

As Reported by the House Civil and Commercial Law Committee

124th General Assembly

Regular Session

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Sub. S. B. No. 265

SENATORS Hottinger, Amstutz, Spada, Finan, Harris

REPRESENTATIVES Willamowski, Seitz

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
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

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assigned to a rule exceeds the five-year maximum, the review date
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

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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.

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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) 113
of this section shall be recorded by the secretary of state and 114
the director under the title of the agency adopting the rule and 115
shall be numbered according to the numbering system devised by the 116
director. The secretary of state and the director shall preserve 117
the rules in an accessible manner. Each such rule shall be a 118
public record open to public inspection and may be transmitted to 119
any law publishing company that wishes to reproduce it. 120

(D) At least sixty-five days before a board, commission, 121
department, division, or bureau of the government of the state 122
files a rule under division (B)(1) of this section, it shall file 123
the full text of the proposed rule in electronic form with the 124
joint committee on agency rule review, and the proposed rule is 125
subject to legislative review and invalidation under division (I) 126
of section 119.03 of the Revised Code. If a state board, 127
commission, department, division, or bureau makes a substantive 128
revision in a proposed rule after it is filed with the joint 129
committee, the state board, commission, department, division, or 130
bureau shall promptly file the full text of the proposed rule in 131
its revised form in electronic form with the joint committee. The 132
latest version of a proposed rule as filed with the joint 133
committee supersedes each earlier version of the text of the same 134
proposed rule. Except as provided in division (F) of this section, 135
a state board, commission, department, division, or bureau shall 136
also file the rule summary and fiscal analysis prepared under 137
section 121.24 or 127.18 of the Revised Code, or both, in 138
electronic form along with a proposed rule, and along with a 139
proposed rule in revised form, that is filed under this division. 140

As used in this division, "commission" includes the public 142
utilities commission when adopting rules under a federal or state 143
statute. 144

This division does not apply to any of the following:	145
(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

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

The public notice shall include:

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

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

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

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

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

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

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

be rescinded, accompanied by the public notice required under
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

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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 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.

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.

(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.

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. 300

In any hearing under this section the agency may administer 301
oaths or affirmations. 302

(D) After complying with divisions (A), (B), (C), and (H) of 303
this section, and when the time for legislative review and 304
invalidation under division (I) of this section has expired, the 305
agency may issue an order adopting the proposed rule or the 306
proposed amendment or rescission of the rule, consistent with the 307
synopsis or general statement included in the public notice. At 308
that time the agency shall designate the effective date of the 309
rule, amendment, or rescission, which shall not be earlier than 310
the tenth day after the rule, amendment, or rescission has been 311
filed in its final form as provided in section 119.04 of the 312
Revised Code. 313

(E) Prior to the effective date of a rule, amendment, or 314
rescission, the agency shall make a reasonable effort to inform 315
those affected by the rule, amendment, or rescission and to have 316
available for distribution to those requesting it the full text of 317
the rule as adopted or as amended. 318

(F) If the governor, upon the request of an agency, 319
determines that an emergency requires the immediate adoption, 320
amendment, or rescission of a rule, the governor shall issue an 321
order, the text of which shall be filed in electronic form with 322
the agency, the secretary of state, the director of the 323
legislative service commission, and the joint committee on agency 324
rule review, that the procedure prescribed by this section with 325
respect to the adoption, amendment, or rescission of a specified 326
rule is suspended. The agency may then adopt immediately the 327
emergency rule, amendment, or rescission and it becomes effective 328
on the date the rule, amendment, or rescission, in final form and 329
in compliance with division (A)(2) of section 119.04 of the 330
Revised Code, are filed in electronic form with the secretary of 331

state, the director of the legislative service commission, and the
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

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

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(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.

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This division does not apply to:	396
(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	424 425

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
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

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accordance with division (B)(1) of section 111.15 of the Revised
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.

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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

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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.

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(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.

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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.

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(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

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of the emergency rule's effectiveness, and the joint committee 554
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
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

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are scheduled for review during each calendar year of the
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.

