commission's duty to promote and develop rail service in this state in conjunction

with the director's exercise of ~~his~~ duty to promote the economic development of this state.

(F) The commission, when developing rail service throughout the state, may give priority to projects undertaken within the geographic boundaries of qualifying subdivisions.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under former Chapter 5115. of the Revised Code.

(2) "Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(3) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(4) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(5) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability financial assistance;

(f) County administration of disability financial

assistance;

(g) County administration of the supplemental nutrition assistance program;

(h) County administration of medicaid, excluding administrative expenditures for transportation services covered by the medicaid program.

(6) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred five per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred five per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the development services agency.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of housing and development ~~services agency~~, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the

bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to

establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as

if an internal management rule and in consultation with the director of budget and management.

Sec. 5104.30. (A) The department of children and youth is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of children and youth determines that the application is necessary. For purposes of this section, the department of children and youth may enter into agreements with other state

agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of children and youth shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing the step up to quality program pursuant to section 5104.29 of the Revised Code.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of children and youth may enter into interagency agreements with the department of education and workforce, the chancellor of higher education, the department of housing and development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of children and youth to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of

persons providing child care. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement rates for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly funded child care.

(2) In establishing reimbursement rates under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained in accordance with 45 C.F.R. 98.45;

(b) Establish an enhanced reimbursement rate for providers who provide child care for caretaker parents who work nontraditional hours;

(c) With regard to the step up to quality program established pursuant to section 5104.29 of the Revised Code, establish enhanced reimbursement rates for child care providers that participate in the program.

(3) In establishing reimbursement rates under division (E)(1)(a) of this section, the director may establish different reimbursement rates based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

Sec. 5117.02. (A) The director of housing and development shall adopt rules, or amendments and rescissions of rules, pursuant to section 4928.52 of the Revised Code, for the administration of the Ohio energy credit program under sections 5117.01 to 5117.12 of the Revised Code.

(B) As a means of efficiently administering the program, the director may extend, by as much as a total of thirty days, any date specified in such sections for the performance of a particular action by an individual or an officer.

(C)(1) Except as provided in division (C)(2) of this section, the director shall adopt, in accordance with divisions (A), (B), (C), (D), (E), and (F) of section 119.03 and section 119.04 of the Revised Code, whatever rules, or amendments or rescissions of rules are required by or are otherwise necessary to implement sections 5117.01 to 5117.12 of the Revised Code. A rule, amendment, or rescission adopted under this division is not exempt from the hearing requirements of section 119.03 of the Revised Code pursuant to division (H) of that section, or subject to section 111.15 of the Revised Code.

(2) If an emergency necessitates the immediate adoption of a rule, or the immediate adoption of an amendment or rescission of a rule that is required by or otherwise necessary to implement sections 5117.01 to 5117.12 of the Revised Code, the director immediately may adopt the emergency rule, amendment, or rescission without complying with division (A), (B), (C), (D), (E), or (F) of section 119.03 of the Revised Code so long as the director states the reasons for the necessity in the emergency rule, amendment, or rescission. The emergency rule, amendment, or rescission is effective on the day the emergency rule, amendment, or rescission, in final form and in compliance with division (A)(2) of section 119.04 of the Revised Code, is filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. If all filings are not completed on the same day, the emergency rule, amendment, or rescission is effective on the day on which the latest filing is completed. An emergency rule, amendment, or rescission adopted under this division is not subject to section 111.15 or division (G) of section 119.03 of the Revised Code. An emergency rule, amendment, or rescission adopted under this division continues in effect until amended or rescinded by the director in accordance with division (C)(1) or (2) of this section, except that the rescission of an emergency rescission does not revive the rule rescinded.

(D) Except where otherwise provided, each form, application, notice, and the like used in fulfilling the requirements of sections 5117.01 to 5117.12 of the Revised Code shall be approved by the director.

Sec. 5117.03. (A)(1) The director of housing and development shall prescribe the form of the application for assistance under the Ohio energy credit program. The application

shall be in the form of a signed statement, shall require no more information than is necessary to establish an applicant's eligibility under section 5117.07 of the Revised Code, and shall be clear and concise in its format, requirements, and instructions. The form shall request the following information:

(a) The name and address of the applicant;

(b) The type of energy or commodity that is the source of the heat produced by the primary heating system in the residence of the applicant;

(c) The name of the energy company or energy dealer that supplies the energy or commodity that is the source of the heat produced by the primary heating system in the residence of the applicant and, if the applicant receives the applicant's energy from a company, the applicant's account number;

(d) The applicant's total income or current total income;

(e) In the case of an application based upon physical disability, a certification signed by a physician, in the case of an application based upon mental disability, a certification signed by a physician or psychologist, or in the case of either such disability, a certification from a state or federal agency having the function of so classifying persons;

(f) The age of the applicant;

(g) Any other information required to make eligibility determinations under section 5117.07 of the Revised Code.

Each form shall contain a statement that signing such application constitutes a delegation of authority by the applicant to the director to examine any financial records that relate to income earned by the applicant as stated on the

application for the purpose of determining eligibility under section 5117.07 of the Revised Code and possible violation of division (B) of section 5117.11 of the Revised Code.

(2) The director shall mail or otherwise provide an application form to each person requesting such form.

(B)(1) The director shall devise and prescribe an application renewal form on which the head of household may indicate by check mark that the head of household received a credit or payment for the preceding heating season. Application renewal forms shall seek from persons applying on such basis a certification by the applicant attesting to the applicant's permanent and total disability and the name of a physician, psychologist, or government agency willing to provide an additional certification if so requested under division (D) of section 5117.07 of the Revised Code. Such forms shall also include such other information as the director requires and shall be clear and concise in format, requirements, and instructions.

(2) On or before the fifteenth day of June, the director shall mail or otherwise provide an application renewal form to each head of household who received a credit or payment during the preceding heating season.

(3) Application renewal forms shall be reviewed and disposed of in the same manner provided for application forms in section 5117.07 of the Revised Code.

(C) Applications and application renewal forms shall be returned to the director no later than the first day of September. If an applicant is determined eligible for a credit under division (A)(1) of section 5117.07 of the Revised Code and

the applicant's account number is not provided on the application form pursuant to division (A)(1)(c) of this section, the director shall make a good faith effort to acquire such number before certifying the applicant's eligibility to an energy company under section 5117.08 of the Revised Code. The director may request an energy company to assist in efforts to acquire an applicant's account number and, if so requested, a company shall cooperate in such efforts.

Sec. 5117.04. (A) Every energy company and energy dealer, at least once during June, and once during August, shall begin to distribute to each of its residential heating customers a plain and clear notice, printed in ten-point type on a sheet or card on which no other words appear on either the front or back, that states the right of qualified residential customers to receive a credit or payment under the Ohio energy credit program and that explains in detail, in a fashion reasonably calculated to inform, the relevant mechanisms established under sections 5117.01 to 5117.12 of the Revised Code to effectuate that right. The notice shall also contain, in ten-point boldface type, the following statement: "The right of eligible customers to receive a credit against utility bills or a payment for energy bills is provided in legislation (House Bill 657) passed by the General Assembly and signed by the Governor."

(B) The director of <u>housing and </u>development shall cause to be printed notices of the type specified in division (A) of this section and application forms in sufficient quantity for distribution. The director shall maintain a system for distributing application forms to appropriate public locations. The distribution system shall be designed to make application forms available to as many qualified persons as possible.

(C) The director shall arrange for the establishment of a toll-free telephone number to enable all persons in this state to make inquiries and obtain information concerning the credits or payments.

Sec. 5117.05. The director of housing and development, in consultation with the commission on Hispanic-Latino affairs, shall develop an outreach program, including Spanish-speaking communication formats, designed to make all Spanish-speaking persons who meet the eligibility requirements for participation in the Ohio energy credit program aware of the nature and extent of available benefits and methods for acquiring and making applications. The program shall include assistance to such persons in making applications. The director shall implement the program in cooperation with the commission.

Sec. 5117.07. (A) On or before the first day of October, the director of housing and development shall review all applications submitted under division (C) of section 5117.03 of the Revised Code and shall determine the eligibility of each applicant to receive a credit or payment. The total income and current total income amounts set forth in division (A) of this section are subject to adjustment under section 5117.071 of the Revised Code.

(1) An applicant is eligible for a credit of thirty per cent if the applicant is a head of household, has a total income of five thousand dollars or less or a current total income of two thousand five hundred dollars or less, owns and occupies or rents and occupies a household receiving the source of energy for its primary heating system from an energy company and such energy is separately metered, and is either of the following:

(a) Sixty-five years of age or older;

(b) Permanently and totally disabled.

(2) An applicant is eligible for a credit of twenty-five per cent if the applicant is a head of household, has a total income of more than five thousand dollars but not more than nine thousand dollars or a current total income of more than two thousand five hundred dollars but not more than four thousand five hundred dollars, is sixty-five years of age or older or permanently and totally disabled, and owns and occupies or rents and occupies a household receiving the source of energy for its primary heating system from an energy company and such energy is separately metered.

(3) An applicant is eligible for a payment if either of the following applies to the applicant:

(a) The applicant would be eligible for the credit under division (A)(1) or (2) of this section but for the fact that the source of energy for the primary heating system of the applicant's household is not separately metered;

(b) The applicant is a head of household, has a total income of no more than nine thousand dollars or a current total income of no more than four thousand five hundred dollars, is sixty-five years of age or older or permanently and totally disabled, and owns and occupies or rents and occupies a household receiving the source of energy for its primary heating system from an energy dealer.

(4) In the case of a multiple unit dwelling for which separate metering for the source of energy for its primary heating system is not provided, more than one applicant occupying such dwelling may be determined eligible for a payment under division (A)(3)(a) of this section.

(B) Notwithstanding division (A) of this section:

(1) No head of household who resides in public housing or receives a rent subsidy from a government agency is eligible for a credit or payment unless the person's rent subsidy does not reflect the costs of that person's household receiving the source of energy for its primary heating system;

(2) A resident of a nursing home, hospital, or other extended health care facility is not eligible for a credit or payment for the costs of providing the source of energy for the primary heating system of the facility.

(C) The director shall establish a procedure whereby the director ~~commissioner~~ can verify total income and current total income for the calendar year in which an applicant is determined eligible for a payment or credit. If a person receives a credit or payment that the person is ineligible to receive under division (A) of this section as determined by the director, that person shall refund to the director the credit or payment, or excess portion of a credit or payment, that person received. The sum refunded shall be deposited in the state treasury to the credit of the universal service fund created in section 4928.51 of the Revised Code.

(D) The director may request an additional certification of permanent and total disability for any applicant claiming such status on an application renewal form submitted under section 5117.03 of the Revised Code. Such certification shall be requested from the person or agency named on the form pursuant to division (B)(1) of section 5117.03 of the Revised Code. If such additional certification is refused due to a conclusion by the person or agency that the applicant is not permanently and totally disabled, the director shall determine the applicant

ineligible for any credit or payment. If such additional certification is unavailable or refused for any other reason, the director may determine the applicant to be eligible for a credit or payment provided the director ~~commissioner~~ has good cause to believe the applicant is permanently and totally disabled.

(E) On or before the first day of October, the director shall notify each applicant of the disposition of the applicant's application under divisions (A) and (B) of this section. At the same time, the director ~~tax commissioner~~ shall notify the applicant, regardless of whether the applicant's application is approved or disapproved, that the applicant may be eligible to participate in a state or federal weatherization program and should contact the applicant's community action agency for further information. If an application is disapproved, the applicant may appeal to the director for a hearing on the matter. A notice of disapproval shall include a detailed explanation of the applicant's right of appeal under this chapter. Any such appeal shall be on an appeal form prescribed by the director and shall be filed with the director within twenty days of the receipt of the notice of disapproval.

Sec. 5117.071. (A) In September of each year, the ~~tax commissioner~~ director of housing and development shall adjust the total income amounts set forth in sections 5117.07 and 5117.09 of the Revised Code to be used for applications submitted for the heating season commencing in the next calendar year, by completing the following steps:

(1) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce for the

preceding year;

(2) Multiply that percentage increase by each of the total income amounts for the preceding year;

(3) Add the resulting products to each of the total income amounts for the preceding year;

(4) Round the resulting sums upward to the nearest multiple of ten dollars.

The ~~commissioner~~ director shall not make the adjustment in any year in which the amounts resulting from the adjustment would be less than the total income amounts for the preceding year.

(B) In September of each year, the ~~tax commissioner~~ director of housing and development also shall adjust the current total income amounts set forth in sections 5117.07 and 5117.09 of the Revised Code. For any year, the current total income amounts shall equal one-half of the respective total income amounts set forth in those sections and adjusted under division (A) of this section for that year.

(C) ~~Each year, the tax commissioner shall provide both the adjusted total income amounts referred to in division (A) of this section and the current total income amounts referred to in division (B) of this section to the director of development.~~

~~(D)~~ The director of housing and development and each energy company and energy dealer shall use the adjusted total income amounts and the current total income amounts determined under divisions (A) and (B) of this section in performing their duties under sections 5117.01 to 5117.12 of the Revised Code.

Sec. 5117.08. (A)(1) On or before the tenth day of

October, the director of housing and development shall begin to prepare and certify to each energy company that provides energy for home heating a list containing the name and account number of each head of household determined eligible for a credit under divisions (A) and (B) of section 5117.07 of the Revised Code and served by that company, the address of the household, and the source of the heat produced by the primary heating system in the residence of the applicant. The director, for good cause, may certify addenda to such lists, containing the names of any heads of household whose names were not included in the earlier lists but who, except for failure to meet the deadline requirements of sections 5117.01 to 5117.12 of the Revised Code, would have been certified in the original lists. Within thirty days of receipt of such list and in any month for which a credit is required under sections 5117.01 to 5117.12 of the Revised Code, the company may verify that each head of household on the director's list receives energy for home heating at the household address appearing on such list or that the source of heat produced by the primary heating system in the household is energy supplied by the company. If the company determines that a person listed does not receive energy for home heating at such address or that the source of the heat produced by the primary heating system in the residence of such person is not supplied by the company, it shall notify the director of such fact and may refuse to grant the credit provided under division (A) of section 5117.07 of the Revised Code. Upon receipt of such notice, the director shall determine the accuracy of the determination of the company and, should the director not concur with the company, shall order the company to provide the credit.

(2) The good faith exercise by any company of any power of refusal granted under division (A)(1) of this section does not

subject such company to any penalty or liability provided under division (A) of section 5117.11 of the Revised Code.

(B)(1) Nothing in sections 5117.01 to 5117.12 of the Revised Code shall be construed to abridge the right of an otherwise eligible applicant to receive a credit or payment because the applicant has either changed the location of the applicant's residence or the nature of the occupancy of the applicant's residence, as between a tenant or an owner, at a time that could, as a result of the operation of sections 5117.01 to 5117.12 of the Revised Code, cause the applicant to be disqualified from receiving, or continuing to receive, the credit or payment.

(2) Where a person who submits a form or information required under sections 5117.01 to 5117.10 of the Revised Code does so in a timely fashion but, because of the occurrence of an error or omission with respect to such form or information, either on the person's own part or on the part of those persons required by sections 5117.01 to 5117.12 of the Revised Code to take administrative, executive, or ministerial action regarding such form or information, the certification of eligibility by the director to an energy company takes place after the expiration of a deadline imposed under sections 5117.01 to 5117.12 of the Revised Code, the company shall grant the credit within thirty days and, whenever appropriate, grant the credit on a retroactive basis.

(3) The director shall adopt a rule ensuring that the requirements of divisions (B)(1) and (2) of this section are effectuated.

Sec. 5117.09. (A)(1) With respect to each of its residential customers, every energy company shall, after receipt

of a certification list provided under division (A) of section 5117.08 of the Revised Code, cause the granting of a credit in accordance with this section against the monthly billing of each household appearing on the list except as provided in division (A) of section 5117.08 of the Revised Code. In the case of an applicant who has a total income of five thousand dollars or less or a current total income of two thousand five hundred dollars or less, the credit shall amount to thirty per cent of the current monthly bill rendered to such household by the company for the billing months of December, January, February, March, and April following the receipt of a list on which the household appears. In the case of an applicant who has a total income of more than five thousand dollars but not more than nine thousand dollars or a current total income of more than two thousand five hundred dollars but not more than four thousand five hundred dollars, the credit shall amount to twenty-five per cent of the current monthly bill rendered to such household by the company for the billing months of December, January, February, March, and April following the receipt of a list on which the household appears. If purchased power costs are incurred by an energy company during the billing month for which a credit is provided under this division, the credit shall also be applied to such costs, whether or not the costs are charged to a current monthly bill for such months.

(2) The total income and current total income amounts set forth in division (A)(1) of this section are subject to adjustment under section 5117.071 of the Revised Code.

(B) Every energy company shall read the meter of each of its qualified residential customers who may receive a credit under division (A) of this section at least one time for the service period of November and at least one time in the service

period for the current monthly bill rendered for the billing month of April. In the event a company is unable to read a meter because of failure to gain access after a good faith effort or because a certification list was supplied to the utility fewer than thirty days prior to the normal date of meter reading, the company may render a calculated bill. In such instances, the company shall make an adjustment to the amount of the credit granted to the customer based upon the next actual reading of the meter if the reading shows the previous calculation to have been in error and set forth the amount of such adjustments in the report required to be filed with the director of housing and development under division (D) of this section.

(C) On each billing that is subject to a credit under division (A) of this section, there shall appear in ten-point type both the amount of the credit and to the left of such amount "Ohio Energy Credit."

(D) On or before the fifteenth day of each month following one in which credits were provided under division (A) of this section, each energy company shall, on a form prescribed by the director and requesting information that the director ~~commissioner~~ determines is necessary for the purpose of verifying the propriety of the payment of credits, certify to the director the total amount of all credits it granted pursuant to division (A) of this section during the preceding month. Not later than thirty days after receipt of such certification, the director shall pay the company the amount certified. If the director determines that a company previously received amounts greater than the amounts of credits properly granted, such company, upon notice from the director, shall reimburse the director in the amount of the overpayments. Such reimbursements shall be deposited in the general revenue fund.

(E)(1) Any energy company that purposely fails to grant the credit provided under division (A) of this section is liable to each person entitled to the credit and certified to the company by the director pursuant to division (A) of section 5117.08 of the Revised Code in treble the amount of the total credit not granted. The consumers' counsel, on behalf of any person or persons not granted the credit, may bring an action to recover such treble damages in the court of common pleas of the county in which is located the office of the company nearest the household of any such person or persons. The consumers' counsel also, on behalf of any persons not granted the credit, may bring a class action to recover such treble damages in the court of common pleas of any county in which is located an office of the company and, if feasible, in which is located a significant number of members of the class. Any treble damage recovery under this division does not, in any manner, diminish any other liability provided under sections 5117.01 to 5117.12 of the Revised Code. Clerical errors shall not be considered an offense or incur liability under this division.

(2) An action shall be brought by the consumers' counsel under division (E)(1) of this section only after the consumers' counsel has made a good faith attempt to dispose of the claim by settlement, including a good faith request for only such information in the possession of an energy company as is needed to determine the existence or extent of such a right of action.

(3) Nothing in division (E)(1) of this section shall be construed to prevent persons acting without the assistance of the consumers' counsel from bringing an action or class action under such division.

Sec. 5117.10. (A) On or before the fifteenth day of

January, the director of housing and development ~~services~~ shall pay each applicant determined eligible for a payment under divisions (A) and (B) of section 5117.07 of the Revised Code one hundred twenty-five dollars.

(B) The director may withhold from any payment to which a person would otherwise be entitled under division (A) of this section any amount that the director determines was erroneously received by such person in a preceding year under this or the program established under Am. Sub. H.B. 230, as amended by Am. H.B. 937, Am. Sub. H.B. 1073, Am. Sub. S.B. 493, and Am. Sub. S.B. 523 of the 112th general assembly, provided the director has employed all other legal methods reasonably available to obtain reimbursement for the erroneous payment or credit prior to the commencement of the current program year.

(C) Payments made under this section and credits granted under section 5117.09 of the Revised Code shall not be considered income for the purpose of determining eligibility or the level of benefits or assistance under section 329.042 or Chapter 5107. of the Revised Code; the medicaid program; supplemental security income payments under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; or any other program under which eligibility or the level of benefits or assistance is based upon need measured by income.

Sec. 5117.12. (A) On or before the thirty-first day of August of each year, each energy company shall file a written report with the director of housing and development regarding the impact, if any, of the requirements of division (E) of section 5117.11 of the Revised Code on the number of uncollectible and past due residential accounts for the twelve-

month period ending on the preceding thirty-first day of July. The report shall include such information as is prescribed by the director. The information shall be based on actual reviews of residential customer accounts and shall be presented in verifiable form. The director may consult with the public utilities commission and the consumers' counsel in prescribing the contents of such reports and complying with the requirements of division (C)(4) of this section.

(B) Before the thirty-first day of January of each year, the director shall prepare a written report including a final review of the Ohio energy credit program for which applications were required to be mailed or provided by the fifteenth day of June of the second preceding calendar year pursuant to section 5117.03 of the Revised Code and an interim review of the program for which applications were required to be mailed or provided by the fifteenth day of June of the preceding calendar year under such section. On or before the thirty-first day of January of each year, the director shall provide written copies of such report to the speaker of the house of representatives, president of the senate, minority leaders of the house of representatives and senate, chairpersons of the house finance and appropriations committee and senate finance committee, chairpersons of the committees of the house of representatives and senate customarily entrusted with matters concerning public utilities, clerk of the house of representatives, and clerk of the senate.

(C) Each report prepared under division (B) of this section shall include a review of:

(1) Program costs;

(2) The number of persons receiving credits or payments under the program;

(3) Progress in the implementation of any changes in the program made by the general assembly within the period covered by the report;

(4) The impact, if any, of the requirements of division (E) of section 5117.11 of the Revised Code on the number of uncollectible and past due residential accounts of energy companies for the twelve-month period ending on the preceding thirty-first day of July;

(5) The impact of any federal energy assistance programs available to the same groups of people as are eligible for the energy credit program under sections 5117.01 to 5117.12 of the Revised Code, together with any recommendations on modifications that may, because of the federal programs, be needed in the energy credit program;

(6) Any suggestions for improving the program;

(7) Any other matters considered appropriate by the director.

(D) The director shall consult with the auditor of state, energy companies, energy dealers, department of aging, and commission on Hispanic-Latino affairs in the preparation of any report under this section. The director may require information from such agencies for the purpose of preparing such report.

Sec. 5117.22. All petroleum violation escrow funds received by this state from the federal government shall be deposited in the state treasury to the credit of the energy oil overcharge fund, which is hereby created. The fund shall be used by the department of housing and development ~~services agency~~ for energy conservation and assistance programs approved by the United States department of energy. All investment earnings of

the fund shall be credited to the fund.

Sec. 5119.34. (A) As used in this section and sections 5119.341 to 5119.343 of the Revised Code:

(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.

(5) "Community mental health services provider" means a community mental health services provider as defined in section 5119.01 of the Revised Code.

(6) "Community mental health services" means any mental health services certified by the department pursuant to section 5119.36 of the Revised Code.

(7) "Operator" means the person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the applicant for a residential facility license.

(8) "Personal care services" means services including, but

not limited to, the following:

(a) Assisting residents with activities of daily living;

(b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;

(c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(8) of this section to be considered to be providing personal care services.

(9) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

(10) "Residential state supplement program" means the program established under section 5119.41 of the Revised Code.

(11) "Supervision" means any of the following:

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;

(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;

(c) Assisting a resident in making or keeping an appointment.

(12) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(B)(1) A "residential facility" is a publicly or privately operated home or facility that falls into one of the following categories:

(a) Class one facilities provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances;

(b) Class two facilities provide accommodations, supervision, and personal care services to any of the following:

(i) One or two unrelated persons with mental illness;

(ii) One or two unrelated adults who are receiving payments under the residential state supplement program;

(iii) Three to sixteen unrelated adults.

(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.

(2) "Residential facility" does not include any of the following:

(a) A hospital subject to licensure under section 5119.33 of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of persons with mental illnesses pursuant to section 5119.14 of the Revised

Code;

(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(c) An institution or association subject to certification under section 5103.03 of the Revised Code;

(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(e) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;

(f) A facility licensed under section 5119.37 of the Revised Code to operate an opioid treatment program;

(g) Any facility that receives funding for operating costs from the department of housing and development under any program established to provide emergency shelter housing or transitional housing for the homeless;

(h) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(i) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;

(j) The residence of a relative or guardian of a person with mental illness.

(C) Nothing in division (B) of this section shall be

construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.

(D) Except in the case of a residential facility described in division (B)(1)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, but may do any of the following:

(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(2) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(3) Assist a resident who is physically impaired but mentally alert, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(E) A person operating or seeking to operate a residential facility shall apply for licensure of the facility to the department of mental health and addiction services. The application shall be submitted by the operator. When applying

for the license, the applicant shall pay to the department the application fee specified in rules adopted under division (N) of this section. The fee is nonrefundable.

The department shall send a copy of an application to the ADAMHS board serving the county in which the person operates or seeks to operate the facility. The ADAMHS board shall review the application and provide to the department any information about the applicant or the facility that the board would like the department to consider in reviewing the application.

