

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 265**

**SENATOR Hottinger**

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**A B I L L**

To amend sections 111.15, 119.03, 119.032, and 3375.01 1  
and to enact sections 121.71 to 121.76 of the 2  
Revised Code to regulate incorporations by 3  
reference in administrative rules and to permit 4  
emergency rules to be readopted as such during the 5  
legislative review carry-over period. 6

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

**Section 1.** That sections 111.15, 119.03, 119.032, and 3375.01 7  
be amended and sections 121.71, 121.72, 121.73, 121.74, 121.75, 8  
and 121.76 of the Revised Code be enacted to read as follows: 9

**Sec. 111.15.** (A) As used in this section: 10

(1) "Rule" includes any rule, regulation, bylaw, or standard 11  
having a general and uniform operation adopted by an agency under 12  
the authority of the laws governing the agency; any appendix to a 13  
rule; and any internal management rule. "Rule" does not include 14  
any guideline adopted pursuant to section 3301.0714 of the Revised 15  
Code, any order respecting the duties of employees, any finding, 16  
any determination of a question of law or fact in a matter 17  
presented to an agency, or any rule promulgated pursuant to 18  
Chapter 119., section 4141.14, division (C)(1) or (2) of section 19  
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 20

any amendment or rescission of a rule. 21

(2) "Agency" means any governmental entity of the state and 22  
includes, but is not limited to, any board, department, division, 23  
commission, bureau, society, council, institution, state college 24  
or university, community college district, technical college 25  
district, or state community college. "Agency" does not include 26  
the general assembly, the controlling board, the adjutant 27  
general's department, or any court. 28

(3) "Internal management rule" means any rule, regulation, 29  
bylaw, or standard governing the day-to-day staff procedures and 30  
operations within an agency. 31

(4) "Substantive revision" has the same meaning as in 32  
division (J) of section 119.01 of the Revised Code. 33

(B)(1) Any rule, other than a rule of an emergency nature, 34  
adopted by any agency pursuant to this section shall be effective 35  
on the tenth day after the day on which the rule in final form and 36  
in compliance with division (B)(3) of this section is filed as 37  
follows: 38

(a) The rule shall be filed in electronic form with both the 39  
secretary of state and the director of the legislative service 40  
commission; 41

(b) The rule shall be filed in electronic form with the joint 42  
committee on agency rule review. Division (B)(1)(b) of this 43  
section does not apply to any rule to which division (D) of this 44  
section does not apply. 45

An agency that adopts or amends a rule that is subject to 46  
division (D) of this section shall assign a review date to the 47  
rule that is not later than five years after its effective date. 48  
If no review date is assigned to a rule, or if a review date 49  
assigned to a rule exceeds the five-year maximum, the review date 50  
for the rule is five years after its effective date. A rule with a 51

review date is subject to review under section 119.032 of the  
Revised Code. This paragraph does not apply to a rule of a state  
college or university, community college district, technical  
college district, or state community college.

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If all filings are not completed on the same day, the rule  
shall be effective on the tenth day after the day on which the  
latest filing is completed. If an agency in adopting a rule  
designates an effective date that is later than the effective date  
provided for by division (B)(1) of this section, the rule if filed  
as required by such division shall become effective on the later  
date designated by the agency.

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Any rule that is required to be filed under division (B)(1)  
of this section is also subject to division (D) of this section if  
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or  
(8) of this section.

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If a rule incorporates a text or other material by reference,  
the agency shall comply with sections 121.71 to 121.76 of the  
Revised Code.

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

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

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

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

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

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

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

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

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and

shall be numbered according to the numbering system devised by the  
director. The secretary of state and the director shall preserve  
the rules in an accessible manner. Each such rule shall be a  
public record open to public inspection and may be transmitted to  
any law publishing company that wishes to reproduce it.

(D) At least sixty-five days before a board, commission,  
department, division, or bureau of the government of the state  
files a rule under division (B)(1) of this section, it shall file  
the full text of the proposed rule in electronic form with the  
joint committee on agency rule review, and the proposed rule is  
subject to legislative review and invalidation under division (I)  
of section 119.03 of the Revised Code. If a state board,  
commission, department, division, or bureau makes a substantive  
revision in a proposed rule after it is filed with the joint  
committee, the state board, commission, department, division, or  
bureau shall promptly file the full text of the proposed rule in  
its revised form in electronic form with the joint committee. The  
latest version of a proposed rule as filed with the joint  
committee supersedes each earlier version of the text of the same  
proposed rule. Except as provided in division (F) of this section,  
a state board, commission, department, division, or bureau shall  
also file the rule summary and fiscal analysis prepared under  
section 121.24 or 127.18 of the Revised Code, or both, in  
electronic form along with a proposed rule, and along with a  
proposed rule in revised form, that is filed under this division.

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

This division does not apply to any of the following:

(1) A proposed rule of an emergency nature;

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 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;

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

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

(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:

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

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

(6) An initial rule proposed by the director of health to impose safety standards, quality-of-care standards, and quality-of-care data reporting requirements 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 facility listed in division (A)(4) of section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;

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

If a rule is exempt from legislative review under division (D)(5) of this section, and if the federal law or rule pursuant to

which the rule was adopted expires, is repealed or rescinded, or  
otherwise terminates, the rule is thereafter subject to  
legislative review under division (D) of this section.

(E) Whenever a state board, commission, department, division,  
or bureau files a proposed rule or a proposed rule in revised form  
under division (D) of this section, it shall also file the full  
text of the same proposed rule or proposed rule in revised form in  
electronic form with the secretary of state and the director of  
the legislative service commission. Except as provided in division  
(F) of this section, a state board, commission, department,  
division, or bureau shall file the rule summary and fiscal  
analysis prepared under section 121.24 or 127.18 of the Revised  
Code, or both, in electronic form along with a proposed rule or  
proposed rule in revised form that is filed with the secretary of  
state or the director of the legislative service commission.

