

# As Introduced

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Representative Henne

Cosponsors: Representatives Young, Blair, Schuring, Huffman, Uecker,  
Slaby, Grossman, Johnson, Newbold, Brenner

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## A B I L L

To amend sections 149.43, 3313.33, 3313.811, and 1  
5705.341 and to enact section 3313.174 of the 2  
Revised Code to authorize a pilot program for 3  
school districts in Montgomery County to operate 4  
certain for-profit activities. 5

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

**Section 1.** That section 3313.174 of the Revised Code be 6  
enacted to read as follows: 7

**Sec. 3313.174.** As used in this section, "public school" means 8  
a school district, a community school established under Chapter 9  
3314. of the Revised Code, a STEM school established under Chapter 10  
3326. of the Revised Code, a college-preparatory boarding school 11  
established under Chapter 3328. of the Revised Code, an 12  
educational service center, or a school operated by a county board 13  
of developmental disabilities. 14

This section shall operate as a pilot program, limited to 15  
school districts with any territory in Montgomery county, to 16  
demonstrate the effect of profit-making activities by school 17  
districts. 18

(A) The board of education of any school district with any of its territory located in Montgomery county, by a majority vote of all its members, may approve the operation of any of the following activities for profit by the district, for a duration determined by the board, if the activities are related to the ordinary functions of the school district:

(1) Design, development, distribution, licensing, or sale of technology to another public school, a nonpublic school, or any other nonprofit entity, regardless of where the school or entity is located;

(2) Provision of training, consulting, or educational services to another public school, a nonpublic school, any person, or any other public or private entity, regardless of where the school, person, or entity is located;

(3) Sale of merchandise and other paraphernalia resembling the school district's identified brand;

(4) Except as provided in sections 3313.76 and 3313.78, and subject to the provisions of sections 3313.75 and 3313.77 of the Revised Code, rental of the district's facilities.

(B) Notwithstanding any other provision of the Revised Code, operating a for-profit activity under this section shall be considered a proper school purpose.

(C) The board may allocate school district funds, property, personnel, and other resources to a for-profit activity approved under this section, so long as the allocation does not substantially interfere with the education of pupils in the school district. The board may acquire real or personal property by lease or purchase for a for-profit activity operated under this section.

(D) Notwithstanding any other provision of the Revised Code, the board may determine the price and terms for any licensing agreement, consulting-services agreement, or any other products or

services provided by an activity approved under this section. 50  
Section 3313.41 of the Revised Code does not apply to nor affect 51  
the license or sale of any personal property under this section. 52

(E) All profits earned by the district through an activity 53  
approved under this section shall be either placed in the school 54  
district's general fund or reinvested into the operation of the 55  
activity. 56

(F) The provisions of section 3313.17 of the Revised Code 57  
apply to a for-profit activity approved under this section. 58

(G)(1) The board may appoint employees, including 59  
administrative, teaching, and nonteaching employees, who are 60  
completely, primarily, or in part employed to serve the needs of a 61  
for-profit activity approved under this section. 62

(2) An employee employed under this division shall serve at 63  
the pleasure of the board, subject to any contract entered into 64  
between the board and the employee. 65

(3) No employee employed under this division is a "public 66  
employee" for purposes of Chapter 4117. of the Revised Code. 67

(4) The provisions of this division prevail over any 68  
conflicting provisions of a collective bargaining agreement 69  
entered into by the district board on or after the effective date 70  
of this section. 71

(H) No revenue earned by a school district under this section 72  
shall affect the district's payments or adjustments under sections 73  
321.24 and 323.156 or Chapter 3317. of the Revised Code or the 74  
computation of the district's "state education aid" under either 75  
section 5727.84 or 5751.20 of the Revised Code. 76

(I) Not later than three years after the effective date of 77  
this section, the superintendent of public instruction, in 78  
consultation with school districts undertaking a profit-making 79

activity under this section, shall evaluate the implementation and 80  
operation of the pilot program and submit legislative 81  
recommendations to the governor and the general assembly, in 82  
accordance with section 101.68 of the Revised Code, as to the 83  
benefits, burdens, and other issues of the pilot program and 84  
whether or to what extent the pilot program should be continued, 85  
expanded in scope, or reduced in scope. 86

**Section 2.** That sections 149.43, 3313.33, 3313.811, and 87  
5705.341 of the Revised Code be amended to read as follows: 88

**Sec. 149.43.** (A) As used in this section: 89

(1) "Public record" means records kept by any public office, 90  
including, but not limited to, state, county, city, village, 91  
township, and school district units, and records pertaining to the 92  
delivery of educational services by an alternative school in this 93  
state kept by the nonprofit or for-profit entity operating the 94  
alternative school pursuant to section 3313.533 of the Revised 95  
Code. "Public record" does not mean any of the following: 96

(a) Medical records; 97

(b) Records pertaining to probation and parole proceedings or 98  
to proceedings related to the imposition of community control 99  
sanctions and post-release control sanctions; 100

(c) Records pertaining to actions under section 2151.85 and 101  
division (C) of section 2919.121 of the Revised Code and to 102  
appeals of actions arising under those sections; 103

(d) Records pertaining to adoption proceedings, including the 104  
contents of an adoption file maintained by the department of 105  
health under section 3705.12 of the Revised Code; 106

(e) Information in a record contained in the putative father 107  
registry established by section 3107.062 of the Revised Code, 108

regardless of whether the information is held by the department of 109  
job and family services or, pursuant to section 3111.69 of the 110  
Revised Code, the office of child support in the department or a 111  
child support enforcement agency; 112

