

As Passed by the Senate

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

Sub. S. B. No. 265

SENATORS Hottinger, Amstutz, Spada, Finan, Harris

A B I L L

To amend sections 111.15, 119.03, 119.032, 127.18, and 1
3375.01 and to enact sections 121.71 to 121.76 of 2
the 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, 127.18, and 7
3375.01 be amended and sections 121.71, 121.72, 121.73, 121.74, 8
121.75, and 121.76 of the Revised Code be enacted to read as 9
follows: 10

Sec. 111.15. (A) As used in this section: 11

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

5117.02, or section 5703.14 of the Revised Code. "Rule" includes
any amendment or rescission of a rule.

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

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

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

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

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

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

An agency that adopts or amends a rule that is subject to
division (D) of this section shall assign a review date to the
rule that is not later than five years after its effective date.
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

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for the rule is five years after its effective date. A rule with a
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.

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.

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.

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.

(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

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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.

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

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

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

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(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.

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(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.

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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.

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(C) All rules filed pursuant to divisions (B)(1)(a) and (2)

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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;	146
(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;	147 148 149
(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;	150 151 152
(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;	153 154 155
(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:	156 157 158 159 160
(a) A statement that it is proposed for the purpose of complying with a federal law or rule;	161 162
(b) A citation to the federal law or rule that requires verbatim compliance.	163 164
(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;	165 166 167 168 169 170 171 172
(7) A rule of the state lottery commission pertaining to instant game rules.	173 174
If a rule is exempt from legislative review under division	175

(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.

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(E) Whenever a state board, commission, department, 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.

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(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.

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Sec. 119.03. In the adoption, amendment, or rescission of any

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rule, an agency shall comply with the following procedure: 207

(A) Reasonable public notice shall be given in the register 208
of Ohio at least thirty days prior to the date set for a hearing, 209
in the form the agency determines. The agency shall file copies of 210
the public notice under division (B) of this section. (The agency 211
gives public notice in the register of Ohio when the public notice 212
is published in the register under that division.) 213

The public notice shall include: 214

(1) A statement of the agency's intention to consider 215
adopting, amending, or rescinding a rule; 216

(2) A synopsis of the proposed rule, amendment, or rule to be 217
rescinded or a general statement of the subject matter to which 218
the proposed rule, amendment, or rescission relates; 219

(3) A statement of the reason or purpose for adopting, 220
amending, or rescinding the rule; 221

(4) The date, time, and place of a hearing on the proposed 222
action, which shall be not earlier than the thirty-first nor later 223
than the fortieth day after the proposed rule, amendment, or 224
rescission is filed under division (B) of this section. 225

In addition to public notice given in the register of Ohio, 226
the agency may give whatever other notice it reasonably considers 227
necessary to ensure notice constructively is given to all persons 228
who are subject to or affected by the proposed rule, amendment, or 229
rescission. 230

The agency shall provide a copy of the public notice required 231
under division (A) of this section to any person who requests it 232
and pays a reasonable fee, not to exceed the cost of copying and 233
mailing. 234

(B) The full text of the proposed rule, amendment, or rule to 235
be rescinded, accompanied by the public notice required under 236

division (A) of this section, shall be filed in electronic form
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

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both, in electronic form along with a proposed rule, amendment, or
rescission or proposed rule, amendment, or rescission in revised
form that is filed with the secretary of state or the director of
the legislative service commission.

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

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

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

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In any hearing under this section the agency may administer oaths or affirmations. 301
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(D) After complying with divisions (A), (B), (C), and (H) of this section, and when the time for legislative review and invalidation under division (I) of this section has expired, the agency may issue an order adopting the proposed rule or the proposed amendment or rescission of the rule, consistent with the synopsis or general statement included in the public notice. At that time the agency shall designate the effective date of the rule, amendment, or rescission, which shall not be earlier than the tenth day after the rule, amendment, or rescission has been filed in its final form as provided in section 119.04 of the Revised Code. 303
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(E) Prior to the effective date of a rule, amendment, or rescission, the agency shall make a reasonable effort to inform those affected by the rule, amendment, or rescission and to have available for distribution to those requesting it the full text of the rule as adopted or as amended. 314
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(F) 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, are filed in electronic form with the secretary of state, the director of the legislative service commission, and the 319
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joint committee on agency rule review. If all filings are not
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.

