130th General Assembly Regular Session 2013-2014

H. B. No. 218

Representatives Rosenberger, Dovilla

Cosponsors: Representatives Scherer, Reece, Smith, Baker, Fedor, Buchy, Barnes, Burkley, Hagan, C.

ABILL

To amend sections 102.02 and 107.63 and to enact
section 107.631 of the Revised Code to require the
Small Business Advisory Council to establish an
entrepreneur in residence pilot program.

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

Section 1. That sections 102.02 and 107.63 be amended and 5 section 107.631 of the Revised Code be enacted to read as follows: Sec. 102.02. (A) Except as otherwise provided in division (H) 7 of this section, all of the following shall file with the 8 appropriate ethics commission the disclosure statement described 9 in this division on a form prescribed by the appropriate 10 commission: every person who is elected to or is a candidate for a 11 state, county, or city office and every person who is appointed to 12 fill a vacancy for an unexpired term in such an elective office; 13 all members of the state board of education; the director, 14 assistant directors, deputy directors, division chiefs, or persons 15 of equivalent rank of any administrative department of the state; 16 the president or other chief administrative officer of every state 17

institution of higher education as defined in section 3345.011 of 18 the Revised Code; the executive director and the members of the 19 capitol square review and advisory board appointed or employed 20 pursuant to section 105.41 of the Revised Code; all members of the 21 Ohio casino control commission, the executive director of the 22 commission, all professional employees of the commission, and all 23 technical employees of the commission who perform an internal 24 audit function; the individuals set forth in division (B)(2) of 25 section 187.03 of the Revised Code; the chief executive officer 26 and the members of the board of each state retirement system; each 27 employee of a state retirement board who is a state retirement 28 system investment officer licensed pursuant to section 1707.163 of 29 the Revised Code; the members of the Ohio retirement study council 30 appointed pursuant to division (C) of section 171.01 of the 31 Revised Code; employees of the Ohio retirement study council, 32 other than employees who perform purely administrative or clerical 33 functions; the administrator of workers' compensation and each 34 member of the bureau of workers' compensation board of directors; 35 the bureau of workers' compensation director of investments; the 36 chief investment officer of the bureau of workers' compensation; 37 all members of the board of commissioners on grievances and 38 discipline of the supreme court and the ethics commission created 39 under section 102.05 of the Revised Code; every business manager, 40 treasurer, or superintendent of a city, local, exempted village, 41 joint vocational, or cooperative education school district or an 42 educational service center; every person who is elected to or is a 43 candidate for the office of member of a board of education of a 44 city, local, exempted village, joint vocational, or cooperative 45 education school district or of a governing board of an 46 educational service center that has a total student count of 47 twelve thousand or more as most recently determined by the 48

department of education pursuant to section 3317.03 of the Revised

Code; every person who is appointed to the board of education of a

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municipal school district pursuant to division (B) or (F) of 51 section 3311.71 of the Revised Code; all members of the board of 52 directors of a sanitary district that is established under Chapter 53 6115. of the Revised Code and organized wholly for the purpose of 54 providing a water supply for domestic, municipal, and public use, 55 and that includes two municipal corporations in two counties; 56 every public official or employee who is paid a salary or wage in 57 accordance with schedule C of section 124.15 or schedule E-2 of 58 section 124.152 of the Revised Code; members of the board of 59 trustees and the executive director of the southern Ohio 60 agricultural and community development foundation; all members 61 appointed to the Ohio livestock care standards board under section 62 904.02 of the Revised Code; all entrepreneurs in residence 63 assigned by the small business advisory council under section 64 107.631 of the Revised Code; and every other public official or 65 employee who is designated by the appropriate ethics commission 66 pursuant to division (B) of this section. 67

The disclosure statement shall include all of the following:

- (1) The name of the person filing the statement and each
 member of the person's immediate family and all names under which
 the person or members of the person's immediate family do
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 business;
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- (2)(a) Subject to divisions (A)(2)(b) and (c) of this section 73 and except as otherwise provided in section 102.022 of the Revised 74 Code, identification of every source of income, other than income 75 from a legislative agent identified in division (A)(2)(b) of this 76 section, received during the preceding calendar year, in the 77 person's own name or by any other person for the person's use or 78 benefit, by the person filing the statement, and a brief 79 description of the nature of the services for which the income was 80 received. If the person filing the statement is a member of the 81 general assembly, the statement shall identify the amount of every 82

