

**As Reported by the House State and Local Government Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. S. B. No. 1**

**Senators McColley, Roegner**

**Cosponsors: Senators Obhof, Brenner, Coley, Hackett, Hoagland, Hottinger, Huffman, S., Huffman, M., Lehner, Rulli, Peterson, Wilson, Terhar, Gavarone, Manning, Schaffer, Schuring, Uecker Representatives Wiggam, Becker, Hambley, Smith, T.**

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**A BILL**

To amend sections 101.35, 106.021, 106.03, 106.031, 1  
121.95, and 3701.13 and to enact sections 2  
101.354, 101.355, 101.36, 107.57, 121.031, 3  
121.951, 121.952, and 121.953 of the Revised 4  
Code to require certain agencies to reduce the 5  
number of regulatory restrictions in their 6  
administrative rules, to require the approval of 7  
the Joint Committee on Agency Rule Review for 8  
Department of Health orders to be effective for 9  
more than fourteen days, and to modify the 10  
Department's rulemaking authority. 11

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

**Section 1.** That sections 101.35, 106.021, 106.03, 106.031, 12  
121.95, and 3701.13 be amended and sections 101.354, 101.355, 13  
101.36, 107.57, 121.031, 121.951, 121.952, and 121.953 of the 14  
Revised Code be enacted to read as follows: 15

**Sec. 101.35.** There is hereby created in the general 16

assembly the joint committee on agency rule review. The 17  
committee shall consist of five members of the house of 18  
representatives and five members of the senate. Within fifteen 19  
days after the commencement of the first regular session of each 20  
general assembly, the speaker of the house of representatives 21  
shall appoint the members of the committee from the house of 22  
representatives, and the president of the senate shall appoint 23  
the members of the committee from the senate. Not more than 24  
three of the members from each house shall be of the same 25  
political party. In the first regular session of a general 26  
assembly, the chairperson of the committee shall be appointed by 27  
the speaker of the house from among the house members of the 28  
committee, and the vice-chairperson shall be appointed by the 29  
president of the senate from among the senate members of the 30  
committee. In the second regular session of a general assembly, 31  
the chairperson shall be appointed by the president of the 32  
senate from among the senate members of the committee, and the 33  
vice-chairperson shall be appointed by the speaker of the house 34  
from among the house members of the committee. The chairperson, 35  
vice-chairperson, and members of the committee shall serve until 36  
their respective successors are appointed or until they are no 37  
longer members of the general assembly. When a vacancy occurs 38  
among the officers or members of the committee, it shall be 39  
filled in the same manner as the original appointment. 40

Notwithstanding section 101.26 of the Revised Code, the 41  
members, when engaged in their duties as members of the 42  
committee on days when there is not a voting session of the 43  
member's house of the general assembly, shall be paid at the per 44  
diem rate of one hundred fifty dollars, and their necessary 45  
traveling expenses, which shall be paid from the funds 46  
appropriated for the payment of expenses of legislative 47

committees. 48

~~The~~ Except as otherwise provided in section 101.36 of the 49  
Revised Code, the committee has the same powers as other 50  
standing or select committees of the general assembly. Six 51  
members constitute a quorum. The concurrence of six members is 52  
required for the recommendation of a concurrent resolution 53  
invalidating a proposed rule under section 106.021 of the 54  
Revised Code. The concurrence of seven members is required for 55  
the recommendation of a concurrent resolution invalidating an 56  
existing rule under section 106.031 of the Revised Code. 57

When a member of the committee is absent, the president or 58  
speaker, as the case may be, may designate a substitute from the 59  
same house and political party as the absent member. The 60  
substitute shall serve on the committee in the member's absence, 61  
and is entitled to perform the duties of a member of the 62  
committee. For serving on the committee, the substitute shall be 63  
paid the same per diem and necessary traveling expenses as the 64  
substitute would be entitled to receive if the substitute were a 65  
member of the committee. 66

The president or speaker shall inform the executive 67  
director of the committee of a substitution. If the executive 68  
director learns of a substitution sufficiently in advance of the 69  
meeting of the committee the substitute is to attend, the 70  
executive director shall publish notice of the substitution on 71  
the internet, make reasonable effort to inform of the 72  
substitution persons who are known to the executive director to 73  
be interested in rules that are scheduled for review at the 74  
meeting, and inform of the substitution persons who inquire of 75  
the executive director concerning the meeting. 76