(F) The department of mental health and addiction services shall inspect and license the operation of residential facilities. The department may issue a license to operate a residential facility only if all of the following are the case:

(1) The department is satisfied, after investigation, that the facility is managed and operated by qualified persons and is adequately staffed and equipped to operate.

(2) The department has not been notified under section 5119.343 of the Revised Code or is not otherwise aware that the residential facility or any owner, operator, or manager of the residential facility has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of application.

(3) The department has not been notified or is not otherwise aware that the residential facility or any owner, operator, or manager of the facility has been the subject of an adverse action, as defined in that section, taken at any time based on an act or omission that violated the right of a residential facility resident to be free from abuse, neglect, or exploitation.

The department may issue full, probationary, and interim licenses. A full license shall expire up to three years after the date of issuance, a probationary license shall expire in a shorter period of time as specified in rules adopted by the director of mental health and addiction services under division (N) of this section, and an interim license shall expire ninety days after the date of issuance. A license may be renewed in accordance with rules adopted by the director under division (N) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division (N) of this section. The fee is nonrefundable.

(G)(1) If the department finds any of the following with respect to a residential facility, the department may issue an order suspending the admission of residents to the facility, refuse to issue or renew a license for the facility, or revoke the facility's license:

(a) The facility is not in compliance with rules adopted by the director pursuant to division (N) of this section;

(b) Any facility operated by the applicant or licensee has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the period of current or previous licenses;

(c) The applicant or licensee submits false or misleading information as part of a license application, renewal, or investigation.

(2) Proceedings initiated to deny applications for full or probationary licenses, to refuse to renew full or probationary

licenses, or to revoke full or probationary licenses are governed by Chapter 119. of the Revised Code. If an order has been issued suspending the admission of residents to the facility, the order remains in effect during the pendency of those proceedings.

Proceedings initiated to suspend the admission of residents to a facility are governed by Chapter 119. of the Revised Code, except as provided in division (H) of this section.

(3) In a proceeding initiated to suspend the admission of residents to a facility, to deny an application for a full or probationary license, to refuse to renew a full or probationary license, or to revoke a full or probationary license, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(4) When the department issues an order suspending the admission of residents to a facility, denies an application for a full or probationary license, refuses to renew a full or probationary license, or revokes a full or probationary license, the department shall not grant an opportunity for submitting a plan of correction.

(H)(1) If a suspension of admissions of residents to a facility is proposed because the director has determined that the licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents, the director may issue an order imposing the suspension of admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The

director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after being served in accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the licensee, or the licensee's attorney, if applicable, not later than five days after the report is filed with the department.

(f) Not later than five days after receiving the report and recommendations, the licensee may file objections with the department.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.

(I) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under division (N) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings

initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

(J)(1) The department of mental health and addiction services may conduct an inspection of a residential facility as follows:

(a) Prior to issuance of a license for the facility;

(b) Prior to renewal of the license;

(c) To determine whether the facility has completed a plan of correction required pursuant to division (J)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

(d) Upon complaint by any individual or agency;

(e) At any time the director considers an inspection to be necessary in order to determine whether the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility and its personnel, activities, and services. The department shall have access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall

correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(K) No person shall do any of the following:

(1) Operate a residential facility unless the facility holds a valid license;

(2) Violate any of the conditions of licensure after having been granted a license;

(3) Interfere with a state or local official's inspection or investigation of a residential facility;

(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

(L) The following may enter a residential facility at any time:

(1) Employees designated by the director of mental health and addiction services;

(2) Employees of an ADAMHS board under either of the following circumstances:

(a) When a resident of the facility is receiving services from a community mental health services provider under contract with that ADAMHS board or another ADAMHS board;

(b) When authorized by section 340.05 of the Revised Code.

(3) Employees of a community mental health services provider under either of the following circumstances:

(a) When the provider has a person receiving services residing in the facility;

(b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.

(4) Representatives of the state long-term care ombudsman program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are receiving payments under the residential state supplement program.

The persons specified in division (L) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.

(M) Employees of the department of mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.

(N) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:

(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;

(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;

(3) Procedures for conducting background investigations for prospective or current operators, employees, volunteers, and

other non-resident occupants who may have direct access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;

(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents who may be served in a residential facility;

(10) The rights of residents of residential facilities and procedures to protect such rights;

(11) Standards and procedures under which the director may waive the requirements of any of the rules adopted.

(O)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall

disclose the source upon order by a court of competent jurisdiction.

(2) Any person who makes a complaint under division (O)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose.

(P)(1) The director of mental health and addiction services may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a present danger to the health or safety of any residents of the facility.

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(Q) The director may fine a person for violating division (K) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 5120.07. (A) There is hereby created the ex-offender reentry coalition consisting of the following twenty-one members or their designees:

(1) The director of rehabilitation and correction;

(2) The director of aging;

(3) The director of mental health and addiction services;

(4) The director of housing and development;

(5) The director of education and workforce;

(6) The director of health;

(7) The director of job and family services;

(8) The director of developmental disabilities;

(9) The director of public safety;

(10) The director of youth services;

(11) The chancellor of higher education;

(12) A representative or member of the governor's staff;

(13) The executive director of the opportunities for Ohioans with disabilities agency;

(14) The director of the department of commerce;

(15) The executive director of a health care licensing

board created under Title XLVII of the Revised Code, as appointed by the chairperson of the coalition;

(16) The director of veterans services;

(17) An ex-offender appointed by the director of rehabilitation and correction;

(18) Two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be the chairperson of the standing committee in the house of representatives that primarily addresses criminal justice matters and the other of whom shall be a member of the minority party in the house of representatives;

(19) Two members of the senate appointed by the president of the senate, one of whom shall be the chairperson of the standing committee in the senate that primarily addresses criminal justice matters and the other of whom shall be a member of the minority party in the senate.

(B) The members of the coalition shall serve without compensation. The director of rehabilitation and correction or the director's designee shall be the chairperson of the coalition.

(C) In consultation with persons interested and involved in the reentry of ex-offenders into the community, the members of the coalition shall meet periodically for the purpose of formulating, discussing, and developing policies and practices that facilitate the expansion and improvement of reentry services provided by state and local agencies in the collaborative efforts of those agencies to reintegrate offenders into society while simultaneously maintaining public safety and reducing recidivism in this state. Not later than one year after

April 7, 2009, and on or before the same date of each year thereafter, the coalition shall submit to the speaker of the house of representatives and the president of the senate a report, including recommendations for legislative action, the activities of the coalition, and the barriers affecting the successful reentry of ex-offenders into the community. The report shall analyze the effects of those barriers on ex-offenders and on their children and other family members in various areas, including but not limited to, the following:

(1) Admission to public and other housing;

(2) Child support obligations and procedures;

(3) Parental incarceration and family reunification;

(4) Social security benefits, veterans' benefits, food stamps, and other forms of public assistance;

(5) Employment;

(6) Education programs and financial assistance;

(7) Substance abuse and sex offender treatment programs and financial assistance and mental health services and financial assistance;

(8) Civic and political participation;

(9) Other collateral consequences under the Revised Code or the Ohio administrative code law that may result from a criminal conviction.

(D)(1) The report shall also include the following information:

(a) Identification of state appropriations for reentry programs;

(b) Identification of other funding sources for reentry programs that are not funded by the state.

(2) The coalition shall gather information about reentry programs in a repository maintained and made available by the coalition. Where available, the information shall include the following:

(a) The amount of funding received;

(b) The number of program participants;

(c) The composition of the program, including program goals, methods for measuring success, and program success rate;

(d) The type of post-program tracking that is utilized;

(e) Information about employment rates and recidivism rates of ex-offenders.

Sec. 5126.071. (A) As used in this section, "minority business enterprise" has the meaning given in division (E)(1) of section 122.71 of the Revised Code.

(B) Any minority business enterprise that desires to bid on a contract under division (C) or (D) of this section shall first apply to the department of housing and development for certification as a minority business enterprise. The director of housing and development shall approve the application of any minority business enterprise that complies with the rules adopted under section 122.71 of the Revised Code. The director shall prepare and maintain a list of minority business enterprises certified under this section.

(C) From the contracts to be awarded for the purchases of equipment, materials, supplies, insurance, and nonprogram services, other than contracts entered into and exempt under

sections 307.86 and 5126.05 of the Revised Code, each county board of developmental disabilities shall select a number of contracts with an aggregate value of approximately fifteen per cent of the total estimated value of such contracts to be awarded in the current calendar year. The board shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 307.86 of the Revised Code, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids. Contracts set aside and awarded under this section shall not include contracts for the purchase of services such as direct and ancillary services, service and support administration, residential services, and family support services.

(D) To the extent that a board is authorized to enter into contracts for construction which are not exempt from the competitive bidding requirements of section 307.86 of the Revised Code, the board shall set aside a number of contracts the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current calendar year for bidding by minority business enterprises only. The bidding procedures for the contracts set aside for minority business enterprises shall be the same as for all other contracts awarded by the board, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.

Any contractor awarded a construction contract pursuant to this section shall make every effort to ensure that certified minority business subcontractors and materials suppliers participate in the contract. In the case of contracts specified

in this division, the total value of subcontracts awarded to and materials and services purchased from minority businesses shall be at least ten per cent of the total value of the contract, wherever possible and whenever the contractor awards subcontracts or purchases materials or services.

(E) In the case of contracts set aside under divisions (C) and (D) of this section, if no bid is submitted by a minority business enterprise, the contract shall be awarded according to normal bidding procedures. The board shall from time to time set aside such additional contracts as are necessary to replace those contracts previously set aside on which no minority business enterprise bid.

(F) This section does not preclude any minority business enterprise from bidding on any other contract not specifically set aside for minority business enterprises.

(G) Within ninety days after the beginning of each calendar year, each county board of developmental disabilities shall file a report with the department of developmental disabilities that shows for that calendar year the name of each minority business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of contracts awarded under divisions (C) and (D) of this section, the total value of contracts awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under the exemptions of sections 307.86 and 5126.05 of the Revised Code, and the total value of contracts entered into for construction.

(H) Any person who intentionally misrepresents that person as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining

contracts or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

Sec. 5126.18. (A) As used in this section:

(1) "Taxable value" means the taxable value of a county certified under division (B) of this section.

(2) "Per-mill yield" means the quotient obtained by dividing the taxable value of a county by one thousand.

(3) "Population" of a county means that shown by the federal census for a census year or, for a noncensus year, the population as estimated by the department of housing and development.

(4) "Six-year moving average" means the average of the per-mill yields of a county for the most recent six years.

(5) "Yield per person" means the quotient obtained by dividing the six-year moving average of a county by the population of that county.

(6) "Tax equity payments" means payments to county boards of developmental disabilities under this section or a prior version of this section from money appropriated by the general assembly to the department of developmental disabilities for that purpose.

(7) "Eligible county" means a county determined under division (C) of this section to be eligible for tax equity payments for the two-year period for which that determination is made.

(8) "Threshold county" means the county with the lowest yield per person that is determined not to be eligible to

receive tax equity payments.

(B) At the request of the director of developmental disabilities, the tax commissioner shall certify to the director the taxable value of property on each county's most recent tax list of real and public utility property. The director may request any other tax information necessary for the purposes of this section.

(C) Beginning in 2011, on or before the thirty-first day of May of that year and of every second year thereafter, the director of developmental disabilities shall determine whether a county is eligible to receive tax equity payments for the ensuing two fiscal years as follows:

(1) The director shall determine the six-year moving average, population, and yield per person of each county in the state, based on the most recent information available.

(2) The director shall calculate a tax equity funding threshold by adding the population of the county with the lowest yield per person and the populations of individual counties in order from lowest yield per person to highest yield per person until the addition of the population of another county would increase the aggregate sum to over thirty per cent of the total state population. A county is eligible to receive tax equity payments for the two-year period if its population is included in the calculation of the threshold and the addition of its population does not increase such sum to over thirty per cent of the total state population.

(D)(1) Except as provided in divisions (D)(2) and (3) of this section, beginning in fiscal year 2012 and for each fiscal year thereafter, the director shall make tax equity payments to

each eligible county equal to the population of the county multiplied by the difference between the yield per person of the threshold county and the yield per person of the eligible county. For purposes of this division, the population and yield per person of a county equal the population and yield per person most recently determined for that county under division (C)(1) of this section. The payments shall be made in quarterly installments of equal amounts not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June of each fiscal year.

(2) In fiscal year 2012, if the amount determined under division (D)(1) of this section for an eligible county is at least twenty thousand dollars greater than or twenty thousand dollars less than the amount of tax equity payments the county received in fiscal year 2011, the county's tax equity payments for fiscal years 2012 through 2014 shall equal the following:

(a) For fiscal year 2012, one-fourth of the amount calculated for the eligible county under division (D)(1) of this section plus three-fourths of the amount of tax equity payments the county received in fiscal year 2011;

(b) For fiscal year 2013, one-half of the amount calculated for the eligible county under division (D)(1) of this section plus one-half of the amount of tax equity payments the county received in fiscal year 2011;

(c) For fiscal year 2014, three-fourths of the amount calculated for the eligible county under division (D)(1) of this section plus one-fourth of the amount of tax equity payments the county received in fiscal year 2011.

(3) In any fiscal year, if the total amount of tax equity

payments for all eligible counties as determined under divisions (D)(1) and (2) of this section is greater than the amount appropriated to the department of developmental disabilities for the purpose of making such payments in that fiscal year, the director shall reduce the payments to each eligible county board in equal proportion. If the total amount of tax equity payments as determined under that division is less than the amount appropriated to the department for that purpose, the director shall determine how to allocate the excess money after consultation with the Ohio association of county boards serving people with developmental disabilities.

(4) Tax equity payments shall be paid only to an eligible county board of developmental disabilities and not to a regional council established under section 5126.13 of the Revised Code or any other entity.

(E)(1) Except as provided in division (E)(2) of this section, a county board of developmental disabilities shall use tax equity payments solely to pay the nonfederal share of medicaid expenditures it is required to pay under sections 5126.059 and 5126.0510 of the Revised Code. Tax equity payments shall not be used to pay any salary or other compensation to county board personnel.

(2) Upon the written request of a county board, the director of developmental disabilities may authorize a county board to use tax equity payments for infrastructure improvements necessary to support medicaid waiver administration.

(3) The director may audit any county board receiving tax equity payments to ensure appropriate use of the payments in accordance with this section. If the director determines that a county board is using payments inappropriately, the director

shall notify the county board in writing of the determination. Within thirty days after receiving the director's notification, the county board shall submit a written plan of correction to the director. The director may accept or reject the plan. If the director rejects the plan, the director may require the county board to repay all or a portion of the amount of tax equity payments used inappropriately. The director shall distribute any tax equity payments returned under this division to other eligible county boards in accordance with a plan developed by the director after consultation with the Ohio association of county boards serving people with developmental disabilities.

Sec. 5501.031. The department of transportation shall:

(A) Consider energy conservation as an integral factor along with economics, engineering, safety, and the environment in the planning, design, and utilization of transportation facilities;

(B) Reevaluate existing plans for highways and other transportation modes and require regional transportation studies and local planning agencies operating under state coordination or with state funds to cooperate in such reevaluation. Such reevaluation shall consider shifts to energy conservation modes and improvement in modal energy efficiencies, and shall include both technological alternatives and administrative or management strategies. Short-term conservation measures must be adaptable to long-term conservation requirements to include permanent reductions in gasoline usage and revitalization of railroads.

(C) Take all necessary steps to increase the level of awareness of transportation professions and related government sectors of those techniques that are immediately available to reduce petroleum consumption in improving operation and

maintenance of transportation facilities;

(D) Review construction specifications and design standards for highway construction and maintenance, with a view to pursuing the elimination of those found to be unnecessary and wasteful of energy;

(E) Submit recommendations to the department of housing and development and to the general assembly, designed to reduce the energy intensive nature of the existing transportation system, control the growth of gasoline demand, and support other efforts to conserve energy;

(F) In cooperation with the department of housing and development, encourage and promote the establishment of carpool and vanpool programs including preferential parking for vehicles used in carpools or vanpools. The department of transportation shall also study the feasibility of preferential traffic control for public transportation vehicles and variable working hours as additional conservation measures.

The department shall undertake to utilize to the fullest extent funds made available under federal or state programs for the development of park-and-ride lots to serve carpools and vanpools and encourage the use of public transportation facilities. Potential locations and funds for park-and-ride lots shall be identified in at least one location in each standard metropolitan statistical area in the state. These locations shall be reported to the department of housing and development.

Sec. 5531.08. (A) In order to expedite a highway project involving the expenditure of federal and state funds and to utilize all privileges provided by the "Intermodal Surface Transportation Efficiency Act of 1991," 105 Stat. 1914, 49

U.S.C.A. 101, the director of transportation may designate a project team for the purposes of certifying design review and performing field and office inspections and cost estimates, on behalf of the federal highway administration.

(B)(1) Upon a written determination by the director that it would be in the best interests of the traveling public, the director, upon the written request of a county, township, or municipal corporation, may utilize moneys in the highway operating fund created by section 5735.051 of the Revised Code to pay that portion of the construction cost of a highway project which the county, township, or municipal corporation normally would be required to pay.

(2) The director shall not utilize moneys in the highway operating fund for a highway project in the manner described in division (B)(1) of this section unless all of the following apply:

(a) The preliminary engineering design of the project is complete, all necessary rights-of-way have been obtained, and all federal, state, and local environmental studies and permits have been performed or obtained;

(b) The director of transportation has submitted the proposed project to the director of housing and development for an evaluation of the potential economic benefit to the area. The county, township, or municipal corporation certifies to the director of housing and development that the project will create not less than five permanent living wage jobs. This requirement shall be fulfilled during the three-year period following the completion date of the project, and the county, township, or municipal corporation may define the geographic area within which the jobs will be created.

(c) The quotient resulting from the division of the total amount of moneys utilized to cover the portion of the construction cost of the highway project that a county, township, or municipal corporation would normally be required to pay, divided by the number of permanent living wage jobs certified to the director of housing and development by the county, township, or municipal corporation pursuant to division (B)(2)(b) of this section is less than or equal to ten thousand dollars.

(C) Upon a written determination by the director of transportation that it would be in the best interests of the traveling public, the director, upon the written request of a county, township, or municipal corporation, may declare a waiver of that portion of the cost of a highway project which the county, township, or municipal corporation normally would be required to pay.

(D) The director of housing and development shall do all of the following:

(1) Review all requests submitted by a county, township, or municipal corporation to the director of transportation pursuant to division (B) of this section for the expenditure of moneys from the highway operating fund;

(2) Submit findings and recommendations to the director of transportation upon completion of the review process;

(3) Monitor the results of a highway project for which moneys in the highway operating fund are utilized in order to ascertain whether the number of permanent living wage jobs certified to the director of transportation pursuant to division (B)(2)(b) of this section actually are created as a result of

the highway project within the three-year period following the completion of the project, and submit reports relating to this subject to the director as necessary.

(E) The director of transportation may award eligible federal funds or state general revenue funds to local units of government, including regional transit authorities providing public transportation service and metropolitan planning organizations. These funds may be used for such purposes as alleviating traffic congestion or improving air quality in nonattainment areas of the state as defined by the "Clean Air Act of 1990," 104 Stat. 2399, 42 U.S.C.A. 7401. The funds also may be used to acquire or construct park-and-ride facilities, to purchase traffic devices to improve vehicular flow, and for other travel demand management activities that meet the mandates of the Clean Air Act in nonattainment areas of the state.

(F) As used in this section, "living wage job" means an employment position paying an annual average gross wage amount per full-time person of not less than twenty thousand dollars per year.

Sec. 5703.0510. (A) Notwithstanding any other provision of the Revised Code that requires a taxpayer to provide a tax credit certificate to the tax commissioner upon the commissioner's request, any person claiming a credit against a tax or fee administered by the commissioner shall provide a copy of any accompanying certificate issued by the director of housing and development ~~services~~ or by another state agency, if applicable, demonstrating the person's eligibility for the credit claimed.

(B) If the commissioner prescribes a form for the purpose of tracking the credits claimed by a person against any tax or

fee administered by the commissioner, the person shall provide the completed form and a copy of any certificate described in division (A) of this section on or before the due date of the return, report, or schedule for the tax or fee against which the credit is claimed.

(C) If a person fails to provide a certificate or form as required under this section, the commissioner shall deny the credit claimed by the person until such certificate or form is provided to the commissioner. Any amount denied under this section may be assessed in the same manner as the underlying tax or fee.

Sec. 5709.12. (A) As used in this section, "independent living facilities" means any residential housing facilities and related property that are not a nursing home, residential care facility, or residential facility as defined in division (A) of section 5701.13 of the Revised Code.

(B) Lands, houses, and other buildings belonging to a county, township, or municipal corporation and used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision for public purposes shall be exempt from taxation. Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation, including real property belonging to an institution that is a nonprofit corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year and being held for leasing or resale to others. If, at any time during a tax year for which such property is exempted from taxation, the corporation ceases to qualify for such a grant, the director of

housing and development shall notify the tax commissioner, and the tax commissioner shall cause the property to be restored to the tax list beginning with the following tax year. All property owned and used by a nonprofit organization exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, also shall be exempt from taxation.

(C)(1) If a home for the aged described in division (B)(1) of section 5701.13 of the Revised Code is operated in conjunction with or at the same site as independent living facilities, the exemption granted in division (B) of this section shall include kitchen, dining room, clinic, entry ways, maintenance and storage areas, and land necessary for access commonly used by both residents of the home for the aged and residents of the independent living facilities. Other facilities commonly used by both residents of the home for the aged and residents of independent living units shall be exempt from taxation only if the other facilities are used primarily by the residents of the home for the aged. Vacant land currently unused by the home, and independent living facilities and the lands connected with them are not exempt from taxation. Except as provided in division (A)(1) of section 5709.121 of the Revised Code, property of a home leased for nonresidential purposes is not exempt from taxation.

(2) Independent living facilities are exempt from taxation if they are operated in conjunction with or at the same site as a home for the aged described in division (B)(2) of section 5701.13 of the Revised Code; operated by a corporation, association, or trust described in division (B)(1)(b) of that section; operated exclusively for the benefit of members of the corporation, association, or trust who are retired, aged, or infirm; and provided to those members without charge in

consideration of their service, without compensation, to a charitable, religious, fraternal, or educational institution. For the purposes of division (C)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

(D)(1) A private corporation established under federal law, as defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as amended, the objects of which include encouraging the advancement of science generally, or of a particular branch of science, the promotion of scientific research, the improvement of the qualifications and usefulness of scientists, or the increase and diffusion of scientific knowledge is conclusively presumed to be a charitable or educational institution. A private corporation established as a nonprofit corporation under the laws of a state that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and that has as its principal purpose one or more of the foregoing objects also is conclusively presumed to be a charitable or educational institution.

The fact that an organization described in this division operates in a manner that results in an excess of revenues over expenses shall not be used to deny the exemption granted by this section, provided such excess is used, or is held for use, for exempt purposes or to establish a reserve against future contingencies; and, provided further, that such excess may not be distributed to individual persons or to entities that would not be entitled to the tax exemptions provided by this chapter. Nor shall the fact that any scientific information diffused by the organization is of particular interest or benefit to any of

its individual members be used to deny the exemption granted by this section, provided that such scientific information is available to the public for purchase or otherwise.

(2) Division (D)(2) of this section does not apply to real property exempted from taxation under this section and division (A)(3) of section 5709.121 of the Revised Code and belonging to a nonprofit corporation described in division (D)(1) of this section that has received a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code during any of the tax years the property was exempted from taxation.

When a private corporation described in division (D)(1) of this section sells all or any portion of a tract, lot, or parcel of real estate that has been exempt from taxation under this section and section 5709.121 of the Revised Code, the portion sold shall be restored to the tax list for the year following the year of the sale and, except in connection with a sale and transfer of such a tract, lot, or parcel to a county land reutilization corporation organized under Chapter 1724. of the Revised Code, a charge shall be levied against the sold property in an amount equal to the tax savings on such property during the four tax years preceding the year the property is placed on the tax list. The tax savings equals the amount of the additional taxes that would have been levied if such property had not been exempt from taxation.

The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law. The charge may also be remitted for all or any portion of such property that the tax commissioner determines is

entitled to exemption from real property taxation for the year such property is restored to the tax list under any provision of the Revised Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, upon an application for exemption covering the year such property is restored to the tax list filed under section 5715.27 of the Revised Code.

(E)(1) Real property held by an organization organized and operated exclusively for charitable purposes as described under section 501(c)(3) of the Internal Revenue Code and exempt from federal taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose of constructing or rehabilitating residences for eventual transfer to qualified low-income families through sale, lease, or land installment contract, shall be exempt from taxation.

The exemption shall commence on the day title to the property is transferred to the organization and shall continue to the end of the tax year in which the organization transfers title to the property to a qualified low-income family. In no case shall the exemption extend beyond the second succeeding tax year following the year in which the title was transferred to the organization. If the title is transferred to the organization and from the organization to a qualified low-income family in the same tax year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the tax year in which title is transferred to the organization shall be remitted by the county auditor for each day of the year that title is held by the organization.

