

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 90**

**Representatives Wiggam, Edwards**

**Cosponsors: Representatives Powell, Gross, Stoltzfus, Merrin, Fowler Arthur, Cross, McClain, Carruthers, Grendell, Swearingen, Zeltwanger, Click, Riedel, Manchester, Fraizer, Plummer, Hillyer, Kick, Jones, Schmidt, Loychik, Vitale, Wilkin, Lipps, Richardson**

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**A BILL**

To amend sections 106.022, 111.15, 119.03, 3701.13, 3715.74, and 4935.03 and to enact sections 103.65, 103.651, 107.42, and 107.43 of the Revised Code to establish legislative oversight of the Governor's executive orders, certain public health orders, and emergency rules, including by establishing the Ohio Health Oversight and Advisory Committee.

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

**Section 1.** That sections 106.022, 111.15, 119.03, 3701.13, 3715.74, and 4935.03 be amended and sections 103.65, 103.651, 107.42, and 107.43 of the Revised Code be enacted to read as follows:

**Sec. 103.65.** (A) There is hereby created the Ohio health oversight and advisory committee. The committee shall consist of the following members:

(1) Five members of the senate appointed by the president

of the senate, three of whom are members of the majority party 17  
and two of whom are members of the minority party; 18

(2) Five members of the house of representatives appointed 19  
by the speaker of the house of representatives, three of whom 20  
are members of the majority party and two of whom are members of 21  
the minority party. 22

(B) The president and speaker shall make the initial 23  
appointments to the committee not later than fifteen days after 24  
the effective date of this section. The president and speaker 25  
shall make subsequent appointments not later than fifteen days 26  
after the commencement of the first regular session of each 27  
general assembly. Committee members may be reappointed. Members 28  
of the committee shall serve on the committee until appointments 29  
are made in the first regular session of the following general 30  
assembly, unless a member is removed by the speaker or 31  
president, respectively. A vacancy on the committee shall be 32  
filled in the same manner as the original appointment. 33

(C) In odd-numbered years, the president shall designate 34  
one committee member from the senate who is a member of the 35  
majority party as the committee chairperson, and the speaker 36  
shall designate one committee member from the house who is a 37  
member of the minority party as the committee ranking minority 38  
member. In even-numbered years, the speaker shall designate one 39  
committee member from the house who is a member of the majority 40  
party as the committee chairperson, and the president shall 41  
designate one committee member from the senate who is a member 42  
of the minority party as the committee ranking minority member. 43

(D) In appointing members from the minority party, and in 44  
designating ranking minority members, the president and speaker 45  
shall consult with the minority leader of their respective 46

houses. 47

(E) The Ohio health oversight and advisory committee shall 48  
meet at the call of the chairperson. 49

(F) The executive director and other employees of the 50  
joint medicaid oversight committee shall serve the Ohio health 51  
oversight and advisory committee to enable the committee to 52  
successfully and efficiently perform its duties. 53

**Sec. 103.651.** (A) As used in this section, "public health 54  
state of emergency" has the same meaning as in section 107.42 of 55  
the Revised Code. 56

(B) (1) The Ohio health oversight and advisory committee 57  
has the power to do all of the following: 58

(a) Oversee actions taken by the governor or the 59  
department of health during a public health state of emergency; 60

(b) Oversee actions taken by the department for preventing 61  
the spread of contagious or infectious diseases under section 62  
3701.13 of the Revised Code; 63

(c) Consult with and provide advice to the governor and 64  
the department regarding necessary and appropriate action during 65  
a public health state of emergency. 66

(2) The committee chairperson, when authorized by the 67  
committee, the president of the senate, and the speaker of the 68  
house of representatives, may issue subpoenas and subpoenas 69  
duces tecum to assist the committee in performing its duties. A 70  
subpoena or subpoena duces tecum shall be issued, served, and 71  
returned, and has consequences, as specified in sections 101.41 72  
to 101.45 of the Revised Code. 73

(C) (1) Beginning on the eleventh day of a public health 74

state of emergency, the Ohio health oversight and advisory 75  
committee may, by a vote of the majority of its members, rescind 76  
an executive order issued by the governor in response to the 77  
public health state of emergency, including an executive order 78  
to declare an emergency and any order to authorize an agency to 79  
adopt, amend, or rescind rules under division (G) of section 80  
119.03 of the Revised Code. 81

(2) Beginning on the eleventh day of a public health state 82  
of emergency, and following the issuance of an executive order 83  
by the governor authorizing an agency to adopt, amend, or 84  
rescind rules under division (G) of section 119.03 of the 85  
Revised Code, the committee may, by a vote of the majority of 86  
its members, do either of the following: 87

(a) Invalidate an emergency rule adopted or amended by an 88  
agency; 89

(b) Authorize a rule rescinded by an agency to be 90  
reinstated. 91

(3) Beginning on the eleventh day of a public health state 92  
of emergency, and following the adoption of an emergency rule by 93  
an agency under division (B)(2) of section 111.15 of the Revised 94  
Code, the committee may, by a vote of the majority of its 95  
members, invalidate that rule. 96

(D) The committee may, at any time, by a vote of the 97  
majority of its members, rescind a special or standing order or 98  
rule for preventing the spread of a contagious or infectious 99  
disease issued by the department of health under section 3701.13 100  
of the Revised Code. 101

(E) (1) If the committee rescinds an executive order or a 102  
special or standing order or rule, or invalidates an emergency 103

rule pursuant to this section, the governor, the department, or 104  
agency shall not reissue that executive order or special or 105  
standing order or rule, or readopt that invalidated emergency 106  
rule, or a substantially similar executive order, special or 107  
standing order or rule, or emergency rule, for a period of 108  
ninety days following the committee's vote to rescind. 109

(2) An executive order issued by the governor, a special 110  
or standing order or rule issued by the department, or an 111  
emergency rule adopted, amended, or rescinded by an agency in 112  
violation of division (E) (1) of this section is invalid and has 113  
no legal effect. 114