The committee may meet during periods in which the general 77

assembly has adjourned. 78

At meetings of the committee, the committee may request an 79  
agency, as defined in section 106.01 of the Revised Code, to 80  
provide information relative to the agency's implementation of 81  
its statutory authority. 82

A member of the committee, and the executive director and 83  
staff of the committee, are entitled in their official 84  
capacities to attend, but not in their official capacities to 85  
participate in, a public hearing conducted by an agency on a 86  
proposed rule. 87

The executive director serves at the pleasure of the 88  
president and speaker by mutual consensus. The executive 89  
director may employ such technical, professional, and clerical 90  
employees as are necessary to carry out the powers and 91  
administrative duties of the committee. 92

Sec. 101.354. (A) The joint committee on agency rule 93  
review shall advise and assist state agencies in preparing base 94  
and revised inventories of regulatory restrictions and shall 95  
advise and assist state agencies in achieving specified 96  
percentage reductions in regulatory restrictions in the 97  
Administrative Code in accordance with sections 121.95, 121.951, 98  
121.952, and 121.953 of the Revised Code. 99

(B) Beginning in 2020, not later than the fifteenth day of 100  
June of each year, the executive director of the joint committee 101  
shall prepare an historical report aggregating the reports 102  
received from state agencies for the preceding year. In the 103  
report, the executive director also shall describe the work of 104  
the joint committee over the preceding year with respect to 105  
reduction of regulatory restrictions and shall indicate, out of 106

the total number of regulatory restrictions inventoried by state 107  
agencies, the percentage by which state agencies have reduced 108  
those regulatory restrictions. The report also shall provide 109  
recommendations for statutory changes, where appropriate, 110  
brought to the attention of the joint committee as contributing 111  
to the adoption of regulatory restrictions. The executive 112  
director shall submit the report to the members of the joint 113  
committee, which shall publish the report on its web site and 114  
transmit copies of the report electronically to the speaker of 115  
the house of representatives and the president of the senate. 116

**Sec. 101.355.** The joint committee on agency rule review, 117  
in consultation with legislative information systems, shall do 118  
both of the following: 119

(A) Create and maintain a system that state agencies shall 120  
use to enter regulatory restriction data, create required 121  
inventories, and transmit copies of inventories, reports, and 122  
any other documents to the joint committee and the speaker of 123  
the house of representatives and the president of the senate 124  
under sections 121.95, 121.951, and 121.953 of the Revised Code, 125  
and that will assist the joint committee in aggregating reports 126  
and performing other prescribed duties under sections 101.354, 127  
121.95, 121.951, 121.952, and 121.953 of the Revised Code; 128

(B) Establish, maintain, and improve the cut red tape 129  
system, which shall include a web site and shall allow members 130  
of the public to request information about regulatory 131  
restrictions and to communicate with the joint committee about 132  
regulatory restrictions. 133

**Sec. 101.36.** (A) The director of health may apply to the 134  
joint committee on agency rule review to approve the extension 135  
of an order beyond the fourteen-day period described in section 136

3701.13 of the Revised Code. 137

(B) Notwithstanding any contrary provision of section 101.35 of the Revised Code, a majority vote of the joint committee, including the affirmative vote of at least three members of the house of representatives and at least three members of the senate, is required to approve the extension of an order under this section. The joint committee shall determine the period of the extension, if any. 138  
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(C) Any citizen of this state shall have standing to seek a court order that the director of health comply with this section or division (C) of section 3701.13 of the Revised Code. Such a citizen shall not be required to prove that irreparable harm will result if the court does not issue the order. 145  
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**Sec. 106.021.** If, upon reviewing a proposed rule or revised proposed rule, the joint committee on agency rule review makes any of the following findings with regard to the proposed rule or revised proposed rule, the joint committee may recommend to the senate and house of representatives the adoption of a concurrent resolution to invalidate the proposed rule or revised proposed rule or a part thereof: 150  
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(A) The proposed rule or revised proposed rule exceeds the scope of its statutory authority. 157  
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(B) The proposed rule or revised proposed rule conflicts with the legislative intent of the statute under which it was proposed. 159  
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(C) The proposed rule or revised proposed rule conflicts with another proposed or existing rule. 162  
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(D) The proposed rule or revised proposed rule incorporates a text or other material by reference and: 164  
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(1) The accompanying citation is not such as reasonably 166  
would enable a reasonable person to whom the proposed rule or 167  
revised proposed rule applies readily and without charge to find 168  
and inspect the incorporated text or other material; 169

