

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 40

**Representative Calvert
(By Request)**

A B I L L

To amend sections 4301.12, 4301.42, 4301.43, 4305.01, 1
5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 2
5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 3
5739.032, 5739.12, 5739.122, 5739.21, 5741.03, 4
5741.12, 5741.121, 5743.02, and 5743.32 and to 5
enact sections 5101.31 and 5104.382 of the Revised 6
Code to make program and budgetary modifications, 7
to increase the rate of tax on cigarettes and 8
alcoholic beverages, to make other tax 9
modifications, to amend the versions of sections 10
5739.031, 5739.12, and 5741.12 of the Revised Code 11
that are scheduled to take effect July 1, 2003, to 12
continue the provisions of this act on and after 13
that effective date, to amend Section 140 of Am. 14
Sub. H.B. 94 of the 124th General Assembly, as 15
subsequently amended, to amend Section 142 of Am. 16
Sub. H.B. 94 of the 124th General Assembly, and to 17
make an appropriation. 18

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

Section 1. That sections 4301.12, 4301.42, 4301.43, 4305.01, 19
5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 5104.38, 20

5104.39, 5139.41, 5739.031, 5739.032, 5739.12, 5739.122, 5739.21, 21
5741.03, 5741.12, 5741.121, 5743.02, and 5743.32 be amended and 22
sections 5101.31 and 5104.382 of the Revised Code be enacted to 23
read as follows: 24

Sec. 4301.12. The division of liquor control shall provide 25
for the custody, safekeeping, and deposit of all moneys, checks, 26
and drafts received by it or any of its employees or agents prior 27
to paying them to the treasurer of state as provided by section 28
113.08 of the Revised Code. 29

A sum equal to ~~three~~ six dollars and ~~thirty-eight~~ seventy-six 30
cents for each gallon of spirituous liquor sold by the division 31
during the period covered by the payment shall be paid into the 32
state treasury to the credit of the general revenue fund. All 33
moneys received from permit fees shall be paid to the credit of 34
the undivided liquor permit fund established by section 4301.30 of 35
the Revised Code. 36

Except as otherwise provided by law, all moneys collected 37
under Chapters 4301. and 4303. of the Revised Code shall be paid 38
by the division into the state treasury to the credit of the 39
liquor control fund, which is hereby created. Amounts in the 40
liquor control fund may be used to pay the operating expenses of 41
the liquor control commission. 42

Whenever, in the judgment of the director of budget and 43
management, the amount in the liquor control fund is in excess of 44
that needed to meet the maturing obligations of the division, as 45
working capital for its further operations, to pay the operating 46
expenses of the commission, and for the alcohol testing program 47
under section 3701.143 of the Revised Code, the director shall 48
transfer the excess to the credit of the general revenue fund. 49

Sec. 4301.42. For the purpose of providing revenue for the 50

support of the state, a tax is hereby levied on the sale of beer 51
in sealed bottles and cans having twelve ounces or less of liquid 52
content, at the rate of ~~fourteen~~ twenty-eight one-hundredths of 53
one cent on each ounce of liquid content or fractional part of 54
each ounce of liquid content, and on such containers in excess of 55
twelve ounces, at the rate of ~~eighty-four~~ one cent and sixty-eight 56
one-hundredths of one cent on each six ounces of liquid content or 57
fractional part of each six ounces of liquid content. Sections 58
4307.01 to 4307.12 of the Revised Code apply in the administration 59
of that tax. Manufacturers, bottlers, and canners of and wholesale 60
dealers in beer have the duty to pay the tax imposed by this 61
section and are entitled to the privileges in the manner provided 62
in section 4303.33 of the Revised Code. 63

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 64
the Revised Code: 65

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 66
fluid ounces. 67

(2) "Sale" or "sell" includes exchange, barter, gift, 68
distribution, and, except with respect to A-4 permit holders, 69
offer for sale. 70