(f) Records listed in division (A) of section 3107.42 of the 113  
Revised Code or specified in division (A) of section 3107.52 of 114  
the Revised Code; 115

(g) Trial preparation records; 116

(h) Confidential law enforcement investigatory records; 117

(i) Records containing information that is confidential under 118  
section 2710.03 or 4112.05 of the Revised Code; 119

(j) DNA records stored in the DNA database pursuant to 120  
section 109.573 of the Revised Code; 121

(k) Inmate records released by the department of 122  
rehabilitation and correction to the department of youth services 123  
or a court of record pursuant to division (E) of section 5120.21 124  
of the Revised Code; 125

(l) Records maintained by the department of youth services 126  
pertaining to children in its custody released by the department 127  
of youth services to the department of rehabilitation and 128  
correction pursuant to section 5139.05 of the Revised Code; 129

(m) Intellectual property records; 130

(n) Donor profile records; 131

(o) Records maintained by the department of job and family 132  
services pursuant to section 3121.894 of the Revised Code; 133

(p) Peace officer, parole officer, probation officer, 134  
bailiff, prosecuting attorney, assistant prosecuting attorney, 135  
correctional employee, youth services employee, firefighter, EMT, 136  
or investigator of the bureau of criminal identification and 137  
investigation residential and familial information; 138

(q) In the case of a county hospital operated pursuant to 139  
Chapter 339. of the Revised Code or a municipal hospital operated 140  
pursuant to Chapter 749. of the Revised Code, information that 141  
constitutes a trade secret, as defined in section 1333.61 of the 142  
Revised Code; 143

(r) Information pertaining to the recreational activities of 144  
a person under the age of eighteen; 145

(s) Records provided to, statements made by review board 146  
members during meetings of, and all work products of a child 147  
fatality review board acting under sections 307.621 to 307.629 of 148  
the Revised Code, and child fatality review data submitted by the 149  
child fatality review board to the department of health or a 150  
national child death review database, other than the report 151  
prepared pursuant to division (A) of section 307.626 of the 152  
Revised Code; 153

(t) Records provided to and statements made by the executive 154  
director of a public children services agency or a prosecuting 155  
attorney acting pursuant to section 5153.171 of the Revised Code 156  
other than the information released under that section; 157

(u) Test materials, examinations, or evaluation tools used in 158  
an examination for licensure as a nursing home administrator that 159  
the board of examiners of nursing home administrators administers 160  
under section 4751.04 of the Revised Code or contracts under that 161  
section with a private or government entity to administer; 162

(v) Records the release of which is prohibited by state or 163  
federal law; 164

(w) Proprietary information of or relating to any person that 165  
is submitted to or compiled by the Ohio venture capital authority 166  
created under section 150.01 of the Revised Code; 167

(x) Information reported and evaluations conducted pursuant 168  
to section 3701.072 of the Revised Code; 169

(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(z) Records listed in section 5101.29 of the Revised Code;

(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(cc) Any documents, electronic files, or other records maintained by a school district pertaining to research and development of technology or other trade secrets associated with a for-profit activity operated by the district under section 3313.174 of the Revised Code or any such document maintained by the department of education for purposes of division (I) of that section.

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

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

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which

information would reasonably tend to disclose the source's or 201  
witness's identity; 202

(c) Specific confidential investigatory techniques or 203  
procedures or specific investigatory work product; 204

(d) Information that would endanger the life or physical 205  
safety of law enforcement personnel, a crime victim, a witness, or 206  
a confidential information source. 207

(3) "Medical record" means any document or combination of 208  
documents, except births, deaths, and the fact of admission to or 209  
discharge from a hospital, that pertains to the medical history, 210  
diagnosis, prognosis, or medical condition of a patient and that 211  
is generated and maintained in the process of medical treatment. 212

(4) "Trial preparation record" means any record that contains 213  
information that is specifically compiled in reasonable 214  
anticipation of, or in defense of, a civil or criminal action or 215  
proceeding, including the independent thought processes and 216  
personal trial preparation of an attorney. 217

(5) "Intellectual property record" means a record, other than 218  
a financial or administrative record, that is produced or 219  
collected by or for faculty or staff of a state institution of 220  
higher learning in the conduct of or as a result of study or 221  
research on an educational, commercial, scientific, artistic, 222  
technical, or scholarly issue, regardless of whether the study or 223  
research was sponsored by the institution alone or in conjunction 224  
with a governmental body or private concern, and that has not been 225  
publicly released, published, or patented. 226

(6) "Donor profile record" means all records about donors or 227  
potential donors to a public institution of higher education 228  
except the names and reported addresses of the actual donors and 229  
the date, amount, and conditions of the actual donation. 230

(7) "Peace officer, parole officer, probation officer, 231



bailiff, prosecuting attorney, assistant prosecuting attorney, 232  
correctional employee, youth services employee, firefighter, EMT, 233  
or investigator of the bureau of criminal identification and 234  
investigation residential and familial information" means any 235  
information that discloses any of the following about a peace 236  
officer, parole officer, probation officer, bailiff, prosecuting 237  
attorney, assistant prosecuting attorney, correctional employee, 238  
youth services employee, firefighter, EMT, or investigator of the 239  
bureau of criminal identification and investigation: 240

(a) The address of the actual personal residence of a peace 241  
officer, parole officer, probation officer, bailiff, assistant 242  
prosecuting attorney, correctional employee, youth services 243  
employee, firefighter, EMT, or an investigator of the bureau of 244  
criminal identification and investigation, except for the state or 245  
political subdivision in which the peace officer, parole officer, 246  
probation officer, bailiff, assistant prosecuting attorney, 247  
correctional employee, youth services employee, firefighter, EMT, 248  
or investigator of the bureau of criminal identification and 249  
investigation resides; 250