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 647
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 680
rule, have appreciably changed, the agency shall provide the joint 681
committee with an updated fiscal analysis for the rule. If no 682
review date is assigned to a rule, or if a review date assigned to 683
a rule exceeds the five-year maximum, the review date for the rule 684
is five years after its immediately preceding review date. The 685
joint committee shall give public notice in the register of Ohio 686
of the agency's determination after receiving a notice from the 687
agency under division (E)(2) of this section. The joint committee 688
shall transmit a copy of the notice in electronic form to the 689
director of the legislative service commission. The director shall 690
publish the notice in the register of Ohio for four consecutive 691
weeks after its receipt. 692

(3) During the ninety-day period following the date the joint 693
committee receives a notice under division (E)(2) of this section 694
but after the four-week period described in division (E)(2) of 695
this section has ended, the joint committee, by a two-thirds vote 696
of the members present, may recommend the adoption of a concurrent 697
resolution invalidating the rule if the joint committee determines 698
that either of the following applies: 699

(a) The agency improperly applied the criteria described in 700
divisions (C) and (D) of this section in reviewing the rule and in 701
recommending its continuance without amendment or rescission. 702

(b) The agency failed to file proper notice with the joint 703
committee regarding the rule, or if the rule incorporates a text 704
or other material by reference, the agency failed to file, or to 705
deposit or display, the text or other material incorporated by 706
reference as required by section 121.73 or 121.74 of the Revised 707
Code or the incorporation by reference fails to meet the standards 708
stated in section 121.72, 121.75, or 121.76 of the Revised Code. 709

(4) If the joint committee does not take the action described 710

in division (E)(3) of this section regarding a rule during the
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

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appear before the joint committee to show cause why the joint
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 meaning as in section 121.71 of the Revised Code and also includes the rescission of an existing rule. 772
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(A) When an agency files the original or a revised version of a rule in proposed form under division (D) of section 111.15 or division (H) of section 119.03, or a rule for review under section 119.032 of the Revised Code, that incorporates a text or other material by reference, the agency also shall file in electronic form, one complete and accurate copy of the text or other material incorporated by reference with the joint committee on agency rule review. An agency is not, however, required to file a text or other material incorporated by reference with the joint committee if the agency revises a rule in proposed form that incorporates a text or other material by reference and the incorporation by reference in the revised version of the rule is identical to the incorporation by reference in the preceding version of the rule. 775
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If it is infeasible for the agency to file a text or other material incorporated by reference electronically, the agency, as soon as possible, but not later than three days after completing the electronic filing, shall deliver one complete and accurate copy of the text or other material incorporated by reference to the joint committee, and shall attach a memorandum to the text or other material identifying the filing to which it relates. 788
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An agency is not required to file a text or other material incorporated by reference into a rule that is proposed for rescission if it is infeasible for the agency to do so. 795
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An agency shall not file a copy of a text or other material incorporated by reference with the secretary of state or with the director of the legislative service commission. 798
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(B) Upon completing its review of a rule in proposed form, or its review of a rule, that incorporates a text or other material 801
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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 805
a file of texts and other materials that are or were incorporated 806
by reference into rules. 807

Sec. 121.74. As used in this section, "rule" has the same 808
meaning as in section 121.71 of the Revised Code and also includes 809
the rescission of an existing rule. 810

When an agency files a rule in final form under division 811
(B)(1) of section 111.15, division (A)(1) of section 119.04, 812
division (B)(1) of section 4141.14, or division (A) of section 813
5703.14 of the Revised Code that incorporates or incorporated a 814
text or other material by reference, the agency, prior to the 815
effective date of the rule, shall either: 816

(A) Deposit one complete and accurate copy of the text or 817
other material incorporated by reference in each of the five 818
depository libraries designated by the state library board; or 819

(B) Display a complete and accurate copy of the text or other 820
material incorporated by reference on a web site maintained or 821
made available by the agency. 822

An agency is not required to comply with this section if the 823
text or other material incorporated by reference is identical to a 824
text or other material the agency, at the time compliance with 825
this section otherwise would be required, already is depositing or 826
displaying under this section. 827

Sec. 121.75. Sections 121.71 to 121.74 of the Revised Code do 828
not apply with regard to the incorporation by reference into a 829
rule of any of the following so long as the incorporation by 830
reference consists of a citation that will be intelligible to the 831
persons who reasonably can be expected to be affected by the rule 832

and that, if the incorporated text or other material was, is, or 833
reasonably can be expected to be subject to change, identifies, 834
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 863
sections 121.71 to 121.75 of the Revised Code under division 864
(B)(2) of this section nevertheless incorporate by reference a 865
particular edition or other version of the text or other material. 866

Sec. 127.18. (A) As used in this section: 867

(1) "Rule-making agency" has the same meaning as in division 868
(I) of section 119.01 of the Revised Code. 869