(B) For the purposes of providing revenues for the support of 71
the state and encouraging the grape industries in the state, a tax 72
is hereby levied on the sale or distribution of wine in Ohio, 73
except for known sacramental purposes, at the rate of ~~thirty~~ sixty 74
cents per wine gallon for wine containing not less than four per 75
cent of alcohol by volume and not more than fourteen per cent of 76
alcohol by volume, ~~ninety-eight~~ one dollar and ninety-six cents 77
per wine gallon for wine containing more than fourteen per cent 78
but not more than twenty-one per cent of alcohol by volume, ~~one~~ 79
~~dollar~~ two dollars and ~~eight~~ sixteen cents per wine gallon for 80

vermouth, and ~~one dollar~~ two dollars and ~~forty eight~~ ninety-six 81
cents per wine gallon for sparkling and carbonated wine and 82
champagne, the tax to be paid by the holders of A-2 and B-5 83
permits or by any other person selling or distributing wine upon 84
which no tax has been paid. From the tax paid under this section 85
on wine, vermouth, and sparkling and carbonated wine and 86
champagne, the treasurer of state shall credit to the Ohio grape 87
industries fund created under section 924.54 of the Revised Code a 88
sum equal to one cent per gallon for each gallon upon which the 89
tax is paid. 90

(C) For the purpose of providing revenues for the support of 91
the state, there is hereby levied a tax on prepared and bottled 92
highballs, cocktails, cordials, and other mixed beverages at the 93
rate of ~~one dollar~~ two dollars and ~~twenty~~ forty cents per wine 94
gallon to be paid by holders of A-4 permits or by any other person 95
selling or distributing those products upon which no tax has been 96
paid. Only one sale of the same article shall be used in computing 97
the amount of tax due. The tax on mixed beverages to be paid by 98
holders of A-4 permits under this section shall not attach until 99
the ownership of the mixed beverage is transferred for valuable 100
consideration to a wholesaler or retailer, and no payment of the 101
tax shall be required prior to that time. 102

(D) During the period of July 1, 2001, through June 30, 2003, 103
from the tax paid under this section on wine, vermouth, and 104
sparkling and carbonated wine and champagne, the treasurer of 105
state shall credit to the Ohio grape industries fund created under 106
section 924.54 of the Revised Code a sum equal to two cents per 107
gallon upon which the tax is paid. The amount credited under this 108
division is in addition to the amount credited to the Ohio grape 109
industries fund under division (B) of this section. 110

(E) For the purpose of providing revenues for the support of 111
the state, there is hereby levied a tax on cider at the rate of 112

~~twenty-four~~ forty-eight cents per wine gallon to be paid by the 113
holders of A-2 and B-5 permits or by any other person selling or 114
distributing cider upon which no tax has been paid. Only one sale 115
of the same article shall be used in computing the amount of the 116
tax due. 117

Sec. 4305.01. For the purpose of reimbursing the state for 118
the expenses of administering Chapters 4301. and 4303. of the 119
Revised Code and to provide revenues for the support of the state, 120
a tax is hereby levied on the sale or distribution in this state 121
of beer, whether in barrels or other containers, excepting in 122
sealed bottles or cans, at the rate of ~~five~~ eleven dollars and 123
~~fifty-eight~~ sixteen cents per barrel of thirty-one gallons. 124

The tax commissioner shall exercise, with respect to the 125
administration of the tax imposed by this section, all the powers 126
and duties vested in or imposed by sections 4307.04 to 4307.07 of 127
the Revised Code, so far as consistent with this section. 128
Manufacturers and consignees of beer in barrels or other 129
containers, excepting in sealed bottles or cans, and railroad 130
companies, express companies, and other public carriers 131
transporting shipments of such beer are subject, with respect to 132
such tax, to the same duties and entitled to the same privileges 133
as are required or permitted by those sections. 134

The revenue derived from the tax on the sale and distribution 135
of beer pursuant to this section and section 4301.42 of the 136
Revised Code shall be for the use of the general revenue fund. 137

The tax refund fund created by section 5703.052 of the 138
Revised Code may be drawn upon by the tax commissioner for any 139
refunds authorized to be made by the commissioner in sections 140
4303.33, 4307.05, and 4307.07 of the Revised Code for beer. 141