**Sec. 106.022.** If the joint committee on agency rule review 115  
makes a finding with regard to a proposed rule under section 116  
106.021 of the Revised Code, and also finds that it nevertheless 117  
would be worthwhile to afford the agency an opportunity to 118  
revise the proposed rule, the joint committee, as an alternative 119  
to recommending the adoption of a concurrent resolution to 120  
invalidate the proposed rule, may authorize the agency to revise 121  
and refile the proposed rule and rule summary and fiscal 122  
analysis. The joint committee shall issue the authorization in 123  
writing. In the authorization, the joint committee shall explain 124  
the finding that, but for the authorization, would have resulted 125  
in a recommendation of invalidation, and shall explain why the 126  
joint committee has found it nevertheless to be worthwhile to 127  
afford the agency an opportunity to revise the proposed rule. 128  
The joint committee shall transmit the authorization 129  
electronically to the agency, the secretary of state, the 130  
director of the legislative service commission, and, if the 131  
proposed rule is to replace an emergency rule, the governor. 132

When the joint committee approves such an authorization, 133

the running of the time within which a concurrent resolution 134  
invalidating the proposed rule may be adopted is tolled until 135  
the thirty-first day after the day on which the authorization 136  
was approved. If, during the tolling period, the agency revises 137  
and refiles the proposed rule, the time within which a 138  
concurrent resolution invalidating the proposed rule may be 139  
adopted resumes running and expires on the thirty-first day 140  
after the day the proposed rule was refiled. But if, during the 141  
tolling period, the agency neither withdraws nor revises and 142  
refiles the proposed rule, the time within which a concurrent 143  
resolution invalidating the proposed rule may be adopted resumes 144  
running and expires on the thirty-first day after the day the 145  
tolling period ended. 146

Upon receiving the authorization, the agency may revise 147  
the proposed rule and rule summary and fiscal analysis, and then 148  
refile the revised proposed rule and rule summary and fiscal 149  
analysis electronically with the joint committee. 150

If the joint committee makes any of the findings outlined 151  
in section 106.021 of the Revised Code with regard to the 152  
revised proposed rule and rule summary and fiscal analysis, the 153  
joint committee may recommend the adoption of a concurrent 154  
resolution to invalidate the proposed rule under section 106.021 155  
of the Revised Code. The joint committee may issue only one 156  
authorization with regard to the same proposed rule. 157

~~If~~ Except as provided in sections 103.651 and 107.43 of 158  
the Revised Code, if the proposed rule that is the subject of an 159  
authorization is to replace an emergency rule, the governor may 160  
issue an order extending the emergency rule for an additional 161  
one hundred twenty days after the day on which the emergency 162  
rule otherwise would become invalid. The governor shall transmit 163

the order electronically to the agency, the joint committee, and 164  
the director of the legislative service commission. 165

Sec. 107.42. (A) As used in this section, "public health 166  
state of emergency" means an emergency for which the governor 167  
has declared an emergency in response to a threat to the 168  
preservation of the life and health of the people of this state, 169  
including an air pollution emergency under section 3704.032 of 170  
the Revised Code, an energy shortage emergency under section 171  
4935.03 of the Revised Code, and an adulterated consumer product 172  
emergency under section 3715.74 of the Revised Code. 173

(B) A public health state of emergency shall exist for not 174  
more than thirty days unless extended by a concurrent resolution 175  
adopted by both houses of the general assembly. An amendment to 176  
a public health state of emergency declaration shall not be 177  
considered a new declaration. 178

(C) Beginning the day the governor declares a public 179  
health state of emergency, the governor shall report to the 180  
president of the senate and the speaker of the house of 181  
representatives every action the governor takes in response to 182  
the public health state of emergency. 183

Sec. 107.43. (A) A state of emergency declared by the 184  
governor, including a public health state of emergency as 185  
defined under section 107.42 of the Revised Code, shall exist 186  
for not more than sixty days unless extended by the general 187  
assembly as provided in division (B) of this section. 188

(B) The general assembly may extend a state of emergency 189  
by adopting a concurrent resolution. The general assembly 190  
continuously may extend a state of emergency by adopting 191  
subsequent concurrent resolutions, but no extension may last 192

longer than sixty days. If the general assembly does not extend 193  
a state of emergency, the governor shall not reissue that 194  
declaration, or a substantially similar declaration, for a 195  
period of ninety days following the adoption of the concurrent 196  
resolution by the general assembly. 197

(C) (1) The general assembly may rescind, by adopting a 198  
concurrent resolution, any executive order issued by the 199  
governor or any emergency declaration issued by the governor, 200  
whether issued via executive order or otherwise. If the general 201  
assembly rescinds an executive order or emergency declaration, 202  
the governor shall not reissue that order or declaration, or a 203  
substantially similar order or declaration, for a period of 204  
ninety days following the adoption of the concurrent resolution 205  
by the general assembly. 206

(2) The general assembly may do either of the following by 207  
adopting a concurrent resolution: 208

(a) Invalidate an emergency rule adopted or amended by an 209  
agency under division (B) (2) of section 111.15 or division (G) 210  
of section 119.03 of the Revised Code; 211

(b) Authorize a rule rescinded by an agency under division 212  
(G) of section 119.03 of the Revised Code to be reinstated. 213

If the general assembly invalidates an emergency rule or 214  
authorizes a rule to be reinstated under division (C) (2) of this 215  
section, an agency shall not readopt or rescind that invalidated 216  
or reinstated rule, or a substantially similar rule, for a 217  
period of ninety days following the adoption of the concurrent 218  
resolution by the general assembly. 219

(D) An executive order issued by the governor, or any 220  
emergency declaration issued by the governor, whether issued via 221



executive order or otherwise, or a rule adopted, amended, or 222  
rescinded by an agency in violation of this section is invalid 223  
and has no legal effect. 224

**Sec. 111.15.** (A) As used in this section: 225

(1) "Rule" includes any rule, regulation, bylaw, or 226  
standard having a general and uniform operation adopted by an 227  
agency under the authority of the laws governing the agency; any 228  
appendix to a rule; and any internal management rule. "Rule" 229  
does not include any guideline adopted pursuant to section 230  
3301.0714 of the Revised Code, any order respecting the duties 231  
of employees, any finding, any determination of a question of 232  
law or fact in a matter presented to an agency, or any rule 233  
promulgated pursuant to Chapter 119. or division (C)(1) or (2) 234  
of section 5117.02 of the Revised Code. "Rule" includes any 235  
amendment or rescission of a rule. 236