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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.

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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.

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(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

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not apply to the adoption of any rule, amendment, or rescission by
the tax commissioner under division (C)(1) or (2) of section
5117.02 of the Revised Code, or deny the right to file an action
for declaratory judgment as provided in Chapter 2721. of the
Revised Code from the decision of the board of tax appeals or of
the higher authority within such agency.

(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;	397
(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:	398 399 400 401 402 403
(a) A statement that it is proposed for the purpose of complying with a federal law or rule;	404 405
(b) A citation to the federal law or rule that requires verbatim compliance.	406 407
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.	408 409 410 411 412 413
(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:	414 415 416 417
(a) That the rule-making agency has exceeded the scope of its statutory authority in proposing the rule, amendment, or rescission;	418 419 420
(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;	421 422 423
(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,	424 425 426

or rescission;

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(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.

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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.

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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

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fiscal analysis is filed. If, after the joint committee on agency
rule review recommends the adoption of a concurrent resolution
invalidating a proposed rule, amendment, rescission, or part
thereof, the house of representatives or senate does not, within
the time remaining for adoption of the concurrent resolution, hold
five floor sessions at which its journal records a roll call vote
disclosing a sufficient number of members in attendance to pass a
bill, the time within which that house may adopt the concurrent
resolution is extended until it has held five such floor sessions.

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Within five days after the adoption of a concurrent
resolution invalidating a proposed rule, amendment, rescission, or
part thereof, the clerk of the senate shall send the rule-making
agency, the secretary of state, and the director of the
legislative service commission in electronic form a certified text
of the resolution together with a certification stating the date
on which the resolution takes effect. The secretary of state and
the director of the legislative service commission shall each note
the invalidity of the proposed rule, amendment, rescission, or
part thereof, and shall each remove the invalid proposed rule,
amendment, rescission, or part thereof from the file of proposed
rules. The rule-making agency shall not 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, any version of a proposed rule, amendment, rescission, or
part thereof that has been invalidated by concurrent resolution.

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Unless the house of representatives and senate adopt a
concurrent resolution invalidating a proposed rule, amendment,
rescission, or part thereof within the time specified by this
division, 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

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Code, the latest version of the proposed rule, amendment, or
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.

(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.

(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
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

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issues a finding and orders the rule-making agency to refile under 555
division (I)(4) of this section, the governor may also issue an 556
order stating that the emergency rule shall remain in effect for 557
an additional sixty days after the ninetieth day of the emergency 558
rule's effectiveness. The governor's orders shall be filed in 559
accordance with division (F) of this section. The joint committee 560
shall send in electronic form to the rule-making agency, the 561
secretary of state, and the director of the legislative service 562
commission a certified text of the finding and order to revise the 563
rule summary and fiscal analysis, which shall take immediate 564
effect. 565

An order issued under division (I)(4) of this section shall 566
prevent the rule-making agency from instituting or continuing 567
proceedings to adopt any version of the proposed rule, amendment, 568
rescission, or part thereof until the rule-making agency revises 569
the rule summary and fiscal analysis and refiles it in electronic 570
form with the joint committee along with the proposed rule, 571
amendment, rescission, or part thereof. If the joint committee 572
finds the rule summary and fiscal analysis to be complete and 573
accurate, the joint committee shall issue a new order noting that 574
the rule-making agency has revised and refiled a complete and 575
accurate rule summary and fiscal analysis. The joint committee 576
shall send in electronic form to the rule-making agency, the 577
secretary of state, and the director of the legislative service 578
commission a certified text of this new order. The secretary of 579
state and the director of the legislative service commission shall 580
each link this order to the proposed rule, amendment, rescission, 581
or part thereof. The rule-making agency may then proceed to adopt 582
in accordance with division (D) of this section, or to file in 583
accordance with division (B)(1) of section 111.15 of the Revised 584
Code, the proposed rule, amendment, rescission, or part thereof 585
that was subject to the finding and order under division (I)(4) of 586

this section. If the joint committee determines that the revised
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

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five-year period that begins March 25, 1997, except that an 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.

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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.