(F) Except as otherwise provided in this division, the  
auditor of state or the auditor of state's designee is not  
required to file a rule summary and fiscal analysis along with a  
proposed rule, or proposed rule in revised form, that the auditor  
of state proposes under section 117.12, 117.19, 117.38, or 117.43  
of the Revised Code and files under division (D) or (E) of this  
section. If, however, the auditor of state or the designee  
prepares a rule summary and fiscal analysis of the original  
version of such a proposed rule for purposes of complying with  
section 121.24 of the Revised Code, the auditor of state or  
designee shall file the rule summary and fiscal analysis in  
electronic form along with the original version of the proposed  
rule filed under division (D) or (E) of this section.

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

(A) Reasonable public notice shall be given in the register 207  
of Ohio at least thirty days prior to the date set for a hearing, 208  
in the form the agency determines. The agency shall file copies of 209  
the public notice under division (B) of this section. (The agency 210  
gives public notice in the register of Ohio when the public notice 211  
is published in the register under that division.) 212

The public notice shall include: 213

(1) A statement of the agency's intention to consider 214  
adopting, amending, or rescinding a rule; 215

(2) A synopsis of the proposed rule, amendment, or rule to be 216  
rescinded or a general statement of the subject matter to which 217  
the proposed rule, amendment, or rescission relates; 218

(3) A statement of the reason or purpose for adopting, 219  
amending, or rescinding the rule; 220

(4) The date, time, and place of a hearing on the proposed 221  
action, which shall be not earlier than the thirty-first nor later 222  
than the fortieth day after the proposed rule, amendment, or 223  
rescission is filed under division (B) of this section. 224

In addition to public notice given in the register of Ohio, 225  
the agency may give whatever other notice it reasonably considers 226  
necessary to ensure notice constructively is given to all persons 227  
who are subject to or affected by the proposed rule, amendment, or 228  
rescission. 229

The agency shall provide a copy of the public notice required 230  
under division (A) of this section to any person who requests it 231  
and pays a reasonable fee, not to exceed the cost of copying and 232  
mailing. 233

(B) The full text of the proposed rule, amendment, or rule to 234  
be rescinded, accompanied by the public notice required under 235  
division (A) of this section, shall be filed in electronic form 236



with the secretary of state and with the director of the  
legislative service commission. (If in compliance with this  
division an agency files more than one proposed rule, amendment,  
or rescission at the same time, and has prepared a public notice  
under division (A) of this section that applies to more than one  
of the proposed rules, amendments, or rescissions, the agency  
shall file only one notice with the secretary of state and with  
the director for all of the proposed rules, amendments, or  
rescissions to which the notice applies.) The proposed rule,  
amendment, or rescission and public notice shall be filed as  
required by this division at least sixty-five days prior to the  
date on which the agency, in accordance with division (D) of this  
section, issues an order adopting the proposed rule, amendment, or  
rescission.

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If the proposed rule, amendment, or rescission incorporates a  
text or other material by reference, the agency shall comply with  
sections 121.71 to 121.76 of the Revised Code.

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

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If the agency files a substantive revision in the text of the  
proposed rule, amendment, or rescission under division (H) of this  
section, it shall also promptly file the full text of the proposed  
rule, amendment, or rescission in its revised form in electronic  
form with the secretary of state and with the director of the  
legislative service commission.

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The agency shall file the rule summary and fiscal analysis  
prepared under section 121.24 or 127.18 of the Revised Code, or  
both, in electronic form along with a proposed rule, amendment, or

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rescission or proposed rule, amendment, or rescission in revised 269  
form that is filed with the secretary of state or the director of 270  
the legislative service commission. 271

The director of the legislative service commission shall 272  
publish in the register of Ohio the full text of the original and 273  
each revised version of a proposed rule, amendment, or rescission; 274  
the full text of a public notice; and the full text of a rule 275  
summary and fiscal analysis that is filed with the director under 276  
this division. 277

(C) On the date and at the time and place designated in the 278  
notice, the agency shall conduct a public hearing at which any 279  
person affected by the proposed action of the agency may appear 280  
and be heard in person, by the person's attorney, or both, may 281  
present the person's position, arguments, or contentions, orally 282  
or in writing, offer and examine witnesses, and present evidence 283  
tending to show that the proposed rule, amendment, or rescission, 284  
if adopted or effectuated, will be unreasonable or unlawful. An 285  
agency may permit persons affected by the proposed rule, 286  
amendment, or rescission to present their positions, arguments, or 287  
contentions in writing, not only at the hearing, but also for a 288  
reasonable period before, after, or both before and after the 289  
hearing. A person who presents a position or arguments or 290  
contentions in writing before or after the hearing is not required 291  
to appear at the hearing. 292

At the hearing, the testimony shall be recorded. Such record 293  
shall be made at the expense of the agency. The agency is required 294  
to transcribe a record that is not sight readable only if a person 295  
requests transcription of all or part of the record and agrees to 296  
reimburse the agency for the costs of the transcription. An agency 297  
may require the person to pay in advance all or part of the cost 298  
of the transcription. 299

In any hearing under this section the agency may administer 300

oaths or affirmations. 301

(D) After complying with divisions (A), (B), (C), and (H) of 302  
this section, and when the time for legislative review and 303  
invalidation under division (I) of this section has expired, the 304  
agency may issue an order adopting the proposed rule or the 305  
proposed amendment or rescission of the rule, consistent with the 306  
synopsis or general statement included in the public notice. At 307  
that time the agency shall designate the effective date of the 308  
rule, amendment, or rescission, which shall not be earlier than 309  
the tenth day after the rule, amendment, or rescission has been 310  
filed in its final form as provided in section 119.04 of the 311  
Revised Code. 312

(E) Prior to the effective date of a rule, amendment, or 313  
rescission, the agency shall make a reasonable effort to inform 314  
those affected by the rule, amendment, or rescission and to have 315  
available for distribution to those requesting it the full text of 316  
the rule as adopted or as amended. 317