(2) "Agency" means any governmental entity of the state 237  
and includes, but is not limited to, any board, department, 238  
division, commission, bureau, society, council, institution, 239  
state college or university, community college district, 240  
technical college district, or state community college. "Agency" 241  
does not include the general assembly, the controlling board, 242  
the adjutant general's department, or any court. 243

(3) "Internal management rule" means any rule, regulation, 244  
bylaw, or standard governing the day-to-day staff procedures and 245  
operations within an agency. 246

(B)(1) Any rule, other than a rule of an emergency nature, 247  
adopted by any agency pursuant to this section shall be 248  
effective on the tenth day after the day on which the rule in 249  
final form and in compliance with division (B)(3) of this 250

section is filed as follows: 251

(a) The rule shall be filed in electronic form with both 252  
the secretary of state and the director of the legislative 253  
service commission; 254

(b) The rule shall be filed in electronic form with the 255  
joint committee on agency rule review. Division (B) (1) (b) of 256  
this section does not apply to any rule to which division (D) of 257  
this section does not apply. 258

An agency that adopts or amends a rule that is subject to 259  
division (D) of this section shall assign a review date to the 260  
rule that is not later than five years after its effective date. 261  
If a review date assigned to a rule exceeds the five-year 262  
maximum, the review date for the rule is five years after its 263  
effective date. A rule with a review date is subject to review 264  
under section 106.03 of the Revised Code. This paragraph does 265  
not apply to a rule of a state college or university, community 266  
college district, technical college district, or state community 267  
college. 268

If an agency in adopting a rule designates an effective 269  
date that is later than the effective date provided for by 270  
division (B) (1) of this section, the rule if filed as required 271  
by such division shall become effective on the later date 272  
designated by the agency. 273

Any rule that is required to be filed under division (B) 274  
(1) of this section is also subject to division (D) of this 275  
section if not exempted by that division. 276

If a rule incorporates a text or other material by 277  
reference, the agency shall comply with sections 121.71 to 278  
121.75 of the Revised Code. 279

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. The emergency rule, in final form and in compliance with division (B)(3) of this section, shall be filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The emergency rule is effective immediately upon completion of the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B)(2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

An emergency rule becomes invalid at the end of the one hundred twentieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may not refile the emergency rule in compliance with division (B)(2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another one hundred twenty-day period.

The adoption of an emergency rule under division (B)(2) of this section may be rescinded by the Ohio health oversight and advisory committee in accordance with section 103.651 of the Revised Code or the general assembly in accordance with section 107.43 of the Revised Code.

(3) An agency shall file a rule under division (B)(1) or (2) of this section in compliance with the following standards

and procedures: 310

(a) The rule shall be numbered in accordance with the 311  
numbering system devised by the director for the Ohio 312  
administrative code. 313

(b) The rule shall be prepared and submitted in compliance 314  
with the rules of the legislative service commission. 315

(c) The rule shall clearly state the date on which it is 316  
to be effective and the date on which it will expire, if known. 317

(d) Each rule that amends or rescinds another rule shall 318  
clearly refer to the rule that is amended or rescinded. Each 319  
amendment shall fully restate the rule as amended. 320

If the director of the legislative service commission or 321  
the director's designee gives an agency notice pursuant to 322  
section 103.05 of the Revised Code that a rule filed by the 323  
agency is not in compliance with the rules of the legislative 324  
service commission, the agency shall within thirty days after 325  
receipt of the notice conform the rule to the rules of the 326  
commission as directed in the notice. 327

(C) All rules filed pursuant to divisions (B) (1) (a) and 328  
(2) of this section shall be recorded by the secretary of state 329  
and the director under the title of the agency adopting the rule 330  
and shall be numbered according to the numbering system devised 331  
by the director. The secretary of state and the director shall 332  
preserve the rules in an accessible manner. Each such rule shall 333  
be a public record open to public inspection and may be 334  
transmitted to any law publishing company that wishes to 335  
reproduce it. 336

(D) At least sixty-five days before a board, commission, 337  
department, division, or bureau of the government of the state 338

files a rule under division (B) (1) of this section, it shall 339  
file the full text of the proposed rule in electronic form with 340  
the joint committee on agency rule review, and the proposed rule 341  
is subject to legislative review and invalidation under section 342  
106.021 of the Revised Code. If a state board, commission, 343  
department, division, or bureau makes a revision in a proposed 344  
rule after it is filed with the joint committee, the state 345  
board, commission, department, division, or bureau shall 346  
promptly file the full text of the proposed rule in its revised 347  
form in electronic form with the joint committee. A state board, 348  
commission, department, division, or bureau shall also file the 349  
rule summary and fiscal analysis prepared under section 106.024 350  
of the Revised Code in electronic form along with a proposed 351  
rule, and along with a proposed rule in revised form, that is 352  
filed under this division. If a proposed rule has an adverse 353  
impact on businesses, the state board, commission, department, 354  
division, or bureau also shall file the business impact 355  
analysis, any recommendations received from the common sense 356  
initiative office, and the associated memorandum of response, if 357  
any, in electronic form along with the proposed rule, or the 358  
proposed rule in revised form, that is filed under this 359  
division. 360

A proposed rule that is subject to legislative review 361  
under this division may not be adopted and filed in final form 362  
under division (B) (1) of this section unless the proposed rule 363  
has been filed with the joint committee on agency rule review 364  
under this division and the time for the joint committee to 365  
review the proposed rule has expired without recommendation of a 366  
concurrent resolution to invalidate the proposed rule. 367

As used in this division, "commission" includes the public 368  
utilities commission when adopting rules under a federal or 369

state statute.	370
This division does not apply to any of the following:	371
(1) A proposed rule of an emergency nature;	372
(2) A rule proposed under section 1121.05, 1121.06, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;	373 374 375 376
(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;	377 378 379
(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;	380 381 382
(5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:	383 384 385 386 387
(a) A statement that it is proposed for the purpose of complying with a federal law or rule;	388 389
(b) A citation to the federal law or rule that requires verbatim compliance.	390 391
(6) An initial rule proposed by the director of health to impose safety standards and quality-of-care standards with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a health care facility as defined in section 3702.30 of the Revised Code, if section 3702.12 of the	392 393 394 395 396 397