(2) The accompanying citation is not such as reasonably 170  
would enable the joint committee readily and without charge to 171  
find and inspect the incorporated text or other material, and 172  
the agency did not file or otherwise make the incorporated text 173  
or other material available without charge to the joint 174  
committee; or 175

(3) The agency has treated the proposed rule or revised 176  
proposed rule in whole or in part as exempt from sections 121.71 177  
to 121.74 of the Revised Code on grounds the incorporated text 178  
or other material has one or more of the characteristics 179  
described in division (B) of section 121.75 of the Revised Code, 180  
but the incorporated text or other material actually does not 181  
have any of those characteristics. 182

(E) The agency has failed to prepare a complete and 183  
accurate rule summary and fiscal analysis of the proposed rule 184  
or revised proposed rule as required by section 106.024 of the 185  
Revised Code. 186

(F) The agency has failed to demonstrate through the 187  
business impact analysis, recommendations from the common sense 188  
initiative office, and the memorandum of response that the 189  
regulatory intent of the proposed rule or revised proposed rule 190  
justifies its adverse impact on businesses in this state. 191

(G) The agency has failed to justify the proposed 192  
adoption, amendment, or rescission of a rule containing a 193  
regulatory restriction. 194

Sec. 106.03. Prior to the review date of an existing rule,	195
the agency that adopted the rule shall do both of the following:	196
(A) Review the rule to determine <del>all</del> <u>whether the rule</u>	197
<u>should be amended or rescinded, including for the purpose of</u>	198
<u>accomplishing the reductions in regulatory restrictions required</u>	199
<u>by section 121.951 of the Revised Code, because it does any of</u>	200
<u>the following, or otherwise for the purpose of reducing</u>	201
<u>regulatory restrictions:</u>	202
(1) <del>Whether the rule should be continued without</del>	203
<del>amendment, be amended, or be rescinded, taking into</del>	204
<del>consideration</del> <u>Exceeds or conflicts with</u> the purpose, scope, and	205
<u>or intent</u> of the statute under which the rule was adopted;	206
(2) <del>Whether the rule needs amendment or rescission to give</del>	207
<del>more</del> <u>Provides inadequate flexibility</u> at the local level;	208
(3) <del>Whether the rule needs amendment or rescission to</del>	209
<del>eliminate unnecessary paperwork</del> <u>Creates a compliance or</u>	210
<u>oversight burden for the state agency, or for any person or</u>	211
<u>entity, that is greater than the burden that would be created if</u>	212
<u>the agency accomplished the intended purpose of the restriction</u>	213
<u>by other means;</u>	214
(4) <del>Whether the rule incorporates</del> <u>Is no longer useful or</u>	215
<u>beneficial;</u>	216
(5) <u>Incorporates</u> a text or other material by reference	217
and, if so:	218
(a) <del>Whether the</del> <u>The</u> citation accompanying the	219
incorporation by reference is such as <del>reasonably</del> would <u>not</u>	220
<u>reasonably</u> enable a reasonable person to whom the rule applies	221
readily and without charge to find and inspect the incorporated	222
text or other material;	223

(b) ~~Whether the~~ The citation accompanying the 224  
incorporation by reference is such as ~~reasonably~~ would not 225  
reasonably enable the joint committee on agency rule review 226  
readily and without charge to find and inspect the incorporated 227  
text or other material; ~~and~~ or 228

(c) If the rule has been exempted in whole or in part from 229  
sections 121.71 to 121.74 of the Revised Code on grounds the 230  
incorporated text or other material has one or more of the 231  
characteristics described in division (B) of section 121.75 of 232  
the Revised Code, ~~whether~~ the incorporated text or other 233  
material does not actually ~~has~~ have any of those 234  
characteristics. 235

~~(5) Whether the rule duplicates~~ 236

(6) Duplicates, overlaps with, or conflicts with ~~other~~ 237  
~~rules;~~ 238

~~(6) Whether the rule has~~ another state or federal law or 239  
rule. A rule duplicates, overlaps with, or conflicts with 240  
another law or rule if it imposes a duty or liability on a 241  
person or entity that the other law or rule also imposes on that 242  
person or entity, in whole or in part, or imposes a duty or 243  
liability that may require a person or entity to violate the 244  
other law or rule in whole or in part. If the rule duplicates, 245  
overlaps with, or conflicts with a rule adopted by another state 246  
agency, the two agencies shall determine which agency shall 247  
amend or rescind its rule and shall develop and execute a plan 248  
to work together to achieve the required oversight. 249

