

**As Reported by the House Finance and Appropriations
Committee**

**125th General Assembly
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Sub. H. B. No. 311

**Representatives Hagan, Miller, Allen, Barrett, Beatty, Calvert, Clancy, Core,
C. Evans, Faber, Flowers, Hartnett, Hughes, Husted, Jerse, S. Patton,
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Wilson**

A B I L L

To amend sections 127.16 and 2921.13 and to enact	1
sections 5110.01, 5110.02, 5110.03, 5110.05,	2
5110.07 to 5110.19, 5110.21, 5110.22, 5110.23,	3
5110.25, 5110.26, 5110.27, 5110.28, 5110.29,	4
5110.32, 5110.33, 5110.35, 5110.351, 5110.352,	5
5110.353, 5110.354, 5110.36 to 5110.40, 5110.45 to	6
5110.51, 5110.55 to 5110.59, and 5110.99 of the	7
Revised Code to create the Ohio's Best Rx Program	8
and to make an appropriation.	9

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

Section 1. That sections 127.16 and 2921.13 be amended and	10
sections 5110.01, 5110.02, 5110.03, 5110.05, 5110.07, 5110.08,	11
5110.09, 5110.10, 5110.11, 5110.12, 5110.13, 5110.14, 5110.15,	12
5110.16, 5110.17, 5110.18, 5110.19, 5110.21, 5110.22, 5110.23,	13
5110.25, 5110.26, 5110.27, 5110.28, 5110.29, 5110.32, 5110.33,	14
5110.35, 5110.351, 5110.352, 5110.353, 5110.354, 5110.36, 5110.37,	15
5110.38, 5110.39, 5110.40, 5110.45, 5110.46, 5110.47, 5110.48,	16
5110.49, 5110.50, 5110.51, 5110.55, 5110.56, 5110.57, 5110.58,	17

5110.59, and 5110.99 of the Revised Code be enacted to read as 18
follows: 19

Sec. 127.16. (A) Upon the request of either a state agency or 20
the director of budget and management and after the controlling 21
board determines that an emergency or a sufficient economic reason 22
exists, the controlling board may approve the making of a purchase 23
without competitive selection as provided in division (B) of this 24
section. 25

(B) Except as otherwise provided in this section, no state 26
agency, using money that has been appropriated to it directly, 27
shall: 28

(1) Make any purchase from a particular supplier, that would 29
amount to fifty thousand dollars or more when combined with both 30
the amount of all disbursements to the supplier during the fiscal 31
year for purchases made by the agency and the amount of all 32
outstanding encumbrances for purchases made by the agency from the 33
supplier, unless the purchase is made by competitive selection or 34
with the approval of the controlling board; 35

(2) Lease real estate from a particular supplier, if the 36
lease would amount to seventy-five thousand dollars or more when 37
combined with both the amount of all disbursements to the supplier 38
during the fiscal year for real estate leases made by the agency 39
and the amount of all outstanding encumbrances for real estate 40
leases made by the agency from the supplier, unless the lease is 41
made by competitive selection or with the approval of the 42
controlling board. 43

(C) Any person who authorizes a purchase in violation of 44
division (B) of this section shall be liable to the state for any 45
state funds spent on the purchase, and the attorney general shall 46
collect the amount from the person. 47

(D) Nothing in division (B) of this section shall be 48
construed as: 49

(1) A limitation upon the authority of the director of 50
transportation as granted in sections 5501.17, 5517.02, and 51
5525.14 of the Revised Code; 52

(2) Applying to medicaid provider agreements under Chapter 53
5111. of the Revised Code or payments or provider agreements under 54
the disability medical assistance program established under 55
Chapter 5115. of the Revised Code; 56

(3) Applying to the purchase of examinations from a sole 57
supplier by a state licensing board under Title XLVII of the 58
Revised Code; 59

(4) Applying to entertainment contracts for the Ohio state 60
fair entered into by the Ohio expositions commission, provided 61
that the controlling board has given its approval to the 62
commission to enter into such contracts and has approved a total 63
budget amount for such contracts as agreed upon by commission 64
action, and that the commission causes to be kept itemized records 65
of the amounts of money spent under each contract and annually 66
files those records with the clerk of the house of representatives 67
and the clerk of the senate following the close of the fair; 68

(5) Limiting the authority of the chief of the division of 69
mineral resources management to contract for reclamation work with 70
an operator mining adjacent land as provided in section 1513.27 of 71
the Revised Code; 72

(6) Applying to investment transactions and procedures of any 73
state agency, except that the agency shall file with the board the 74
name of any person with whom the agency contracts to make, broker, 75
service, or otherwise manage its investments, as well as the 76
commission, rate, or schedule of charges of such person with 77
respect to any investment transactions to be undertaken on behalf 78

of the agency. The filing shall be in a form and at such times as 79
the board considers appropriate. 80

(7) Applying to purchases made with money for the per cent 81
for arts program established by section 3379.10 of the Revised 82
Code; 83

(8) Applying to purchases made by the rehabilitation services 84
commission of services, or supplies, that are provided to persons 85
with disabilities, or to purchases made by the commission in 86
connection with the eligibility determinations it makes for 87
applicants of programs administered by the social security 88
administration; 89

(9) Applying to payments by the department of job and family 90
services under section 5111.13 of the Revised Code for group 91
health plan premiums, deductibles, coinsurance, and other 92
cost-sharing expenses; 93

(10) Applying to any agency of the legislative branch of the 94
state government; 95

(11) Applying to agreements or contracts entered into under 96
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 97
Revised Code; 98

(12) Applying to purchases of services by the adult parole 99
authority under section 2967.14 of the Revised Code or by the 100
department of youth services under section 5139.08 of the Revised 101
Code; 102

(13) Applying to dues or fees paid for membership in an 103
organization or association; 104

(14) Applying to purchases of utility services pursuant to 105
section 9.30 of the Revised Code; 106

(15) Applying to purchases made in accordance with rules 107
adopted by the department of administrative services of motor 108

vehicle, aviation, or watercraft fuel, or emergency repairs of	109
such vehicles;	110
(16) Applying to purchases of tickets for passenger air	111
transportation;	112
(17) Applying to purchases necessary to provide public	113
notifications required by law or to provide notifications of job	114
openings;	115
(18) Applying to the judicial branch of state government;	116
(19) Applying to purchases of liquor for resale by the	117
division of liquor control;	118
(20) Applying to purchases of motor courier and freight	119
services made in accordance with department of administrative	120
services rules;	121
(21) Applying to purchases from the United States postal	122
service and purchases of stamps and postal meter replenishment	123
from vendors at rates established by the United States postal	124
service;	125
(22) Applying to purchases of books, periodicals, pamphlets,	126
newspapers, maintenance subscriptions, and other published	127
materials;	128
(23) Applying to purchases from other state agencies,	129
including state-assisted institutions of higher education;	130
(24) Limiting the authority of the director of environmental	131
protection to enter into contracts under division (D) of section	132
3745.14 of the Revised Code to conduct compliance reviews, as	133
defined in division (A) of that section;	134
(25) Applying to purchases from a qualified nonprofit agency	135
pursuant to sections 4115.31 to 4115.35 of the Revised Code;	136
(26) Applying to payments by the department of job and family	137
services to the United States department of health and human	138

services for printing and mailing notices pertaining to the tax	139
refund offset program of the internal revenue service of the	140
United States department of the treasury;	141
(27) Applying to contracts entered into by the department of	142
mental retardation and developmental disabilities under sections	143
5123.18, 5123.182, and 5123.199 of the Revised Code;	144
(28) Applying to payments made by the department of mental	145
health under a physician recruitment program authorized by section	146
5119.101 of the Revised Code;	147
(29) Applying to contracts entered into with persons by the	148
director of commerce for unclaimed funds collection and remittance	149
efforts as provided in division (F) of section 169.03 of the	150
Revised Code. The director shall keep an itemized accounting of	151
unclaimed funds collected by those persons and amounts paid to	152
them for their services.	153
(30) Applying to purchases made by a state institution of	154
higher education in accordance with the terms of a contract	155
between the vendor and an inter-university purchasing group	156
comprised of purchasing officers of state institutions of higher	157
education;	158
(31) Applying to the department of job and family services'	159
purchases of health assistance services under the children's	160
health insurance program part I provided for under section 5101.50	161
of the Revised Code or the children's health insurance program	162
part II provided for under section 5101.51 of the Revised Code;	163
(32) Applying to payments by the attorney general from the	164
reparations fund to hospitals and other emergency medical	165
facilities for performing medical examinations to collect physical	166
evidence pursuant to section 2907.28 of the Revised Code;	167
(33) Applying to contracts with a contracting authority or	168
administrative receiver under division (G)(2) of section 5126.055	169

