

Sub. H. B. No. 96
As Passed by the Senate

_____ moved to amend as follows:

After line 3316, insert:

"Sec. 106.02. Except as provided in section 106.026 of the Revised Code, all of the following apply to a proposed rule:

(A) Subject to division (B) of this section, when an agency files a proposed rule and rule summary and fiscal analysis with the joint committee on agency rule review, the joint committee shall review the proposed rule and rule summary and fiscal analysis, and an invalidating concurrent resolution may be adopted, not later than the sixty-fifth day after the day on which the proposed rule was filed with the joint committee. If, after filing the original version of a proposed rule, the agency makes a revision in the proposed rule, the agency shall file the revised proposed rule and a revised rule summary and fiscal analysis with the joint committee. If the revised proposed rule is filed thirty-five or fewer days after the original version of the proposed rule was filed, the joint committee shall review the revised proposed rule and revised rule summary and fiscal analysis, and an invalidating concurrent resolution may be adopted, not later than the sixty-fifth day

after the original version of the proposed rule was filed. If, 21
however, the revised proposed rule is filed more than thirty- 22
five days after the original version of the proposed rule was 23
filed, the joint committee shall review the revised proposed 24
rule and revised rule summary and fiscal analysis, and an 25
invalidating concurrent resolution may be adopted, not later 26
than the thirtieth day after the revised proposed rule was filed 27
with the joint committee. 28

(B) If, after filing a proposed rule and rule summary and 29
fiscal analysis with the joint committee, an agency determines 30
that it needs additional time to consider the proposed rule and 31
possibly file a revised proposed rule, the agency may notify the 32
joint committee of the agency's intention to file a revised 33
proposed rule. When the agency notifies the joint committee of 34
its intention to file a revised proposed rule, the running of 35
the time within which an invalidating concurrent resolution may 36
be adopted is tolled. 37

If, after notifying the joint committee of the agency's 38
intention to file a revised proposed rule, the agency makes a 39
revision in the proposed rule, the agency shall file the revised 40
proposed rule and a revised rule summary and fiscal analysis 41
with the joint committee. If the revised proposed rule is filed 42
thirty-five or fewer days after the agency filed the original 43
version of the proposed rule, the joint committee shall review 44
the revised proposed rule and revised rule summary and fiscal 45
analysis, and an invalidating concurrent resolution may be 46
adopted, not later than the sixty-fifth day after the agency 47
filed the original version of the proposed rule. If, however, 48
the revised proposed rule is filed more than thirty-five days 49
after the agency filed the original version of the proposed 50

rule, the joint committee shall review the revised proposed rule 51
and revised rule summary and fiscal analysis, and an 52
invalidating concurrent resolution may be adopted, not later 53
than the thirtieth day after the revised proposed rule is filed 54
with the joint committee. 55

(C) When an original or revised version of a proposed rule 56
and rule summary and fiscal analysis is filed with the joint 57
committee in December or in the following January before the 58
first day of the legislative session, the joint committee shall 59
review the proposed rule and rule summary and fiscal analysis, 60
and an invalidating concurrent resolution may be adopted, as if 61
the original version of the proposed rule and rule summary and 62
fiscal analysis had been filed with the joint committee on the 63
first day of the legislative session in the following January. 64
If, however, the original version of a proposed rule and rule 65
summary and fiscal analysis have been pending before the joint 66
committee for more than thirty-five days, and the proposed rule 67
and rule summary and fiscal analysis are revised in December or 68
in the following January before the first day of the legislative 69
session, the joint committee shall review the revised proposed 70
rule and revised rule summary and fiscal analysis, and an 71
invalidating concurrent resolution may be adopted, not later 72
than the thirtieth day after the first day of the legislative 73
session in the following January. 74

(D) A revised proposed rule supersedes each earlier 75
version of the same proposed rule. 76

(E) The joint committee shall endeavor not to hold its 77
public hearing on a proposed rule earlier than the forty-first 78
day after the proposed rule was filed with the joint committee. 79
The chairperson of the joint committee responsible for calling 80

and conducting meetings under section 101.35 of the Revised Code 81
may select a date for the committee's public hearing on a 82
proposed rule that is earlier than the forty-first day after the 83
proposed rule was filed." 84

After line 3372, insert: 85

"(J) The proposed rule or revised proposed rule is subject to 86
section 106.025 of the Revised Code, and the joint committee has complied 87
with division (B) of that section. 88

Sec. 106.023. (A) An agency may not adopt a proposed rule 89
or revised proposed rule or file it in final form unless the 90
proposed rule has been filed with the joint committee on agency 91
rule review under division (D) of section 111.15 or division (C) 92
of section 119.03 of the Revised Code and ~~the one of the~~ 93
following applies: 94

(1) The time for the joint committee to review the 95
proposed rule and for the adoption of an invalidating concurrent 96
resolution has expired without adoption of a concurrent 97
resolution to invalidate the proposed rule; 98

(2) The rule or revised proposed rule is subject to 99
section 106.026 of the Revised Code, and a law authorizing its 100
adoption has been enacted in accordance with Ohio Constitution, 101
Article II, Sections 15 and 16. 102