(F) If the governor, upon the request of an agency, 318  
determines that an emergency requires the immediate adoption, 319  
amendment, or rescission of a rule, the governor shall issue an 320  
order, the text of which shall be filed in electronic form with 321  
the agency, the secretary of state, the director of the 322  
legislative service commission, and the joint committee on agency 323  
rule review, that the procedure prescribed by this section with 324  
respect to the adoption, amendment, or rescission of a specified 325  
rule is suspended. The agency may then adopt immediately the 326  
emergency rule, amendment, or rescission and it becomes effective 327  
on the date the rule, amendment, or rescission, in final form and 328  
in compliance with division (A)(2) of section 119.04 of the 329  
Revised Code, are filed in electronic form with the secretary of 330  
state, the director of the legislative service commission, and the 331  
joint committee on agency rule review. If all filings are not 332

completed on the same day, the emergency rule, amendment, or  
rescission shall be effective on the day on which the latest  
filing is completed. The director shall publish the full text of  
the emergency rule, amendment, or rescission in the register of  
Ohio.

The emergency rule, amendment, or rescission shall become  
invalid at the end of the ninetieth 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 this division to readopt the  
emergency rule, amendment, or rescission so that, upon the  
emergency rule, amendment, or rescission becoming invalid under  
this division, the emergency rule, amendment, or rescission will  
continue in effect without interruption for another ninety-day  
period, except when division (I)(2)(a) of this section prevents  
the agency from adopting the emergency rule, amendment, or  
rescission as a nonemergency rule, amendment, or rescission within  
the ninety-day period.

This division 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.

(G) 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

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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.

(H) When any agency files a proposed rule, amendment, or  
rescission under division (B) of this section, it shall also file  
in electronic form with the joint committee on agency rule review  
the full text of the proposed rule, amendment, or rule to be  
rescinded in the same form and the public notice required under  
division (A) of this section. (If in compliance with this division  
an agency files more than one proposed rule, amendment, or  
rescission at the same time, and has given a public notice under  
division (A) of this section that applies to more than one of the  
proposed rules, amendments, or rescissions, the agency shall file  
only one notice with the joint committee for all of the proposed  
rules, amendments, or rescissions to which the notice applies.) If  
the agency makes a substantive revision in a proposed rule,  
amendment, or rescission after it is filed with the joint  
committee, the agency shall promptly file the full text of the  
proposed rule, amendment, or rescission in its revised form in  
electronic form with the joint committee. The latest version of a  
proposed rule, amendment, or rescission as filed with the joint  
committee supersedes each earlier version of the text of the same  
proposed rule, amendment, or rescission. An agency shall file the  
rule summary and fiscal analysis prepared under section 121.24 or  
127.18 of the Revised Code, or both, in electronic form along with  
a proposed rule, amendment, or rescission, and along with a  
proposed rule, amendment, or rescission in revised form, that is  
filed under this division.

This division does not apply to:

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

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

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

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

If a rule or amendment is exempt from legislative review under division (H)(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 (H) of this section.

(I)(1) The joint committee on agency rule review may recommend the adoption of a concurrent resolution invalidating a proposed rule, amendment, rescission, or part thereof if it finds any of the following:

(a) That the rule-making agency has exceeded the scope of its statutory authority in proposing the rule, amendment, or rescission;

(b) That the proposed rule, amendment, or rescission conflicts with another rule, amendment, or rescission adopted by the same or a different rule-making agency;

(c) That the proposed rule, amendment, or rescission conflicts with the legislative intent in enacting the statute under which the rule-making agency proposed the rule, amendment, or rescission;

(d) That the rule-making agency has failed to prepare a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission as required by section 121.24 or 127.18 of the Revised Code, or both, or that the proposed rule, amendment, or rescission incorporates a text or other material by reference and either the rule-making agency has failed to file the text or other material incorporated by reference as required by section 121.73 of the Revised Code or, in the case of a proposed rule or amendment, the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code.

The joint committee shall not hold its public hearing on a proposed rule, amendment, or rescission earlier than the forty-first day after the original version of the proposed rule, amendment, or rescission was filed with the joint committee.

The house of representatives and senate may adopt a concurrent resolution invalidating a proposed rule, amendment, rescission, or part thereof. The concurrent resolution shall state which of the specific rules, amendments, rescissions, or parts thereof are invalidated. A concurrent resolution invalidating a proposed rule, amendment, or rescission shall be adopted not later than the sixty-fifth day after the original version of the text of the proposed rule, amendment, or rescission is filed with the joint committee, except that if more than thirty-five days after the original version is filed the rule-making agency either files a revised version of the text of the proposed rule, amendment, or rescission, or revises the rule summary and fiscal analysis in accordance with division (I)(4) of this section, a concurrent resolution invalidating the proposed rule, amendment, or rescission shall be adopted not later than the thirtieth day after the revised version of the proposed rule or rule summary and fiscal analysis is filed. If, after the joint committee on agency

rule review recommends the adoption of a concurrent resolution 459  
invalidating a proposed rule, amendment, rescission, or part 460  
thereof, the house of representatives or senate does not, within 461  
the time remaining for adoption of the concurrent resolution, hold 462  
five floor sessions at which its journal records a roll call vote 463  
disclosing a sufficient number of members in attendance to pass a 464  
bill, the time within which that house may adopt the concurrent 465  
resolution is extended until it has held five such floor sessions. 466  
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Within five days after the adoption of a concurrent 468  
resolution invalidating a proposed rule, amendment, rescission, or 469  
part thereof, the clerk of the senate shall send the rule-making 470  
agency, the secretary of state, and the director of the 471  
legislative service commission in electronic form a certified text 472  
of the resolution together with a certification stating the date 473  
on which the resolution takes effect. The secretary of state and 474  
the director of the legislative service commission shall each note 475  
the invalidity of the proposed rule, amendment, rescission, or 476  
part thereof, and shall each remove the invalid proposed rule, 477  
amendment, rescission, or part thereof from the file of proposed 478  
rules. The rule-making agency shall not proceed to adopt in 479  
accordance with division (D) of this section, or to file in 480  
accordance with division (B)(1) of section 111.15 of the Revised 481  
Code, any version of a proposed rule, amendment, rescission, or 482  
part thereof that has been invalidated by concurrent resolution. 483

