

As Introduced

131st General Assembly

Regular Session

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H. B. No. 130

Representatives Hagan, Duffey

**Cosponsors: Representatives Amstutz, Henne, Perales, Ruhl, Maag, Blessing,
Retherford, Bishoff, Brown, Brenner, Hackett, Leland**

A BILL

To amend section 149.43 and to enact sections 1
117.432, 149.60, 149.62, and 149.65 of the 2
Revised Code to create the DataOhio Board, to 3
specify requirements for posting public records 4
online, to require the Auditor of State to adopt 5
rules regarding a uniform accounting system for 6
public offices, to establish an online catalog 7
of public data at data.Ohio.gov, to establish 8
the Local Government Information Exchange Grant 9
Program, and to make an appropriation. 10

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

Section 1. That section 149.43 be amended and sections 11
117.432, 149.60, 149.62, and 149.65 of the Revised Code be 12
enacted to read as follows: 13

Sec. 117.432. (A) The general assembly recognizes that 14
government transparency requires a common language of 15
definitions for public information and that uniform accounting 16
procedures and charts of accounts improve financial management 17
while maintaining the principle of home rule over local matters. 18

It is declared to be a public purpose and function of the state 19
to facilitate the ability of the public easily to compare public 20
data generated by the state and other public offices using this 21
common language. 22

(B) Within two years after the effective date of this 23
section, the auditor of state shall establish, by rule adopted 24
under Chapter 119. of the Revised Code, appropriate uniform 25
accounting procedures and charts of accounts that may be used by 26
all public offices. Public offices that maintain their financial 27
records in accordance with the rules established by the auditor 28
of state under this section shall be declared by the auditor to 29
have earned a "DataOhio Transparency Award-Uniformity of 30
Accounting." 31

(C) Not later than four years after the effective date of 32
this section, the auditor of state shall submit to the general 33
assembly proposed legislation to establish uniform accounting 34
procedures and charts of accounts for all public offices. In 35
doing so, the auditor of state shall consider the experience of 36
public offices that have maintained their financial records in 37
accordance with the rules established under this section. 38

The auditor of state may designate existing uniform 39
accounting procedures or charts of accounts that satisfy the 40
requirements of division (B) or (C) of this section, or may 41
supplement or amend existing uniform accounting procedures or 42
charts of accounts to satisfy the requirements of division (B) 43
or (C) of this section. 44

Sec. 149.43. (A) As used in this section: 45

(1) "Public record" means records kept by any public 46
office, including, but not limited to, state, county, city, 47

village, township, and school district units, and records 48
pertaining to the delivery of educational services by an 49
alternative school in this state kept by the nonprofit or for- 50
profit entity operating the alternative school pursuant to 51
section 3313.533 of the Revised Code. "Public record" does not 52
mean any of the following: 53

(a) Medical records; 54

(b) Records pertaining to probation and parole proceedings 55
or to proceedings related to the imposition of community control 56
sanctions and post-release control sanctions; 57

(c) Records pertaining to actions under section 2151.85 58
and division (C) of section 2919.121 of the Revised Code and to 59
appeals of actions arising under those sections; 60

(d) Records pertaining to adoption proceedings, including 61
the contents of an adoption file maintained by the department of 62
health under sections 3705.12 to 3705.124 of the Revised Code; 63

(e) Information in a record contained in the putative 64
father registry established by section 3107.062 of the Revised 65
Code, regardless of whether the information is held by the 66
department of job and family services or, pursuant to section 67
3111.69 of the Revised Code, the office of child support in the 68
department or a child support enforcement agency; 69

(f) Records specified in division (A) of section 3107.52 70
of the Revised Code; 71

(g) Trial preparation records; 72

(h) Confidential law enforcement investigatory records; 73

(i) Records containing information that is confidential 74
under section 2710.03 or 4112.05 of the Revised Code; 75

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| (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code; | 76 77 |
| (k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code; | 78 79 80 81 |
| (l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code; | 82 83 84 85 |
| (m) Intellectual property records; | 86 |
| (n) Donor profile records; | 87 |
| (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code; | 88 89 |
| (p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information; | 90 91 92 93 94 95 |
| (q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code; | 96 97 98 99 100 |
| (r) Information pertaining to the recreational activities of a person under the age of eighteen; | 101 102 |
| (s) Records provided to, statements made by review board | 103 |

members during meetings of, and all work products of a child 104
fatality review board acting under sections 307.621 to 307.629 105
of the Revised Code, and child fatality review data submitted by 106
the child fatality review board to the department of health or a 107
national child death review database, other than the report 108
prepared pursuant to division (A) of section 307.626 of the 109
Revised Code; 110