(B) If, before the time for its review of a proposed rule 103
or revised proposed rule expires, the joint committee recommends 104
adoption of a concurrent resolution invalidating the proposed 105
rule or revised proposed rule, and the senate and house of 106
representatives does not, within the time remaining for adoption 107
of the concurrent resolution, hold five sessions at which its 108
journal records a roll call vote disclosing a sufficient number 109

of members in attendance to pass a bill, the time within which 110
that house may adopt the concurrent resolution is extended until 111
it has held five such sessions. 112

Sec. 106.024. (A) As used in this section: 113

(1) "Agency" has the meaning defined in section 106.01 of 114
the Revised Code. 115

(2) "Rule" includes the adoption, amendment, or rescission 116
of a rule. 117

(3) "Proposed rule" means the original version of a 118
proposed rule, and each revised version of the same proposed 119
rule, that is filed with the joint committee on agency rule 120
review under division (D) of section 111.15 or division (C) of 121
section 119.03 of the Revised Code. 122

(B) An agency shall prepare, on the form designed by the 123
joint committee on agency rule review, a complete and accurate 124
rule summary and fiscal analysis of each proposed rule that it 125
files under division (D) of section 111.15 or division (C) of 126
section 119.03 of the Revised Code. 127

The joint committee on agency rule review shall design a 128
form for the rule summary and fiscal analysis. In the form, the 129
joint committee shall include a space where an agency shall 130
explain the reasoning for any proposed rescission of a rule, 131
including a statement as to whether the agency intends to 132
continue relying on a principle of law or policy stated in the 133
rule when conducting adjudications or other determinations of 134
rights and liabilities or in issuing writings and other 135
materials. 136

The form also may solicit information such as the 137

following information: 138

(1) The name, address, and telephone number of the agency, 139
and the name, telephone number, and electronic mail address of 140
an individual or office within the agency designated by that 141
agency to be responsible for coordinating and making available 142
information in the possession of the agency regarding the 143
proposed rule; 144

(2) The Ohio Administrative Code rule number of the 145
proposed rule; 146

(3) A brief summary of, and the legal basis for, the 147
proposed rule, including citations identifying the statute that 148
prescribes the procedure in accordance with which the agency is 149
required to adopt the proposed rule, the statute that authorizes 150
the agency to adopt the proposed rule, and the statute that the 151
agency intends to amplify or implement by adopting the proposed 152
rule; 153

(4) An estimate, in dollars, of the amount by which the 154
proposed rule would increase or decrease revenues or 155
expenditures during the current biennium; 156

(5) A citation identifying the appropriation that 157
authorizes each expenditure that would be necessitated by the 158
proposed rule; 159

(6) A summary of the estimated cost of compliance with the 160
rule to all directly affected persons; 161

(7) The reasons why the rule is being proposed; 162

(8) If the rule has a fiscal effect on school districts, 163
counties, townships, or municipal corporations, an estimate in 164
dollars of the cost of compliance with the rule, or, if dollar 165

amounts cannot be determined, a written explanation of why it 166
was not possible to ascertain dollar amounts; 167

(9) If the rule has a fiscal effect on school districts, 168
counties, townships, or municipal corporations and is the result 169
of a federal requirement, a clear explanation that the proposed 170
state rule does not exceed the scope and intent of the 171
requirement, or, if the state rule does exceed the minimum 172
necessary federal requirement, a justification of the excess 173
cost, and an estimate of the costs, including those costs for 174
local governments, exceeding the federal requirement; 175

(10) If the rule has a fiscal effect on school districts, 176
counties, townships, or municipal corporations, a comprehensive 177
cost estimate that includes the procedure and method of 178
calculating the costs of compliance and identifies major cost 179
categories including personnel costs, new equipment or other 180
capital costs, operating costs, and indirect central service 181
costs related to the rule. The fiscal analysis shall also 182
include a written explanation of the agency's and the affected 183
local government's ability to pay for the new requirements and a 184
statement of any impact the rule will have on economic 185
development. 186

(11) If the rule incorporates a text or other material by 187
reference, and the agency claims the incorporation by reference 188
is exempt from compliance with sections 121.71 to 121.74 of the 189
Revised Code on grounds the incorporated text or other material 190
has one or more of the characteristics described in division (B) 191
of section 121.75 of the Revised Code, an explanation of how the 192
incorporated text or other material is exempted under that 193
division; 194

(12) If the rule imposes a fee, an explanation of how the 195

fee directly relates to the cost actually incurred by the agency 196
in performing the function for which the fee is charged. 197

The rule summary and fiscal analysis form, instead of or 198
in addition to the foregoing, may solicit any other information 199
the joint committee on agency rule review considers necessary to 200
make the proposed rule or the fiscal effect of the proposed rule 201
fully understandable. 202

(C) The agency shall file the rule summary and fiscal 203
analysis in electronic form along with the proposed rule that it 204
files under division (D) of section 111.15 or divisions (B) and 205
(C) of section 119.03 of the Revised Code. The joint committee 206
on agency rule review shall not accept any proposed rule for 207
filing unless a copy of the rule summary and fiscal analysis of 208
the proposed rule, completely and accurately prepared, is filed 209
along with the proposed rule. 210