of the Revised Code;	170
(34) Applying to reimbursements paid to the United States	171
department of veterans affairs for pharmaceutical and patient	172
supply purchases made on behalf of the Ohio veterans' home agency;	173
<u>(35) Applying to agreements the department of job and family</u>	174
<u>services enters into with terminal distributors of dangerous drugs</u>	175
<u>under section 5110.12 of the Revised Code.</u>	176
(E) Notwithstanding division (B)(1) of this section, the	177
cumulative purchase threshold shall be seventy-five thousand	178
dollars for the departments of mental retardation and	179
developmental disabilities, mental health, rehabilitation and	180
correction, and youth services.	181
(F) When determining whether a state agency has reached the	182
cumulative purchase thresholds established in divisions (B)(1),	183
(B)(2), and (E) of this section, all of the following purchases by	184
such agency shall not be considered:	185
(1) Purchases made through competitive selection or with	186
controlling board approval;	187
(2) Purchases listed in division (D) of this section;	188
(3) For the purposes of the thresholds of divisions (B)(1)	189
and (E) of this section only, leases of real estate.	190
(G) As used in this section, "competitive selection,"	191
"purchase," "supplies," and "services" have the same meanings as	192
in section 125.01 of the Revised Code.	193
Sec. 2921.13. (A) No person shall knowingly make a false	194
statement, or knowingly swear or affirm the truth of a false	195
statement previously made, when any of the following applies:	196
(1) The statement is made in any official proceeding.	197
(2) The statement is made with purpose to incriminate	198

another. 199

(3) The statement is made with purpose to mislead a public 200
official in performing the public official's official function. 201

(4) The statement is made with purpose to secure the payment 202
of unemployment compensation; Ohio works first; prevention, 203
retention, and contingency benefits and services; disability 204
financial assistance; retirement benefits; economic development 205
assistance, as defined in section 9.66 of the Revised Code; or 206
other benefits administered by a governmental agency or paid out 207
of a public treasury. 208

(5) The statement is made with purpose to secure the issuance 209
by a governmental agency of a license, permit, authorization, 210
certificate, registration, release, or provider agreement. 211

(6) The statement is sworn or affirmed before a notary public 212
or another person empowered to administer oaths. 213

(7) The statement is in writing on or in connection with a 214
report or return that is required or authorized by law. 215

(8) The statement is in writing and is made with purpose to 216
induce another to extend credit to or employ the offender, to 217
confer any degree, diploma, certificate of attainment, award of 218
excellence, or honor on the offender, or to extend to or bestow 219
upon the offender any other valuable benefit or distinction, when 220
the person to whom the statement is directed relies upon it to 221
that person's detriment. 222

(9) The statement is made with purpose to commit or 223
facilitate the commission of a theft offense. 224

(10) The statement is knowingly made to a probate court in 225
connection with any action, proceeding, or other matter within its 226
jurisdiction, either orally or in a written document, including, 227
but not limited to, an application, petition, complaint, or other 228

pleading, or an inventory, account, or report. 229

(11) The statement is made on an account, form, record, 230
stamp, label, or other writing that is required by law. 231

(12) The statement is made in connection with the purchase of 232
a firearm, as defined in section 2923.11 of the Revised Code, and 233
in conjunction with the furnishing to the seller of the firearm of 234
a fictitious or altered driver's or commercial driver's license or 235
permit, a fictitious or altered identification card, or any other 236
document that contains false information about the purchaser's 237
identity. 238

(13) The statement is made in a document or instrument of 239
writing that purports to be a judgment, lien, or claim of 240
indebtedness and is filed or recorded with the secretary of state, 241
a county recorder, or the clerk of a court of record. 242

(14) The statement is made with purpose to obtain an Ohio's 243
best Rx program enrollment card under section 5110.09 of the 244
Revised Code or a payment from the department of job and family 245
services under section 5110.17 of the Revised Code. 246

(B) No person, in connection with the purchase of a firearm, 247
as defined in section 2923.11 of the Revised Code, shall knowingly 248
furnish to the seller of the firearm a fictitious or altered 249
driver's or commercial driver's license or permit, a fictitious or 250
altered identification card, or any other document that contains 251
false information about the purchaser's identity. 252

(C) It is no defense to a charge under division (A)(4) of 253
this section that the oath or affirmation was administered or 254
taken in an irregular manner. 255

(D) If contradictory statements relating to the same fact are 256
made by the offender within the period of the statute of 257
limitations for falsification, it is not necessary for the 258
prosecution to prove which statement was false but only that one 259

or the other was false. 260

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 261
(6), (7), (8), (10), (11), ~~or~~ (13), or (14) of this section is 262
guilty of falsification, a misdemeanor of the first degree. 263

(2) Whoever violates division (A)(9) of this section is 264
guilty of falsification in a theft offense. Except as otherwise 265
provided in this division, falsification in a theft offense is a 266
misdemeanor of the first degree. If the value of the property or 267
services stolen is five hundred dollars or more and is less than 268
five thousand dollars, falsification in a theft offense is a 269
felony of the fifth degree. If the value of the property or 270
services stolen is five thousand dollars or more and is less than 271
one hundred thousand dollars, falsification in a theft offense is 272
a felony of the fourth degree. If the value of the property or 273
services stolen is one hundred thousand dollars or more, 274
falsification in a theft offense is a felony of the third degree. 275

(3) Whoever violates division (A)(12) or (B) of this section 276
is guilty of falsification to purchase a firearm, a felony of the 277
fifth degree. 278

(F) A person who violates this section is liable in a civil 279
action to any person harmed by the violation for injury, death, or 280
loss to person or property incurred as a result of the commission 281
of the offense and for reasonable attorney's fees, court costs, 282
and other expenses incurred as a result of prosecuting the civil 283
action commenced under this division. A civil action under this 284
division is not the exclusive remedy of a person who incurs 285
injury, death, or loss to person or property as a result of a 286
violation of this section. 287

Sec. 5110.01. As used in this chapter: 288

(A) "Administrative fee" means the amount specified in rules 289

<u>adopted under division (G) of section 5110.35 of the Revised Code.</u>	290
<u>(B) "Children's health insurance program" means the</u>	291
<u>children's health insurance program part I and part II established</u>	292
<u>under sections 5101.50 to 5101.5110 of the Revised Code.</u>	293
<u>(C) "Disability medical assistance program" means the program</u>	294
<u>established under section 5115.10 of the Revised Code.</u>	295
<u>(D) "Medicaid" means the medical assistance program</u>	296
<u>established under Chapter 5111. of the Revised Code.</u>	297
<u>(E) "National drug code number" means the number registered</u>	298
<u>for a drug pursuant to the listing system established by the</u>	299
<u>United States food and drug administration under the "Drug Listing</u>	300
<u>Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended.</u>	301
<u>(F) "Ohio's best Rx program administrator" means the entity,</u>	302
<u>if any, the department of job and family services contracts with</u>	303
<u>pursuant to section 5110.10 of the Revised Code to perform</u>	304
<u>administrative functions of the Ohio's best Rx program and to</u>	305
<u>offer the mail order system through which Ohio's best Rx program</u>	306
<u>participants may obtain drugs by mail.</u>	307
<u>(G) "Ohio's best Rx program applicant" or "applicant" means</u>	308
<u>an individual who signs an application for the Ohio's best Rx</u>	309
<u>program and submits it to the department of job and family</u>	310
<u>services, or the Ohio's best Rx program administrator, for a</u>	311
<u>determination of eligibility for the program.</u>	312
<u>(H) "Ohio's best Rx program participant" or "participant"</u>	313
<u>means an individual determined eligible for the Ohio's best Rx</u>	314
<u>program and included under a valid Ohio's best Rx program</u>	315
<u>enrollment card.</u>	316
<u>(I) "Ohio's best Rx program price" means the price a</u>	317
<u>participating terminal distributor is to charge an Ohio's best Rx</u>	318
<u>program participant for a drug included in the Ohio's best Rx</u>	319

program as determined under section 5110.14 of the Revised Code. 320
"Ohio's best Rx program price" does not include either of the 321
following: 322