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source of income received in accordance with the following ranges 83 of amounts: zero or more, but less than one thousand dollars; one 84 thousand dollars or more, but less than ten thousand dollars; ten 85 thousand dollars or more, but less than twenty-five thousand 86 dollars; twenty-five thousand dollars or more, but less than fifty 87 thousand dollars; fifty thousand dollars or more, but less than 88 one hundred thousand dollars; and one hundred thousand dollars or 89 more. Division (A)(2)(a) of this section shall not be construed to 90 require a person filing the statement who derives income from a 91 business or profession to disclose the individual items of income 92 that constitute the gross income of that business or profession, 93 except for those individual items of income that are attributable 94 to the person's or, if the income is shared with the person, the 95 partner's, solicitation of services or goods or performance, 96 arrangement, or facilitation of services or provision of goods on 97 behalf of the business or profession of clients, including 98 corporate clients, who are legislative agents. A person who files 99 the statement under this section shall disclose the identity of 100 and the amount of income received from a person who the public 101 official or employee knows or has reason to know is doing or 102 seeking to do business of any kind with the public official's or 103 employee's agency. 104

(b) If the person filing the statement is a member of the 105 general assembly, the statement shall identify every source of 106 income and the amount of that income that was received from a 107 legislative agent during the preceding calendar year, in the 108 person's own name or by any other person for the person's use or 109 benefit, by the person filing the statement, and a brief 110 description of the nature of the services for which the income was 111 received. Division (A)(2)(b) of this section requires the 112 disclosure of clients of attorneys or persons licensed under 113 section 4732.12 of the Revised Code, or patients of persons 114 certified under section 4731.14 of the Revised Code, if those 115

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clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives 117 income from a business or profession to disclose those individual 118 items of income that constitute the gross income of that business 119 or profession that are received from legislative agents. 120

(c) Except as otherwise provided in division (A)(2)(c) of 121 this section, division (A)(2)(a) of this section applies to 122 attorneys, physicians, and other persons who engage in the 123 practice of a profession and who, pursuant to a section of the 124 Revised Code, the common law of this state, a code of ethics 125 applicable to the profession, or otherwise, generally are required 126 not to reveal, disclose, or use confidences of clients, patients, 127 or other recipients of professional services except under 128 specified circumstances or generally are required to maintain 129 those types of confidences as privileged communications except 130 under specified circumstances. Division (A)(2)(a) of this section 131 does not require an attorney, physician, or other professional 132 subject to a confidentiality requirement as described in division 133 (A)(2)(c) of this section to disclose the name, other identity, or 134 address of a client, patient, or other recipient of professional 135 services if the disclosure would threaten the client, patient, or 136 other recipient of professional services, would reveal details of 137 the subject matter for which legal, medical, or professional 138 advice or other services were sought, or would reveal an otherwise 139 privileged communication involving the client, patient, or other 140 recipient of professional services. Division (A)(2)(a) of this 141 section does not require an attorney, physician, or other 142 professional subject to a confidentiality requirement as described 143 in division (A)(2)(c) of this section to disclose in the brief 144 description of the nature of services required by division 145 (A)(2)(a) of this section any information pertaining to specific 146 professional services rendered for a client, patient, or other 147 recipient of professional services that would reveal details of 148 the subject matter for which legal, medical, or professional 149 advice was sought or would reveal an otherwise privileged 150 communication involving the client, patient, or other recipient of 151 professional services. 152

- (3) The name of every corporation on file with the secretary 153 of state that is incorporated in this state or holds a certificate 154 of compliance authorizing it to do business in this state, trust, 155 business trust, partnership, or association that transacts 156 business in this state in which the person filing the statement or 157 any other person for the person's use and benefit had during the 158 preceding calendar year an investment of over one thousand dollars 159 at fair market value as of the thirty-first day of December of the 160 preceding calendar year, or the date of disposition, whichever is 161 earlier, or in which the person holds any office or has a 162 fiduciary relationship, and a description of the nature of the 163 investment, office, or relationship. Division (A)(3) of this 164 section does not require disclosure of the name of any bank, 165 savings and loan association, credit union, or building and loan 166 association with which the person filing the statement has a 167 deposit or a withdrawable share account. 168
- (4) All fee simple and leasehold interests to which the
 person filing the statement holds legal title to or a beneficial
 interest in real property located within the state, excluding the
 person's residence and property used primarily for personal
 recreation;

