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134th General Assembly
Regular Session
2021-2022

Sub. H. B. No. 90

A BILL

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

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

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

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

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(1) Five members of the senate appointed by the president
of the senate, three of whom are members of the majority party

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and two of whom are members of the minority party;

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

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

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(C) In odd-numbered years, the president shall designate
one committee member from the senate who is a member of the
majority party as the committee chairperson, and the speaker
shall designate one committee member from the house who is a
member of the minority party as the committee ranking minority
member. In even-numbered years, the speaker shall designate one
committee member from the house who is a member of the majority
party as the committee chairperson, and the president shall
designate one committee member from the senate who is a member
of the minority party as the committee ranking minority member.

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

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

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

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

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

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

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

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

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

(C) (1) Beginning on the eleventh day of a public health 74
state of emergency, the Ohio health oversight and advisory 75

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

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

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

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

(3) Following the adoption of an emergency rule by an 92
agency under division (B) (2) of section 111.15 of the Revised 93
Code in response to a public health state of emergency, the 94
committee may, at any time by a vote of the majority of its 95
members, invalidate that rule. 96

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

(E) (1) If the committee rescinds an executive order or a 102
special or standing order or rule, or invalidates an emergency 103
rule pursuant to this section, the governor, the department, or 104

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

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

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

When the joint committee approves such an authorization, 133
the running of the time within which a concurrent resolution 134

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

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

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

~~If~~ Except as provided in sections 103.651 and 107.43 of 158
the Revised Code, if the proposed rule that is the subject of an 159
authorization is to replace an emergency rule, the governor may 160
issue an order extending the emergency rule for an additional 161
one hundred twenty days after the day on which the emergency 162
rule otherwise would become invalid. The governor shall transmit 163
the order electronically to the agency, the joint committee, and 164

the director of the legislative service commission.

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

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

(C) An executive order issued by the governor in response to a public health state of emergency, except an executive order to declare a public health state of emergency, shall exist for not more than thirty days unless the general assembly extends the executive order by adopting a concurrent resolution.

Sec. 107.43. (A) A state of emergency declared by the governor, including a public health state of emergency as defined under section 107.42 of the Revised Code, shall exist for not more than thirty days unless extended by the general assembly as provided in division (B) of this section. An amendment to a state of emergency declaration shall not be considered a new declaration.

(B) The general assembly may extend a state of emergency by adopting a concurrent resolution. The general assembly continuously may extend a state of emergency by adopting

subsequent concurrent resolutions, but no extension may last 194
longer than sixty days. If the general assembly does not extend 195
a state of emergency, the governor shall not reissue that 196
declaration, or a substantially similar declaration, for a 197
period of ninety days after the state of emergency ends. 198

(C) (1) The general assembly may rescind, by adopting a 199
concurrent resolution, any executive order issued by the 200
governor or any emergency declaration issued by the governor, 201
whether issued via executive order or otherwise. If the general 202
assembly rescinds an executive order or emergency declaration, 203
the governor shall not reissue that order or declaration, or a 204
substantially similar order or declaration, for a period of 205
ninety days following the adoption of the concurrent resolution 206
by the general assembly. 207

(2) The general assembly may do either of the following by 208
adopting a concurrent resolution: 209

(a) Invalidate an emergency rule adopted or amended by an 210
agency under division (B) (2) of section 111.15 or division (G) 211
of section 119.03 of the Revised Code; 212

(b) Authorize a rule rescinded by an agency under division 213
(G) of section 119.03 of the Revised Code to be reinstated. 214

If the general assembly invalidates an emergency rule or 215
authorizes a rule to be reinstated under division (C) (2) of this 216
section, an agency shall not readopt or rescind that invalidated 217
or reinstated rule, or a substantially similar rule, for a 218
period of ninety days following the adoption of the concurrent 219
resolution by the general assembly. 220

(D) An executive order issued by the governor, or any 221
emergency declaration issued by the governor, whether issued via 222

executive order or otherwise, or a rule adopted, amended, or 223
rescinded by an agency in violation of this section is invalid 224
and has no legal effect. 225

Sec. 111.15. (A) As used in this section: 226

(1) "Rule" includes any rule, regulation, bylaw, or 227
standard having a general and uniform operation adopted by an 228
agency under the authority of the laws governing the agency; any 229
appendix to a rule; and any internal management rule. "Rule" 230
does not include any guideline adopted pursuant to section 231
3301.0714 of the Revised Code, any order respecting the duties 232
of employees, any finding, any determination of a question of 233
law or fact in a matter presented to an agency, or any rule 234
promulgated pursuant to Chapter 119. or division (C)(1) or (2) 235
of section 5117.02 of the Revised Code. "Rule" includes any 236
amendment or rescission of a rule. 237