(2) "Rule" includes the adoption, amendment, or rescission of 870
a rule. 871

(3) "Proposed rule" means the original version of a proposed 872
rule, and each revised version of the same proposed rule, that is 873
filed with the joint committee on agency rule review under 874
division (D) of section 111.15 or division (H) of section 119.03 875
of the Revised Code. 876

(B) A rule-making agency shall prepare, in the form 877
prescribed by the joint committee on agency rule review under 878
division (E) of this section, a complete and accurate rule summary 879
and fiscal analysis of each proposed rule that it files under 880
division (D) of section 111.15 or division (H) of section 119.03 881
of the Revised Code. The rule summary and fiscal analysis shall 882
include all of the following information: 883

(1) The name, address, and telephone number of the 884
rule-making agency, and the name and telephone number of an 885
individual or office within the agency designated by that agency 886
to be responsible for coordinating and making available 887
information in the possession of the agency regarding the proposed 888
rule; 889

(2) The Ohio ~~administrative code~~ Administrative Code rule 890

number of the proposed rule;	891
(3) A brief summary of, and the legal basis for, the proposed rule, including citations identifying the statute that prescribes the procedure in accordance with which the rule-making agency is required to adopt the proposed rule, the statute that authorizes the agency to adopt the proposed rule, and the statute that the agency intends to amplify or implement by adopting the proposed rule;	892 893 894 895 896 897 898
(4) An estimate, in dollars, of the amount by which the proposed rule would increase or decrease revenues or expenditures during the current biennium;	899 900 901
(5) A citation identifying the appropriation that authorizes each expenditure that would be necessitated by the proposed rule;	902 903
(6) A summary of the estimated cost of compliance with the rule to all directly affected persons;	904 905
(7) The reasons why the rule is being proposed;	906
(8) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, an estimate in dollars of the cost of compliance with the rule, or, if dollar amounts cannot be determined, a written explanation of why it was not possible to ascertain dollar amounts;	907 908 909 910 911
(9) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations and is the result of a federal requirement, a clear explanation that the proposed state rule does not exceed the scope and intent of the requirement, or, if the state rule does exceed the minimum necessary federal requirement, a justification of the excess cost, and an estimate of the costs, including those costs for local governments, exceeding the federal requirement;	912 913 914 915 916 917 918 919
(10) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, a comprehensive	920 921

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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 924
capital costs, operating costs, and indirect central service costs 925
related to the rule. The fiscal analysis shall also include a 926
written explanation of the agency's and the affected local 927
government's ability to pay for the new requirements and a 928
statement of any impact the rule will have on economic 929
development. 930

(11) If the rule incorporates a text or other material by 931
reference, and the agency claims the incorporation by reference is 932
exempt from compliance with sections 121.71 to 121.74 of the 933
Revised Code because the text or other material is generally 934
available to persons who reasonably can be expected to be affected 935
by the rule, an explanation of how the text or other material is 936
generally available to those persons; 937

(12) If the rule incorporates a text or other material by 938
reference, and it was infeasible for the agency to file the text 939
or other material electronically, an explanation of why filing the 940
text or other material electronically was infeasible; 941

(13) If the rule is being rescinded and incorporates a text 942
or other material by reference, and it was infeasible for the 943
agency to file the text or other material, an explanation of why 944
filing the text or other material was infeasible; 945

(14) Any other information the joint committee on agency rule 946
review considers necessary to make the proposed rule or the fiscal 947
effect of the proposed rule fully understandable. 948

(C) The rule-making agency shall file the rule summary and 949
fiscal analysis in electronic form along with the proposed rule 950
that it files under divisions (D) and (E) of section 111.15 or 951
divisions (B) and (H) of section 119.03 of the Revised Code. The 952

joint committee on agency rule review shall not accept any
proposed rule for filing unless a copy of the rule summary and
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 984
fiscal biennium the state library board shall elect a president 985
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 1000
with the terms thereof, any moneys, materials, or other aid 1001
granted, appropriated, or made available to it for library 1002
purposes, by the United States, or any of its agencies, or by any 1003
other source, public or private; 1004
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(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

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provide statewide, geographically distributed accessibility to 1046
agency deposits of texts or other materials that have been 1047
incorporated by reference into rules; 1048

(K) Recommend to the governor and to the general assembly 1049
such changes in the law as will strengthen and improve library 1050
services and operations; 1051

~~(K)~~(L) In accordance with Chapter 119. of the Revised Code, 1052
adopt such rules as are necessary for the carrying out of any 1053
function imposed on it by law, and provide such rules as are 1054
necessary for its government and the government of its employees. 1055
The board may delegate to the state librarian the management and 1056
administration of any function imposed on it by law. 1057