Unless the house of representatives and senate adopt a 484  
concurrent resolution invalidating a proposed rule, amendment, 485  
rescission, or part thereof within the time specified by this 486  
division, the rule-making agency may proceed to adopt in 487  
accordance with division (D) of this section, or to file in 488  
accordance with division (B)(1) of section 111.15 of the Revised 489  
Code, the latest version of the proposed rule, amendment, or 490



rescission as filed with the joint committee. If by concurrent  
resolution certain of the rules, amendments, rescissions, or parts  
thereof are specifically invalidated, the rule-making agency may  
proceed to adopt, in accordance with division (D) of this section,  
or to file in accordance with division (B)(1) of section 111.15 of  
the Revised Code, the latest version of the proposed rules,  
amendments, rescissions, or parts thereof as filed with the joint  
committee that are not specifically invalidated. The rule-making  
agency may not revise or amend any proposed rule, amendment,  
rescission, or part thereof that has not been invalidated except  
as provided in this chapter or in section 111.15 of the Revised  
Code.

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(2)(a) A proposed rule, amendment, or rescission that is  
filed with the joint committee under division (H) of this section  
or division (D) of section 111.15 of the Revised Code shall be  
carried over for legislative review to the next succeeding regular  
session of the general assembly if the original or any revised  
version of the proposed rule, amendment, or rescission is filed  
with the joint committee on or after the first day of December of  
any year.

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(b) The latest version of any proposed rule, amendment, or  
rescission that is subject to division (I)(2)(a) of this section,  
as filed with the joint committee, is subject to legislative  
review and invalidation in the next succeeding regular session of  
the general assembly in the same manner as if it were the original  
version of a proposed rule, amendment, or rescission that had been  
filed with the joint committee for the first time on the first day  
of the session. A rule-making agency shall not adopt in accordance  
with division (D) of this section, or file in accordance with  
division (B)(1) of section 111.15 of the Revised Code, any version  
of a proposed rule, amendment, or rescission that is subject to  
division (I)(2)(a) of this section until the time for legislative

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review and invalidation, as contemplated by division (I)(2)(b) of  
this section, has expired.

(3) Invalidation of any version of a proposed rule,  
amendment, rescission, or part thereof by concurrent resolution  
shall prevent the rule-making agency from instituting or  
continuing proceedings to adopt any version of the same proposed  
rule, amendment, rescission, or part thereof for the duration of  
the general assembly that invalidated the proposed rule,  
amendment, rescission, or part thereof unless the same general  
assembly adopts a concurrent resolution permitting the rule-making  
agency to institute or continue such proceedings.

The failure of the general assembly to invalidate a proposed  
rule, amendment, rescission, or part thereof under this section  
shall not be construed as a ratification of the lawfulness or  
reasonableness of the proposed rule, amendment, rescission, or any  
part thereof or of the validity of the procedure by which the  
proposed rule, amendment, rescission, or any part thereof was  
proposed or adopted.

(4) In lieu of recommending a concurrent resolution to  
invalidate a proposed rule, amendment, rescission, or part thereof  
because the rule-making agency has failed to prepare a complete  
and accurate fiscal analysis, the joint committee on agency rule  
review may issue, on a one-time basis, for rules, amendments,  
rescissions, or parts thereof that have a fiscal effect on school  
districts, counties, townships, or municipal corporations, a  
finding that the rule summary and fiscal analysis is incomplete or  
inaccurate and order the rule-making agency to revise the rule  
summary and fiscal analysis and refile it with the proposed rule,  
amendment, rescission, or part thereof. If an emergency rule is  
filed as a nonemergency rule before the end of the ninetieth day  
of the emergency rule's effectiveness, and the joint committee  
issues a finding and orders the rule-making agency to refile under

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division (I)(4) of this section, the governor may also issue an  
order stating that the emergency rule shall remain in effect for  
an additional sixty days after the ninetieth day of the emergency  
rule's effectiveness. The governor's orders shall be filed in  
accordance with division (F) of this section. The joint committee  
shall send in electronic form to the rule-making agency, the  
secretary of state, and the director of the legislative service  
commission a certified text of the finding and order to revise the  
rule summary and fiscal analysis, which shall take immediate  
effect.

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An order issued under division (I)(4) of this section shall  
prevent the rule-making agency from instituting or continuing  
proceedings to adopt any version of the proposed rule, amendment,  
rescission, or part thereof until the rule-making agency revises  
the rule summary and fiscal analysis and refiles it in electronic  
form with the joint committee along with the proposed rule,  
amendment, rescission, or part thereof. If the joint committee  
finds the rule summary and fiscal analysis to be complete and  
accurate, the joint committee shall issue a new order noting that  
the rule-making agency has revised and refiled a complete and  
accurate rule summary and fiscal analysis. The joint committee  
shall send in electronic form to the rule-making agency, the  
secretary of state, and the director of the legislative service  
commission a certified text of this new order. The secretary of  
state and the director of the legislative service commission shall  
each link this order to the proposed rule, amendment, rescission,  
or part thereof. The rule-making agency may then proceed to adopt  
in accordance with division (D) of this section, or to file in  
accordance with division (B)(1) of section 111.15 of the Revised  
Code, the proposed rule, amendment, rescission, or part thereof  
that was subject to the finding and order under division (I)(4) of  
this section. If the joint committee determines that the revised

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rule summary and fiscal analysis is still inaccurate or  
incomplete, the joint committee shall recommend the adoption of a  
concurrent resolution in accordance with division (I)(1) of this  
section.

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**Sec. 119.032.** (A) As used in this section:

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(1) "Agency" includes both an agency as defined in division  
(A)(2) of section 111.15 and an agency as defined in division (A)  
of section 119.01 of the Revised Code.