(2) "Agency" means any governmental entity of the state 238
and includes, but is not limited to, any board, department, 239
division, commission, bureau, society, council, institution, 240
state college or university, community college district, 241
technical college district, or state community college. "Agency" 242
does not include the general assembly, the controlling board, 243
the adjutant general's department, or any court. 244

(3) "Internal management rule" means any rule, regulation, 245
bylaw, or standard governing the day-to-day staff procedures and 246
operations within an agency. 247

(B)(1) Any rule, other than a rule of an emergency nature, 248
adopted by any agency pursuant to this section shall be 249
effective on the tenth day after the day on which the rule in 250
final form and in compliance with division (B)(3) of this 251

section is filed as follows: 252

(a) The rule shall be filed in electronic form with both 253
the secretary of state and the director of the legislative 254
service commission; 255

(b) The rule shall be filed in electronic form with the 256
joint committee on agency rule review. Division (B) (1) (b) of 257
this section does not apply to any rule to which division (D) of 258
this section does not apply. 259

An agency that adopts or amends a rule that is subject to 260
division (D) of this section shall assign a review date to the 261
rule that is not later than five years after its effective date. 262
If a review date assigned to a rule exceeds the five-year 263
maximum, the review date for the rule is five years after its 264
effective date. A rule with a review date is subject to review 265
under section 106.03 of the Revised Code. This paragraph does 266
not apply to a rule of a state college or university, community 267
college district, technical college district, or state community 268
college. 269

If an agency in adopting a rule designates an effective 270
date that is later than the effective date provided for by 271
division (B) (1) of this section, the rule if filed as required 272
by such division shall become effective on the later date 273
designated by the agency. 274

Any rule that is required to be filed under division (B) 275
(1) of this section is also subject to division (D) of this 276
section if not exempted by that division. 277

If a rule incorporates a text or other material by 278
reference, the agency shall comply with sections 121.71 to 279
121.75 of the Revised Code. 280

(2) A rule of an emergency nature necessary for the 281
immediate preservation of the public peace, health, or safety 282
shall state the reasons for the necessity. The emergency rule, 283
in final form and in compliance with division (B) (3) of this 284
section, shall be filed in electronic form with the secretary of 285
state, the director of the legislative service commission, and 286
the joint committee on agency rule review. The emergency rule is 287
effective immediately upon completion of the latest filing, 288
except that if the agency in adopting the emergency rule 289
designates an effective date, or date and time of day, that is 290
later than the effective date and time provided for by division 291
(B) (2) of this section, the emergency rule if filed as required 292
by such division shall become effective at the later date, or 293
later date and time of day, designated by the agency. 294

An emergency rule becomes invalid at the end of the one 295
hundred twentieth day it is in effect. Prior to that date, the 296
agency may file the emergency rule as a nonemergency rule in 297
compliance with division (B) (1) of this section. The agency may 298
not refile the emergency rule in compliance with division (B) (2) 299
of this section so that, upon the emergency rule becoming 300
invalid under such division, the emergency rule will continue in 301
effect without interruption for another one hundred twenty-day 302
period. 303

An emergency rule adopted under division (B) (2) of this 304
section in response to a public health state of emergency, as 305
defined under section 107.42 of the Revised Code, shall exist 306
for not more than thirty days unless the general assembly 307
extends the emergency rule by adopting a concurrent resolution. 308
An emergency rule adopted in response to a public health state 309
of emergency may be rescinded by the Ohio health oversight and 310
advisory committee in accordance with section 103.651 of the 311

Revised Code or the general assembly in accordance with section 312
107.43 of the Revised Code. 313

(3) An agency shall file a rule under division (B) (1) or 314
(2) of this section in compliance with the following standards 315
and procedures: 316

(a) The rule shall be numbered in accordance with the 317
numbering system devised by the director for the Ohio 318
administrative code. 319

(b) The rule shall be prepared and submitted in compliance 320
with the rules of the legislative service commission. 321

(c) The rule shall clearly state the date on which it is 322
to be effective and the date on which it will expire, if known. 323

(d) Each rule that amends or rescinds another rule shall 324
clearly refer to the rule that is amended or rescinded. Each 325
amendment shall fully restate the rule as amended. 326

If the director of the legislative service commission or 327
the director's designee gives an agency notice pursuant to 328
section 103.05 of the Revised Code that a rule filed by the 329
agency is not in compliance with the rules of the legislative 330
service commission, the agency shall within thirty days after 331
receipt of the notice conform the rule to the rules of the 332
commission as directed in the notice. 333