(1) The amount of the professional fee, if any, the 323
participating terminal distributor adds to the Ohio's best Rx 324
program price pursuant to an agreement under section 5110.12 of 325
the Revised Code; 326

(2) The amount of the administrative fee, if any, the 327
department of job and family services reports to the participating 328
terminal distributor under section 5110.29 of the Revised Code. 329

(J) "Participating manufacturer" means a drug manufacturer 330
participating in the Ohio's best Rx program pursuant to a rebate 331
agreement. 332

(K) "Participating terminal distributor" means a terminal 333
distributor of dangerous drugs participating in the Ohio's best Rx 334
program pursuant to an agreement entered into with the department 335
of job and family services under section 5110.12 of the Revised 336
Code. 337

(L) "Per unit price," with regard to a state health benefit 338
plan or state retirement system health benefit plan, means the 339
total amount paid to a terminal distributor of dangerous drugs 340
under a state health benefit plan or state retirement system 341
health benefit plan for one unit of a drug covered by the plan, 342
after the plan discounts or otherwise reduces the amount to be 343
paid to the terminal distributor. "Per unit price" includes both 344
of the following: 345

(1) The amount that the state health benefit plan or state 346
retirement system health benefit plan, or other government entity 347
or person authorized to make the payment on behalf of the plan, 348
pays to the terminal distributor of dangerous drugs; 349

(2) The amount that the beneficiary of the state health benefit plan or state retirement system health benefit plan pays to the terminal distributor of dangerous drugs in the form of a copayment, coinsurance, or other cost-sharing charge. 350 351 352 353

(M) "Per unit rebate," with regard to a state health benefit plan or state retirement system health benefit plan, means all rebates, discounts, formulary fees, administrative fees, and other allowances a drug manufacturer pays to the plan, or other government entity or person authorized to receive all or part of such payments, for a drug during a calendar year, divided by the total number of units of that drug dispensed under the plan during the same calendar year. 354 355 356 357 358 359 360 361

(N) "Rebate administration percentage" means the percentage specified in rules adopted under division (K) of section 5110.35 of the Revised Code. 362 363 364

(O) "Rebate agreement" means an agreement under section 5110.21 of the Revised Code between the department of job and family services and a drug manufacturer. 365 366 367

(P) "State health benefit plan" means a program of health care benefits offered through the Ohio med preferred provider organization, or a successor entity selected by the state, to which either of the following apply: 368 369 370 371

(1) It is provided by a collective bargaining agreement authorized by division (A)(4) of section 4117.03 of the Revised Code. 372 373 374

(2) It is offered by the department of administrative services to state employees in accordance with section 124.81 or 124.82 of the Revised Code. 375 376 377

(Q) "State retirement system" means all of the following: the public employees retirement system, state teachers retirement 378 379

system, school employees retirement system, Ohio police and fire 380
pension fund, and state highway patrol retirement system. 381

(R) "State retirement system health benefit plan" means a 382
plan of health care benefits offered by a state retirement system 383
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 384
Revised Code. 385

(S) "Terminal distributor of dangerous drugs" has the same 386
meaning as in section 4729.01 of the Revised Code. 387

(T) "Third-party payer" has the same meaning as in section 388
3901.38 of the Revised Code. 389

(U) "Trade secret" has the same meaning as in section 1333.61 390
of the Revised Code. 391

(V) "Usual and customary charge" means the amount a 392
participating terminal distributor or the Ohio's best Rx program 393
administrator charges for a drug included in the program to an 394
individual who does not receive a discounted price for the drug 395
pursuant to any drug discount program, including the Ohio's best 396
Rx program, a prescription drug discount card program established 397
under section 173.061 of the Revised Code, or a pharmacy 398
assistance program established by any person or government entity, 399
and for whom no third-party payer or program funded in whole or 400
part with state or federal funds is responsible for all or part of 401
the cost of the drug the distributor dispenses to the individual. 402

Sec. 5110.02. There is hereby established the Ohio's best Rx 403
program. Except as provided in section 5110.10 of the Revised 404
Code, the department of job and family services shall administer 405
the program. 406

Sec. 5110.03. (A) Except as provided in division (B) of this 407
section, a drug shall be included in the Ohio's best Rx program if 408

the drug is covered by a state health benefit plan or state
retirement system health benefit plan or is covered by a rebate
agreement entered into under section 5110.21 of the Revised Code.

(B) The department of job and family services may exclude
from the program a drug covered by a state health benefit plan or
state retirement system health benefit plan if the plan receives a
rebate for the drug from the manufacturer but the drug is not
covered by a rebate agreement entered into under section 5110.21
of the Revised Code.

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx
program, an individual must meet all of the following requirements
at the time of application or reapplication for the program:

(1) Be a resident of this state;

(2) Have family income, as determined under rules adopted
pursuant to section 5110.35 of the Revised Code, that does not
exceed two hundred fifty per cent of the federal poverty
guidelines, as revised annually by the United States department of
health and human services in accordance with section 673(2) of the
"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42
U.S.C. 9902, as amended, or be sixty years of age or older;

(3) Not have outpatient prescription drug coverage paid for
in whole or in part by any of the following:

(a) A third-party payer;

(b) The medicaid program;

(c) The children's health insurance program;

(d) The disability medical assistance program;

(e) Another health plan or pharmacy assistance program that
uses state or federal funds to pay part or all of the cost of the

individual's outpatient prescription drugs, other than a 437
prescription drug discount card program established under section 438
173.061 of the Revised Code. 439

(4) Not have had outpatient prescription drug coverage 440
specified in division (A)(3) of this section during any of the 441
four months preceding the month in which the application or 442
reapplication for the Ohio's best Rx program is made, unless any 443
of the following applies: 444

(a) The individual is sixty years of age or older. 445

(b) The third-party payer that paid all or part of the 446
coverage filed for bankruptcy under federal bankruptcy laws. 447

(c) The individual is no longer eligible for coverage 448
provided through a retirement plan subject to protection under the 449
"Employee Retirement Income Security Act of 1974," 88 Stat. 832, 450
29 U.S.C. 1001, as amended. 451

(d) The individual is no longer eligible for the medicaid 452
program, children's health insurance program, or disability 453
medical assistance program. 454

(B) Application and annual reapplication for the Ohio's best 455
Rx program shall be made in accordance with rules adopted under 456
section 5110.35 of the Revised Code on a form prescribed in those 457
rules. An individual may apply or reapply on behalf of the 458
individual and the individual's spouse and children. The guardian 459
or custodian of an individual may apply or reapply on behalf of 460
the individual. 461

Sec. 5110.07. The department of job and family services shall 462
provide each applicant for the Ohio's best Rx program information 463
about the medicaid program in accordance with rules adopted under 464
section 5110.35 of the Revised Code. The information shall include 465
general eligibility requirements, application procedures, and 466

benefits. The information shall also explain the ways in which the
medicaid program's drug benefits are better than the Ohio's best
Rx program.

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Sec. 5110.08. On receipt of applications and annual
reapplications, the department of job and family services shall
make eligibility determinations for the Ohio's best Rx program in
accordance with procedures established in rules adopted under
section 5110.35 of the Revised Code. Each determination that an
individual is eligible is valid for one year beginning on a date
determined in accordance with the eligibility determination
procedures. The beginning date may not precede the date on which
the individual's eligibility is determined. Annual reapplication
may be made under division (B) of section 5110.05 of the Revised
Code if the individual seeks to continue to participate in the
program after the date eligibility would otherwise end.

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An eligibility determination under this section may not be
appealed under Chapter 119., section 5101.35, or any other
provision of the Revised Code.

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Sec. 5110.09. The department of job and family services shall
issue Ohio's best Rx program enrollment cards to or on behalf of
individuals determined eligible to participate. One enrollment
card may cover each member of a family determined eligible to
participate. The card is valid only during the period each
individual covered by the card is eligible to participate. The
card shall be presented to a participating terminal distributor
each time a drug included in the program is purchased under the
program.