(D) The joint committee on agency rule review shall review 211
the fiscal effect of each proposed rule that is filed under 212
division (D) of section 111.15 or division (C) of section 119.03 213
of the Revised Code. 214

Sec. 106.025. (A) Except as provided in division (C) of 215
this section, on reviewing a proposed rule or revised proposed 216
rule, the joint committee on agency rule review may proceed in 217
accordance with division (B) of this section if it makes any of 218
the following findings with respect to the rule's summary and 219
fiscal analysis: 220

(1) The proposed rule or revised proposed rule will 221
increase the agency's expenditures during the current biennium 222
by one hundred thousand dollars or more. 223

(2) The cost to comply with the proposed rule or revised 224

proposed rule for a directly affected person will be one hundred 225
thousand dollars or more. 226

(3) The proposed rule or revised proposed rule will impose 227
an annual effect on this state's economy of one million dollars 228
or more. 229

(B) If the joint committee makes one or more of the 230
findings listed in division (A) of this section, the chairperson 231
of the joint committee responsible for calling and conducting 232
meetings under section 101.35 of the Revised Code may request a 233
designee of the filing agency to appear before the joint 234
committee to answer questions about the fiscal effect of the 235
proposed rule or revised proposed rule. The request shall be 236
transmitted to the agency electronically and specify the time 237
and place at which a designee is to appear before the joint 238
committee to answer the joint committee's questions. 239

On receiving the request, the agency shall designate a 240
suitable agency officer or employee to appear on behalf of the 241
agency before the joint committee as directed in the request. 242
The agency electronically shall notify the joint committee of 243
the name, title, telephone number, and electronic mail address 244
of the officer or employee who has been designated to appear 245
before the joint committee in response to the request. 246

After the appearance has concluded, or if the agency 247
designee fails to appear, the joint committee may do any of the 248
following: 249

(1) Allow the time for legislative review to expire; 250

(2) Recommend the adoption of a concurrent resolution to 251
invalidate the proposed rule under section 106.021 of the 252
Revised Code; 253

(3) By vote of a majority of its members, refer the rule 254
for consideration by the full general assembly in accordance 255
with section 106.026 of the Revised Code. 256

(C) This section does not apply to a proposed rule or 257
revised proposed rule if the rule is based on specific statutory 258
language authorizing or requiring an agency to adopt the rule as 259
opposed to a general grant of authority to adopt rules 260
implementing a law. 261

Sec. 106.026. (A) This section applies to a proposed rule 262
or revised proposed rule that the joint committee on agency rule 263
review has, in accordance with section 106.025 of the Revised 264
Code, referred for consideration by the full general assembly. 265

(B) If a proposed rule or revised proposed rule is subject 266
to this section, the chairperson of the joint committee on 267
agency rule review responsible for calling and conducting 268
meetings under section 101.35 of the Revised Code shall 269
immediately transmit the proposed rule or revised proposed rule 270
and rule summary and fiscal analysis to the clerk of the senate 271
and the clerk of the house of representatives. After the 272
chairperson of the joint committee transmits the rule and rule 273
summary and fiscal analysis under this division, all of the 274
following apply: 275

(1) The joint committee shall take no further action with 276
respect to the proposed rule until after it is adopted or 277
refiled in accordance with division (D) of this section. 278

(2) The agency shall not file a revised proposed version 279
of the rule. 280

(3) The agency shall not adopt the proposed rule unless 281
adoption is authorized by a law enacted in accordance with Ohio 282

Constitution, Article II, Sections 15 and 16 after the 283
chairperson transmits the rule and rule summary and fiscal 284
analysis under this division. 285

(C) As soon as practicable after receiving a proposed rule 286
or revised proposed rule transmitted under division (B) of this 287
section: 288

(1) The clerk of the senate shall make the proposed rule 289
or revised proposed rule and rule summary and fiscal analysis 290
available to all members of the senate; and 291

(2) The clerk of the house of representatives shall make 292
the proposed rule or revised proposed rule and rule summary and 293
fiscal analysis available to all members of the house of 294
representatives. 295

Any member of the general assembly may introduce 296
legislation authorizing the agency to adopt the proposed rule or 297
revised proposed rule. 298

(D) If a law authorizing the proposed rule or revised 299
proposed rule is enacted before the general assembly adjourns 300
sine die, legislative review under this chapter ends and the 301
agency may, on or after the law's effective date, file the rule 302
in compliance with section 111.15 or 119.04 of the Revised Code, 303
as applicable. If a law authorizing the rule is not enacted 304
before the general assembly adjourns sine die, the proposed rule 305
or revised proposed rule is invalidated. The agency may refile 306
the rule and rule summary and fiscal analysis with the joint 307
committee. 308

(E) This section does not apply to any rule that is exempt 309
from legislative review under division (D) of section 111.15 of 310
the Revised Code or division (C) of section 119.03 of the 311