Revised Code requires that the rule be adopted under this 398  
section; 399

(7) A rule of the state lottery commission pertaining to 400  
instant game rules. 401

If a rule is exempt from legislative review under division 402  
(D) (5) of this section, and if the federal law or rule pursuant 403  
to which the rule was adopted expires, is repealed or rescinded, 404  
or otherwise terminates, the rule is thereafter subject to 405  
legislative review under division (D) of this section. 406

Whenever a state board, commission, department, division, 407  
or bureau files a proposed rule or a proposed rule in revised 408  
form under division (D) of this section, it shall also file the 409  
full text of the same proposed rule or proposed rule in revised 410  
form in electronic form with the secretary of state and the 411  
director of the legislative service commission. A state board, 412  
commission, department, division, or bureau shall file the rule 413  
summary and fiscal analysis prepared under section 106.024 of 414  
the Revised Code in electronic form along with a proposed rule 415  
or proposed rule in revised form that is filed with the 416  
secretary of state or the director of the legislative service 417  
commission. 418

**Sec. 119.03.** In the adoption, amendment, or rescission of 419  
any rule, an agency shall comply with the following procedure: 420

(A) Reasonable public notice shall be given in the 421  
register of Ohio at least thirty days prior to the date set for 422  
a hearing, in the form the agency determines. The agency shall 423  
file copies of the public notice under division (B) of this 424  
section. (The agency gives public notice in the register of Ohio 425  
when the public notice is published in the register under that 426

division.) 427

The public notice shall include: 428

(1) A statement of the agency's intention to consider 429  
adopting, amending, or rescinding a rule; 430

(2) A synopsis of the proposed rule, amendment, or rule to 431  
be rescinded or a general statement of the subject matter to 432  
which the proposed rule, amendment, or rescission relates; 433

(3) A statement of the reason or purpose for adopting, 434  
amending, or rescinding the rule; 435

(4) The date, time, and place of a hearing on the proposed 436  
action, which shall be not earlier than the thirty-first nor 437  
later than the fortieth day after the proposed rule, amendment, 438  
or rescission is filed under division (B) of this section. 439

In addition to public notice given in the register of 440  
Ohio, the agency may give whatever other notice it reasonably 441  
considers necessary to ensure notice constructively is given to 442  
all persons who are subject to or affected by the proposed rule, 443  
amendment, or rescission. 444

The agency shall provide a copy of the public notice 445  
required under division (A) of this section to any person who 446  
requests it and pays a reasonable fee, not to exceed the cost of 447  
copying and mailing. 448

(B) The full text of the proposed rule, amendment, or rule 449  
to be rescinded, accompanied by the public notice required under 450  
division (A) of this section, shall be filed in electronic form 451  
with the secretary of state and with the director of the 452  
legislative service commission. (If in compliance with this 453  
division an agency files more than one proposed rule, amendment, 454



or rescission at the same time, and has prepared a public notice 455  
under division (A) of this section that applies to more than one 456  
of the proposed rules, amendments, or rescissions, the agency 457  
shall file only one notice with the secretary of state and with 458  
the director for all of the proposed rules, amendments, or 459  
rescissions to which the notice applies.) The proposed rule, 460  
amendment, or rescission and public notice shall be filed as 461  
required by this division at least sixty-five days prior to the 462  
date on which the agency, in accordance with division (E) of 463  
this section, issues an order adopting the proposed rule, 464  
amendment, or rescission. 465

If the proposed rule, amendment, or rescission 466  
incorporates a text or other material by reference, the agency 467  
shall comply with sections 121.71 to 121.75 of the Revised Code. 468

The proposed rule, amendment, or rescission shall be 469  
available for at least thirty days prior to the date of the 470  
hearing at the office of the agency in printed or other legible 471  
form without charge to any person affected by the proposal. 472  
Failure to furnish such text to any person requesting it shall 473  
not invalidate any action of the agency in connection therewith. 474

If the agency files a revision in the text of the proposed 475  
rule, amendment, or rescission, it shall also promptly file the 476  
full text of the proposed rule, amendment, or rescission in its 477  
revised form in electronic form with the secretary of state and 478  
with the director of the legislative service commission. 479

The agency shall file the rule summary and fiscal analysis 480  
prepared under section 106.024 of the Revised Code in electronic 481  
form along with a proposed rule, amendment, or rescission or 482  
proposed rule, amendment, or rescission in revised form that is 483  
filed with the secretary of state or the director of the 484

legislative service commission. 485

The agency shall file the hearing report relating to a 486  
proposed rule, amendment, or rescission in electronic form with 487  
the secretary of state and the director of the legislative 488  
service commission at the same time the agency files the hearing 489  
report with the joint committee on agency rule review. 490

The director of the legislative service commission shall 491  
publish in the register of Ohio the full text of the original 492  
and each revised version of a proposed rule, amendment, or 493  
rescission; the full text of a public notice; the full text of a 494  
rule summary and fiscal analysis; and the full text of a hearing 495  
report that is filed with the director under this division. 496

(C) When an agency files a proposed rule, amendment, or 497  
rescission under division (B) of this section, it also shall 498  
file in electronic form with the joint committee on agency rule 499  
review the full text of the proposed rule, amendment, or rule to 500  
be rescinded in the same form and the public notice required 501  
under division (A) of this section. (If in compliance with this 502  
division an agency files more than one proposed rule, amendment, 503  
or rescission at the same time, and has given a public notice 504  
under division (A) of this section that applies to more than one 505  
of the proposed rules, amendments, or rescissions, the agency 506  
shall file only one notice with the joint committee for all of 507  
the proposed rules, amendments, or rescissions to which the 508  
notice applies.) The proposed rule, amendment, or rescission is 509  
subject to legislative review and invalidation under sections 510  
106.02, 106.021, and 106.022 of the Revised Code. If the agency 511  
makes a revision in a proposed rule, amendment, or rescission 512  
after it is filed with the joint committee, the agency promptly 513  
shall file the full text of the proposed rule, amendment, or 514

rescission in its revised form in electronic form with the joint 515  
committee. 516