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- (5) The names of all persons residing or transacting business 174 in the state to whom the person filing the statement owes, in the 175 person's own name or in the name of any other person, more than 176 one thousand dollars. Division (A)(5) of this section shall not be 177 construed to require the disclosure of debts owed by the person 178 resulting from the ordinary conduct of a business or profession or 179 debts on the person's residence or real property used primarily 180

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for personal recreation, except that the superintendent of 181 financial institutions shall disclose the names of all 182 state-chartered savings and loan associations and of all service 183 corporations subject to regulation under division (E)(2) of 184 section 1151.34 of the Revised Code to whom the superintendent in 185 the superintendent's own name or in the name of any other person 186 owes any money, and that the superintendent and any deputy 187 superintendent of banks shall disclose the names of all 188 state-chartered banks and all bank subsidiary corporations subject 189 to regulation under section 1109.44 of the Revised Code to whom 190 the superintendent or deputy superintendent owes any money. 191

- (6) The names of all persons residing or transacting business 192 in the state, other than a depository excluded under division 193 (A)(3) of this section, who owe more than one thousand dollars to 194 the person filing the statement, either in the person's own name 195 or to any person for the person's use or benefit. Division (A)(6) 196 of this section shall not be construed to require the disclosure 197 of clients of attorneys or persons licensed under section 4732.12 198 or 4732.15 of the Revised Code, or patients of persons certified 199 under section 4731.14 of the Revised Code, nor the disclosure of 200 debts owed to the person resulting from the ordinary conduct of a 201 business or profession. 202
- (7) Except as otherwise provided in section 102.022 of the 203 Revised Code, the source of each gift of over seventy-five 204 dollars, or of each gift of over twenty-five dollars received by a 205 member of the general assembly from a legislative agent, received 206 by the person in the person's own name or by any other person for 207 the person's use or benefit during the preceding calendar year, 208 except gifts received by will or by virtue of section 2105.06 of 209 the Revised Code, or received from spouses, parents, grandparents, 210 children, grandchildren, siblings, nephews, nieces, uncles, aunts, 211 brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 212

Page 8 H. B. No. 218 As Reported by the House Economic Development and Regulatory Reform Committee fathers-in-law, mothers-in-law, or any person to whom the person 213 filing the statement stands in loco parentis, or received by way 214 of distribution from any inter vivos or testamentary trust 215 established by a spouse or by an ancestor; 216 (8) Except as otherwise provided in section 102.022 of the 217 Revised Code, identification of the source and amount of every 218 payment of expenses incurred for travel to destinations inside or 219 outside this state that is received by the person in the person's 220 own name or by any other person for the person's use or benefit 221 and that is incurred in connection with the person's official 222 duties, except for expenses for travel to meetings or conventions 223 of a national or state organization to which any state agency, 224 including, but not limited to, any legislative agency or state 225 institution of higher education as defined in section 3345.011 of 226 the Revised Code, pays membership dues, or any political 227 subdivision or any office or agency of a political subdivision 228 pays membership dues; 229 (9) Except as otherwise provided in section 102.022 of the 230 Revised Code, identification of the source of payment of expenses 231 for meals and other food and beverages, other than for meals and 232 other food and beverages provided at a meeting at which the person 233 participated in a panel, seminar, or speaking engagement or at a 234 meeting or convention of a national or state organization to which 235 any state agency, including, but not limited to, any legislative 236 agency or state institution of higher education as defined in 237 section 3345.011 of the Revised Code, pays membership dues, or any 238 political subdivision or any office or agency of a political 239 subdivision pays membership dues, that are incurred in connection 240 with the person's official duties and that exceed one hundred 241 dollars aggregated per calendar year; 242 (10) If the disclosure statement is filed by a public 243 official or employee described in division (B)(2) of section 244