<u>Revised Code.</u>	312
<u>(F) The enactment of a law in accordance with Ohio</u>	313
<u>Constitution, Article II, Sections 15 and 16, authorizing an</u>	314
<u>agency to adopt a proposed rule or revised proposed rule to</u>	315
<u>which this section applies, does not do either of the following:</u>	316
<u>(1) Grant an agency additional rulemaking authority or</u>	317
<u>modify the agency's existing rulemaking authority;</u>	318
<u>(2) Extinguish or modify any claim against an agency</u>	319
<u>arising from the rule.</u>	320
<u>(G) The enactment of a law in accordance with Ohio</u>	321
<u>Constitution, Article II, Sections 15 and 16, authorizing an</u>	322
<u>agency to adopt a proposed rule or revised proposed rule to</u>	323
<u>which this section applies, shall not be used as evidence in any</u>	324
<u>proceeding concerning the rule except for the purpose of</u>	325
<u>determining whether the rule is in effect.</u>	326
Sec. 106.031. If an agency, on the basis of its review of	327
a rule under section 106.03 of the Revised Code, determines that	328
the rule does not need to be amended or rescinded, proceedings	329
shall be had as follows:	330
(A) (1) If, considering only the standard of review	331
specified in division (A) (7) of section 106.03 of the Revised	332
Code, the rule has an adverse impact on businesses, the agency	333
shall prepare a business impact analysis that describes its	334
review of the rule under that division and that explains why the	335
regulatory intent of the rule justifies its adverse impact on	336
businesses. If the rule does not have an adverse impact on	337
businesses, the agency may proceed under division (B) of this	338
section.	339

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

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

(4) Not earlier than the sixteenth business day after transmitting the rule and analysis to the office, the agency shall either (a) proceed under divisions (A) (5) and (B) of this section or (b) commence, under division (B) (1) of section 106.03 of the Revised Code, the process of rescinding the rule or of amending the rule to incorporate into the rule features the recommendations suggest will eliminate or reduce the adverse impact the rule has on businesses. If the agency determines to amend or rescind the rule, the agency is not subject to the time limit specified in division (B) (1) of section 106.03 of the Revised Code.

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

(B) The agency shall assign a new review date to the rule. The review date assigned shall be not later than five years after the immediately preceding review date pertaining to the rule. If the agency assigns a review date that exceeds the five-year maximum, the review date is five years after the immediately preceding review date. The immediately preceding review date includes the date of the review of a rule under

section 106.032 of the Revised Code. 370

(C) The agency shall file all the following, in electronic 371
form, with the joint committee on agency rule review, the 372
secretary of state, and the director of the legislative service 373
commission: a copy of the rule specifying its new review date, a 374
complete and accurate rule summary and fiscal analysis, and, if 375
relevant, a business impact analysis of the rule, any 376
recommendations received from the common sense initiative 377
office, and any memorandum of response. 378

(D) The joint committee shall publish notice of the 379
agency's determination not to amend or rescind the rule in the 380
register of Ohio for four consecutive weeks after the rule is 381
filed under division (C) of this section. 382

(E) During the ninety-day period after a rule is filed 383
under division (C) of this section, but after the four-week 384
notice period required by division (D) of this section has 385
ended, the joint committee may recommend to the senate and house 386
of representatives the adoption of a concurrent resolution 387
invalidating the rule if the joint committee finds any of the 388
following: 389

(1) The agency improperly applied the standards in 390
division (A) of section 106.03 of the Revised Code in reviewing 391
the rule and in determining that the rule did not need amendment 392
or rescission. 393

(2) The rule has an adverse impact on businesses, and the 394
agency has failed to demonstrate through a business impact 395
analysis, recommendations from the common sense initiative 396
office, and a memorandum of response that the regulatory intent 397
of the rule justifies its adverse impact on businesses. 398

(3) If the rule incorporates a text or other material by reference, any of the following applies:

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

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

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

(4) If the agency is subject to sections 121.95, 121.951, 121.952, and 121.953 of the Revised Code, the agency has failed to justify the retention of a rule containing a regulatory restriction.

(5) The rule implements a federal law or rule in a manner that is more stringent or burdensome than the federal law or rule requires.

(F) If the agency fails to comply with section 106.03 or 106.031 of the Revised Code, the joint committee shall afford the agency an opportunity to appear before the joint committee to show cause why the agency has not complied with either or both of those sections. If the agency appears before the joint committee at the time scheduled for the agency to show cause,

and fails to do so, the joint committee, by vote of a majority
of its members present, may recommend the adoption of a
concurrent resolution invalidating the rule for the agency's
failure to show cause. Or if the agency fails to appear before
the joint committee at the time scheduled for the agency to show
cause, the joint committee, by vote of a majority of its members
present, may recommend adoption of a concurrent resolution
invalidating the rule for the agency's default.

(G) (1) When the joint committee recommends that a rule be
invalidated for the agency's failure to show cause at an
appearance before the joint committee, the recommendation does
not suspend operation of the rule, and the rule remains
operational pending action by the senate and house of
representatives on the concurrent resolution embodying the
recommendation. If the senate and house of representatives adopt
the concurrent resolution, the rule is invalid. If, however, the
senate and house of representatives do not adopt the resolution,
the rule continues in effect, and shall next be reviewed
according to the new review date assigned to the rule.