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(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:

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(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;

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

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(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

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displayed as required by section 121.74 of the Revised Code and 648
whether the incorporation by reference meets the standards stated 649
in sections 121.72, 121.75, and 121.76 of the Revised Code; 650

(4) Whether the rule duplicates, overlaps with, or conflicts 651
with other rules. 652

(D) In making the review required under division (C) of this 653
section, the agency shall consider the continued need for the 654
rule, the nature of any complaints or comments received concerning 655
the rule, and any relevant factors that have changed in the 656
subject matter area affected by the rule. 657

(E)(1) On or before the designated review date of a rule, the 658
agency that adopted the rule shall proceed under division (E)(2) 659
or (5) of this section to indicate that the agency has reviewed 660
the rule. 661

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

of the rule. If any of these conditions, as they relate to the
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

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ninety-day period after the date the joint committee receives a
notice under division (E)(2) of this section regarding that rule,
the rule shall continue in effect without amendment and shall be
next reviewed by the joint committee by the date designated by the
agency in the notice provided to the joint committee under
division (E)(2) of this section.

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

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

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

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committee should not recommend the adoption of such a resolution
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

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meaning as in section 121.71 of the Revised Code and also includes 773
the rescission of an existing rule. 774

(A) When an agency files the original or a revised version of 775
a rule in proposed form under division (D) of section 111.15 or 776
division (H) of section 119.03, or a rule for review under section 777
119.032 of the Revised Code, that incorporates a text or other 778
material by reference, the agency also shall file in electronic 779
form, one complete and accurate copy of the text or other material 780
incorporated by reference with the joint committee on agency rule 781
review. An agency is not, however, required to file a text or 782
other material incorporated by reference with the joint committee 783
if the agency revises a rule in proposed form that incorporates a 784
text or other material by reference and the incorporation by 785
reference in the revised version of the rule is identical to the 786
incorporation by reference in the preceding version of the rule. 787

If it is infeasible for the agency to file a text or other 788
material incorporated by reference electronically, the agency, as 789
soon as possible, but not later than three days after completing 790
the electronic filing, shall deliver one complete and accurate 791
copy of the text or other material incorporated by reference to 792
the joint committee, and shall attach a memorandum to the text or 793
other material identifying the filing to which it relates. 794

An agency is not required to file a text or other material 795
incorporated by reference into a rule that is proposed for 796
rescission if it is infeasible for the agency to do so. 797

An agency shall not file a copy of a text or other material 798
incorporated by reference with the secretary of state or with the 799
director of the legislative service commission. 800

(B) Upon completing its review of a rule in proposed form, or 801
its review of a rule, that incorporates a text or other material 802
by reference, the joint committee shall forward its copy of the 803
text or other material incorporated by reference to the director 804

of the legislative service commission. The director shall maintain
a file of texts and other materials that are or were incorporated
by reference into rules.

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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.

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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:

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(A) Deposit one complete and accurate copy of the text or
other material incorporated by reference in each of the five
depository libraries designated by the state library board; or

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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.

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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.

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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,

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and specifies the date of, the particular edition or other version 835
that is incorporated: 836

(A) A section of the United States Code; 837

(B) An uncodified federal statute, if it has been appended as 838
a legislative note to a section in the United States Code; 839

(C) An act of this state in the Laws of Ohio or a federal act 840
in the Statutes at Large; 841

(D) A regulation in the Federal Register or Code of Federal 842
Regulations; or 843

(E) A text or other material, including, without limitation, 844
generally accepted industry standards, that is generally available 845
to persons who reasonably can be expected to be affected by the 846
rule. 847

Sec. 121.76. (A) Sections 121.71 to 121.75 of the Revised 848
Code do not apply to the incorporation by reference of: 849

(1) A section of the Revised Code; 850

(2) An uncodified statute of this state; or 851

(3) A rule in the Administrative Code. 852

(B) Sections 121.71 to 121.75 of the Revised Code do not 853
apply to either: 854

(1) An internal management rule as defined in section 111.15 855
of the Revised Code; or 856

(2) A rule insofar as it is necessary to obtain or maintain 857
authorization of a federally delegated program in Ohio, or insofar 858
as it is necessary to maintain compliance with federal 859
requirements in order to receive federal funds for a federally 860
funded program, and, in regard to that authorization or 861
compliance, incorporates a text or other material by reference. 862

It is recommended that a rule exempt from complying with sections 121.71 to 121.75 of the Revised Code under division (B)(2) of this section nevertheless incorporate by reference a particular edition or other version of the text or other material.

