

AN ACT

To amend sections 5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 5739.032, 5739.12, 5739.122, 5739.21, 5741.03, 5741.12, and 5741.121; to enact sections 5101.31 and 5104.382; and to repeal section 3302.041 of the Revised Code to make program and budgetary modifications, to amend the versions of sections 5739.031, 5739.12, and 5741.12 of the Revised Code that are scheduled to take effect July 1, 2003, to continue the provisions of this act on and after that effective date, to amend Sections 40 and 142 of Am. Sub. H.B. 94 of the 124th General Assembly, to amend Section 125 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended, to amend Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended, and to make an appropriation.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 5739.032, 5739.12, 5739.122, 5739.21, 5741.03, 5741.12, and 5741.121 be amended and sections 5101.31 and 5104.382 of the Revised Code be enacted to read as follows:

Sec. 5101.31. Any record, data, pricing information, or other information regarding a drug rebate agreement or a supplemental drug rebate agreement for the medicaid program established under Chapter 5111. of the Revised Code or the disability medical assistance program established under section 5115.10 of the Revised Code that the department of job and family services receives from a pharmaceutical manufacturer or creates pursuant to negotiation of the agreement is not a public record under section 149.43 of the Revised Code and shall be treated by the department as

confidential information.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child day-care provider" means a child day-care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child day-care.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child day-care pursuant to this chapter and any rules adopted under it.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(H) "Child" includes an infant, toddler, preschool child, or school child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather

ditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child day-care or publicly funded child day-care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:

(a) An organized religious body provides the child day-care;

(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;

(c) The child day-care is not provided for more than thirty days a year;

(d) The child day-care is provided only for preschool and school children.

(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.

(N) "Child day-care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child day-care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child day-care;

(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;

(4) Recruitment of child day-care providers;

(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child day-care in the community;

(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;

(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;

(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.

(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.

(Q) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care

center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under section 3301.31 of the Revised Code.

(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

(W) "Infant" means a child who is less than eighteen months of age.

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount

of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child.

(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(HH) "Preschool child" means a child who is three years old or older but is not a school child.

(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective day-care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child day-care.

(JJ) "Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including child care block grant act funds, distributed by the department of job and family services.

(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child day-care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

~~(NN) "Special needs day-care" means publicly funded child day-care that is provided for a child who is physically or developmentally handicapped, mentally retarded, or mentally ill.~~

~~(OO)~~ "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

~~(PP)~~(OO) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(QQ)~~(PP) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is

provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(RR)~~(QQ) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1) The department shall, at least twice during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

At least one inspection shall be unannounced and all inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall investigate and may inspect a center or type A home.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall, at least once during every twelve-month period of operation of a center or type A home, collect information concerning the amounts charged by the center or home for providing child day-care services for use in establishing ~~rates of~~ reimbursement ceilings pursuant to section 5104.30 of the Revised Code.

(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license.

(D) The department may deny or revoke a license, or refuse to renew a license of a center or type A home, if the applicant knowingly makes a false statement on the application, does not comply with the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code, or has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

(E) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any person, firm, organization, institution, or agency licensed under section 5104.03 of the Revised Code is in violation of any provision of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department may issue an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any order of revocation, the person whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(F) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

(G) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child day-care without a license issued or renewed pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code.

(H) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(I) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following:

- (1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code;
- (2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;
- (3) Individuals who would be participating in the Ohio works first

program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child day-care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child day-care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child day-care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child day-care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child day-care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child day-care, including appropriations of state funds for publicly funded child day-care and appropriations of federal funds for publicly funded child day-care under Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended, and the child care block grant act. The department may use any state funds appropriated for publicly funded child day-care as the state share required to match any federal funds appropriated for publicly funded child day-care.

(C) The department may use federal funds available under the child care block grant act to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child day-care.

Not more than five per cent of the aggregate amount of those federal funds received for a fiscal year may be expended for administrative costs. The department shall allocate and use at least four per cent of the federal funds for the following:

(1) Activities designed to provide comprehensive consumer education to parents and the public;

(2) Activities that increase parental choice;

(3) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care.

(D) The department shall ensure that any federal funds received by the state under the child care block grant act will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of that act for publicly funded child day-care and related programs. A county department of job and family services may purchase child day-care from funds obtained through any other means.

(E) The department shall encourage the development of suitable child day-care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child day-care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child day-care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child day-care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department may develop and maintain a registry of persons providing child day-care. The director may adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(F)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~establishing a procedure for determining rates of reimbursement and a~~ both of the following:

(a) Reimbursement ceilings for providers of publicly funded child day-care;

(b) A procedure for paying providers of publicly funded child day-care.

~~In~~ (2) In establishing rates of reimbursement pursuant to this ceilings under division (F)(1)(a) of this section, the director shall use do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code and may establish different rates of reimbursement based on the geographic location of the provider, type of care provided, age of the child served, special needs of the child, whether expanded hours of service are provided, whether weekend service is provided, whether the provider has exceeded the minimum requirements of

~~state statutes and rules governing child day-care, and any other factors the director considers appropriate. The director shall establish:~~

~~(b) Establish an enhanced rate of reimbursement ceiling for providers who provide child day-care for caretaker parents who work nontraditional hours. For:~~

~~(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, the department shall adopt rules establishing establish a reimbursement rate ceiling that is the greater of the rate that was in effect for the home on October 1, 1997, or the following:~~

~~(i) If the provider is a person described in division (G)(1)(a) of section 5104.011 of the Revised Code, seventy-five per cent of the reimbursement rate ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;~~

~~(ii) If the provider is a person described in division (G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.~~

~~(3) In establishing reimbursement ceilings under division (F)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:~~

~~(a) Geographic location of the provider;~~

~~(b) Type of care provided;~~

~~(c) Age of the child served;~~

~~(d) Special needs of the child served;~~

~~(e) Whether the expanded hours of service are provided;~~

~~(f) Whether weekend service is provided;~~

~~(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child day-care;~~

~~(h) Any other factors the director considers appropriate.~~

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child day-care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child day-care for a specified period of time or upon a continuous basis for

an unspecified period of time. All contracts for publicly funded child day-care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child day-care, regardless of the source of public funds used to purchase the child day-care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child day-care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child day-care shall specify at least the following:

(1) ~~Except as provided in division (B)(2) of this section, that~~ That the provider of publicly funded child day-care agrees to be paid for rendering services at the ~~lower~~ lowest of the rate customarily charged by the provider for children enrolled for child day-care ~~or, the rate of reimbursement ceiling established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider;~~

(2) ~~If the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, that the provider is to be paid for rendering services to those caretaker parents at the rate of reimbursement established pursuant to section 5104.30 of the Revised Code regardless of whether that rate is higher than the rate the provider customarily charges for children enrolled for child day-care;~~

(3) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(4)(3) Whether the county department of job and family services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department

any information collected for the purpose of making eligibility determinations;

~~(5)~~(4) That the provider, other than a border state child day-care provider, shall continue to be licensed, approved, or certified pursuant to this chapter or sections 3301.52 to 3301.59 of the Revised Code and shall comply with all standards and other requirements in this chapter and those sections and in rules adopted pursuant to this chapter or those sections for maintaining the provider's license, approval, or certification;

~~(6)~~(5) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

~~(7)~~(6) Whether the provider will be paid by the county department of job and family services or the state department of job and family services;

~~(8)~~(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the ~~lower~~ lowest of the rate customarily charged by the provider ~~or~~, the ~~rate of~~ reimbursement ceiling established pursuant to section 5104.30 of the Revised Code, ~~unless the provider provides publicly funded child day-care to caretaker parents who work nontraditional hours, in which case the value of the certificate for payment for the services to those caretaker parents shall be based on the rate of reimbursement established pursuant to that section regardless of whether that rate is higher than the rate customarily charged by~~ or a rate the county department negotiates with the provider. The county department may provide the certificates for payment to the individuals or may contract with child day-care providers or child day-care resource and referral service organizations that make determinations of eligibility for publicly funded child day-care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the

certificates for payment to individuals whom they determine are eligible for publicly funded child day-care.