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101.73 of the Revised Code or division (B)(2) of section 121.63 of 245 the Revised Code who receives a statement from a legislative 246 agent, executive agency lobbyist, or employer that contains the 247 information described in division (F)(2) of section 101.73 of the 248 Revised Code or division (G)(2) of section 121.63 of the Revised 249 Code, all of the nondisputed information contained in the 250 statement delivered to that public official or employee by the 251 legislative agent, executive agency lobbyist, or employer under 252 division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 253 the Revised Code. 254

A person may file a statement required by this section in 255 person or by mail. A person who is a candidate for elective office 256 shall file the statement no later than the thirtieth day before 257 the primary, special, or general election at which the candidacy 258 is to be voted on, whichever election occurs soonest, except that 259 a person who is a write-in candidate shall file the statement no 260 later than the twentieth day before the earliest election at which 261 the person's candidacy is to be voted on. A person who holds 262 elective office shall file the statement on or before the 263 fifteenth day of April of each year unless the person is a 264 candidate for office. A person who is appointed to fill a vacancy 265 for an unexpired term in an elective office shall file the 266 statement within fifteen days after the person qualifies for 267 office. Other persons shall file an annual statement on or before 268 the fifteenth day of April or, if appointed or employed after that 269 date, within ninety days after appointment or employment. No 270 person shall be required to file with the appropriate ethics 271 commission more than one statement or pay more than one filing fee 272 for any one calendar year. 273

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a statement under this section.

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A statement filed under this section is subject to public 277 inspection at locations designated by the appropriate ethics 278 commission except as otherwise provided in this section. 279

(B) The Ohio ethics commission, the joint legislative ethics 280 committee, and the board of commissioners on grievances and 281 discipline of the supreme court, using the rule-making procedures 282 of Chapter 119. of the Revised Code, may require any class of 283 public officials or employees under its jurisdiction and not 284 specifically excluded by this section whose positions involve a 285 substantial and material exercise of administrative discretion in 286 the formulation of public policy, expenditure of public funds, 287 enforcement of laws and rules of the state or a county or city, or 288 the execution of other public trusts, to file an annual statement 289 on or before the fifteenth day of April under division (A) of this 290 section. The appropriate ethics commission shall send the public 291 officials or employees written notice of the requirement by the 292 fifteenth day of February of each year the filing is required 293 unless the public official or employee is appointed after that 294 date, in which case the notice shall be sent within thirty days 295 after appointment, and the filing shall be made not later than 296 ninety days after appointment. 297

Except for disclosure statements filed by members of the 298 board of trustees and the executive director of the southern Ohio 299 agricultural and community development foundation, disclosure 300 statements filed under this division with the Ohio ethics 301 commission by members of boards, commissions, or bureaus of the 302 state for which no compensation is received other than reasonable 303 and necessary expenses shall be kept confidential. Disclosure 304 statements filed with the Ohio ethics commission under division 305 (A) of this section by business managers, treasurers, and 306 superintendents of city, local, exempted village, joint 307 vocational, or cooperative education school districts or 308

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educational service centers shall be kept confidential, except 309 that any person conducting an audit of any such school district or 310 educational service center pursuant to section 115.56 or Chapter 311 117. of the Revised Code may examine the disclosure statement of 312 any business manager, treasurer, or superintendent of that school 313 district or educational service center. Disclosure statements 314 filed with the Ohio ethics commission under division (A) of this 315 section by the individuals set forth in division (B)(2) of section 316 187.03 of the Revised Code shall be kept confidential. The Ohio 317 ethics commission shall examine each disclosure statement required 318 to be kept confidential to determine whether a potential conflict 319 of interest exists for the person who filed the disclosure 320 statement. A potential conflict of interest exists if the private 321 interests of the person, as indicated by the person's disclosure 322 statement, might interfere with the public interests the person is 323 required to serve in the exercise of the person's authority and 324 duties in the person's office or position of employment. If the 325 commission determines that a potential conflict of interest 326 exists, it shall notify the person who filed the disclosure 327 statement and shall make the portions of the disclosure statement 328 that indicate a potential conflict of interest subject to public 329 inspection in the same manner as is provided for other disclosure 330 statements. Any portion of the disclosure statement that the 331 commission determines does not indicate a potential conflict of 332 interest shall be kept confidential by the commission and shall 333 not be made subject to public inspection, except as is necessary 334 for the enforcement of Chapters 102. and 2921. of the Revised Code 335 and except as otherwise provided in this division. 336