(b) Information compiled from referral to or participation in 251  
an employee assistance program; 252

(c) The social security number, the residential telephone 253  
number, any bank account, debit card, charge card, or credit card 254  
number, or the emergency telephone number of, or any medical 255  
information pertaining to, a peace officer, parole officer, 256  
probation officer, bailiff, prosecuting attorney, assistant 257  
prosecuting attorney, correctional employee, youth services 258  
employee, firefighter, EMT, or investigator of the bureau of 259  
criminal identification and investigation; 260

(d) The name of any beneficiary of employment benefits, 261  
including, but not limited to, life insurance benefits, provided 262  
to a peace officer, parole officer, probation officer, bailiff, 263

prosecuting attorney, assistant prosecuting attorney, correctional 264  
employee, youth services employee, firefighter, EMT, or 265  
investigator of the bureau of criminal identification and 266  
investigation by the peace officer's, parole officer's, probation 267  
officer's, bailiff's, prosecuting attorney's, assistant 268  
prosecuting attorney's, correctional employee's, youth services 269  
employee's, firefighter's, EMT's, or investigator of the bureau of 270  
criminal identification and investigation's employer; 271

(e) The identity and amount of any charitable or employment 272  
benefit deduction made by the peace officer's, parole officer's, 273  
probation officer's, bailiff's, prosecuting attorney's, assistant 274  
prosecuting attorney's, correctional employee's, youth services 275  
employee's, firefighter's, EMT's, or investigator of the bureau of 276  
criminal identification and investigation's employer from the 277  
peace officer's, parole officer's, probation officer's, bailiff's, 278  
prosecuting attorney's, assistant prosecuting attorney's, 279  
correctional employee's, youth services employee's, firefighter's, 280  
EMT's, or investigator of the bureau of criminal identification 281  
and investigation's compensation unless the amount of the 282  
deduction is required by state or federal law; 283

(f) The name, the residential address, the name of the 284  
employer, the address of the employer, the social security number, 285  
the residential telephone number, any bank account, debit card, 286  
charge card, or credit card number, or the emergency telephone 287  
number of the spouse, a former spouse, or any child of a peace 288  
officer, parole officer, probation officer, bailiff, prosecuting 289  
attorney, assistant prosecuting attorney, correctional employee, 290  
youth services employee, firefighter, EMT, or investigator of the 291  
bureau of criminal identification and investigation; 292

(g) A photograph of a peace officer who holds a position or 293  
has an assignment that may include undercover or plain clothes 294  
positions or assignments as determined by the peace officer's 295

appointing authority. 296

As used in divisions (A)(7) and (B)(9) of this section, 297  
"peace officer" has the same meaning as in section 109.71 of the 298  
Revised Code and also includes the superintendent and troopers of 299  
the state highway patrol; it does not include the sheriff of a 300  
county or a supervisory employee who, in the absence of the 301  
sheriff, is authorized to stand in for, exercise the authority of, 302  
and perform the duties of the sheriff. 303

As used in divisions (A)(7) and (B)(5) of this section, 304  
"correctional employee" means any employee of the department of 305  
rehabilitation and correction who in the course of performing the 306  
employee's job duties has or has had contact with inmates and 307  
persons under supervision. 308

As used in divisions (A)(7) and (B)(5) of this section, 309  
"youth services employee" means any employee of the department of 310  
youth services who in the course of performing the employee's job 311  
duties has or has had contact with children committed to the 312  
custody of the department of youth services. 313

As used in divisions (A)(7) and (B)(9) of this section, 314  
"firefighter" means any regular, paid or volunteer, member of a 315  
lawfully constituted fire department of a municipal corporation, 316  
township, fire district, or village. 317

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 318  
means EMTs-basic, EMTs-I, and paramedics that provide emergency 319  
medical services for a public emergency medical service 320  
organization. "Emergency medical service organization," 321  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 322  
section 4765.01 of the Revised Code. 323

As used in divisions (A)(7) and (B)(9) of this section, 324  
"investigator of the bureau of criminal identification and 325  
investigation" has the meaning defined in section 2903.11 of the 326

Revised Code. 327

(8) "Information pertaining to the recreational activities of 328  
a person under the age of eighteen" means information that is kept 329  
in the ordinary course of business by a public office, that 330  
pertains to the recreational activities of a person under the age 331  
of eighteen years, and that discloses any of the following: 332

(a) The address or telephone number of a person under the age 333  
of eighteen or the address or telephone number of that person's 334  
parent, guardian, custodian, or emergency contact person; 335

(b) The social security number, birth date, or photographic 336  
image of a person under the age of eighteen; 337

(c) Any medical record, history, or information pertaining to 338  
a person under the age of eighteen; 339

(d) Any additional information sought or required about a 340  
person under the age of eighteen for the purpose of allowing that 341  
person to participate in any recreational activity conducted or 342  
sponsored by a public office or to use or obtain admission 343  
privileges to any recreational facility owned or operated by a 344  
public office. 345

(9) "Community control sanction" has the same meaning as in 346  
section 2929.01 of the Revised Code. 347

(10) "Post-release control sanction" has the same meaning as 348  
in section 2967.01 of the Revised Code. 349

(11) "Redaction" means obscuring or deleting any information 350  
that is exempt from the duty to permit public inspection or 351  
copying from an item that otherwise meets the definition of a 352  
"record" in section 149.011 of the Revised Code. 353