(2) When the joint committee recommends that a rule be
invalidated for the agency's failure to appear before the joint
committee, the recommendation does not suspend operation of the
rule, and the rule remains operational pending action by the
senate and house of representatives on the concurrent resolution
embodying the recommendation. If the senate and house of
representatives adopt the concurrent resolution, the rule is
invalid. If, however, the senate and house of representatives do
not adopt the resolution, the rule expires in accordance with
section 106.033 of the Revised Code.

Sec. 106.033. Notwithstanding any provision of section

106.031 of the Revised Code to the contrary, if an agency fails 458
to perform a review of an existing rule in accordance with 459
section 106.03 of the Revised Code for one year after the rule's 460
review date, the rule is invalid. The agency shall cease 461
enforcing the rule and shall not rely on a principle of law or 462
policy stated in the rule when conducting adjudications or other 463
determinations of rights and liabilities or in issuing writings 464
and other materials. The agency may institute rulemaking 465
proceedings with regard to a rule that is invalid under this 466
section." 467

In line 4617, after "Code" insert "and expiration under section 468
106.033 of the Revised Code" 469

In line 4692, strike through "(D)" and insert "(D) (1)" 470

In line 4697, strike through "section" and insert "sections" 471

In line 4698, after "106.021" insert ", 106.025, and 106.026" 472

In line 4715, after the period insert "If the rule summary and 473
fiscal analysis indicates the rule may have any of the effects listed in 474
division (A) of section 106.025 of the Revised Code, the executive 475
director of the joint committee shall notify the members of the general 476
assembly and include all documentation submitted to the joint committee in 477
the agency's original rule filing with the notice. 478

(2) " 479

In line 4718, strike through "the" and insert "one of the following 480
applies:" 481

(a) The" 482

In line 4722, after "rule" insert "." 483

(b) The proposed rule is subject to section 106.026 of the Revised 484

Code, and a law authorizing its adoption enacted in accordance with Ohio 485
Constitution, Article II, Sections 15 and 16 is in effect" 486

In line 4723, before "If" insert "(3)" 487

In line 4730, before "As" insert "(4)" 488

In line 4733, strike through "This division" and insert "(5)" 489
Division (D) of this section" 490

In line 4734, strike through "(1)" and insert "(a)" 491

In line 4735, strike through "(2)" and insert "(b)" 492

In line 4739, strike through "(3)" and insert "(c)" 493

In line 4742, strike through "(4)" and insert "(d)" 494

In line 4745, strike through "(5)" and insert "(e)" 495

In line 4750, strike through "(a)" and insert "(i)" 496

In line 4752, strike through "(b)" and insert "(ii)" 497

In line 4754, strike through "(6)" and insert "(f)" 498

In line 4757, strike through "(7)" and insert "(g)" 499

In line 4760, strike through "(D) (5)" and insert "(D) (5) (e)" 500

After line 5566, insert: 501

"Sec. 119.03. In the adoption, amendment, or rescission of 502
any rule, an agency shall comply with the following procedure: 503

(A) Reasonable public notice shall be given in the 504
register of Ohio at least thirty days prior to the date set for 505
a hearing, in the form the agency determines. The agency shall 506
file copies of the public notice under division (B) of this 507
section. (The agency gives public notice in the register of Ohio 508

when the public notice is published in the register under that 509
division.) 510

The public notice shall include: 511

(1) A statement of the agency's intention to consider 512
adopting, amending, or rescinding a rule; 513

(2) A synopsis of the proposed rule, amendment, or rule to 514
be rescinded or a general statement of the subject matter to 515
which the proposed rule, amendment, or rescission relates; 516

(3) A statement of the reason or purpose for adopting, 517
amending, or rescinding the rule; 518

(4) The date, time, and place of a hearing on the proposed 519
action, which shall be not earlier than the thirty-first nor 520
later than the fortieth day after the proposed rule, amendment, 521
or rescission is filed under division (B) of this section. 522

In addition to public notice given in the register of 523
Ohio, the agency may give whatever other notice it reasonably 524
considers necessary to ensure notice constructively is given to 525
all persons who are subject to or affected by the proposed rule, 526
amendment, or rescission. 527

The agency shall provide a copy of the public notice 528
required under division (A) of this section to any person who 529
requests it and pays a reasonable fee, not to exceed the cost of 530
copying and mailing. 531

(B) The full text of the proposed rule, amendment, or rule 532
to be rescinded, accompanied by the public notice required under 533
division (A) of this section, shall be filed in electronic form 534
with the secretary of state and with the director of the 535
legislative service commission. (If in compliance with this 536

division an agency files more than one proposed rule, amendment, 537
or rescission at the same time, and has prepared a public notice 538
under division (A) of this section that applies to more than one 539
of the proposed rules, amendments, or rescissions, the agency 540
shall file only one notice with the secretary of state and with 541
the director for all of the proposed rules, amendments, or 542
rescissions to which the notice applies.) The proposed rule, 543
amendment, or rescission and public notice shall be filed as 544
required by this division at least sixty-five days prior to the 545
date on which the agency, in accordance with division (E) of 546
this section, issues an order adopting the proposed rule, 547
amendment, or rescission. 548

If the proposed rule, amendment, or rescission 549
incorporates a text or other material by reference, the agency 550
shall comply with sections 121.71 to 121.75 of the Revised Code. 551