(t) Records provided to and statements made by the 111
executive director of a public children services agency or a 112
prosecuting attorney acting pursuant to section 5153.171 of the 113
Revised Code other than the information released under that 114
section; 115

(u) Test materials, examinations, or evaluation tools used 116
in an examination for licensure as a nursing home administrator 117
that the board of executives of long-term services and supports 118
administers under section 4751.04 of the Revised Code or 119
contracts under that section with a private or government entity 120
to administer; 121

(v) Records the release of which is prohibited by state or 122
federal law; 123

(w) Proprietary information of or relating to any person 124
that is submitted to or compiled by the Ohio venture capital 125
authority created under section 150.01 of the Revised Code; 126

(x) Financial statements and data any person submits for 127
any purpose to the Ohio housing finance agency or the 128
controlling board in connection with applying for, receiving, or 129
accounting for financial assistance from the agency, and 130
information that identifies any individual who benefits directly 131
or indirectly from financial assistance from the agency; 132

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| (y) Records listed in section 5101.29 of the Revised Code; | 133 |
| (z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section; | 134 135 136 |
| (aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility; | 137 138 139 |
| (bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division. | 140 141 142 |
| (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: | 143 144 145 146 147 |
| (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; | 148 149 150 151 |
| (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 witness's identity; | 152 153 154 155 |
| (c) Specific confidential investigatory techniques or procedures or specific investigatory work product; | 156 157 |
| (d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source. | 158 159 160 |

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

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

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

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

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any

information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation: 191-196

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides; 197-208

(b) Information compiled from referral to or participation in an employee assistance program; 209-210

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation; 211-219

(d) The name of any beneficiary of employment benefits, 220

including, but not limited to, life insurance benefits, provided 221
to a peace officer, parole officer, probation officer, bailiff, 222
prosecuting attorney, assistant prosecuting attorney, 223
correctional employee, community-based correctional facility 224
employee, youth services employee, firefighter, EMT, or 225
investigator of the bureau of criminal identification and 226
investigation by the peace officer's, parole officer's, 227
probation officer's, bailiff's, prosecuting attorney's, 228
assistant prosecuting attorney's, correctional employee's, 229
community-based correctional facility employee's, youth services 230
employee's, firefighter's, EMT's, or investigator of the bureau 231
of criminal identification and investigation's employer; 232

(e) The identity and amount of any charitable or 233
employment benefit deduction made by the peace officer's, parole 234
officer's, probation officer's, bailiff's, prosecuting 235
attorney's, assistant prosecuting attorney's, correctional 236
employee's, community-based correctional facility employee's, 237
youth services employee's, firefighter's, EMT's, or investigator 238
of the bureau of criminal identification and investigation's 239
employer from the peace officer's, parole officer's, probation 240
officer's, bailiff's, prosecuting attorney's, assistant 241
prosecuting attorney's, correctional employee's, community-based 242
correctional facility employee's, youth services employee's, 243
firefighter's, EMT's, or investigator of the bureau of criminal 244
identification and investigation's compensation unless the 245
amount of the deduction is required by state or federal law; 246

(f) The name, the residential address, the name of the 247
employer, the address of the employer, the social security 248
number, the residential telephone number, any bank account, 249
debit card, charge card, or credit card number, or the emergency 250
telephone number of the spouse, a former spouse, or any child of 251

a peace officer, parole officer, probation officer, bailiff, 252
prosecuting attorney, assistant prosecuting attorney, 253
correctional employee, community-based correctional facility 254
employee, youth services employee, firefighter, EMT, or 255
investigator of the bureau of criminal identification and 256
investigation; 257

(g) A photograph of a peace officer who holds a position 258
or has an assignment that may include undercover or plain 259
clothes positions or assignments as determined by the peace 260
officer's appointing authority. 261

As used in divisions (A) (7) and (B) (9) of this section, 262
"peace officer" has the same meaning as in section 109.71 of the 263
Revised Code and also includes the superintendent and troopers 264
of the state highway patrol; it does not include the sheriff of 265
a county or a supervisory employee who, in the absence of the 266
sheriff, is authorized to stand in for, exercise the authority 267
of, and perform the duties of the sheriff. 268

As used in divisions (A) (7) and (B) (9) of this section, 269
"correctional employee" means any employee of the department of 270
rehabilitation and correction who in the course of performing 271
the employee's job duties has or has had contact with inmates 272
and persons under supervision. 273