(C) All rules filed pursuant to divisions (B) (1) (a) and 334
(2) of this section shall be recorded by the secretary of state 335
and the director under the title of the agency adopting the rule 336
and shall be numbered according to the numbering system devised 337
by the director. The secretary of state and the director shall 338
preserve the rules in an accessible manner. Each such rule shall 339
be a public record open to public inspection and may be 340

transmitted to any law publishing company that wishes to 341
reproduce it. 342

(D) At least sixty-five days before a board, commission, 343
department, division, or bureau of the government of the state 344
files a rule under division (B)(1) of this section, it shall 345
file the full text of the proposed rule in electronic form with 346
the joint committee on agency rule review, and the proposed rule 347
is subject to legislative review and invalidation under section 348
106.021 of the Revised Code. If a state board, commission, 349
department, division, or bureau makes a revision in a proposed 350
rule after it is filed with the joint committee, the state 351
board, commission, department, division, or bureau shall 352
promptly file the full text of the proposed rule in its revised 353
form in electronic form with the joint committee. A state board, 354
commission, department, division, or bureau shall also file the 355
rule summary and fiscal analysis prepared under section 106.024 356
of the Revised Code in electronic form along with a proposed 357
rule, and along with a proposed rule in revised form, that is 358
filed under this division. If a proposed rule has an adverse 359
impact on businesses, the state board, commission, department, 360
division, or bureau also shall file the business impact 361
analysis, any recommendations received from the common sense 362
initiative office, and the associated memorandum of response, if 363
any, in electronic form along with the proposed rule, or the 364
proposed rule in revised form, that is filed under this 365
division. 366

A proposed rule that is subject to legislative review 367
under this division may not be adopted and filed in final form 368
under division (B)(1) of this section unless the proposed rule 369
has been filed with the joint committee on agency rule review 370
under this division and the time for the joint committee to 371

review the proposed rule has expired without recommendation of a 372
concurrent resolution to invalidate the proposed rule. 373

As used in this division, "commission" includes the public 374
utilities commission when adopting rules under a federal or 375
state statute. 376

This division does not apply to any of the following: 377

(1) A proposed rule of an emergency nature; 378

(2) A rule proposed under section 1121.05, 1121.06, 379
1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 380
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 381
Code; 382

(3) A rule proposed by an agency other than a board, 383
commission, department, division, or bureau of the government of 384
the state; 385

(4) A proposed internal management rule of a board, 386
commission, department, division, or bureau of the government of 387
the state; 388

(5) Any proposed rule that must be adopted verbatim by an 389
agency pursuant to federal law or rule, to become effective 390
within sixty days of adoption, in order to continue the 391
operation of a federally reimbursed program in this state, so 392
long as the proposed rule contains both of the following: 393

(a) A statement that it is proposed for the purpose of 394
complying with a federal law or rule; 395

(b) A citation to the federal law or rule that requires 396
verbatim compliance. 397

(6) An initial rule proposed by the director of health to 398

impose safety standards and quality-of-care standards with 399
respect to a health service specified in section 3702.11 of the 400
Revised Code, or an initial rule proposed by the director to 401
impose quality standards on a health care facility as defined in 402
section 3702.30 of the Revised Code, if section 3702.12 of the 403
Revised Code requires that the rule be adopted under this 404
section; 405

(7) A rule of the state lottery commission pertaining to 406
instant game rules. 407

If a rule is exempt from legislative review under division 408
(D) (5) of this section, and if the federal law or rule pursuant 409
to which the rule was adopted expires, is repealed or rescinded, 410
or otherwise terminates, the rule is thereafter subject to 411
legislative review under division (D) of this section. 412

Whenever a state board, commission, department, division, 413
or bureau files a proposed rule or a proposed rule in revised 414
form under division (D) of this section, it shall also file the 415
full text of the same proposed rule or proposed rule in revised 416
form in electronic form with the secretary of state and the 417
director of the legislative service commission. A state board, 418
commission, department, division, or bureau shall file the rule 419
summary and fiscal analysis prepared under section 106.024 of 420
the Revised Code in electronic form along with a proposed rule 421
or proposed rule in revised form that is filed with the 422
secretary of state or the director of the legislative service 423
commission. 424

Sec. 119.03. In the adoption, amendment, or rescission of 425
any rule, an agency shall comply with the following procedure: 426

(A) Reasonable public notice shall be given in the 427

register of Ohio at least thirty days prior to the date set for 428
a hearing, in the form the agency determines. The agency shall 429
file copies of the public notice under division (B) of this 430
section. (The agency gives public notice in the register of Ohio 431
when the public notice is published in the register under that 432
division.) 433

The public notice shall include: 434

(1) A statement of the agency's intention to consider 435
adopting, amending, or rescinding a rule; 436

(2) A synopsis of the proposed rule, amendment, or rule to 437
be rescinded or a general statement of the subject matter to 438
which the proposed rule, amendment, or rescission relates; 439

(3) A statement of the reason or purpose for adopting, 440
amending, or rescinding the rule; 441

(4) The date, time, and place of a hearing on the proposed 442
action, which shall be not earlier than the thirty-first nor 443
later than the fortieth day after the proposed rule, amendment, 444
or rescission is filed under division (B) of this section. 445