The proposed rule, amendment, or rescission shall be 552
available for at least thirty days prior to the date of the 553
hearing at the office of the agency in printed or other legible 554
form without charge to any person affected by the proposal. 555
Failure to furnish such text to any person requesting it shall 556
not invalidate any action of the agency in connection therewith. 557

If the agency files a revision in the text of the proposed 558
rule, amendment, or rescission, it shall also promptly file the 559
full text of the proposed rule, amendment, or rescission in its 560
revised form in electronic form with the secretary of state and 561
with the director of the legislative service commission. 562

The agency shall file the rule summary and fiscal analysis 563
prepared under section 106.024 of the Revised Code in electronic 564
form along with a proposed rule, amendment, or rescission or 565
proposed rule, amendment, or rescission in revised form that is 566

filed with the secretary of state or the director of the 567
legislative service commission. 568

The agency shall file the hearing report relating to a 569
proposed rule, amendment, or rescission in electronic form with 570
the secretary of state and the director of the legislative 571
service commission at the same time the agency files the hearing 572
report with the joint committee on agency rule review. 573

The director of the legislative service commission shall 574
publish in the register of Ohio the full text of the original 575
and each revised version of a proposed rule, amendment, or 576
rescission; the full text of a public notice; the full text of a 577
rule summary and fiscal analysis; and the full text of a hearing 578
report that is filed with the director under this division. 579

~~(C)~~ (C) (1) When an agency files a proposed rule, amendment, 580
or rescission under division (B) of this section, it also shall 581
file in electronic form with the joint committee on agency rule 582
review the full text of the proposed rule, amendment, or rule to 583
be rescinded in the same form and the public notice required 584
under division (A) of this section. (If in compliance with this 585
division an agency files more than one proposed rule, amendment, 586
or rescission at the same time, and has given a public notice 587
under division (A) of this section that applies to more than one 588
of the proposed rules, amendments, or rescissions, the agency 589
shall file only one notice with the joint committee for all of 590
the proposed rules, amendments, or rescissions to which the 591
notice applies.) The proposed rule, amendment, or rescission is 592
subject to legislative review and invalidation under sections 593
106.02, 106.021, ~~and~~ 106.022, 106.025, and 106.026 of the 594
Revised Code. If the agency makes a revision in a proposed rule, 595
amendment, or rescission after it is filed with the joint 596

committee, the agency promptly shall file the full text of the 597
proposed rule, amendment, or rescission in its revised form in 598
electronic form with the joint committee. 599

An agency shall file the rule summary and fiscal analysis 600
prepared under section 106.024 of the Revised Code in electronic 601
form along with a proposed rule, amendment, or rescission, and 602
along with a proposed rule, amendment, or rescission in revised 603
form, that is filed under this division. If the rule summary and 604
fiscal analysis indicates the rule may have any of the effects 605
listed in division (A) of section 106.025 of the Revised Code, 606
the executive director of the joint committee shall notify the 607
members of the general assembly and include all documentation 608
submitted to the joint committee in the agency's original rule 609
filing with the notice. 610

(2) If a proposed rule, amendment, or rescission has an 611
adverse impact on businesses, the agency also shall file the 612
business impact analysis, any recommendations received from the 613
common sense initiative office, and the agency's memorandum of 614
response, if any, in electronic form along with the proposed 615
rule, amendment, or rescission, or along with the proposed rule, 616
amendment, or rescission in revised form, that is filed under 617
this division. 618

(3) The agency shall file the hearing report in electronic 619
form with the joint committee before the joint committee holds 620
its public hearing on the proposed rule, amendment, or 621
rescission. The filing of a hearing report does not constitute a 622
revision of the proposed rule, amendment, or rescission to which 623
the hearing report relates. 624

(4) If the proposed rule, amendment, or rescission 625
requires liability insurance, a bond, or any other financial 626

responsibility instrument as a condition of licensure, the 627
agency shall conduct a diligent search to determine if the 628
liability insurance, bond, or other financial responsibility 629
instrument is readily available in the amounts required as a 630
condition of licensure, and shall certify to the joint committee 631
that the search was conducted. 632

(5) If the proposed rule, amendment, or rescission 633
implements a federal law or rule, the agency shall provide to 634
the joint committee a citation to the federal law or rule the 635
proposed rule, amendment, or rescission implements and a 636
statement as to whether the proposed rule implements the federal 637
law or rule in a manner that is more or less stringent or 638
burdensome than the federal law or rule requires. 639

(6) A proposed rule, amendment, or rescission that is 640
subject to legislative review under this division may not be 641
adopted under division (E) of this section or filed in final 642
form under section 119.04 of the Revised Code unless ~~the one of~~ 643
the following applies: 644

(a) The proposed rule, amendment, or rescission has been 645
filed with the joint committee on agency rule review under this 646
division and the time for legislative review of the proposed 647
rule, amendment, or rescission has expired without adoption of a 648
concurrent resolution to invalidate the proposed rule, 649
amendment, or rescission. 650

(b) The proposed rule, amendment, or rescission is subject 651
to section 106.026 of the Revised Code, and a law authorizing 652
its adoption enacted in accordance with Ohio Constitution, 653
Article II, Sections 15 and 16 is in effect. 654

~~This division~~ (7) Division (C) of this section does not 655

apply to:

~~(1)~~ (a) An emergency rule, amendment, or rescission;

~~(2)~~ (b) A proposed rule, amendment, or rescission 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:

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

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

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

(8) If a rule or amendment is exempt from legislative review under division ~~(C)~~ ~~(2)~~ (C) ~~(7)~~ (b) of this section, and if the federal law or rule pursuant to which the rule or amendment was adopted expires, is repealed or rescinded, or otherwise terminates, the rule or amendment, or its rescission, is thereafter subject to legislative review under division (C) of this section.