(12) "Designee" and "elected official" have the same meanings 354  
as in section 109.43 of the Revised Code. 355

(B)(1) Upon request and subject to division (B)(8) of this 356

section, all public records responsive to the request shall be 357  
promptly prepared and made available for inspection to any person 358  
at all reasonable times during regular business hours. Subject to 359  
division (B)(8) of this section, upon request, a public office or 360  
person responsible for public records shall make copies of the 361  
requested public record available at cost and within a reasonable 362  
period of time. If a public record contains information that is 363  
exempt from the duty to permit public inspection or to copy the 364  
public record, the public office or the person responsible for the 365  
public record shall make available all of the information within 366  
the public record that is not exempt. When making that public 367  
record available for public inspection or copying that public 368  
record, the public office or the person responsible for the public 369  
record shall notify the requester of any redaction or make the 370  
redaction plainly visible. A redaction shall be deemed a denial of 371  
a request to inspect or copy the redacted information, except if 372  
federal or state law authorizes or requires a public office to 373  
make the redaction. 374

(2) To facilitate broader access to public records, a public 375  
office or the person responsible for public records shall organize 376  
and maintain public records in a manner that they can be made 377  
available for inspection or copying in accordance with division 378  
(B) of this section. A public office also shall have available a 379  
copy of its current records retention schedule at a location 380  
readily available to the public. If a requester makes an ambiguous 381  
or overly broad request or has difficulty in making a request for 382  
copies or inspection of public records under this section such 383  
that the public office or the person responsible for the requested 384  
public record cannot reasonably identify what public records are 385  
being requested, the public office or the person responsible for 386  
the requested public record may deny the request but shall provide 387  
the requester with an opportunity to revise the request by 388  
informing the requester of the manner in which records are 389

maintained by the public office and accessed in the ordinary 390  
course of the public office's or person's duties. 391

(3) If a request is ultimately denied, in part or in whole, 392  
the public office or the person responsible for the requested 393  
public record shall provide the requester with an explanation, 394  
including legal authority, setting forth why the request was 395  
denied. If the initial request was provided in writing, the 396  
explanation also shall be provided to the requester in writing. 397  
The explanation shall not preclude the public office or the person 398  
responsible for the requested public record from relying upon 399  
additional reasons or legal authority in defending an action 400  
commenced under division (C) of this section. 401

(4) Unless specifically required or authorized by state or 402  
federal law or in accordance with division (B) of this section, no 403  
public office or person responsible for public records may limit 404  
or condition the availability of public records by requiring 405  
disclosure of the requester's identity or the intended use of the 406  
requested public record. Any requirement that the requester 407  
disclose the requestor's identity or the intended use of the 408  
requested public record constitutes a denial of the request. 409

(5) A public office or person responsible for public records 410  
may ask a requester to make the request in writing, may ask for 411  
the requester's identity, and may inquire about the intended use 412  
of the information requested, but may do so only after disclosing 413  
to the requester that a written request is not mandatory and that 414  
the requester may decline to reveal the requester's identity or 415  
the intended use and when a written request or disclosure of the 416  
identity or intended use would benefit the requester by enhancing 417  
the ability of the public office or person responsible for public 418  
records to identify, locate, or deliver the public records sought 419  
by the requester. 420

(6) If any person chooses to obtain a copy of a public record 421

in accordance with division (B) of this section, the public office 422  
or person responsible for the public record may require that 423  
person to pay in advance the cost involved in providing the copy 424  
of the public record in accordance with the choice made by the 425  
person seeking the copy under this division. The public office or 426  
the person responsible for the public record shall permit that 427  
person to choose to have the public record duplicated upon paper, 428  
upon the same medium upon which the public office or person 429  
responsible for the public record keeps it, or upon any other 430  
medium upon which the public office or person responsible for the 431  
public record determines that it reasonably can be duplicated as 432  
an integral part of the normal operations of the public office or 433  
person responsible for the public record. When the person seeking 434  
the copy makes a choice under this division, the public office or 435  
person responsible for the public record shall provide a copy of 436  
it in accordance with the choice made by the person seeking the 437  
copy. Nothing in this section requires a public office or person 438  
responsible for the public record to allow the person seeking a 439  
copy of the public record to make the copies of the public record. 440

(7) Upon a request made in accordance with division (B) of 441  
this section and subject to division (B)(6) of this section, a 442  
public office or person responsible for public records shall 443  
transmit a copy of a public record to any person by United States 444  
mail or by any other means of delivery or transmission within a 445  
reasonable period of time after receiving the request for the 446  
copy. The public office or person responsible for the public 447  
record may require the person making the request to pay in advance 448  
the cost of postage if the copy is transmitted by United States 449  
mail or the cost of delivery if the copy is transmitted other than 450  
by United States mail, and to pay in advance the costs incurred 451  
for other supplies used in the mailing, delivery, or transmission. 452

Any public office may adopt a policy and procedures that it 453

will follow in transmitting, within a reasonable period of time 454  
after receiving a request, copies of public records by United 455  
States mail or by any other means of delivery or transmission 456  
pursuant to this division. A public office that adopts a policy 457  
and procedures under this division shall comply with them in 458  
performing its duties under this division. 459