(7) Has an adverse impact on businesses, as determined 250  
under section 107.52 of the Revised Code; 251

~~(7) Whether the rule contains~~ (8) Has an adverse impact on 252

<u>any other person or entity;</u>	253
<u>(9) Contains</u> words or phrases having meanings that in	254
contemporary usage are understood as being derogatory or	255
offensive; <del>and</del>	256
<del>(8) Whether the rule requires</del> <u>(10) Requires</u> liability	257
insurance, a bond, or any other financial responsibility	258
instrument as a condition of licensure;	259
<u>(11) Imposes a more severe duty or liability than</u>	260
<u>restrictions in neighboring states in order to accomplish the</u>	261
<u>same goal.</u>	262
In making its review, the agency shall consider the	263
continued need for the rule, the nature of any complaints or	264
comments received concerning the rule, and any relevant factors	265
that have changed in the subject matter area affected by the	266
rule.	267
(B) On the basis of its review of the existing rule, the	268
agency shall determine whether the existing rule needs to be	269
amended or rescinded.	270
(1) If the existing rule needs to be amended or rescinded,	271
the agency, on or before the review date of the existing rule,	272
shall commence the process of amending or rescinding the	273
existing rule in accordance with its review of the rule.	274
(2) If the existing rule does not need to be amended or	275
rescinded, proceedings shall be had under section 106.031 of the	276
Revised Code.	277
Upon the request of the agency that adopted an existing	278
rule, the joint committee on agency rule review may extend the	279
review date of the rule to a date that is not later than one	280

hundred eighty days after the review date assigned to the rule 281  
by the agency. Not more than two such extensions may be allowed. 282

**Sec. 106.031.** If an agency, on the basis of its review of 283  
a rule under section 106.03 of the Revised Code, determines that 284  
the rule does not need to be amended or rescinded, proceedings 285  
shall be had as follows: 286

(A) (1) If, considering only the standard of review 287  
specified in division (A) ~~(6)~~ (7) of section 106.03 of the 288  
Revised Code, the rule has an adverse impact on businesses, the 289  
agency shall prepare a business impact analysis that describes 290  
its review of the rule under that division and that explains why 291  
the regulatory intent of the rule justifies its adverse impact 292  
on businesses. If the rule does not have an adverse impact on 293  
businesses, the agency may proceed under division (B) of this 294  
section. 295

(2) The agency shall transmit a copy of the full text of 296  
the rule and the business impact analysis electronically to the 297  
common sense initiative office. The office shall make the rule 298  
and analysis available to the public on its web site under 299  
section 107.62 of the Revised Code. 300

(3) The agency shall consider any recommendations made by 301  
the office. 302

(4) Not earlier than the sixteenth business day after 303  
transmitting the rule and analysis to the office, the agency 304  
shall either (a) proceed under divisions (A) (5) and (B) of this 305  
section or (b) commence, under division (B) (1) of section 106.03 306  
of the Revised Code, the process of rescinding the rule or of 307  
amending the rule to incorporate into the rule features the 308  
recommendations suggest will eliminate or reduce the adverse 309

impact the rule has on businesses. If the agency determines to 310  
amend or rescind the rule, the agency is not subject to the time 311  
limit specified in division (B) (1) of section 106.03 of the 312  
Revised Code. 313

(5) If the agency receives recommendations from the 314  
office, and determines not to amend or rescind the rule, the 315  
agency shall prepare a memorandum of response that explains why 316  
the rule is not being rescinded or why the recommendations are 317  
not being incorporated into the rule. 318

(B) The agency shall assign a new review date to the rule. 319  
The review date assigned shall be not later than five years 320  
after the immediately preceding review date pertaining to the 321  
rule. If the agency assigns a review date that exceeds the five- 322  
year maximum, the review date is five years after the 323  
immediately preceding review date. The immediately preceding 324  
review date includes the date of the review of a rule under 325  
section 106.032 of the Revised Code. 326

(C) (1) The agency shall file all the following, in 327  
electronic form, with the joint committee on agency rule review, 328  
the secretary of state, and the director of the legislative 329  
service commission: a copy of the rule specifying its new review 330  
date, a complete and accurate rule summary and fiscal analysis, 331  
and, if relevant, a business impact analysis of the rule, any 332  
recommendations received from the common sense initiative 333  
office, and any memorandum of response. 334