As used in divisions (A) (7) and (B) (9) of this section, 274
"youth services employee" means any employee of the department 275
of youth services who in the course of performing the employee's 276
job duties has or has had contact with children committed to the 277
custody of the department of youth services. 278

As used in divisions (A) (7) and (B) (9) of this section, 279
"firefighter" means any regular, paid or volunteer, member of a 280

lawfully constituted fire department of a municipal corporation, 281
township, fire district, or village. 282

As used in divisions (A) (7) and (B) (9) of this section, 283
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 284
emergency medical services for a public emergency medical 285
service organization. "Emergency medical service organization," 286
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 287
in section 4765.01 of the Revised Code. 288

As used in divisions (A) (7) and (B) (9) of this section, 289
"investigator of the bureau of criminal identification and 290
investigation" has the meaning defined in section 2903.11 of the 291
Revised Code. 292

(8) "Information pertaining to the recreational activities 293
of a person under the age of eighteen" means information that is 294
kept in the ordinary course of business by a public office, that 295
pertains to the recreational activities of a person under the 296
age of eighteen years, and that discloses any of the following: 297

(a) The address or telephone number of a person under the 298
age of eighteen or the address or telephone number of that 299
person's parent, guardian, custodian, or emergency contact 300
person; 301

(b) The social security number, birth date, or 302
photographic image of a person under the age of eighteen; 303

(c) Any medical record, history, or information pertaining 304
to a person under the age of eighteen; 305

(d) Any additional information sought or required about a 306
person under the age of eighteen for the purpose of allowing 307
that person to participate in any recreational activity 308
conducted or sponsored by a public office or to use or obtain 309

admission privileges to any recreational facility owned or operated by a public office. 310
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(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 312
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(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 314
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(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code. 316
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(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code. 320
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(B) (1) Upon request and subject to division (B) (8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B) (8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a 322
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request to inspect or copy the redacted information, except if 339
federal or state law authorizes or requires a public office to 340
make the redaction. 341

(2) To facilitate broader access to public records, a 342
public office or the person responsible for public records shall 343
organize and maintain public records in a manner that they can 344
be made available for inspection or copying in accordance with 345
division (B) of this section. A public office also shall have 346
available a copy of its current records retention schedule at a 347
location readily available to the public. If a requester makes 348
an ambiguous or overly broad request or has difficulty in making 349
a request for copies or inspection of public records under this 350
section such that the public office or the person responsible 351
for the requested public record cannot reasonably identify what 352
public records are being requested, the public office or the 353
person responsible for the requested public record may deny the 354
request but shall provide the requester with an opportunity to 355
revise the request by informing the requester of the manner in 356
which records are maintained by the public office and accessed 357
in the ordinary course of the public office's or person's 358
duties. 359

(3) If a request is ultimately denied, in part or in 360
whole, the public office or the person responsible for the 361
requested public record shall provide the requester with an 362
explanation, including legal authority, setting forth why the 363
request was denied. If the initial request was provided in 364
writing, the explanation also shall be provided to the requester 365
in writing. The explanation shall not preclude the public office 366
or the person responsible for the requested public record from 367
relying upon additional reasons or legal authority in defending 368
an action commenced under division (C) of this section. 369

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

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

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office

or person responsible for the public record determines that it 401
reasonably can be duplicated as an integral part of the normal 402
operations of the public office or person responsible for the 403
public record. When the person seeking the copy makes a choice 404
under this division, the public office or person responsible for 405
the public record shall provide a copy of it in accordance with 406
the choice made by the person seeking the copy. Nothing in this 407
section requires a public office or person responsible for the 408
public record to allow the person seeking a copy of the public 409
record to make the copies of the public record. 410

(7) Upon a request made in accordance with division (B) of 411
this section and subject to division (B)(6) of this section, a 412
public office or person responsible for public records shall 413
transmit a copy of a public record to any person by United 414
States mail or by any other means of delivery or transmission 415
within a reasonable period of time after receiving the request 416
for the copy. The public office or person responsible for the 417
public record may require the person making the request to pay 418
in advance the cost of postage if the copy is transmitted by 419
United States mail or the cost of delivery if the copy is 420
transmitted other than by United States mail, and to pay in 421
advance the costs incurred for other supplies used in the 422
mailing, delivery, or transmission. 423

Any public office may adopt a policy and procedures that 424
it will follow in transmitting, within a reasonable period of 425
time after receiving a request, copies of public records by 426
United States mail or by any other means of delivery or 427
transmission pursuant to this division. A public office that 428
adopts a policy and procedures under this division shall comply 429
with them in performing its duties under this division. 430