For each six-month period a provider of publicly funded child day-care provides publicly funded child day-care to the child of an individual given certificates of payment, the individual shall provide the provider certificates for days the provider would have provided publicly funded child day-care to the child had the child been present. County departments shall specify the maximum number of days providers will be provided certificates of payment for days the provider would have provided publicly funded child day-care had the child been present. The maximum number of days shall not exceed ten days in a six-month period during which publicly funded child day-care is provided to the child regardless of the number of providers that provide publicly funded child day-care to the child during that period.

Sec. 5104.34. (A)(1) Each county department of job and family services shall implement procedures for making determinations of eligibility for publicly funded child day-care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child day-care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of job and family services in accordance with section 5101.35 of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child day-care, may contract with child day-care providers or child day-care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child day-care providers or child day-care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child day-care provider or a child day-care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral service organization receives a completed application that is the basis of the determination and to collect and transmit all necessary information to the

county department within a period of time that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child day-care and to make eligibility determinations. The county department, child day-care provider, and child day-care resource and referral service organization shall make each determination of eligibility for publicly funded child day-care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section 5104.38 of the Revised Code, and shall notify promptly each applicant for publicly funded child day-care of the results of the determination of the applicant's eligibility.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of job and family services and shall direct any entity that is not in compliance with this division or any rule adopted under this division to implement corrective action specified by the department.

(2) All eligibility determinations for publicly funded child day-care shall be made in accordance with rules adopted pursuant to division (A) of section 5104.38 of the Revised Code and, if a county department of job and family services specifies, pursuant to rules adopted under division (B) of that section, a maximum amount of income a family may have to be eligible for publicly funded child day-care, the income maximum specified by the county department. Publicly funded child day-care may be provided only to eligible infants, toddlers, preschool children, and school children under age thirteen. For an applicant to be eligible for publicly funded child day-care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child day-care. This restriction does not apply to families whose children are eligible for protective or special-needs day-care.

Subject to available funds, a county department of job and family services shall allow a family to receive publicly funded child day-care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child day-care is subject to available funds unless the family is receiving child day-care pursuant to

division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the county department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child day-care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child day-care in the previous month but is no longer eligible because the twelve-month period has expired. Such an assistance group shall continue to receive priority for publicly funded child day-care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child day-care at any time during the immediately following twelve-month period that both of the following apply:

- (a) The assistance group requires child day-care due to employment;
- (b) The assistance group's income is not more than one hundred fifty per cent of the federal poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child day-care.

(B) To the extent permitted by federal law, a county department of job and family services may require a caretaker parent determined to be eligible for publicly funded child day-care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. Each county department shall make protective day-care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child day-care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If a county department of job and family services determines that available resources are not sufficient to provide publicly funded child day-care to all eligible families who request it, the county department may establish a waiting list. A county department may establish separate waiting lists within the waiting list based on income. When resources become available to provide publicly funded child day-care to families on the waiting list, a county department that establishes a waiting list shall assess the needs of the next family scheduled to receive publicly funded child day-care. If the assessment demonstrates that the family continues to need and is eligible for publicly funded child day-care, the county department shall offer it to the family. If the county department determines that the

family is no longer eligible or no longer needs publicly funded child day-care, the county department shall remove the family from the waiting list.

(E) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.35. (A) The county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child day-care services;

(4) Pay to a child day-care center, type A family day-care home, certified type B family day-care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider for child day-care services, the amount provided for in division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the county department pays.

(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child day-care.

(B) The county department of job and family services may do any of the following:

(1) To the extent permitted by federal law, use public child day-care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child day-care;

(2) In accordance with rules adopted by the director of job and family services, request a waiver of the ~~maximum rate of assistance that is reimbursement ceiling~~ established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child day-care based upon the special needs of a child, ~~the special circumstances of a family, or unique child day-care market conditions;~~

(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child day-care customarily charges all children who receive child day-care from that provider;

(4) To the extent permitted by federal law, pay for up to thirty days of child day-care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period.

Sec. 5104.38. In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child day-care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child day-care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective day-care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. ~~Until July 1, 2000, the maximum amount shall not exceed one hundred eighty five per cent of the federal poverty line. Effective July 1, 2000, the~~ The maximum amount shall not exceed two hundred per cent of the federal poverty line.

(B) Procedures under which a county department of job and family services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child day-care that is less than the maximum amount specified in that division, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child day-care that is higher than the amount specified by the department but does not exceed the maximum amount specified in division (A) of this section;

(C) A schedule of fees requiring all eligible caretaker parents to pay a

fee for publicly funded child day-care according to income and family size, which shall be uniform for all types of publicly funded child day-care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child day-care from that provider. The schedule of fees may not provide for a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income.

(D) A formula based upon a percentage of the county's total expenditures for publicly funded child day-care for determining the maximum amount of state and federal funds appropriated for publicly funded child day-care that a county department may use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child day-care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child day-care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child day-care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child day-care;

(H) Procedures for establishing a child day-care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division (II)(1) of section 5104.01 of the Revised Code;

(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child day-care available through telephone, computer, and other means at locations other than the county department;

(L) Any other rules necessary to carry out sections 5104.30 to 5104.39 of the Revised Code.

Sec. 5104.382. In adopting rules under division (A) of section 5104.38 of the Revised Code establishing criteria for eligibility for publicly funded child day-care, the director of job and family services may prescribe the amount, duration, and scope of benefits available as publicly funded child day-care.

Sec. 5104.39. (A) The director of job and family services shall adopt

rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures of county departments of job and family services to ensure that expenditures do not exceed the available federal and state funds for publicly funded child day-care. The department, with the assistance of the office of budget and management and the day-care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures of county departments for publicly funded child day-care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child day-care. Whenever the department determines that the anticipated future expenditures of the county departments will exceed the available federal and state funds for publicly funded child day-care, it promptly shall notify the county departments and, before the available state and federal funds are used, the director shall issue and implement an administrative order that shall specify both of the following:

(1) Priorities for expending the remaining available federal and state funds for publicly funded child day-care;

(2) Instructions and procedures to be used by the county departments.

(B) The order may ~~suspend~~ do any or all of the following:

(1) Suspend enrollment of all new participants in any program of publicly funded child day-care ~~or may limit~~;

(2) Limit enrollment of new participants to those with incomes at or below a specified percentage ~~below~~ of the federal poverty line, ~~but it shall not limit enrollment by otherwise narrowing eligibility standards established in statute for publicly funded child day-care~~;

(3) Disenroll existing participants with income above a specified percentage of the federal poverty line.

(C) Each county department shall comply with the order no later than thirty days after it is issued. If the department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child day-care are used, the state department shall provide sufficient funds to the county departments for publicly funded child day-care to enable each county department to pay for all publicly funded child day-care that was provided by providers pursuant to contract prior to the date that the county department received notice under this ~~division~~ section and the state department implemented in that county the priorities.

(D) If after issuing an order under this ~~division~~ section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly

funded child day-care exceed the anticipated future expenditures of the county departments, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order not later than thirty days after it is issued.

~~(B)~~(E) The department of job and family services shall do all of the following:

(1) Conduct a quarterly evaluation of the program of publicly funded child day-care that is operated pursuant to sections 5104.30 to 5104.39 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5139.41. On and after January 1, 1995, the appropriation made to the department of youth services for care and custody of felony delinquents shall be expended in accordance with a formula that the department shall develop for each year of a biennium. The formula shall be consistent with sections 5139.41 to 5139.45 of the Revised Code and shall be developed in accordance with the following guidelines:

(A) The department shall set aside at least three per cent but not more than five per cent of the appropriation for purposes of funding the contingency program described in section 5139.45 of the Revised Code and of use in accordance with that section.