Sec. 5101.31. Any record, data, pricing information, or other 142
information regarding a drug rebate agreement or a supplemental 143
drug rebate agreement for the medicaid program established under 144
Chapter 5111. of the Revised Code or the disability medical 145
assistance program established under section 5115.10 of the 146
Revised Code that the department of job and family services 147
receives from a pharmaceutical manager or creates pursuant to 148
negotiation of the agreement is not a public record under section 149
149.43 of the Revised Code and shall be treated by the department 150
as confidential information. 151

Sec. 5104.01. As used in this chapter: 152

(A) "Administrator" means the person responsible for the 153
daily operation of a center or type A home. The administrator and 154
the owner may be the same person. 155

(B) "Approved child day camp" means a child day camp approved 156
pursuant to section 5104.22 of the Revised Code. 157

(C) "Authorized provider" means a person authorized by a 158
county director of job and family services to operate a certified 159
type B family day-care home. 160

(D) "Border state child day-care provider" means a child 161
day-care provider that is located in a state bordering Ohio and 162
that is licensed, certified, or otherwise approved by that state 163
to provide child day-care. 164

(E) "Caretaker parent" means the father or mother of a child 165
whose presence in the home is needed as the caretaker of the 166
child, a person who has legal custody of a child and whose 167
presence in the home is needed as the caretaker of the child, a 168
guardian of a child whose presence in the home is needed as the 169
caretaker of the child, and any other person who stands in loco 170
parentis with respect to the child and whose presence in the home 171

is needed as the caretaker of the child.	172
(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.	173 174 175 176 177 178
(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.	179 180 181 182
(H) "Child" includes an infant, toddler, preschool child, or school child.	183 184
(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.	185 186 187 188
(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 conditions 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.	189 190 191 192 193 194 195 196 197 198 199 200 201 202

(K) "Child day-care" means administering to the needs of 203
infants, toddlers, preschool children, and school children outside 204
of school hours by persons other than their parents or guardians, 205
custodians, or relatives by blood, marriage, or adoption for any 206
part of the twenty-four-hour day in a place or residence other 207
than a child's own home. 208

(L) "Child day-care center" and "center" mean any place in 209
which child day-care or publicly funded child day-care is provided 210
for thirteen or more children at one time or any place that is not 211
the permanent residence of the licensee or administrator in which 212
child day-care or publicly funded child day-care is provided for 213
seven to twelve children at one time. In counting children for the 214
purposes of this division, any children under six years of age who 215
are related to a licensee, administrator, or employee and who are 216
on the premises of the center shall be counted. "Child day-care 217
center" and "center" do not include any of the following: 218

(1) A place located in and operated by a hospital, as defined 219
in section 3727.01 of the Revised Code, in which the needs of 220
children are administered to, if all the children whose needs are 221
being administered to are monitored under the on-site supervision 222
of a physician licensed under Chapter 4731. of the Revised Code or 223
a registered nurse licensed under Chapter 4723. of the Revised 224
Code, and the services are provided only for children who, in the 225
opinion of the child's parent, guardian, or custodian, are 226
exhibiting symptoms of a communicable disease or other illness or 227
are injured; 228

(2) A child day camp; 229

(3) A place that provides child day-care, but not publicly 230
funded child day-care, if all of the following apply: 231

(a) An organized religious body provides the child day-care; 232

(b) A parent, custodian, or guardian of at least one child 233

receiving child day-care is on the premises and readily accessible	234
at all times;	235
(c) The child day-care is not provided for more than thirty	236
days a year;	237
(d) The child day-care is provided only for preschool and	238
school children.	239
(M) "Child day-care resource and referral service	240
organization" means a community-based nonprofit organization that	241
provides child day-care resource and referral services but not	242
child day-care.	243
(N) "Child day-care resource and referral services" means all	244
of the following services:	245
(1) Maintenance of a uniform data base of all child day-care	246
providers in the community that are in compliance with this	247
chapter, including current occupancy and vacancy data;	248
(2) Provision of individualized consumer education to	249
families seeking child day-care;	250
(3) Provision of timely referrals of available child day-care	251
providers to families seeking child day-care;	252
(4) Recruitment of child day-care providers;	253
(5) Assistance in the development, conduct, and dissemination	254
of training for child day-care providers and provision of	255
technical assistance to current and potential child day-care	256
providers, employers, and the community;	257
(6) Collection and analysis of data on the supply of and	258
demand for child day-care in the community;	259
(7) Technical assistance concerning locally, state, and	260
federally funded child day-care and early childhood education	261
programs;	262

