

**As Passed by the House**

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**Am. Sub. H. B. No. 166**

**Representative Schindel**

**Cosponsors: Representatives Adams, Bubp, Combs, DeWine, Flowers,  
Gibbs, Seitz, Stebelton, Widener, Zehringer, Aslanides, Bacon, Batchelder,  
Blessing, Coley, Collier, Daniels, Dolan, Evans, Fessler, Hagan, J., Hite,  
Hottinger, Huffman, Hughes, McGregor, R., Patton, Schneider, Setzer,  
Uecker, Wachtmann, Wagner, Wagoner, Widowfield**

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**A B I L L**

To amend section 124.341 and to enact sections 126.40 1  
to 126.43 of the Revised Code to create an Office 2  
of Internal Auditing within the Office of Budget 3  
and Management, to establish the State Audit 4  
Committee, and to prescribe their respective and 5  
interrelated functions. 6

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

**Section 1.** That section 124.341 be amended and sections 7  
126.40, 126.41, 126.42, and 126.43 of the Revised Code be enacted 8  
to read as follows: 9

**Sec. 124.341.** (A) If an employee in the classified or 10  
unclassified civil service becomes aware in the course of 11  
employment of a violation of state or federal statutes, rules, or 12  
regulations or the misuse of public resources, and the employee's 13  
supervisor or appointing authority has authority to correct the 14  
violation or misuse, the employee may file a written report 15

identifying the violation or misuse with the supervisor or 16  
appointing authority. In addition to or instead of filing a 17  
written report with the supervisor or appointing authority, the 18  
employee may file a written report with the office of internal 19  
auditing created under section 126.40 of the Revised Code. 20

If the employee reasonably believes that a violation or 21  
misuse of public resources is a criminal offense, the employee, in 22  
addition to or instead of filing a written report with the 23  
supervisor or appointing authority, may report it to a prosecuting 24  
attorney, director of law, village solicitor, or similar chief 25  
legal officer of a municipal corporation, to a peace officer, as 26  
defined in section 2935.01 of the Revised Code, or, if the 27  
violation or misuse of public resources is within the jurisdiction 28  
of the inspector general, to the inspector general in accordance 29  
with section 121.46 of the Revised Code. In addition to that 30  
report, if the employee reasonably believes the violation or 31  
misuse is also a violation of Chapter 102., section 2921.42, or 32  
section 2921.43 of the Revised Code, the employee may report it to 33  
the appropriate ethics commission. 34

(B) Except as otherwise provided in division (C) of this 35  
section, no officer or employee in the classified or unclassified 36  
civil service shall take any disciplinary action against an 37  
employee in the classified or unclassified civil service for 38  
making any report authorized by division (A) of this section, 39  
including, without limitation, doing any of the following: 40

(1) Removing or suspending the employee from employment; 41

(2) Withholding from the employee salary increases or 42  
employee benefits to which the employee is otherwise entitled; 43

(3) Transferring or reassigning the employee; 44

(4) Denying the employee promotion that otherwise would have 45  
been received; 46

(5) Reducing the employee in pay or position. 47

(C) An employee in the classified or unclassified civil 48  
service shall make a reasonable effort to determine the accuracy 49  
of any information reported under division (A) of this section. 50  
The employee is subject to disciplinary action, including 51  
suspension or removal, as determined by the employee's appointing 52  
authority, for purposely, knowingly, or recklessly reporting false 53  
information under division (A) of this section. 54

(D) If an appointing authority takes any disciplinary or 55  
retaliatory action against a classified or unclassified employee 56  
as a result of the employee's having filed a report under division 57  
(A) of this section, the employee's sole and exclusive remedy, 58  
notwithstanding any other provision of law, is to file an appeal 59  
with the state personnel board of review within thirty days after 60  
receiving actual notice of the appointing authority's action. If 61  
the employee files such an appeal, the board shall immediately 62  
notify the employee's appointing authority and shall hear the 63  
appeal. The board may affirm or disaffirm the action of the 64  
appointing authority or may issue any other order as is 65  
appropriate. The order of the board is appealable in accordance 66  
with Chapter 119. of the Revised Code. 67

(E) As used in this section: 68

(1) "Purposely," "knowingly," and "recklessly" have the same 69  
meanings as in section 2901.22 of the Revised Code. 70

(2) "Appropriate ethics commission" has the same meaning as 71  
in section 102.01 of the Revised Code. 72

(3) "Inspector general" means the inspector general appointed 73  
under section 121.48 of the Revised Code. 74

Sec. 126.40. (A) As used in sections 126.40 to 126.43 of the 75  
Revised Code, "state agency" means the administrative departments 76

listed in section 121.02 of the Revised Code, the department of 77  
taxation, and the bureau of workers' compensation. 78

(B) The office of internal auditing is hereby created in the 79  
office of budget and management to conduct internal audits of 80  
state agencies or divisions of state agencies to improve their 81  
operations in the areas of risk management, internal controls, and 82  
governance. The director of budget and management, with the 83  
approval of the governor, shall appoint for the office of internal 84  
auditing a chief internal auditor who meets the qualifications 85  
specified in division (C) of this section. The chief internal 86  
auditor shall serve at the director's pleasure and be responsible 87  
for the administration of the office of internal auditing 88  
consistent with sections 126.40 to 126.43 of the Revised Code. 89