Sec. 127.18. (A) As used in this section:

(1) "Rule-making agency" has the same meaning as in division (I) of section 119.01 of the Revised Code.

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

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

(B) A rule-making agency shall prepare, in the form prescribed by the joint committee on agency rule review under division (E) of this section, a complete and accurate rule summary and fiscal analysis of each proposed rule that it files under division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code. The rule summary and fiscal analysis shall include all of the following information:

(1) The name, address, and telephone number of the rule-making agency, and the name and telephone number of an individual or office within the agency designated by that agency to be responsible for coordinating and making available information in the possession of the agency regarding the proposed rule;

(2) The Ohio ~~administrative code~~ Administrative Code rule number of the proposed rule;

(3) A brief summary of, and the legal basis for, the proposed

rule, including citations identifying the statute that prescribes 893
the procedure in accordance with which the rule-making agency is 894
required to adopt the proposed rule, the statute that authorizes 895
the agency to adopt the proposed rule, and the statute that the 896
agency intends to amplify or implement by adopting the proposed 897
rule; 898

(4) An estimate, in dollars, of the amount by which the 899
proposed rule would increase or decrease revenues or expenditures 900
during the current biennium; 901

(5) A citation identifying the appropriation that authorizes 902
each expenditure that would be necessitated by the proposed rule; 903

(6) A summary of the estimated cost of compliance with the 904
rule to all directly affected persons; 905

(7) The reasons why the rule is being proposed; 906

(8) If the rule has a fiscal effect on school districts, 907
counties, townships, or municipal corporations, an estimate in 908
dollars of the cost of compliance with the rule, or, if dollar 909
amounts cannot be determined, a written explanation of why it was 910
not possible to ascertain dollar amounts; 911

(9) If the rule has a fiscal effect on school districts, 912
counties, townships, or municipal corporations and is the result 913
of a federal requirement, a clear explanation that the proposed 914
state rule does not exceed the scope and intent of the 915
requirement, or, if the state rule does exceed the minimum 916
necessary federal requirement, a justification of the excess cost, 917
and an estimate of the costs, including those costs for local 918
governments, exceeding the federal requirement; 919

(10) If the rule has a fiscal effect on school districts, 920
counties, townships, or municipal corporations, a comprehensive 921
cost estimate that includes the procedure and method of 922
calculating the costs of compliance and identifies major cost 923

categories including personnel costs, new equipment or other
capital costs, operating costs, and indirect central service costs
related to the rule. The fiscal analysis shall also include a
written explanation of the agency's and the affected local
government's ability to pay for the new requirements and a
statement of any impact the rule will have on economic
development.

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(11) If the rule incorporates a text or other material by
reference, and the agency claims the incorporation by reference is
exempt from compliance with sections 121.71 to 121.74 of the
Revised Code because the text or other material is generally
available to persons who reasonably can be expected to be affected
by the rule, an explanation of how the text or other material is
generally available to those persons;

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(12) If the rule incorporates a text or other material by
reference, and it was infeasible for the agency to file the text
or other material electronically, an explanation of why filing the
text or other material electronically was infeasible;

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(13) If the rule is being rescinded and incorporates a text
or other material by reference, and it was infeasible for the
agency to file the text or other material, an explanation of why
filing the text or other material was infeasible;

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(14) Any other information the joint committee on agency rule
review considers necessary to make the proposed rule or the fiscal
effect of the proposed rule fully understandable.

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(C) The rule-making agency shall file the rule summary and
fiscal analysis in electronic form along with the proposed rule
that it files under divisions (D) and (E) of section 111.15 or
divisions (B) and (H) of section 119.03 of the Revised Code. The
joint committee on agency rule review shall not accept any
proposed rule for filing unless a copy of the rule summary and

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fiscal analysis of the proposed rule, completely and accurately prepared, is filed along with the proposed rule.

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

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(E) The joint committee on agency rule review shall prescribe the form in which each rule-making agency shall prepare its rule summary and fiscal analysis of a proposed rule.

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(F) This section does not require the auditor of state or the auditor of state's designee to prepare or attach a rule summary and fiscal analysis to any copy of a rule proposed under section 117.12, 117.19, 117.38, or 117.43 of the Revised Code.