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Sec. 5110.10. Subject to section 5110.11 of the Revised Code,
the department of job and family services may contract with a

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person to be the Ohio's best Rx program administrator. 496

The Ohio's best Rx program administrator shall do all of the 497
following: 498

(A) Perform any duty this chapter gives the department that 499
the department specifies in the contract, other than adoption of 500
rules under sections 5110.35 and 5110.36 of the Revised Code and 501
employment of an ombudsperson under section 5110.40 of the Revised 502
Code; 503

(B) Subject to division (P) of section 5110.35 of the Revised 504
Code, offer the mail order system through which Ohio's best Rx 505
program participants may obtain drugs; 506

(C) Charge an Ohio's best Rx program participant for each 507
drug included in the program an amount not exceeding the Ohio's 508
best Rx program price as determined under section 5110.14 of the 509
Revised Code plus the administrative fee described in division (F) 510
of section 5110.12 of the Revised Code, if any. 511

Sec. 5110.11. Before entering into a contract under section 512
5110.10 of the Revised Code with a person to be the Ohio's best Rx 513
program administrator, the department of job and family services 514
shall issue a request for proposals from persons seeking to be 515
considered. The department shall develop a process which it shall 516
use in issuing the request for proposals, receiving responses to 517
the request, and evaluating the responses on a competitive basis. 518
In accordance with that process, the department shall select the 519
person to be awarded the contract. 520

Sec. 5110.12. A terminal distributor of dangerous drugs may 521
enter into an agreement with the department of job and family 522
services to participate in the Ohio's best Rx program for purposes 523
of dispensing drugs. Before entering into an agreement with a 524

terminal distributor, the department shall provide the terminal 525
distributor with a formula that allows the terminal distributor to 526
calculate the price of each drug included in the program, a 527
statistically valid sampling of drug prices that includes the 528
prices of not less than two branded and two generic drugs from 529
each category of drugs included in the program, and the current 530
Ohio's best Rx program price for each drug included in the 531
program. 532

An agreement entered into under this section shall do all of 533
the following: 534

(A) Except as provided in division (C) of this section, be in 535
effect for not less than one year; 536

(B) Specify the dates that the agreement is to begin and end; 537

(C) Permit the participating terminal distributor to 538
terminate the agreement before the date the agreement would 539
otherwise end as specified pursuant to division (B) of this 540
section by providing the department notice of early termination at 541
least thirty days before the effective date of the early 542
termination; 543

(D) Require that the participating terminal distributor 544
charge an Ohio's best Rx program participant for each drug 545
included in the program the lesser of (1) the sum of the Ohio's 546
best Rx program price as determined under section 5110.14 of the 547
Revised Code, the professional fee under division (E) of this 548
section, if any, and the administrative fee under division (F) of 549
this section, if any, or (2) the terminal distributor's usual and 550
customary charge; 551

(E) Permit the participating terminal distributor to add to 552
the Ohio's best Rx program price a professional fee in an amount 553
not to exceed, except as provided in rules adopted under section 554

5110.35 of the Revised Code, three dollars; 555

(F) Require the participating terminal distributor to add to 556
the Ohio's best Rx program price an administrative fee, in an 557
amount determined in accordance with rules adopted under section 558
5110.35 of the Revised Code, for each transaction in which a 559
quantity of the drug is dispensed if an administrative fee is 560
required by those rules; 561

(G) Require the participating terminal distributor to 562
disclose to each participant the amount the participant saves 563
under the program as determined in accordance with section 5110.15 564
of the Revised Code; 565

(H) Require the participating terminal distributor to submit 566
a claim to the department under section 5110.16 of the Revised 567
Code for each sale of a drug to a participant; 568

(I) Permit the participating terminal distributor to deliver 569
drugs to Ohio's best Rx program participants by mail. 570

Sec. 5110.13. The department of job and family services may 571
not prohibit a terminal distributor of dangerous drugs from 572
participating in any other program the department administers on 573
the basis that the terminal distributor has not entered into an 574
agreement under section 5110.12 of the Revised Code. 575

No entity under contract with the department under section 576
5110.10 of the Revised Code may prohibit a terminal distributor of 577
dangerous drugs from participating in a program or network the 578
entity administers or operates on the basis that the terminal 579
distributor has not entered into an agreement under section 580
5110.12 of the Revised Code. 581

Sec. 5110.14. The Ohio's best Rx program price for a drug 582
included in the program, as described in section 5110.03 of the 583

Revised Code, shall be determined by multiplying the number of 584
units of the drug a participating terminal distributor dispenses 585
to a participant by whichever of the following is applicable: 586

(A) If the drug is not subject to a rebate agreement entered 587
into under section 5110.21 of the Revised Code, the amount 588
computed under division (A)(1) or (2) of section 5110.27 of the 589
Revised Code, as applicable; 590

(B) If the drug is subject to a rebate agreement entered into 591
under section 5110.21 of the Revised Code, the amount computed 592
under division (C) of section 5110.27 of the Revised Code. 593

Sec. 5110.15. The amount that an Ohio's best Rx program 594
participant saves under the program on a transaction for a drug 595
included in the program shall be determined by subtracting the sum 596
of the following from the usual and customary charge for that 597
quantity of the drug the participating terminal distributor or 598
Ohio's best Rx program administrator dispenses to the participant: 599

(A) The Ohio's best Rx program price multiplied by the number 600
of units of the drug dispensed; 601

(B) The professional fee, if any, the distributor or 602
administrator is permitted to charge pursuant to an agreement 603
under section 5110.12 of the Revised Code or a contract under 604
section 5110.10 of the Revised Code; 605

(C) The administrative fee, if any, the department of job and 606
family services reports to the distributor or administrator under 607
section 5110.29 of the Revised Code. 608

Sec. 5110.16. A participating terminal distributor or the 609
Ohio's best Rx program administrator shall submit a claim to the 610
department of job and family services for each drug dispensed to 611
an Ohio's best Rx program participant not later than thirty days 612

after the drug is dispensed. The claim shall be submitted in
accordance with the electronic method provided for in rules
adopted under section 5110.35 of the Revised Code.

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The claim shall specify all of the following:

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(A) The prescription number of the participant's prescription
under which the drug is dispensed to the participant;

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(B) The name of, and national drug code number for, the drug
dispensed to the participant;

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(C) The number of units of the drug dispensed to the
participant;

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(D) The amount the distributor or administrator charged the
participant for the drug;

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(E) The date that the distributor or administrator dispensed
the drug to the participant;

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(F) Any additional information required by rules adopted
under section 5110.35 of the Revised Code.

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Sec. 5110.17. (A) In accordance with rules adopted under
section 5110.35 of the Revised Code and subject to section 5110.19
of the Revised Code, the department of job and family services
shall pay a participating terminal distributor or the Ohio's best
Rx program administrator for complete and timely claims for drugs
included in the program that are covered by a rebate agreement
entered into under section 5110.21 of the Revised Code. The
payment for a complete and timely claim shall be made by a date
that is not later than two weeks after the claim is received by
the department.

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(B) Subject to division (D) of this section, the amount to be
paid for a claim shall be determined as follows:

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(1) Multiply the rebate amount for the national drug code 641
number for the drug for which the claim is made, as agreed to 642
under division (B)(4)(a) of section 5110.21 of the Revised Code or 643
computed under division (B) of section 5110.27 of the Revised 644
Code, as applicable, by the number of units of the drug dispensed 645
to the Ohio's best Rx program participant; 646

(2) If an administrative fee was charged, for each 647
transaction in which a quantity of the drug was dispensed, 648
subtract from the amount computed under division (B)(1) of this 649
section the administrative fee amount specified in rules adopted 650
under section 5110.35 of the Revised Code. 651

(C) The department may combine claims from a participating 652
terminal distributor or the administrator to make aggregate 653
payments under this section to the distributor or administrator. 654

(D) If the total of the amounts computed under division (B) 655
of this section for any period for which payments are due is a 656
negative number, the terminal distributor or administrator has 657
been overpaid for claims submitted under section 5110.16 of the 658
Revised Code. When there is an overpayment, the department shall 659
reduce future payments to the terminal distributor or 660
administrator under this section or collect an amount from the 661
terminal distributor or administrator sufficient to reimburse the 662
department for the overpayment. 663

Sec. 5110.18. Neither the department of job and family 664
services nor the Ohio's best Rx program administrator may charge a 665
participating terminal distributor for the submission or 666
processing of a claim under sections 5110.16 and 5110.17 of the 667
Revised Code. 668

Sec. 5110.19. The department of job and family services may 669
not make a payment under section 5110.17 of the Revised Code for a 670

claim submitted under section 5110.16 of the Revised Code if any
of the following are the case:

(A) The claim is submitted by a terminal distributor of
dangerous drugs that is neither a participating terminal
distributor nor the Ohio's best Rx program administrator.