(2) Subject to section 106.05 of the Revised Code, the 335  
joint committee does not have jurisdiction to review, and shall 336  
reject, the filing of a rule under division (C) (1) of this 337  
section if, at any time while the rule is in its possession, it 338  
discovers that the rule has an adverse impact on businesses and 339

the agency has not complied with division (A) of this section. 340  
The joint committee shall electronically return a rule that is 341  
rejected to the agency, together with any documents that were 342  
part of the filing. Such a rejection does not preclude the 343  
agency from refiling the rule under division (C)(1) of this 344  
section after complying with division (A) of this section. When 345  
the filing of a rule is rejected under this division, it is as 346  
if the filing had not been made. 347

(D) The joint committee shall publish notice of the 348  
agency's determination not to amend or rescind the rule in the 349  
register of Ohio for four consecutive weeks after the rule is 350  
filed under division (C) of this section. 351

(E) During the ninety-day period after a rule is filed 352  
under division (C) of this section, but after the four-week 353  
notice period required by division (D) of this section has 354  
ended, the joint committee may recommend to the senate and house 355  
of representatives the adoption of a concurrent resolution 356  
invalidating the rule if the joint committee finds any of the 357  
following: 358

(1) The agency improperly applied the standards in 359  
division (A) of section 106.03 of the Revised Code in reviewing 360  
the rule and in determining that the rule did not need amendment 361  
or rescission. 362

(2) The rule has an adverse impact on businesses, and the 363  
agency has failed to demonstrate through a business impact 364  
analysis, recommendations from the common sense initiative 365  
office, and a memorandum of response that the regulatory intent 366  
of the rule justifies its adverse impact on businesses. 367

(3) If the rule incorporates a text or other material by 368

reference, any of the following applies: 369

(a) The citation accompanying the incorporation by 370  
reference is not such as reasonably would enable a reasonable 371  
person to whom the rule applies readily and without charge to 372  
find and inspect the incorporated text or other material; 373

(b) The citation accompanying the incorporation by 374  
reference is not such as reasonably would enable the joint 375  
committee readily and without charge to find and inspect the 376  
incorporated text or other material; or 377

(c) The rule has been exempted in whole or in part from 378  
sections 121.71 to 121.74 of the Revised Code on grounds the 379  
incorporated text or other material has one or more of the 380  
characteristics described in division (B) of section 121.75 of 381  
the Revised Code, but the incorporated text or other material 382  
actually does not have any of those characteristics. 383

(4) The agency has failed to justify the retention of a 384  
rule containing a regulatory restriction. 385

If the agency fails to comply with section 106.03 or 386  
106.031 of the Revised Code, the joint committee shall afford 387  
the agency an opportunity to appear before the joint committee 388  
to show cause why the agency has not complied with either or 389  
both of those sections. If the agency appears before the joint 390  
committee at the time scheduled for the agency to show cause, 391  
and fails to do so, the joint committee, by vote of a majority 392  
of its members present, may recommend the adoption of a 393  
concurrent resolution invalidating the rule for the agency's 394  
failure to show cause. Or if the agency fails to appear before 395  
the joint committee at the time scheduled for the agency to show 396  
cause, the joint committee, by vote of a majority of its members 397

present, may recommend adoption of a concurrent resolution 398  
invalidating the rule for the agency's default. 399

When the joint committee recommends that a rule be 400  
invalidated, the recommendation does not suspend operation of 401  
the rule, and the rule remains operational pending action by the 402  
senate and house of representatives on the concurrent resolution 403  
embodying the recommendation. If the senate and house of 404  
representatives adopt the concurrent resolution, the rule is 405  
invalid. If, however, the senate and house of representatives do 406  
not adopt the resolution, the rule continues in effect, and 407  
shall next be reviewed according to the new review date assigned 408  
to the rule. 409

Sec. 107.57. (A) In the course of evaluating draft rules 410  
and business impact analyses under sections 107.51 to 107.55 of 411  
the Revised Code, or at any other time, the common sense 412  
initiative office may review any rules containing regulatory 413  
restrictions that a state agency is required to include in its 414  
inventory of regulatory restrictions under section 121.95 of the 415  
Revised Code. If the common sense initiative office determines, 416  
based on the criteria described in division (A) of section 417  
106.03 of the Revised Code, that a state agency should eliminate 418  
a regulatory restriction, the common sense initiative office 419  
shall notify the state agency that it is required to eliminate 420  
that regulatory restriction, and the state agency shall 421  
eliminate it. 422