(D) On the date and at the time and place designated in the notice, the agency shall conduct a public hearing at which any person affected by the proposed action of the agency may

appear and be heard in person, by the person's attorney, or 684
both, may present the person's position, arguments, or 685
contentions, orally or in writing, offer and examine witnesses, 686
and present evidence tending to show that the proposed rule, 687
amendment, or rescission, if adopted or effectuated, will be 688
unreasonable or unlawful. An agency may permit persons affected 689
by the proposed rule, amendment, or rescission to present their 690
positions, arguments, or contentions in writing, not only at the 691
hearing, but also for a reasonable period before, after, or both 692
before and after the hearing. A person who presents a position 693
or arguments or contentions in writing before or after the 694
hearing is not required to appear at the hearing. 695

At the hearing, the testimony shall be recorded. Such 696
record shall be made at the expense of the agency. The agency is 697
required to transcribe a record that is not sight readable only 698
if a person requests transcription of all or part of the record 699
and agrees to reimburse the agency for the costs of the 700
transcription. An agency may require the person to pay in 701
advance all or part of the cost of the transcription. 702

In any hearing under this section the agency may 703
administer oaths or affirmations. 704

The agency shall consider the positions, arguments, or 705
contentions presented at, or before or after, the hearing. The 706
agency shall prepare a hearing summary of the positions, 707
arguments, or contentions, and of the issues raised by the 708
positions, arguments, or contentions. The agency then shall 709
prepare a hearing report explaining, with regard to each issue, 710
how it is reflected in the rule, amendment, or rescission. If an 711
issue is not reflected in the rule, amendment, or rescission, 712
the hearing report shall explain why the issue is not reflected. 713

The agency shall include the hearing summary in the hearing report as an appendix thereto. And, in the hearing report, the agency shall identify the proposed rule, amendment, or rescission to which the hearing report relates.

~~(E) After~~ (E) (1) Subject to division (E) (2) of this section, after divisions (A), (B), (C), and (D) of this section have been complied with, and when the time for legislative review under sections 106.02, 106.022, ~~and~~ 106.023, and 106.025 of the Revised Code has expired without adoption of a concurrent resolution to invalidate the proposed rule, amendment, or rescission, the agency may issue an order adopting the proposed rule or the proposed amendment or rescission of the rule, consistent with the synopsis or general statement included in the public notice. At that time the agency shall designate the effective date of the rule, amendment, or rescission, which shall not be earlier than the tenth day after the rule, amendment, or rescission has been filed in its final form as provided in section 119.04 of the Revised Code.

(2) If a proposed rule, amendment, or rescission is subject to section 106.026 of the Revised Code, the agency may issue an order adopting the proposed rule or the proposed amendment or rescission of the rule on or after the effective date of the law authorizing adoption enacted in accordance with Ohio Constitution, Article II, Sections 15 and 16. At that time the agency shall designate the effective date of the rule, amendment, or rescission, which shall not be earlier than the tenth day after the rule, amendment, or rescission has been filed in its final form as provided in section 119.04 of the Revised Code.

(F) Prior to the effective date of a rule, amendment, or

rescission, the agency shall make a reasonable effort to inform 744
those affected by the rule, amendment, or rescission and to have 745
available for distribution to those requesting it the full text 746
of the rule as adopted or as amended. 747

(G) (1) If the governor, upon the request of an agency, 748
determines that an emergency requires the immediate adoption, 749
amendment, or rescission of a rule, the governor shall issue an 750
order, the text of which shall be filed in electronic form with 751
the agency, the secretary of state, the director of the 752
legislative service commission, and the joint committee on 753
agency rule review, that the procedure prescribed by this 754
section with respect to the adoption, amendment, or rescission 755
of a specified rule is suspended. The agency may then adopt 756
immediately the emergency rule, amendment, or rescission and it 757
becomes effective on the date the rule, amendment, or 758
rescission, in final form and in compliance with division (A) (2) 759
of section 119.04 of the Revised Code, is filed in electronic 760
form with the secretary of state, the director of the 761
legislative service commission, and the joint committee on 762
agency rule review. The director shall publish the full text of 763
the emergency rule, amendment, or rescission in the register of 764
Ohio. 765