The office of internal auditing shall conduct programs for 90  
the internal auditing of state agencies. The programs shall 91  
include an annual internal audit plan, approved by the state audit 92  
committee, that utilizes risk assessment techniques and identifies 93  
the specific audits to be conducted during the year. The programs 94  
also shall include periodic audits of each state agency's major 95  
systems and controls, including those systems and controls 96  
pertaining to accounting, administration, and electronic data 97  
processing. Upon the request of the office of internal auditing, 98  
each state agency shall provide office employees access to all 99  
records and documents necessary for the performance of an internal 100  
audit. 101

The director of budget and management shall assess a charge 102  
against each state agency for which the office of internal 103  
auditing conducts internal auditing programs under sections 126.40 104  
to 126.43 of the Revised Code so that the total amount of these 105  
charges is sufficient to cover the costs of the operation of the 106  
office of internal auditing. 107

(C) The chief internal auditor of the office of internal 108

auditing shall hold at least a bachelor's degree and be one of the 109  
following: 110

(1) A certified internal auditor, a certified government 111  
auditing professional, or a certified public accountant, who also 112  
has held a PA registration or a CPA certificate authorized by 113  
Chapter 4701. of the Revised Code for at least four years and has 114  
at least six years of auditing experience; 115

(2) An auditor who has held a PA registration or a CPA 116  
certificate authorized by Chapter 4701. of the Revised Code for at 117  
least four years and has at least ten years of auditing 118  
experience. 119

(D) The chief internal auditor, subject to the direction and 120  
control of the director of budget and management, may appoint and 121  
maintain any staff necessary to carry out the duties assigned by 122  
sections 126.40 to 126.43 of the Revised Code to the office of 123  
internal auditing or to the chief internal auditor. 124

**Sec. 126.41.** (A)(1) There is hereby created the state audit 125  
committee, consisting of the following five members: one member 126  
appointed by the governor; two public members appointed by the 127  
speaker of the house of representatives; and two public members 128  
appointed by the president of the senate. Not more than two of the 129  
four public members appointed by the speaker of the house of 130  
representatives and the president of the senate shall belong to or 131  
be affiliated with the same political party. The member appointed 132  
by the governor shall be a person who is external to the 133  
management structure associated with the preparation of financial 134  
statements of state government and shall have the program and 135  
management expertise required to perform the duties of the 136  
committee's chairperson. 137

Each public member of the committee shall serve a three-year 138  
term commencing on the first day of August in the appropriate year 139

and ending on the thirty-first day of July in the appropriate 140  
year, except for the initial public members. With respect to the 141  
initial appointments of the public members, the term of the first 142  
public member appointed by the speaker of the house of 143  
representatives shall be for a one-year term, the term of the 144  
second public member appointed by the speaker of the house of 145  
representatives shall be for a three-year term, and the term of 146  
the initial public members appointed by the president of the 147  
senate shall be for two-year terms. The term for the initial 148  
public members shall begin on August 1, 2007. Public members may 149  
be reappointed to serve one additional term. 150

The committee shall include one public member who is a 151  
financial expert; one public member who is an active, inactive, or 152  
retired certified public accountant; one public member who is 153  
familiar with governmental financial accounting; and one public 154  
member who is a representative of the public. 155

Any vacancy on the committee shall be filled in the same 156  
manner as provided in this division, and, when applicable, the 157  
person appointed to fill a vacancy shall serve the remainder of 158  
the predecessor's term. 159

(2) Members of the committee shall receive reimbursement for 160  
actual and necessary expenses incurred in the discharge of their 161  
duties. 162

(3) The member of the committee appointed by the governor 163  
shall serve as the committee's chairperson. 164

(B) The state audit committee shall do all of the following: 165

(1) Ensure that the internal audits conducted by the office 166  
of internal auditing in the office of budget and management 167  
conform to the institute of internal auditors' international 168  
standards for the professional practice of internal auditing and 169  
to the institute of internal auditors' code of ethics; 170

(2) Review the process used by the office of budget and management to prepare its annual budgetary financial report and the state's comprehensive annual financial report required under division (A)(9) of section 126.21 of the Revised Code; 171  
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(3) Review unaudited financial statements submitted to the auditor of state and communicate with external auditors as required by government auditing standards; 175  
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(4) Perform the additional functions imposed upon it by section 126.42 of the Revised Code. 178  
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(C) As used in this section, "financial expert" means a person who has all of the following: 180  
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(1) An understanding of generally accepted accounting principles and financial statements; 182  
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(2) The ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves; 184  
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(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities; 187  
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(4) An understanding of internal controls and procedures for financial reporting; and 193  
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(5) An understanding of audit committee functions. 195