In addition to public notice given in the register of 446
Ohio, the agency may give whatever other notice it reasonably 447
considers necessary to ensure notice constructively is given to 448
all persons who are subject to or affected by the proposed rule, 449
amendment, or rescission. 450

The agency shall provide a copy of the public notice 451
required under division (A) of this section to any person who 452
requests it and pays a reasonable fee, not to exceed the cost of 453
copying and mailing. 454

(B) The full text of the proposed rule, amendment, or rule 455

to be rescinded, accompanied by the public notice required under 456
division (A) of this section, shall be filed in electronic form 457
with the secretary of state and with the director of the 458
legislative service commission. (If in compliance with this 459
division an agency files more than one proposed rule, amendment, 460
or rescission at the same time, and has prepared a public notice 461
under division (A) of this section that applies to more than one 462
of the proposed rules, amendments, or rescissions, the agency 463
shall file only one notice with the secretary of state and with 464
the director for all of the proposed rules, amendments, or 465
rescissions to which the notice applies.) The proposed rule, 466
amendment, or rescission and public notice shall be filed as 467
required by this division at least sixty-five days prior to the 468
date on which the agency, in accordance with division (E) of 469
this section, issues an order adopting the proposed rule, 470
amendment, or rescission. 471

If the proposed rule, amendment, or rescission 472
incorporates a text or other material by reference, the agency 473
shall comply with sections 121.71 to 121.75 of the Revised Code. 474

The proposed rule, amendment, or rescission shall be 475
available for at least thirty days prior to the date of the 476
hearing at the office of the agency in printed or other legible 477
form without charge to any person affected by the proposal. 478
Failure to furnish such text to any person requesting it shall 479
not invalidate any action of the agency in connection therewith. 480

If the agency files a revision in the text of the proposed 481
rule, amendment, or rescission, it shall also promptly file the 482
full text of the proposed rule, amendment, or rescission in its 483
revised form in electronic form with the secretary of state and 484
with the director of the legislative service commission. 485

The agency shall file the rule summary and fiscal analysis 486
prepared under section 106.024 of the Revised Code in electronic 487
form along with a proposed rule, amendment, or rescission or 488
proposed rule, amendment, or rescission in revised form that is 489
filed with the secretary of state or the director of the 490
legislative service commission. 491

The agency shall file the hearing report relating to a 492
proposed rule, amendment, or rescission in electronic form with 493
the secretary of state and the director of the legislative 494
service commission at the same time the agency files the hearing 495
report with the joint committee on agency rule review. 496

The director of the legislative service commission shall 497
publish in the register of Ohio the full text of the original 498
and each revised version of a proposed rule, amendment, or 499
rescission; the full text of a public notice; the full text of a 500
rule summary and fiscal analysis; and the full text of a hearing 501
report that is filed with the director under this division. 502

(C) When an agency files a proposed rule, amendment, or 503
rescission under division (B) of this section, it also shall 504
file in electronic form with the joint committee on agency rule 505
review the full text of the proposed rule, amendment, or rule to 506
be rescinded in the same form and the public notice required 507
under division (A) of this section. (If in compliance with this 508
division an agency files more than one proposed rule, amendment, 509
or rescission at the same time, and has given a public notice 510
under division (A) of this section that applies to more than one 511
of the proposed rules, amendments, or rescissions, the agency 512
shall file only one notice with the joint committee for all of 513
the proposed rules, amendments, or rescissions to which the 514
notice applies.) The proposed rule, amendment, or rescission is 515

subject to legislative review and invalidation under sections 516
106.02, 106.021, and 106.022 of the Revised Code. If the agency 517
makes a revision in a proposed rule, amendment, or rescission 518
after it is filed with the joint committee, the agency promptly 519
shall file the full text of the proposed rule, amendment, or 520
rescission in its revised form in electronic form with the joint 521
committee. 522

An agency shall file the rule summary and fiscal analysis 523
prepared under section 106.024 of the Revised Code in electronic 524
form along with a proposed rule, amendment, or rescission, and 525
along with a proposed rule, amendment, or rescission in revised 526
form, that is filed under this division. 527

If a proposed rule, amendment, or rescission has an 528
adverse impact on businesses, the agency also shall file the 529
business impact analysis, any recommendations received from the 530
common sense initiative office, and the agency's memorandum of 531
response, if any, in electronic form along with the proposed 532
rule, amendment, or rescission, or along with the proposed rule, 533
amendment, or rescission in revised form, that is filed under 534
this division. 535

The agency shall file the hearing report in electronic 536
form with the joint committee before the joint committee holds 537
its public hearing on the proposed rule, amendment, or 538
rescission. The filing of a hearing report does not constitute a 539
revision of the proposed rule, amendment, or rescission to which 540
the hearing report relates. 541