(B)(1) After setting aside the amount described in division (A) of this section, the department shall set aside twenty-five per cent of the remainder of the appropriation and use that amount for the purpose described in division (B)(2) of this section and to pay certain of the operational costs associated with, and to provide cash flow for, the following:

(a) Institutions;

(b) The diagnosis, care, or treatment of felony delinquents at institutions, facilities, or centers pursuant to contracts entered into under section 5139.08 of the Revised Code;

(c) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions.

(2) The department may use a portion of the twenty-five per cent of the

remainder of the appropriation set aside pursuant to division (B)(1) of this section for administrative expenses incurred by the department in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code and the associated contingency program described in section 5139.45 of the Revised Code.

(C) After setting aside the amounts described in divisions (A) and (B)(1) of this section, the department shall set aside the amount of the appropriation that is equal to twenty-five per cent of the amount that is calculated by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of bed days that the department projects for occupancy in community corrections facilities described in division (B)(1)(c) of this section. The department shall use the amount of the appropriation that is set aside pursuant to this division to pay the percentage of the per diem cost for the care and custody of felony delinquents who are in the care and custody of community corrections facilities described in division (B)(1)(c) of this section for which the department is responsible under sections 5139.41 to 5139.45 of the Revised Code.

(D) After setting aside the amounts described in divisions (A) to (C) of this section, the department shall set aside the amount of the appropriation that is necessary to pay seventy-five per cent of the per diem cost of public safety beds and shall use that amount for the purpose of paying that per diem cost.

(E) After setting aside the amounts described in divisions (A) to (D) of this section, the department shall use the remainder of the appropriation in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code, except that, for fiscal year 2002 and fiscal year 2003 and only for those two fiscal years, the total number of beds available to all counties via public safety beds and county allocations shall not be less than the total beds used by all the counties during fiscal year 2000 funded by care and custody chargebacks (Line Item 401) and as public safety beds.

(F) If the department's appropriation for a fiscal year is subsequently revised by law or its expenditures ordered to be reduced by executive order under section 126.05 of the Revised Code, the department may adjust the amounts described in divisions (A) to (E) of this section in a manner consistent with the revision or reduction.

Sec. 5739.031. (A) Upon application, the tax commissioner may issue a direct payment permit that authorizes a consumer to pay the sales tax levied by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the

Revised Code or the use tax levied by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code directly to the state and waives the collection of the tax by the vendor or seller if payment directly to the state would improve compliance and increase the efficiency of the administration of the tax. The commissioner may adopt rules establishing the criteria for the issuance of such permits.

(B) Each permit holder, on or before the twenty-third day of each month, shall make and file with the treasurer of state a return for the preceding month in such form as is prescribed by the tax commissioner and shall pay the tax shown on the return to be due. The return shall show the sum of the prices of taxable merchandise used and taxable services received, the amount of tax due from the permit holder, and such other information as the commissioner deems necessary. The commissioner, upon written request by the permit holder, may extend the time for making and filing returns and paying the tax. If the commissioner determines that a permit holder's tax liability is not such as to merit monthly filing, the commissioner may authorize the permit holder to file returns and pay the tax at less frequent intervals. The treasurer of state shall show on the return the date it was filed and the amount of the payment remitted to the treasurer. Thereafter, the treasurer immediately shall transmit all returns filed under this section to the tax commissioner.

Any permit holder required to file a return and pay the tax under this section whose total payment for any calendar year equals or exceeds the amount shown in section 5739.032 of the Revised Code shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.032 of the Revised Code, except as otherwise prescribed by that section.

(C) For purposes of reporting and remitting the tax, the price of tangible personal property or services purchased by, or of tangible personal property produced by, the permit holder shall be determined under division (G) of section 5741.01 of the Revised Code. Notwithstanding section 5739.033 of the Revised Code, the situs of any purchase transaction made by the permit holder is the location where the tangible personal property or service is received by the permit holder.

(D) It shall be the duty of every permit holder required to make a return and pay its tax under this section to keep and preserve suitable records of purchases together with invoices of purchases, bills of lading, asset ledgers, depreciation schedules, transfer journals, and such other primary and secondary records and documents in such form as the commissioner

requires. All such records and other documents shall be open during business hours to the inspection of the tax commissioner, and shall be preserved for a period of four years, unless the commissioner, in writing, has authorized their destruction or disposal at an earlier date, or by order or by reason of a waiver of the four-year time limitation pursuant to section 5739.16 of the Revised Code requires that they be kept longer.

(E) A permit granted pursuant to this section shall continue to be valid until surrendered by the holder or canceled for cause by the tax commissioner.

(F) Persons who hold a direct payment permit that has not been canceled shall not be required to issue exemption certificates and shall not be required to pay the tax as prescribed in sections 5739.03, 5739.033, and 5741.12 of the Revised Code. Such persons shall notify vendors and sellers from whom purchases of tangible personal property or services are made, of their direct payment permit number and that the tax is being paid directly to the state. Upon receipt of such notice, such vendor or seller shall be absolved from all duties and liabilities imposed by section 5739.03 or 5741.04 of the Revised Code with respect to sales of tangible personal property or services to such permit holder.

Vendors and sellers who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of the purchaser may be ascertained. The receipts from such sales shall not be subject to the tax levied in section 5739.10 of the Revised Code.

Upon the cancellation or surrender of a direct payment permit, the provisions of sections 5739.03, 5741.04, and 5741.12 of the Revised Code shall immediately apply to all purchases made subsequent to such cancellation or surrender by the person who previously held such permit, and such person shall so notify vendors and sellers from whom purchases of tangible personal property or services are made, in writing, prior to or at the time of the first purchase after such cancellation or surrender. Upon receipt of such notice, the vendor shall be subject to the provisions of sections 5739.03 and 5739.10 of the Revised Code and the seller shall be subject to the provisions of section 5741.04 of the Revised Code, with respect to all sales subsequently made to such person. Failure of any such person to notify vendors or sellers from whom purchases of tangible personal property or services are made of the cancellation or surrender of a direct payment permit shall be considered as a refusal to pay the tax by the person required to issue such notice.

Sec. 5739.032. (A) If the total amount of tax required to be paid by a

permit holder under section 5739.031 of the Revised Code for any calendar year indicated in the following schedule equals or exceeds the amounts prescribed for that year in the schedule, the permit holder shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

| | | | |
|------|-------------|-------------------|---------------------|
| Year | 1992 | 1993 through 1999 | 2000 and thereafter |
| Tax | \$1,200,000 | \$600,000 | \$60,000 |

payment

If a permit holder's tax payment for each of two consecutive years beginning with 2000 is less than sixty thousand dollars, the permit holder is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than sixty thousand dollars, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds sixty thousand dollars.

The tax commissioner shall notify each permit holder required to remit taxes by electronic funds transfer of the permit holder's obligation to do so, shall maintain an updated list of those permit holders, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a permit holder subject to this section to remit taxes by electronic funds transfer does not relieve the permit holder of its obligation to remit taxes by electronic funds transfer.

(B) Permit holders required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates ~~specified under section 5739.031 of the Revised Code. The:~~

(1) On or before each of the eleventh, eighteenth, and twenty-fifth days of each month, a permit holder shall remit an amount equal to one-fourth of the permit holder's total tax liability for the same month in the preceding calendar year.

(2) On or before the twenty-third day of each month, a permit holder shall report the taxes due for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1) of this section.

The payment of taxes by electronic funds transfer does not affect a permit holder's obligation to file the monthly return as required under section 5739.031 of the Revised Code.

(C) A permit holder required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the permit holder from remittance by electronic funds transfer for good cause shown for the period of time requested by the permit holder or for a portion of that period. The treasurer of state shall notify the tax commissioner and the permit holder of the ~~treasurer's~~ treasurer of state's decision as soon as is practicable.