In any policy and procedures adopted under this division, 431
a public office may limit the number of records requested by a 432
person that the office will transmit by United States mail to 433
ten per month, unless the person certifies to the office in 434
writing that the person does not intend to use or forward the 435
requested records, or the information contained in them, for 436
commercial purposes. For purposes of this division, "commercial" 437
shall be narrowly construed and does not include reporting or 438
gathering news, reporting or gathering information to assist 439
citizen oversight or understanding of the operation or 440
activities of government, or nonprofit educational research. 441

(8) A public office or person responsible for public 442
records is not required to permit a person who is incarcerated 443
pursuant to a criminal conviction or a juvenile adjudication to 444
inspect or to obtain a copy of any public record concerning a 445
criminal investigation or prosecution or concerning what would 446
be a criminal investigation or prosecution if the subject of the 447
investigation or prosecution were an adult, unless the request 448
to inspect or to obtain a copy of the record is for the purpose 449
of acquiring information that is subject to release as a public 450
record under this section and the judge who imposed the sentence 451
or made the adjudication with respect to the person, or the 452
judge's successor in office, finds that the information sought 453
in the public record is necessary to support what appears to be 454
a justiciable claim of the person. 455

(9) (a) Upon written request made and signed by a 456
journalist on or after December 16, 1999, a public office, or 457
person responsible for public records, having custody of the 458
records of the agency employing a specified peace officer, 459
parole officer, probation officer, bailiff, prosecuting 460
attorney, assistant prosecuting attorney, correctional employee, 461

community-based correctional facility employee, youth services 462
employee, firefighter, EMT, or investigator of the bureau of 463
criminal identification and investigation shall disclose to the 464
journalist the address of the actual personal residence of the 465
peace officer, parole officer, probation officer, bailiff, 466
prosecuting attorney, assistant prosecuting attorney, 467
correctional employee, community-based correctional facility 468
employee, youth services employee, firefighter, EMT, or 469
investigator of the bureau of criminal identification and 470
investigation and, if the peace officer's, parole officer's, 471
probation officer's, bailiff's, prosecuting attorney's, 472
assistant prosecuting attorney's, correctional employee's, 473
community-based correctional facility employee's, youth services 474
employee's, firefighter's, EMT's, or investigator of the bureau 475
of criminal identification and investigation's spouse, former 476
spouse, or child is employed by a public office, the name and 477
address of the employer of the peace officer's, parole 478
officer's, probation officer's, bailiff's, prosecuting 479
attorney's, assistant prosecuting attorney's, correctional 480
employee's, community-based correctional facility employee's, 481
youth services employee's, firefighter's, EMT's, or investigator 482
of the bureau of criminal identification and investigation's 483
spouse, former spouse, or child. The request shall include the 484
journalist's name and title and the name and address of the 485
journalist's employer and shall state that disclosure of the 486
information sought would be in the public interest. 487

(b) Division (B) (9) (a) of this section also applies to 488
journalist requests for customer information maintained by a 489
municipally owned or operated public utility, other than social 490
security numbers and any private financial information such as 491
credit reports, payment methods, credit card numbers, and bank 492

account information. 493

(c) As used in division (B) (9) of this section, 494
"journalist" means a person engaged in, connected with, or 495
employed by any news medium, including a newspaper, magazine, 496
press association, news agency, or wire service, a radio or 497
television station, or a similar medium, for the purpose of 498
gathering, processing, transmitting, compiling, editing, or 499
disseminating information for the general public. 500

(C) (1) If a person allegedly is aggrieved by the failure 501
of a public office or the person responsible for public records 502
to promptly prepare a public record and to make it available to 503
the person for inspection in accordance with division (B) of 504
this section or by any other failure of a public office or the 505
person responsible for public records to comply with an 506
obligation in accordance with division (B) of this section, the 507
person allegedly aggrieved may commence a mandamus action to 508
obtain a judgment that orders the public office or the person 509
responsible for the public record to comply with division (B) of 510
this section, that awards court costs and reasonable attorney's 511
fees to the person that instituted the mandamus action, and, if 512
applicable, that includes an order fixing statutory damages 513
under division (C) (1) of this section. The mandamus action may 514
be commenced in the court of common pleas of the county in which 515
division (B) of this section allegedly was not complied with, in 516
the supreme court pursuant to its original jurisdiction under 517
Section 2 of Article IV, Ohio Constitution, or in the court of 518
appeals for the appellate district in which division (B) of this 519
section allegedly was not complied with pursuant to its original 520
jurisdiction under Section 3 of Article IV, Ohio Constitution. 521