An agency shall file the rule summary and fiscal analysis 517  
prepared under section 106.024 of the Revised Code in electronic 518  
form along with a proposed rule, amendment, or rescission, and 519  
along with a proposed rule, amendment, or rescission in revised 520  
form, that is filed under this division. 521

If a proposed rule, amendment, or rescission has an 522  
adverse impact on businesses, the agency also shall file the 523  
business impact analysis, any recommendations received from the 524  
common sense initiative office, and the agency's memorandum of 525  
response, if any, in electronic form along with the proposed 526  
rule, amendment, or rescission, or along with the proposed rule, 527  
amendment, or rescission in revised form, that is filed under 528  
this division. 529

The agency shall file the hearing report in electronic 530  
form with the joint committee before the joint committee holds 531  
its public hearing on the proposed rule, amendment, or 532  
rescission. The filing of a hearing report does not constitute a 533  
revision of the proposed rule, amendment, or rescission to which 534  
the hearing report relates. 535

If the proposed rule, amendment, or rescission requires 536  
liability insurance, a bond, or any other financial 537  
responsibility instrument as a condition of licensure, the 538  
agency shall conduct a diligent search to determine if the 539  
liability insurance, bond, or other financial responsibility 540  
instrument is readily available in the amounts required as a 541  
condition of licensure, and shall certify to the joint committee 542  
that the search was conducted. 543

A proposed rule, amendment, or rescission that is subject 544  
to legislative review under this division may not be adopted 545  
under division (E) of this section or filed in final form under 546  
section 119.04 of the Revised Code unless the proposed rule, 547  
amendment, or rescission has been filed with the joint committee 548  
on agency rule review under this division and the time for 549  
legislative review of the proposed rule, amendment, or 550  
rescission has expired without adoption of a concurrent 551  
resolution to invalidate the proposed rule, amendment, or 552  
rescission. 553

This division does not apply to: 554

(1) An emergency rule, amendment, or rescission; 555

(2) A proposed rule, amendment, or rescission that must be 556  
adopted verbatim by an agency pursuant to federal law or rule, 557  
to become effective within sixty days of adoption, in order to 558  
continue the operation of a federally reimbursed program in this 559  
state, so long as the proposed rule contains both of the 560  
following: 561

(a) A statement that it is proposed for the purpose of 562  
complying with a federal law or rule; 563

(b) A citation to the federal law or rule that requires 564  
verbatim compliance. 565

(3) A proposed rule, amendment, or rescission that, as set 566  
forth in section 3719.41 of the Revised Code, must be adopted by 567  
the state board of pharmacy pursuant to federal law or rule, to 568  
become effective within sixty days of adoption, so long as the 569  
proposed rule contains a statement that it is proposed for the 570  
purpose of complying with federal law or rule. 571

If a rule or amendment is exempt from legislative review 572

under division (C) (2) of this section, and if the federal law or 573  
rule pursuant to which the rule or amendment was adopted 574  
expires, is repealed or rescinded, or otherwise terminates, the 575  
rule or amendment, or its rescission, is thereafter subject to 576  
legislative review under division (C) of this section. 577

(D) On the date and at the time and place designated in 578  
the notice, the agency shall conduct a public hearing at which 579  
any person affected by the proposed action of the agency may 580  
appear and be heard in person, by the person's attorney, or 581  
both, may present the person's position, arguments, or 582  
contentions, orally or in writing, offer and examine witnesses, 583  
and present evidence tending to show that the proposed rule, 584  
amendment, or rescission, if adopted or effectuated, will be 585  
unreasonable or unlawful. An agency may permit persons affected 586  
by the proposed rule, amendment, or rescission to present their 587  
positions, arguments, or contentions in writing, not only at the 588  
hearing, but also for a reasonable period before, after, or both 589  
before and after the hearing. A person who presents a position 590  
or arguments or contentions in writing before or after the 591  
hearing is not required to appear at the hearing. 592

At the hearing, the testimony shall be recorded. Such 593  
record shall be made at the expense of the agency. The agency is 594  
required to transcribe a record that is not sight readable only 595  
if a person requests transcription of all or part of the record 596  
and agrees to reimburse the agency for the costs of the 597  
transcription. An agency may require the person to pay in 598  
advance all or part of the cost of the transcription. 599

In any hearing under this section the agency may 600  
administer oaths or affirmations. 601

The agency shall consider the positions, arguments, or 602

contentions presented at, or before or after, the hearing. The 603  
agency shall prepare a hearing summary of the positions, 604  
arguments, or contentions, and of the issues raised by the 605  
positions, arguments, or contentions. The agency then shall 606  
prepare a hearing report explaining, with regard to each issue, 607  
how it is reflected in the rule, amendment, or rescission. If an 608  
issue is not reflected in the rule, amendment, or rescission, 609  
the hearing report shall explain why the issue is not reflected. 610  
The agency shall include the hearing summary in the hearing 611  
report as an appendix thereto. And, in the hearing report, the 612  
agency shall identify the proposed rule, amendment, or 613  
rescission to which the hearing report relates. 614

(E) After divisions (A), (B), (C), and (D) of this section 615  
have been complied with, and when the time for legislative 616  
review under sections 106.02, 106.022, and 106.023 of the 617  
Revised Code has expired without adoption of a concurrent 618  
resolution to invalidate the proposed rule, amendment, or 619  
rescission, the agency may issue an order adopting the proposed 620  
rule or the proposed amendment or rescission of the rule, 621  
consistent with the synopsis or general statement included in 622  
the public notice. At that time the agency shall designate the 623  
effective date of the rule, amendment, or rescission, which 624  
shall not be earlier than the tenth day after the rule, 625  
amendment, or rescission has been filed in its final form as 626  
provided in section 119.04 of the Revised Code. 627

(F) Prior to the effective date of a rule, amendment, or 628  
rescission, the agency shall make a reasonable effort to inform 629  
those affected by the rule, amendment, or rescission and to have 630  
available for distribution to those requesting it the full text 631  
of the rule as adopted or as amended. 632

(G) (1) If the governor, upon the request of an agency, determines that an emergency requires the immediate adoption, amendment, or rescission of a rule, the governor shall issue an order, the text of which shall be filed in electronic form with the agency, the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review, that the procedure prescribed by this section with respect to the adoption, amendment, or rescission of a specified rule is suspended. The agency may then adopt immediately the emergency rule, amendment, or rescission and it becomes effective on the date the rule, amendment, or rescission, in final form and in compliance with division (A) (2) of section 119.04 of the Revised Code, is filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The director shall publish the full text of the emergency rule, amendment, or rescission in the register of Ohio.