~~(C)~~(D)(1) If a permit holder that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a permit holder required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the commissioner may ~~collect~~ impose an additional charge ~~by assessment in the manner prescribed by section 5739.13 of the Revised Code. The additional charge shall equal~~ not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer, ~~but shall not exceed~~ or five thousand dollars. ~~Any~~

(3) Any additional charge assessed imposed under division (D)(1) or (2) of this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may ~~remit~~ waive all or a portion of such a charge and may adopt rules governing such ~~remission waiver~~.

No additional charge shall be ~~assessed~~ imposed under ~~this~~ division (D)(2) of this section against a permit holder that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be ~~assessed~~ imposed upon the remittance of any subsequent tax payment that the permit holder remits by some means other than electronic funds transfer.

Sec. 5739.12. Each person who has or is required to have a vendor's license, on or before the twenty-third day of each month, shall make and file a return for the preceding month, on forms prescribed by the tax commissioner, and shall pay the tax shown on the return to be due. The

ommissioner may require a vendor that operates from multiple locations or has multiple vendor's licenses to report all tax liability on one consolidated return. The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period. The commissioner may remit all or any part of amounts or penalties which may become due under this chapter and may adopt rules relating thereto. Such return shall be filed by mailing it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided for under this section. Remittance shall be made payable to the treasurer of state. The return shall be considered filed when received by the tax commissioner, and the payment shall be considered made when received by the tax commissioner or when credited to an account designated by the treasurer of state or the tax commissioner. If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, the vendor shall be entitled to a discount of three-fourths of one per cent of the amount shown to be due on the return. Amounts paid to the clerk of courts pursuant to section 4505.06 of the Revised Code shall be subject to the three-fourths of one per cent discount. The discount shall be in consideration for prompt payment to the clerk of courts and for other services performed by the vendor in the collection of the tax.

Upon application to the commissioner, a vendor who is required to file monthly returns may be relieved of the requirement to report and pay the actual tax due, provided that the vendor agrees to remit to the tax commissioner payment of not less than an amount determined by the commissioner to be the average monthly tax liability of the vendor, based upon a review of the returns or other information pertaining to such vendor for a period of not less than six months nor more than two years immediately preceding the filing of the application. Vendors who agree to the above conditions shall make and file an annual or semiannual reconciliation return, as prescribed by the commissioner. The reconciliation return shall be filed by mailing or delivering it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after

deduction of any discount provided in this section. Remittance shall be made payable to the treasurer of state. Failure of a vendor to comply with any of the above conditions may result in immediate reinstatement of the requirement of reporting and paying the actual tax liability on each monthly return, and the commissioner may at the commissioner's discretion deny the vendor the right to report and pay based upon the average monthly liability for a period not to exceed two years. The amount ascertained by the commissioner to be the average monthly tax liability of a vendor may be adjusted, based upon a review of the returns or other information pertaining to the vendor for a period of not less than six months nor more than two years preceding such adjustment.

The commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as ascertained by the commissioner upon the basis of administrative costs to the state, to make and file returns at less frequent intervals. When returns are filed at less frequent intervals in accordance with such authorization, the vendor shall be allowed the discount of three-fourths of one per cent in consideration for prompt payment with the return, provided the return is filed together with payment of the amount of tax shown to be due thereon, at the time specified by the commissioner.

Any vendor who fails to file a return or pay the full amount of the tax shown on the return to be due under this section and the rules of the commissioner may, for each such return the vendor fails to file or each such tax the vendor fails to pay in full as shown on the return within the period prescribed by this section and the rules of the commissioner, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

If the amount required to be collected by a vendor from consumers is in excess of five per cent of the vendor's receipts from sales ~~which~~ that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

The commissioner, if the commissioner deems it necessary in order to

insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or the vendor's authorized agent.

Any vendor required to file a return and pay the tax under this section, whose total payment in any year indicated in division (A) of section 5739.122 of the Revised Code equals or exceeds the amount shown in that division, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5739.122. (A) If the total amount of tax required to be paid by a vendor under section 5739.12 of the Revised Code for any calendar year indicated in the following schedule equals or exceeds the amounts prescribed for that year in the schedule, the vendor shall remit each monthly tax payment in the second ensuing and each succeeding tax year by electronic funds transfer as prescribed by divisions (B) and (C) of this section.

| | | | |
|------|-------------|-------------------|---------------------|
| Year | 1992 | 1993 through 1999 | 2000 and thereafter |
| Tax | \$1,200,000 | \$600,000 | \$60,000 |

payment
 If a vendor's tax payment for each of two consecutive years beginning with 2000 is less than sixty thousand dollars, the vendor is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than sixty thousand dollars, and is relieved of that requirement for each succeeding year unless the tax payment in a subsequent year equals or exceeds sixty thousand dollars.

The tax commissioner shall notify each vendor required to remit taxes by electronic funds transfer of the vendor's obligation to do so, shall maintain an updated list of those vendors, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a vendor subject to this section to remit taxes by electronic funds transfer does not relieve the vendor of its obligation to remit taxes by electronic funds transfer.

(B) Vendors required by division (A) of this section to remit payments

by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates specified under section 5739.12 of the Revised Code. The:

(1) On or before the eleventh day of each month, a vendor shall remit an amount equal to the taxes collected during the first seven days of the month. On or before the eighteenth day of each month, a vendor shall remit an amount equal to the taxes collected on the eighth through the fourteenth day of the month. On or before the twenty-fifth day of each month, a vendor shall remit an amount equal to the taxes collected on the fifteenth through the twenty-first day of the month.

(2) In lieu of remitting the actual amounts collected for the periods specified in division (B)(1) of this section, a vendor may, on or before each of the eleventh, eighteenth, and twenty-fifth days of each month, remit an amount equal to one-fourth of the vendor's total tax liability for the same month in the preceding calendar year.

(3) On or before the twenty-third day of each month, a vendor shall report the taxes collected for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1) or (2) of this section.

The payment of taxes by electronic funds transfer does not affect a vendor's obligation to file the monthly return as required under section 5739.12 of the Revised Code.

(C) A vendor required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the vendor from remittance by electronic funds transfer for good cause shown for the period of time requested by the vendor or for a portion of that period. The treasurer of state shall notify the tax commissioner and the vendor of the ~~treasurer's~~ treasurer of state's decision as soon as is practicable.

(D)(1) If a vendor that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a vendor required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall

notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may ~~collect~~ impose an additional charge ~~by assessment in the manner prescribed by section 5739.13 of the Revised Code. The additional charge shall equal not to exceed the lesser of~~ five per cent of the amount of the taxes required to be paid by electronic funds transfer, ~~but shall not exceed or~~ five thousand dollars. ~~Any~~

(3) ~~Any~~ additional charge ~~assessed~~ imposed under division (D)(1) or (2) of this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may ~~remit~~ waive all or a portion of such a charge and may adopt rules governing such ~~remission~~ waiver.

No additional charge shall be ~~assessed~~ imposed under ~~this~~ division (D)(2) of this section against a vendor that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be ~~assessed~~ imposed upon the remittance of any subsequent tax payment that the vendor remits by some means other than electronic funds transfer.

Sec. 5739.21. (A) Four and two-tenths per cent of all money deposited into the state treasury under sections 5739.01 to 5739.31 of the Revised Code and not required to be distributed as provided in section 5739.102 of the Revised Code or division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes ~~paid to the treasurer of state~~ from billings and assessments received during that month, or shown on tax returns or reports filed during that month, to be returned to the county or transit authority levying the tax or taxes. The amount to be returned to each county and transit authority shall be a fraction of the aggregate amount of

money collected with respect to each area in which one or more of such taxes are concurrently in effect with the tax levied by section 5739.02 of the Revised Code, the numerator of which is the rate of the tax levied by the county or transit authority and the denominator of which is the aggregate rate of such taxes applicable to such area; provided, that the aggregate amount to be returned to any county or transit authority shall be reduced by one per cent, which shall be certified directly to the credit of the local sales tax administrative fund, which is hereby created in the state treasury. For the purpose of determining the amount to be returned to a county and transit authority in which the rate of tax imposed by the transit authority has been reduced under section 5739.028 of the Revised Code, the tax commissioner shall use the respective rates of tax imposed by the county or transit authority that results from the change in the rates authorized under that section. The director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer and to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs incurred in administering such taxes levied by a county or transit authority.