(B) The claim is for a drug that is not included in the
program.

(C) The claim is for a drug included in the program but the
drug is dispensed to an individual who is not covered by a valid
Ohio's best Rx program enrollment card.

(D) A person or government entity has paid the participating
terminal distributor or the administrator through any other
prescription drug coverage program or prescription drug discount
program for dispensing the drug, unless the payment is
reimbursement for redeeming a coupon or is an amount directly paid
by a drug manufacturer to the terminal distributor for dispensing
drugs to residents of a long-term care facility.

Sec. 5110.21. (A) A drug manufacturer may enter into a rebate
agreement with the department of job and family services regarding
drugs it manufactures. The agreement shall specify the time it is
to be in effect, which shall be not less than one year from the
date the agreement is entered into.

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

(1) Specify which of the manufacturer's drugs are included in
the agreement;

(2) Permit the department to remove a drug from the agreement
in the event of a dispute over the drug's utilization;

(3) Require that the manufacturer make a rebate payment to
the department for each drug specified under division (B)(1) of

this section that is dispensed to an Ohio's best Rx program
participant;

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(4)(a) Require that the per unit rebate be in an amount equal
to the greater of the following:

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(i) The weighted average of the per unit rebates for the drug
as computed under division (C)(1) of this section;

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(ii) A per unit amount specified by the manufacturer.

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(b) Require that the rebate payment for a quantity of a drug
dispensed to an Ohio's best Rx participant be equal to the amount
determined by multiplying the applicable per unit rebate by the
number of units dispensed.

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(5) Specify the intervals at which the manufacturer will
report to the department amounts specified pursuant to division
(B)(4)(a)(ii) of this section;

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(6) Require that the manufacturer make the rebate payments to
the department on a quarterly basis or in accordance with a
schedule established by rules adopted under section 5110.35 of the
Revised Code.

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(C)(1) For the purposes of division (B)(4)(a)(i) of this
section, once each year the department shall compute the weighted
average of the per unit rebates for each drug using the
information available to the department from submissions under
division (A)(4) of section 5110.25 of the Revised Code. The
computation shall be made in accordance with section 5110.28 of
the Revised Code and rules adopted under section 5110.35 of the
Revised Code.

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(2) If no computation can be made under division (C)(1) of
this section, the rebate for the drug shall be the amount
specified under (B)(4)(a)(ii) of this section.

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(D) On submission to the department by a manufacturer that

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has entered into a rebate agreement under this section of a 730
request the department considers reasonable, the department shall 731
permit the manufacturer to audit claims submitted under section 732
5110.16 of the Revised Code. 733

Sec. 5110.22. If a drug manufacturer has not entered into a 734
rebate agreement under section 5110.21 of the Revised Code with 735
respect to a drug it manufactures that is covered by a state 736
health benefit plan or state retirement system health benefit plan 737
that receives a rebate for the drug from the manufacturer, the 738
department of job and family services shall ask the department of 739
administrative services and each state retirement system to 740
determine whether the drug should be placed, for the following 741
plan year, on a prior authorization list of the state health 742
benefit plan or state retirement system health benefit plan. 743

Additions made under this section to prior authorization 744
lists shall be made in accordance with state law and applicable 745
collectively bargained agreements. 746

Sec. 5110.23. (A) The department of job and family services 747
shall compile both of the following: 748

(1) A list consisting of the name of each drug manufacturer 749
that enters into a rebate agreement under section 5110.21 of the 750
Revised Code and the names of the drugs included in each rebate 751
agreement; 752

(2) A list consisting of the name of each participating 753
terminal distributor. 754

(B) The lists compiled under this section are public records 755
for the purpose of section 149.43 of the Revised Code. The 756
department shall specifically make the lists available to 757
physicians, participating terminal distributors, and other health 758
professionals. 759

Sec. 5110.25. (A) All of the following information shall be 760
submitted to the department of job and family services with 761
respect to a state health benefit plan and each state retirement 762
system health benefit plan: 763

(1) The name of the plan; 764

(2) The number of individuals eligible for benefits under the 765
plan; 766

(3) The formula used to determine the per unit price for each 767
drug covered by the plan and dispensed through means other than a 768
mail order system, the per unit price for those drugs, or, if the 769
formula and per unit price are available for submission under this 770
section, both the formula and per unit price. 771

(4) The per unit rebate for each drug covered by the plan and 772
dispensed through a mail order system or means other than a mail 773
order system. 774

(B) The information specified in division (A) of this section 775
shall be submitted in accordance with section 5110.26 of the 776
Revised Code and rules adopted under section 5110.35 of the 777
Revised Code. In the case of a state health benefit plan, the 778
information shall be submitted by the department of administrative 779
services. In the case of a state retirement system health benefit 780
plan, the information shall be submitted by the state retirement 781
system that offers the health benefit plan. The department of 782
administrative services and each state retirement system shall 783
ensure in all of their relationships with other persons that they 784
are able to submit the information to the department of job and 785
family services. 786

Sec. 5110.26. In submitting information about a drug under 787
section 5110.25 of the Revised Code, the department of 788
administrative services and each state retirement system shall do 789

all of the following: 790

(A) Compute and submit information separately for each of the 791
drug's national drug code numbers; 792

(B) Submit the formula, per unit price, or formula and per 793
unit price information after each change to the formula or per 794
unit price, unless the formula or per unit price changes more than 795
once a week, in which case submit the formula or per unit price 796
information at least once each week; 797

(C) Provide for the formula or per unit price information to 798
reflect the formula or per unit price as most recently changed; 799

(D) Submit the information regarding the per unit rebate once 800
a year and provide for the information to reflect the per unit 801
rebate for the previous calendar year. 802

Sec. 5110.27. In accordance with section 5110.28 of the 803
Revised Code and rules adopted under section 5110.35 of the 804
Revised Code, the department of job and family services shall do 805
all of the following for each drug included in the Ohio's best Rx 806
program: 807

(A) On receipt of each submission of formula or per unit 808
price information under division (A)(3) of section 5110.25 of the 809
Revised Code, or, at the department's discretion, more frequent 810
intervals, the department shall do the following using the 811
information available to the department from those submissions: 812

(1) If the drug is covered by one or more state health 813
benefit plans or state retirement system health benefit plans, 814
compute the weighted average of the per unit prices under those 815
plans; 816

(2) If the drug is not covered by any state health benefit 817
plan or state retirement system health benefit plan, compute a 818

weighted average per unit price using the formula information 819
received under division (A)(3) of section 5110.25 of the Revised 820
Code for comparable drugs covered by one or more state health 821
benefit plans or state retirement system health benefit plans. 822

(B) If the drug is covered by a rebate agreement entered into 823
under section 5110.21 of the Revised Code and the department has 824
established a rebate administration percentage by rule adopted 825
under section 5110.35 of the Revised Code, at intervals specified 826
by the department, the department shall do both of the following: 827

(1) Multiply the amount agreed to under division (B)(4)(a) of 828
section 5110.21 of the Revised Code by the rebate administration 829
percentage; 830

(2) Subtract the product determined under division (B)(1) of 831
this section from the amount agreed to under division (B)(4)(a) of 832
section 5110.21 of the Revised Code. 833

(C) If the drug is covered by a rebate agreement entered into 834
under section 5110.21 of the Revised Code, on receipt of each 835
submission of formula or per unit price information under division 836
(A)(3) of section 5110.25 of the Revised Code, or, at the 837
department's discretion, more frequent intervals, the department 838
shall subtract the amount agreed to under division (B)(4) of 839
section 5110.21 of the Revised Code or the amount computed under 840
division (B) of this section, as applicable, from the applicable 841
amount computed under division (A)(1) or (2) of this section. 842

Sec. 5110.28. The department of job and family services shall 843
use the number of individuals eligible for benefits under a state 844
health benefit plan or state retirement system health benefit plan 845
to compute the weighted averages required by division (C)(1) of 846
section 5110.21 and division (A) of section 5110.27 of the Revised 847
Code. 848