- (C) No person shall knowingly fail to file, on or before the 337 applicable filing deadline established under this section, a 338 statement that is required by this section. 339
 - (D) No person shall knowingly file a false statement that is 340

(4) For any public official who is appointed to a nonelective 373 office of the state and for any employee who holds a nonelective 374 position in a public agency of the state, the state agency that is 375 the primary employer of the state official or employee shall pay 376 the fee required under division (E)(1) or (F) of this section. 377

- (F) If a statement required to be filed under this section is

 not filed by the date on which it is required to be filed, the

 appropriate ethics commission shall assess the person required to

 file the statement a late filing fee of ten dollars for each day

 the statement is not filed, except that the total amount of the

 late filing fee shall not exceed two hundred fifty dollars.

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- (G)(1) The appropriate ethics commission other than the Ohio 384 ethics commission and the joint legislative ethics committee shall 385 deposit all fees it receives under divisions (E) and (F) of this 386 section into the general revenue fund of the state. 387
- (2) The Ohio ethics commission shall deposit all receipts, 388 including, but not limited to, fees it receives under divisions 389 (E) and (F) of this section, investigative or other fees, costs, 390 or other funds it receives as a result of court orders, and all 391 moneys it receives from settlements under division (G) of section 392 102.06 of the Revised Code, into the Ohio ethics commission fund, 393 which is hereby created in the state treasury. All moneys credited 394 to the fund shall be used solely for expenses related to the 395 operation and statutory functions of the commission. 396
- (3) The joint legislative ethics committee shall deposit all 397 receipts it receives from the payment of financial disclosure 398 statement filing fees under divisions (E) and (F) of this section 399 into the joint legislative ethics committee investigative fund. 400
- (H) Division (A) of this section does not apply to a person
 elected or appointed to the office of precinct, ward, or district
 committee member under Chapter 3517. of the Revised Code; a

presidential elector; a delegate to a national convention; village 404 or township officials and employees; any physician or psychiatrist 405 who is paid a salary or wage in accordance with schedule C of 406 section 124.15 or schedule E-2 of section 124.152 of the Revised 407 Code and whose primary duties do not require the exercise of 408 administrative discretion; or any member of a board, commission, 409 or bureau of any county or city who receives less than one 410 thousand dollars per year for serving in that position. 411

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Sec. 107.63. As used in this section and in section 107.631

of the Revised Code, "small business" means an independently owned
and operated for-profit or nonprofit business entity, including
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affiliates, that has fewer than five hundred full time employees
or gross annual sales of less than six million dollars, and has
operations located in the state.

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The small business advisory council is established in the
office of the governor. The council shall advise the governor, the
lieutenant governor, and the common sense initiative office on the
adverse impact draft rules might have on small businesses. The
council shall meet at least quarterly.
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The council consists of nine members. The governor, or the 423 person to whom the governor has delegated responsibilities for the 424 common sense initiative office under section 107.61 of the Revised 425 Code, shall appoint five members, the president of the senate 426 shall appoint two members, and the speaker of the house of 427 representatives shall appoint two members. A member serves at the 428 pleasure of the member's appointing authority. The appointing 429 authorities shall consult with each other and appoint only 430 individuals who are representative of small businesses, and shall 431 do so in such a manner that the membership of the council is 432 composed of representatives of small businesses that are of 433 different sizes, engaged in different lines of business, and 434