Upon transferring the title to another person, the

organization shall file with the county auditor an affidavit affirming that the title was transferred to a qualified low-income family or that the title was not transferred to a qualified low-income family, as the case may be; if the title was transferred to a qualified low-income family, the affidavit shall identify the transferee by name. If the organization transfers title to the property to anyone other than a qualified low-income family, the exemption, if it has not previously expired, shall terminate, and the property shall be restored to the tax list for the year following the year of the transfer and a charge shall be levied against the property in an amount equal to the amount of additional taxes that would have been levied if such property had not been exempt from taxation. The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law.

The application for exemption shall be filed as otherwise required under section 5715.27 of the Revised Code, except that the organization holding the property shall file with its application documentation substantiating its status as an organization organized and operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code and its qualification for exemption from federal taxation under section 501(a) of the Internal Revenue Code, and affirming its intention to construct or rehabilitate the property for the eventual transfer to qualified low-income families.

As used in this division, "qualified low-income family" means a family whose income does not exceed two hundred per cent of the official federal poverty guidelines as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as

amended, for a family size equal to the size of the family whose income is being determined.

(2) Real property constituting a retail store, including the land on which the retail store is located, that is owned and operated by an organization described in division (E)(1) of this section shall be exempt from taxation if the retail store sells primarily donated items suitable for residential housing purposes and if the proceeds of such sales are used solely for the purposes of the organization.

(F)(1) Real property that is acquired and held by a county land reutilization corporation organized under Chapter 1724. of the Revised Code and that is not exempt from taxation under Chapter 5722. of the Revised Code shall be deemed real property used for a public purpose and shall be exempt from taxation until sold or transferred by the corporation. Notwithstanding section 5715.27 of the Revised Code, a county land reutilization corporation is not required to apply to any county or state agency in order to qualify for the exemption.

(2) Real property that is acquired and held by an electing subdivision other than a county land reutilization corporation on or after April 9, 2009, for the public purpose of implementing an effective land reutilization program or for a related public purpose, and that is not exempt from taxation under Chapter 5722. of the Revised Code, shall be exempt from taxation until sold or transferred by the electing subdivision. Notwithstanding section 5715.27 of the Revised Code, an electing subdivision is not required to apply to any county or state agency in order to qualify for an exemption with respect to property acquired or held for such purposes on or after such date, regardless of how the electing subdivision acquires the

property.

As used in this section, "electing subdivision" and "land reutilization program" have the same meanings as in section 5722.01 of the Revised Code, and "county land reutilization corporation" means a county land reutilization corporation organized under Chapter 1724. of the Revised Code and any subsidiary wholly owned by such a county land reutilization corporation that is identified as "a wholly owned subsidiary of a county land reutilization corporation" in the deed of conveyance transferring title to the subsidiary.

In lieu of the application for exemption otherwise required to be filed as required under section 5715.27 of the Revised Code, a county land reutilization corporation holding the property shall, upon the request of any county or state agency, submit its articles of incorporation substantiating its status as a county land reutilization corporation.

(G) Real property that is owned by an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code and that is used by that organization exclusively for receiving, processing, or distributing human blood, tissues, eyes, or organs or for research and development thereof shall be exempt from taxation.

(H) Real property that is owned by an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code and that received a loan from the federal small business administration as a participating intermediary in the federal microloan program under 15 U.S.C. 636(m) shall be exempt from taxation if the property is used by

that organization primarily for small business lending, economic development, job training, entrepreneur education, or associated administrative purposes as such a participating intermediary.

Sec. 5709.211. (A) Before issuing an exempt facility certificate pursuant to section 5709.21 of the Revised Code, the tax commissioner shall provide a copy of a properly completed application to, and obtain the opinion of, one of the following persons:

(1) The director of environmental protection in the case of an exempt facility described in division (B) or (F) of section 5709.20 of the Revised Code or, when applicable, division (L) of that section;

(2) The director of natural resources in the case of an exempt facility described in division (L) of section 5709.20 of the Revised Code, when applicable;

(3) The director of housing and development in the case of an application for an exempt facility described in division (D), (I), or (K) of section 5709.20 of the Revised Code.

The opinion shall provide the commissioner with a recommendation of whether the property is primarily designed, constructed, installed, and used as an exempt facility. The applicant shall provide additional information upon request by the tax commissioner, the director of environmental protection, the director of natural resources, or the director of housing and development, and allow them to inspect the property listed in the application for the purposes of sections 5709.20 to 5709.27 of the Revised Code. The tax commissioner shall provide to the applicant a copy of the opinion issued by the director of environmental protection, director of natural resources, or

director of the department of housing and development, as applicable.

(B) The opinions of the director of the environmental protection agency, the director of natural resources, and the director of housing and development under division (A) of this section or division (C)(4) of section 5709.22 of the Revised Code are not final actions or orders subject to appeal.

Sec. 5709.212. (A) With every application for an exempt facility certificate filed pursuant to section 5709.21 of the Revised Code, the applicant shall pay a fee equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars. If the director of environmental protection is required to provide the opinion for an application, the fee shall be credited to the non-Title V clean air fund created in section 3704.035 of the Revised Code for use in administering section 5709.211 of the Revised Code, unless the application is for an industrial water pollution control facility. In such a case, the fee shall be credited to the surface water protection fund created in section 6111.038 of the Revised Code for use in administering section 5709.211 of the Revised Code. If the director of housing and development or director of natural resources is required to provide the opinion for an application, the fee for each exempt facility application shall be credited to the exempt facility inspection fund, which is hereby created in the state treasury, for appropriation to the department of housing and development ~~services agency~~ or department of natural resources, as applicable, for use in administering section 5709.211 of the Revised Code.

An applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code until the fee required by

this section is paid. The fee required by this section is not refundable, and is due with the application for an exempt facility certificate even if an exempt facility certificate ultimately is not issued or is withdrawn. Any application submitted without payment of the fee shall be deemed incomplete until the fee is paid.

(B) The application fee imposed under division (A) of this section for a jointly owned facility shall be equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars for each facility that is the subject of the application.

Sec. 5709.22. (A) After receiving an opinion from the director of environmental protection, the director of natural resources, or the director of housing and development, the tax commissioner shall promptly ascertain if an application filed under section 5709.21 of the Revised Code shall be allowed or disallowed in whole or in part. The commissioner shall give written notice of the proposed finding to the applicant and the county auditor of the county in which the facility described in the application is located. Within sixty days after sending written notice of the proposed finding, the applicant or the county auditor may file a request for reconsideration, in writing, to the commissioner and may request that the commissioner conduct a hearing on the application. If no request for reconsideration is filed, the commissioner's proposed findings shall be final and, if applicable, the commissioner shall issue an exempt facility certificate, which shall not be subject to appeal pursuant to section 5717.02 of the Revised Code.

(B) If a reconsideration of the tax commissioner's

proposed finding is requested by the applicant or the county auditor, the commissioner shall notify the applicant and the auditor of the time and place of the hearing, which the commissioner may continue from time to time as the commissioner finds necessary. The commissioner also shall notify the environmental protection agency, department of natural resources, or department of housing and development, as applicable, of the hearing. The environmental protection agency, department of natural resources, or department of housing and development shall participate in the hearing if requested in writing by the commissioner, the applicant, or the county auditor. After conducting the hearing, the commissioner shall issue a final determination, with a copy of it served on the applicant and applicable county auditors in the manner prescribed by section 5703.37 of the Revised Code. The final determination is subject to appeal pursuant to section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall issue, if applicable, the exempt facility certificate based on the outcome of the appeal.

(C) The tax commissioner, on the commissioner's own initiative or on complaint by the county auditor of any county in which property to which the exempt facility certificate relates is located, shall revoke the certificate, or modify it by restricting its operation, if it appears to the commissioner that any of the following has occurred:

(1) The certificate was obtained by fraud or misrepresentation;

(2) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of an exempt facility;

(3) The property to which the certificate relates has ceased to be used as an exempt facility;

(4) The tax commissioner issued the certificate in error. As used in this section, "error" means any of the following:

(a) A clerical or mathematical mistake;

(b) When the commissioner agrees with an opinion from the director of environmental protection, the director of natural resources, or the director of housing and development that a certificate should not have been issued;

(c) When the tax commissioner determines that the issuance of the certificate may have been improper as the result of a final adjudication by the board of tax appeals, or by a court with jurisdiction on appeal from that board, that is adverse to the original exempt status of the facility, regardless of whether the holder of the certificate was a party to such adjudication.

(D) If the revocation or modification of a certificate under division (C)(4) of this section is an action found to be frivolous for the purposes of section 5703.54 of the Revised Code the certificate holder may claim damages as provided under division (B) of that section.

(E) Upon service of notice to the holder of an exempt facility certificate, in the manner provided in section 5703.37 of the Revised Code, of the tax commissioner's revocation or modification of the certificate under division (C) of this section, the certificate shall cease to be in force or shall remain in force only as modified, as the case may require. The notice is subject to appeal under section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall

issue a modified certificate, if applicable, and the holder of the certificate shall be allowed to claim a refund within one hundred eighty days, notwithstanding any other time limitation provided by law of the taxes paid as a result of the certificate being revoked or modified.

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of housing and development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Overlay" means an area of not more than three hundred acres that is a square, or that is a rectangle having two longer sides that are not more than twice the length of the two shorter sides, that the legislative authority of a municipal corporation delineates on a map of a proposed incentive district.

(7) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or

structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(8) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; the enhancement of public waterways through improvements that allow for greater public access; and off-street parking facilities, including those in which all or a portion of the parking spaces are reserved for specific uses when determined to be necessary for economic development purposes.

(9) "Nonperforming parcel" means a parcel to which all of the following apply:

(a) The parcel is exempted from taxation under division (B) of this section or has been included in a district created under division (C) of this section.

(b) The parcel's owner is required to make payments in lieu of taxes in accordance with section 5709.42 of the Revised Code.

(c) No such payments have been remitted to the county treasurer since the inception of the exemption or district.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. For this purpose, "parcel that is used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code. Except as otherwise provided under division (D) of this section or section 5709.51 of the Revised Code, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation for a period of not more than ten years. The ordinance shall specify the percentage of the improvement to be exempted from taxation and the life of the exemption.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance, for the purpose described in division (D)(1) of this section or as provided in section 5709.43 of the Revised Code.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (C)(2) of this section, exempt from taxation as provided in this section, but no legislative authority of a municipal corporation that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt an ordinance that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the municipal corporation that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the municipal corporation for the preceding tax year. The ordinance shall delineate the boundary of the proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel, other than a nonperforming parcel, that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. On and after the effective date of the district, a nonperforming parcel within the district is no longer exempted from taxation under division (B) of this section or included within an incentive district under any previous ordinance, and the parcel's owner is no longer required to make payments in lieu of taxes under such a previous ordinance in accordance with section 5709.42 of the Revised Code. Any exemption application filed with the tax commissioner under section 5715.27 of the Revised Code under the second ordinance shall identify the nonperforming parcels included in the second

district, the original ordinance under which the nonperforming parcels were originally exempted, and the value history of each nonperforming parcel since the enactment of the original ordinance. An ordinance may create more than one such district, and more than one ordinance may be adopted under division (C)(1) of this section.

(2)(a) Not later than thirty days prior to adopting an ordinance under division (C)(1) of this section, if the municipal corporation intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of the municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance. The notice shall include a map of the proposed incentive district on which the legislative authority of the municipal corporation shall have delineated an overlay. The notice shall inform the property owner of the owner's right to exclude the owner's property from the incentive district if the owner's entire parcel of property will not be located within the overlay, by submitting a written response in accordance with division (C)(2)(b) of this section. The notice also shall include information detailing the required contents of the response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (C)

(1) of this section whose entire parcel of property is not located within the overlay may exclude the property from the proposed incentive district by submitting a written response to the legislative authority of the municipal corporation not later than forty-five days after the postmark date on the notice required under division (C)(2)(a) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the legislative authority under division (C)(2)(a) of this section. The response shall conform to any content requirements that may be established by the municipal corporation and included in the notice provided under division (C)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the ordinance, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting an ordinance under division (C)(1) of this section, the legislative authority of a municipal corporation shall amend the ordinance to exclude any parcel located wholly or partly outside the overlay for which a written response has been submitted under division (C)(2)(b) of this section. A municipal corporation shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (B) of this section pursuant to an ordinance adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(3)(a) An ordinance adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate

the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D)(1), (E), or (F) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The

ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village, and joint vocational school district in which the parcel or incentive district is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the legislative authority shall deliver to the board of education a notice stating its intent to adopt an ordinance making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvement that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The notice regarding improvements to parcels within an incentive district under division (C) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of

education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified

in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(4) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of exemptions by the board is not required under division (D) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (D) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to

such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(5) If the legislative authority is not required by division (D) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(6) Nothing in division (D) of this section prohibits the legislative authority of a municipal corporation from amending the ordinance or resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide

an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes forgone due to the exemption. If the board of county commissioners objects, and the board and legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance adopted under division (C)(1) of this section shall provide to the board compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object

or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after a mutually acceptable compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees in the proposed ordinance to provide compensation to the board of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, or a later date as specified in this division, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.42 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the

exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational

purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(13) A tax levied by a township under section 505.39, division (I) of section 5705.19, or division (JJ) of section 5705.19 of the Revised Code to the extent the proceeds are used for the purposes described in division (I) of that section, for the purpose of funding fire, emergency medical, and ambulance services as described in that section and those divisions. Division (F)(13) of this section applies only if the township levying the tax provides fire, emergency medical, or ambulance services in the incentive district, and only to incentive districts created by an ordinance adopted on or after the effective date of the amendment of this section by H.B. 69 of the 132nd general assembly, March 23, 2018. The board of township trustees may, by resolution, waive the application of this division or negotiate with the municipal corporation that created the district for a lesser amount of payments in lieu of taxes.

(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long

as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. In lieu of stating a specific year, the ordinance may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the ordinance. With respect to the exemption of improvements to parcels under division (B) of this section, the ordinance may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division or section 5709.51 of the Revised Code, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82

of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (D)(2) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) Additional municipal financing of public infrastructure improvements and housing renovations may be provided by any methods that the municipal corporation may otherwise use for financing such improvements or renovations. If the municipal corporation issues bonds or notes to finance the public infrastructure improvements and housing renovations and pledges money from the municipal public improvement tax increment equivalent fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised Code.

(I) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of housing and development a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.43 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed

with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

(K) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(L)(1) Notwithstanding the limitations on the life of an incentive district and the number of years that improvements to a parcel or parcels within an incentive district may be exempted from taxation prescribed by divisions (C) and (D) of this section, the legislative authority of a municipal corporation may amend an ordinance originally adopted under division (C) of this section before January 1, 2006, to extend the life of an incentive district created by that ordinance. The extension shall be for a period not to exceed fifteen years and shall not increase the percentage of the value of improvements exempted from taxation.

(2) Before adopting an amendment authorized by division (L)(1) of this section, the legislative authority of the municipal corporation shall provide notice of the amendment to each board of education of the city, local, or exempted village school district in which the incentive district is located, in the same manner as provided under division (D) of this section, and shall obtain the approval of each such board in the manner required under that division, except both of the following

apply:

(a) The board of education may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for mutually agreeable compensation to the school district.

(b) If the board of education fails to certify a resolution approving the amendment to the legislative authority within the time prescribed by division (D) of this section, the legislative authority shall not adopt the amendment authorized under division (L) of this section.

(3) No approval otherwise required by division (L)(2) of this section shall be required from a board of education if either of the following apply:

(a) The amendment provides for compensation to the city, local, or exempted village school district in which the incentive district is located equal in value to the amount of taxes that would be payable to the school district if the improvements exempted from taxation had not been exempted for the additional period.

(b) The board of education has adopted a resolution waiving its right to approve exemptions from taxation pursuant to division (D)(4) of this section. If the board has adopted such a resolution, the municipal corporation shall comply with the notice requirements imposed by section 5709.83 of the Revised Code before taking formal action to adopt an amendment authorized under division (L)(1) of this section unless the board has adopted a resolution under that section waiving its right to receive that notice.

(4) Not later than fourteen days before adopting an

amendment authorized by division (L)(1) of this section, the legislative authority of the municipal corporation shall deliver a notice identical to a notice required under section 5709.83 of the Revised Code to the board of county commissioners of each county in which the incentive district is located.

Sec. 5709.41. (A) As used in this section:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(2) "Improvement" means the increase in assessed value of any parcel of property subsequent to the acquisition of the parcel by a municipal corporation engaged in urban redevelopment or by a township engaged in redevelopment.

(B) The legislative authority of a municipal corporation or township, by ordinance or resolution, may declare to be a public purpose any improvement to a parcel of real property if both of the following apply:

(1) The municipal corporation or township held fee title to the parcel prior to the adoption of the ordinance or resolution;

(2) The parcel is leased, or the fee of the parcel is conveyed, to any person either before or after adoption of the ordinance or resolution.

Improvements used or to be used for residential purposes may be declared a public purpose under this section only if the parcel is located in a blighted area of an impacted city, in the case of a municipal corporation, or in a blighted area, in the case of a township, as those terms are defined in section 1728.01 of the Revised Code. For this purpose, "parcel that is

used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code.

(C) Except as otherwise provided in division (C)(1), (2), or (3) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation. The ordinance or resolution shall specify the percentage of the improvement to be exempted from taxation. If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(1) If the ordinance or resolution declaring improvements to a parcel to be a public purpose specifies that payments in lieu of taxes provided for in section 5709.42 or 5709.74 of the Revised Code shall be paid to the city, local, or exempted village school district in which the parcel is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (C)(2) of this section.

(2) Improvements may be exempted from taxation for up to ten years or, with the approval of the board of education of the

city, local, or exempted village school district within the territory of which the improvements are or will be located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance or resolution under this section, the legislative authority shall deliver to the board of education a notice stating its intent to declare improvements to be a public purpose under this section. The notice shall describe the parcel and the improvements, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance or resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period, or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation. The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to

the date the legislative authority intends to adopt the ordinance or resolution as indicated in the notice. If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board in its resolution shall propose a compensation percentage. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance or resolution may declare the improvements a public purpose for the number of years specified in the ordinance or resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance or resolution. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance or resolution may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance or resolution and may declare the improvements a public purpose for up to thirty years. The legislative authority may adopt the ordinance or resolution at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority. If a mutually acceptable compensation agreement is negotiated between the legislative authority and the board, including agreements for payments in lieu of taxes under section 5709.42 or 5709.74 of the Revised Code, the legislative authority shall compensate the joint vocational

school district within the territory of which the improvements are or will be located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of exemptions by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's adoption of the ordinance or resolution, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the legislative authority is not required by division (C)(1), (2), or (3) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(5) Nothing in division (C) of this section prohibits the

legislative authority of a municipal corporation or township from amending the ordinance or resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(D) An exemption granted under this section commences with the tax year specified in the ordinance or resolution so long as the year specified in the ordinance or resolution commences after the effective date of the ordinance or resolution. If the ordinance or resolution specifies a year commencing before the effective date of the ordinance or resolution or specifies no year, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and that commences after the effective date of the ordinance or resolution. In lieu of stating a specific year, the ordinance or resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the ordinance or resolution. In lieu of stating a specific year, the ordinance or resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel. The exemption ends on the date specified in the ordinance or resolution as the date the improvement ceases to be a public purpose. The exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(E) A municipal corporation or township, not later than fifteen days after the adoption of an ordinance or resolution

granting a tax exemption under this section, shall submit to the director of housing and development a copy of the ordinance or resolution. On or before the thirty-first day of March each year, the municipal corporation or township shall submit a status report to the director of housing and development outlining the progress of the project during each year that the exemption remains in effect.

Sec. 5709.45. (A) As used in sections 5709.45 to 5709.47 of the Revised Code:

(1) "Downtown redevelopment district" or "district" means an area not more than ten acres enclosed by a continuous boundary in which at least one historic building is being, or will be, rehabilitated.

(2) "Historic building" and "rehabilitation" have the same meanings as in section 149.311 of the Revised Code.

(3) "Public infrastructure improvement" has the same meaning as in section 5709.40 of the Revised Code.

(4) "Improvement" means the increase in the assessed value of real property that would first appear on the tax list after the effective date of an ordinance adopted under this section were it not for the exemption granted by the ordinance.

(5) "Innovation district" means an area located entirely within a downtown redevelopment district, enclosed by a continuous boundary, and equipped with a high-speed broadband network capable of download speeds of at least one hundred gigabits per second.

(6) "Qualified business" means a business primarily engaged, or primarily organized to engage, in a trade or business that involves research and development, technology

transfer, bio-technology, information technology, or the application of new technology developed through research and development or acquired through technology transfer.

(7) "Information technology" means the branch of technology devoted to the study and application of data and the processing thereof; the automatic acquisition, storage, manipulation or transformation, management, movement, control, display, switching, interchange, transmission or reception of data, and the development or use of hardware, software, firmware, and procedures associated with this processing. "Information technology" includes matters concerned with the furtherance of computer science and technology, design, development, installation, and implementation of information systems and applications that in turn will be licensed or sold to a specific target market. "Information technology" does not include the creation of a distribution method for existing products and services.

(8) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or processes, and conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge that may reveal the bases for new or enhanced products, equipment, or processes.

(9) "Technology transfer" means the transfer of technology from one sector of the economy to another, including the transfer of military technology to civilian applications, civilian technology to military applications, or technology from public or private research laboratories to military or civilian applications.

(B) For the purposes of promoting rehabilitation of

historic buildings, creating jobs, and encouraging economic development in commercial and mixed-use commercial and residential areas, and for the purpose of funding transportation improvements that will benefit such areas, the legislative authority of a municipal corporation may adopt an ordinance creating a downtown redevelopment district and declaring improvements to parcels within the district to be a public purpose and exempt from taxation. Downtown redevelopment districts shall not be created in areas used exclusively for residential purposes and shall not be utilized for development or redevelopment of residential areas.

The ordinance shall specify all of the following:

(1) The boundary of the district;

(2) The county treasurer's permanent parcel number associated with each parcel included in the district;

(3) The parcel or parcels within the district that include a historic building that is being or will be rehabilitated;

(4) The proposed life of the district;

(5) An economic development plan for the district that includes all of the following:

(a) A statement describing the principal purposes and goals to be served by creating the district;

(b) An explanation of how the municipal corporation will collaborate with businesses and property owners within the district to develop strategies for achieving such purposes and goals;

(c) A plan for using the service payments provided for in section 5709.46 of the Revised Code to promote economic

development and job creation within the district.

Not more than seventy per cent of improvements to parcels within a downtown redevelopment district may be exempted from taxation under this section. A district may not include a parcel that is exempted from taxation under this section or section 5709.40 or 5709.41 of the Revised Code on the effective date of the ordinance. Except as provided in division (F) of this section, the life of a downtown redevelopment district shall not exceed ten years.

A municipal corporation may adopt more than one ordinance under division (B) of this section. A single such ordinance may create more than one downtown redevelopment district.

(C) For the purposes of attracting and facilitating growth of qualified businesses and supporting the economic development efforts of business incubators and accelerators, the legislative authority of a municipal corporation may designate an innovation district within a proposed or existing downtown redevelopment district. The life of the innovation district shall be identical to the downtown redevelopment district in which the innovation district is located. In addition to the requirements in division (B) of this section, an ordinance creating a downtown redevelopment district that includes an innovation district shall specify all of the following:

(1) The boundary of the innovation district;

(2) The permanent parcel number associated with each parcel included in the innovation district;

(3) An economic development plan for the innovation district that meets the criteria prescribed by division (B)(5) of this section.

(D) At least thirty days before adopting an ordinance under division (B) of this section, the legislative authority of the municipal corporation shall conduct a public hearing on the proposed ordinance and the accompanying economic development plan. At least thirty days before the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed district that is the subject of the proposed ordinance.

(E) Revenue derived from downtown redevelopment district service payments may be used by the municipal corporation for any of the following purposes:

(1) To finance or support loans, deferred loans, or grants to owners of historic buildings within the downtown redevelopment district. Such loans or grants shall be awarded upon the condition that the loan or grant amount may be used by the owner only to rehabilitate the historic building. A municipal corporation that awards a loan or grant under this division shall develop a plan for tracking the loan or grant recipient's use of the loan or grant and monitoring the progress of the recipient's rehabilitation project.

(2) To make contributions to a special improvement district for use under section 1710.14 of the Revised Code, to a community improvement corporation for use under section 1724.12 of the Revised Code, or to a nonprofit corporation, as defined in section 1702.01 of the Revised Code, the primary purpose of which is redeveloping historic buildings and historic districts for use by the corporation to rehabilitate a historic building within the downtown redevelopment district or to otherwise

promote or enhance the district. Amounts contributed under division (E)(2) of this section shall not exceed the property tax revenue that would have been generated by twenty per cent of the assessed value of the exempted improvements within the downtown redevelopment district.