In any policy and procedures adopted under this division, a 460  
public office may limit the number of records requested by a 461  
person that the office will transmit by United States mail to ten 462  
per month, unless the person certifies to the office in writing 463  
that the person does not intend to use or forward the requested 464  
records, or the information contained in them, for commercial 465  
purposes. For purposes of this division, "commercial" shall be 466  
narrowly construed and does not include reporting or gathering 467  
news, reporting or gathering information to assist citizen 468  
oversight or understanding of the operation or activities of 469  
government, or nonprofit educational research. 470

(8) A public office or person responsible for public records 471  
is not required to permit a person who is incarcerated pursuant to 472  
a criminal conviction or a juvenile adjudication to inspect or to 473  
obtain a copy of any public record concerning a criminal 474  
investigation or prosecution or concerning what would be a 475  
criminal investigation or prosecution if the subject of the 476  
investigation or prosecution were an adult, unless the request to 477  
inspect or to obtain a copy of the record is for the purpose of 478  
acquiring information that is subject to release as a public 479  
record under this section and the judge who imposed the sentence 480  
or made the adjudication with respect to the person, or the 481  
judge's successor in office, finds that the information sought in 482  
the public record is necessary to support what appears to be a 483  
justiciable claim of the person. 484

(9)(a) Upon written request made and signed by a journalist 485



on or after December 16, 1999, a public office, or person 486  
responsible for public records, having custody of the records of 487  
the agency employing a specified peace officer, parole officer, 488  
probation officer, bailiff, prosecuting attorney, assistant 489  
prosecuting attorney, correctional employee, youth services 490  
employee, firefighter, EMT, or investigator of the bureau of 491  
criminal identification and investigation shall disclose to the 492  
journalist the address of the actual personal residence of the 493  
peace officer, parole officer, probation officer, bailiff, 494  
prosecuting attorney, assistant prosecuting attorney, correctional 495  
employee, youth services employee, firefighter, EMT, or 496  
investigator of the bureau of criminal identification and 497  
investigation and, if the peace officer's, parole officer's, 498  
probation officer's, bailiff's, prosecuting attorney's, assistant 499  
prosecuting attorney's, correctional employee's, youth services 500  
employee's, firefighter's, EMT's, or investigator of the bureau of 501  
criminal identification and investigation's spouse, former spouse, 502  
or child is employed by a public office, the name and address of 503  
the employer of the peace officer's, parole officer's, probation 504  
officer's, bailiff's, prosecuting attorney's, assistant 505  
prosecuting attorney's, correctional employee's, youth services 506  
employee's, firefighter's, EMT's, or investigator of the bureau of 507  
criminal identification and investigation's spouse, former spouse, 508  
or child. The request shall include the journalist's name and 509  
title and the name and address of the journalist's employer and 510  
shall state that disclosure of the information sought would be in 511  
the public interest. 512

(b) Division (B)(9)(a) of this section also applies to 513  
journalist requests for customer information maintained by a 514  
municipally owned or operated public utility, other than social 515  
security numbers and any private financial information such as 516  
credit reports, payment methods, credit card numbers, and bank 517  
account information. 518

(c) As used in division (B)(9) of this section, "journalist" 519  
means a person engaged in, connected with, or employed by any news 520  
medium, including a newspaper, magazine, press association, news 521  
agency, or wire service, a radio or television station, or a 522  
similar medium, for the purpose of gathering, processing, 523  
transmitting, compiling, editing, or disseminating information for 524  
the general public. 525

(C)(1) If a person allegedly is aggrieved by the failure of a 526  
public office or the person responsible for public records to 527  
promptly prepare a public record and to make it available to the 528  
person for inspection in accordance with division (B) of this 529  
section or by any other failure of a public office or the person 530  
responsible for public records to comply with an obligation in 531  
accordance with division (B) of this section, the person allegedly 532  
aggrieved may commence a mandamus action to obtain a judgment that 533  
orders the public office or the person responsible for the public 534  
record to comply with division (B) of this section, that awards 535  
court costs and reasonable attorney's fees to the person that 536  
instituted the mandamus action, and, if applicable, that includes 537  
an order fixing statutory damages under division (C)(1) of this 538  
section. The mandamus action may be commenced in the court of 539  
common pleas of the county in which division (B) of this section 540  
allegedly was not complied with, in the supreme court pursuant to 541  
its original jurisdiction under Section 2 of Article IV, Ohio 542  
Constitution, or in the court of appeals for the appellate 543  
district in which division (B) of this section allegedly was not 544  
complied with pursuant to its original jurisdiction under Section 545  
3 of Article IV, Ohio Constitution. 546

If a requestor transmits a written request by hand delivery 547  
or certified mail to inspect or receive copies of any public 548  
record in a manner that fairly describes the public record or 549  
class of public records to the public office or person responsible 550

for the requested public records, except as otherwise provided in 551  
this section, the requestor shall be entitled to recover the 552  
amount of statutory damages set forth in this division if a court 553  
determines that the public office or the person responsible for 554  
public records failed to comply with an obligation in accordance 555  
with division (B) of this section. 556

The amount of statutory damages shall be fixed at one hundred 557  
dollars for each business day during which the public office or 558  
person responsible for the requested public records failed to 559  
comply with an obligation in accordance with division (B) of this 560  
section, beginning with the day on which the requester files a 561  
mandamus action to recover statutory damages, up to a maximum of 562  
one thousand dollars. The award of statutory damages shall not be 563  
construed as a penalty, but as compensation for injury arising 564  
from lost use of the requested information. The existence of this 565  
injury shall be conclusively presumed. The award of statutory 566  
damages shall be in addition to all other remedies authorized by 567  
this section. 568

The court may reduce an award of statutory damages or not 569  
award statutory damages if the court determines both of the 570  
following: 571