Sec. 5110.29. The department of job and family services shall 849
report all of the following to each participating terminal 850
distributor and the Ohio's best Rx program administrator in a 851
manner enabling the distributor and administrator to comply with 852
section 5110.14 of the Revised Code: 853

(A) For each drug included in the Ohio's best Rx program that 854
is not covered by a rebate agreement under section 5110.21 of the 855
Revised Code, the results of the department's computations under 856
division (A) of section 5110.27 of the Revised Code. 857

(B) For each drug included in the program that is covered by 858
a rebate agreement entered into under section 5110.21 of the 859
Revised Code, the results of the department's computations under 860
division (C) of section 5110.27 of the Revised Code. 861

(C) The administrative fee, if any, determined by the 862
department in accordance with rules adopted under section 5110.35 863
of the Revised Code. 864

Sec. 5110.32. (A) The Ohio's best Rx program fund is hereby 865
created. The fund shall be in the custody of the treasurer of 866
state, but shall not be part of the state treasury. The fund shall 867
consist of the following: 868

(1) Rebate payments made by participating manufacturers made 869
pursuant to agreements under section 5110.21 of the Revised Code; 870

(2) Administrative fees; 871

(3) The fund's investment earnings. 872

(B) The department of job and family services shall use money 873
in the Ohio's best Rx program fund to make payments to 874
participating terminal distributors and the Ohio's best Rx program 875
administrator under section 5110.17 of the Revised Code. 876

Sec. 5110.33. (A) The Ohio's best Rx administration fund is 877
hereby created in the state treasury. The treasurer of state shall 878
transfer from the Ohio's best Rx program fund to the Ohio's best 879
Rx administration fund amounts equal to the following: 880

(1) Amounts resulting from application of the rebate 881
administration percentage determined under section 5110.354 of the 882
Revised Code; 883

(2) The amount of administrative fees charged Ohio's best Rx 884
participants; 885

(3) The amount of investment earnings credited to the Ohio's 886
best Rx program fund. 887

The treasurer of state shall make the transfers in accordance 888
with a schedule developed by the treasurer of state and the 889
department of job and family services. 890

(B) The department of job and family services shall use money 891
in the Ohio's best Rx administration fund to pay the 892
administrative costs of the Ohio's best Rx program, including, but 893
not limited to, costs associated with contracted services, staff, 894
outreach activities, computers and network services, and the 895
Ohio's best Rx program council. 896

Sec. 5110.35. The department of job and family services shall 897
adopt rules in accordance with Chapter 119. of the Revised Code to 898
implement the Ohio's best Rx program. The rules shall provide for 899
all of the following: 900

(A) Determination of family income for the purpose of 901
division (A)(2) of section 5110.05 of the Revised Code; 902

(B) For the purpose of section 5110.06 of the Revised Code, 903
the application and annual reapplication process for the program 904
and documentation to be submitted with applications and 905

<u>reapplications for the purpose of verifying eligibility;</u>	906
<u>(C) For the purpose of section 5110.06 of the Revised Code</u>	907
<u>and subject to section 5110.351 of the Revised Code, the</u>	908
<u>application form for the program;</u>	909
<u>(D) The method of providing information about the medicaid</u>	910
<u>program to applicants under section 5110.07 of the Revised Code;</u>	911
<u>(E) For the purpose of section 5110.08 of the Revised Code,</u>	912
<u>eligibility determination procedures;</u>	913
<u>(F) Subject to section 5110.352 of the Revised Code,</u>	914
<u>periodically increasing the maximum professional fee that</u>	915
<u>participating terminal distributors may charge Ohio's best Rx</u>	916
<u>program participants under section 5110.12 of the Revised Code or</u>	917
<u>the Ohio's best Rx program administrator may charge under a</u>	918
<u>contract entered into under section 5110.10 of the Revised Code;</u>	919
<u>(G) Subject to section 5110.353 of the Revised Code, the</u>	920
<u>amount of the administrative fee, if any, participating terminal</u>	921
<u>distributors are to charge Ohio's best Rx program participants</u>	922
<u>under section 5110.12 of the Revised Code or the Ohio's best Rx</u>	923
<u>program administrator may charge under a contract entered into</u>	924
<u>under section 5110.10 of the Revised Code;</u>	925
<u>(H) The electronic method for participating terminal</u>	926
<u>distributors and the Ohio's best Rx program administrator to</u>	927
<u>submit claims to the department under section 5110.16 of the</u>	928
<u>Revised Code;</u>	929
<u>(I) Additional information participating terminal</u>	930
<u>distributors and the Ohio's best Rx program administrator shall</u>	931
<u>include on claims submitted under section 5110.16 of the Revised</u>	932
<u>Code that the department determines is necessary for the</u>	933
<u>department to be able to make payments under section 5110.17 of</u>	934
<u>the Revised Code;</u>	935

(J) The method for making payments to participating terminal 936
distributors or the Ohio's best Rx program administrator under 937
section 5110.17 of the Revised Code; 938

(K) Subject to section 5110.354 of the Revised Code, the 939
percentage that is the rebate administration percentage; 940

(L) If the department determines it is best that 941
participating manufacturers make rebates under section 5110.21 of 942
the Revised Code on a basis other than quarterly, a schedule for 943
payment of the rebates; 944

(M) The process for the department of administrative services 945
and state retirement systems to calculate and submit the 946
information required by section 5110.25 of the Revised Code; 947

(N) Procedures for making computations under sections 5110.21 948
and 5110.27 of the Revised Code; 949

(O) Standards and procedures for the use and preservation of 950
records regarding the Ohio's best Rx program by the department and 951
the Ohio's best Rx program administrator pursuant to section 952
5110.59 of the Revised Code; 953

(P) For the purpose of section 5110.10 of the Revised Code, 954
the standards and procedures governing the operation of the mail 955
order system by the Ohio's best Rx program administrator; 956

(Q) The efficient administration of other provisions of this 957
chapter for which the department determines rules are necessary. 958

Sec. 5110.351. In adopting a rule under division (C) of 959
section 5110.35 of the Revised Code to prescribe the application 960
form for the Ohio's best Rx program, the department of job and 961
family services shall do all of the following: 962

(A) Specify the information that an applicant must include in 963
the application about the applicant and the members of the 964

applicant's family included in the application;

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(B) Require that the applicant attest that the information
the applicant provides in the application and the documentation
submitted with the application is accurate to the best knowledge
and belief of the applicant;

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(C) Include a statement printed in bold letters informing the
applicant that knowingly making a false statement on the form is
falsification under section 2921.13 of the Revised Code, a
misdemeanor of the first degree.

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Sec. 5110.352. As used in this section, "medicaid dispensing
fee" means the dispensing fee established under section 5111.08 of
the Revised Code for the medicaid program.

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In adopting a rule under division (F) of section 5110.35 of
the Revised Code increasing the maximum amount of the professional
fee participating terminal distributors may charge Ohio's best Rx
program participants under section 5110.12 of the Revised Code and
the Ohio's best Rx program administrator may charge under a
contract entered into under section 5110.10 of the Revised Code,
the department of job and family services shall review the amount
of the professional fee once a year or, at the department's
discretion, at more frequent intervals and shall not increase the
professional fee to an amount exceeding the medicaid dispensing
fee.

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A participating terminal distributor and the Ohio's best Rx
program administrator may charge a maximum three dollar
professional fee regardless of whether the medicaid dispensing fee
for that drug is less than that amount. The department, however,
may not adopt a rule increasing the maximum professional fee for
that drug until the medicaid dispensing fee for that drug exceeds
that amount.

