

As Introduced

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H. B. No. 90

Representatives Wiggam, Edwards

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

A BILL

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

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

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

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

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

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

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

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

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

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

houses. 47

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When the joint committee approves such an authorization, 133

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

section is filed as follows:	251
(a) The rule shall be filed in electronic form with both	252
the secretary of state and the director of the legislative	253
service commission;	254
(b) The rule shall be filed in electronic form with the	255
joint committee on agency rule review. Division (B) (1) (b) of	256
this section does not apply to any rule to which division (D) of	257
this section does not apply.	258
An agency that adopts or amends a rule that is subject to	259
division (D) of this section shall assign a review date to the	260
rule that is not later than five years after its effective date.	261
If a review date assigned to a rule exceeds the five-year	262
maximum, the review date for the rule is five years after its	263
effective date. A rule with a review date is subject to review	264
under section 106.03 of the Revised Code. This paragraph does	265
not apply to a rule of a state college or university, community	266
college district, technical college district, or state community	267
college.	268
If an agency in adopting a rule designates an effective	269
date that is later than the effective date provided for by	270
division (B) (1) of this section, the rule if filed as required	271
by such division shall become effective on the later date	272
designated by the agency.	273
Any rule that is required to be filed under division (B)	274
(1) of this section is also subject to division (D) of this	275
section if not exempted by that division.	276
If a rule incorporates a text or other material by	277
reference, the agency shall comply with sections 121.71 to	278
121.75 of the Revised Code.	279

(2) A rule of an emergency nature necessary for the 280
immediate preservation of the public peace, health, or safety 281
shall state the reasons for the necessity. The emergency rule, 282
in final form and in compliance with division (B)(3) of this 283
section, shall be filed in electronic form with the secretary of 284
state, the director of the legislative service commission, and 285
the joint committee on agency rule review. The emergency rule is 286
effective immediately upon completion of the latest filing, 287
except that if the agency in adopting the emergency rule 288
designates an effective date, or date and time of day, that is 289
later than the effective date and time provided for by division 290
(B)(2) of this section, the emergency rule if filed as required 291
by such division shall become effective at the later date, or 292
later date and time of day, designated by the agency. 293

An emergency rule becomes invalid at the end of the one 294
hundred twentieth day it is in effect. Prior to that date, the 295
agency may file the emergency rule as a nonemergency rule in 296
compliance with division (B)(1) of this section. The agency may 297
not refile the emergency rule in compliance with division (B)(2) 298
of this section so that, upon the emergency rule becoming 299
invalid under such division, the emergency rule will continue in 300
effect without interruption for another one hundred twenty-day 301
period. 302

The adoption of an emergency rule under division (B)(2) of 303
this section may be rescinded by the Ohio health oversight and 304
advisory committee in accordance with section 103.651 of the 305
Revised Code or the general assembly in accordance with section 306
107.43 of the Revised Code. 307

(3) An agency shall file a rule under division (B)(1) or 308
(2) of this section in compliance with the following standards 309

and procedures: 310

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

division.) 427

The public notice shall include: 428

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

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

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

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

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

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

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

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

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

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

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

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

legislative service commission. 485

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

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

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

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

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

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

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

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

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

This division does not apply to: 554

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

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

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

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

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

If a rule or amendment is exempt from legislative review 572

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

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

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

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

The agency shall consider the positions, arguments, or 602

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The department of health may require general or city 779

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

that type. 868

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

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

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

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

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

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

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

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

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

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

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

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