**Sec. 126.42.** (A) The state audit committee created by section 126.41 of the Revised Code shall ensure that the office of internal auditing in the office of budget and management has an annual internal audit plan that identifies the internal audits of state agencies or divisions of state agencies scheduled for the 196  
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next fiscal year. The chief internal auditor of the office of 201  
internal auditing shall submit the plan to the state audit 202  
committee for approval before the beginning of each fiscal year. 203  
The chief internal auditor may submit a revised internal audit 204  
plan for approval at any time the director of budget and 205  
management believes there is reason to modify the previously 206  
submitted plan for a fiscal year. 207

(B) To determine the state agencies or divisions of state 208  
agencies that are to be internally audited, the office of internal 209  
auditing, in the formulation of an annual or revised internal 210  
audit plan, and the state audit committee, in approving a 211  
submitted annual or revised internal audit plan, shall consider 212  
the following factors: 213

(1) The risk for fraud, waste, or abuse of public money 214  
within an agency or division; 215

(2) The length of time since an agency or division was last 216  
subject to an internal audit; 217

(3) The size of an agency or division, and the amount of time 218  
and resources necessary to audit it; 219

(4) Any other factor the state audit committee determines to 220  
be relevant. 221

(C) All internal audits shall be conducted only by employees 222  
of the office of internal auditing. 223

(D) After the conclusion of an internal audit, the chief 224  
internal auditor shall submit a preliminary report of the internal 225  
audit's findings and recommendations to the state audit committee 226  
and to the director of the state agency involved. The state agency 227  
or division of the state agency covered by the preliminary report 228  
shall be provided an opportunity to respond within thirty days 229  
after receipt of the preliminary report. The response shall 230  
include a corrective action plan for any recommendations in the 231



preliminary report that are not disputed by the agency or 232  
division. Any response received by the office of internal auditing 233  
within that thirty-day period shall be included in the office's 234  
final report of the internal audit's findings and recommendations. 235  
The final report shall be issued by the office of internal 236  
auditing within thirty days after the termination of the 237  
thirty-day response period. Copies of the final report shall be 238  
submitted to the state audit committee, the governor, and the 239  
director of the state agency involved. The state audit committee 240  
shall determine an appropriate method for making the preliminary 241  
and final reports available for public inspection in a timely 242  
manner. 243

Any suspected fraud or other illegal activity discovered by 244  
the office of internal auditing during the conduct of an internal 245  
audit shall be reported immediately to the state audit committee, 246  
the director of the state agency in which the fraud or illegal 247  
activity is suspected to have occurred, and the auditor of state. 248

(E) The chief internal auditor shall prepare an annual report 249  
and submit the report to the governor, the president of the 250  
senate, the speaker of the house of representatives, and the 251  
auditor of state. The office of budget and management shall make 252  
the report available to the public by posting it on the office's 253  
web site before the first of July of each year. 254

**Sec. 126.43.** Any preliminary or final report of an internal 255  
audit's findings and recommendations which is produced by the 256  
office of internal auditing in the office of budget and management 257  
and all work papers of the internal audit are confidential and are 258  
not public records under section 149.43 of the Revised Code until 259  
the final report of an internal audit's findings and 260  
recommendations is submitted to the state audit committee, the 261  
governor, and the director of the state agency involved. 262

Section 2. That existing section 124.341 of the Revised Code 263  
is hereby repealed. 264

Section 3. (A) It is the intent of the General Assembly in 265  
the enactment of section 126.40 of the Revised Code that the 266  
primary internal audit function of state agencies as defined in 267  
that section will be carried out by the Office of Internal 268  
Auditing of the Office of Budget and Management. 269

(B) Before May 1, 2008, the Director of Budget and 270  
Management, in consultation with the Director of Administrative 271  
Services and the State Audit Committee created in section 126.41 272  
of the Revised Code, shall develop a plan to commence operations 273  
of the Office of Internal Auditing. The plan shall do all of the 274  
following: 275

(1) Identify those existing employees within state agencies 276  
as defined in section 126.40 of the Revised Code who perform the 277  
function of an internal auditor and who will be transferred to the 278  
Office of Internal Auditing; 279

(2) Establish funds and appropriation authority that is 280  
necessary for the efficient and effective operation of the Office 281  
of Internal Auditing; 282

(3) Provide for a method to assess charges against the 283  
various state agencies for which the Office of Internal Auditing 284  
conducts internal auditing programs under sections 126.40 to 285  
126.43 of the Revised Code that the total amount of these charges 286  
is sufficient to cover the costs of the operation of the Office of 287  
Internal Auditing; 288

(4) Provide for the appropriate reduction in the 289  
appropriation authority of the state agencies from which existing 290  
employees who perform the function of internal auditor are 291  
transferred. 292

(C) The Controlling Board shall approve the plan before the 293  
Office of Budget and Management implements it. 294

(D) Subject to the layoff and displacement provisions of 295  
Chapter 124. of the Revised Code, all state agency employees who 296  
are identified by the plan as performing duties necessary to 297  
comply with sections 126.40 to 126.43 of the Revised Code shall be 298  
transferred, upon the approval of the Controlling Board, to the 299  
Office of Internal Auditing and shall retain their positions, 300  
compensation, and associated fringe benefits. 301