If the proposed rule, amendment, or rescission requires 542
liability insurance, a bond, or any other financial 543
responsibility instrument as a condition of licensure, the 544
agency shall conduct a diligent search to determine if the 545

liability insurance, bond, or other financial responsibility 546
instrument is readily available in the amounts required as a 547
condition of licensure, and shall certify to the joint committee 548
that the search was conducted. 549

A proposed rule, amendment, or rescission that is subject 550
to legislative review under this division may not be adopted 551
under division (E) of this section or filed in final form under 552
section 119.04 of the Revised Code unless the proposed rule, 553
amendment, or rescission has been filed with the joint committee 554
on agency rule review under this division and the time for 555
legislative review of the proposed rule, amendment, or 556
rescission has expired without adoption of a concurrent 557
resolution to invalidate the proposed rule, amendment, or 558
rescission. 559

This division does not apply to: 560

(1) An emergency rule, amendment, or rescission; 561

(2) A proposed rule, amendment, or rescission that must be 562
adopted verbatim by an agency pursuant to federal law or rule, 563
to become effective within sixty days of adoption, in order to 564
continue the operation of a federally reimbursed program in this 565
state, so long as the proposed rule contains both of the 566
following: 567

(a) A statement that it is proposed for the purpose of 568
complying with a federal law or rule; 569

(b) A citation to the federal law or rule that requires 570
verbatim compliance. 571

(3) A proposed rule, amendment, or rescission that, as set 572
forth in section 3719.41 of the Revised Code, must be adopted by 573
the state board of pharmacy pursuant to federal law or rule, to 574

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.

If a rule or amendment is exempt from legislative review
under division (C) (2) 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
both, may present the person's position, arguments, or
contentions, orally or in writing, offer and examine witnesses,
and present evidence tending to show that the proposed rule,
amendment, or rescission, if adopted or effectuated, will be
unreasonable or unlawful. An agency may permit persons affected
by the proposed rule, amendment, or rescission to present their
positions, arguments, or contentions in writing, not only at the
hearing, but also for a reasonable period before, after, or both
before and after the hearing. A person who presents a position
or arguments or contentions in writing before or after the
hearing is not required to appear at the hearing.

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

advance all or part of the cost of the transcription. 605

In any hearing under this section the agency may 606
administer oaths or affirmations. 607

The agency shall consider the positions, arguments, or 608
contentions presented at, or before or after, the hearing. The 609
agency shall prepare a hearing summary of the positions, 610
arguments, or contentions, and of the issues raised by the 611
positions, arguments, or contentions. The agency then shall 612
prepare a hearing report explaining, with regard to each issue, 613
how it is reflected in the rule, amendment, or rescission. If an 614
issue is not reflected in the rule, amendment, or rescission, 615
the hearing report shall explain why the issue is not reflected. 616
The agency shall include the hearing summary in the hearing 617
report as an appendix thereto. And, in the hearing report, the 618
agency shall identify the proposed rule, amendment, or 619
rescission to which the hearing report relates. 620

(E) After divisions (A), (B), (C), and (D) of this section 621
have been complied with, and when the time for legislative 622
review under sections 106.02, 106.022, and 106.023 of the 623
Revised Code has expired without adoption of a concurrent 624
resolution to invalidate the proposed rule, amendment, or 625
rescission, the agency may issue an order adopting the proposed 626
rule or the proposed amendment or rescission of the rule, 627
consistent with the synopsis or general statement included in 628
the public notice. At that time the agency shall designate the 629
effective date of the rule, amendment, or rescission, which 630
shall not be earlier than the tenth day after the rule, 631
amendment, or rescission has been filed in its final form as 632
provided in section 119.04 of the Revised Code. 633

(F) Prior to the effective date of a rule, amendment, or 634

rescission, the agency shall make a reasonable effort to inform 635
those affected by the rule, amendment, or rescission and to have 636
available for distribution to those requesting it the full text 637
of the rule as adopted or as amended. 638

(G) (1) If the governor, upon the request of an agency, 639
determines that an emergency requires the immediate adoption, 640
amendment, or rescission of a rule, the governor shall issue an 641
order, the text of which shall be filed in electronic form with 642
the agency, the secretary of state, the director of the 643
legislative service commission, and the joint committee on 644
agency rule review, that the procedure prescribed by this 645
section with respect to the adoption, amendment, or rescission 646
of a specified rule is suspended. The agency may then adopt 647
immediately the emergency rule, amendment, or rescission and it 648
becomes effective on the date the rule, amendment, or 649
rescission, in final form and in compliance with division (A) (2) 650
of section 119.04 of the Revised Code, is filed in electronic 651
form with the secretary of state, the director of the 652
legislative service commission, and the joint committee on 653
agency rule review. The director shall publish the full text of 654
the emergency rule, amendment, or rescission in the register of 655
Ohio. 656