(3) To finance or support loans to owners of one or more buildings located within the district that do not qualify as historic buildings. Such loans shall be awarded upon the condition that the loan amount may be used by the owner only to make repairs and improvements to the building or buildings. A municipal corporation that awards a loan under this division shall develop a plan for tracking the loan recipient's use of the loan and monitoring the progress of the recipient's repairs or improvements.

(4) To finance public infrastructure improvements within the downtown redevelopment district. If revenue generated by the downtown redevelopment district will be used to finance public infrastructure improvements, the economic development plan described by division (B)(5) of this section shall identify specific projects that are being or will be undertaken within the district and describe how such infrastructure improvements will accommodate additional demands on the existing infrastructure within the district. A municipal corporation shall not use service payments derived from a downtown redevelopment district to repair or replace police or fire equipment.

(5) To finance or support loans, deferred loans, or grants to qualified businesses or to incubators and accelerators that provide services and capital to qualified businesses within an innovation district. Such loans or grants shall be awarded upon

the condition that the loan or grant shall be used by the recipient to start or develop one or more qualified businesses within the innovation district. A municipal corporation that awards a loan or grant under this division shall develop a plan for tracking the loan or grant recipient's use of the loan or grant and monitoring the establishment and growth of the qualified business.

(F) Notwithstanding division (B) of this section, improvements to parcels located within a downtown redevelopment district may be exempted from taxation under this section for up to thirty years if either of the following apply:

(1) The ordinance creating the redevelopment district specifies that payments in lieu of taxes shall be paid to the city, local, or exempted village, and joint vocational school district or districts in which the redevelopment district is located in the amount of the taxes that would have been payable to the school district or districts if the improvements had not been exempted from taxation.

(2) The municipal corporation creating the district obtains the approval under division (G) of this section of the board of education of each city, local, and exempted village school district within which the district will be located.

(G)(1) The legislative authority of a municipal corporation seeking the approval of a school district for the purpose of division (G)(2) of this section shall send notice of the proposed ordinance to the school district not later than forty-five business days before it intends to adopt the ordinance. The notice shall include a copy of the proposed ordinance and shall indicate the date on which the legislative authority intends to adopt the ordinance. The board of education

of the school district, by resolution adopted by a majority of the board, may do any of the following:

(a) Approve the exemption for the number of years specified in the proposed ordinance;

(b) Disapprove the exemption for the number of years in excess of ten;

(c) Approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or other mutually agreeable compensation. If an agreement is negotiated under this division, the legislative authority shall compensate all joint vocational school districts within which the downtown redevelopment district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(2) The board of education shall certify a resolution adopted under division (G)(1) of this section to the legislative authority of the municipal corporation not later than fourteen days before the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education approves the ordinance or negotiates a mutually acceptable compensation agreement with the legislative authority, the legislative authority may enact the ordinance in its current form. If the board disapproves of the ordinance and fails to negotiate a mutually acceptable compensation agreement with the legislative authority, the legislative authority may exempt improvements to parcels within the downtown redevelopment district for not more than ten years. If the board fails to

certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority may adopt the ordinance and may exempt improvements to parcels within the downtown redevelopment district for the period of time specified in the notice delivered to the board of education. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of exemptions by the board is not required under division (G) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (G)(1) of this section fewer than forty-five business days before the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days before such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the legislative authority is not required by division (G) of this section to notify the board of education of

the legislative authority's intent to create a downtown redevelopment district, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(H) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating a downtown redevelopment district under division (B) of this section shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.46 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised

Code for a general health district program.

(I) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the ordinance or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and that commences after the effective date of the ordinance. In lieu of stating a specific year, the ordinance may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the ordinance.

Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the downtown redevelopment district expires, whichever occurs first. The exemption of an improvement within a downtown redevelopment district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (G) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a

year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(J) Additional municipal financing of the projects and services described in division (E) of this section may be provided by any methods that the municipal corporation may otherwise use for financing such projects and services. If the municipal corporation issues bonds or notes to finance such projects and services and pledges money from the municipal downtown redevelopment district fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised Code.

(K) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of housing and development ~~services~~ a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director of housing and development ~~services~~. The report shall indicate, in the manner prescribed by the director, the progress of the projects and services during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.47 of the Revised Code; a description of the projects and services financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project and service.

(L) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

(M)(1) The owner of real property located in a downtown redevelopment district may enter into an agreement with the municipal corporation that created the district to impose a redevelopment charge on the property to cover all or part of the cost of services, facilities, and improvements provided within the district under division (E) of this section. The agreement shall include the following:

(a) The amount of the redevelopment charge. The redevelopment charge may be a fixed dollar amount or an amount determined on the basis of the assessed valuation of the property or all or part of the profits, gross receipts, or other revenues of a business operating on the property, including rentals received from leases of the property. If the property is leased to one or more tenants, the redevelopment charge may be itemized as part of the lease rate.

(b) The termination date of the redevelopment charge. The redevelopment charge shall not be charged after the expiration or termination of the downtown redevelopment district.

(c) The terms by which the municipal corporation shall collect the redevelopment charge.

(d) The purposes for which the redevelopment charge may be used by the municipal corporation. The redevelopment charge shall be used only for those purposes described by division (E) of this section. The agreement may specify any or all of such purposes.

(2) Redevelopment charges collected by a municipal corporation under division (M) of this section shall be deposited to the municipal downtown redevelopment district fund created under section 5709.47 of the Revised Code.

(3) An agreement by a property owner under division (M) of this section is hereby deemed to be a covenant running with the land. The covenant is fully binding on behalf of and enforceable by the municipal corporation against any person acquiring an interest in the land and all of that person's successors and assigns.

(4) No purchase agreement for real estate or any interest in real estate upon which a redevelopment charge is levied shall be enforceable by the seller or binding upon the purchaser unless the purchase agreement specifically refers to the redevelopment charge. If a conveyance of such real estate or interest in such real estate is made pursuant to a purchase agreement that does not make such reference, the redevelopment charge shall continue to be a covenant running with the land fully binding on behalf of and enforceable by the municipal corporation against the person accepting the conveyance pursuant to the purchase agreement.

(5) If a redevelopment charge is not paid when due, the overdue amount shall be collected according to the terms of the agreement. If the agreement does not specify a procedure for collecting overdue redevelopment charges, the municipal corporation may certify the charge to the county auditor. The county auditor shall enter the unpaid charge on the tax list and duplicate of real property opposite the parcel against which it is charged and certify the charge to the county treasurer. The unpaid redevelopment charge is a lien on property against which it is charged from the date the charge is entered on the tax list, and shall be collected in the manner provided for the collection of real property taxes. Once the charge is collected, it shall be paid immediately to the municipal corporation.

Sec. 5709.48. (A) As used in this section and sections 5709.481, 5709.49, and 5709.50 of the Revised Code:

(1) "Regional transportation improvement project" has the same meaning as in section 5595.01 of the Revised Code.

(2) "Improvements" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of the resolution adopted under this section were it not for the exemption granted by that resolution.

(B) For the purposes described in division (A) of section 5595.06 of the Revised Code, the governing board of a regional transportation improvement project that was undertaken pursuant to section 5595.02 of the Revised Code before March 23, 2018, may, by resolution, create a transportation financing district and declare improvements to parcels within the district to be a public purpose and exempt from taxation.

(C) A transportation financing district shall consist of all territory of all counties that are participants in the regional transportation improvement project funded by the district, except that the district shall not include parcels used primarily for residential purposes, parcels that are currently exempt from taxation under this section or section 5709.40, 5709.41, 5709.45, 5709.73, or 5709.77 of the Revised Code, or parcels excluded from the district under division (G) of this section.

(D) A resolution creating a transportation financing district shall specify all of the following:

(1) The county treasurer's permanent parcel number associated with each parcel included in the district;

(2)(a) The percentage of improvements to be exempted from taxation and the duration of the exemption.

(b) Except as provided in division (E) of this section, the percentage of improvements to be exempted shall not exceed seventy-five per cent, and the duration of the exemption shall not exceed ten years.

(c) In no case may the life of the exemption exceed the remaining number of years the cooperative agreement for the regional transportation improvement district, described under section 5595.03 of the Revised Code, is in effect.

(3) A plan for the district that describes the principal purposes and goals to be served by the district and explains how the use of service payments provided for by section 5709.49 of the Revised Code will economically benefit owners of property within the district.

(E) Subject to division (D)(2)(c) of this section, improvements to parcels located in a transportation financing district may be exempted from taxation for up to thirty years, and the percentage of improvements that may be exempted may equal up to one hundred per cent, if either of the following apply:

(1) The governing board, before adopting a resolution under division (B) of this section, obtains the approval under division (F) of this section of the board of education of each city, local, and exempted village school district within the territory of the proposed transportation financing district.

(2) In the resolution creating the transportation financing district, the governing board agrees to compensate each city, local, or exempted village, and joint vocational

school district or districts in which the transportation financing district is located for the full amount of taxes that would have been payable to the school district or districts if the improvements had not been exempted from taxation.

(F)(1) A governing board seeking the approval of a school district for the purpose of division (E)(1) of this section shall send notice of the proposed resolution to the school district not later than forty-five business days before it intends to adopt the resolution. The notice shall include a copy of the proposed resolution and shall indicate the date on which the governing board intends to adopt the resolution.

The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the governing board and the board of education negotiate an agreement providing for compensation equal in value to a percentage of the amount of taxes exempted or some other mutually agreeable compensation. If a mutually acceptable compensation agreement is negotiated between the governing board and the board of education, the governing board shall compensate the joint vocational school district within which the district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(2) The board of education shall certify a resolution adopted under division (F)(1) of this section to the governing board not later than fourteen days before the date the governing

board intends to adopt the resolution as indicated in the notice. If the board of education approves the ordinance or negotiates a mutually acceptable compensation agreement, the governing board may enact the resolution in its current form. If the board of education disapproves of the ordinance and fails to negotiate a mutually acceptable compensation agreement, the resolution is subject to the limitations prescribed by divisions (D)(2)(b) and (c) of this section. If the board of education fails to certify a resolution within the time prescribed by this division, the governing board may adopt the resolution and declare the improvements a public purpose for the period of time specified in the resolution, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution.

The governing board may adopt the resolution at any time after the board of education certifies its resolution approving the exemption, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the governing board.

(3) A board of education may adopt a resolution waiving its right to approve or receive notice of transportation financing districts proposed under this section. If a board of education has adopted such a resolution, the terms of that resolution supersede the requirements of division (F)(1) of this section. The governing board may negotiate an agreement with a board of education providing for some mutually agreeable compensation in exchange for the board of education adopting such a resolution. If a board of education has adopted such an ordinance or resolution, it shall certify a copy to the

governing board. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the governing board.

(4) If the governing board is not required by division (F) of this section to notify the board of education of the governing board's intent to create a transportation financing district, the governing board shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(G) The governing board shall notify and obtain the approval of every real property owner whose property is included in the proposed transportation financing district. The approval shall include a signed agreement between the property owner and the governing board that specifies the projects and purposes for which the service payments made by the owner under section 5709.49 of the Revised Code will be used. Such an agreement does not supersede any compensation agreement between the governing board and a school district under division (F) of this section. If the property owner and the governing board do not reach an agreement under this division, the parcel shall be excluded from the district.

(H)(1) Upon adopting a resolution creating a transportation financing district, the governing board shall send a copy of the resolution and documentation sufficient to prove that the requirements of divisions (F) and (G) of this section have been met to the director of housing and development. The director shall evaluate the resolution and documentation to determine if the governing board has fully complied with the requirements of this section. If the director

approves the resolution, the director shall send notice of approval to the governing board. If the director does not approve the resolution, the director shall send a notice of denial to the governing board that includes the reason or reasons for the denial. If the director does not make a determination within ninety days after receiving a resolution under this section, the director is deemed to have approved the resolution. No resolution creating a transportation financing district is effective without actual or constructive approval by the director under this section.

(2) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and that commences after the effective date of the resolution.

(3) Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the regional transportation improvement project funded by the service payments dissolves under section 5595.13 of the Revised Code, whichever occurs first. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(I) The resolution creating a transportation financing district may be amended at any time by majority vote of the governing board and with the approval of the director of housing and development obtained in the same manner as approval of the original resolution. Such an amendment may include adding a parcel to the district that was previously excluded under division (G) of this section, so long as the governing board and the owner of the parcel reach an agreement on the use of service payments as provided under that division.

Sec. 5709.51. (A) The legislative authority of a municipal corporation, a board of township trustees, or a board of county commissioners may amend or provide in an ordinance or resolution adopted in accordance with division (B) of section 5709.40, section 5709.41, division (B) of section 5709.73, or division (A) of section 5709.78 of the Revised Code, as applicable, to extend the exemption from taxation of improvements to the parcel or parcels designated in the ordinance or resolution for an additional period of not more than thirty years if all of the following conditions are met:

(1) Either (a) the service payments made pursuant to section 5709.42, 5709.74, or 5709.79 of the Revised Code by the owner or owners of the parcel or parcels designated in the ordinance or resolution exceeded one million five hundred thousand dollars in the calendar year preceding the adoption of the amendment or (b) the legislative authority of the municipal corporation, a board of township trustees, or a board of county commissioners determines that the service payments to be made pursuant to section 5709.42, 5709.74, or 5709.79 of the Revised Code by the owner or owners of the parcel or parcels designated in the ordinance or resolution will exceed one million five hundred thousand dollars in any future year.

(2) The service payments described in division (A)(1) of this section did not exceed one million five hundred thousand dollars in any calendar year before the calendar year immediately preceding the adoption of the amendment. This condition applies only to amendments adopted under this section on or after January 1, 2024.

(3) The amendment extending or the ordinance or resolution approving the exemption provides for compensation to the city, local, or exempted village school district in which the parcel or parcels are located equal in value to the amount of taxes that would be payable to the school district if the improvements had not been exempted from taxation for the additional period.

(B) Not later than fifteen days after adopting or amending an ordinance or resolution under this section, the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners shall send a copy of the amendment to the director of housing and development.

(C) The amendment to this section by H.B. 33 of the 135th general assembly applies to any proceedings commenced after ~~the effective date of that amendment~~ October 3, 2023, and, insofar as the amendment supports the actions taken, also applies to proceedings that, on that date, are pending, in progress, or completed, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior resolution, ordinance, order, advertisement, notice, or other proceeding. Any proceedings pending or in progress on ~~the effective date of that amendment~~ October 3, 2023, shall be deemed to have been taken in conformity with that amendment.

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of housing and development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 2000, decreased by at least ten per cent between the years 1980 and 2000;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of housing and development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on

which such facilities are situated, or adjacent parcels. The director of housing and development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of housing and development as having all of the following characteristics:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of housing and development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole

proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority worker-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code or the board of education of the city, local, or exempted village school district within the territory of which the place of business is located adopts a resolution waiving the exclusion of retail facilities under section 5709.634 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or

5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first

employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the

Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

(1) It is approved by the director of housing and development;

(2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;

(3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

(1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years

equals or exceeds one thousand.

(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division

(B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Z) "Megaproject," "megaproject operator," and "megaproject supplier" have the same meanings as in section 122.17 of the Revised Code.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of housing and development ~~services~~ for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the

director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of housing and development ~~services~~, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption

applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per

cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both;

(4) Enter into an agreement with an enterprise that either is the owner of real property constituting the site of a megaproject or is a megaproject supplier in return for an exemption for a specified number of years, not to exceed thirty, of a specified portion, up to one hundred per cent, of the increase in the assessed value of real property constituting the site of a megaproject or real property owned and occupied by the megaproject supplier, respectively, beginning after the tax year

in which the agreement is formally approved by the legislative authority.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years and the exemption described in division (C)(4) of this section may be for up to thirty years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be

exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, the legislative authority shall compensate the joint vocational school district within which the property is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the

notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of housing and development ~~services~~ under this section prior to July 22, 1994.

The legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement,

intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of housing and development ~~services~~ has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of housing and development ~~services~~ revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand

dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of housing and development ~~services~~ and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, exempted village, or joint vocational school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of housing and development ~~services~~ along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be

filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3) and (4), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of housing and development ~~services~~.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in

the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of housing and development ~~services~~ for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported

under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory

required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both;

(3) Enter into an agreement with an enterprise that either is the owner of real property constituting the site of a megaproject or is a megaproject supplier in return for an

exemption for a specified number of years, not to exceed thirty, of a specified portion, up to one hundred per cent, of the increase in the assessed value of real property constituting the site of a megaproject or real property owned and occupied by the megaproject supplier, respectively, beginning after the tax year in which the agreement is formally approved by the legislative authority.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years and the exemption described in division (B)(3) of this section may be for up to thirty years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than

forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, the legislative authority shall compensate the joint vocational school district within which the property is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is

not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of housing and development ~~services~~ under this section prior to July 22, 1994.

With the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to

establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of housing and development ~~services~~ has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of housing and development ~~services~~ revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified

in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this

section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of housing and development ~~services~~ and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, exempted village, or joint vocational school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of housing and development ~~services~~ along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in

the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2) and (3), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of housing and development ~~services~~ or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.631. Each agreement entered into under sections 5709.62, 5709.63, and 5709.632 of the Revised Code on or after April 1, 1994, shall be in writing and shall include all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(A) Each agreement shall include the following information:

(1) The names of all parties to the agreement;

(2) A description of the investments to be made by the applicant enterprise or by another party at the facility whether

or not the investments are exempted from taxation, including existing or new building size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement that will not be exempted from taxation; the value of inventory at the facility, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility, and the value of inventory held at the facility prior to the execution of the agreement that will not be exempted from taxation;

(3) The scheduled starting and completion dates of investments made in building, machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the applicant enterprise due to the project, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (A)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the project site and at any other location in the state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(B) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after ..... (insert date) nor extend beyond ..... (insert date)." The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(2) A description of tangible personal property to be exempted from taxation under the agreement, the percentage of the assessed value of the tangible personal property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The minimum investment for tangible personal property to qualify for the exemption is $..... (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, $..... (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and $..... (insert dollar amount) for new inventory. The maximum investment for tangible personal property to qualify for the exemption is $..... (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, $..... (insert dollar amount)

for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and $..... (insert dollar amount) for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year ..... (insert year) nor extend beyond tax return year ..... (insert year). In no instance shall any tangible personal property be exempted from taxation for more than ten return years unless, under division (D)(2) of section 5709.62 or under division (C)(1)(b) of section 5709.63 of the Revised Code, the board of education approves exemption for a number of years in excess of ten, in which case the tangible personal property may be exempted from taxation for that number of years, not to exceed fifteen return years." No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property. If, for a type of tangible personal property, there are no minimum or maximum investment dollar amounts specified in the statement or the dollar amounts are designated in the statement as not applicable, the exemption shall apply to the total cost of that type of tangible personal property first used in business at the facility as a result of the project. The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(3) "..... (insert name of enterprise) shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and

shall file all tax reports and returns as required by law. If ..... (insert name of enterprise) fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

(4) "..... (insert name of enterprise) hereby certifies that at the time this agreement is executed, ... (insert name of enterprise) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which ..... (insert name of enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, ... (insert name of enterprise) currently is paying the delinquent taxes pursuant to a delinquent tax contract enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against ..... (insert name of enterprise). For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(5) "..... (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(6) "If for any reason the enterprise zone designation expires, the Director of the Ohio Department of Housing and Development revokes certification of the zone, or ..... (insert name of municipal corporation or county) revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless ..... (insert name of enterprise) materially fails to fulfill its obligations under this agreement and ..... (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation granted under this agreement."

(7) "If ..... (insert name of enterprise) materially fails to fulfill its obligations under this agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if ..... (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, ... (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(8) "..... (insert name of enterprise) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the enterprise's compliance with the agreement, including returns or annual reports filed pursuant to section 5711.02 or 5727.08 of the Ohio Revised Code if requested by the council."

(9) "..... (insert name of enterprise) and ..... (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of ..... (insert name of municipal

corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

(10) "This agreement is not transferable or assignable without the express, written approval of ..... (insert name of municipal corporation or county)."

(11) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that ..... (insert name of enterprise), any successor enterprise, or any related member (as those terms are defined in section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (C) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(12) "In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by..... (insert name of enterprise) is not equal to or greater than seventy-five per cent of the number of employee positions estimated to be created or retained under this agreement during that three-year period,..... (insert name of enterprise) shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the..... (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(13) If the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier, both of the following:

(a) A requirement that the enterprise annually certify to the legislative authority whether the megaproject operator or megaproject supplier, as applicable, holds a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year;

(b) A provision authorizing the legislative authority to terminate the exemption for current and subsequent tax years if the megaproject operator or megaproject supplier, as applicable, does not hold a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year.

The statement described in division (B)(7) of this section may include the following statement, appended at the end of the statement: "and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." If the agreement includes a statement requiring repayment of exempted taxes, it also may authorize the legislative authority to secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid. Such a lien on exempted real property shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Notwithstanding section 5719.01 of the Revised Code, such a lien on exempted tangible personal property shall attach, and may be perfected, collected, and enforced, in the same manner as a security interest in goods under Chapter 1309. of the Revised Code, and shall otherwise have the same force and effect as such a security interest.

(C) If the director of housing and development had to

issue a waiver under section 5709.633 of the Revised Code as a condition for the agreement to be executed, the agreement shall include the following statement:

"Continuation of this agreement is subject to the validity of the circumstance upon which ..... (insert name of enterprise) applied for, and the Director of the Ohio Department of Housing and Development issued, the waiver pursuant to section 5709.633 of the Ohio Revised Code. If, after formal approval of this agreement by ..... (insert name of municipal corporation or county), the Director or ..... (insert name of municipal corporation or county) discovers that such a circumstance did not exist, ... (insert name of enterprise) shall be deemed to have materially failed to comply with this agreement."

If the director issued a waiver on the basis of the circumstance described in division (B)(3) of section 5709.633 of the Ohio Revised Code, the conditions enumerated in divisions (B)(3)(a)(i) and (ii) or divisions (B)(3)(b)(i) and (ii) of that section shall be incorporated in the information described in divisions (A)(2), (3), and (4) of this section.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or

more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of housing and development ~~services~~ for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of housing and development ~~services~~ has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (C)(1), (2), and (3) of section 5709.62 of the Revised Code, subject to division (D) of that section, or for the incentive provided in division (C)(4) of that section if the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier~~;~~.

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b) and (B)(2) of section 5709.63 of the Revised Code, subject to division (C) of that section, or for the incentive provided in division (B)(3) of that section if the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised

Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of housing and development ~~services~~ revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a

municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of housing and development ~~services~~ and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, exempted village, or joint vocational school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of housing and development ~~services~~ along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in

the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.633. (A)(1) Except as otherwise provided in division (B) of this section, no legislative authority or board of county commissioners shall enter into an agreement with an enterprise under division (E) of section 5709.62, division (D) of section 5709.63, or section 5709.632 of the Revised Code if that enterprise or a successor enterprise currently has operations at another location in this state and those operations will be relocated to an enterprise zone upon or as a result of that agreement.

(2) Except as otherwise provided in division (B) of this section, if an enterprise subject to an agreement granting an exemption from taxation under section 5709.62, 5709.63, or 5709.632 of the Revised Code expands its operations or relocates its operations to another location in this state that results in a reduction of its operations at any Ohio location, or discontinues operations at the project site to which that exemption applies prior to the expiration of the term of the agreement, no legislative authority shall enter into an agreement with such an enterprise, a related member, or a successor enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code prior to five years after such expansion, relocation, or discontinuation of operations. The director of housing and development shall review all agreements entered into under those sections to determine whether there has been a violation of this paragraph and whether the requirements to be a facility have been met. If the director discovers there has been a violation of this paragraph or the requirements to be a

facility have not been met, the agreement is void, and all incentives granted under the agreement shall cease immediately. The director shall certify to the legislative authority and to the board of education of the city, local, or exempted village school district to which operations were relocated that the agreement is void.

(B) Divisions (A)(1) and (2) of this section do not apply if the director of housing and development waives application of those divisions. The director may waive application of division (A)(1) of this section if the enterprise or successor enterprise demonstrates, by documentation satisfactory to the director, that the relocation was necessitated by or results from one of the circumstances described in divisions (B)(1) to (3) of this section, and the director determines that under the circumstance claimed and in light of the possible relocation issuance of a waiver is absolutely necessary to attract or retain employment opportunities in this state. The director may waive application of division (A)(2) of this section, except for the provision that the requirements to be a facility must be met, if the enterprise, related member, or successor enterprise demonstrates, by documentation satisfactory to the director, that the discontinuation of operations was necessitated by or resulted from one of the circumstances described in divisions (B)(1) to (3) of this section, and the director determines that under the circumstance claimed and in light of the possible relocation issuance of a waiver is absolutely necessary to attract or retain employment opportunities in this state.

The circumstance that may be claimed shall be one of the following:

(1) The project site at which operations are or will be

discontinued cannot accommodate expansion plans of the enterprise due to inadequate land suitable for such expansion.

(2) Conditions in the markets in which the enterprise participates require that the enterprise relocate operations in order for the enterprise to become or remain competitive in that market. These conditions include, but are not limited to, any of the following:

(a) New or modified contracts with customers or suppliers, such as "just-in-time" supply or similar arrangements;

(b) Changes in the enterprise's production methods;

(c) Loss or impending loss of an existing contract requires expansion into another market in order to maintain production levels;

(d) Changes in ownership or other changes in control of the enterprise, or of a controlled group of corporations of which the enterprise is a subsidiary, that result from a decision on the part of owners or officers located outside this state.