Sec. 5741.03. (A) Four and two-tenths per cent of all money deposited into the state treasury under sections 5741.01 to 5741.22 of the Revised Code that is not required to be distributed as provided in division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes paid to the treasurer of state from billings and assessments received during that month, or shown on tax returns or reports filed during that month, to be returned to the county or

transit authority levying the tax or taxes, which amounts shall be determined in the manner provided in section 5739.21 of the Revised Code. The director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund created by division (B) of section 5739.21 of the Revised Code, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer or to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs ~~he~~ the commissioner incurs in administering such taxes levied by a county or transit authority.

Sec. 5741.12. (A) Each seller required by section 5741.17 of the Revised Code to register with the tax commissioner, and any seller authorized by the commissioner to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code is subject to the same requirements and entitled to the same deductions and discount for prompt payments as are vendors under section 5739.12 of the Revised Code. The powers and duties of the commissioner and the treasurer of state with respect to returns and tax remittances under this section shall be identical with those prescribed in section 5739.12 of the Revised Code.

(B) Every person storing, using, or consuming tangible personal property or receiving the benefit of a service, the storage, use, consumption, or receipt of which is subject to the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, when such tax was not paid to a seller, shall, on or before the twenty-third day of each month, file with the tax commissioner a return for the preceding month in such form as is prescribed by the commissioner, showing such information as the commissioner deems necessary, and shall pay the tax shown on the return to be due. Remittance shall be made payable to the treasurer of state. The commissioner may require consumers to file returns and pay the tax at other than monthly intervals, if the commissioner determines that such filing is necessary for the efficient administration of the tax. If the commissioner determines that a consumer's tax liability is not such as to merit monthly filing, the commissioner may authorize the consumer to file returns and pay tax at less frequent intervals.

Any consumer required to file a return and pay the tax under this section whose payment for any year indicated in section 5741.121 of the Revised

Code equals or exceeds the amount shown in that section shall make each payment required by this section in the second ensuing and each succeeding year by means of electronic funds transfer as prescribed by, and on or before the dates specified in, section 5741.121 of the Revised Code, except as otherwise prescribed by that section.

(C) Every person storing, using, or consuming a motor vehicle, watercraft, or outboard motor, the ownership of which must be evidenced by certificate of title, shall file the return required by this section and pay the tax due at or prior to the time of filing an application for certificate of title.

Sec. 5741.121. (A) If the total amount of tax required to be paid by a seller or consumer under section 5741.12 of the Revised Code for any year indicated in the following schedule equals or exceeds the amount prescribed for that year in the schedule, the seller or consumer shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

| Year | 1992 | 1993 through 1999 | 2000 and thereafter |
|------|-------------|-------------------|---------------------|
| Tax | \$1,200,000 | \$600,000 | \$60,000 |

payment

If a seller's or consumer's tax payment for each of two consecutive years beginning with 2000 is less than sixty thousand dollars, the seller or consumer is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than sixty thousand dollars, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds sixty thousand dollars.

The tax commissioner shall notify each seller or consumer required to remit taxes by electronic funds transfer of the seller's or consumer's obligation to do so, shall maintain an updated list of those sellers and consumers, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a seller or consumer subject to this section to remit taxes by electronic funds transfer does not relieve the seller or consumer of the ~~consumer's~~ obligation to remit taxes by electronic funds transfer.

(B) ~~Consumers~~ Sellers and consumers required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates ~~specified under section 5741.12 of the Revised Code. The;~~

(1)(a) On or before the eleventh day of each month, a seller shall remit

an amount equal to the taxes collected during the first seven days of the month. On or before the eighteenth day of each month, a seller shall remit an amount equal to the taxes collected on the eighth through the fourteenth day of the month. On or before the twenty-fifth day of each month, a seller shall remit an amount equal to the taxes collected on the fifteenth through the twenty-first day of the month.

(b) In lieu of remitting the actual amounts collected for the periods specified in division (B)(1)(a) of this section, a seller may, on or before each of the eleventh, eighteenth, and twenty-fifth days of each month, remit an amount equal to one-fourth of the seller's total tax liability for the same month in the preceding calendar year.

(2) On or before each of the eleventh, eighteenth, and twenty-fifth days of each month, a consumer shall remit an amount equal to one-fourth of the consumer's total tax liability for the same month in the preceding calendar year.

(3) On or before the twenty-third day of each month, a seller shall report the taxes collected and a consumer shall report the taxes due for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1)(a) or (b) or (B)(2) of this section.

The payment of taxes by electronic funds transfer does not affect a seller's or consumer's obligation to file the monthly return as required under section 5741.12 of the Revised Code.

(C) A seller or consumer required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the seller or consumer from remittance by electronic funds transfer for good cause shown for the period of time requested by the seller or consumer or for a portion of that period. The treasurer of state shall notify the tax commissioner and the seller or consumer of the ~~treasurer's~~ treasurer of state's decision as soon as is practicable.

~~(D)~~(1) If a seller or consumer that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a seller or consumer required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall

notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may ~~collect~~ impose an additional charge ~~by assessment in the manner prescribed by section 5741.13 of the Revised Code. The additional charge shall equal not to exceed the lesser of~~ five per cent of the amount of the taxes required to be paid by electronic funds transfer, ~~but shall not exceed or~~ five thousand dollars. ~~Any~~

(3) ~~Any~~ additional charge ~~assessed~~ imposed under this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5741.13 of the Revised Code. The tax commissioner may ~~remit~~ waive all or a portion of such a charge and may adopt rules governing such ~~remission waiver~~.

No additional charge shall be ~~assessed~~ imposed under ~~this~~ division (D)(2) of this section against a seller or consumer that has been notified of the ~~consumer's~~ obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be ~~assessed~~ imposed upon the remittance of any subsequent tax payment that the seller or consumer remits by some means other than electronic funds transfer.

SECTION 2. That existing sections 5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 5739.032, 5739.12, 5739.122, 5739.21, 5741.03, 5741.12, and 5741.121 and section 3302.041 of the Revised Code are hereby repealed.

SECTION 3. That the versions of sections 5739.031, 5739.12, and 5741.12 of the Revised Code that are scheduled to take effect July 1, 2003, be amended to read as follows:

Sec. 5739.031. (A) Upon application, the tax commissioner may issue a direct payment permit that authorizes a consumer to pay the sales tax levied by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or the use tax levied by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code directly to the state and waives the collection of the tax by the vendor or seller if payment directly to the state would improve compliance and increase the efficiency of the administration of the tax. The commissioner may adopt rules

establishing the criteria for the issuance of such permits.

(B) Each permit holder, on or before the twenty-third day of each month, shall make and file with the treasurer of state a return for the preceding month in such form as is prescribed by the tax commissioner and shall pay the tax shown on the return to be due. The return shall show the sum of the prices of taxable merchandise used and taxable services received, the amount of tax due from the permit holder, and such other information as the commissioner deems necessary. The commissioner, upon written request by the permit holder, may extend the time for making and filing returns and paying the tax. If the commissioner determines that a permit holder's tax liability is not such as to merit monthly filing, the commissioner may authorize the permit holder to file returns and pay the tax at less frequent intervals. The treasurer of state shall show on the return the date it was filed and the amount of the payment remitted to the treasurer. Thereafter, the treasurer immediately shall transmit all returns filed under this section to the tax commissioner.

Any permit holder required to file a return and pay the tax under this section whose total payment for any calendar year equals or exceeds the amount shown in section 5739.032 of the Revised Code shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by and on or before the dates specified in section 5739.032 of the Revised Code, except as otherwise prescribed by that section.