Except as provided in division (G) (2) of this section, the emergency rule, amendment, or rescission shall become invalid at the end of the one hundred twentieth day it is in effect. Prior to that date the agency may adopt the emergency rule, amendment, or rescission as a nonemergency rule, amendment, or rescission by complying with the procedure prescribed by this section for the adoption, amendment, and rescission of nonemergency rules. The agency shall not use the procedure of division (G) (1) of this section to readopt the emergency rule, amendment, or rescission so that, upon the emergency rule, amendment, or rescission becoming invalid under division (G) (1) of this section, the emergency rule, amendment, or rescission will continue in effect without interruption for another one-hundred-

twenty-day period, except when section 106.02 of the Revised Code prevents the agency from adopting the emergency rule, amendment, or rescission as a nonemergency rule, amendment, or rescission within the one-hundred-twenty-day period.

Division (G) (1) of this section does not apply to the adoption of any emergency rule, amendment, or rescission by the tax commissioner under division (C) (2) of section 5117.02 of the Revised Code.

(2) An emergency rule or amendment adding a substance to a controlled substance schedule shall become invalid at the end of the one hundred eightieth day it is in effect. Prior to that date, the state board of pharmacy may adopt the emergency rule or amendment as a nonemergency rule or amendment by complying with the procedure prescribed by this section for adoption and amendment of nonemergency rules. The board shall not use the procedure of division (G) (1) of this section to readopt the emergency rule or amendment so that, upon the emergency rule or amendment becoming invalid under division (G) (2) of this section, the emergency rule or amendment will continue in effect beyond the one-hundred-eighty-day period.

(3) The Ohio health oversight and advisory committee, in accordance with section 103.651 of the Revised Code, and the general assembly, in accordance with section 107.43 of the Revised Code, may do either of the following:

(a) Invalidate an emergency rule adopted or amended by an agency under division (G) (1) of this section;

(b) Authorize a rule rescinded by an agency under division (G) (1) of this section to be reinstated.

(H) Rules adopted by an authority within the department of



job and family services for the administration or enforcement of 693  
Chapter 4141. of the Revised Code or of the department of 694  
taxation shall be effective without a hearing as provided by 695  
this section if the statutes pertaining to such agency 696  
specifically give a right of appeal to the board of tax appeals 697  
or to a higher authority within the agency or to a court, and 698  
also give the appellant a right to a hearing on such appeal. 699  
This division does not apply to the adoption of any rule, 700  
amendment, or rescission by the tax commissioner under division 701  
(C) (1) or (2) of section 5117.02 of the Revised Code, or deny 702  
the right to file an action for declaratory judgment as provided 703  
in Chapter 2721. of the Revised Code from the decision of the 704  
board of tax appeals or of the higher authority within such 705  
agency. 706

**Sec. 3701.13. (A) As used in this section:** 707

(1) "Isolation" means the separation of one or more 708  
individuals who has been medically diagnosed with a communicable 709  
or contagious disease from other individuals who have not been 710  
medically diagnosed with the disease. 711

(2) "Quarantine" means the separation or restriction of 712  
movement of one or more individuals who have come into direct 713  
contact with someone who has been medically diagnosed with a 714  
communicable or contagious disease. 715

(B) (1) The department of health shall have supervision of 716  
all matters relating to the preservation of the life and health 717  
of the people and have ~~ultimate~~ authority in matters of 718  
quarantine and isolation, which it may declare and enforce, when 719  
neither exists, and modify, relax, or abolish, when either has 720  
been established. ~~The~~ 721

(2) The department may approve methods of immunization 722  
against the diseases specified in section 3313.671 of the 723  
Revised Code for the purpose of carrying out the provisions of 724  
that section and take such actions as are necessary to encourage 725  
vaccination against those diseases. 726

~~The (C) (1) Subject to section 103.651 of the Revised Code~~ 727  
~~and divisions (C) (2) and (3) of this section, the department may~~ 728  
~~make special or standing orders or rules for preventing the use~~ 729  
~~of fluoroscopes for nonmedical purposes that emit doses of~~ 730  
~~radiation likely to be harmful to any person, for preventing the~~ 731  
~~spread of contagious or infectious diseases, for governing the~~ 732  
~~receipt and conveyance of remains of deceased persons, and for~~ 733  
~~such other sanitary matters as are best controlled by a general~~ 734  
~~rule.~~ 735

(2) The general assembly may rescind a special or standing 736  
order or rule issued under division (C) (1) of this section by 737  
adopting a concurrent resolution. 738

(3) If a special or standing order or rule issued under 739  
division (C) (1) of this section is rescinded by the general 740  
assembly under division (C) (2) of this section, the department 741  
shall not reissue that order or rule, or a substantially similar 742  
order or rule, for a period of ninety days following the 743  
adoption of the concurrent resolution by the general assembly. 744

(4) A special or standing order or rule issued by the 745  
department in violation of division (C) (3) of this section is 746  
invalid and has no legal effect. 747

(5) Beginning the day the governor declares a public 748  
health state of emergency as defined under section 107.42 of the 749  
Revised Code, the department shall report to the president of 750

the senate and the speaker of the house of representatives every 751  
action the department takes under this section in response to 752  
the public health state of emergency. 753

(D) In addition to the authority granted by division (C) 754  
(1) of this section, the department may make special or standing 755  
orders or rules for any of the following purposes: 756