Section 2. That existing sections 111.15, 119.03, 119.032, 1058
127.18, and 3375.01 of the Revised Code are hereby repealed. 1059

Section 3. (A)(1) Except as otherwise provided in division 1060
(A)(2) of this section, sections 111.15, 119.03, and 119.032, as 1061
amended by this act, and sections 121.71, 121.72, 121.73, 121.74, 1062
121.75, and 121.76 of the Revised Code first apply one month after 1063
the effective date of this act. The State Library Board shall use 1064
the emergency rule-making procedure of division (F) of section 1065
119.03 of the Revised Code to designate depository libraries under 1066
division (J) of section 3375.01 of the Revised Code in 1067
anticipation of section 121.74 of the Revised Code becoming first 1068
applicable. 1069

(2) The amendment by this act to division (F) of section 1070
119.03 of the Revised Code first applies on the effective date of 1071
this act. 1072

(B) As used in Sections 4, 5, 6, and 7 of this act, "date of 1073
first applicability" means the date of first applicability 1074
specified in division (A)(1) of this section. 1075

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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

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or the amendment of an existing rule. 1107

A rule that incorporates a text or other material by 1108
reference and that is effective, or that has been adopted and 1109
filed in final form, on or before the date of first applicability, 1110
is ratified. The adopting agency is not required to amend the rule 1111
solely to bring the incorporation by reference into compliance 1112
with the standards stated in sections 121.72, 121.75, and 121.76 1113
of the Revised Code and is not required to deposit or display the 1114
text or other material incorporated by reference as required by 1115
section 121.74 of the Revised Code. But when the rule is next 1116
otherwise amended, or next otherwise reviewed under section 1117
119.032 of the Revised Code, the agency shall ensure that the 1118
incorporation by reference meets the standards stated in sections 1119
121.72, 121.75, and 121.76 of the Revised Code, and that the text 1120
or other material incorporated by reference is filed, and 1121
eventually deposited or displayed, as required by sections 121.73 1122
and 121.74 of the Revised Code. 1123

Section 6. As used in this section, except where context 1124
refers to a pre-existing rule, "rule" means the rescission of an 1125
existing rule. 1126

(A)(1)(a) If, on the date of first applicability, an agency 1127
has a proposed rescission of a rule that incorporates a text or 1128
other material by reference pending in a rule-making proceeding, 1129
the agency is not required to file the incorporated text or other 1130
material as required by section 121.73 of the Revised Code. But if 1131
the agency on or after the date of first applicability otherwise 1132
revises the proposed rescission, the agency shall file, and 1133
eventually deposit or display, the incorporated text or other 1134
material as required by sections 121.73 and 121.74 of the Revised 1135
Code. 1136

(b) An agency may adopt and file in final form a proposed 1137

rescission of a rule that on the date of first applicability 1138
incorporates a text or other material by reference, is pending in 1139
a rule-making proceeding, and is not on or after the date of first 1140
applicability otherwise revised. The agency is not required to 1141
have filed, or to deposit or display, the text or other material 1142
incorporated by reference as required by section 121.73 or 121.74 1143
of the Revised Code. So long as all other applicable rule-making 1144
procedures have been complied with, rescission of the rule is 1145
ratified. 1146

(2) A rescission of a rule that incorporates a text or other 1147
material by reference that has been adopted and filed in final 1148
form on or before the date of first applicability is ratified. The 1149
adopting agency is not required to have filed, or to deposit or 1150
display, the incorporated text or other material as required by 1151
section 121.73 or 121.74 of the Revised Code. 1152

(3) If an agency rescinds a rule subject to division (B) of 1153
Section 4 or to Section 5 of this act that is not amended or 1154
reviewed after the date of first applicability as contemplated by 1155
those sections, the agency shall file the incorporated text or 1156
other material as required by section 121.73 of the Revised Code 1157
and shall deposit or display the incorporated text or other 1158
material as required by section 121.74 of the Revised Code. 1159

(B) A rescinded rule as contemplated by division (A)(1)(b), 1160
(2), or (3) of this section that, while previously effective, 1161
incorporated a text or other material by reference without 1162
conforming in essence to what sections 121.71 to 121.76 of the 1163
Revised Code provide, is ratified insofar as the incorporation by 1164
reference might raise a question of the rule's validity as applied 1165
to facts occurring while the rule was effective. 1166

Section 7. As used in this section, "rule" means a 1167
pre-existing rule that has been rescinded, or a provision, 1168

formerly part of an existing rule, that has been removed from the 1169
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