(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;	263 264 265
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	266 267
(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;	268 269 270 271 272
(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.	273 274 275 276
(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.	277 278 279 280 281
(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.	282 283 284 285 286
(Q) "Employee" means a person who either:	287
(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;	288 289
(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.	290 291
(R) "Employer" means a person, firm, institution,	292

organization, or agency that operates a child day-care center or 293
type A family day-care home subject to licensure under this 294
chapter. 295

(S) "Federal poverty line" means the official poverty 296
guideline as revised annually in accordance with section 673(2) of 297
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 298
U.S.C. 9902, as amended, for a family size equal to the size of 299
the family of the person whose income is being determined. 300

(T) "Head start program" means a comprehensive child 301
development program that receives funds distributed under the 302
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 303
amended, or under section 3301.31 of the Revised Code. 304

(U) "Income" means gross income, as defined in section 305
5107.10 of the Revised Code, less any amounts required by federal 306
statutes or regulations to be disregarded. 307

(V) "Indicator checklist" means an inspection tool, used in 308
conjunction with an instrument-based program monitoring 309
information system, that contains selected licensing requirements 310
that are statistically reliable indicators or predictors of a 311
child day-care center or type A family day-care home's compliance 312
with licensing requirements. 313

(W) "Infant" means a child who is less than eighteen months 314
of age. 315

(X) "In-home aide" means a person certified by a county 316
director of job and family services pursuant to section 5104.12 of 317
the Revised Code to provide publicly funded child day-care to a 318
child in a child's own home pursuant to this chapter and any rules 319
adopted under it. 320

(Y) "Instrument-based program monitoring information system" 321
means a method to assess compliance with licensing requirements 322
for child day-care centers and type A family day-care homes in 323

which each licensing requirement is assigned a weight indicative 324
of the relative importance of the requirement to the health, 325
growth, and safety of the children that is used to develop an 326
indicator checklist. 327

(Z) "License capacity" means the maximum number in each age 328
category of children who may be cared for in a child day-care 329
center or type A family day-care home at one time as determined by 330
the director of job and family services considering building 331
occupancy limits established by the department of commerce, number 332
of available child-care staff members, amount of available indoor 333
floor space and outdoor play space, and amount of available play 334
equipment, materials, and supplies. 335

(AA) "Licensed preschool program" or "licensed school child 336
program" means a preschool program or school child program, as 337
defined in section 3301.52 of the Revised Code, that is licensed 338
by the department of education pursuant to sections 3301.52 to 339
3301.59 of the Revised Code. 340

(BB) "Licensee" means the owner of a child day-care center or 341
type A family day-care home that is licensed pursuant to this 342
chapter and who is responsible for ensuring its compliance with 343
this chapter and rules adopted pursuant to this chapter. 344

(CC) "Operate a child day camp" means to operate, establish, 345
manage, conduct, or maintain a child day camp. 346

(DD) "Owner" includes a person, as defined in section 1.59 of 347
the Revised Code, or government entity. 348

(EE) "Parent cooperative child day-care center," "parent 349
cooperative center," "parent cooperative type A family day-care 350
home," and "parent cooperative type A home" mean a corporation or 351
association organized for providing educational services to the 352
children of members of the corporation or association, without 353
gain to the corporation or association as an entity, in which the 354

services of the corporation or association are provided only to 355
children of the members of the corporation or association, 356
ownership and control of the corporation or association rests 357
solely with the members of the corporation or association, and at 358
least one parent-member of the corporation or association is on 359
the premises of the center or type A home during its hours of 360
operation. 361

(FF) "Part-time child day-care center," "part-time center," 362
"part-time type A family day-care home," and "part-time type A 363
home" mean a center or type A home that provides child day-care or 364
publicly funded child day-care for no more than four hours a day 365
for any child. 366

(GG) "Place of worship" means a building where activities of 367
an organized religious group are conducted and includes the 368
grounds and any other buildings on the grounds used for such 369
activities. 370