If a requestor transmits a written request by hand 522

delivery or certified mail to inspect or receive copies of any 523
public record in a manner that fairly describes the public 524
record or class of public records to the public office or person 525
responsible for the requested public records, except as 526
otherwise provided in this section, the requestor shall be 527
entitled to recover the amount of statutory damages set forth in 528
this division if a court determines that the public office or 529
the person responsible for public records failed to comply with 530
an obligation in accordance with division (B) of this section. 531

The amount of statutory damages shall be fixed at one 532
hundred dollars for each business day during which the public 533
office or person responsible for the requested public records 534
failed to comply with an obligation in accordance with division 535
(B) of this section, beginning with the day on which the 536
requester files a mandamus action to recover statutory damages, 537
up to a maximum of one thousand dollars. The award of statutory 538
damages shall not be construed as a penalty, but as compensation 539
for injury arising from lost use of the requested information. 540
The existence of this injury shall be conclusively presumed. The 541
award of statutory damages shall be in addition to all other 542
remedies authorized by this section. 543

The court may reduce an award of statutory damages or not 544
award statutory damages if the court determines both of the 545
following: 546

(a) That, based on the ordinary application of statutory 547
law and case law as it existed at the time of the conduct or 548
threatened conduct of the public office or person responsible 549
for the requested public records that allegedly constitutes a 550
failure to comply with an obligation in accordance with division 551
(B) of this section and that was the basis of the mandamus 552

action, a well-informed public office or person responsible for 553
the requested public records reasonably would believe that the 554
conduct or threatened conduct of the public office or person 555
responsible for the requested public records did not constitute 556
a failure to comply with an obligation in accordance with 557
division (B) of this section; 558

(b) That a well-informed public office or person 559
responsible for the requested public records reasonably would 560
believe that the conduct or threatened conduct of the public 561
office or person responsible for the requested public records 562
would serve the public policy that underlies the authority that 563
is asserted as permitting that conduct or threatened conduct. 564

(2) (a) If the court issues a writ of mandamus that orders 565
the public office or the person responsible for the public 566
record to comply with division (B) of this section and 567
determines that the circumstances described in division (C) (1) 568
of this section exist, the court shall determine and award to 569
the relator all court costs. 570

(b) If the court renders a judgment that orders the public 571
office or the person responsible for the public record to comply 572
with division (B) of this section, the court may award 573
reasonable attorney's fees subject to reduction as described in 574
division (C) (2) (c) of this section. The court shall award 575
reasonable attorney's fees, subject to reduction as described in 576
division (C) (2) (c) of this section when either of the following 577
applies: 578

(i) The public office or the person responsible for the 579
public records failed to respond affirmatively or negatively to 580
the public records request in accordance with the time allowed 581
under division (B) of this section. 582

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

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

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

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C) (2) (c) (i) of this section would serve

the public policy that underlies the authority that is asserted 613
as permitting that conduct or threatened conduct. 614

(D) Chapter 1347. of the Revised Code does not limit the 615
provisions of this section. 616

(E) (1) To ensure that all employees of public offices are 617
appropriately educated about a public office's obligations under 618
division (B) of this section, all elected officials or their 619
appropriate designees shall attend training approved by the 620
attorney general as provided in section 109.43 of the Revised 621
Code. In addition, all public offices shall adopt a public 622
records policy in compliance with this section for responding to 623
public records requests. In adopting a public records policy 624
under this division, a public office may obtain guidance from 625
the model public records policy developed and provided to the 626
public office by the attorney general under section 109.43 of 627
the Revised Code. Except as otherwise provided in this section, 628
the policy may not limit the number of public records that the 629
public office will make available to a single person, may not 630
limit the number of public records that it will make available 631
during a fixed period of time, and may not establish a fixed 632
period of time before it will respond to a request for 633
inspection or copying of public records, unless that period is 634
less than eight hours. 635

(2) The public office shall distribute the public records 636
policy adopted by the public office under division (E) (1) of 637
this section to the employee of the public office who is the 638
records custodian or records manager or otherwise has custody of 639
the records of that office. The public office shall require that 640
employee to acknowledge receipt of the copy of the public 641
records policy. The public office shall create a poster that 642

describes its public records policy and shall post the poster in 643
a conspicuous place in the public office and in all locations 644
where the public office has branch offices. The public office 645
may post its public records policy on the internet web site of 646
the public office if the public office maintains an internet web 647
site. A public office that has established a manual or handbook 648
of its general policies and procedures for all employees of the 649
public office shall include the public records policy of the 650
public office in the manual or handbook. 651