(3) The enterprise currently is subject to a consolidation of its operations, or such a consolidation is imminent. For purposes of division (B)(3) of this section, "consolidation" means an enterprise combines the operations of two or more existing facilities and one of the following conditions is satisfied:

(a) At least one of the facilities currently is not located in this state, and the relocation of the operations of that facility would result in both of the following during the term of the agreement:

(i) The number of employees employed by the enterprise at its existing facilities in this state to which operations are relocated increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority;

(ii) The assessed value of tangible personal property first used in business at the project site, or the assessed value of real property constituting the project site, increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority.

(b) All of the facilities currently are in this state, and the relocation of the operations of any of those facilities would result in both of the following during the term of the agreement:

(i) The number of employees employed by the enterprise at its existing facilities in this state to which operations are relocated increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority;

(ii) The assessed value of tangible personal property first used in business at the project site, or the assessed value of real property constituting the project site, increases by not less than fifty per cent over the assessed value, determined at the time of relocation, of tangible personal property located at, and of real property constituting, the facilities in this state from which operations would be relocated.

For purposes of divisions (B)(3)(a) and (b) of this section, "assessed value of tangible personal property" and

"assessed value of real property" mean the value of such property as assessed for purposes of property taxation and entered on the tax lists and duplicates of the county.

(C) To apply for a waiver under division (B) of this section, the enterprise and the legislative authority intending to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code shall petition the director of housing and development in a form acceptable to the director. The petition shall be accompanied by documentation demonstrating one or more of the circumstances described in divisions (B)(1), (2), or (3) of this section. Not later than thirty days after receiving such a petition, the director shall investigate the petition and accompanying documentation to determine the validity of the circumstance claimed therein, and shall issue to the enterprise and to the legislative authority the determination, in writing, waiving, or refusing to waive application of division (A) of this section.

Sec. 5709.64. (A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, it may apply, on or before the thirtieth day of April of that year, to the director of housing and development, on a form prescribed by the director, for a tax incentive qualification certificate. The enterprise qualifies for an initial certificate if, on or before the last day of the calendar year immediately preceding that in which application is made, it satisfies all of the following requirements:

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to the agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

(2) The enterprise has hired new employees to fill nonretail positions at the facility, at least twenty-five per cent of whom at the time they were employed were at least one of the following:

(a) Unemployed persons who had resided at least six months in the county in which the enterprise's project site is located;

(b) JPTA eligible employees who had resided at least six months in the county in which the enterprise's project site is located;

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, financial assistance under former Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located;

(d) Eligible individuals with disabilities, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located;

(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located.

The director of <u>housing and </u>development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility.

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is

made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the enterprise in the municipal corporation during each period of the calendar year immediately preceding the calendar year in which application is made must exceed only the maximum number of positions attributable to the enterprise in each corresponding period of the calendar year immediately preceding the first year the enterprise satisfies the requirements of divisions (A)(1) and (2) of this section. The director of housing and development shall, by rule, prescribe methods for determining whether an enterprise is engaged in a seasonal business and for determining the length of the corresponding periods to be compared.

(4) The enterprise has not closed or reduced employment at any place of business in the state for the primary purpose of establishing, expanding, renovating, or occupying a facility. The legislative authority of any municipal corporation or the board of county commissioners of any county that concludes that an enterprise has closed or reduced employment at a place of business in that municipal corporation or county for the primary purpose of establishing, expanding, renovating, or occupying a facility in a zone may appeal to the director to determine whether the enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and make such a determination before issuing an initial or renewal tax

incentive qualification certificate under this section.

Within sixty days after receiving an application under this division, the director shall review, investigate, and verify the application and determine whether the enterprise qualifies for a certificate. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section, and shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise qualifies for a certificate. If the director finds the enterprise qualified, the director shall issue a tax incentive qualification certificate, which shall bear as its date of issuance the thirtieth day of June of the year of application, and shall state that the applicant is entitled to receive, for the taxable year that includes the certificate's date of issuance, the tax incentives provided under section 5709.65 of the Revised Code with regard to the facility to which the certificate applies. If an enterprise is issued an initial certificate, it may apply, on or before the thirtieth day of April of each succeeding calendar year for which it has been granted an incentive under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, for a renewal certificate. Subsequent to its initial certification, the enterprise qualifies for up to three successive renewal certificates if, on or before the last day of the calendar year immediately preceding that in which the application is made, it satisfies all the requirements of divisions (A)(1) to (4) of this section, and neither the zone's designation nor the zone's certification has been revoked prior to the fifteenth day of June of the year in which the application is made. The application shall include an affidavit executed by the applicant

verifying that the enterprise satisfies the requirements of division (A)(2) of this section. An enterprise with ten or more supervisory personnel at the facility to which a certificate applies qualifies for any subsequent renewal certificates only if it meets all of the foregoing requirements and, in addition, at least ten per cent of those supervisory personnel are employees who, when first hired by the enterprise, satisfied at least one of the criteria specified in divisions (A)(2)(a) to (e) of this section. If the enterprise qualifies, a renewal certificate shall be issued bearing as its date of issuance the thirtieth day of June of the year of application. The director shall send copies of the initial certificate, and each renewal certificate, by certified mail, to the enterprise, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate applies is located.

(B) If the director determines that an enterprise is not qualified for an initial or renewal tax incentive qualification certificate, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's qualification for a certificate. If the enterprise is found to be qualified, the

director shall proceed in the manner provided under division (A) of this section. If the enterprise is found to be unqualified, the director shall send notice of this finding, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. The director's redetermination that an enterprise is unqualified may be appealed to the board of tax appeals in the manner provided under section 5717.02 of the Revised Code.

Sec. 5709.66. (A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered into pursuant to section 5709.62 or 5709.63 of the Revised Code and satisfies both of the requirements described in divisions (A)(1) and (2) of this section at the time of application, it may apply to the director of housing and development, on a form prescribed by the director, for the employee tax credit certificate under division (B) of this section.

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to an agreement under section 5709.62 or 5709.63 of the Revised Code in a zone that is certified by the director of housing and development as having one of the characteristics described in divisions (A)(1)(a) or (b) and at least one of the characteristics described in divisions (A)(1)(c) to (h) of section 5709.61 of the Revised Code.

(2) The enterprise or any predecessor enterprise has not closed or reduced employment at any place of business in this state within the twelve months preceding application unless the

enterprise, since the date the agreement was formally approved by the legislative authority, has hired new employees equal in number to not less than fifty per cent of the total number of employees employed by the enterprise at other locations in this state on that date. The legislative authority of any municipal corporation or county that concludes that an enterprise or any predecessor enterprise has closed or reduced employment at a place of business in that municipal corporation or county may appeal to the director to determine whether the enterprise or any predecessor enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and determine whether the enterprise satisfies the requirement of division (A)(2) of this section before proceeding under division (B) of this section.

Within sixty days after receiving an application under this section, the director shall review, investigate, and verify the application and determine whether the enterprise is eligible for the employee tax credit certificate under division (B) of this section. The application shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise is eligible for the certificate. On finding that the enterprise is eligible, the director shall proceed under division (B) of this section.

On determining that an enterprise is not eligible for the certificate under division (B) of this section, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing

before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's eligibility for the incentives. If the enterprise is found to be eligible, the director shall proceed under division (B) of this section. If the enterprise is found to be ineligible, the director shall send notice of this finding, by certified mail, to the applicant, the board of commissioners of the county or the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. The director's redetermination that an enterprise is ineligible may be appealed to the board of tax appeals under section 5717.02 of the Revised Code.

(B)(1) If the director determines an enterprise to be eligible under division (A) of this section, the director shall determine if the enterprise is entitled to an employee tax credit certificate. An enterprise is entitled to an employee tax credit certificate for each eligible employee the enterprise hires. A taxpayer who is issued an employee tax credit certificate under this section may claim a nonrefundable credit of one thousand dollars against the taxpayer's aggregate tax liability under either section 5733.06 or 5747.02 of the Revised Code for each taxable year of the agreement entered into under section 5709.62 or 5709.63 of the Revised Code in which an eligible employee is employed for the taxpayer's full taxable year. If the eligible employee is employed for less than the taxpayer's full taxable year, the taxpayer may claim a reduced credit against the aggregate amount of tax due under either section 5733.06 or 5747.02 of the Revised Code. The reduced

credit shall be computed by dividing the total number of days in the taxable year into one thousand dollars and multiplying the quotient by the number of days the eligible employee was employed in the taxable year. For purposes of the computation, the eligible employee shall be deemed to have been employed for each day of the taxable year commencing on the date of employment or ending on the date of termination of employment.

The credit provided under this division to a noncorporate enterprise or an enterprise that is an S corporation as defined in section 1361 of the Internal Revenue Code shall be divided pro rata among the owners or shareholders of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based on their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the tax commissioner, a statement showing the total available credit and the portion of that credit attributed to each owner or shareholder. The statement shall identify each owner or shareholder by name and social security number and shall be filed with the tax commissioner by the date prescribed by the tax commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

The taxpayer shall claim the credit in the order required under section 5733.98 or 5747.98 of the Revised Code. If the credit provided under this division exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, the credit may be carried forward for the next three succeeding taxable years, but the amount of any excess credit allowed in any such year shall be deducted from the balance

carried forward to the succeeding taxable year.

(2) As used in this division:

(a) "Eligible employee" means a new employee at a facility who, at the time the employee was hired to work at the facility, was a participant of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or a recipient of general assistance under former Chapter 5113. of the Revised Code and resided for at least one year in the county in which the facility is located. "Eligible employee" does not include any employee of the enterprise who is a new employee, as defined under section 122.17 of the Revised Code, on the basis of whom the enterprise has claimed a credit under that section.

(b) "Taxable year" has the same meaning as in section 5733.04 or 5747.01 of the Revised Code, as applicable to the enterprise claiming the credit.

Sec. 5709.67. (A) Except as otherwise provided in sections 5709.61 to 5709.69 of the Revised Code, the director of housing and development shall administer those sections and shall adopt rules necessary to implement and administer the enterprise zone program. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code and shall adopt rules necessary to carry out that duty. No tax incentive qualification certificate or employee tax credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules. The

director of job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code and shall adopt rules necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules.

(B) Not later than the first day of August each year, the director of housing and development shall report to the general assembly on all of the following for the preceding calendar year:

(1) The cost to the state of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued;

(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code;

(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code.

The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to

5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives. The director shall send a copy of the report to each member of the general assembly and to the director of the legislative service commission.

Sec. 5709.671. By amendment or enactment of ~~this act~~ Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code by Amended Substitute Senate Bill No. 19 of the 120th general assembly, the ~~General Assembly~~ general assembly expresses its policy of encouraging political subdivisions of this state to exercise the authority granted under ~~Chapters 725. and 1728. and under sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code~~those chapters and sections for the purposes stated therein, and for the purposes of retaining existing or creating new employment opportunities within the political subdivision to the extent the exercise of such authority is necessary to result in a net increase in employment in this state above that which would prevail in the absence of the use of such authority. Such authority is not intended by the ~~General Assembly~~general assembly to be exercised if not necessary to achieve such a result, nor is it intended to be exercised for the purpose of transferring employment from one political subdivision in this state to another if such exercise does not result in a net increase in or retention of employment in this state.

The ~~Director~~ director of ~~Development~~housing and development may adopt such rules as the ~~Director~~ director determines will best effect the policy stated under this section. Such rules shall be adopted in accordance with Chapter

119. of the Revised Code, and shall apply only to agreements or actions executed on or after the effective date of such rules.

Sec. 5709.68. (A) On or before the thirty-first day of March each year, a municipal corporation or county that has entered into an agreement with an enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code shall submit to the director of housing and 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 of those agreements in effect during the preceding calendar year. The report shall include all of the following information:

(1) The designation, assigned by the director of housing and development ~~services~~, of each urban jobs and enterprise zone within the municipal corporation or county, the date each zone was certified, the name of each municipal corporation or township within each zone, and the total population of each zone according to the most recent data available;

(2) The number of enterprises that are subject to those agreements and the number of full-time employees subject to those agreements within each zone, each according to the most recent data available and identified and categorized by the appropriate standard industrial code, and the rate of unemployment in the municipal corporation or county in which the zone is located for each year since each zone was certified;

(3) The number of agreements approved and executed during the calendar year for which the report is submitted, the total number of agreements in effect on the thirty-first day of December of the preceding calendar year, the number of agreements that expired during the calendar year for which the

report is submitted, and the number of agreements scheduled to expire during the calendar year in which the report is submitted. For each agreement that expired during the calendar year for which the report is submitted, the municipal corporation or county shall include the amount of taxes exempted and the estimated dollar value of any other incentives provided under the agreement.

(4) The number of agreements receiving compliance reviews by the tax incentive review council in the municipal corporation or county during the calendar year for which the report is submitted, including all of the following information:

(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;

(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;

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority of the municipal corporation or county, and the number of those

recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(5) The number of enterprises that are subject to agreements that expanded within each zone, including the number of new employees hired and existing employees retained by each enterprise, and the number of new enterprises that are subject to agreements and that established within each zone, including the number of new employees hired by each enterprise;

(6)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business within the state for the primary purpose of establishing, expanding, renovating, or occupying a facility, indicating separately for each enterprise the political subdivision in which the enterprise closed or reduced employment at a place of business and the number of full-time employees transferred and retained by each such place of business;

(b) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business outside the state for the primary purpose of establishing, expanding, renovating, or occupying a facility.

(7) For each agreement in effect during any part of the preceding year, the number of employees employed by the enterprise at the project site immediately prior to formal approval of the agreement, the number of employees employed by the enterprise at the project site on the thirty-first day of December of the preceding year, the payroll of the enterprise for the preceding year, the amount of taxes paid on tangible personal property situated at the project site and the amount of

those taxes that were not paid because of the exemption granted under the agreement, and the amount of taxes paid on real property constituting the project site and the amount of those taxes that were not paid because of the exemption granted under the agreement. If an agreement was entered into under section 5709.632 of the Revised Code with an enterprise described in division (B)(2) of that section, the report shall include the number of employee positions at all of the enterprise's locations in this state. If an agreement is conditioned on a waiver issued under division (B) of section 5709.633 of the Revised Code on the basis of the circumstance described in division (B)(3)(a) or (b) of that section, the report shall include the number of employees at the facilities referred to in division (B)(3)(a)(i) or (b)(i) of that section, respectively.

(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 with an enterprise under section 5709.62, 5709.63, or 5709.632 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 division (A) of this section, the director of housing and development ~~services~~ shall either order the proper county auditor to deduct from the next succeeding payment of taxes to the municipal corporation or county under section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount equal to one thousand

dollars for each calendar month the municipal corporation or county fails to comply with that division, or order the county auditor to deduct that amount from the next succeeding payment to the municipal corporation or county from the undivided local government fund under section 5747.51 of the Revised Code. At the time such a payment is made, the county auditor shall comply with the director's order by issuing a warrant, drawn on the fund from which the money would have been paid, to the director of housing and development ~~services~~, who shall deposit the warrant into the state enterprise zone program administration fund created in division (C) of this section.

(C) The director, by rule, shall establish the state's application fee for applications submitted to a municipal corporation or county to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing the amount of the fee, the director shall consider the state's cost of administering the enterprise zone program, including the cost of reviewing the reports required under division (A) of this section. The director may change the amount of the fee at the times and in the increments the director considers necessary. Any municipal corporation or county that receives an application shall collect the application fee and remit the fee for deposit in the state treasury to the credit of the tax incentives operating fund created in section 122.174 of the Revised Code.

(D) On or before the thirtieth day of June each year, the director of housing and development ~~services~~ shall certify to the tax commissioner the information described under division (A)(7) of this section, derived from the reports submitted to the director under this section.

On the basis of the information certified under this division, the tax commissioner annually shall submit a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the ways and means committees of the respective houses of the general assembly, indicating for each enterprise zone the amount of state and local taxes that were not required to be paid because of exemptions granted under agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code and the amount of additional taxes paid from the payroll of new employees.

Sec. 5709.69. If an enterprise operating in a county or municipal corporation in this state intends to relocate or relocates part or all of its operations to another county or municipal corporation in this state and has entered into or intends to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code with that county or municipal corporation, the legislative authority or an officer of the county or municipal corporation to which the enterprise intends to relocate or relocates shall serve the legislative authority of the county or municipal corporation from which the enterprise intends to relocate or relocates with notice of the enterprise's intention to relocate, accompanied by a copy of the agreement to be entered into or entered into pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code and a statement of the enterprise's reasons for relocation. The legislative authority or officer also shall serve such notice upon the director of housing and development. In both cases, service shall be by personal service or certified mail, return receipt requested, not later than thirty days prior to the day of the first public meeting at which the agreement is

deliberated by the legislative authority of the county or municipal corporation to which the enterprise intends to relocate or relocates. With the approval of the director of housing and development, service shall be not later than fifteen days prior to the day of the first public meeting of the legislative authority at which the agreement is deliberated. The legislative authority or officer required to serve notice shall seek such approval by applying to the director at the earliest possible time prior to that meeting. The director may approve the later service if the director determines that earlier notice is not possible or would be likely to jeopardize realization of the project. If approval for a later notice is applied for, the legislative authority or officer need not serve notice to the director as otherwise required by this section.

If the legislative authority or officer required to serve such notices fails to do so as prescribed by this section, the legislative authority shall not enter into an agreement under those sections with that enterprise.

This section applies only to relocations of operations that result or would result in the reduction of employment or the cessation of operations at a place of business in this state.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first

appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes. For this purpose, "property that is used or to be used for residential purposes" means property that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the property as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Overlay" has the same meaning as in section 5709.40 of the Revised Code, except that the overlay is delineated by the board of township trustees.

(6) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(7) "Urban township" has the same meaning as in section 504.01 of the Revised Code.

(8) "Nonperforming parcel" means a parcel to which all of the following apply:

(a) The parcel is exempted from taxation under division (B) of this section or has been included in a district created under division (C) of this section.

(b) The parcel's owner is required to make payments in lieu of taxes in accordance with section 5709.74 of the Revised Code.

(c) No such payments have been remitted to the county treasurer since the inception of the exemption or district.

(B) A board of township trustees may adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except for a resolution adopted by the board of an urban township, the resolution shall be adopted by a unanimous vote of the board. Except as otherwise provided under division (D) of this section or section 5709.51 of the Revised Code, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (C)(2) of this section, exempt from taxation as provided in this section. Except for a resolution adopted by the board of an urban township, the resolution shall be adopted by a unanimous vote of the board. A board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, may not adopt a resolution that creates an incentive district if the sum of the taxable value of real

property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel, other than a nonperforming parcel, that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. On and after the effective date of the district, a nonperforming parcel within the district is no longer exempted from taxation under division (B) of this section or included within an incentive district under any previous resolution, and the parcel's owner is no longer required to make payments in lieu of taxes under such a previous resolution in accordance with section 5709.74 of the Revised Code. Any exemption application filed with the tax commissioner under section 5715.27 of the Revised Code under the second resolution shall identify the nonperforming parcels included in the second district, the original resolution under which the nonperforming parcels were originally exempted, and the value history of each nonperforming parcel since the enactment of the original resolution. A resolution may create more than one such district, and more than one resolution may be adopted under division (C)(1) of this section.

(2)(a) Not later than thirty days prior to adopting a resolution under division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The notice shall include a map of the proposed incentive district on which the board of township trustees shall have delineated an overlay. The notice shall inform the property owner of the owner's right to exclude the owner's property from the incentive district if both of the following conditions are met:

(i) The owner's entire parcel of property will not be located within the overlay.

(ii) The owner has submitted a statement to the board of county commissioners of the county in which the parcel is located indicating the owner's intent to seek a tax exemption for improvements to the owner's parcel under division (A) or (B) of section 5709.78 of the Revised Code within the next five years.

When both of the preceding conditions are met, the owner may exclude the owner's property from the incentive district by submitting a written response in accordance with division (C)(2)(b) of this section. The notice also shall include information detailing the required contents of the response, the address to

which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (C)(1) of this section who meets the conditions specified in divisions (C)(2)(a)(i) and (ii) of this section may exclude the property from the proposed incentive district by submitting a written response to the board not later than forty-five days after the postmark date on the notice required under division (C)(2)(a) of this section. The response shall include a copy of the statement submitted under division (C)(2)(a)(ii) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the board under division (C)(2)(a) of this section. The response shall conform to any content requirements that may be established by the board and included in the notice provided under division (C)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the resolution, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting a resolution under division (C)(1) of this section, the board shall amend the resolution to exclude any parcel for which a written response has been submitted under division (C)(2)(b) of this section. A township shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (B) of this section pursuant to a resolution adopted under that division or under any other section of the Revised Code under which the parcel

qualifies.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and, except as provided in division (F) of this section, no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the

district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of

township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the

taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of

education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall

comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

Nothing in this division prohibits the board of township trustees from amending the resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of

county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if

no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, or a later date as specified in this division, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens

services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public

welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program;

(13) A tax levied by a township under section 505.39, 505.51, or division (I), (J), (U), or (JJ) of section 5705.19 of the Revised Code for the purpose of funding fire, police, emergency medical, or ambulance services as described in those sections. Division (F)(13) of this section applies only to incentive districts created by a resolution adopted on or after March 22, 2019, the effective date of the amendment of this section by H.B. 500 of the 132nd general assembly, and only if that resolution specifies that division (F) of this section shall apply to such a tax.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (B) of this section, the resolution may

allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division and section 5709.51 of the Revised Code, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the

year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of housing and development a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

(L)(1) Notwithstanding the limitation prescribed by division (D) of this section on the number of years that

improvements to a parcel or parcels may be exempted from taxation, and subject to division (L)(3) of this section, a board of trustees of a township with a population of fifteen thousand or more may amend a resolution originally adopted under this section before December 31, 1994, to extend the exemption of improvements to the parcel or parcels included in such resolution for an additional period not to exceed fifteen years. The amendment shall not increase the percentage of improvements to the parcel or parcels exempted from taxation.

(2) Notwithstanding the limitations prescribed by divisions (C) and (D) of this section on the life of an incentive district and the number of years that improvements to a parcel or parcels within an incentive district may be exempted from taxation, and subject to division (L)(3) of this section, a board of township trustees may amend a resolution originally adopted under division (C) of this section before January 1, 2006, to extend the life of an incentive district created by that resolution. The extension shall be for a period not to exceed fifteen years and shall not increase the percentage of the value of improvements exempted from taxation.

(3) Before adopting an amendment authorized under division (L)(1) or (2) of this section, the board of township trustees shall provide notice of the amendment to each board of education of the city, local, or exempted village school district in which the exempted parcels or incentive district are located, in the same manner as provided under division (D) of this section, and shall obtain the approval of each such board of education in the manner required under that division, except that (a) the board of education may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district

equal in value to the amount of taxes the district forgoes in each year the exemption is extended or any other mutually agreeable compensation and (b) if the board of education fails to certify a resolution approving the amendment to the board of township trustees within the time prescribed by division (D) of this section, the board of township trustees shall not adopt the amendment.

No approval under division (L)(3) of this section shall be required for an amendment authorized under division (L)(2) of this section if the amendment provides for compensation to the city, local, or exempted village school district in which the incentive district is located equal in value to the amount of taxes that would be payable to the school district if the improvements exempted from taxation had not been exempted for the additional period. Approval is also not required for an amendment authorized under either division (L)(1) or (2) of this section from a board of education that has adopted a resolution waiving its right to approve exemptions from taxation pursuant to division (D) of this section. If the board of education has adopted such a resolution, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the amendment unless the board of education has adopted a resolution under that section waiving its right to receive the notice. Not later than fourteen days before adopting an amendment authorized under division (L)(1) or (2) of this section, the board of township trustees shall deliver a notice identical to a notice required under section 5709.83 of the Revised Code to the board of county commissioners of each county in which the exempted parcels or incentive district are located.

Sec. 5709.78. (A) A board of county commissioners may, by

resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except as otherwise provided under division (C) of this section or section 5709.51 of the Revised Code, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (B)(2) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the county that would have been taxable in the preceding year were it not for the fact that the property was in an existing

incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the county for the preceding tax year. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (B)(1) of this section.

(2)(a) Not later than thirty days prior to adopting a resolution under division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located. The notice shall include a map of the proposed incentive district on which the board of county commissioners shall have delineated an overlay. The notice shall inform property owners of the owner's

right to exclude the owner's property from the incentive district if both of the following conditions are met:

(i) The owner's entire parcel of property will not be located within the overlay.

(ii) The owner has submitted a statement to the board of township trustees of the township in which the parcel is located indicating the owner's intent to seek a tax exemption for improvements to the owner's parcel under section 5709.41 or division (B) or (C) of section 5709.73 of the Revised Code within the next five years.