(C) For purposes of reporting and remitting the tax, the price of tangible personal property or services purchased by, or of tangible personal property produced by, the permit holder shall be determined under division (G) of section 5741.01 of the Revised Code. Except as otherwise provided in division (C) of section 5739.033 of the Revised Code, the situs of any purchase transaction made by the permit holder is the location where the tangible personal property or service is received by the permit holder.

(D) It shall be the duty of every permit holder required to make a return and pay its tax under this section to keep and preserve suitable records of purchases together with invoices of purchases, bills of lading, asset ledgers, depreciation schedules, transfer journals, and such other primary and secondary records and documents in such form as the commissioner requires. All such records and other documents shall be open during business hours to the inspection of the tax commissioner, and shall be preserved for a period of four years, unless the commissioner, in writing, has authorized their destruction or disposal at an earlier date, or by order or by reason of a waiver of the four-year time limitation pursuant to section

16 of the Revised Code requires that they be kept longer.

(E) A permit granted pursuant to this section shall continue to be valid until surrendered by the holder or canceled for cause by the tax commissioner.

(F) Persons who hold a direct payment permit that has not been canceled shall not be required to issue exemption certificates and shall not be required to pay the tax as prescribed in sections 5739.03, 5739.033, and 5741.12 of the Revised Code. Such persons shall notify vendors and sellers from whom purchases of tangible personal property or services are made, of their direct payment permit number and that the tax is being paid directly to the state. Upon receipt of such notice, such vendor or seller shall be absolved from all duties and liabilities imposed by section 5739.03 or 5741.04 of the Revised Code with respect to sales of tangible personal property or services to such permit holder.

Vendors and sellers who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of the purchaser may be ascertained. The receipts from such sales shall not be subject to the tax levied in section 5739.10 of the Revised Code.

Upon the cancellation or surrender of a direct payment permit, the provisions of sections 5739.03, 5741.04, and 5741.12 of the Revised Code shall immediately apply to all purchases made subsequent to such cancellation or surrender by the person who previously held such permit, and such person shall so notify vendors and sellers from whom purchases of tangible personal property or services are made, in writing, prior to or at the time of the first purchase after such cancellation or surrender. Upon receipt of such notice, the vendor shall be subject to the provisions of sections 5739.03 and 5739.10 of the Revised Code and the seller shall be subject to the provisions of section 5741.04 of the Revised Code, with respect to all sales subsequently made to such person. Failure of any such person to notify vendors or sellers from whom purchases of tangible personal property or services are made of the cancellation or surrender of a direct payment permit shall be considered as a refusal to pay the tax by the person required to issue such notice.

Sec. 5739.12. Each person who has or is required to have a vendor's license, on or before the twenty-third day of each month, shall make and file a return for the preceding month, on forms prescribed by the tax commissioner, and shall pay the tax shown on the return to be due. The commissioner may require a vendor that operates from multiple locations or has multiple vendor's licenses to report all tax liabilities on one consolidated

return. The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period. The commissioner may remit all or any part of amounts or penalties that may become due under this chapter and may adopt rules relating thereto. Such return shall be filed by mailing it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided for under this section. Remittance shall be made payable to the treasurer of state. The return shall be considered filed when received by the tax commissioner, and the payment shall be considered made when received by the tax commissioner or when credited to an account designated by the treasurer of state or the tax commissioner.

If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, the vendor shall be entitled to a discount of three-fourths of one per cent of the amount shown to be due on the return, but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount. Amounts paid to the clerk of courts pursuant to section 4505.06 of the Revised Code shall be subject to the three-fourths of one per cent discount. The discount shall be in consideration for prompt payment to the clerk of courts and for other services performed by the vendor in the collection of the tax.

Upon application to the commissioner, a vendor who is required to file monthly returns may be relieved of the requirement to report and pay the actual tax due, provided that the vendor agrees to remit to the tax commissioner payment of not less than an amount determined by the commissioner to be the average monthly tax liability of the vendor, based upon a review of the returns or other information pertaining to such vendor for a period of not less than six months nor more than two years immediately preceding the filing of the application. Vendors who agree to the above conditions shall make and file an annual or semiannual reconciliation return, as prescribed by the commissioner. The reconciliation return shall be filed by mailing or delivering it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided in this section. Remittance shall be

made payable to the treasurer of state. Failure of a vendor to comply with any of the above conditions may result in immediate reinstatement of the requirement of reporting and paying the actual tax liability on each monthly return, and the commissioner may at the commissioner's discretion deny the vendor the right to report and pay based upon the average monthly liability for a period not to exceed two years. The amount ascertained by the commissioner to be the average monthly tax liability of a vendor may be adjusted, based upon a review of the returns or other information pertaining to the vendor for a period of not less than six months nor more than two years preceding such adjustment.

The commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as ascertained by the commissioner upon the basis of administrative costs to the state, to make and file returns at less frequent intervals. When returns are filed at less frequent intervals in accordance with such authorization, the vendor shall be allowed the discount of three-fourths of one per cent in consideration for prompt payment with the return, provided the return is filed together with payment of the amount of tax shown to be due thereon, at the time specified by the commissioner, but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount.

Any vendor who fails to file a return or pay the full amount of the tax shown on the return to be due under this section and the rules of the commissioner may, for each such return the vendor fails to file or each such tax the vendor fails to pay in full as shown on the return within the period prescribed by this section and the rules of the commissioner, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

If the amount required to be collected by a vendor from consumers is in excess of five per cent of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or the vendor's authorized agent.

Any vendor required to file a return and pay the tax under this section, whose total payment in any year indicated in division (A) of section 5739.122 of the Revised Code equals or exceeds the amount shown in that division, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5741.12. (A) Each seller required by section 5741.17 of the Revised Code to register with the tax commissioner, and any seller authorized by the commissioner to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code is subject to the same requirements and entitled to the same deductions and discount for prompt payments as are vendors under section 5739.12 of the Revised Code, and the same monetary allowances as are vendors under section 5739.06 of the Revised Code. The powers and duties of the commissioner and the treasurer of state with respect to returns and tax remittances under this section shall be identical with those prescribed in section 5739.12 of the Revised Code.

(B) Every person storing, using, or consuming tangible personal property or receiving the benefit of a service, the storage, use, consumption, or receipt of which is subject to the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, when such tax was not paid to a seller, shall, on or before the twenty-third day of each month, file with the tax commissioner a return for the preceding month in such form as is prescribed by the commissioner, showing such information as the commissioner deems necessary, and shall pay the tax shown on the return to be due. Remittance shall be made payable to the treasurer of state. The commissioner may require consumers to file returns and pay the tax at other than monthly intervals, if the commissioner determines that such filing is necessary for the efficient administration of the tax. If the commissioner determines that a consumer's tax liability is not such as to merit monthly

filing, the commissioner may authorize the consumer to file returns and pay tax at less frequent intervals.

Any consumer required to file a return and pay the tax under this section whose payment for any year indicated in section 5741.121 of the Revised Code equals or exceeds the amount shown in that section shall make each payment required by this section in the second ensuing and each succeeding year by means of electronic funds transfer as prescribed by, and on or before the dates specified in, section 5741.121 of the Revised Code, except as otherwise prescribed by that section.

(C) Every person storing, using, or consuming a motor vehicle, watercraft, or outboard motor, the ownership of which must be evidenced by certificate of title, shall file the return required by this section and pay the tax due at or prior to the time of filing an application for certificate of title.

SECTION 4. That the existing versions of sections 5739.031, 5739.12, and 5741.12 of the Revised Code that are scheduled to take effect July 1, 2003, are hereby repealed.

SECTION 5. Sections 3 and 4 of this act take effect on July 1, 2003.