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(2) "Review date" means the review date assigned to a rule by  
an agency under division (B) or (E)(2) of this section or under  
section 111.15, 119.04, or 4141.14 of the Revised Code or a review  
date assigned to a rule by the joint committee on agency rule  
review under division (B) of this section.

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(3)(a) "Rule" means only a rule whose adoption, amendment, or  
rescission is subject to review under division (D) of section  
111.15 or division (H) of section 119.03 of the Revised Code.

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(b) "Rule" does not include a rule adopted, amended, or  
rescinded by the department of taxation under section 5703.14 of  
the Revised Code, a rule of a state college or university,  
community college district, technical college district, or state  
community college, or a rule that is consistent with and  
equivalent to the form required by a federal law and that does not  
exceed the minimum scope and intent of that federal law.

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(B) Not later than March 25, 1997, each agency shall assign a  
review date to each of its rules that is currently in effect and  
shall notify the joint committee on agency rule review of the  
review date for each such rule. The agency shall assign review  
dates to its rules so that approximately one-fifth of the rules  
are scheduled for review during each calendar year of the  
five-year period that begins March 25, 1997, except that an

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agency, with the joint committee's approval, may set a review  
schedule for the agency's rules in which there is no requirement  
that approximately one-fifth of the agency's rules be assigned a  
review date during each calendar year of the five-year period but  
in which all of the agency's rules are assigned a review date  
during that five-year period. An agency may change the review  
dates it has assigned to specific rules so long as the agency  
complies with the five-year time deadline specified in this  
division.

Upon the request of the agency that adopted the rule, the  
joint committee on agency rule review may extend a review date of  
a rule to a date that is not later than one hundred eighty days  
after the original review date assigned to the rule by the agency  
under this division, division (E)(2) of this section, or section  
111.15, 119.04, or 4141.14 of the Revised Code. The joint  
committee may further extend a review date that has been extended  
under this paragraph if appropriate under the circumstances.

(C) Prior to the review date of a rule, the agency that  
adopted the rule shall review the rule to determine all of the  
following:

(1) Whether the rule should be continued without amendment,  
be amended, or be rescinded, taking into consideration the  
purpose, scope, and intent of the statute under which the rule was  
adopted;

(2) Whether the rule needs amendment or rescission to give  
more flexibility at the local level;

(3) Whether the rule needs amendment or rescission to  
eliminate unnecessary paperwork, or whether the rule incorporates  
a text or other material by reference and, if so, whether the text  
or other material incorporated by reference is deposited or  
displayed as required by section 121.74 of the Revised Code and

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whether the incorporation by reference meets the standards stated 648  
in sections 121.72, 121.75, and 121.76 of the Revised Code; 649

(4) Whether the rule duplicates, overlaps with, or conflicts 650  
with other rules. 651

(D) In making the review required under division (C) of this 652  
section, the agency shall consider the continued need for the 653  
rule, the nature of any complaints or comments received concerning 654  
the rule, and any relevant factors that have changed in the 655  
subject matter area affected by the rule. 656

(E)(1) On or before the designated review date of a rule, the 657  
agency that adopted the rule shall proceed under division (E)(2) 658  
or (5) of this section to indicate that the agency has reviewed 659  
the rule. 660

(2) If the agency has determined that the rule does not need 661  
to be amended or rescinded, the agency shall file all the 662  
following, in electronic form, with the joint committee on agency 663  
rule review, the secretary of state, and the director of the 664  
legislative service commission: a copy of the rule, a statement of 665  
the agency's determination, and an accurate rule summary and 666  
fiscal analysis for the rule as described in section 127.18 of the 667  
Revised Code. The agency shall assign a new review date to the 668  
rule, which shall not be later than five years after the rule's 669  
immediately preceding review date. After the joint committee has 670  
reviewed such a rule for the first time, including any rule that 671  
was in effect on September 26, 1996, the agency in its subsequent 672  
reviews of the rule may provide the same fiscal analysis it 673  
provided to the joint committee during its immediately preceding 674  
review of the rule unless any of the conditions described in 675  
division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of 676  
the Revised Code, as they relate to the rule, have appreciably 677  
changed since the joint committee's immediately preceding review 678  
of the rule. If any of these conditions, as they relate to the 679

rule, have appreciably changed, the agency shall provide the joint committee with an updated fiscal analysis for the rule. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its immediately preceding review date. The joint committee shall give public notice in the register of Ohio of the agency's determination after receiving a notice from the agency under division (E)(2) of this section. The joint committee shall transmit a copy of the notice in electronic form to the director of the legislative service commission. The director shall publish the notice in the register of Ohio for four consecutive weeks after its receipt.

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(3) During the ninety-day period following the date the joint committee receives a notice under division (E)(2) of this section but after the four-week period described in division (E)(2) of this section has ended, the joint committee, by a two-thirds vote of the members present, may recommend the adoption of a concurrent resolution invalidating the rule if the joint committee determines that either of the following applies:

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(a) The agency improperly applied the criteria described in divisions (C) and (D) of this section in reviewing the rule and in recommending its continuance without amendment or rescission.

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(b) The agency failed to file proper notice with the joint committee regarding the rule, or if the rule incorporates a text or other material by reference, the agency failed to file, or to deposit or display, the text or other material incorporated by reference as required by section 121.73 or 121.74 of the Revised Code or the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code.