When both of the preceding conditions are met, the owner may exclude the owner's property from the incentive district by submitting a written response in accordance with division (B)(2)(b) of this section. The notice also shall include information detailing the required contents of the response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (B)(1) of this section who meets the conditions specified in divisions (B)(2)(a)(i) and (ii) of this section may exclude the property from the proposed incentive district by submitting a written response to the board not later than forty-five days after the postmark date on the notice required under division (B)(2)(a) of this section. The response shall include a copy of the statement submitted under division (B)(2)(a)(ii) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the board under division (B)(2)(a) of this section. The response shall conform to any content requirements that may be established by the board

and included in the notice provided under division (B)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the resolution, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting a resolution under division (B)(1) of this section, the board shall amend the resolution to exclude any parcel for which a written response has been submitted under division (B)(2)(b) of this section. A county shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (A) of this section pursuant to a resolution adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(3)(a) A resolution adopted under division (B)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (B)(1) of this section

on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.79 of the Revised Code and received by the county under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education

shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The notice regarding improvements to parcels within an incentive district under division (B) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the

district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

(2) The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually

acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners. If a mutually acceptable compensation agreement is negotiated between the board of county commissioners and the board of education, including agreements for payments in lieu of taxes under section 5709.79 of the Revised Code, the board of county commissioners shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has

adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(4) Nothing in division (C) of this section prohibits the board of county commissioners from amending the resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted

from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution.

(2) The board of township trustees, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes forgone due to the exemption. If the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within

thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty per cent of the taxes that would be payable to the township in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (B)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (D) of section 5709.79 of the Revised

Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of

section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the

resolution. With respect to the exemption of improvements to parcels under division (A) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply

with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of housing and development a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.80 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

(J) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

Sec. 5709.82. (A) As used in this section:

(1) "New employee" means both of the following:

(a) Persons employed in the construction of real property exempted from taxation under the chapters or sections of the Revised Code enumerated in division (B) of this section;

(b) Persons not described by division (A)(1)(a) of this section who are first employed at the site of such property and who within the two previous years have not been subject, prior to being employed at that site, to income taxation by the municipal corporation within whose territory the site is located on income derived from employment for the person's current employer. "New employee" does not include any person who replaces a person who is not a new employee under division (A)(1) of this section.

(2) "Infrastructure costs" means costs incurred by a municipal corporation in a calendar year to acquire, construct, reconstruct, improve, plan, or equip real or tangible personal property that directly benefits or will directly benefit the exempted property. If the municipal corporation finances the acquisition, construction, reconstruction, improvement, planning, or equipping of real or tangible personal property that directly benefits the exempted property by issuing debt, "infrastructure costs" means the annual debt charges incurred by the municipal corporation from the issuance of such debt. Real or tangible personal property directly benefits exempted property only if the exempted property places or will place direct, additional demand on the real or tangible personal property for which such costs were or will be incurred.

(3) "Taxing unit" has the same meaning as in division (H) of section 5705.01 of the Revised Code.

(B)(1) Except as otherwise provided under division (C) of this section, the legislative authority of any political subdivision that has acted under the authority of Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code to grant an exemption from taxation for real or tangible personal property may negotiate with the board of education of each city, local, exempted village, or joint vocational school district or other taxing unit within the territory of which the exempted property is located, and enter into an agreement whereby the school district or taxing unit is compensated for tax revenue foregone by the school district or taxing unit as a result of the exemption. Except as otherwise provided in division (B)(1) of this section, if a political subdivision enters into more than one agreement under this section with respect to a tax exemption, the political subdivision shall provide to each school district or taxing unit with which it contracts the same percentage of tax revenue foregone by the school district or taxing unit, which may be based on a good faith projection made at the time the exemption is granted. Such percentage shall be calculated on the basis of amounts paid by the political subdivision and any amounts paid by an owner under division (B)(2) of this section. A political subdivision may provide a school district or other taxing unit with a smaller percentage of foregone tax revenue than that provided to other school districts or taxing units only if the school district or taxing unit expressly consents in the agreement to receiving a smaller percentage. If a subdivision has acted under the authority of section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code and enters into a compensation agreement with a city, local, or exempted

village school district, the subdivision shall provide compensation to the joint vocational school district within the territory of which the exempted property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(2) An owner of property exempted from taxation under the authority described in division (B)(1) of this section may, by becoming a party to an agreement described in division (B)(1) of this section or by entering into a separate agreement with a school district or other taxing unit, agree to compensate the school district or taxing unit by paying cash or by providing property or services by gift, loan, or otherwise. If the owner's property is exempted under the authority of section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code and the owner enters into a compensation agreement with a city, local, or exempted village school district, the owner shall provide compensation to the joint vocational school district within the territory of which the owner's property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(C) This division does not apply to the following:

(1) The legislative authority of a municipal corporation that has acted under the authority of division (H) of section 715.70 or division (U) of section 715.72 of the Revised Code to consent to the granting of an exemption from taxation for real or tangible personal property in a joint economic development district.

(2) The legislative authority of a municipal corporation that has specified in an ordinance adopted under section

5709.40, 5709.41, or 5709.45 of the Revised Code that payments in lieu of taxes provided for under section 5709.42 or 5709.46 of the Revised Code shall be paid to the city, local, or exempted village school district in which the improvements are located in the amount of taxes that would have been payable to the school district if the improvements had not been exempted from taxation, as directed in the ordinance.

If the legislative authority of any municipal corporation has acted under the authority of Chapter 725. or 1728. or section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, or 5709.88, or a housing officer under section 3735.67 of the Revised Code, to grant or consent to the granting of an exemption from taxation for real or tangible personal property on or after July 1, 1994, the municipal corporation imposes a tax on incomes, and the payroll of new employees resulting from the exercise of that authority equals or exceeds one million dollars, or two million dollars, as adjusted under division (E) of this section, in the case of the authority exercised under section 3735.67 or 3735.671 of the Revised Code, in any tax year for which such property is exempted, the legislative authority and the board of education of each city, local, or exempted village school district within the territory of which the exempted property is located shall attempt to negotiate an agreement providing for compensation to the school district for all or a portion of the tax revenue the school district would have received had the property not been exempted from taxation. The agreement may include as a party the owner of the property exempted or to be exempted from taxation and may include provisions obligating the owner to compensate the school district by paying cash or providing property or services by gift, loan, or otherwise. Such an obligation is enforceable by

the board of education of the school district pursuant to the terms of the agreement.

If the legislative authority and board of education fail to negotiate an agreement that is mutually acceptable within six months of formal approval by the legislative authority of the instrument granting the exemption, the legislative authority shall compensate the school district in the amount and manner prescribed by division (D) of this section.

(D) Annually, the legislative authority of a municipal corporation subject to this division shall pay to the city, local, or exempted village school district within the territory of which the exempted property is located an amount equal to fifty per cent of the difference between the amount of taxes levied and collected by the municipal corporation on the incomes of new employees in the calendar year ending on the day the payment is required to be made, and the amount of any infrastructure costs incurred in that calendar year. For purposes of such computation, the amount of infrastructure costs shall not exceed thirty-five per cent of the amount of those taxes unless the board of education of the school district, by resolution adopted by a majority of the board, approves an amount in excess of that percentage. If the amount of those taxes or infrastructure costs must be estimated at the time the payment is made, payments in subsequent years shall be adjusted to compensate for any departure of those estimates from the actual amount of those taxes.

A municipal corporation required to make a payment under this section shall make the payment from its general fund or a special fund established for the purpose. The payment is payable on the thirty-first day of December of the tax year for or in

which the exemption from taxation commences and on that day for each subsequent tax year property is exempted and the legislative authority and board fail to negotiate an acceptable agreement under division (C) of this section.

(E)(1) The director of housing and development shall adjust, in September of each year, the payroll threshold described in division (C)(2) of this section applicable to the exercise of authority under section 3735.67 or 3735.671 of the Revised Code by completing the following computations:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by the threshold applicable for the current year;

(c) Add the resulting product to the threshold applicable for the current year;

(d) Round the resulting sum to the nearest one thousand dollars.

(2) The director shall certify the amount of the adjustment under division (E)(1) of this section to each legislative authority of a municipal corporation and housing officer designated by a municipal corporation exercising authority under section 3735.67 or 3735.671 of the Revised Code not later than the first day of December of the year the director computes the adjustment. The certified amount applies to the ensuing calendar year and each calendar year thereafter until the director makes a new adjustment. The director shall

not calculate a new adjustment in any year in which the resulting threshold amount from the adjustment would be less than the threshold for the current year.

Sec. 5709.87. (A) As used in this section:

(1) "Improvement," "building," "fixture," and "structure" have the same meanings as in section 5701.02 of the Revised Code.

(2) "Property," "remedy," and "remedial activities" have the same meanings as in section 3746.01 of the Revised Code.

(B) The director of environmental protection, after issuing a covenant not to sue for property under section 3746.12 of the Revised Code and determining that remedies or remedial activities have commenced or been completed at that property to the satisfaction of the director, shall certify to the tax commissioner and to the director of housing and development ~~services~~ that such a covenant has been issued, that such remedies or remedial activities have occurred at that property, and the date on which those remedial activities began. The certification shall be in such form as is agreed upon by the ~~directors~~ director of environmental protection ~~and~~, the director of housing and development ~~services~~, and the tax commissioner and shall include a description of the property in sufficient detail for the tax commissioner and director of housing and development ~~services~~ to determine the boundaries of the property entitled to exemption from taxation under this section.

(C)(1)(a) Upon receipt by the tax commissioner of a certification for property under division (B) of this section, the commissioner shall issue an order granting an exemption from

real property taxation of the increase in the assessed value of land constituting property that is described in the certification and of the increase in the assessed value of improvements, buildings, fixtures, and structures that are situated on that land on the tax lien date of the year in which the remedial activities began. For each tax year of the exemption allowed under this section, this increase in assessed value shall equal the amount by which the assessed value of that land or those improvements, buildings, fixtures, or structures on the tax lien date of that year as indicated on the tax list for that year exceeds the assessed value of that land or those improvements, buildings, fixtures, or structures on the tax lien date of the year in which the remedial activities began as indicated on the tax list for that year. The exemption shall commence on the first day of the tax year including the day on which the order is issued and shall end on the last day of the tenth tax year after issuance of the order. The order shall include a description of the property and the tax years for which the property is to be exempted from taxation. The commissioner shall send copies of the exemption order to the owner of record of the property to which the exemption applies and to the county auditor of each county in which any portion of that property is located.

(b) Within sixty days after receiving the commissioner's order, the owner of record of the property may notify the commissioner in writing that the owner does not want the exemption from real property taxation provided under division (C)(1) of this section to apply. Upon receiving such a notification from the property owner of record, the commissioner shall issue a subsequent order rescinding the previously granted exemption.

(2) The director of housing and development ~~services~~ shall maintain a record of certifications received under this section for purposes of section 5709.88 of the Revised Code.

(D) Any sale or other transfer of the property does not affect an exemption granted under division (C) of this section. The exemption shall continue in effect thereafter for the full period stated in the exemption order.

(E) If at any time the director revokes a covenant not to sue under Chapter 3746. of the Revised Code and rules adopted under it for property concerning which the commissioner has issued an exemption order under division (C) of this section, the director shall so notify the commissioner and the legislative authority of the municipal corporation and county in which the property is located. The commissioner immediately shall rescind the exemption order and shall so notify the owner of record of the property and the county auditor of each county in which any portion of the property is located.

Upon revocation of the covenant not to sue, the owner of record shall pay the amount of taxes that would have been charged against the property had the property not been exempted from taxation for the period beginning with commencement of the exemption and ending with the date of revocation of the covenant not to sue. The county auditor shall return the property to the tax list and enter on the tax list the amount so payable as current taxes charged against the property. Taxes required to be paid pursuant to this section are payable in full on the first succeeding day on which the first one-half of taxes is required to be paid under section 323.12 of the Revised Code. If such taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue on those taxes, as provided in section

323.121 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be collected as otherwise provided for the collection of delinquent real property taxes.

Sec. 5709.88. (A) As used in sections 5709.88 ~~through~~ to 5709.883 of the Revised Code:

(1) "Enterprise," "expand," "renovate," "project," "project site," "position," "full-time employee," "first used in business," and "making retail sales" have the same meanings as in section 5709.61 of the Revised Code.

(2) "Property," "remedy," and "remedial activities" have the same meanings as in section 3746.01 of the Revised Code.

(3) "Facility" means an enterprise's place of business, including land constituting property that is described in a certification under division (B) of section 5709.87 of the Revised Code, and buildings, improvements, fixtures, structures, machinery, equipment, and other materials, except inventory, used in business and situated on such land. "Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(4) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters into an agreement under division (D) of this section.

(5) "Remediate" means to make expenditures for remedies or remedial activities equal to at least ten per cent of the true value in money of the land, buildings, improvements, structures, and fixtures constituting a facility as determined for purposes

of property taxation immediately prior to formal approval of an agreement under division (D) of this section.

(6) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(7) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under division (D) of this section.

(B) The legislative authority of any county or municipal corporation within which is located property that is the subject of a certification under division (B) of section 5709.87 of the Revised Code may enter into an agreement with an enterprise under division (D) of this section, provided that the legislative authority of a county may enter into such agreements with respect only to property located within the unincorporated territory of the county. Prior to entering into such an agreement, the legislative authority shall petition the director of housing and development for the director's confirmation that the property is the subject of such a certification, and the director, within thirty days after receipt of such a petition, shall confirm whether such a certification has been issued. The petition shall be accompanied by a description of the property in the form and manner prescribed by the director.

(C) Any enterprise that wishes to enter into an agreement with a legislative authority under division (D) of this section shall submit a proposal to the legislative authority on a form prescribed by the director of housing and development together with the application fee established under section 5709.882 of

the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (D) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority, on a separate form and at any time, may require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.882 of the Revised Code.

(D) Upon receipt and investigation of a proposal under division (C) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities at the project site and

improve the economic climate of the county or municipal corporation, the legislative authority, after complying with section 5709.83 of the Revised Code, may enter into, and formally shall approve, an agreement with the enterprise under which the enterprise agrees to remediate a facility and to spend an amount equal to at least two hundred fifty per cent of the true value in money of the land, buildings, improvements, structures, and fixtures constituting the facility, as determined for purposes of property taxation immediately prior to formal approval of the agreement, to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(1) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to division (D)(1) of this section applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the effective date of the agreement, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(2) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the increase, subsequent to formal approval of the agreement by the legislative authority, in the assessed valuation of

buildings, improvements, structures, and fixtures constituting the project site;

(3) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the county or municipal corporation is authorized to provide with regard to the project site.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.881 of the Revised Code.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars, provided that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for that purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.882 of the Revised Code and by the tax incentive review council created under section 5709.883 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.882 or 5709.883 of the Revised Code.

(G) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of housing and development and to the tax commissioner within fifteen days after the agreement is entered into.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) The legislative authority may require the owner of record to pay the amount of taxes that, during the period beginning with the commencement of the exemption and ending with the date of revocation of the covenant not to sue under Chapter 3746. of the Revised Code, would have been charged against the property had the property not been exempted from taxation pursuant to an agreement entered into under this section. In the case of real property, the proper county auditor shall determine the taxable value of the property for each of the tax years for which the property had been exempted from taxation, and shall determine the amount of taxes that would have been charged against the property had the property been subject to taxation each of those years. The county treasurer shall issue a tax bill as otherwise required by law, and the taxes shall be payable in full on the first succeeding day on which the first one-half of taxes is required to be paid under section 323.12 of the Revised Code. If such real property taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue on those taxes, as provided in section 323.121 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be

collected as otherwise provided for the collection of delinquent real property taxes.

In the case of tangible personal property, the tax commissioner shall determine the taxable value of the property for each of the tax years for which the property had been exempted from taxation on the basis of the informational return required to be filed under this section or any further assessment necessary to make such a determination, and certify that determination to the proper county auditor, who shall add the property to the proper tax lists and duplicates. Taxes shall be charged against such property at the rates charged for the respective years for which taxes are charged under this division. The county treasurer shall issue a tax bill as otherwise required by law, and the taxes shall be payable on the next succeeding date for the payment of current taxes. If the taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue, as otherwise provided in sections 5719.03 and 5719.041 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be collected as otherwise provided in Chapter 5719. of the Revised Code.

Sec. 5709.882. (A) On or before the thirty-first day of March each year, a municipal corporation or county that has entered into an agreement with an enterprise under section 5709.88 of the Revised Code shall submit to the directors of housing and development ~~services~~ and environmental protection and the board of education of each school district of which a municipal corporation or county 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 all of the following information:

(1) The number of enterprises that are subject to such agreements and the number of full-time employees subject to those agreements in the county or municipal corporation;

(2) The number of agreements approved and executed during the calendar year for which the report is submitted, the total number of agreements in effect on the thirty-first day of December of the preceding calendar year, the number of agreements that expired during the calendar year for which the report is submitted, and the number of agreements scheduled to expire during the calendar year in which the report is submitted. For each agreement that expired during the calendar year for which the report is submitted, the municipal corporation or county shall include the amount of taxes exempted and the estimated dollar value of any other incentives provided under the agreement.

(3) The number of agreements receiving compliance reviews by the tax incentive review council in the municipal corporation or county under section 5709.883 of the Revised Code during the calendar year for which the report is submitted, including all of the following information:

(a) The number of agreements the terms of which an enterprise has complied with, indicating separately for each such 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 remediating and investing in establishing, expanding, renovating, or occupying a facility;

(b) The number of agreements the terms of which an

enterprise has failed to comply with, indicating separately for each such 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 remediating and investing in establishing, expanding, renovating, or occupying a facility;

(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 such recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(4) The number of enterprises that are subject to agreements and the number of new employees hired and existing employees retained by each such enterprise;

(5)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business within the state for the primary purpose of remediating and establishing, expanding, renovating, or occupying a facility, indicating separately for each such enterprise the political subdivision in which the enterprise closed or reduced employment at a place of business and the number of full-time employees transferred and retained by each such place of business;

(b) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business outside the state for the primary purpose of

remediating and establishing, expanding, renovating, or occupying a facility.

(B) Upon the failure of a municipal corporation or county to comply with division (A) of this section, both of the following apply:

(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 with an enterprise under section 5709.88 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 housing and development ~~services~~ shall either order the proper county auditor to deduct from the next succeeding payment of taxes to the municipal corporation or county under section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount equal to five hundred dollars for each calendar month the municipal corporation or county fails to comply with that division, or order the county auditor to deduct such an amount from the next succeeding payment to the municipal corporation or county from the undivided local government fund under section 5747.51 of the Revised Code. At the time such a payment is made, the county auditor shall comply with the director's order by issuing a warrant, drawn on the fund from which such money would have been paid, to the director of housing and development ~~services~~, who shall deposit the warrant into the contaminated sites development program administration fund created in division (C) of this section.

(C) The director, by rule, shall establish the state's application fee for applications submitted to a municipal corporation or county to enter into an agreement under section 5709.88 of the Revised Code. In establishing the amount of the fee, the director shall consider the state's cost of administering this section and section 5709.88 of the Revised Code. The director may change the amount of the fee at such times and in such increments as the director considers necessary. Any municipal corporation or county that receives an application shall collect the application fee and remit the fee for deposit in the state treasury to the credit of the contaminated sites development program administration fund, which is hereby created. Money credited to the fund shall be used by the department of housing and development ~~services agency~~ to pay the costs of administering this section and section 5709.88 of the Revised Code.

Sec. 5717.02. (A) Except as otherwise provided by law, appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be taken to the board of tax appeals by the taxpayer, by the person to whom notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner is required by law to be given, by the director of budget and management if the revenues affected by that decision would accrue primarily to the state treasury, or by the county auditors of the counties to the undivided general tax funds of which the revenues affected by that decision would primarily accrue. Appeals from the redetermination by the director of housing and development ~~services~~ under division (B) of section 5709.64 or division (A)

of section 5709.66 of the Revised Code may be taken to the board of tax appeals by the enterprise to which notice of the redetermination is required by law to be given. Appeals from a decision of the tax commissioner or county auditor concerning an application for a property tax exemption may be taken to the board of tax appeals by the applicant or by a school district that filed a statement concerning that application under division (C) of section 5715.27 of the Revised Code. Appeals from a redetermination by the director of job and family services under section 5733.42 of the Revised Code may be taken by the person to which the notice of the redetermination is required by law to be given under that section.

(B) The appeals shall be taken by the filing of a notice of appeal with the board, and with the tax commissioner if the tax commissioner's action is the subject of the appeal, with the county auditor if the county auditor's action is the subject of the appeal, with the director of housing and development ~~services~~ if that director's action is the subject of the appeal, or with the director of job and family services if that director's action is the subject of the appeal. The notice of appeal shall be filed within sixty days after service of the notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner, property tax exemption determination by the commissioner or the county auditor, or redetermination by the director has been given as provided in section 5703.37, 5709.64, 5709.66, or 5733.42 of the Revised Code. The notice of appeal may be filed in person or by certified mail, express mail, facsimile transmission, electronic transmission or by authorized delivery service. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided

in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. If notice of appeal is filed by facsimile transmission or electronic transmission, the date and time the notice is received by the board shall be the date and time reflected on a timestamp provided by the board's electronic system, and the appeal shall be considered filed with the board on the date reflected on that timestamp. Any timestamp provided by another computer system or electronic submission device shall not affect the time and date the notice is received by the board. The notice of appeal shall have attached to it and incorporated in it by reference a true copy of the notice sent by the commissioner, county auditor, or director to the taxpayer, enterprise, or other person of the final determination or redetermination complained of, but failure to attach a copy of that notice and to incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) A notice of appeal shall contain a short and plain statement of the claimed errors in the determination or redetermination of the tax commissioner, county auditor, or director showing that the appellant is entitled to relief and a demand for the relief to which the appellant claims to be entitled. An appellant may amend the notice of appeal once as a matter of course within sixty days after the certification of the transcript. Otherwise, an appellant may amend the notice of appeal only after receiving leave of the board or the written consent of each adverse party. Leave of the board shall be freely given when justice so requires.

(D) Upon the filing of a notice of appeal, the tax

commissioner, county auditor, or the director, as appropriate, shall certify to the board a transcript of the record of the proceedings before the commissioner, auditor, or director, together with all evidence considered by the commissioner, auditor, or director in connection with the proceedings. Those appeals or applications may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct the hearings and to report to it their findings for affirmation or rejection.

(E) The board may order the appeal to be heard upon the record and the evidence certified to it by the commissioner, county auditor, or director, but upon the application of any interested party the board shall order the hearing of additional evidence, and it may make an investigation concerning the appeal that it considers proper. An appeal may proceed pursuant to section 5703.021 of the Revised Code on the small claims docket if the appeal qualifies under that section.

Sec. 5725.32. Upon the issuance of a tax credit certificate by the director of housing and development, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed against the tax imposed by section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the director of housing and development.

Sec. 5725.33. (A) Except as otherwise provided in this section, terms used in this section have the same meaning as section 45D of the Internal Revenue Code, any related proposed, temporary, or final regulations promulgated under the Internal Revenue Code, any rules or guidance of the internal revenue service or the United States department of the treasury, and any

related rules or guidance issued by the community development financial institutions fund of the United States department of the treasury, as such law, regulations, rules, and guidance exist on October 16, 2009.

As used in this section:

(1) "Adjusted purchase price" means the amount paid for the portion of a qualified equity investment approved or certified by the director of housing and development ~~services~~ for a qualified community development entity in accordance with rules adopted under division (E) of this section.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after October 16, 2009, but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day of January of each year.

(4) "Qualified community development entity" includes only entities:

(a) That have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;

(b) Whose service area includes any portion of this state; and

(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.

(5) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:

(a) Is acquired after October 16, 2009, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses in this state, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments in those businesses; and

(c) Is designated by the issuer as a qualified equity investment.

"Qualified equity investment" includes any equity investment that would, but for division (A)(5)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price, subject to divisions (B)(1) and

(2) of this section:

(1) For the purpose of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that, at any time before the seventh anniversary of the issuance of the qualified equity investment, the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment in this state within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment made in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by

section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (E) of this section.

(C) The aggregate amount of credit allocations made by the director of housing and development ~~services~~ under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code each fiscal year shall not exceed ten million dollars.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of housing and development ~~services~~ determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of housing and development ~~services~~ pursuant to rules adopted under division (E) of this section. The director shall certify any amount due under this division to the superintendent of insurance, and the

superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5725.18 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5725.222 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5725.18 of the Revised Code.

(E) The tax credits authorized under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall be administered by the department of housing and development~~—services agency~~. The director of housing and development~~—services~~, in consultation with the tax commissioner and the superintendent of insurance, pursuant to Chapter 119. of the Revised Code, shall adopt rules for the administration of this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. The rules shall provide for determining the recovery of credits under division (D) of this section and under sections 5726.54, 5729.16, and 5733.58 of the Revised Code, including prorating the amount of the credit to be recovered on any reasonable basis, the manner in which credits may be allocated among claimants, and the amount of any application or other fees to be charged in connection with a recovery.

(F) The director of housing and development ~~services~~ is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. Any such fees collected shall be credited to the

tax incentives operating fund created in section 122.174 of the Revised Code.