SECTION 6. That Sections 40 and 142 of Am. Sub. H.B. 94 of the 124th General Assembly be amended to read as follows:

Sec. 40. BDP BOARD OF DEPOSIT

General Services Fund Group

| | | | | |
|---------------------------------------|----|---------|----------------------|------------------|
| 4M2 974-601 Board of Deposit | \$ | 838,000 | \$838,000 | <u>1,288,000</u> |
| TOTAL GSF General Services Fund Group | \$ | 838,000 | \$838,000 | <u>1,288,000</u> |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 838,000 | \$838,000 | <u>1,288,000</u> |

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 608) to the Board of Deposit Expense Fund (Fund 4M2). The latter fund shall be used to pay for banking charges and fees required for the operation of the State of Ohio Regular Account.

Sec. 142. BUDGET STABILIZATION FUND TRANSFERS FOR THE DEPARTMENT OF JOB AND FAMILY SERVICES

Notwithstanding section 131.43 and division (D) of section 127.14 of the Revised Code, if the Director of Budget and Management, in consultation with the Director of Job and Family Services, determines that

Medicaid expenditures for the biennium are likely to exceed the amounts appropriated in the Department of Job and Family Services appropriation item 600-525, Health Care/Medicaid, the Director of Budget and Management may, with Controlling Board approval, ~~transfer~~ transfer up to ~~\$150~~ \$190 million in cash from the Budget Stabilization Fund to the General Revenue Fund and increase the appropriation to appropriation item 600-525, Health Care/Medicaid, accordingly. In increasing the appropriation to appropriation item 600-525, Health Care/Medicaid, the Director of Budget and Management shall add to the amount transferred from the Budget Stabilization Fund appropriation amounts that are attributable to the federal match that is indicated by the state and federal division of appropriation item 600-525, Health Care/Medicaid, as represented in ~~this act~~ Am. Sub. H.B. 94 of the 124th General Assembly. Before any transfers are authorized, the Director of Budget and Management shall exhaust the possibilities for transfers of moneys within the Department of Job and Family Services to meet the identified shortfall.

SECTION 7. That existing Sections 40 and 142 of Am. Sub. H.B. 94 of the 124th General Assembly are hereby repealed.

SECTION 8. That Section 125 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. S.B. 261 of the 124th General Assembly, be amended to read as follows:

Sec. 125. UNCLAIMED FUNDS TRANSFER

Notwithstanding division (A) of section 169.05 of the Revised Code, prior to June 30, 2003, upon the request of the Director of Budget and Management, the Director of Commerce shall transfer to the General Revenue Fund up to ~~\$80,800,000~~ \$115,800,000 of the unclaimed funds that have been reported by the holder of unclaimed funds as provided by section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section.

SECTION 9. That existing Section 125 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. S.B. 261 of the 124th General Assembly, is hereby repealed.

SECTION 10. That Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 and Am. Sub. H.B. 390 of the

124th General Assembly, be amended to read as follows:

Sec. 140. TEMPORARY STABILIZATION OF LOCAL GOVERNMENT DISTRIBUTIONS

(A) On or before the third day of each month of the period July 2001 through May 2002, the Tax Commissioner shall determine the amounts credited under sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code, respectively, to the Local Government Fund, to the Library and Local Government Support Fund, and to the Local Government Revenue Assistance Fund in the twelfth preceding month. On or before June 3, 2002, the Tax Commissioner shall determine the amounts credited under sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code, respectively, to the Local Government Fund, to the Library and Local Government Support Fund, and to the Local Government Revenue Assistance Fund in June 2000. For purposes of this section, any amount transferred during the period January 1, 2001, through June 30, 2001, to the Local Government Fund, to the Local Government Revenue Assistance Fund, or to the Library and Local Government Support Fund under section 131.44 of the Revised Code shall be considered to be an amount credited to that respective fund under section 5747.03 of the Revised Code.

Notwithstanding sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, for each month in the period July 1, 2001, through June 30, 2003, from the public utility excise, corporate franchise, sales, use, and personal income taxes collected:

(1) An amount shall first be credited to the Local Government Fund that equals the amount credited to that fund from that tax according to the schedule in division (B) of this section.

(2) An amount shall next be credited to the Local Government Revenue Assistance Fund that equals the amount credited to that fund from that tax according to the schedule in division (B) of this section.

(3) An amount shall next be credited to the Library and Local Government Support Fund that equals the amount credited to that fund from that tax according to the schedule in division (B) of this section.

(B) The amounts shall be credited from each tax to each respective fund as follows:

(1) In July 2001 and July 2002, the amounts credited in July 2000;

(2) In August 2001 and August 2002, the amounts credited in August 2000;

(3) In September 2001 and September 2002, the amounts credited in September 2000;

(4) In October 2001 and October 2002, the amounts credited in October

2000;

(5) In November 2001 and November 2002, the amounts credited in November 2000;

(6) In December 2001 and December 2002, the amounts credited in December 2000;

(7) In January 2002 and January 2003, the amounts credited in January 2001;

(8) In February 2002 and February 2003, the amounts credited in February 2001 but subject to a reduction made pursuant to division (D) of this section;

(9) In March 2002 and March 2003, the amounts credited in March 2001, but subject to any reduction made pursuant to division (E) of this section;

(10) In April 2002 and April 2003, the amounts credited in April 2001, but subject to any reduction made pursuant to division (E) of this section;

(11) In May 2002 and May 2003, the amounts credited in May 2001, but subject to any reduction made pursuant to division (E) of this section;

(12) In June 2002 and June 2003, the amounts credited in June 2000 but subject to ~~a reduction~~ reductions made pursuant to ~~division~~ divisions (D) and (E) of this section.

(C) Notwithstanding section 5727.84 of the Revised Code to the contrary, for the period July 1, 2001, through June 30, 2003, no amounts shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund from the kilowatt hour tax, and such amounts that would have otherwise been required to be credited to such funds shall instead be credited to the General Revenue Fund. Notwithstanding section 131.44 of the Revised Code to the contrary, for the period July 1, 2001, through June 30, 2003, no amounts shall be transferred to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund from the Income Tax Reduction Fund, and such amounts that would have otherwise been transferred to such funds from the Income Tax Reduction Fund shall instead be transferred to the General Revenue Fund.

(D) Notwithstanding any other provision of law to the contrary, the Tax Commissioner shall do each of the following:

(1) By the fourth day of February 2002, the commissioner shall subtract the amount calculated in division (D)(1)(b) of this section from the amount calculated in division (D)(1)(a) of this section. If the amount in division (D)(1)(a) of this section is greater than the amount in division (D)(1)(b) of this section, then subtract the difference from the amount of money from the

income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in February 2002.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2001 through January 2002, less each fund's proportional share of \$64,092,000;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2001 through January 2002, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(2) By the fourth day of June 2002, the commissioner shall subtract the amount calculated in division (D)(2)(b) of this section from the amount calculated in division (D)(2)(a) of this section. If the amount in division (D)(2)(a) of this section is greater than the amount in division (D)(2)(b) of this section, then subtract any positive difference from the amount of money from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2002.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from February 2002 through May 2002, plus any money subtracted under division (D)(1) of this section;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from February 2002 through May 2002, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(3) By the fourth day of February 2003, the commissioner shall subtract the amount calculated in division (D)(3)(b) of this section from the amount calculated in division (D)(3)(a) of this section. If the amount in division (D)(3)(a) of this section is greater than the amount in division (D)(3)(b) of this section, then subtract the difference from the amount of money from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in February 2003.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2002 through January 2003, less each

fund's proportional share of \$64,092,000, plus the amount subtracted under division (D)(2) of this section;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2002 through January 2003, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(4) By the fourth day of June 2003, the commissioner shall subtract the amount calculated in division (D)(4)(b) of this section from the amount calculated in division (D)(4)(a) of this section. If the amount in division (D)(4)(a) of this section is greater than the amount in division (D)(4)(b) of this section, then subtract any positive difference from the amount of money from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2003.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from ~~February 2003~~ June 2002 through May 2003, plus any ~~money amount~~ amount subtracted under division (D)~~(3)~~(2) of this section;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from ~~February 2003~~ June 2002 through May 2003, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(E) For the period March 2003 through May 2003, the Director of Budget and Management may direct the Tax Commissioner to reduce the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund by up to \$30,000,000. The reduction in amounts credited to each fund may be made in any month and in any amount, as long as the total reduction does not exceed \$30,000,000.