(HH) "Preschool child" means a child who is three years old 371
or older but is not a school child. 372

(II) "Protective day-care" means publicly funded child 373
day-care for the direct care and protection of a child to whom 374
either of the following applies: 375

(1) A case plan prepared and maintained for the child 376
pursuant to section 2151.412 of the Revised Code indicates a need 377
for protective day-care and the child resides with a parent, 378
stepparent, guardian, or another person who stands in loco 379
parentis as defined in rules adopted under section 5104.38 of the 380
Revised Code; 381

(2) The child and the child's caretaker either temporarily 382
reside in a facility providing emergency shelter for homeless 383
families or are determined by the county department of job and 384
family services to be homeless, and are otherwise ineligible for 385

publicly funded child day-care. 386

(JJ) "Publicly funded child day-care" means administering to 387
the needs of infants, toddlers, preschool children, and school 388
children under age thirteen during any part of the 389
twenty-four-hour day by persons other than their caretaker parents 390
for remuneration wholly or in part with federal or state funds, 391
including child care block grant act funds, distributed by the 392
department of job and family services. 393

(KK) "Religious activities" means any of the following: 394
worship or other religious services; religious instruction; Sunday 395
school classes or other religious classes conducted during or 396
prior to worship or other religious services; youth or adult 397
fellowship activities; choir or other musical group practices or 398
programs; meals; festivals; or meetings conducted by an organized 399
religious group. 400

(LL) "School child" means a child who is enrolled in or is 401
eligible to be enrolled in a grade of kindergarten or above but is 402
less than fifteen years old. 403

(MM) "School child day-care center," "school child center," 404
"school child type A family day-care home," and "school child type 405
A family home" mean a center or type A home that provides child 406
day-care for school children only and that does either or both of 407
the following: 408

(1) Operates only during that part of the day that 409
immediately precedes or follows the public school day of the 410
school district in which the center or type A home is located; 411

(2) Operates only when the public schools in the school 412
district in which the center or type A home is located are not 413
open for instruction with pupils in attendance. 414

(NN) ~~"Special needs day care" means publicly funded child 415
day care that is provided for a child who is physically or 416~~

~~developmentally handicapped, mentally retarded, or mentally ill.~~ 417

~~(OO)~~ "State median income" means the state median income 418
calculated by the department of development pursuant to division 419
(A)(1)(g) of section 5709.61 of the Revised Code. 420

~~(PP)~~(OO) "Toddler" means a child who is at least eighteen 421
months of age but less than three years of age. 422

~~(OO)~~(PP) "Type A family day-care home" and "type A home" mean 423
a permanent residence of the administrator in which child day-care 424
or publicly funded child day-care is provided for seven to twelve 425
children at one time or a permanent residence of the administrator 426
in which child day-care is provided for four to twelve children at 427
one time if four or more children at one time are under two years 428
of age. In counting children for the purposes of this division, 429
any children under six years of age who are related to a licensee, 430
administrator, or employee and who are on the premises of the type 431
A home shall be counted. "Type A family day-care home" does not 432
include a residence in which the needs of children are 433
administered to, if all of the children whose needs are being 434
administered to are siblings of the same immediate family and the 435
residence is the home of the siblings. "Type A family day-care 436
home" and "type A home" do not include any child day camp. 437

~~(RR)~~(OO) "Type B family day-care home" and "type B home" mean 438
a permanent residence of the provider in which child day-care is 439
provided for one to six children at one time and in which no more 440
than three children are under two years of age at one time. In 441
counting children for the purposes of this division, any children 442
under six years of age who are related to the provider and who are 443
on the premises of the type B home shall be counted. "Type B 444
family day-care home" does not include a residence in which the 445
needs of children are administered to, if all of the children 446
whose needs are being administered to are siblings of the same 447
immediate family and the residence is the home of the siblings. 448

"Type B family day-care home" and "type B home" do not include any 449
child day camp. 450

Sec. 5104.04. (A) The department of job and family services 451
shall establish procedures to be followed in investigating, 452
inspecting, and licensing child day-care centers and type A family 453
day-care homes. 454