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located in different parts of the state.	435
Sec. 107.631. (A) The small business advisory council shall	436
establish and operate an entrepreneur in residence pilot program.	437
The mission of the entrepreneur in residence pilot program is to	438
provide for better outreach by state government to small	439
businesses, to strengthen coordination and interaction between	440
state government and small businesses, and to make state	441
government programs and functions simpler, easier to access, more	442
efficient, and more responsive to the needs of small businesses.	443
(B) Not later than the first day of the seventh month after	444
the effective date of this section, the council shall do both of	445
<pre>the following:</pre>	446
(1) Select not fewer than three nor more than five state	447
agencies that have programs or perform functions affecting small	448
businesses to participate in the entrepreneur in residence pilot	449
program; and	450
(2) Assign only one entrepreneur in residence to each state	451
agency that is participating in the entrepreneurs in residence	452
pilot program.	453
The council shall assign entrepreneurs in residence from	454
among individuals who are representative of small businesses, and	455
who are successful in their fields.	456
The assignment of an entrepreneur in residence is for one	457
year after the date on which the entrepreneur in residence is	458
assigned to a state agency.	459
The council shall monitor the work of entrepreneurs in	460
residence during the pilot program. A state agency shall cooperate	461
with the council to facilitate this monitoring.	462
An entrepreneur in residence serves at the pleasure of the	463
director of the state agency to which the entrepreneur in	464

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residence has been assigned, and the director may discharge	465
without cause the entrepreneur in residence. The council may	466
reassign an entrepreneur in residence who has been discharged to	467
another state agency, to serve for the remainder of the	468
entrepreneur in residence's service year.	469
(C) An entrepreneur in residence shall do all of the	470
following:	471
(1) Facilitate meetings or forums to educate small business	472
owners and operators about the programs or functions of the state	473
agency that affect small businesses;	474
(2) Facilitate in-service sessions with employees of the	475
state agency on issues of concern to small business owners and	476
operators;	477
(3) Advise the state agency on how its programs and functions	478
that affect small businesses might be improved to further the	479
mission of the entrepreneur in residence pilot program;	480
(4) Provide technical assistance or mentorships to small	481
businesses in accessing the programs or functions of the state	482
agency that affect small businesses; and	483
(5) Do any other things that further the mission of the	484
entrepreneur in residence pilot program.	485
(D) An entrepreneur in residence shall report directly to the	486
director or other head of the state agency.	487
An entrepreneur in residence is not entitled to compensation,	488
but is entitled to reimbursement from the state agency of the	489
actual and necessary expenses the entrepreneur in residence incurs	490
in discharge of the entrepreneur in residence's duties.	491
(E)(1) Not later than the date that is one year after an	492
entrepreneur in residence was assigned to a state agency, the	493
entrepreneur in residence shall prepare a report about the state	494

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agency. In the report, the entrepreneur in residence shall make	495
recommendations to the state agency that furthers the mission of	496
the entrepreneur in residence program. In particular, the	497
entrepreneur in residence shall make recommendations to the state	498
agency regarding all of the following:	499
(a) Elimination of inefficient or duplicative programs or	500
functions of the state agency that affect small businesses;	501
(b) Methods of improving the efficiency of the programs or	502
functions of the state agency that affect small businesses;	503
(c) Any new program or function affecting small businesses	504
that should be established and implemented by the state agency;	505
and	506
(d) Any other matter that will further the mission of the	507
entrepreneur in residence pilot program.	508
The entrepreneur in residence shall provide a copy of the	509
report to the council and to the state agency.	510
(2) During or upon conclusion of the entrepreneur in	511
residence pilot program, the council may convene an informal	512
working group of entrepreneurs in residence to discuss best	513
practices, experiences, and opportunities for and obstacles to	514
operating small businesses as well as the recommendations in the	515
reports prepared by the entrepreneurs in residence.	516
(F) Upon conclusion of the entrepreneur in residence pilot	517
program, and after considering the reports of the entrepreneurs in	518
residence and information learned from any informal working group,	519
the council shall prepare a report on the entrepreneur in	520
residence pilot program. In the report, the council shall	521
recommend whether the entrepreneur in residence pilot program	522
should be repeated with or without modifications, made permanent	523
with or without modifications, or abandoned. The council shall	524
append the reports of the entrepreneurs in residence to its	525

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report. If the pilot program is repeated or made permanent, an	526
individual who previously was assigned as an entrepreneur in	527
residence shall not be reassigned as an entrepreneur in residence.	528
The council shall provide a copy of its report to the common	529
sense initiative office. The office promptly shall transmit a copy	530
of the report to the officials designated in the last paragraph of	531
section 107.55 of the Revised Code.	532
Section 2. That existing sections 102.02 and 107.63 of the	533
Revised Code are hereby repealed.	534