Except as provided in division (G) (2) or (3) of this 657
section, the emergency rule, amendment, or rescission shall 658
become invalid at the end of the one hundred twentieth day it is 659
in effect. Prior to that date the agency may adopt the emergency 660
rule, amendment, or rescission as a nonemergency rule, 661
amendment, or rescission by complying with the procedure 662
prescribed by this section for the adoption, amendment, and 663
rescission of nonemergency rules. The agency shall not use the 664
procedure of division (G) (1) of this section to readopt the 665

emergency rule, amendment, or rescission so that, upon the 666
emergency rule, amendment, or rescission becoming invalid under 667
division (G) (1) of this section, the emergency rule, amendment, 668
or rescission will continue in effect without interruption for 669
another one-hundred-twenty-day period, except when section 670
106.02 of the Revised Code prevents the agency from adopting the 671
emergency rule, amendment, or rescission as a nonemergency rule, 672
amendment, or rescission within the one-hundred-twenty-day 673
period. 674

Division (G) (1) of this section does not apply to the 675
adoption of any emergency rule, amendment, or rescission by the 676
tax commissioner under division (C) (2) of section 5117.02 of the 677
Revised Code. 678

(2) An emergency rule or amendment adding a substance to a 679
controlled substance schedule shall become invalid at the end of 680
the one hundred eightieth day it is in effect. Prior to that 681
date, the state board of pharmacy may adopt the emergency rule 682
or amendment as a nonemergency rule or amendment by complying 683
with the procedure prescribed by this section for adoption and 684
amendment of nonemergency rules. The board shall not use the 685
procedure of division (G) (1) of this section to readopt the 686
emergency rule or amendment so that, upon the emergency rule or 687
amendment becoming invalid under division (G) (2) of this 688
section, the emergency rule or amendment will continue in effect 689
beyond the one-hundred-eighty-day period. 690

(3) A rule adopted, amended, or rescinded under division 691
(G) (1) of this section in response to a public health state of 692
emergency, as defined in section 107.42 of the Revised Code, 693
shall exist for not more than thirty days unless the general 694
assembly extends the adoption, amendment, or rescission by 695

adopting a concurrent resolution.

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

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

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

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

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

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

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(2) "Quarantine" means the separation or restriction of 725
movement of one or more individuals who have come into direct 726
contact with someone who has been medically diagnosed with a 727
communicable or contagious disease. 728

(B) (1) The department of health shall have supervision of 729
all matters relating to the preservation of the life and health 730
of the people and have ~~ultimate~~ authority in matters of 731
quarantine and isolation, which it may declare and enforce, when 732
neither exists, and modify, relax, or abolish, when either has 733
been established. ~~The~~ 734

(2) The department may approve methods of immunization 735
against the diseases specified in section 3313.671 of the 736
Revised Code for the purpose of carrying out the provisions of 737
that section and take such actions as are necessary to encourage 738
vaccination against those diseases. 739

~~The~~ (C) (1) Subject to section 103.651 of the Revised Code 740
and divisions (C) (2) and (3) of this section, the department may 741
make special or standing orders or rules ~~for preventing the use~~ 742
~~of fluoroscopes for nonmedical purposes that emit doses of~~ 743
~~radiation likely to be harmful to any person, for preventing the~~ 744
spread of contagious or infectious diseases, ~~for governing the~~ 745
~~receipt and conveyance of remains of deceased persons, and for~~ 746
~~such other sanitary matters as are best controlled by a general~~ 747
rule. A special or standing order or rule for preventing the 748
spread of contagious or infectious diseases issued under this 749
section shall exist for not more than thirty days unless the 750
general assembly extends the special or standing order or rule 751
by adopting a concurrent resolution. 752

(2) The general assembly may rescind a special or standing 753
order or rule issued under division (C) (1) of this section by 754

adopting a concurrent resolution.

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

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

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(5) Beginning the day the governor declares a public
health state of emergency as defined under section 107.42 of the
Revised Code, the department shall report to the president of
the senate and the speaker of the house of representatives every
action the department takes under this section in response to
the public health state of emergency.

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

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

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

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

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(E) Whenever possible, the department shall work in
cooperation with the health commissioner of a general or city

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health district. ~~The~~

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

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

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As a condition precedent to receiving funding from the
department of health, the director of health may require general
or city health districts to apply for accreditation by July 1,
2018, and be accredited by July 1, 2020, by an accreditation
body approved by the director. The director of health, by July
1, 2016, shall conduct an evaluation of general and city health
district preparation for accreditation, including an evaluation
of each district's reported public health quality indicators as

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provided for in section 3701.98 of the Revised Code.