(B)(1) The department shall, at least twice during every 455
twelve-month period of operation of a center or type A home, 456
inspect the center or type A home. The department shall inspect a 457
part-time center or part-time type A home at least once during 458
every twelve-month period of operation. The department shall 459
provide a written inspection report to the licensee within a 460
reasonable time after each inspection. The licensee shall display 461
all written reports of inspections conducted during the current 462
licensing period in a conspicuous place in the center or type A 463
home. 464

At least one inspection shall be unannounced and all 465
inspections may be unannounced. No person, firm, organization, 466
institution, or agency shall interfere with the inspection of a 467
center or type A home by any state or local official engaged in 468
performing duties required of the state or local official by 469
Chapter 5104. of the Revised Code or rules adopted pursuant to 470
Chapter 5104. of the Revised Code, including inspecting the center 471
or type A home, reviewing records, or interviewing licensees, 472
employees, children, or parents. 473

Upon receipt of any complaint that a center or type A home is 474
out of compliance with the requirements of Chapter 5104. of the 475
Revised Code or rules adopted pursuant to Chapter 5104. of the 476
Revised Code, the department shall investigate and may inspect a 477
center or type A home. 478

(2) If the department implements an instrument-based program 479

monitoring information system, it may use an indicator checklist 480
to comply with division (B)(1) of this section. 481

(3) The department shall, at least once during every 482
twelve-month period of operation of a center or type A home, 483
collect information concerning the amounts charged by the center 484
or home for providing child day-care services for use in 485
establishing ~~rates of~~ reimbursement ceilings pursuant to section 486
5104.30 of the Revised Code. 487

(C) In the event a licensed center or type A home is 488
determined to be out of compliance with the requirements of 489
Chapter 5104. of the Revised Code or rules adopted pursuant to 490
Chapter 5104. of the Revised Code, the department shall notify the 491
licensee of the center or type A home in writing regarding the 492
nature of the violation, what must be done to correct the 493
violation, and by what date the correction must be made. If the 494
correction is not made by the date established by the department, 495
the department may commence action under Chapter 119. of the 496
Revised Code to revoke the license. 497

(D) The department may deny or revoke a license, or refuse to 498
renew a license of a center or type A home, if the applicant 499
knowingly makes a false statement on the application, does not 500
comply with the requirements of Chapter 5104. or rules adopted 501
pursuant to Chapter 5104. of the Revised Code, or has pleaded 502
guilty to or been convicted of an offense described in section 503
5104.09 of the Revised Code. 504

(E) If the department finds, after notice and hearing 505
pursuant to Chapter 119. of the Revised Code, that any person, 506
firm, organization, institution, or agency licensed under section 507
5104.03 of the Revised Code is in violation of any provision of 508
Chapter 5104. of the Revised Code or rules adopted pursuant to 509
Chapter 5104. of the Revised Code, the department may issue an 510
order of revocation to the center or type A home revoking the 511

ense previously issued by the department. Upon the issuance of any 512
order of revocation, the person whose license is revoked may 513
appeal in accordance with section 119.12 of the Revised Code. 514

(F) The surrender of a center or type A home license to the 515
department or the withdrawal of an application for licensure by 516
the owner or administrator of the center or type A home shall not 517
prohibit the department from instituting any of the actions set 518
forth in this section. 519

(G) Whenever the department receives a complaint, is advised, 520
or otherwise has any reason to believe that a center or type A 521
home is providing child day-care without a license issued or 522
renewed pursuant to section 5104.03 and is not exempt from 523
licensing pursuant to section 5104.02 of the Revised Code, the 524
department shall investigate the center or type A home and may 525
inspect the areas children have access to or areas necessary for 526
the care of children in the center or type A home during suspected 527
hours of operation to determine whether the center or type A home 528
is subject to the requirements of Chapter 5104. or rules adopted 529
pursuant to Chapter 5104. of the Revised Code. 530