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Sec. 5110.353. (A) Once a year or, at the discretion of the 995
department of job and family services, at more frequent intervals, 996
the department shall determine the amount, if any, to be specified 997
in a rule adopted under division (G) of section 5110.35 of the 998
Revised Code as the administrative fee. In determining the amount 999
of the administrative fee, the department shall determine an 1000
amount, not exceeding one dollar per transaction, that equals or 1001
is less than the amount needed to cover the administrative costs 1002
of the Ohio's best Rx program when added to the sum of the 1003
following: 1004

(1) The amount resulting from the application of the rebate 1005
administration percentage; 1006

(2) The investment earnings of the Ohio's best Rx program 1007
fund created by section 5110.32 of the Revised Code. 1008

(B) Once a year or, at the discretion of the department, at 1009
more frequent intervals, the department shall report the 1010
methodology underlying the determination of the administrative fee 1011
to the Ohio's best Rx program council. 1012

Sec. 5110.354. (A) At least once a year or, at the discretion 1013
of the department of job and family services, at more frequent 1014
intervals, the department shall determine the percentage, if any, 1015
to be specified in a rule adopted under division (K) of section 1016
5110.35 of the Revised Code as the rebate administration 1017
percentage. The percentage, which shall not exceed five per cent, 1018
shall result in an amount that equals or is less than the amount 1019
needed to cover the administrative costs of the Ohio's best Rx 1020
program when added to the sum of the following: 1021

(1) The administrative fee specified in section 5110.353 of 1022
the Revised Code; 1023

(2) The investment earnings of the Ohio's best Rx program 1024

fund created by section 5110.32 of the Revised Code. 1025

(B) Once a year or, at the discretion of the department, at 1026
more frequent intervals, the department shall report the 1027
methodology underlying the determination of the rebate 1028
administration percentage to the Ohio's best Rx program council. 1029

Sec. 5110.36. Notwithstanding any provision of this chapter, 1030
the department of job and family services may adopt rules in 1031
accordance with Chapter 119. of the Revised Code to make 1032
adjustments to the Ohio's best Rx program that the department 1033
considers appropriate to conform the program to, or coordinate it 1034
with, any federally funded prescription drug program created after 1035
October 1, 2003. 1036

Sec. 5110.37. The department of job and family services shall 1037
undertake outreach efforts to publicize the Ohio's best Rx program 1038
and maximize participation in the program. 1039

Sec. 5110.38. The department of job and family services may 1040
coordinate the Ohio's best Rx program with a state health benefit 1041
plan to enhance efficiency, reduce the cost of drugs, and maximize 1042
the benefits of the Ohio's best Rx program and state health 1043
benefit plans. 1044

Sec. 5110.39. Not later than April 1, 2005, the department of 1045
job and family services shall do all of the following: 1046

(A) Create a list of the twenty-five drugs most often 1047
dispensed to Ohio's best Rx program participants under the 1048
program, using data from the most recent six-month period for 1049
which the data is available; 1050

(B) Determine the average amount that participating terminal 1051
distributors charge, on a date selected by the department, 1052

participants for each drug included on the list created under 1053
division (A) of this section; 1054

(C) Determine, for the date selected for division (B) of this 1055
section, the average usual and customary charge of participating 1056
terminal distributors for each drug included on the list created 1057
under division (A) of this section; 1058

(D) By comparing the average charges determined under 1059
divisions (B) and (C) of this section, determine the average 1060
percentage savings in the amount participating terminal 1061
distributors charge Ohio's best Rx program participants for each 1062
drug included on the list created under division (A) of this 1063
section. 1064

Sec. 5110.40. The department of job and family services shall 1065
employ an ombudsperson to assist terminal distributors of 1066
dangerous drugs with grievances regarding the Ohio's best Rx 1067
program. 1068

Sec. 5110.45. There is hereby created the Ohio's best Rx 1069
program council. The council shall advise the department of job 1070
and family services on the Ohio's best Rx program. With the 1071
approval of a majority of the council's appointed members, the 1072
council may initiate studies to determine whether there are more 1073
effective ways to administer the program and provide the 1074
department with suggestions for improvements. 1075

Sec. 5110.46. The Ohio's best Rx program council shall 1076
consist of the following members: 1077

(A) The president of the senate; 1078

(B) The speaker of the house of representatives; 1079

(C) The minority leader of the senate; 1080

<u>(D) The minority leader of the house of representatives;</u>	1081
<u>(E) A representative of the Ohio chapter of the American</u>	1082
<u>federation of labor-congress of industrial organizations,</u>	1083
<u>appointed by the governor from a list of names submitted to the</u>	1084
<u>governor by that organization;</u>	1085
<u>(F) A representative of the Ohio chapter of the American</u>	1086
<u>association of retired persons, appointed by the governor from a</u>	1087
<u>list of names submitted to the governor by that organization;</u>	1088
<u>(G) A representative of a disability advocacy organization</u>	1089
<u>located in the state of Ohio, appointed by the governor from a</u>	1090
<u>list of names submitted to the governor by disability advocacy</u>	1091
<u>organizations located in the state of Ohio;</u>	1092
<u>(H) A representative of the Ohio chapter of the united way,</u>	1093
<u>appointed by the governor from a list of names submitted to the</u>	1094
<u>governor by that organization;</u>	1095
<u>(I) A representative of the Ohio alliance of retired</u>	1096
<u>Americans, appointed by the governor from a list of names</u>	1097
<u>submitted to the governor by that organization;</u>	1098
<u>(J) Three representatives of research-based drug</u>	1099
<u>manufacturers, appointed by the governor from a list of names</u>	1100
<u>submitted to the governor by the pharmaceutical research and</u>	1101
<u>manufacturers of America;</u>	1102
<u>(K) A pharmacist licensed under Chapter 4729. of the Revised</u>	1103
<u>Code, appointed by the governor from a list of names submitted to</u>	1104
<u>the governor by the Ohio pharmacists association.</u>	1105
<u>Sec. 5110.47. The governor shall make initial appointments to</u>	1106
<u>the Ohio's best Rx program council not later than thirty days</u>	1107
<u>after the effective date of this section. The members appointed by</u>	1108
<u>the governor shall serve at the pleasure of the governor. If an</u>	1109
<u>appointed member's seat becomes vacant, the governor shall fill</u>	1110

the vacancy not later than thirty days after the vacancy occurs 1111
and in the manner provided for the initial appointment. 1112

Sec. 5110.48. The president of the senate and speaker of the 1113
house of representatives shall serve as co-chairs of the Ohio's 1114
best Rx program council. 1115

The president of the senate, the minority leader of the 1116
senate, the speaker of the house of representatives, and the 1117
minority leader of the house of representatives may each appoint a 1118
member of the general assembly to attend any meeting of the Ohio's 1119
best Rx program council on behalf of the president of the senate, 1120
the minority leader of the senate, the speaker of the house of 1121
representatives, or the minority leader of the house of 1122
representatives, respectively. 1123

Sec. 5110.49. Members of the Ohio's best Rx program council 1124
shall serve without compensation and shall not be reimbursed for 1125
any expenses associated with their duties on the council. 1126

Sec. 5110.50. Except for any part of records that contain a 1127
trade secret, the Ohio's best Rx program council's records are a 1128
public record for the purpose of section 149.43 of the Revised 1129
Code. 1130

Sec. 5110.51. Sections 101.82 to 101.87 of the Revised Code 1131
do not apply to the Ohio's best Rx program council. 1132

Sec. 5110.55. Information transmitted by or to any of the 1133
following for any purpose related to the Ohio's best Rx program is 1134
confidential to the extent required by federal and state law: 1135

(A) Drug manufacturers; 1136

(B) Terminal distributors of dangerous drugs; 1137

<u>(C) The Ohio's best Rx program administrator;</u>	1138
<u>(D) The department of job and family services;</u>	1139
<u>(E) The department of administrative services;</u>	1140
<u>(F) The state retirement systems;</u>	1141
<u>(G) A state health benefit plan or state retirement system</u>	1142
<u>health benefit plan;</u>	1143
<u>(H) Ohio's best Rx program participants;</u>	1144
<u>(I) Any other government entity or person.</u>	1145
 <u>Sec. 5110.56. (A) Except as provided by section 5110.57 of</u>	1146
<u>the Revised Code, all of the following are trade secrets, are not</u>	1147
<u>public records for the purposes of section 149.43 of the Revised</u>	1148
<u>Code, and shall not be used, released, published, or disclosed in</u>	1149
<u>a form that reveals a specific drug or the identity of a drug</u>	1150
<u>manufacturer:</u>	1151
 <u>(1) The amounts determined under section 5110.17 of the</u>	1152
<u>Revised Code;</u>	1153
 <u>(2) Information disclosed in a rebate agreement or in</u>	1154
<u>communications related to a rebate agreement;</u>	1155
 <u>(3) Information that the department of administrative</u>	1156
<u>services and state retirement systems submit to the department of</u>	1157
<u>job and family services under divisions (A)(3) and (4) of section</u>	1158
<u>5110.25 of the Revised Code;</u>	1159
 <u>(4) The elements of the computations under division (C) of</u>	1160
<u>section 5110.21 of the Revised Code and under section 5110.27 of</u>	1161
<u>the Revised Code and any results of those computations that reveal</u>	1162
<u>or could be used to reveal the drug pricing or rebate information</u>	1163
<u>and amounts used to make the computations.</u>	1164
 <u>(B) No person or government entity shall use or reveal any</u>	1165

information specified in division (A) of this section except as 1166
required for the implementation of this chapter. 1167