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

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

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

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

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

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

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

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

(c) That any retailer possessing units of the consumer 841
product segregate these units from other merchandise and hold 842
them or a portion of them for disposition by designated law 843
enforcement officers or officials of the department of 844
agriculture, the department of health, or the state board of 845
pharmacy; 846

(d) Any other limitations, controls, or prohibitions that 847
the governor considers necessary regarding the manufacture, 848
importation, sale, or transportation of the consumer product. 849

(2) The governor may amend or rescind any order issued 850
under division (B)(1) of this section. 851

(C) If the particular type of consumer product referred to 852
in division (B)(1) of this section is one that falls within the 853
jurisdiction of the department of agriculture, the department of 854
health, or the state board of pharmacy, the governor shall not 855
declare ~~a public health state of an adulterated consumer product~~ 856
emergency pursuant to that division unless requested to do so by 857
the department or board that regulates the consumer product. If 858
the governor grants the request, the department or board that 859
made the request shall enforce the provisions of this section. 860

(D) ~~A public health state of emergency declared under this~~ 861
~~section shall exist for not more than sixty days unless extended~~ 862
~~by the governor for an additional thirty day period, at which~~ 863
~~time the public health state of emergency shall end unless it is~~ 864
~~extended by a concurrent resolution adopted by both houses of~~ 865
~~the general assembly. An amendment to an executive public health~~ 866
~~state of emergency order shall not be considered a new order.~~ 867

~~(E) Any executive public health state of adulterated~~ 868
~~consumer product emergency order or amended executive public~~ 869

~~health state of adulterated consumer product~~ emergency order 870
issued under this section shall be disseminated promptly by 871
means that bring the order to the attention of the general 872
public. The governor promptly shall file the order with the 873
secretary of state, the department of agriculture, the 874
department of health, and the state board of pharmacy. 875

~~(F)~~ (E) The state is not liable for removal, or for the 876
costs of removal, of consumer products from public display in 877
connection with an executive ~~public health state of adulterated~~ 878
~~consumer product~~ emergency order issued under division (B) (1) (a) 879
of this section. Neither the state nor an agent of the state 880
acting pursuant to ~~a public health state of an adulterated~~ 881
~~consumer product~~ emergency is liable for any damages or loss 882
incurred because of any action pursuant to an executive ~~public~~ 883
~~health state of adulterated consumer product~~ emergency order of 884
that type. 885

~~(G)~~ (F) No person shall knowingly violate an executive 886
~~public health state of adulterated consumer product~~ emergency 887
order issued by the governor under this section. Whoever 888
violates an executive ~~public health state of adulterated~~ 889
~~consumer product~~ emergency order is subject to a fine of not 890
less than five hundred dollars. Each day a violation continues 891
is a separate offense. 892

~~(H)~~ (G) The attorney general, at the direction of the 893
governor or upon request of the director of agriculture, the 894
director of health, the state board of pharmacy, or a 895
prosecuting attorney may commence an action in a court of common 896
pleas to enjoin a violation of an executive ~~public health state~~ 897
~~of adulterated consumer product~~ emergency order issued pursuant 898
to this section or to compel a person to perform a duty imposed 899

by an executive ~~public health state of adulterated consumer~~ 900
product emergency order. 901

Sec. 4935.03. (A) The public utilities commission shall 902
adopt, and may amend or rescind, rules in accordance with 903
section 111.15 of the Revised Code, with the approval of the 904
governor, defining various foreseen types and levels of energy 905
emergency conditions for critical shortages or interruptions in 906
the supply of electric power, natural gas, coal, or individual 907
petroleum fuels and specifying appropriate measures to be taken 908
at each level or for each type of energy emergency as necessary 909
to protect the public health or safety or prevent unnecessary or 910
avoidable damage to property. The rules may prescribe different 911
measures for each different type or level of declared energy 912
emergency, and for any type or level shall empower the governor 913
to: 914

(1) Restrict the energy consumption of state and local 915
government offices and industrial and commercial establishments; 916

(2) Restrict or curtail public or private transportation 917
or require or encourage the use of car pools or mass transit 918
systems; 919

(3) Order, during a declared energy emergency, any 920
electric light, natural gas or gas, or pipeline company; any 921
supplier subject to certification under section 4928.08 or 922
4929.20 of the Revised Code; electric power or gas utility that 923
is owned by a municipal corporation or not for profit; coal 924
producer or supplier; electric power producer or marketer; or 925
petroleum fuel producer, refiner, wholesale distributor, or 926
retail dealer to sell electricity, gas, coal, or petroleum fuel 927
in order to alleviate hardship, or if possible to acquire or 928
produce emergency supplies to meet emergency needs; 929

(4) Order, during a declared energy emergency, other 930
energy conservation or emergency energy production or 931
distribution measures to be taken in order to alleviate 932
hardship; 933

(5) Mobilize emergency management, national guard, law 934
enforcement, or emergency medical services. 935