(a) That, based on the ordinary application of statutory law 572  
and case law as it existed at the time of the conduct or 573  
threatened conduct of the public office or person responsible for 574  
the requested public records that allegedly constitutes a failure 575  
to comply with an obligation in accordance with division (B) of 576  
this section and that was the basis of the mandamus action, a 577  
well-informed public office or person responsible for the 578  
requested public records reasonably would believe that the conduct 579  
or threatened conduct of the public office or person responsible 580  
for the requested public records did not constitute a failure to 581  
comply with an obligation in accordance with division (B) of this 582

section; 583

(b) That a well-informed public office or person responsible 584  
for the requested public records reasonably would believe that the 585  
conduct or threatened conduct of the public office or person 586  
responsible for the requested public records would serve the 587  
public policy that underlies the authority that is asserted as 588  
permitting that conduct or threatened conduct. 589

(2)(a) If the court issues a writ of mandamus that orders the 590  
public office or the person responsible for the public record to 591  
comply with division (B) of this section and determines that the 592  
circumstances described in division (C)(1) of this section exist, 593  
the court shall determine and award to the relator all court 594  
costs. 595

(b) If the court renders a judgment that orders the public 596  
office or the person responsible for the public record to comply 597  
with division (B) of this section, the court may award reasonable 598  
attorney's fees subject to reduction as described in division 599  
(C)(2)(c) of this section. The court shall award reasonable 600  
attorney's fees, subject to reduction as described in division 601  
(C)(2)(c) of this section when either of the following applies: 602

(i) The public office or the person responsible for the 603  
public records failed to respond affirmatively or negatively to 604  
the public records request in accordance with the time allowed 605  
under division (B) of this section. 606

(ii) The public office or the person responsible for the 607  
public records promised to permit the relator to inspect or 608  
receive copies of the public records requested within a specified 609  
period of time but failed to fulfill that promise within that 610  
specified period of time. 611

(c) Court costs and reasonable attorney's fees awarded under 612  
this section shall be construed as remedial and not punitive. 613

Reasonable attorney's fees shall include reasonable fees incurred 614  
to produce proof of the reasonableness and amount of the fees and 615  
to otherwise litigate entitlement to the fees. The court may 616  
reduce an award of attorney's fees to the relator or not award 617  
attorney's fees to the relator if the court determines both of the 618  
following: 619

(i) That, based on the ordinary application of statutory law 620  
and case law as it existed at the time of the conduct or 621  
threatened conduct of the public office or person responsible for 622  
the requested public records that allegedly constitutes a failure 623  
to comply with an obligation in accordance with division (B) of 624  
this section and that was the basis of the mandamus action, a 625  
well-informed public office or person responsible for the 626  
requested public records reasonably would believe that the conduct 627  
or threatened conduct of the public office or person responsible 628  
for the requested public records did not constitute a failure to 629  
comply with an obligation in accordance with division (B) of this 630  
section; 631

(ii) That a well-informed public office or person responsible 632  
for the requested public records reasonably would believe that the 633  
conduct or threatened conduct of the public office or person 634  
responsible for the requested public records as described in 635  
division (C)(2)(c)(i) of this section would serve the public 636  
policy that underlies the authority that is asserted as permitting 637  
that conduct or threatened conduct. 638

(D) Chapter 1347. of the Revised Code does not limit the 639  
provisions of this section. 640

(E)(1) To ensure that all employees of public offices are 641  
appropriately educated about a public office's obligations under 642  
division (B) of this section, all elected officials or their 643  
appropriate designees shall attend training approved by the 644  
attorney general as provided in section 109.43 of the Revised 645

Code. In addition, all public offices shall adopt a public records 646  
policy in compliance with this section for responding to public 647  
records requests. In adopting a public records policy under this 648  
division, a public office may obtain guidance from the model 649  
public records policy developed and provided to the public office 650  
by the attorney general under section 109.43 of the Revised Code. 651  
Except as otherwise provided in this section, the policy may not 652  
limit the number of public records that the public office will 653  
make available to a single person, may not limit the number of 654  
public records that it will make available during a fixed period 655  
of time, and may not establish a fixed period of time before it 656  
will respond to a request for inspection or copying of public 657  
records, unless that period is less than eight hours. 658

(2) The public office shall distribute the public records 659  
policy adopted by the public office under division (E)(1) of this 660  
section to the employee of the public office who is the records 661  
custodian or records manager or otherwise has custody of the 662  
records of that office. The public office shall require that 663  
employee to acknowledge receipt of the copy of the public records 664  
policy. The public office shall create a poster that describes its 665  
public records policy and shall post the poster in a conspicuous 666  
place in the public office and in all locations where the public 667  
office has branch offices. The public office may post its public 668  
records policy on the internet web site of the public office if 669  
the public office maintains an internet web site. A public office 670  
that has established a manual or handbook of its general policies 671  
and procedures for all employees of the public office shall 672  
include the public records policy of the public office in the 673  
manual or handbook. 674

(F)(1) The bureau of motor vehicles may adopt rules pursuant 675  
to Chapter 119. of the Revised Code to reasonably limit the number 676  
of bulk commercial special extraction requests made by a person 677

for the same records or for updated records during a calendar 678  
year. The rules may include provisions for charges to be made for 679  
bulk commercial special extraction requests for the actual cost of 680  
the bureau, plus special extraction costs, plus ten per cent. The 681  
bureau may charge for expenses for redacting information, the 682  
release of which is prohibited by law. 683