Sec. 5110.57. Sections 5110.55 and 5110.56 of the Revised 1168
Code shall not preclude the department of job and family services 1169
from disclosing information necessary for the implementation of 1170
this chapter, including the Ohio's best Rx program price to 1171
participating terminal distributors or the Ohio's best Rx program 1172
administrator under section 5110.29 of the Revised Code. 1173

Sec. 5110.58. (A) As used in this section, "identifying 1174
information" means information that identifies or could be used to 1175
identify an Ohio's best Rx program applicant or participant. 1176
"Identifying information" does not include aggregate information 1177
about applicants and participants that does not identify and could 1178
not be used to identify an individual applicant or participant. 1179

(B) Except as provided in divisions (C), (D), and (E) of this 1180
section, no person or government entity shall sell, solicit, 1181
disclose, receive, or use identifying information or knowingly 1182
permit the use of identifying information. 1183

(C)(1) The department of job and family services and the 1184
Ohio's best Rx program administrator may solicit, disclose, 1185
receive, or use identifying information or knowingly permit the 1186
use of identifying information for a purpose directly connected to 1187
the administration of the Ohio's best Rx program, including 1188
disclosing and knowingly permitting the use of identifying 1189
information included in a claim that a participating manufacturer 1190
audits pursuant to division (D) of section 5110.21 of the Revised 1191
Code, contacting Ohio's best Rx program applicants or participants 1192
regarding participation in the program, and notifying applicants 1193
and participants regarding participating terminal distributors. 1194

(2) The department and administrator may solicit, disclose, 1195

receive, or use identifying information or knowingly permit the 1196
use of identifying information to the extent required by federal 1197
law. 1198

(3) The department and administrator may disclose identifying 1199
information to the Ohio's best Rx program applicant or participant 1200
who is the subject of that information or to the parent, spouse, 1201
guardian, or custodian of that applicant or participant. 1202

(D) A participating terminal distributor or the Ohio's best 1203
Rx program administrator may solicit, disclose, receive, or use 1204
identifying information or knowingly permit the use of identifying 1205
information to the extent required or permitted by an agreement 1206
the distributor enters into under section 5110.12 of the Revised 1207
Code or a contract the administrator enters into under section 1208
5110.10 of the Revised Code. 1209

(E) A participating manufacturer may, for the purpose of 1210
auditing a claim pursuant to division (D) of section 5110.21 of 1211
the Revised Code, solicit, receive, and use identifying 1212
information included in the claim. 1213

Sec. 5110.59. The department of job and family services and 1214
the Ohio's best Rx program administrator shall use and preserve 1215
records regarding the Ohio's best Rx program in accordance with 1216
rules adopted under section 5110.35 of the Revised Code. This 1217
section applies to the department's or administrator's use and 1218
preservation of records received or generated by the department, 1219
any other government entity, or any person. 1220

Sec. 5110.99. Whoever violates division (B) of section 1221
5110.58 of the Revised Code is guilty of a misdemeanor of the 1222
first degree. 1223

Section 2. That existing sections 127.16 and 2921.13 of the 1224

Revised Code are hereby repealed. 1225

Section 3. It is not the intention of the General Assembly to 1226
establish an entitlement program through the enactment of Chapter 1227
5110. of the Revised Code by this act. 1228

Section 4. All items in this section are hereby appropriated 1229
as designated out of any moneys in the state treasury to the 1230
credit of the General Revenue Fund and the State Special Revenue 1231
Fund Group. For all appropriations made in this act, those in the 1232
first column are for fiscal year 2004 and those in the second 1233
column are for fiscal year 2005. The appropriations made in this 1234
act are in addition to any other appropriations made for the 1235
2003-2005 biennium. 1236

JFS DEPARTMENT OF JOB AND FAMILY SERVICES 1237

General Revenue Fund 1238

GRF 600-440 Ohio's Best Rx	\$	10,000,000	\$	0	1239
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Start-Up Costs

TOTAL GRF General Revenue Fund	\$	10,000,000	\$	0	1240
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State Special Revenue Fund Group 1241

5AA 600-440 Ohio's Best Rx	\$	5,000,000	\$	5,000,000	1242
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Administration

TOTAL SSR State Special Revenue	\$	5,000,000	\$	5,000,000	1243
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Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	15,000,000	\$	5,000,000	1244
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OHIO'S BEST RX START-UP COSTS 1245

The foregoing appropriation item 600-440, Ohio's Best Rx 1246
Start-Up Costs, shall be used by the Department of Job and Family 1247
Services to pay for the administrative and operational expenses 1248
for the creation and operation of the Ohio's Best Rx Program in 1249
accordance with Chapter 5110. of the Revised Code including costs 1250

associated with the duties assigned by the department to the 1251
Ohio's Best Rx Program Administrator and making payments to 1252
participating terminal distributors until sufficient cash exists 1253
to make payments from the accounts created in sections 5110.32 and 1254
5110.33 of the Revised Code. Of the foregoing appropriation item 1255
600-440, Ohio's Best Rx Start-up Costs, not more than \$450,000 in 1256
fiscal year 2004 and not more than \$750,000 in fiscal year 2005 1257
may be used by the department for administrative and operational 1258
costs, excluding outreach, that are not associated with the Ohio's 1259
Best Rx Program Administrator or the payments to participating 1260
terminal distributors. 1261

If the Director of the Department of Job and Family Services 1262
estimates that the appropriation is insufficient to fully cover 1263
start-up costs, the Director shall, in consultation with the 1264
Director of the Office of Budget and Management, submit a letter 1265
to the Governor, President of the Senate, Speaker of the House of 1266
Representatives, and the Minority Leaders of the Senate and House 1267
of Representatives. The letter shall declare the additional 1268
appropriation authority estimated to be needed and shall show a 1269
breakdown of how the additional appropriation authority will be 1270
used. The Director of Job and Family Services shall obtain the 1271
approval of the Controlling Board for any supplemental 1272
appropriation, if required. The amount approved by the Controlling 1273
Board is hereby appropriated. The use of state funds for start-up 1274
costs shall in no way obligate the state to fund further program 1275
costs, as the program is a discount program, not an entitlement 1276
program. Any unspent appropriations from fiscal year 2004 may be 1277
carried over to fiscal year 2005. 1278

OHIO'S BEST RX ADMINISTRATION 1279

The foregoing appropriation item 600-673, Ohio's Best Rx 1280
Administration, shall be used on an ongoing basis to cover 1281
expenses associated with the Ohio's Best Rx Program defined in 1282

section 5110.33 of the Revised Code. If receipts to the fund 1283
exceed the appropriated amounts, the Director of Job and Family 1284
Services may request that the Director of Budget and Management 1285
increase the appropriation authority of this fund. Upon approval 1286
from the Director of Budget and Management, the additional amounts 1287
are hereby appropriated. 1288

Within the limits set forth in this act, the Director of 1289
Budget and Management shall establish accounts indicating source 1290
and amount of funds for each appropriation made in this act, and 1291
shall determine the form and manner in which appropriation 1292
accounts shall be maintained. Expenditures from appropriations 1293
contained in this act shall be accounted for as though made in Am. 1294
Sub. H.B. 95 of the 125th General Assembly. 1295

The appropriations made in this act are subject to all 1296
provisions of Am. Sub. H.B. 95 of the 125th General Assembly that 1297
are generally applicable to such appropriations. 1298

Section 5. The codified and uncodified sections of law 1299
contained in this act, and the items of law of which they are 1300
composed, are not subject to the referendum. Therefore, under Ohio 1301
Constitution, Article II, Section 1d and section 1.471 of the 1302
Revised Code, the codified and uncodified sections of law 1303
contained in this act, and the items of law of which they are 1304
composed, go into immediate effect when this act becomes law. 1305