(1) To prevent the use of fluoroscopes for nonmedical 757  
purposes that emit doses of radiation likely to be harmful to 758  
any person; 759

(2) To govern the receipt and conveyance of remains of 760  
deceased persons; 761

(3) To address such other sanitary matters as are best 762  
controlled by a general rule. 763

(E) Whenever possible, the department shall work in 764  
cooperation with the health commissioner of a general or city 765  
health district. ~~The~~ 766

In any of the following circumstances, the department may 767  
make and enforce orders in local matters or reassign substantive 768  
authority for mandatory programs from a general or city health 769  
district to another general or city health district: when an 770  
emergency exists, ~~or~~ when the board of health of a general or 771  
city health district has neglected or refused to act with 772  
sufficient promptness or efficiency, or when such board has not 773  
been established as provided by sections 3709.02, 3709.03, 774  
3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised 775  
Code. In such cases, the necessary expense incurred shall be 776  
paid by the general health district or city for which the 777  
services are rendered. 778

The department of health may require general or city 779

health districts to enter into agreements for shared services 780  
under section 9.482 of the Revised Code. The department shall 781  
prepare and offer to boards of health a model contract and 782  
memorandum of understanding that are easily adaptable for use by 783  
boards of health when entering into shared services agreements. 784  
The department also may offer financial and other technical 785  
assistance to boards of health to encourage the sharing of 786  
services. 787

As a condition precedent to receiving funding from the 788  
department of health, the director of health may require general 789  
or city health districts to apply for accreditation by July 1, 790  
2018, and be accredited by July 1, 2020, by an accreditation 791  
body approved by the director. The director of health, by July 792  
1, 2016, shall conduct an evaluation of general and city health 793  
district preparation for accreditation, including an evaluation 794  
of each district's reported public health quality indicators as 795  
provided for in section 3701.98 of the Revised Code. 796

(F) The department may make evaluative studies of the 797  
nutritional status of Ohio residents, and of the food and 798  
nutrition-related programs operating within the state. Every 799  
agency of the state, at the request of the department, shall 800  
provide information and otherwise assist in the execution of 801  
such studies. 802

**Sec. 3715.74.** (A) As used in this section: 803

(1) "Adulterated" means adulterated as determined under 804  
section 3715.59 or 3715.63 of the Revised Code. 805

(2) "Consumer product" means any food or drink that is 806  
consumed by humans and any medicine, including a prescription 807  
drug, that is consumed or used by humans. 808

(3) "Retailer" means a place of business that offers 809  
consumer products for sale to the general public. 810

(B) (1) Except as provided in division (C) of this section, 811  
if the governor has a reasonable basis to believe that one or 812  
more units of a consumer product have been adulterated and that 813  
further sale or use of the consumer product presents a threat to 814  
the public health and safety, the governor may declare ~~a public~~ 815  
~~health state of an adulterated consumer product~~ emergency and 816  
make any of the following executive ~~public health state of~~ 817  
~~adulterated consumer product~~ emergency orders: 818

(a) That all units of the consumer product be removed from 819  
public display by all retailers; 820

(b) That no units of the consumer product be sold or 821  
offered for sale during the ~~public health state of~~ adulterated 822  
consumer product emergency; 823

(c) That any retailer possessing units of the consumer 824  
product segregate these units from other merchandise and hold 825  
them or a portion of them for disposition by designated law 826  
enforcement officers or officials of the department of 827  
agriculture, the department of health, or the state board of 828  
pharmacy; 829

(d) Any other limitations, controls, or prohibitions that 830  
the governor considers necessary regarding the manufacture, 831  
importation, sale, or transportation of the consumer product. 832

(2) The governor may amend or rescind any order issued 833  
under division (B) (1) of this section. 834

(C) If the particular type of consumer product referred to 835  
in division (B) (1) of this section is one that falls within the 836  
jurisdiction of the department of agriculture, the department of 837

health, or the state board of pharmacy, the governor shall not 838  
declare a ~~public health state of an adulterated consumer product~~ 839  
emergency pursuant to that division unless requested to do so by 840  
the department or board that regulates the consumer product. If 841  
the governor grants the request, the department or board that 842  
made the request shall enforce the provisions of this section. 843

(D) ~~A public health state of emergency declared under this~~ 844  
~~section shall exist for not more than sixty days unless extended~~ 845  
~~by the governor for an additional thirty day period, at which~~ 846  
~~time the public health state of emergency shall end unless it is~~ 847  
~~extended by a concurrent resolution adopted by both houses of~~ 848  
~~the general assembly. An amendment to an executive public health~~ 849  
~~state of emergency order shall not be considered a new order.~~ 850

~~(E)~~ Any executive ~~public health state of adulterated~~ 851  
~~consumer product~~ emergency order or amended executive ~~public~~ 852  
~~health state of adulterated consumer product~~ emergency order 853  
issued under this section shall be disseminated promptly by 854  
means that bring the order to the attention of the general 855  
public. The governor promptly shall file the order with the 856  
secretary of state, the department of agriculture, the 857  
department of health, and the state board of pharmacy. 858

~~(F)~~ ~~(E)~~ The state is not liable for removal, or for the 859  
costs of removal, of consumer products from public display in 860  
connection with an executive ~~public health state of adulterated~~ 861  
~~consumer product~~ emergency order issued under division (B) (1) (a) 862  
of this section. Neither the state nor an agent of the state 863  
acting pursuant to a ~~public health state of an adulterated~~ 864  
~~consumer product~~ emergency is liable for any damages or loss 865  
incurred because of any action pursuant to an executive ~~public~~ 866  
~~health state of adulterated consumer product~~ emergency order of 867

that type. 868

~~(G)~~ (F) No person shall knowingly violate an executive 869  
~~public health state of adulterated consumer product emergency~~ 870  
order issued by the governor under this section. Whoever 871  
violates an executive ~~public health state of adulterated~~ 872  
consumer product emergency order is subject to a fine of not 873  
less than five hundred dollars. Each day a violation continues 874  
is a separate offense. 875