(F) (1) The bureau of motor vehicles may adopt rules 652
pursuant to Chapter 119. of the Revised Code to reasonably limit 653
the number of bulk commercial special extraction requests made 654
by a person for the same records or for updated records during a 655
calendar year. The rules may include provisions for charges to 656
be made for bulk commercial special extraction requests for the 657
actual cost of the bureau, plus special extraction costs, plus 658
ten per cent. The bureau may charge for expenses for redacting 659
information, the release of which is prohibited by law. 660

(2) As used in division (F) (1) of this section: 661

(a) "Actual cost" means the cost of depleted supplies, 662
records storage media costs, actual mailing and alternative 663
delivery costs, or other transmitting costs, and any direct 664
equipment operating and maintenance costs, including actual 665
costs paid to private contractors for copying services. 666

(b) "Bulk commercial special extraction request" means a 667
request for copies of a record for information in a format other 668
than the format already available, or information that cannot be 669
extracted without examination of all items in a records series, 670
class of records, or database by a person who intends to use or 671
forward the copies for surveys, marketing, solicitation, or 672

resale for commercial purposes. "Bulk commercial special
extraction request" does not include a request by a person who
gives assurance to the bureau that the person making the request
does not intend to use or forward the requested copies for
surveys, marketing, solicitation, or resale for commercial
purposes.

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

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

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

(G) (1) A public office that posts a public record on its
web site, or on a public web site maintained or authorized by
the state, shall make its best efforts to post the public record
in an open format so that the public record, or the data
contained in the public record, is capable of being searched,
viewed, and downloaded by the public, and is in a format that is
machine readable.

A public office that opts in to posting public records online in an open format, and that has amended its public records policy to indicate it has opted to do so, shall make its best effort to continue to post such records online in an open format in accordance with its public records policy. 702
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(2) A public office that opts in to posting public records online in an open format shall include in the public office's public records policy a statement of which public records the public office posts in accordance with the requirements of division (G)(1) of this section. A public office shall submit to the DataOhio board, not later than thirty days after amending its public records policy regarding public records posted in accordance with the requirements of division (G)(1) of this section, the portion of its public records policy that states which public records are posted. 707
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(3) Nothing in this section requires a public office to post public records to a web site. A public office's decision regarding which public records to post in accordance with the requirements of division (G)(1) of this section, if any, is solely within the discretion of the public office. A public office's decision in this regard is final and may not be modified except by action of the public office. 717
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Sec. 149.60. (A) As used in this section: 724

(1) "Metropolitan planning organization" means a metropolitan planning organization designated under 23 U.S.C. 134, as amended. 725
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(2) "Public record" has the meaning defined in section 149.43 of the Revised Code. 728
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(B) There is the local government information exchange 730

grant program . The program shall be administered by the state 731
librarian. The state librarian shall adopt rules under Chapter 732
119. of the Revised Code as are necessary to administer the 733
program. The rules shall include all of the following: 734

(1) Grant eligibility criteria, which shall include a 735
requirement that a grantee be a county, township, municipal 736
corporation, or public library, or a regional planning 737
commission, metropolitan planning organization, or regional 738
council of governments, which may apply on behalf of a county, 739
township, municipal corporation, or public library or group 740
thereof to assist them in meeting the requirements of this 741
section; 742

(2) Specifications for what data points must be included 743
by a county, township, municipal corporation, or public library 744
in order for the county, township, municipal corporation, or 745
public library to be eligible for the grant funding; 746

(3) A requirement that electronic data satisfying the 747
grant criteria be posted on the internet, by the county, 748
township, municipal corporation, or public library or by the 749
state, in an open format that is capable of being searched, 750
viewed, and downloaded by the public; 751

(4) Specifications for consistent formatting and 752
technology standards for electronic data satisfying the grant 753
eligibility criteria; 754

(5) Specifications for accounting standards for data 755
provided by a county, township, municipal corporation, or public 756
library; and 757

(6) A requirement that the data provided by a grantee be 758
provided in a format that is compatible with, and able to be 759

published by the treasurer of state as part of, the Ohio online 760
checkbook or a similar program. 761

Required data points may be different for counties, 762
townships, municipal corporations, or public libraries. 763