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(4) If the joint committee does not take the action described in division (E)(3) of this section regarding a rule during the ninety-day period after the date the joint committee receives a

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notice under division (E)(2) of this section regarding that rule, 712  
the rule shall continue in effect without amendment and shall be 713  
next reviewed by the joint committee by the date designated by the 714  
agency in the notice provided to the joint committee under 715  
division (E)(2) of this section. 716

(5) If the agency has determined that a rule reviewed under 717  
division (C) of this section needs to be amended or rescinded, the 718  
agency, on or before the rule's review date, shall file the rule 719  
as amended or rescinded in accordance with section 111.15, 119.03, 720  
or 4141.14 of the Revised Code, as applicable. 721

(6) Each agency shall provide the joint committee with a copy 722  
of the rules that it has determined are rules described in 723  
division (A)(3)(b) of this section. At a time the joint committee 724  
designates, each agency shall appear before the joint committee 725  
and explain why it has determined that such rules are rules 726  
described in division (A)(3)(b) of this section. The joint 727  
committee, by a two-thirds vote of the members present, may 728  
determine that any of such rules are rules described in division 729  
(A)(3)(a) of this section. After the joint committee has made such 730  
a determination relating to a rule, the agency shall thereafter 731  
treat the rule as a rule described in division (A)(3)(a) of this 732  
section. 733

(F) If an agency fails to provide the notice to the joint 734  
committee required under division (E)(2) of this section regarding 735  
a rule or otherwise fails by the rule's review date to take any 736  
action regarding the rule required by this section, the joint 737  
committee, by a majority vote of the members present, may 738  
recommend the adoption of a concurrent resolution invalidating the 739  
rule. The joint committee shall not recommend the adoption of such 740  
a resolution until it has afforded the agency the opportunity to 741  
appear before the joint committee to show cause why the joint 742  
committee should not recommend the adoption of such a resolution 743



regarding that rule.

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(G) If the joint committee recommends adoption of a  
concurrent resolution invalidating a rule under division (E)(3) or  
(F) of this section, the adoption of the concurrent resolution  
shall be in the manner described in division (I) of section 119.03  
of the Revised Code.

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Sec. 121.71. As used in sections 121.71 to 121.76 of the  
Revised Code:

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(A) "Agency" means an "agency" as defined in section 111.15  
or 119.01 of the Revised Code.

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(B) "Rule" means a new rule or an amendment to an existing  
rule. "Rule" includes an appendix or an attachment to a rule.

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Sec. 121.72. An agency incorporates a text or other material  
into a rule by reference when it states in the rule that a text or  
other material not contained in the rule is to be treated as if it  
were contained in the rule. The agency shall explain in the rule  
how persons who reasonably can be expected to be affected by the  
rule can obtain copies of the text or other material that has been  
incorporated by reference. As part of the explanation, the agency  
shall state whether the incorporated text or other material is or  
is to be deposited in depository libraries or is or is to be  
displayed on a web site. If the text or other material  
incorporated by reference was, is, or reasonably can be expected  
to be subject to change, the agency, as part of the explanation,  
shall identify, and specify the date of, the particular edition or  
other version of the text or other material that is incorporated  
by reference.

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Sec. 121.73. As used in this section, "rule" has the same  
meaning as in section 121.71 of the Revised Code and also includes

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the rescission of an existing rule. 773

(A) When an agency files the original or a revised version of 774  
a rule in proposed form under division (D) of section 111.15 or 775  
division (H) of section 119.03, or a rule for review under section 776  
119.032 of the Revised Code, that incorporates a text or other 777  
material by reference, the agency also shall file in electronic 778  
form, one complete and accurate copy of the text or other material 779  
incorporated by reference with the joint committee on agency rule 780  
review. An agency is not, however, required to file a text or 781  
other material incorporated by reference with the joint committee 782  
if the agency revises a rule in proposed form that incorporates a 783  
text or other material by reference and the incorporation by 784  
reference in the revised version of the rule is identical to the 785  
incorporation by reference in the preceding version of the rule. 786

If it is infeasible for the agency to file a text or other 787  
material incorporated by reference electronically, the agency, as 788  
soon as possible, but not later than three days after completing 789  
the electronic filing, shall deliver one complete and accurate 790  
copy of the text or other material incorporated by reference to 791  
the joint committee, and shall attach a memorandum to the text or 792  
other material identifying the filing to which it relates. 793

An agency shall not file a copy of a text or other material 794  
incorporated by reference with the secretary of state or with the 795  
director of the legislative service commission. 796

(B) Upon completing its review of a rule in proposed form, or 797  
its review of a rule, that incorporates a text or other material 798  
by reference, the joint committee shall forward its copy of the 799  
text or other material incorporated by reference to the director 800  
of the legislative service commission. The director shall maintain 801  
a file of texts and other materials that are or were incorporated 802  
by reference into rules. 803

Sec. 121.74. As used in this section, "rule" has the same meaning as in section 121.71 of the Revised Code and also includes the rescission of an existing rule. 804  
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When an agency files a rule in final form under division (B)(1) of section 111.15, division (A)(1) of section 119.04, division (B)(1) of section 4141.14, or division (A) of section 5703.14 of the Revised Code that incorporates or incorporated a text or other material by reference, the agency, prior to the effective date of the rule, shall either: 807  
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(A) Deposit one complete and accurate copy of the text or other material incorporated by reference in each of the depository libraries designated by the state library board; or 813  
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(B) Display a complete and accurate copy of the text or other material incorporated by reference on a web site maintained or made available by the agency. 816  
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An agency is not required to comply with this section if the text or other material incorporated by reference is identical to a text or other material the agency, at the time compliance with this section otherwise would be required, already is depositing or displaying under this section. 819  
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Sec. 121.75. Sections 121.71 to 121.74 of the Revised Code do not apply with regard to the incorporation by reference into a rule of any of the following so long as the incorporation by reference consists of a citation that will be intelligible to the persons who reasonably can be expected to be affected by the rule and that, if the incorporated text or other material was, is, or reasonably can be expected to be subject to change, identifies, and specifies the date of, the particular edition or other version that is incorporated: 824  
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(A) A section of the Revised Code or of the United States 833

Code;

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(B) An uncodified statute of this state or, if it has been  
appended as a legislative note to a section in the United States  
Code, an uncodified federal statute;

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(C) An act of this state in the Laws of Ohio or a federal act  
in the Statutes at Large;

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(D) A rule in the Administrative Code or a regulation in the  
Federal Register or Code of Federal Regulations; or

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(E) A text or other material generally available to persons  
who reasonably can be expected to be affected by the rule.