~~(H)~~ (G) The attorney general, at the direction of the 876  
governor or upon request of the director of agriculture, the 877  
director of health, the state board of pharmacy, or a 878  
prosecuting attorney may commence an action in a court of common 879  
pleas to enjoin a violation of an executive ~~public health state of~~ 880  
~~of adulterated consumer product emergency~~ order issued pursuant 881  
to this section or to compel a person to perform a duty imposed 882  
by an executive ~~public health state of adulterated consumer~~ 883  
product emergency order. 884

**Sec. 4935.03.** (A) The public utilities commission shall 885  
adopt, and may amend or rescind, rules in accordance with 886  
section 111.15 of the Revised Code, with the approval of the 887  
governor, defining various foreseen types and levels of energy 888  
emergency conditions for critical shortages or interruptions in 889  
the supply of electric power, natural gas, coal, or individual 890  
petroleum fuels and specifying appropriate measures to be taken 891  
at each level or for each type of energy emergency as necessary 892  
to protect the public health or safety or prevent unnecessary or 893  
avoidable damage to property. The rules may prescribe different 894  
measures for each different type or level of declared energy 895  
emergency, and for any type or level shall empower the governor 896  
to: 897

(1) Restrict the energy consumption of state and local government offices and industrial and commercial establishments;	898 899
(2) Restrict or curtail public or private transportation or require or encourage the use of car pools or mass transit systems;	900 901 902
(3) Order, during a declared energy emergency, any electric light, natural gas or gas, or pipeline company; any supplier subject to certification under section 4928.08 or 4929.20 of the Revised Code; electric power or gas utility that is owned by a municipal corporation or not for profit; coal producer or supplier; electric power producer or marketer; or petroleum fuel producer, refiner, wholesale distributor, or retail dealer to sell electricity, gas, coal, or petroleum fuel in order to alleviate hardship, or if possible to acquire or produce emergency supplies to meet emergency needs;	903 904 905 906 907 908 909 910 911 912
(4) Order, during a declared energy emergency, other energy conservation or emergency energy production or distribution measures to be taken in order to alleviate hardship;	913 914 915 916
(5) Mobilize emergency management, national guard, law enforcement, or emergency medical services.	917 918
The rules shall be designed to protect the public health and safety and prevent unnecessary or avoidable damage to property. They shall encourage the equitable distribution of available electric power and fuel supplies among all geographic regions in the state.	919 920 921 922 923
(B) The governor may, after consultation with the chairperson of the commission, declare an energy emergency by filing with the secretary of state a written declaration of an	924 925 926



energy emergency at any time the governor finds that the health, 927  
safety, or welfare of the residents of this state or of one or 928  
more counties of this state is so imminently and substantially 929  
threatened by an energy shortage that immediate action of state 930  
government is necessary to prevent loss of life, protect the 931  
public health or safety, and prevent unnecessary or avoidable 932  
damage to property. The declaration shall state the counties, 933  
utility service areas, or fuel market areas affected, or its 934  
statewide effect, and what fuels or forms of energy are in 935  
critically short supply. An energy emergency declaration goes 936  
into immediate effect upon filing ~~and continues in effect for~~ 937  
~~the period prescribed in the declaration, but not more than~~ 938  
~~thirty days. At the end of any thirty-day or shorter energy~~ 939  
~~emergency, the governor may issue another declaration extending~~ 940  
~~the emergency. The general assembly may by concurrent resolution~~ 941  
~~terminate any declaration of an energy emergency. The emergency~~ 942  
~~is terminated at the time of filing of the concurrent resolution~~ 943  
~~with the secretary of state.~~ When an energy emergency is 944  
declared, the commission shall implement the measures which it 945  
determines are appropriate for the type and level of emergency 946  
in effect. 947

(C) Energy emergency orders issued by the governor 948  
pursuant to this section shall take effect immediately upon 949  
issuance, and the person to whom the order is directed shall 950  
initiate compliance measures immediately upon receiving the 951  
order. During an energy emergency the attorney general or the 952  
prosecuting attorney of the county where violation of a rule 953  
adopted or order issued under this section occurs may bring an 954  
action for immediate injunction or other appropriate relief to 955  
secure prompt compliance. The court may issue an ex parte 956  
temporary order without notice which shall enforce the 957

prohibitions, restrictions, or actions that are necessary to 958  
secure compliance with the rule or order. Compliance with rules 959  
or orders issued under this section is a matter of statewide 960  
concern. 961

(D) During a declared energy emergency the governor may 962  
use the services, equipment, supplies, and facilities of 963  
existing departments, offices, and agencies of the state and of 964  
the political subdivisions thereof to the maximum extent 965  
practicable and necessary to meet the energy emergency, and the 966  
officers and personnel of all such departments, offices, and 967  
agencies shall cooperate with and extend such services and 968  
facilities to the governor upon request. 969

(E) During an energy emergency declared under this 970  
section, no person shall violate any rule adopted or order 971  
issued under this section. Whoever violates this division is 972  
guilty of a minor misdemeanor on a first offense, and a 973  
misdemeanor of the first degree upon subsequent offenses or if 974  
the violation was purposely committed. 975

**Section 2.** That existing sections 106.022, 111.15, 119.03, 976  
3701.13, 3715.74, and 4935.03 of the Revised Code are hereby 977  
repealed. 978

**Section 3.** Any executive order issued by the Governor or 979  
any emergency declaration issued by the Governor, whether issued 980  
via executive order or otherwise, and any special or standing 981  
order or rule issued by the Department of Health under section 982  
3701.13 of the Revised Code, that is in effect on the effective 983  
date of this section is subject to review and rescission by the 984  
Ohio Health Oversight and Advisory Committee under section 985  
103.651 of the Revised Code and by the General Assembly under 986  
sections 107.43 and 3701.13 of the Revised Code. 987

**Section 4.** Section 119.03 of the Revised Code is presented 988  
in this act as a composite of the section as amended by both 989  
S.B. 221 and S.B. 229 of the 132nd General Assembly. The General 990  
Assembly, applying the principle stated in division (B) of 991  
section 1.52 of the Revised Code that amendments are to be 992  
harmonized if reasonably capable of simultaneous operation, 993  
finds that the composite is the resulting version of the section 994  
in effect prior to the effective date of the section as 995  
presented in this act. 996