(H) The department, upon determining that the center or type 531
A home is operating without a license, shall notify the attorney 532
general, the prosecuting attorney of the county in which the 533
center or type A home is located, or the city attorney, village 534
solicitor, or other chief legal officer of the municipal 535
corporation in which the center or type A home is located, that 536
the center or type A home is operating without a license. Upon 537
receipt of the notification, the attorney general, prosecuting 538
attorney, city attorney, village solicitor, or other chief legal 539
officer of a municipal corporation shall file a complaint in the 540
court of common pleas of the county in which the center or type A 541
home is located requesting that the court grant an order enjoining 542
the owner from operating the center or type A home. The court 543

shall grant such injunctive relief upon a showing that the 544
respondent named in the complaint is operating a center or type A 545
home and is doing so without a license. 546

(I) The department shall prepare an annual report on 547
inspections conducted under this section. The report shall include 548
the number of inspections conducted, the number and types of 549
violations found, and the steps taken to address the violations. 550
The department shall file the report with the governor, the 551
president and minority leader of the senate, and the speaker and 552
minority leader of the house of representatives on or before the 553
first day of January of each year, beginning in 1999. 554

Sec. 5104.30. (A) The department of job and family services 555
is hereby designated as the state agency responsible for 556
administration and coordination of federal and state funding for 557
publicly funded child day-care in this state. Publicly funded 558
child day-care shall be provided to the following: 559

(1) Recipients of transitional child day-care as provided 560
under section 5104.34 of the Revised Code; 561

(2) Participants in the Ohio works first program established 562
under Chapter 5107. of the Revised Code; 563

(3) Individuals who would be participating in the Ohio works 564
first program if not for a sanction under section 5107.16 of the 565
Revised Code and who continue to participate in a work activity, 566
developmental activity, or alternative work activity pursuant to 567
an assignment under section 5107.42 of the Revised Code; 568

(4) A family receiving publicly funded child day-care on 569
October 1, 1997, until the family's income reaches one hundred 570
fifty per cent of the federal poverty line; 571

(5) Subject to available funds, other individuals determined 572
eligible in accordance with rules adopted under section 5104.38 of 573

the Revised Code. 574

The department shall apply to the United States department of 575
health and human services for authority to operate a coordinated 576
program for publicly funded child day-care, if the director of job 577
and family services determines that the application is necessary. 578
For purposes of this section, the department of job and family 579
services may enter into agreements with other state agencies that 580
are involved in regulation or funding of child day-care. The 581
department shall consider the special needs of migrant workers 582
when it administers and coordinates publicly funded child day-care 583
and shall develop appropriate procedures for accommodating the 584
needs of migrant workers for publicly funded child day-care. 585

(B) The department of job and family services shall 586
distribute state and federal funds for publicly funded child 587
day-care, including appropriations of state funds for publicly 588
funded child day-care and appropriations of federal funds for 589
publicly funded child day-care under Title XX of the "Social 590
Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended, 591
and the child care block grant act. The department may use any 592
state funds appropriated for publicly funded child day-care as the 593
state share required to match any federal funds appropriated for 594
publicly funded child day-care. 595

(C) The department may use federal funds available under the 596
child care block grant act to hire staff to prepare any rules 597
required under this chapter and to administer and coordinate 598
federal and state funding for publicly funded child day-care. 599

Not more than five per cent of the aggregate amount of those 600
federal funds received for a fiscal year may be expended for 601
administrative costs. The department shall allocate and use at 602
least four per cent of the federal funds for the following: 603

(1) Activities designed to provide comprehensive consumer 604

education to parents and the public; 605

(2) Activities that increase parental choice; 606

(3) Activities, including child day-care resource and 607
referral services, designed to improve the quality, and increase 608
the supply, of child day-care. 609

(D) The department shall ensure that any federal funds 610
received by the state under the child care block grant act will be 611
used only to supplement, and will not be used to supplant, 612
federal, state, and local funds available on the effective date of 613
that act for publicly funded child day-care and related programs. 614
A county department of job and family services may purchase child 615
day-care from funds obtained through any other means. 616