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Sec. 121.76. Sections 121.71 to 121.75 of the Revised Code do  
not apply to either:

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(A) An internal management rule as defined in section 111.15  
of the Revised Code; or

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(B) A rule insofar as it is necessary to obtain or maintain  
authorization of a federally delegated program in Ohio and, in  
regard to that authorization, incorporates a text or other  
material by reference.

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It is recommended that a rule exempt from complying with  
sections 121.71 to 121.75 of the Revised Code under division (B)  
of this section nevertheless incorporate by reference a particular  
edition or other version of the text or other material.

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**Sec. 3375.01.** A state library board is hereby created to be  
composed of five members to be appointed by the state board of  
education. One member shall be appointed each year for a term of  
five years. No one is eligible to membership on the state library  
board who is or has been for a year previous to ~~his~~ appointment a  
member of the state board of education. A member of the state  
library board shall not during ~~his~~ the member's term of office be

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a member of the board of library trustees for any library in any 863  
subdivision in the state. Before entering on ~~the~~ official duties 864  
~~of his appointment~~, each member shall subscribe to the official 865  
oath of office. All vacancies on the state library board shall be 866  
filled by the state board of education by appointment for the 867  
unexpired term. The members shall receive no compensation, but 868  
shall be paid their actual and necessary expenses incurred in the 869  
performance of their duties or in the conduct of authorized board 870  
business, within or without the state. 871

At its regular meeting next prior to the beginning of each 872  
fiscal biennium the state library board shall elect a president 873  
and vice-president each of whom shall serve for two years or until 874  
~~his~~ a successor is elected and qualified. 875

The state library board is responsible for the state library 876  
of Ohio and a statewide program of development and coordination of 877  
library services, and its powers include the following: 878

(A) Maintain the state library, holding custody of books, 879  
periodicals, pamphlets, films, recordings, papers, and other 880  
materials and equipment. The board may purchase or procure from an 881  
insurance company licensed to do business in this state policies 882  
of insurance insuring the members of the board and the officers, 883  
employees, and agents of the state library against liability on 884  
account of damage or injury to persons or property resulting from 885  
any act or omission of the board members, officers, employees, and 886  
agents of the state library in their official capacity. 887

(B) Accept, receive, administer, and expend, in accordance 888  
with the terms thereof, any moneys, materials, or other aid 889  
granted, appropriated, or made available to it for library 890  
purposes, by the United States, or any of its agencies, or by any 891  
other source, public or private; 892

(C) Administer such funds as the general assembly may make 893

available to it for the improvement of public library services, 895  
interlibrary cooperation, or for other library purposes; 896

(D) Contract with other agencies, organizations, libraries, 897  
library schools, boards of education, universities, public and 898  
private, within or without the state, for library services, 899  
facilities, research, or any allied or related purpose; 900

(E) In accordance with Chapter 119. of the Revised Code, 901  
approve, disapprove, or modify resolutions for establishment of 902  
county district libraries, and approve, disapprove, or modify 903  
resolutions to determine the boundaries of such districts, along 904  
county lines or otherwise, and approve, disapprove, or modify 905  
resolutions to redefine boundaries, along county lines or 906  
otherwise, where questions subsequently arise as a result of 907  
school district consolidations; 908

(F) Upon consolidation of two or more school districts and in 909  
accordance with Chapter 119. of the Revised Code, to define and 910  
adjust the boundaries of the new public library district resulting 911  
from such consolidation and to resolve any disputes or questions 912  
pertaining to the boundaries, organization, and operation of the 913  
new library district; 914

(G) Upon application of one or more boards of library 915  
trustees and in accordance with Chapter 119. of the Revised Code, 916  
to amend, define, and adjust the boundaries of the library 917  
districts making such application and the boundaries of adjacent 918  
library districts. A library district boundary change made by the 919  
state library board pursuant to this division shall take effect 920  
sixty days after the day on which two certified copies of the 921  
boundary change order in final form are filed on the same date 922  
with the secretary of state and with the director of the 923  
legislative service commission unless a referendum petition is 924  
filed pursuant to section 3375.03 of the Revised Code. 925

(H) Certify its actions relating to boundaries authorized in 926  
this section, to boards of election, taxing authorities, the 927  
boards of trustees of libraries affected and other appropriate 928  
bodies; 929

(I) Encourage and assist the efforts of libraries and local 930  
governments to develop mutual and cooperative solutions to library 931  
service problems; 932

(J) Designate by rule at least five depository libraries, 933  
dispersed geographically throughout the state, into which an 934  
agency can deposit a copy of a text or other material that has 935  
been incorporated by reference into one of its rules; 936

(K) Recommend to the governor and to the general assembly 937  
such changes in the law as will strengthen and improve library 938  
services and operations; 939

~~(K)~~(L) In accordance with Chapter 119. of the Revised Code, 940  
adopt such rules as are necessary for the carrying out of any 941  
function imposed on it by law, and provide such rules as are 942  
necessary for its government and the government of its employees. 943  
The board may delegate to the state librarian the management and 944  
administration of any function imposed on it by law. 945

**Section 2.** That existing sections 111.15, 119.03, 119.032, 946  
and 3375.01 of the Revised Code are hereby repealed. 947

**Section 3.** (A)(1) Except as otherwise provided in division 948  
(A)(2) of this section, sections 111.15, 119.03, and 119.032, as 949  
amended by this act, and sections 121.71, 121.72, 121.73, 121.74, 950  
121.75, and 121.76 of the Revised Code first apply one month after 951  
the effective date of this act. The State Library Board shall use 952  
the emergency rule-making procedure of division (F) of section 953  
119.03 of the Revised Code to designate depository libraries under 954  
division (J) of section 3375.01 of the Revised Code in 955

anticipation of section 121.74 of the Revised Code becoming first 956  
applicable. 957

(2) The amendment by this act to division (F) of section 958  
119.03 of the Revised Code first applies on the effective date of 959  
this act. 960

(B) As used in Sections 4, 5, 6, and 7 of this act, "date of 961  
first applicability" means the date of first applicability 962  
specified in division (A)(1) of this section. 963