(C) The state librarian shall disburse a grant of ten 764
thousand dollars to each county, township, municipal 765
corporation, or public library that meets the grant eligibility 766
criteria established by the state librarian, or to a regional 767
planning commission, metropolitan planning organization, or 768
regional council of governments for each county, township, 769
municipal corporation, or public library applied for that meets 770
the grant eligibility criteria established by the state 771
librarian. Grants shall be awarded in the order in which the 772
counties, townships, municipal corporations, or public libraries 773
have met the eligibility criteria. The total amount of grants 774
awarded shall not exceed the amount that can be funded with 775
appropriations made by the general assembly for this purpose. 776

Sec. 149.62. (A) As used in this section: 777

(1) "Local government" means bodies corporate and politic 778
responsible for governmental activities only in geographical 779
areas smaller than that of the state. 780

(2) "Open format" has the meaning defined contextually in 781
section 149.43 of the Revised Code. 782

(3) "Public record" has the meaning defined in section 783
149.43 of the Revised Code. 784

(B) The general assembly recognizes that public-use data 785
from public offices offers an avenue toward open and transparent 786
government, stimulates business innovation, and can help public 787
offices become more effective. It is declared to be a public 788

purpose and function of the state to facilitate the ability of 789
the public easily to find, download, and use data sets that are 790
generated and held by the state government and other public 791
offices. With these goals in mind, the general assembly creates 792
the DataOhio board to do all of the following: 793

(1) Recommend categories of public records that state 794
agencies and local governments should make available to the 795
public online in an open format; 796

(2) Recommend technology standards for open data use in 797
the state that reflect the most current standards used 798
nationally and in other states; 799

(3) Recommend accounting standards for financial data in 800
the state to facilitate comparison across public offices and 801
services; 802

(4) Recommend metadata definitional standards for 803
nonfinancial data in the state to facilitate comparison and use 804
of this data across public offices; and 805

(5) Consider creation by the state of data.ohio.gov, an 806
online catalog of data sets made available by state agencies and 807
local governments, as well as collaboration with efforts 808
underway at the federal and state levels. 809

The board shall deliver a report of its findings and 810
recommendations to the general assembly not later than one year 811
after the effective date of this section, and thereafter shall 812
deliver a report of its findings and recommendations by the 813
thirty-first day of March each year. 814

(C) The DataOhio board shall consist of the following 815
members or their designees: 816

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|-------------------------------------------------------------------------|-----|
| <u>(1) The governor;</u> | 817 |
| <u>(2) The attorney general;</u> | 818 |
| <u>(3) The auditor of state;</u> | 819 |
| <u>(4) The secretary of state;</u> | 820 |
| <u>(5) The treasurer of state;</u> | 821 |
| <u>(6) The speaker of the house of representatives;</u> | 822 |
| <u>(7) The president of the senate;</u> | 823 |
| <u>(8) The minority leader of the house of representatives;</u> | 824 |
| <u>(9) The minority leader of the senate;</u> | 825 |
| <u>(10) The chancellor of the Ohio board of regents;</u> | 826 |
| <u>(11) The state librarian;</u> | 827 |
| <u>(12) One member who represents data consumers to be</u> | 828 |
| <u>appointed by the chairperson after the chairperson is selected;</u> | 829 |
| <u>and</u> | 830 |
| <u>(13) Three members who represent local governments to be</u> | 831 |
| <u>appointed by the chairperson after the chairperson is selected.</u> | 832 |
| <u>The board also shall consist of one or more ex officio,</u> | 833 |
| <u>nonvoting members or their designees appointed by the</u> | 834 |
| <u>chairperson after the chairperson is selected.</u> | 835 |
| <u>At its initial meeting, the board shall select a</u> | 836 |
| <u>chairperson from among its members. The chairperson shall select</u> | 837 |
| <u>a member of the board to serve as the board's secretary.</u> | 838 |
| <u>Members of the board shall serve without compensation but</u> | 839 |
| <u>shall be reimbursed for their actual and necessary expenses</u> | 840 |
| <u>incurred in the performance of their duties.</u> | 841 |

(D) The state library of Ohio shall provide necessary 842
meeting facilities to the board. 843

The initial meeting of the board shall be held at the call 844
of the state librarian and not later than thirty days after the 845
effective date of this section. The board shall meet at least 846
ten times per year at the call of the chairperson and shall 847
provide reasonable notice to the public before each meeting. At 848
each meeting, the board shall designate a portion to be devoted 849
to inviting suggestions from the public regarding the provision 850
of data sets by state agencies and local governments. 851

(E) The presence of a majority of the members of the board 852
constitutes a quorum for the conduct of its business. The 853
concurrence of at least a majority of the members of the board 854
is necessary for any action to be taken by the board. 855

Sec. 149.65. As used in this section, "public record" has 856
the meaning defined in section 149.43 of the Revised Code. 857