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

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At its regular meeting next prior to the beginning of each fiscal biennium the state library board shall elect a president

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and vice-president each of whom shall serve for two years or until 986
his a successor is elected and qualified. 987

The state library board is responsible for the state library 988
of Ohio and a statewide program of development and coordination of 989
library services, and its powers include the following: 990

(A) Maintain the state library, holding custody of books, 991
periodicals, pamphlets, films, recordings, papers, and other 992
materials and equipment. The board may purchase or procure from an 993
insurance company licensed to do business in this state policies 994
of insurance insuring the members of the board and the officers, 995
employees, and agents of the state library against liability on 996
account of damage or injury to persons or property resulting from 997
any act or omission of the board members, officers, employees, and 998
agents of the state library in their official capacity. 999

(B) Accept, receive, administer, and expend, in accordance 1001
with the terms thereof, any moneys, materials, or other aid 1002
granted, appropriated, or made available to it for library 1003
purposes, by the United States, or any of its agencies, or by any 1004
other source, public or private; 1005

(C) Administer such funds as the general assembly may make 1006
available to it for the improvement of public library services, 1007
interlibrary cooperation, or for other library purposes; 1008

(D) Contract with other agencies, organizations, libraries, 1009
library schools, boards of education, universities, public and 1010
private, within or without the state, for library services, 1011
facilities, research, or any allied or related purpose; 1012

(E) In accordance with Chapter 119. of the Revised Code, 1013
approve, disapprove, or modify resolutions for establishment of 1014
county district libraries, and approve, disapprove, or modify 1015
resolutions to determine the boundaries of such districts, along 1016

county lines or otherwise, and approve, disapprove, or modify 1017
resolutions to redefine boundaries, along county lines or 1018
otherwise, where questions subsequently arise as a result of 1019
school district consolidations; 1020

(F) Upon consolidation of two or more school districts and in 1021
accordance with Chapter 119. of the Revised Code, to define and 1022
adjust the boundaries of the new public library district resulting 1023
from such consolidation and to resolve any disputes or questions 1024
pertaining to the boundaries, organization, and operation of the 1025
new library district; 1026

(G) Upon application of one or more boards of library 1027
trustees and in accordance with Chapter 119. of the Revised Code, 1028
to amend, define, and adjust the boundaries of the library 1029
districts making such application and the boundaries of adjacent 1030
library districts. A library district boundary change made by the 1031
state library board pursuant to this division shall take effect 1032
sixty days after the day on which two certified copies of the 1033
boundary change order in final form are filed on the same date 1034
with the secretary of state and with the director of the 1035
legislative service commission unless a referendum petition is 1036
filed pursuant to section 3375.03 of the Revised Code. 1037

(H) Certify its actions relating to boundaries authorized in 1038
this section, to boards of election, taxing authorities, the 1039
boards of trustees of libraries affected and other appropriate 1040
bodies; 1041

(I) Encourage and assist the efforts of libraries and local 1042
governments to develop mutual and cooperative solutions to library 1043
service problems; 1044

(J) Designate by rule five depository libraries so as to 1045
provide statewide, geographically distributed accessibility to 1046
agency deposits of texts or other materials that have been 1047

<u>incorporated by reference into rules;</u>	1048
(K) Recommend to the governor and to the general assembly such changes in the law as will strengthen and improve library services and operations;	1049 1050 1051
(K) (L) In accordance with Chapter 119. of the Revised Code, adopt such rules as are necessary for the carrying out of any function imposed on it by law, and provide such rules as are necessary for its government and the government of its employees. The board may delegate to the state librarian the management and administration of any function imposed on it by law.	1052 1053 1054 1055 1056 1057
Section 2. That existing sections 111.15, 119.03, 119.032, 127.18, and 3375.01 of the Revised Code are hereby repealed.	1058 1059
Section 3. (A)(1) Except as otherwise provided in division (A)(2) of this section, sections 111.15, 119.03, and 119.032, as amended by this act, and sections 121.71, 121.72, 121.73, 121.74, 121.75, and 121.76 of the Revised Code first apply one month after the effective date of this act. The State Library Board shall use the emergency rule-making procedure of division (F) of section 119.03 of the Revised Code to designate depository libraries under division (J) of section 3375.01 of the Revised Code in anticipation of section 121.74 of the Revised Code becoming first applicable.	1060 1061 1062 1063 1064 1065 1066 1067 1068 1069
(2) The amendment by this act to division (F) of section 119.03 of the Revised Code first applies on the effective date of this act.	1070 1071 1072
(B) As used in Sections 4, 5, 6, and 7 of this act, "date of first applicability" means the date of first applicability specified in division (A)(1) of this section.	1073 1074 1075
Section 4. As used in this section, "rule" means a new rule	1076