If the total amount of reductions taken in the period from March 2003 through May 2003 is less than \$30,000,000, the Director of Budget and Management may direct the Tax Commissioner to reduce the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Fund, and the Library and Local Government Support Fund by the amount of the difference.

(E) Notwithstanding any other provision of law to the contrary, the Tax Commissioner shall compute separate adjustments to the amounts credited

from the public utility excise, corporate franchise, sales, use, and personal income taxes to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund during July 2001. The adjustments shall equal the amount credited to each respective fund from each respective tax during June 2000 minus the amount credited to that fund from that tax during June 2001. If an adjustment is a positive amount, during July 2001, such amount shall be credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund, as appropriate, and shall be deducted from the General Revenue Fund. If an adjustment is a negative amount, during July 2001, such amount shall be deducted from the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund, as appropriate, and shall be credited to the General Revenue Fund. Any amount remaining in the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund after the distributions from such funds are made to local governments in August 2001, shall be certified by the Tax Commissioner to the Director of Budget and Management by August 15, 2001, and the Director of Budget and Management shall transfer such amount from each respective fund to the General Revenue Fund by August 31, 2001.

For purposes of this section, "pro rata share" means the percentage calculated for each county and used in each month of the period July 2000 through June 2001 to distribute the amounts credited to the Library and Local Government Support Fund in accordance with section 5747.47 of the Revised Code.

Notwithstanding any other provision of law to the contrary, in July 2001, each county undivided library and local government support fund shall receive from the Library and Local Government Support Fund an amount equal to the amount it would have received pursuant to section 5747.47 of the Revised Code for that month, minus its pro rata share of any amount that has been or shall be transferred from the Library and Local Government Support Fund to the OPLIN Technology Fund in that month. In August 2001, each county undivided library and local government support fund shall receive from the Library and Local Government Support Fund an amount equal to the amount it received from that fund in July 2000 and August 2000 minus the amount it received from that fund in July 2001 and minus its pro rata share of any amount transferred from that fund to the OPLIN Technology Fund in July 2001 or August 2001. In August 2001, each county undivided local government fund shall receive from the Local

Government Fund, each municipality that receives a distribution directly from the Local Government Fund shall receive from that fund, and each county undivided local government revenue assistance fund shall receive from the Local Government Revenue Assistance Fund an amount equal to the amount it received from that respective fund in July 2000 and August 2000 minus the amount it received from that respective fund in July 2001. In each month of the periods September 1, 2001, through June 30, 2002, and September 1, 2002, through June 30, 2003, each county undivided local government fund shall receive from the Local Government Fund, each municipality that receives a distribution directly from the Local Government Fund shall receive from that fund, each county undivided local government revenue assistance fund shall receive from the Local Government Revenue Assistance Fund, and each county undivided library and local government support fund shall receive from the Library and Local Government Support Fund, the same amount it received from that respective fund in the corresponding month of the period September 1, 2000, through June 2001, except there shall be a reduction in the amount received during the month following any reduction made pursuant to division (D) of this section. In each month of the period July 1, 2002, through August 31, 2002, and in the month of July 2003, each county undivided local government fund shall receive from the Local Government Fund, each municipality that receives a distribution directly from the Local Government Fund shall receive from that fund, each county undivided local government revenue assistance fund shall receive from the Local Government Revenue Assistance Fund, and each county undivided library and local government support fund shall receive from the Library and Local Government Support Fund, the same amount it received from that respective fund in the corresponding month of the period July 1, 2000, through August 31, 2000, except there shall be a reduction in the amount received during the month following any reduction made pursuant to division (D) of this section. If during any month of the period September 1, 2001, through July 31, 2003, a transfer is made from the Library and Local Government Support Fund to the OPLIN Technology Fund, the amount distributed to each county undivided library and local government support fund shall be reduced by its pro rata share of the amount transferred.

When a reduction is made pursuant to divisions (D)(1), (2), (3), or (4) of this section, respectively, the amount received by each county undivided local government fund and each municipality directly from the Local Government Fund, by each county undivided local government revenue assistance fund from the Local Government Revenue Assistance Fund, and

by each library and local government support fund from the Library and Local Government Support Fund, shall be reduced in March 2002, July 2002, March 2003, or July 2003, respectively, based on such county's or municipality's proportionate share of the total amounts to be received from that fund in that month.

When a reduction is made pursuant to division (E) of this section, the amount received by each county undivided local government fund and each municipal corporation directly from the Local Government Fund, by each county undivided local government revenue assistance fund from the Local Government Revenue Assistance Fund, and by each library and local government support fund from the Library and Local Government Support Fund shall be reduced in April 2003, May 2003, June 2003, and July 2003, respectively, based on such county's or municipal corporation's proportionate share of the total amounts to be received from that fund in that month.

During the period July 1, 2001, through July 31, 2003, the Director of Budget and Management shall issue those directives to state agencies that are necessary to ensure that the appropriate amounts are distributed to the Local Government Fund, to the Local Government Revenue Assistance Fund, and to the Library and Local Government Support Fund to accomplish the purposes of this section.

SECTION 11. That existing Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 and Am. Sub. H.B. 390 of the 124th General Assembly, is hereby repealed.

**SECTION 12. CHEMICAL DEPENDENCY PROFESSIONALS BOARD
CASH TRANSFER**

Notwithstanding any other law to the contrary, upon certification by the Director of Administrative Services, the Director of Budget and Management may transfer cash in an amount not to exceed the fiscal year 2003 appropriation from Fund 5P1 (Credentialing Fund) to Fund 4K9 (Occupational Licensing). The amount transferred is hereby appropriated. The cash shall be used to pay expenses related to establishing the Chemical Dependency Professionals Board, including, but not limited to, travel reimbursement of board members.

SECTION 13. EDUCATION FORMULA CUTS PROHIBITED

Notwithstanding any other provisions of law to the contrary, the Governor shall not reduce fiscal year 2003 GRF appropriations for the following appropriation items of the Department of Education budget: 200-500, School Finance Equity; 200-501, Base Cost Funding; 200-502, Pupil Transportation; 200-511, Auxiliary Services; 200-520, Disadvantaged Pupil Impact Aid; 200-521, Gifted Pupil Program; 200-525, Parity Aid; 200-532, Nonpublic Administrative Cost Reimbursement; and 200-546, Charge-off Supplement.

SECTION 14. LAPSED FUNDS

All state dollars lapsed from the fiscal year 2003 appropriation to appropriation item 600-610, Food Stamps and State Administration (Fund 384), in the Department of Job and Family Services shall be transferred by the Director of Budget and Management to the General Revenue Fund.

SECTION 15. It is the General Assembly's intent that, acknowledging the amendment by this act of Chapter 5104. of the Revised Code, the Department of Job and Family Services take appropriate steps to provide publicly funded child day-care services to as many children as possible consistent with the goals of the program and the constraints of the state's fiscal situation.

SECTION 16. Notwithstanding the discount provided to vendors under section 5739.12 of the Revised Code, if a return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, and the return is filed and tax is paid on or after May 1, 2003, but before July 1, 2003, the vendor shall be entitled to a discount of one and one-tenth per cent of the amount shown to be due on the return.

SECTION 17. Except as otherwise specifically provided in this act, the codified and uncodified sections of law amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the sections of law amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, except as otherwise specifically provided in this act, go into immediate effect when this act becomes law.

SECTION 18. The repeal by this act of section 3302.041 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the repeal goes into immediate effect when this act becomes law.

SECTION 19. Sections 5101.31, 5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 5104.38, 5104.382, and 5104.39 of the Revised Code as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, such sections as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such section as amended or enacted by this act, or against any item of law of which any such section as amended or enacted by this act is composed, the section as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 20. Section 5739.21 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Am. Sub. S.B. 188 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____