**Section 4.** As used in this section, "rule" means a new rule 964  
or the amendment of an existing rule. 965

(A) If, on the date of first applicability, an agency has a 966  
proposed rule that incorporates a text or other material by 967  
reference pending in a rule-making proceeding, the agency is not 968  
required to revise the proposed rule solely to bring the 969  
incorporation by reference into compliance with the standards 970  
stated in sections 121.72, 121.75, and 121.76 of the Revised Code. 971  
But if the agency on or after the date of first applicability 972  
otherwise revises the proposed rule, the agency shall ensure the 973  
incorporation by reference meets the standards stated in sections 974  
121.72, 121.75, and 121.76 of the Revised Code, and shall file, 975  
and eventually deposit or display, the text or other material 976  
incorporated by reference as required by sections 121.73 and 977  
121.74 of the Revised Code. 978

(B) An agency may adopt and file in final form a proposed 979  
rule that, on the date of first applicability, incorporates a text 980  
or other material by reference, is pending in a rule-making 981  
proceeding, and is not on or after the date of first applicability 982  
otherwise revised. The agency is not required to have filed, or to 983  
deposit or display, the text or other material incorporated by 984  
reference as required by section 121.73 or 121.74 of the Revised 985  
Code, and the incorporation by reference is not required to meet 986



the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code. So long as all other applicable rule-making procedures have been complied with, the rule as adopted and filed in final form is ratified. Sections 121.71 to 121.76 of the Revised Code first apply with regard to the incorporation by reference when the rule is next amended or next reviewed under section 119.032 of the Revised Code.

**Section 5.** As used in this section, "rule" means a new rule or the amendment of an existing rule.

A rule that incorporates a text or other material by reference and that is effective, or that has been adopted and filed in final form, on or before the date of first applicability, is ratified. The adopting agency is not required to amend the rule solely to bring the incorporation by reference into compliance with the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code and is not required to deposit or display the text or other material incorporated by reference as required by section 121.74 of the Revised Code. But when the rule is next otherwise amended, or next otherwise reviewed under section 119.032 of the Revised Code, the agency shall ensure that the incorporation by reference meets the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code, and that the text or other material incorporated by reference is filed, and eventually deposited or displayed, as required by sections 121.73 and 121.74 of the Revised Code.

**Section 6.** As used in this section, except where context refers to a pre-existing rule, "rule" means the rescission of an existing rule.

(A)(1)(a) If, on the date of first applicability, an agency has a proposed rescission of a rule that incorporates a text or

other material by reference pending in a rule-making proceeding, 1017  
the agency is not required to file the incorporated text or other 1018  
material as required by section 121.73 of the Revised Code. But if 1019  
the agency on or after the date of first applicability otherwise 1020  
revises the proposed rescission, the agency shall file, and 1021  
eventually deposit or display, the incorporated text or other 1022  
material as required by sections 121.73 and 121.74 of the Revised 1023  
Code. 1024

(b) An agency may adopt and file in final form a proposed 1025  
rescission of a rule that on the date of first applicability 1026  
incorporates a text or other material by reference, is pending in 1027  
a rule-making proceeding, and is not on or after the date of first 1028  
applicability otherwise revised. The agency is not required to 1029  
have filed, or to deposit or display, the text or other material 1030  
incorporated by reference as required by section 121.73 or 121.74 1031  
of the Revised Code. So long as all other applicable rule-making 1032  
procedures have been complied with, rescission of the rule is 1033  
ratified. 1034

(2) A rescission of a rule that incorporates a text or other 1035  
material by reference that has been adopted and filed in final 1036  
form on or before the date of first applicability is ratified. The 1037  
adopting agency is not required to have filed, or to deposit or 1038  
display, the incorporated text or other material as required by 1039  
section 121.73 or 121.74 of the Revised Code. 1040

(3) If an agency rescinds a rule subject to division (B) of 1041  
Section 4 or to Section 5 of this act that is not amended or 1042  
reviewed after the date of first applicability as contemplated by 1043  
those sections, the agency shall file the incorporated text or 1044  
other material as required by section 121.73 of the Revised Code 1045  
and shall deposit or display the incorporated text or other 1046  
material as required by section 121.74 of the Revised Code. 1047

(B) A rescinded rule as contemplated by division (A)(1)(b), 1048

(2), or (3) of this section that, while previously effective, 1049  
incorporated a text or other material by reference without 1050  
conforming in essence to what sections 121.71 to 121.76 of the 1051  
Revised Code provide, is ratified insofar as the incorporation by 1052  
reference might raise a question of the rule's validity as applied 1053  
to facts occurring while the rule was effective. 1054

**Section 7.** As used in this section, "rule" means a 1055  
pre-existing rule that has been rescinded, or a provision, 1056  
formerly part of an existing rule, that has been removed from the 1057  
existing rule by amendment. 1058

A previously effective rule or version of a rule, not 1059  
effective on the date of first applicability, that, while 1060  
previously effective, incorporated a text or other material by 1061  
reference without conforming in essence to what sections 121.71 to 1062  
121.76 of the Revised Code in future would provide, is ratified 1063  
insofar as the incorporation by reference might raise a question 1064  
of the rule's or version's validity as applied to facts occurring 1065  
while the rule or version previously was effective. 1066

This section is cumulative to Section 59 of Am. Sub. H.B. 524 1067  
of the 124th General Assembly, and is a remedial law as that term 1068  
is used in section 1.11 of the Revised Code. 1069

**Section 8.** Section 111.15 of the Revised Code is presented in 1070  
this act as a composite of the section as amended by both Sub. 1071  
H.B. 386 and Am. Sub. S.B. 138 of the 124th General Assembly. The 1072  
General Assembly, applying the principle stated in division (B) of 1073  
section 1.52 of the Revised Code that amendments are to be 1074  
harmonized if reasonably capable of simultaneous operation, finds 1075  
that the composite is the resulting version of the section in 1076  
effect prior to the effective date of the section as presented in 1077  
this act. 1078