(G) Tax credits earned or allocated to a pass-through entity, as that term is defined in section 5733.04 of the Revised Code, under section 5725.33, 5726.54, 5729.16, or 5733.58 of the Revised Code may be allocated to persons having a direct or indirect ownership interest in the pass-through entity for such persons' direct use in accordance with the provisions of any mutual agreement between such persons.

Sec. 5726.54. (A) Any term used in this section has the same meaning as in section 5725.33 of the Revised Code.

(B) A taxpayer may claim a nonrefundable credit against the tax imposed by this chapter for each person included in the annual report of the taxpayer that holds a qualified equity investment on a credit allowance date occurring in the calendar year immediately preceding the tax year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

By claiming a tax credit under this section, a taxpayer waives its rights under section 5726.20 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed under this section that later become subject to recapture under division (D) of this section.

A taxpayer may claim against the tax imposed by this chapter any unused portion of the credits authorized under sections 5725.33 and 5733.58 of the Revised Code, but only to the extent of the remaining carry forward period authorized by those sections.

The credit shall be claimed in the order prescribed by section 5726.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than four ensuing tax years.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5725.33, 5729.16, and 5733.58 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of housing and development ~~services~~ determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the taxpayer that received the credit to the tax commissioner. The amount to be recovered shall be determined by the director pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the tax commissioner, and the commissioner shall notify the taxpayer of the amount due. The amount due is payable not later than thirty days after the day the commissioner issues the notice. The amount due shall be considered to be tax due under section 5726.02 of the Revised

Code, and may be collected by assessment without regard to the limitations imposed under section 5726.20 of the Revised Code for the assessment of taxes by the commissioner. All amounts collected under this division shall be credited as revenue from the tax levied under section 5726.02 of the Revised Code.

Sec. 5726.55. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) A taxpayer may claim a refundable credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is a certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be claimed for the taxable year in which the certificate is issued by the director of housing and development ~~services~~. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required under section 5726.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess shall be refunded to the taxpayer.

(C) Nothing in this section shall allow a taxpayer to claim more than one credit per tax credit-eligible production.

Sec. 5726.59. (A) Any term used in this section has the same meaning as in section 122.852 of the Revised Code.

(B) A taxpayer may claim a refundable credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is a certificate owner of a tax credit certificate issued under section 122.852 of the

Revised Code. The credit shall be claimed for the taxable year in which the certificate is issued by the director of housing and development. The credit amount equals the amount stated on the certificate or the portion of that amount owned by the certificate owner. The credit shall be claimed in the order required under section 5726.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess shall be refunded to the taxpayer.

Sec. 5727.75. (A) For purposes of this section:

(1) "Qualified energy project" means an energy project certified by the director of housing and development pursuant to this section.

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours. For the purpose of this calculation, "performed at the project" includes only hours worked at the qualified energy project and devoted to site preparation or protection, construction and installation, and the unloading and

distribution of materials at the project site, but does not include hours worked by superintendents, owners, manufacturers' representatives, persons employed in a bona fide executive, management, supervisory, or administrative capacity, or persons whose sole employment on the project is transporting materials or persons to the project site.

(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.

(6) "Internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

(7) "Applicable year" means the later of the following:

(a) The tax year in which the secretary of the treasury of the United States, or the secretary's delegate, determines, in accordance with section 45Y of the Internal Revenue Code, that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than twenty-five per cent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022;

(b) Tax year 2029.

(8) "Internal Revenue Code" means the Internal Revenue Code as of ~~the effective date of this amendment~~ October 3, 2023.

(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through the applicable year if all of the following conditions are satisfied:

(a) On or before the last day of the tax year preceding

the applicable year, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before the first day of the applicable year. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B)(1)(a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting an application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011

through the applicable year, and the certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for the tax year following the applicable year and all ensuing tax years if the property was placed into service before the first day of the tax year following the applicable year, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, 2021. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the

application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is exempted under this section.

(E)(1)(a) A person may apply to the director of housing and development for certification of an energy project as a qualified energy project on or before the following dates:

(i) The last day of the tax year preceding the applicable year, for an energy project using renewable energy resources;

(ii) December 31, 2017, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology.

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of twenty megawatts or greater to the board of county commissioners of each county in which the project is located and

to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

The board shall send copies of the resolution to the owner of the facility and the director by certified mail or, if the board has record of an internet identifier of record associated with the owner or director, by ordinary mail and by that internet identifier of record. The board shall send such notice within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of housing and development under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of twenty megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(d) For construction or installation of a qualified energy project described in division (B)(1)(b) of this section, that the project is subject to wage requirements described in section 45(b)(7)(A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b)(8)(A)(i) of the Internal Revenue Code, provided both of the following apply:

(i) The person applies for such certificate after ~~the effective date of this amendment~~ October 3, 2023.

(ii) A board of commissioners of at least one county in which the project is located is required to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

(1) Comply with all applicable regulations;

(2) File with the director of housing and development a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of housing and development, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a

certificate indicating the project's nameplate capacity.

(3) File with the director of housing and development, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;

(4) For energy projects with a nameplate capacity of twenty megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner

or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of twenty megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

(6)(a) Except as otherwise provided in this division, for projects for which certification as a qualified energy project was applied for, under division (E) of this section, before ~~the effective date of this amendment~~ October 3, 2023, maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. A person applying for such a qualified energy project may certify to the director of housing and development that the project will be voluntarily subject to the wage requirements described in section 45(b)(7)(A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b)(8)(A)(i) of the Internal Revenue Code as authorized in division (F)(6)(b) of this section. Upon receipt of that certification, the project shall comply with division (F)(6)(b) of this section rather than division (F)(6)(a) of this section.

(b) For projects for which certification as a qualified energy project was applied for, under division (E) of this section, on or after ~~the effective date of this amendment~~ October 3, 2023, maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than seventy per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project.

(c) For purposes of divisions (F)(6)(a) and (b) of this section, in the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of housing and development, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of twenty megawatts, establish a relationship with any of the following to educate and train individuals for careers in the wind or solar energy industry:

(a) A member of the university system of Ohio as defined in section 3345.011 of the Revised Code;

(b) A person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code;

(c) A career-technical center, joint vocational school district, comprehensive career-technical center, or compact career-technical center;

(d) A training center operated by a labor organization, or with a training center operated by a for-profit or nonprofit organization.

The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to

other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.

(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of housing and development and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be

in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first-day of December of the preceding tax year;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal

technology, advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of housing and development in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

Sec. 5729.032. Upon the issuance of a tax credit certificate by the director of housing and development, a

refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed against the tax imposed by section 5729.03 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the director of housing and development.

Sec. 5729.16. (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5729.03 or 5729.06 of the Revised Code for a foreign insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5729.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5729.102 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section, section 5725.33, and section 5733.58 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of housing and development ~~services~~ determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of housing and development ~~services~~ pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5729.03 or 5729.06 of the Revised Code, as applicable, and may be collected by assessment without regard to the time limitations imposed under section 5729.102 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5729.03 of the Revised Code.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines

and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) For purposes of this section, any property that is not manufactured or assembled primarily by the taxpayer is considered purchased at the time the agreement to acquire the

property becomes binding. Any property that is manufactured or assembled primarily by the taxpayer is considered purchased at the time the taxpayer places the property in service in the county for which the taxpayer will calculate the county excess amount.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends June 30, 2005.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years.

(b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years.

(6) "Partnership" includes a limited liability company formed under former Chapter 1705. ~~or~~ of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706. of the Revised Code, or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under former Chapter 1705. ~~or~~ of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706. of the Revised Code, or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation

that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer, that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of housing and development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;

(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;

(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;

(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;

(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;

(h) Calendar years 1999, 2000, and 2001, with regard to a

credit claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment.

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(B)(1) Subject to division (I) of this section, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state no later than June 30, 2006. No credit shall be allowed under this section for taxable years ending on or after July 1, 2005. The elimination of the credit for those taxable years includes the elimination of any remaining one-sevenths of credit amounts for which a portion was allowed for prior taxable years and the elimination of any credit carry-forward, but the purchases on which the credits were based remain subject to grants under section 122.173 of the Revised Code for those remaining one-seventh amounts or carry-forward amounts.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and

equipment for which the credit is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of housing and development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) Subject to division (I) of this section, as used in division (C)(2) of this section "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

Subject to division (I) of this section, a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the credit amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county

excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the credit amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a credit for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those credits each year.

(4) The taxpayer shall claim one-seventh of the credit amount for the tax year immediately following the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing tax years. Except for carried-forward amounts, the taxpayer is not allowed any credit amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period unless, at the time of the sale or transfer, the new manufacturing machinery and equipment has been fully depreciated for federal income tax purposes.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward credit amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward credit amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity which transferred the new manufacturing machinery and equipment to the transferee.

(d) Division (C)(5) of this section shall apply only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(e) Division (C)(5)(b) of this section applies only to the

extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any credit amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment.

(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under section 5733.06 of the Revised Code after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of housing and development, a notice of intent to claim the credit on a form prescribed by the department of housing and development. The department of housing and development shall inform the tax commissioner of the notice of intent to claim the credit. No credit may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005.

(F) The director of housing and development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax credit for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31 or 5733.311 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the credit under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a credit claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the credit.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the credit available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The credit shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. Such election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised

Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any credit attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report, but the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment.

Sec. 5733.34. (A) As used in this section:

(1) "Partnership" includes a limited liability company if the limited liability company is not treated as a corporation for purposes of this chapter and is not classified as an association taxable as a corporation for federal income tax purposes.

(2) "Partner" includes a member of a limited liability company if the limited liability company is not treated as a corporation for purposes of this chapter and is not classified as an association taxable as a corporation for federal income tax purposes.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that has entered into an agreement with the director of housing and development under section 122.16 of the Revised Code, or for a taxpayer that is a partner in a partnership that has entered into such an agreement. If a taxpayer is a partner in such a partnership, the taxpayer shall be allowed its distributive share of the credit available through the partnership.

(2) If a taxpayer enters into more than one agreement under section 122.16 of the Revised Code, the taxpayer may aggregate the amount of those credits each year.

(3) A taxpayer entitled to the credit allowed under this section shall claim one-fifth of the credit amount for the tax year immediately following the calendar year in which the agreement is entered into, and one-fifth of the credit amount for each of the four succeeding tax years.

(4) A taxpayer shall claim the credit in the order provided under section 5733.98 of the Revised Code. The amount of the credit that a taxpayer may claim each year shall be the amount indicated on the certificate issued by the director of housing and development under section 122.16 of the Revised Code, or the taxpayer's distributive share of that amount if the taxpayer is entitled to the credit through a partnership. The taxpayer shall submit the certificate with the taxpayer's annual report filed under section 5733.02 of the Revised Code. Each tax year, any credit amount in excess of the tax due for that year under section 5733.06 of the Revised Code, after allowing for all other credits preceding the credit in that order, may be carried forward for no more than three tax years.

(5) A taxpayer shall not claim any credit amount

remaining, including any amounts carried forward from prior tax years, for any tax year following the calendar year in which any of the following events occur, except as otherwise provided under division (B)(6) of this section:

(a) The taxpayer or partnership through which the taxpayer is entitled to the credit enters into a compliance schedule agreement pursuant to division (B)(3) of section 3746.12 of the Revised Code;

(b) The taxpayer or partnership through which the taxpayer is entitled to the credit has its covenant not to sue revoked pursuant to Chapter 3746. of the Revised Code and rules adopted under that chapter;

(c) The covenant not to sue issued to the taxpayer or partnership through which the taxpayer is entitled to the credit is void pursuant to Chapter 3746. of the Revised Code;

(d) The director of housing and development has determined that the taxpayer, or a partnership through which the taxpayer is entitled to the credit, has permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of section 122.16 of the Revised Code.

If a taxpayer claims credits through more than one partnership, division (B)(5) of this section prohibits that taxpayer from claiming a credit through any of those partnerships that has entered into a compliance schedule agreement, has had its covenant not to sue revoked or voided, or has violated the commitment required in division (D) of section 122.16 of the Revised Code. Division (B)(5) of this section does

not prohibit such a taxpayer from claiming a credit through a partnership that has not entered into a compliance schedule agreement, has not had its covenant not to sue revoked or voided, or has not violated the commitment required in division (D) of section 122.16 of the Revised Code.

(6) If a taxpayer has been prohibited from claiming the credit or a portion of the credit by reason of division (B)(5)(a) of this section, and the taxpayer, or a partnership in which the taxpayer is a partner, subsequently has returned the property to compliance with applicable standards pursuant to the compliance schedule agreement, the taxpayer may claim the credit for the tax year following the calendar year in which the director of environmental protection has determined that the taxpayer or partnership has returned the property to compliance with applicable standards and for each subsequent tax year for which the taxpayer is otherwise allowed to claim the credit under division (B)(3) of this section.

Sec. 5733.352. (A) As used in this section:

(1) "Borrower" means any person that receives a loan from the director of housing and development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code.

(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.

(B) Beginning with tax year 2004, and in the case of a

corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008, a nonrefundable credit is allowed against the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax year for which the credit is claimed. The amount of the credit for a tax year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of housing and development under division (D) of section 166.21 of the Revised Code and submits a copy of the certificate with its report for the taxable year. Failure to submit a copy of the certificate with the report does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate within sixty days after the tax commissioner requests it. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the tax year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax year or years until fully used. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.52 of the Revised Code.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of housing and development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company.

(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5747.331 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

Sec. 5733.58. (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for a financial institution holding a qualified equity investment on the credit allowance date occurring in the calendar year

immediately preceding the tax year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

By claiming a tax credit under this section, a financial institution waives its rights under section 5733.11 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing tax years.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5725.33 and 5729.16 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of housing and development ~~services~~ determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state,

all or a portion of the credit received on account of that investment shall be paid by the financial institution that received the credit to the tax commissioner. The amount to be recovered shall be determined by the director of housing and development ~~services~~ pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the tax commissioner, and the commissioner shall notify the financial institution of the amount due. The amount due is payable not later than thirty days after the day the commissioner issues the notice. The amount due shall be considered to be tax due under section 5733.06 of the Revised Code, and may be collected by assessment without regard to the limitations imposed under section 5733.11 of the Revised Code for the assessment of taxes by the commissioner. All amounts collected under this division shall be credited as revenue from the tax levied under section 5733.06 of the Revised Code.

Sec. 5733.59. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5733.06 of the Revised Code for any corporation that is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be claimed for the taxable year in which the certificate is issued by the director of housing and development. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5733.06 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

(C) If, pursuant to division (G) of section 5733.01 of the Revised Code, the corporation is not required to pay tax under this chapter, the corporation may file an annual report under section 5733.02 of the Revised Code and claim the credit authorized by this section. Nothing in this section allows a corporation to claim more than one credit per tax credit-eligible production.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from

state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct the following, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income:

(a) Benefits under Title II of the Social Security Act and tier 1 railroad retirement;

(b) Railroad retirement benefits, other than tier 1 railroad retirement benefits, to the extent such amounts are exempt from state taxation under federal law.

(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the work opportunity tax credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(7) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(8) Add any loss or deduct any gain resulting from the

sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(9) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions made to or tuition units purchased under a qualified tuition program established pursuant to section 529 of the Internal Revenue Code.

(10)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(10)(a) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(10)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(10)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the

taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(10) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of division (A)(10)(a) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(11)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(11)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio

adjusted gross income in any taxable year.

(12) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(13) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(13) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(14)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(15) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount

satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(16) of this section.

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through

entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(17)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A)(17)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(17)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A)(17) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(17)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through

entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(17)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situsedto the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(17)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(17) and (18) of this section:

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.

(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of

income taxes withheld by that employer during the employer's immediately preceding taxable year.

(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

(18)(a) If the taxpayer was required to add an amount under division (A)(17)(a) of this section for a taxable year, deduct one of the following:

(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;

(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;

(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.

(b) If the amount deducted under division (A)(18)(a) of this section is attributable to an add-back allocated under division (A)(17)(c) of this section, the amount deducted shall be situsued to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of

the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(18)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(18)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(17)(a) of this section has been deducted.

(19) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(20) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(21) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the

United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(22) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(22) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired personnel pay for service in the uniformed services or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If

the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's uniformed service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's uniformed service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(23) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(23) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(24) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5902.05 of the Revised Code.

(25) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

(26) Deduct, to the extent not otherwise deducted or

excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.

(28) Deduct from the portion of an individual's federal adjusted gross income that is business income, to the extent not otherwise deducted or excluded in computing federal adjusted gross income for the taxable year, one hundred twenty-five thousand dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or two hundred fifty thousand dollars for all other individuals.

(29) Deduct, as provided under section 5747.78 of the Revised Code, contributions to ABLE savings accounts made in accordance with sections 113.50 to 113.56 of the Revised Code.

(30)(a) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, all of the following:

(i) Compensation paid to a qualifying employee described in division (A)(14)(a) of section 5703.94 of the Revised Code to the extent such compensation is for disaster work conducted in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;

(ii) Compensation paid to a qualifying employee described in division (A)(14)(b) of section 5703.94 of the Revised Code to the extent such compensation is for disaster work conducted in this state by the employee during the disaster response period on critical infrastructure owned or used by the employee's employer;

(iii) Income received by an out-of-state disaster business for disaster work conducted in this state during a disaster response period, or, if the out-of-state disaster business is a pass-through entity, a taxpayer's distributive share of the pass-through entity's income from the business conducting disaster work in this state during a disaster response period, if, in either case, the disaster work is conducted pursuant to a qualifying solicitation received by the business.

(b) All terms used in division (A)(30) of this section have the same meanings as in section 5703.94 of the Revised Code.

(31) For a taxpayer who is a qualifying Ohio educator, deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the lesser of two hundred fifty dollars or the amount of expenses described in subsections (a)(2)(D)(i) and (ii) of section 62 of the Internal Revenue Code paid or incurred by the taxpayer during the taxpayer's taxable year in excess of the amount the taxpayer is authorized to deduct for that taxable

year under subsection (a)(2)(D) of that section.

(32) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as a disability severance payment, computed under 10 U.S.C. 1212, following discharge or release under honorable conditions from the armed forces of the United States, as defined in section 5907.01 of the Revised Code.

(33) Deduct, to the extent not otherwise deducted or excluded in computing federal adjusted gross income or Ohio adjusted gross income, amounts not subject to tax due to an agreement entered into under division (A)(2) of section 5747.05 of the Revised Code.

(34) Deduct amounts as provided under section 5747.79 of the Revised Code related to the taxpayer's qualifying capital gains and deductible payroll.

To the extent a qualifying capital gain described under division (A)(34) of this section is business income, the taxpayer shall deduct those gains under this division before deducting any such gains under division (A)(28) of this section.

(35)(a) For taxable years beginning in or after 2026, deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year:

(i) One hundred per cent of the capital gain received by the taxpayer in the taxable year from a qualifying interest in an Ohio venture capital operating company attributable to the company's investments in Ohio businesses during the period for which the company was an Ohio venture operating company; and

(ii) Fifty per cent of the capital gain received by the taxpayer in the taxable year from a qualifying interest in an Ohio venture capital operating company attributable to the company's investments in all other businesses during the period for which the company was an Ohio venture operating company.

(b) Add amounts previously deducted by the taxpayer under division (A)(35)(a) of this section if the director of housing and development certifies to the tax commissioner that the requirements for the deduction were not met.

(c) All terms used in division (A)(35) of this section have the same meanings as in section 122.851 of the Revised Code.

(d) To the extent a capital gain described in division (A)(35)(a) of this section is business income, the taxpayer shall apply that division before applying division (A)(28) of this section.

(36) Add, to the extent not otherwise included in computing federal or Ohio adjusted gross income for any taxable year, the taxpayer's proportionate share of the amount of the tax levied under section 5747.38 of the Revised Code and paid by an electing pass-through entity for the taxable year.

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)(36) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A)(28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A)(4)(a) of section 5747.02 of the

Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this division.

(37) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts delivered to a qualifying institution pursuant to section 3333.128 of the Revised Code for the benefit of the taxpayer or the taxpayer's spouse or dependent.

(38) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received under the Ohio adoption grant program pursuant to section 5101.191 of the Revised Code.

(39) Deduct, to the extent included in federal adjusted gross income, income attributable to amounts provided to a taxpayer for any of the purposes for which an exclusion would have been authorized under section 139 of the Internal Revenue Code if the train derailment near the city of East Palestine on February 3, 2023, had been a qualified disaster pursuant to that section, or to compensate for lost business resulting from that derailment, if such amounts are provided by any of the following:

(a) A federal, state, or local government agency;

(b) A railroad company, as that term is defined in section 5727.01 of the Revised Code;

(c) Any subsidiary, insurer, or agent of a railroad company or any related person.

Notwithstanding any provision to the contrary, the derailment is not required to meet the definition of a

"qualified disaster" pursuant to section 139 of the Internal Revenue Code to qualify for the deduction under this section.

(40) Deduct, to the extent included in federal adjusted gross income, income attributable to loan repayments on behalf of the taxpayer under the rural practice incentive program under section 3333.135 of the Revised Code.

(41) Add any income taxes deducted in computing federal or Ohio adjusted gross income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)(41) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A)(28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A)(4)(a) of section 5747.02 of the Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this division.

(42) Deduct amounts contributed to a homeownership savings account and calculated pursuant to divisions (B) and (C) of section 5747.85 of the Revised Code.

(43) If the taxpayer is the account owner, add the amount of funds withdrawn from a homeownership savings account not used for eligible expenses, regardless of who deposited those funds.

As used in division (A)(43) of this section, "homeownership savings account," "account owner," and "eligible expenses" have the same meanings as in section 5747.85 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill or the sale of an equity or ownership interest in a business.

As used in this division, the "sale of an equity or ownership interest in a business" means sales to which either or both of the following apply:

(1) The sale is treated for federal income tax purposes as the sale of assets.

(2) The seller materially participated, as described in 26 C.F.R. 1.469-5T, in the activities of the business during the taxable year in which the sale occurs or during any of the five preceding taxable years.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or

contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is

the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes

of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this

state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

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

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means one of the following:

(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;

(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the

taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or

(b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for

the taxable year, had the work opportunity tax credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this

section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's

federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Deduct the amount the taxpayer would be required to deduct under division (A)(18) of this section if the taxpayer's Ohio taxable income ~~were~~ was computed in the same manner as an individual's Ohio adjusted gross income is computed under this section.

(15) Add, to the extent not otherwise included in computing taxable income or Ohio taxable income for any taxable

year, the taxpayer's proportionate share of the amount of the tax levied under section 5747.38 of the Revised Code and paid by an electing pass-through entity for the taxable year.

(16) Add any income taxes deducted in computing federal taxable income or Ohio taxable income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(7), (A)(8), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under former Chapter 1705. of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706. of the Revised Code, or the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not

otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (AA)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (AA)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that

is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (AA)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (AA)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (AA)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (AA)(2)(a) of this section

and for the purpose of computing the fraction described in division (AA)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (AA)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (AA)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(BB) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(CC) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(DD)(1) For the purposes of division (DD) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(EE) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (EE)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time

the trust was created.

(FF) "Uniformed services" means all of the following:

(1) "Armed forces of the United States" as defined in section 5907.01 of the Revised Code;

(2) The commissioned corps of the national oceanic and atmospheric administration;

(3) The commissioned corps of the public health service.

(GG) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A)(28) of this section for the taxable year.

(HH) "Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1.

(II) "Modified adjusted gross income" means Ohio adjusted gross income plus any amount deducted under divisions (A)(28) and (34) of this section for the taxable year.

(JJ) "Qualifying Ohio educator" means an individual who, for a taxable year, qualifies as an eligible educator, as that term is defined in section 62 of the Internal Revenue Code, and

who holds a certificate, license, or permit described in Chapter 3319. or section 3301.071 of the Revised Code.

Sec. 5747.331. (A) As used in this section:

(1) "Borrower" means any person that receives a loan from the director of housing and development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.

(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(3) "Qualified research and development loan payments" has the same meaning as in section 166.21 of the Revised Code.

(B) Beginning with taxable years beginning in 2003, a nonrefundable credit is allowed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of housing and development under division (D) of section 166.21 of the Revised Code and submits a copy of the certificate with its report for the taxable year. Failure to submit a copy of the certificate with the report does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate within sixty days after the tax commissioner requests it. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. No credit shall be allowed under this section if the credit was available against

the tax imposed by Chapter 5751. of the Revised Code except to the extent the credit was not applied against that tax. The credit, to the extent it exceeds the taxpayer's aggregate tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully used.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of housing and development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a shareholder in an S corporation, a partner in a partnership, or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the S corporation, partnership, or limited liability company.

(E) The aggregate credit against the taxes imposed by section 5747.02 and Chapter 5751. of the Revised Code that may be claimed under this section and section 5751.52 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

Sec. 5747.51. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall make and certify to the county auditor of each county an estimate of the amount of the local government fund to be allocated to the undivided local government fund of each county for the ensuing calendar year, adjusting the total as required to account for subdivisions receiving local government funds under section 5747.502 of the Revised Code.