(B) If a state agency objects to the elimination of a 423  
regulatory restriction that the common sense initiative office 424  
has determined should be eliminated under division (A) of this 425  
section, the state agency may appeal that decision to the joint 426  
committee on agency rule review. If the joint committee also 427

determines, based on the criteria described in division (A) of 428  
section 106.03 of the Revised Code, that the state agency should 429  
eliminate the regulatory restriction, the state agency shall 430  
eliminate it. 431

(C) As used in this section, "state agency" has the same 432  
meaning as in section 121.95 of the Revised Code. 433

**Sec. 121.031.** The administrative department head of an 434  
administrative department created under section 121.02 of the 435  
Revised Code or an administrative department head appointed 436  
under section 121.03 of the Revised Code may direct an otherwise 437  
independent official or state agency that is organized under the 438  
administrative department or administrative department head as 439  
necessary to achieve reductions in regulatory restrictions in 440  
rules in compliance with sections 121.95, 121.951, 121.952, and 441  
121.953 of the Revised Code. 442

**Sec. 121.95.** (A) As used in ~~this section~~sections 121.95, 443  
121.951, 121.952, and 121.953 of the Revised Code, "state 444  
agency" means an administrative department created under section 445  
121.02 of the Revised Code, an administrative department head 446  
appointed under section 121.03 of the Revised Code, and a state 447  
agency organized under an administrative department or 448  
administrative department head. "State agency" also includes the 449  
department of education, the state lottery commission, the Ohio 450  
casino control commission, the state racing commission, and the 451  
public utilities commission of Ohio. Rules adopted by an 452  
otherwise independent official or entity organized under a state 453  
agency shall be attributed to the agency under which the 454  
official or entity is organized for the purposes of ~~this~~ 455  
~~section~~sections 121.95, 121.951, 121.952, and 121.953 of the 456  
Revised Code. 457

(B) Not later than December 31, 2019, a state agency shall 458  
review its existing rules to identify rules having one or more 459  
regulatory restrictions that require or prohibit an action and 460  
prepare a base inventory of the regulatory restrictions in its 461  
existing rules. Rules that include the words "shall," "must," 462  
"require," "shall not," "may not," and "prohibit" shall be 463  
considered to contain regulatory restrictions. 464

(C) In the base inventory, the state agency shall indicate 465  
all of the following concerning each regulatory restriction: 466

(1) A description of the regulatory restriction; 467

(2) The rule number of the rule in which the regulatory 468  
restriction appears; 469

(3) The statute under which the regulatory restriction was 470  
adopted; 471

(4) Whether state or federal law expressly and 472  
specifically requires the agency to adopt the regulatory 473  
restriction or the agency adopted the regulatory restriction 474  
under the agency's general authority; 475

(5) Whether removing the regulatory restriction would 476  
require a change to state or federal law, provided that removing 477  
a regulatory restriction adopted under a law granting the agency 478  
general authority shall be presumed not to require a change to 479  
state or federal law; 480

(6) Any other information the joint committee on agency 481  
rule review considers necessary. 482

(D) The state agency shall compute and state the total 483  
number of regulatory restrictions indicated in the base 484  
inventory, shall post the base inventory on its web site, and 485

shall electronically transmit a copy of the inventory to the 486  
joint committee. The joint committee shall review the base 487  
inventory, then transmit it electronically to the speaker of the 488  
house of representatives and the president of the senate. 489

(E) The following types of rules or regulatory 490  
restrictions are not required to be included in a state agency's 491  
inventory of regulatory restrictions: 492

(1) An internal management rule; 493

(2) An emergency rule; 494

(3) A rule that state or federal law requires the state 495  
agency to adopt verbatim; 496

(4) A regulatory restriction contained in materials or 497  
documents incorporated by reference into a rule pursuant to 498  
sections 121.71 to 121.75 of the Revised Code; 499

(5) A rule adopted pursuant to section 1347.15 of the 500  
Revised Code; 501

(6) A rule concerning instant lottery games; 502

(7) Any other rule that is not subject to review under 503  
Chapter 106. of the Revised Code. 504

(F) Beginning on the effective date of this section and 505  
ending on June 30, 2023, a state agency may not adopt a new 506  
regulatory restriction unless it simultaneously removes two or 507  
more other existing regulatory restrictions. The state agency 508  
may not satisfy this section by merging two or more existing 509  
regulatory restrictions into a single surviving regulatory 510  
restriction. 511