The rules shall be designed to protect the public health 936
and safety and prevent unnecessary or avoidable damage to 937
property. They shall encourage the equitable distribution of 938
available electric power and fuel supplies among all geographic 939
regions in the state. 940

(B) The governor may, after consultation with the 941
chairperson of the commission, declare an energy emergency by 942
filing with the secretary of state a written declaration of an 943
energy emergency at any time the governor finds that the health, 944
safety, or welfare of the residents of this state or of one or 945
more counties of this state is so imminently and substantially 946
threatened by an energy shortage that immediate action of state 947
government is necessary to prevent loss of life, protect the 948
public health or safety, and prevent unnecessary or avoidable 949
damage to property. The declaration shall state the counties, 950
utility service areas, or fuel market areas affected, or its 951
statewide effect, and what fuels or forms of energy are in 952
critically short supply. An energy emergency declaration goes 953
into immediate effect upon filing ~~and continues in effect for~~ 954
~~the period prescribed in the declaration, but not more than~~ 955
~~thirty days. At the end of any thirty day or shorter energy~~ 956
~~emergency, the governor may issue another declaration extending~~ 957
~~the emergency. The general assembly may by concurrent resolution~~ 958
~~terminate any declaration of an energy emergency. The emergency~~ 959

~~is terminated at the time of filing of the concurrent resolution~~ 960
~~with the secretary of state.~~ 961
When an energy emergency is 962
declared, the commission shall implement the measures which it 963
determines are appropriate for the type and level of emergency 964
in effect. 964

(C) Energy emergency orders issued by the governor 965
pursuant to this section shall take effect immediately upon 966
issuance, and the person to whom the order is directed shall 967
initiate compliance measures immediately upon receiving the 968
order. During an energy emergency the attorney general or the 969
prosecuting attorney of the county where violation of a rule 970
adopted or order issued under this section occurs may bring an 971
action for immediate injunction or other appropriate relief to 972
secure prompt compliance. The court may issue an ex parte 973
temporary order without notice which shall enforce the 974
prohibitions, restrictions, or actions that are necessary to 975
secure compliance with the rule or order. Compliance with rules 976
or orders issued under this section is a matter of statewide 977
concern. 978

(D) During a declared energy emergency the governor may 979
use the services, equipment, supplies, and facilities of 980
existing departments, offices, and agencies of the state and of 981
the political subdivisions thereof to the maximum extent 982
practicable and necessary to meet the energy emergency, and the 983
officers and personnel of all such departments, offices, and 984
agencies shall cooperate with and extend such services and 985
facilities to the governor upon request. 986

(E) During an energy emergency declared under this 987
section, no person shall violate any rule adopted or order 988
issued under this section. Whoever violates this division is 989

guilty of a minor misdemeanor on a first offense, and a 990
misdemeanor of the first degree upon subsequent offenses or if 991
the violation was purposely committed. 992

Section 2. That existing sections 106.022, 111.15, 119.03, 993
3701.13, 3715.74, and 4935.03 of the Revised Code are hereby 994
repealed. 995

Section 3. (A) Any executive order issued by the Governor 996
or any emergency declaration issued by the Governor, whether 997
issued via executive order or otherwise, and any special or 998
standing order or rule issued by the Department of Health under 999
section 3701.13 of the Revised Code, that is in effect on the 1000
effective date of this section is subject to review and 1001
rescission by the Ohio Health Oversight and Advisory Committee 1002
under section 103.651 of the Revised Code and by the General 1003
Assembly under sections 107.43 and 3701.13 of the Revised Code. 1004

(B) Any of the following, if in effect on the effective 1005
date of this section and if issued in response to a public 1006
health state of emergency as defined under section 107.42 of the 1007
Revised Code, terminates thirty days after the effective date of 1008
this section, unless extended by the General Assembly by 1009
adopting a concurrent resolution: 1010

(1) An executive order issued by the Governor, except an 1011
executive order to declare a public health state of emergency; 1012

(2) Any special or standing order or rule for preventing 1013
the spread of contagious or infectious diseases issued under 1014
section 3701.13 of the Revised Code; 1015

(3) Any rule adopted, amended, or rescinded by an agency 1016
under division (B)(2) of section 111.15 or division (G) of 1017
section 119.03 of the Revised Code in response to a public 1018

health state of emergency. 1019

Section 4. Section 119.03 of the Revised Code is presented 1020
in this act as a composite of the section as amended by both 1021
S.B. 221 and S.B. 229 of the 132nd General Assembly. The General 1022
Assembly, applying the principle stated in division (B) of 1023
section 1.52 of the Revised Code that amendments are to be 1024
harmonized if reasonably capable of simultaneous operation, 1025
finds that the composite is the resulting version of the section 1026
in effect prior to the effective date of the section as 1027
presented in this act. 1028