(B) At each annual regular session of the county budget commission convened pursuant to section 5705.27 of the Revised Code, each auditor shall present to the commission the certificate of the commissioner, the annual tax budget and estimates, and the records showing the action of the commission in its last preceding regular session. The commission, after extending to the representatives of each subdivision an opportunity to be heard, under oath administered by any member of the commission, and considering all the facts and information presented to it by the auditor, shall determine the amount of the undivided local government fund needed by and to be apportioned to each subdivision for current operating expenses, as shown in the tax budget of the subdivision. This determination shall be made pursuant to divisions (C) to (I) of this section, unless the commission has provided for a formula pursuant to section 5747.53 of the Revised Code. The

commissioner shall reduce the amount of funds from the undivided local government fund to a subdivision required to receive reduced funds under section 5747.502 of the Revised Code.

Nothing in this section prevents the budget commission, for the purpose of apportioning the undivided local government fund, from inquiring into the claimed needs of any subdivision as stated in its tax budget, or from adjusting claimed needs to reflect actual needs. For the purposes of this section, "current operating expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(C) The commission shall determine the combined total of the estimated expenditures, including transfers, from the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities operated by a subdivision, as shown in the subdivision's tax budget for the ensuing calendar year.

(D) From the combined total of expenditures calculated pursuant to division (C) of this section, the commission shall deduct the following expenditures, if included in these funds in the tax budget:

(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;

(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair

fund and the state highway improvement fund;

(3) Expenditures for the payment of debt charges;

(4) Expenditures for the payment of judgments.

(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:

(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;

(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;

(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;

(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those that a subdivision receives from an additional tax or service charge voted by its electorate or receives from special assessment or revenue bond collection. For the purposes of this division, where the charter of a municipal corporation prohibits the levy of an income tax, an income tax levied by the legislative authority of such municipal corporation pursuant to

an amendment of the charter of that municipal corporation to authorize such a levy represents an additional tax voted by the electorate of that municipal corporation. For the purposes of this division, any measure adopted by a board of county commissioners pursuant to section 322.02, 4504.02, or 5739.021 of the Revised Code, including those measures upheld by the electorate in a referendum conducted pursuant to section 322.021, 4504.021, or 5739.022 of the Revised Code, shall not be considered an additional tax voted by the electorate.

Subject to division (F) of section 5705.29 of the Revised Code, money in a reserve balance account established by a county, township, or municipal corporation under section 5705.13 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Money in a reserve balance account established by a township under section 5705.132 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section.

If a county, township, or municipal corporation has created and maintains a nonexpendable trust fund under section 5705.131 of the Revised Code, the principal of the fund, and any additions to the principal arising from sources other than the reinvestment of investment earnings arising from such a fund, shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Only investment earnings arising from investment of the principal or investment of such additions to principal may be considered an unencumbered balance or revenue under those divisions.

(F) The total expenditures calculated pursuant to division (C) of this section, less the deductions authorized in divisions

(D) and (E) of this section, shall be known as the "relative need" of the subdivision, for the purposes of this section.

(G) The budget commission shall total the relative need of all participating subdivisions in the county, and shall compute a relative need factor by dividing the total estimate of the undivided local government fund by the total relative need of all participating subdivisions.

(H) The relative need of each subdivision shall be multiplied by the relative need factor to determine the proportionate share of the subdivision in the undivided local government fund of the county; provided, that the maximum proportionate share of a county shall not exceed the following maximum percentages of the total estimate of the undivided local government fund governed by the relationship of the percentage of the population of the county that resides within municipal corporations within the county to the total population of the county as reported in the reports on population in Ohio by the department of housing and development as of the twentieth day of July of the year in which the tax budget is filed with the budget commission:

	1	2
A	Percentage of municipal population within the county:	Percentage share of the county shall not exceed:
B	Less than forty-one per cent	Sixty per cent
C	Forty-one per cent or more but less than eighty-one per cent	Fifty per cent

D	Eighty-one per cent or more	Thirty per cent

Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.

(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount for the calendar year 1970 shall be the amount actually allocated to the county in 1970 from the state collected intangible tax as levied by section 5707.03 of the Revised Code and distributed pursuant to section 5725.24 of the Revised Code, plus the amount received by the county in the calendar year 1970 pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section

5739.23 of the Revised Code for the calendar year 1970, the minimum amount guaranteed to each subdivision for that calendar year pursuant to this division shall be reduced on a basis proportionate to the amount by which the amount of the undivided local government fund for that calendar year is less than the amount of the undivided local government fund apportioned for the calendar year 1970.

(J) On the basis of such apportionment, the county auditor shall compute the percentage share of each such subdivision in the undivided local government fund and shall at the same time certify to the tax commissioner the percentage share of the county as a subdivision. No payment shall be made from the undivided local government fund, except in accordance with such percentage shares.

Within ten days after the budget commission has made its apportionment, whether conducted pursuant to section 5747.51 or 5747.53 of the Revised Code, the auditor shall publish a list of the subdivisions and the amount each is to receive from the undivided local government fund and the percentage share of each subdivision, in a newspaper or newspapers of countywide circulation, and send a copy of such allocation to the tax commissioner.

The county auditor shall also send a copy of such allocation by ordinary or electronic mail to the fiscal officer of each subdivision entitled to participate in the allocation of the undivided local government fund of the county. This copy shall constitute the official notice of the commission action referred to in section 5705.37 of the Revised Code.

All money received into the treasury of a subdivision from the undivided local government fund in a county treasury shall

be paid into the general fund and used for the current operating expenses of the subdivision.

If a municipal corporation maintains a municipal university, such municipal university, when the board of trustees so requests the legislative authority of the municipal corporation, shall participate in the money apportioned to such municipal corporation from the total local government fund, however created and constituted, in such amount as requested by the board of trustees, provided such sum does not exceed nine per cent of the total amount paid to the municipal corporation.

If any public official fails to maintain the records required by sections 5747.50 to 5747.55 of the Revised Code or by the rules issued by the tax commissioner, the auditor of state, or the treasurer of state pursuant to such sections, or fails to comply with any law relating to the enforcement of such sections, the local government fund money allocated to the county may be withheld until such time as the public official has complied with such sections or such law or the rules issued pursuant thereto.

Sec. 5747.66. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for any individual who, on the last day of the individual's taxable year, is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be claimed for the taxable year that includes the date the certificate was issued by the director of housing and development. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required

under section 5747.98 of the Revised Code. If the credit amount exceeds the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

Nothing in this section limits or disallows pass-through treatment of the credit.

Sec. 5747.67. (A) Any term used in this section has the same meaning as in section 122.852 of the Revised Code.

(B) There is allowed a credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for any taxpayer who, on the last day of the taxpayer's taxable year, is the certificate owner of a tax credit certificate issued under section 122.852 of the Revised Code. The credit shall be claimed for the taxpayer's taxable year that includes the date the certificate was issued by the director of housing and development. The credit amount equals the amount stated in the certificate or the portion of that amount owned by the certificate owner. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the credit amount exceeds the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

(C) Nothing in this section limits or disallows pass-through treatment of the credit.

Sec. 5751.52. (A) As used in this section:

(1) "Borrower" means any person that receives a loan from the director of housing and development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by this chapter.

(2) "Qualified research and development loan payments" has the same meaning as in section 166.21 of the Revised Code.

(3) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax period for which the credit is claimed. The amount of the credit for a calendar year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless the taxpayer has obtained a certificate issued by the director of housing and development under division (D) of section 166.21 of the Revised Code. The credit shall be claimed in the order required under section 5751.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's liability for the tax imposed under this chapter for a tax period after allowance for any other credits that precede the credit under this section in that order, may either be carried forward to the next succeeding tax period or periods or be claimed against the tax imposed under section 5747.02 as authorized under section 5747.331 of the Revised Code, but the amount of the excess credit claimed against either tax for any tax period or taxable year shall be deducted from the balance carried forward to the next tax period.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of housing and development, in such form as the commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company.

(E) The aggregate credit against the taxes imposed by this chapter and section 5747.02 of the Revised Code that may be claimed under this section and section 5747.331 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

Sec. 5751.54. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a refundable credit against the tax imposed by section 5751.02 of the Revised Code for any person that is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be

claimed for the tax period in which the certificate is issued by the director of housing and development ~~services~~. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required under section 5751.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5751.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

(C) Nothing in this section allows a person to claim more than one credit per tax credit-eligible production.

Sec. 5751.55. (A) Any term used in this section has the same meaning as in section 122.852 of the Revised Code.

(B) There is allowed a refundable credit against the tax imposed by section 5751.02 of the Revised Code for any person that is the certificate owner of a tax credit certificate issued under section 122.852 of the Revised Code. The credit shall be claimed for the tax period in which the certificate is issued by the director of housing and development. The credit amount equals the amount stated in the certificate or the portion of that amount owned by the certificate owner. The credit shall be claimed in the order required under section 5751.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5751.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

Sec. 6111.12. (A) The director of environmental protection shall establish an antidegradation policy applicable to surface waters of the state pursuant to applicable federal laws and regulations. The purpose of the policy shall be to maintain levels of water quality that are currently better than prescribed by applicable standards except in situations when a need to allow a lower level of water quality is demonstrated

based on technical, social, and economic criteria. Not later than March 31, 1994, the director shall revise the existing antidegradation policy established in rules adopted under section 6111.041 of the Revised Code and revise any necessary implementation procedures to conform them to the following principles and any mandatory regulations adopted under the Federal Water Pollution Control Act:

(1) The use of existing effluent quality as a method of calculating antidegradation-based limits shall be imposed only to the extent that the use is explicitly required by federal law or regulation as the only means available to implement antidegradation.

(2) No degradation shall be allowed in waters for any pollutant that currently does not meet applicable standards. For all remaining waters, there shall be provisions requiring federal antidegradation requirements to be met and provisions ensuring that waters of exceptional recreational or ecological value are maintained as high quality resources for future generations. There shall be at least two categories of surface waters identified in the state for that purpose and for the purpose of establishing priorities for the administrative and technical resources expended on antidegradation reviews.

(3) Whenever current ambient water quality is determined to be of a higher quality than prescribed in the standards, on a pollutant-by-pollutant basis, and the water body lacks exceptional recreational or ecological value, the director may allocate to existing sources eighty per cent of the pollutant assimilative capacity as determined by appropriate total maximum daily load procedures without further antidegradation review. The permittee for any existing source may receive an effluent

limitation based on not more than one hundred per cent of the mass or concentration levels necessary to meet applicable water quality in the receiving water body as determined by appropriate total maximum daily load procedures, provided that there has been a satisfactory demonstration of the need to allow lower water quality based on technical, social, and economic criteria and the action is preceded by a public notice. Sources other than existing sources that result in ten per cent or greater change, that is, degradation, of ambient chemical water quality shall require a demonstration of technical, social, and economic need and shall be the subject of a public notice.

(4) Degradation of waters identified as possessing exceptional recreational or ecological value shall be determined through an analysis of the expected perceptible change in ambient concentrations of pollutant or alternatively through an analysis of the expected change in the biological condition of the water body. Either determination shall constitute a lowering of water quality and shall require an antidegradation review. The director shall establish, by rules adopted in accordance with Chapter 119. of the Revised Code, a definition of perceptible change that shall be applicable to those waters identified in rule as possessing exceptional recreational or ecological value. Antidegradation reviews shall be required for any activity resulting in a perceptible change in ambient chemical or biological quality on waters identified as possessing exceptional recreational or ecological value. Allowances shall be made for existing sources to retain their current permit limits with no requirement to demonstrate technical, social, and economic need.

(5) The director shall establish reasonable protocols for completing technical, social, and economic need demonstrations

based on existing federal guidance and on input from the department of housing and development, the regulated community, and the general public.

(B) Effluent limitations established by the director for any existing source in any permit issued under division (J) of section 6111.03 of the Revised Code prior to July 1, 1993, shall continue in effect unless the permit is modified by the director. A discharger seeking modification of antidegradation-based limitations that were based on existing quality of discharge when the permit was issued shall apply to the director for modification of the permit, consistent with rules adopted under division (A) of this section, not later than one hundred eighty days after July 1, 1993. If the permittee has filed such a timely application for modification, the director shall not pursue administrative or judicial enforcement actions for violations of antidegradation-based limitations based on the existing quality of effluent that occur after July 1, 1993.

(C) A historically channelized watercourse provides technical, social, and economic benefits. Therefore, with regard to a historically channelized watercourse, the director shall not require further antidegradation review during the review of an application for and the issuance or denial of a permit under this chapter or a water quality certification under section 401 of the Federal Water Pollution Control Act if the director finds, after public notice and opportunity for comment, and a public hearing if significant public interest is shown, that all of the following apply:

(1) Work is necessary to restore or maintain a drainage or other improvement provided by a historically channelized watercourse.

(2) The work is performed pursuant to section 940.06 of the Revised Code or a petition filed under section 6131.04 or 6133.02 of the Revised Code.

(3) Without the work, flooding threatens public health and safety or may result in significant damage to public or private property.

(4) The work will not result in the loss of designated or existing beneficial uses as those uses are described in rules adopted under section 6111.041 of the Revised Code.

(5) The work will not harm or interfere with the protection of federal or state designated endangered or threatened species.

(6) The historically channelized watercourse is not designated as coldwater habitat, exceptional warmwater habitat, or a state resource water in rules adopted under section 6111.041 of the Revised Code.

(7) If information is available concerning resident fishery or macroinvertebrate communities, or both, in the historically channelized watercourse, the historically channelized watercourse does not support a particularly diverse or unique warmwater habitat as that term is defined in rules adopted under section 6111.041 of the Revised Code.

(8) Plans for the work have been submitted to the applicable soil and water conservation district organized under Chapter 940. of the Revised Code.

(9) A storm water runoff plan has been developed for the watershed prior to or during planning and design of the work and the work is consistent with the plan.

(D) As used in this section:

(1) "Existing sources" means any treatment works that were built and operational under the terms of an NPDES permit prior to July 1, 1993, but does not include expansions or upgrades of existing treatment works authorized in rules adopted under section 6111.03 of the Revised Code after that date.

(2) "Appropriate total maximum daily load procedures" means the procedures, policies, and guidelines used by the director prior to July 1, 1993, or subsequent revisions to those procedures established in rules adopted in accordance with Chapter 119. of the Revised Code.

(3) "Antidegradation review" means the consideration by the director of the technical, social, and economic need demonstration completed by any person requesting to lower water quality as provided in this section, including the public notice of the application and, at the discretion of the director, a public hearing on it.

Sec. 6121.02. There is hereby created the Ohio water development authority. Such authority is a body both corporate and politic in this state, and the carrying out of its purposes and the exercise by it of the powers conferred by this chapter shall be held to be, and are hereby determined to be, essential governmental functions and public purposes of the state, but the authority is not immune from liability by reason thereof. The authority is subject to all provisions of law generally applicable to state agencies that do not conflict with this chapter.

The authority shall consist of eight members as follows: five members appointed by the governor, with the advice and

consent of the senate, no more than three of whom shall be members of the same political party, and the directors of natural resources, environmental protection, and development, who shall be members ex officio without compensation. The director of housing and development may designate a person in the unclassified civil service to serve in the director's place as a member of the authority notwithstanding section 121.05 of the Revised Code. The appointive members shall be residents of the state, and shall have been qualified electors therein for a period of at least five years next preceding their appointment. Appointed members' terms of office shall be for eight years, commencing on the second day of July and ending on the first day of July. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A member of the authority is eligible for reappointment. Each appointed member of the authority, before entering upon the performance of the duties of the office, shall take an oath as provided by Section 7 of Article XV, Ohio Constitution. The governor may at any time remove any member of the authority for misfeasance, nonfeasance, or malfeasance in office.

The authority shall elect one of its appointed members as chairperson and another as vice-chairperson, and shall appoint a secretary-treasurer who need not be a member of the authority. Four members of the authority shall constitute a quorum, and the

affirmative vote of four members shall be necessary for any action taken by vote of the authority. No vacancy in the membership of the authority shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the authority.

Before the issuance of any water development revenue bonds under this chapter, each appointed member of the authority shall give a surety bond to the state in the penal sum of twenty-five thousand dollars and the secretary-treasurer shall give such a bond in the penal sum of fifty thousand dollars, each such surety bond to be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in this state, and to be approved by the governor and filed in the office of the secretary of state. Each appointed member of the authority shall receive an annual salary of seven thousand five hundred dollars, payable in monthly installments, and is entitled to health care benefits comparable to those generally available to state officers and employees under section 124.82 of the Revised Code. If Section 20 of Article II, Ohio Constitution, prohibits the Ohio water development authority from paying all or a part of the cost of health care benefits on behalf of a member of the authority for the remainder of an existing term, the member may receive these benefits by paying their total cost from the member's own financial resources, including paying by means of deductions from the member's salary. Each member shall be reimbursed for actual expenses necessarily incurred in the performance of official duties. All expenses incurred in carrying out this chapter shall be payable solely from funds provided under this chapter, or appropriated for such purpose by the general assembly and no liability or obligation shall be

incurred by the authority beyond the extent to which moneys have been provided under this chapter or such appropriations.

Sec. 6123.031. To create or preserve jobs and employment opportunities, to improve the economic welfare of the people of the state, to control air, water, and thermal pollution, or to dispose of solid waste, and pursuant to Section 13, Article VIII, of the Ohio Constitution, the Ohio water development authority may exercise the powers set forth in this chapter, with the approval of a project by the director of housing and development, for the purpose of constructing or providing financial assistance for the construction of any energy resource development facilities as defined in section 1551.01 of the Revised Code. Determinations by resolution of the authority that a facility is an energy resource development facility, as so defined, and is consistent with the purposes of Section 13 of Article VIII, Ohio Constitution and this chapter shall be conclusive as to the validity and enforceability of the development revenue bonds issued to finance such facility and of the resolutions, trust agreements or indentures, leases, subleases, sale agreements, loan agreements, and other agreements made in connection therewith, all in accordance with their terms.

Section 2. That existing sections 9.47, 9.66, 107.03, 107.21, 117.55, 121.02, 121.03, 121.35, 122.01, 122.011, 122.012, 122.013, 122.014, 122.02, 122.03, 122.04, 122.041, 122.042, 122.05, 122.06, 122.07, 122.071, 122.073, 122.075, 122.077, 122.08, 122.081, 122.082, 122.083, 122.085, 122.086, 122.087, 122.088, 122.089, 122.0810, 122.0811, 122.0812, 122.0813, 122.0814, 122.0815, 122.0816, 122.0817, 122.09, 122.10, 122.11, 122.121, 122.131, 122.132, 122.133, 122.134, 122.135, 122.136, 122.14, 122.15, 122.151, 122.152, 122.153,

122.154, 122.155, 122.156, 122.16, 122.17, 122.171, 122.172, 35873
122.173, 122.174, 122.175, 122.176, 122.177, 122.178, 122.179, 35874
122.1710, 122.1711, 122.18, 122.19, 122.20, 122.21, 122.22, 35875
122.23, 122.24, 122.25, 122.26, 122.27, 122.29, 122.291, 122.30, 35876
122.31, 122.32, 122.33, 122.35, 122.36, 122.37, 122.38, 122.401, 35877
122.403, 122.406, 122.4017, 122.4018, 122.4019, 122.4020, 35878
122.4023, 122.4024, 122.4030, 122.4031, 122.4032, 122.4033, 35879
122.4034, 122.4035, 122.4036, 122.4037, 122.4040, 122.4043, 35880
122.4044, 122.4045, 122.4046, 122.4050, 122.4051, 122.4055, 35881
122.4063, 122.4070, 122.4071, 122.4073, 122.4075, 122.4076, 35882
122.4077, 122.41, 122.42, 122.43, 122.44, 122.45, 122.451, 35883
122.46, 122.47, 122.48, 122.49, 122.52, 122.53, 122.54, 122.55, 35884
122.56, 122.561, 122.57, 122.571, 122.58, 122.59, 122.60, 35885
122.601, 122.602, 122.603, 122.604, 122.605, 122.61, 122.62, 35886
122.63, 122.631, 122.632, 122.633, 122.64, 122.641, 122.6510, 35887
122.6511, 122.6512, 122.67, 122.68, 122.681, 122.69, 122.70, 35888
122.701, 122.71, 122.72, 122.73, 122.74, 122.75, 122.76, 122.77, 35889
122.78, 122.79, 122.80, 122.81, 122.82, 122.84, 122.85, 122.851, 35890
122.852, 122.86, 122.88, 122.89, 122.90, 122.91, 122.92, 35891
122.921, 122.922, 122.923, 122.924, 122.925, 122.94, 122.941, 35892
122.942, 122.951, 122.9511, 122.9512, 122.96, 123.01, 123.22, 35893
125.08, 125.081, 125.111, 125.20, 125.836, 125.901, 126.023, 35894
126.32, 126.62, 140.01, 145.035, 149.311, 150.02, 151.40, 35895
153.59, 164.02, 165.01, 165.03, 165.20, 166.01, 166.02, 166.03, 35896
166.04, 166.05, 166.06, 166.07, 166.08, 166.09, 166.12, 166.13, 35897
166.14, 166.15, 166.16, 166.17, 166.18, 166.19, 166.20, 166.21, 35898
166.25, 166.27, 167.02, 169.05, 173.08, 174.01, 174.02, 174.03, 35899
174.04, 174.05, 174.06, 174.07, 175.03, 175.04, 175.06, 175.15, 35900
176.01, 176.07, 184.01, 184.151, 184.16, 187.01, 187.03, 187.04, 35901
187.05, 187.061, 191.02, 191.03, 191.10, 191.13, 191.15, 191.17, 35902
191.19, 191.27, 191.30, 191.33, 191.35, 191.37, 191.40, 191.44, 35903
191.45, 308.21, 321.261, 321.262, 333.03, 333.04, 333.05, 35904

340.13, 703.34, 709.024, 709.192, 715.70, 715.72, 902.04, 991.02, 1517.14, 1551.01, 1551.05, 1551.06, 1551.11, 1551.12, 1551.15, 1551.19, 1551.20, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1728.01, 1728.07, 3326.02, 3327.17, 3333.373, 3333.50, 3366.01, 3366.03, 3366.04, 3735.27, 3735.39, 3735.66, 3735.671, 3735.672, 3735.673, 3735.69, 3742.32, 3746.121, 3746.20, 3775.04, 3780.03, 3780.19, 4121.123, 4164.04, 4164.12, 4301.17, 4303.181, 4303.262, 4503.591, 4582.58, 4901.021, 4906.02, 4928.06, 4928.43, 4928.51, 4928.52, 4928.53, 4928.54, 4928.543, 4928.544, 4928.55, 4928.56, 4928.57, 4928.58, 4928.581, 4928.582, 4928.583, 4928.61, 4928.62, 4928.63, 4928.75, 4929.16, 4929.161, 4929.163, 4981.02, 4981.03, 5101.16, 5104.30, 5117.02, 5117.03, 5117.04, 5117.05, 5117.07, 5117.071, 5117.08, 5117.09, 5117.10, 5117.12, 5117.22, 5119.34, 5120.07, 5126.071, 5126.18, 5501.031, 5531.08, 5703.0510, 5709.12, 5709.211, 5709.212, 5709.22, 5709.40, 5709.41, 5709.45, 5709.48, 5709.51, 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, 5709.633, 5709.64, 5709.66, 5709.67, 5709.671, 5709.68, 5709.69, 5709.73, 5709.78, 5709.82, 5709.87, 5709.88, 5709.882, 5717.02, 5725.32, 5725.33, 5726.54, 5726.55, 5726.59, 5727.75, 5729.032, 5729.16, 5733.33, 5733.34, 5733.352, 5733.58, 5733.59, 5747.01, 5747.331, 5747.51, 5747.66, 5747.67, 5751.52, 5751.54, 5751.55, 6111.12, 6121.02, and 6123.031 of the Revised Code are hereby repealed.

Section 3. The Speaker of the House of Representatives and the President of the Senate shall appoint legislative members to the Ohio housing finance agency, as required by this act, not later than thirty days after the effective date of this section.

Not later than ninety days after the effective date of this section, the Ohio housing finance agency shall conduct at least one public hearing to consider changes to the policies,

guidelines, and scoring metrics used in the administration of the agency's programs to resolve inequities and increase participation in rural areas of the state.

Section 4. The Speaker of the House of Representatives and the President of the Senate shall appoint legislative members to the Ohio housing trust fund advisory committee, as required by this act, not later than thirty days after the effective date of this section.

Section 5. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 122.073 of the Revised Code as amended by both H.B. 487 and S.B. 314 of the 129th General Assembly.

Section 140.01 of the Revised Code as amended by both H.B. 110 and H.B. 281 of the 134th General Assembly.

Section 1551.20 of the Revised Code as amended by H.B. 632, S.B. 269, and S.B. 271, all of the 120th General Assembly.

Section 4906.02 of the Revised Code as amended by both H.B. 110 and S.B. 52 of the 134th General Assembly.

Section 5117.07 of the Revised Code as amended by both H.B. 283 and S.B. 3 of the 123rd General Assembly.

Section 5117.09 of the Revised Code as amended by both H.B. 283 and S.B. 3 of the 123rd General Assembly.

Section 5747.01 of the Revised Code as amended by both H.B. 101 and S.B. 154 of the 135th General Assembly.