**Sec. 121.951. (A) (1) Using the criteria listed in division** 512

(A) of section 106.03 of the Revised Code, a state agency shall 513  
amend or rescind rules identified in its base inventory of 514  
regulatory restrictions as necessary to reduce the total number 515  
of regulatory restrictions by thirty per cent, according to the 516  
following schedule: 517

(a) A ten per cent reduction not later than December 31, 518  
2020; 519

(b) A twenty per cent reduction not later than December 520  
31, 2021; and 521

(c) The thirty per cent reduction not later than December 522  
31, 2022. 523

When a state agency has achieved a reduction of any 524  
percentage in regulatory restrictions, whether or not as 525  
specified in this section, the state agency may not adopt or 526  
maintain regulatory restrictions that would negate the 527  
reduction. 528

(2) Beginning July 1, 2023, if a state agency has not 529  
achieved a specified percentage reduction according to the 530  
schedule, the state agency may not adopt a new regulatory 531  
restriction unless it simultaneously removes two or more other 532  
existing regulatory restrictions, until the specified thirty per 533  
cent reduction has been achieved. The state agency may not 534  
fulfill this requirement by merging two or more existing 535  
regulatory restrictions into a single surviving regulatory 536  
restriction. 537

(3) A state agency is encouraged to continue to reduce 538  
regulatory restrictions after it has achieved the specified 539  
thirty per cent reduction. 540

(B) (1) Not later than March 15, 2021, and annually 541

thereafter, a state agency shall prepare an historical report of 542  
its progress in reducing regulatory restrictions over the 543  
preceding year under divisions (A) (1) and (2) of this section. 544  
The state agency shall explain in the report how it applied the 545  
criteria described in division (A) of section 106.03 of the 546  
Revised Code to its determinations as to which regulatory 547  
restrictions to amend or rescind. The state agency shall include 548  
a revised inventory of regulatory restrictions with the report. 549

(2) In the revised inventory, in addition to the 550  
information required by section 121.95 of the Revised Code, the 551  
state agency shall compute the percentage net reduction in 552  
regulatory restrictions by subtracting the current number of 553  
regulatory restrictions from the number of regulatory 554  
restrictions identified in the base inventory and then dividing 555  
the resulting number by the number of regulatory restrictions in 556  
the base inventory. 557

(3) The state agency shall transmit the report 558  
electronically to the joint committee on agency rule review. The 559  
joint committee shall review the report and shall transmit it 560  
electronically to the speaker of the house of representatives 561  
and the president of the senate. The state agency shall continue 562  
preparing and transmitting annual reports until it has reported 563  
that it has achieved the required reduction in regulatory 564  
restrictions. 565

**Sec. 121.952.** If a state agency fails to reduce regulatory 566  
restrictions by a required percentage within one hundred twenty 567  
days after a reduction deadline in section 121.951 of the 568  
Revised Code, the joint committee on agency rule review shall 569  
afford the state agency an opportunity to appear before the 570  
joint committee to show cause why the agency's required 571

reduction in regulatory restrictions should be lessened. If the 572  
joint committee determines that the state agency has shown 573  
cause, the joint committee shall determine a lessened required 574  
reduction in regulatory restrictions for that agency and shall 575  
submit a written report to the speaker of the house of 576  
representatives and the president of the senate, indicating the 577  
lessened required reduction in regulatory restrictions for that 578  
agency and the reason the joint committee determined that 579  
lessened required reduction. 580

**Sec. 121.953.** Effective January 1, 2023, the number of 581  
regulatory restrictions in this state shall not exceed a number 582  
of regulatory restrictions determined by the joint committee on 583  
agency rule review in accordance with this section. The joint 584  
committee shall determine that number by calculating, for each 585  
agency, the number of regulatory restrictions identified by the 586  
agency in the base inventory prepared under section 121.95 of 587  
the Revised Code, minus the number of regulatory restrictions 588  
that represents the percentage reduction the state agency is 589  
required to achieve not later than January 1, 2023, and then 590  
totaling the resulting numbers for all state agencies. A state 591  
agency shall contact the joint committee before submitting a 592  
proposed rule containing a regulatory restriction, and the joint 593  
committee shall determine whether adopting the regulatory 594  
restriction would cause the state to exceed the number of 595  
regulatory restrictions permitted under this section. A state 596  
agency may not adopt a rule if by adopting the rule the state 597  
agency would cause the number of regulatory restrictions to 598  
exceed the state limit as determined by the joint committee. 599