(2) As used in division (F)(1) of this section: 684

(a) "Actual cost" means the cost of depleted supplies, 685  
records storage media costs, actual mailing and alternative 686  
delivery costs, or other transmitting costs, and any direct 687  
equipment operating and maintenance costs, including actual costs 688  
paid to private contractors for copying services. 689

(b) "Bulk commercial special extraction request" means a 690  
request for copies of a record for information in a format other 691  
than the format already available, or information that cannot be 692  
extracted without examination of all items in a records series, 693  
class of records, or data base by a person who intends to use or 694  
forward the copies for surveys, marketing, solicitation, or resale 695  
for commercial purposes. "Bulk commercial special extraction 696  
request" does not include a request by a person who gives 697  
assurance to the bureau that the person making the request does 698  
not intend to use or forward the requested copies for surveys, 699  
marketing, solicitation, or resale for commercial purposes. 700

(c) "Commercial" means profit-seeking production, buying, or 701  
selling of any good, service, or other product. 702

(d) "Special extraction costs" means the cost of the time 703  
spent by the lowest paid employee competent to perform the task, 704  
the actual amount paid to outside private contractors employed by 705  
the bureau, or the actual cost incurred to create computer 706  
programs to make the special extraction. "Special extraction 707  
costs" include any charges paid to a public agency for computer or 708

records services. 709

(3) For purposes of divisions (F)(1) and (2) of this section, 710  
"surveys, marketing, solicitation, or resale for commercial 711  
purposes" shall be narrowly construed and does not include 712  
reporting or gathering news, reporting or gathering information to 713  
assist citizen oversight or understanding of the operation or 714  
activities of government, or nonprofit educational research. 715

**Sec. 3313.33.** (A) Conveyances made by a board of education, 716  
including conveyances and contracts necessary for the operation of 717  
a for-profit activity under section 3313.174 of the Revised Code, 718  
shall be executed by the president and treasurer thereof. 719

(B) Except as provided in division (C) of this section, no 720  
member of the board shall have, directly or indirectly, any 721  
pecuniary interest in any contract of the board or be employed in 722  
any manner for compensation by the board of which the person is a 723  
member. No contract shall be binding upon any board unless it is 724  
made or authorized at a regular or special meeting of such board. 725

(C) A member of the board may have a pecuniary interest in a 726  
contract of the board if all of the following apply: 727

(1) The member's pecuniary interest in that contract is that 728  
the member is employed by a political subdivision, 729  
instrumentality, or agency of the state that is contracting with 730  
the board; 731

(2) The member does not participate in any discussion or 732  
debate regarding the contract or vote on the contract; 733

(3) The member files with the school district treasurer an 734  
affidavit stating the member's exact employment status with the 735  
political subdivision, instrumentality, or agency contracting with 736  
the board. 737

(D) This section does not apply where a member of the board, 738



being a shareholder of a corporation but not being an officer or 739  
director thereof, owns not in excess of five per cent of the stock 740  
of such corporation. If a stockholder desires to avail self of the 741  
exception, before entering upon such contract such person shall 742  
first file with the treasurer an affidavit stating the 743  
stockholder's exact status and connection with said corporation. 744

This section does not apply where a member of the board 745  
elects to be covered by a health care plan under section 3313.202 746  
of the Revised Code. 747

**Sec. 3313.811.** No board, the principal or teacher of any 748  
schoolroom, or class organization of any school district shall 749  
sell or offer for sale, or supervise the sale of uniform school 750  
supplies, foods, candies, or like supplies for profit on the 751  
school premises except when the profit derived from such sale is 752  
to be used for school purposes or for any activity in connection 753  
with the school on whose premises such uniform school supplies, 754  
food, candies, or supplies are sold or offered for sale. No 755  
individual student or class of students, acting as an agent for 756  
any person or group of persons directly connected with the school 757  
shall sell or offer for sale for profit outside the school 758  
building, any such articles, except when the profit derived from 759  
such sale is to be used for school purposes or for any activity in 760  
connection with the school. 761

Uniform school supplies are those adopted by the board for 762  
use in the schools of the district. 763

The enforcement of this section shall be under the 764  
jurisdiction of the state board of education. 765

The school district board of education shall provide 766  
revolving accounts for the purchase and sale of uniform school 767  
supplies either by appropriations from the general fund or 768  
accumulation from sales or receipts. Such accounts shall be kept 769

separate from other transactions of the board. 770

This section does not apply to a for-profit activity approved 771  
by a district board under section 3313.174 of the Revised Code. 772

**Sec. 5705.341.** Any person required to pay taxes on real, 773  
public utility, or tangible personal property in any taxing 774  
district or other political subdivision of this state may appeal 775  
to the board of tax appeals from the action of the county budget 776  
commission of any county which relates to the fixing of uniform 777  
rates of taxation and the rate necessary to be levied by each 778  
taxing authority within its subdivision or taxing unit and which 779  
action has been certified by the county budget commission to the 780  
taxing authority of any political subdivision or other taxing 781  
district within the county. 782