The auditor of state shall establish, administer, and 858
operate a web site to function as a portal and catalog where 859
public records and data sets of public records, created by state 860
government and other public offices, can be located and accessed 861
by the public online. The web site shall offer access to public 862
records or data sets of public records posted online by public 863
offices through providing web links to web sites of public 864
offices that contain such information. The web site may post 865
original data or data sets that contain original content or 866
summarized content of data sets obtained from public offices. 867

The auditor shall consult with the state librarian 868
regarding the collection, aggregation, presentation, and 869
accessibility of data in relation to the web site. 870

The web site shall be registered at data.Ohio.gov. The 871
state shall consider participation and affiliation of 872
data.Ohio.gov with data.gov, the official online data catalog of 873
the United States government. 874

The auditor of state shall adopt rules under Chapter 119. 875
of the Revised Code that specify policies and procedures for the 876
administration and operation of data.Ohio.gov. The rules shall 877
include a requirement that the auditor may not charge a fee in 878
relation to data.Ohio.gov. The auditor of state shall make every 879
effort to ensure that data provided online at data.Ohio.gov via 880
web link or posted as original data is open format and machine 881
readable. 882

Section 2. That existing section 149.43 of the Revised 883
Code is hereby repealed. 884

Section 3. All items in this section are hereby 885
appropriated as designated out of any moneys in the state 886
treasury to the credit of the General Revenue Fund. For all 887
appropriations made in this act, those in the first column are 888
for fiscal year 2016 and those in the second column are for 889
fiscal year 2017. The appropriations made in this act are in 890
addition to any other appropriations made for the FY 2016-FY 891
2017 biennium. 892

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|--------------------------------|-----|-----|
| AUD Auditor of State | | 893 |
| GRF 070321 Operating | \$0 | 894 |
| \$350,000 | | 895 |
| Expenses | | 896 |
| Total GRF General Revenue Fund | \$0 | 897 |
| \$350,000 | | 898 |

| | | | |
|-----------------------------------------------------------------|--------------|--------------|-----|
| TOTAL ALL BUDGET FUND GROUPS | \$0 | | 899 |
| \$350,000 | | | 900 |
| DATAOHIO CHART OF ACCOUNTS | | | 901 |
| Of the foregoing appropriation item 070321, Operating | | | 902 |
| Expenses, up to \$350,000 in fiscal year 2017 shall be used to | | | 903 |
| develop a uniform chart of accounts, establish uniform | | | 904 |
| accounting procedures, and adopt rules for their implementation | | | 905 |
| by all public offices. | | | 906 |
| LIB STATE LIBRARY BOARD | | | 907 |
| GRF 350507 Local Government | \$12,500,000 | \$12,500,000 | 908 |
| Information | | | 909 |
| Exchange Grants | | | 910 |
| Total GRF General Revenue Fund | \$12,500,000 | \$12,500,000 | 911 |
| TOTAL ALL BUDGET FUND GROUPS | \$12,500,000 | \$12,500,000 | 912 |
| LOCAL GOVERNMENT INFORMATION EXCHANGE GRANTS | | | 913 |
| Of the foregoing appropriation item 350507, Local | | | 914 |
| Government Information Exchange Grants, up to \$250,000 in each | | | 915 |
| fiscal year shall be used by the State Librarian for | | | 916 |
| administration and maintenance of the Local Government | | | 917 |
| Information Exchange Grant Program and for administration of | | | 918 |
| Local Government Information Exchange Grants. The remainder of | | | 919 |
| the foregoing appropriation item 350507, Local Government | | | 920 |
| Information Exchange Grants, shall be used by the State | | | 921 |
| Librarian to disburse grant awards to eligible counties, | | | 922 |
| townships, and municipal corporations, and to regional planning | | | 923 |
| commissions, metropolitan planning organizations, and regional | | | 924 |
| councils of governments, under section 149.60 of the Revised | | | 925 |

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| Code. | 926 |
| Within the limits set forth in this act, the Director of | 927 |
| Budget and Management shall establish accounts indicating the | 928 |
| source and amount of funds for each appropriation made in this | 929 |
| act, and shall determine the form and manner in which | 930 |
| appropriation accounts shall be maintained. Expenditures from | 931 |
| the appropriations contained in this act shall be accounted for | 932 |
| as though made in the main operating appropriations act of the | 933 |
| 131st General Assembly. The appropriations made in this act are | 934 |
| subject to all provisions of the main operating appropriations | 935 |
| act of the 131st General Assembly that are generally applicable | 936 |
| to such appropriations. | 937 |