**Sec. 3701.13.** The ~~(A)~~ (1) Subject to division (C) of this 600  
section, the department of health shall have supervision of all 601  
matters relating to the preservation of the life and health of 602

the people and have ultimate authority in matters of quarantine 603  
and isolation, which it may declare and enforce, when neither 604  
exists, and modify, relax, or abolish, when either has been 605  
established. ~~The~~ 606

(2) The department may approve methods of immunization 607  
against the diseases specified in section 3313.671 of the 608  
Revised Code for the purpose of carrying out the provisions of 609  
that section and take such actions as are necessary to encourage 610  
vaccination against those diseases. 611

~~The~~ (B) (1) Subject to division (C) of this section, the 612  
department may make special or standing orders or rules for 613  
preventing any of the following: 614

(a) For preventing the use of fluoroscopes for nonmedical 615  
purposes that emit doses of radiation likely to be harmful to 616  
any person, ~~for;~~ 617

(b) For preventing the spread of contagious or infectious 618  
diseases, ~~for;~~ 619

(c) For governing the receipt and conveyance of remains of 620  
deceased persons, ~~and for;~~ 621

(d) For such other sanitary matters as are best controlled 622  
by a general rule. ~~Whenever~~ 623

(2) Whenever possible, the department shall work in 624  
cooperation with the health commissioner of a general or city 625  
health district. ~~The~~ Subject to division (C) of this section, 626  
the department may make and enforce orders in local matters or 627  
reassign substantive authority for mandatory programs from a 628  
general or city health district to another general or city 629  
health district when an emergency exists, or when the board of 630  
health of a general or city health district has neglected or 631

refused to act with sufficient promptness or efficiency, or when 632  
such board has not been established as provided by sections 633  
3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 634  
3709.14 of the Revised Code. In such cases, the necessary 635  
expense incurred shall be paid by the general health district or 636  
city for which the services are rendered. 637

(C) (1) No order of the department shall be effective for a 638  
period exceeding fourteen days, except with the approval of the 639  
joint committee on agency rule review, as described in section 640  
101.36 of the Revised Code. For purposes of this division, an 641  
order is considered to be effective for a period exceeding 642  
fourteen days if the order includes an effective period that 643  
exceeds fourteen days or if the substance of the order is 644  
contained in multiple subsequently issued orders whose combined 645  
effective period exceeds fourteen days. 646

(2) The department may adopt rules under this section only 647  
in accordance with Chapter 119. of the Revised Code, and the 648  
department shall not adopt an emergency rule, make an emergency 649  
amendment to a rule, or rescind a rule on an emergency basis 650  
under this section, as described in that chapter. 651

(D) The department of health may require general or city 652  
health districts to enter into agreements for shared services 653  
under section 9.482 of the Revised Code. The department shall 654  
prepare and offer to boards of health a model contract and 655  
memorandum of understanding that are easily adaptable for use by 656  
boards of health when entering into shared services agreements. 657  
The department also may offer financial and other technical 658  
assistance to boards of health to encourage the sharing of 659  
services. 660

(E) As a condition precedent to receiving funding from the 661

department of health, the director of health may require general 662  
or city health districts to apply for accreditation by July 1, 663  
2018, and be accredited by July 1, 2020, by an accreditation 664  
body approved by the director. The director of health, by July 665  
1, 2016, shall conduct an evaluation of general and city health 666  
district preparation for accreditation, including an evaluation 667  
of each district's reported public health quality indicators as 668  
provided for in section 3701.98 of the Revised Code. 669

(F) The department may make evaluative studies of the 670  
nutritional status of Ohio residents, and of the food and 671  
nutrition-related programs operating within the state. Every 672  
agency of the state, at the request of the department, shall 673  
provide information and otherwise assist in the execution of 674  
such studies. 675

**Section 2.** That existing sections 101.35, 106.021, 106.03, 676  
106.031, 121.95, and 3701.13 of the Revised Code are hereby 677  
repealed. 678

**Section 3.** Any order of the Director of Health issued 679  
under section 3701.13 of the Revised Code on or after April 29, 680  
2020, shall cease to be effective fourteen days after the 681  
effective date of this section, unless the Joint Committee on 682  
Agency Rule Review approves extensions of the orders under 683  
section 101.36 of the Revised Code, as enacted by this act. 684