Such appeal shall be in writing and shall set forth the tax 783  
rate complained of and the reason that such a tax rate is not 784  
necessary to produce the revenue needed by the taxing district or 785  
political subdivision for the ensuing fiscal year as those needs 786  
are set out in the tax budget of said taxing unit or, if adoption 787  
of a tax budget was waived under section 5705.281 of the Revised 788  
Code, as set out in such other information the district or 789  
subdivision was required to provide under that section, or that 790  
the action of the budget commission appealed from does not 791  
otherwise comply with sections 5705.01 to 5705.47 of the Revised 792  
Code. The notice of appeal shall be filed with the board of tax 793  
appeals, and a true copy thereof shall be filed with the tax 794  
commissioner, the county auditor, and with the fiscal officer of 795  
each taxing district or political subdivision authorized to levy 796  
the tax complained of, and such notice of appeal and copies 797  
thereof must be filed within thirty days after the budget 798  
commission has certified its action as provided by section 5705.34 799  
of the Revised Code. Such notice of appeal and the copies thereof 800

may be filed either in person or by certified mail. If filed by 801  
certified mail, the date of the United States postmark placed on 802  
the sender's receipt by the postal employee to whom the notice of 803  
appeal is presented shall be treated as the date of filing. 804

Prior to filing the appeal provided by this section, the 805  
appellant shall deposit with the county auditor of the county or, 806  
in the event the appeal concerns joint taxing districts in two or 807  
more counties, with the county auditor of the county with the 808  
greatest valuation of taxable property the sum of five hundred 809  
dollars to cover the costs of the proceeding. The county auditor 810  
shall forthwith issue a pay-in order and pay such money into the 811  
county treasury to the credit of the general fund. The appellant 812  
shall produce the receipt of the county treasurer for such deposit 813  
and shall file such receipt with the notice of appeal. 814

The board of tax appeals shall forthwith consider the matter 815  
presented on appeal from the action of the county budget 816  
commission and may modify any action of the commission with 817  
reference to the fixing of tax rates, to the end that no tax rate 818  
shall be levied above that necessary to produce the revenue needed 819  
by the taxing district or political subdivision for the ensuing 820  
fiscal year and to the end that the action of the budget 821  
commission appealed from shall otherwise be in conformity with 822  
sections 5705.01 to 5705.47 of the Revised Code. The findings of 823  
the board of tax appeals shall be substituted for the findings of 824  
the budget commission and shall be sent to the county auditor and 825  
the taxing authority of the taxing district or political 826  
subdivision affected as the action of such budget commission under 827  
sections 5705.01 to 5705.47 of the Revised Code and to the tax 828  
commissioner. At the request of an appellant, the findings of the 829  
board of tax appeals shall be sent by certified mail at the 830  
appellant's expense. 831

The board of tax appeals shall promptly prepare a cost bill 832

listing the expenses incurred by the board in conducting any 833  
hearing on the appeal and certify the cost bill to the county 834  
auditor of the county receiving the deposit for costs, who shall 835  
forthwith draw a warrant on the general fund of the county in 836  
favor of the person or persons named in the bill of costs 837  
certified by the board of tax appeals. 838

In the event the appellant prevails, the board of tax appeals 839  
promptly shall direct the county auditor to refund the deposit to 840  
the appellant and the costs shall be taxed to the taxing district 841  
or political subdivision involved in the appeal. The county 842  
auditor shall withhold from any funds then or thereafter in the 843  
auditor's possession belonging to the taxing district or political 844  
subdivision named in the order of the board of tax appeals and 845  
shall reimburse the general fund of the county. 846

If the appellant fails, the costs shall be deducted from the 847  
deposit provided for in this section and any balance which remains 848  
shall be refunded promptly to the appellant by warrant of the 849  
county auditor drawn on the general fund of the county. 850

Nothing in this section or any section of the Revised Code 851  
shall permit or require the levying of any rate of taxation, 852  
whether within the ten-mill limitation or whether the levy has 853  
been approved by the electors of the taxing district, the 854  
political subdivision, or the charter of a municipal corporation 855  
in excess of such ten-mill limitation, unless such rate of 856  
taxation for the ensuing fiscal year is clearly required by a 857  
budget of the taxing district or political subdivision properly 858  
and lawfully adopted under this chapter, or by other information 859  
that must be provided under section 5705.281 of the Revised Code 860  
if a tax budget was waived. Notwithstanding the foregoing, the 861  
profits or benefits derived from a for-profit activity approved by 862  
a school district board of education and operated by the district 863  
under section 3313.174 of the Revised Code may not be used to 864

reduce the district's levying of any rate of taxation or its tax 865  
revenue as determined by the county budget commission. However, 866  
the school district board may reduce the rate of taxation of a 867  
levy approved by the electors, at its discretion, due to revenue 868  
the district receives from that activity. 869

In the event more than one appeal is filed involving the same 870  
taxing district or political subdivision, all such appeals may be 871  
consolidated by the board of tax appeals and heard at the same 872  
time. 873

Nothing herein contained shall be construed to bar or 874  
prohibit the tax commissioner from initiating an investigation or 875  
hearing on the commissioner's own motion. 876

The tax commissioner shall adopt and issue such orders, 877  
rules, and instructions, not inconsistent with law, as the 878  
commissioner deems necessary, as to the exercise of the powers and 879  
the discharge of the duties of any particular county budget 880  
commission, county auditor, or other officer which relate to the 881  
budget, the assessment of property, or the levy and collection of 882  
taxes. The commissioner shall cause the orders and instructions 883  
issued by the commissioner to be obeyed. 884

**Section 3.** That existing sections 149.43, 3313.33, 3313.811, 885  
and 5705.341 of the Revised Code are hereby repealed. 886

**Section 4.** Section 149.43 of the Revised Code is presented in 887  
this act as a composite of the section as amended by both Sub. 888  
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 889  
General Assembly, applying the principle stated in division (B) of 890  
section 1.52 of the Revised Code that amendments are to be 891  
harmonized if reasonably capable of simultaneous operation, finds 892  
that the composite is the resulting version of the section in 893  
effect prior to the effective date of the section as presented in 894  
this act. 895