or the amendment of an existing rule. 1077

(A) If, on the date of first applicability, an agency has a 1078
proposed rule that incorporates a text or other material by 1079
reference pending in a rule-making proceeding, the agency is not 1080
required to revise the proposed rule solely to bring the 1081
incorporation by reference into compliance with the standards 1082
stated in sections 121.72, 121.75, and 121.76 of the Revised Code. 1083
But if the agency on or after the date of first applicability 1084
otherwise revises the proposed rule, the agency shall ensure the 1085
incorporation by reference meets the standards stated in sections 1086
121.72, 121.75, and 121.76 of the Revised Code, and shall file, 1087
and eventually deposit or display, the text or other material 1088
incorporated by reference as required by sections 121.73 and 1089
121.74 of the Revised Code. 1090

(B) An agency may adopt and file in final form a proposed 1091
rule that, on the date of first applicability, incorporates a text 1092
or other material by reference, is pending in a rule-making 1093
proceeding, and is not on or after the date of first applicability 1094
otherwise revised. The agency is not required to have filed, or to 1095
deposit or display, the text or other material incorporated by 1096
reference as required by section 121.73 or 121.74 of the Revised 1097
Code, and the incorporation by reference is not required to meet 1098
the standards stated in sections 121.72, 121.75, and 121.76 of the 1099
Revised Code. So long as all other applicable rule-making 1100
procedures have been complied with, the rule as adopted and filed 1101
in final form is ratified. Sections 121.71 to 121.76 of the 1102
Revised Code first apply with regard to the incorporation by 1103
reference when the rule is next amended or next reviewed under 1104
section 119.032 of the Revised Code. 1105

Section 5. As used in this section, "rule" means a new rule 1106
or the amendment of an existing rule. 1107

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, the agency is not required to file the incorporated text or other material as required by section 121.73 of the Revised Code. But if the agency on or after the date of first applicability otherwise revises the proposed rescission, the agency shall file, and eventually deposit or display, the incorporated text or other material as required by sections 121.73 and 121.74 of the Revised Code.

(b) An agency may adopt and file in final form a proposed rescission of a rule that on the date of first applicability

incorporates a text or other material by reference, is pending in
a rule-making proceeding, and is not on or after the date of first
applicability otherwise revised. The agency is not required to
have filed, 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. So long as all other applicable rule-making
procedures have been complied with, rescission of the rule is
ratified.

(2) A rescission of a rule that incorporates a text or other
material by reference 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 have filed, or to deposit or
display, the incorporated text or other material as required by
section 121.73 or 121.74 of the Revised Code.

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

(B) A rescinded rule as contemplated by division (A)(1)(b),
(2), or (3) of this section that, while previously effective,
incorporated a text or other material by reference without
conforming in essence to what sections 121.71 to 121.76 of the
Revised Code provide, is ratified insofar as the incorporation by
reference might raise a question of the rule's validity as applied
to facts occurring while the rule was effective.

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

existing rule by amendment. 1170

A previously effective rule or version of a rule, not 1171
effective on the date of first applicability, that, while 1172
previously effective, incorporated a text or other material by 1173
reference without conforming in essence to what sections 121.71 to 1174
121.76 of the Revised Code in future would provide, is ratified 1175
insofar as the incorporation by reference might raise a question 1176
of the rule's or version's validity as applied to facts occurring 1177
while the rule or version previously was effective. 1178

This section is cumulative to Section 59 of Am. Sub. H.B. 524 1179
of the 124th General Assembly, and is a remedial law as that term 1180
is used in section 1.11 of the Revised Code. 1181

Section 8. Section 111.15 of the Revised Code is presented in 1182
this act as a composite of the section as amended by both Sub. 1183
H.B. 386 and Am. Sub. S.B. 138 of the 124th General Assembly. The 1184
General Assembly, applying the principle stated in division (B) of 1185
section 1.52 of the Revised Code that amendments are to be 1186
harmonized if reasonably capable of simultaneous operation, finds 1187
that the composite is the resulting version of the section in 1188
effect prior to the effective date of the section as presented in 1189
this act. 1190