Except as provided in division (G) (2) of this section, or 766
section 107.43 of the Revised Code, the emergency rule, 767
amendment, or rescission shall become invalid at the end of the 768
one hundred twentieth day it is in effect. Prior to that date 769
the agency may adopt the emergency rule, amendment, or 770
rescission as a nonemergency rule, amendment, or rescission by 771
complying with the procedure prescribed by this section for the 772
adoption, amendment, and rescission of nonemergency rules. The 773

agency shall not use the procedure of division (G) (1) of this 774
section to readopt the emergency rule, amendment, or rescission 775
so that, upon the emergency rule, amendment, or rescission 776
becoming invalid under division (G) (1) of this section, the 777
emergency rule, amendment, or rescission will continue in effect 778
without interruption for another one-hundred-twenty-day period, 779
except when section 106.02 of the Revised Code prevents the 780
agency from adopting the emergency rule, amendment, or 781
rescission as a nonemergency rule, amendment, or rescission 782
within the one-hundred-twenty-day period. 783

Division (G) (1) of this section does not apply to the 784
adoption of any emergency rule, amendment, or rescission by the 785
tax commissioner under division (C) (2) of section 5117.02 of the 786
Revised Code. 787

(2) An emergency rule or amendment adding a substance to a 788
controlled substance schedule shall become invalid at the end of 789
the one hundred eightieth day it is in effect. Prior to that 790
date, the state board of pharmacy may adopt the emergency rule 791
or amendment as a nonemergency rule or amendment by complying 792
with the procedure prescribed by this section for adoption and 793
amendment of nonemergency rules. The board shall not use the 794
procedure of division (G) (1) of this section to readopt the 795
emergency rule or amendment so that, upon the emergency rule or 796
amendment becoming invalid under division (G) (2) of this 797
section, the emergency rule or amendment will continue in effect 798
beyond the one-hundred-eighty-day period. 799

(3) The general assembly, by adopting a concurrent 800
resolution, and in accordance with section 107.43 of the Revised 801
Code, may do either of the following: 802

(a) Invalidate, in whole or in part, an emergency rule 803

adopted or amended by an agency in response to a state of 804
emergency, as defined under section 107.42 of the Revised Code, 805
under division (G) (1) of this section; 806

(b) Authorize an agency to readopt, in whole or in part, a 807
rule that was rescinded in response to a state of emergency 808
under division (G) (1) of this section. 809

(H) Rules adopted by an authority within the department of 810
job and family services for the administration or enforcement of 811
Chapter 4141. of the Revised Code or of the department of 812
taxation shall be effective without a hearing as provided by 813
this section if the statutes pertaining to such agency 814
specifically give a right of appeal to the board of tax appeals 815
or to a higher authority within the agency or to a court, and 816
also give the appellant a right to a hearing on such appeal. 817
This division does not apply to the adoption of any rule, 818
amendment, or rescission by the tax commissioner under division 819
(C) (1) or (2) of section 5117.02 of the Revised Code, or deny 820
the right to file an action for declaratory judgment as provided 821
in Chapter 2721. of the Revised Code from the decision of the 822
board of tax appeals or of the higher authority within such 823
agency. " 824

Update the title, amend, enact, or repeal clauses accordingly 825

The motion was _____ agreed to.

SYNOPSIS

826

Proposed rules and revised proposed rules

827

R.C. 106.02, 106.021, 106.025, 106.26, 106.023, 111.15, 828
and 119.03 829

Allows JCARR to request a designee of an agency to appear 830
before JCARR to answer questions when JCARR determines that a 831
rule summary and fiscal analysis (RSFA) for a proposed rule or 832
revised proposed rule filed by the agency indicates any of the 833
following: 834

--The rule will increase the agency's expenditures during 835
the current biennium by \$100,000 or more; 836

--The cost to comply with the rule for a directly affected 837
person will be \$100,000 or more; 838

--The rule will impose an annual effect on Ohio's economy 839
of \$1,000,000 or more. 840

Requires the JCARR Executive Director to inform members of 841
the General Assembly and include all documentation submitted to 842
JCARR in the agency's original rule filing with the notice when 843
the rule's RSFA indicates the rule may have one of the effects 844
listed above. 845

Allows, subject to the prohibition described below, JCARR 846
to take any of the following actions after an agency designee 847
appears to answer questions about a proposed rule or revised 848
proposed rule described above: 849

--Allow the time for legislative review to expire (thus, 850
permitting the agency to adopt the rule); 851

--Recommend the adoption of a concurrent resolution to 852
invalidate the rule or a part thereof; 853

--Refer the rule for consideration by the full General 854
Assembly. 855

Prohibits JCARR from recommending an invalidating 856
resolution for the reasons described above, or referring the 857
rule to the General Assembly, when the rule is based on specific 858
statutory language authorizing or requiring the agency to adopt 859
the rule, rather than a general grant of rule making authority. 860

Requires the General Assembly to enact a bill approving 861
the adoption of a rule referred to it by JCARR under the 862
amendment before the rule can take effect. 863

Rule review 864

R.C. 106.031 and 106.033 865

Invalidates a rule and prohibits the adopting agency from 866
enforcing the rule or relying on a principle of law or policy 867
stated in the rule if the agency fails to perform a review of 868
the rule required under continuing law for one year after the 869
rule's assigned review date. 870

Rule rescission 871

R.C. 106.024 872

Requires JCARR, in the RSFA designed by JCARR, to solicit 873
an explanation of a rule's rescission, including a statement as 874
to whether the agency intends to continue relying on a principle 875
of law or policy stated in the rescinded rule. 876