(E) The department shall encourage the development of 617
suitable child day-care throughout the state, especially in areas 618
with high concentrations of recipients of public assistance and 619
families with low incomes. The department shall encourage the 620
development of suitable child day-care designed to accommodate the 621
special needs of migrant workers. On request, the department, 622
through its employees or contracts with state or community child 623
day-care resource and referral service organizations, shall 624
provide consultation to groups and individuals interested in 625
developing child day-care. The department of job and family 626
services may enter into interagency agreements with the department 627
of education, the board of regents, the department of development, 628
and other state agencies and entities whenever the cooperative 629
efforts of the other state agencies and entities are necessary for 630
the department of job and family services to fulfill its duties 631
and responsibilities under this chapter. 632

The department may develop and maintain a registry of persons 633
providing child day-care. The director may adopt rules pursuant to 634
Chapter 119. of the Revised Code establishing procedures and 635

requirements for the registry's administration. 636

(F)(1) The director shall adopt rules in accordance with 637
Chapter 119. of the Revised Code establishing ~~a procedure for~~ 638
~~determining rates of reimbursement and a~~ both of the following: 639

(a) Reimbursement ceilings for providers of publicly funded 640
child day-care; 641

(b) A procedure for paying providers of publicly funded child 642
day-care. In 643

(2) In establishing rates of reimbursement pursuant to this 644
ceilings under division (F)(1)(a) of this section, the director 645
shall use do all of the following: 646

(a) Use the information obtained under division (B)(3) of 647
section 5104.04 of the Revised Code ~~and may establish different~~ 648
~~rates of reimbursement based on the geographic location of the~~ 649
~~provider, type of care provided, age of the child served, special~~ 650
~~needs of the child, whether expanded hours of service are~~ 651
~~provided, whether weekend service is provided, whether the~~ 652
~~provider has exceeded the minimum requirements of state statutes~~ 653
~~and rules governing child day care, and any other factors the~~ 654
~~director considers appropriate. The director shall establish;~~ 655

(b) Establish an enhanced ~~rate of~~ reimbursement ceiling for 656
providers who provide child day-care for caretaker parents who 657
work nontraditional hours. ~~For;~~ 658

(c) For a type B family day-care home provider that has 659
received limited certification pursuant to rules adopted under 660
division (G)(1) of section 5104.011 of the Revised Code, ~~the~~ 661
~~department shall adopt rules establishing~~ establish a 662
reimbursement ~~rate~~ ceiling that is ~~the greater of the rate that~~ 663
~~was in effect for the home on October 1, 1997, or~~ the following: 664

(i) If the provider is a person described in division 665
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 666
per cent of the reimbursement ~~rate~~ ceiling that applies to a type 667
B family day-care home certified by the same county department of 668
job and family services pursuant to section 5104.11 of the Revised 669
Code; 670

(ii) If the provider is a person described in division 671
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 672
of the reimbursement ceiling that applies to a type B family 673
day-care home certified by the same county department pursuant to 674
section 5104.11 of the Revised Code. 675

(3) In establishing reimbursement ceilings under division 676
(F)(1)(a) of this section, the director may establish different 677
reimbursement ceilings based on any of the following: 678

(a) Geographic location of the provider; 679

(b) Type of care provided; 680

(c) Age of the child served; 681

(d) Special needs of the child served; 682

(e) Whether the expanded hours of service are provided; 683

(f) Whether weekend service is provided; 684

(g) Whether the provider has exceeded the minimum 685
requirements of state statutes and rules governing child day-care; 686

(h) Any other factors the director considers appropriate. 687

Sec. 5104.32. (A) Except as provided in division (C) of this 688
section, all purchases of publicly funded child day-care shall be 689
made under a contract entered into by a licensed child day-care 690
center, licensed type A family day-care home, certified type B 691
family day-care home, certified in-home aide, approved child day 692
camp, licensed preschool program, licensed school child program, 693

or border state child day-care provider and the county department 694
of job and family services. A county department of job and family 695
services may enter into a contract with a provider for publicly 696
funded child day-care for a specified period of time or upon a 697
continuous basis for an unspecified period of time. All contracts 698
for publicly funded child day-care shall be contingent upon the 699
availability of state and federal funds. The department of job and 700
family services shall prescribe a standard form to be used for all 701
contracts for the purchase of publicly funded child day-care, 702
regardless of the source of public funds used to purchase the 703
child day-care. To the extent permitted by federal law and 704
notwithstanding any other provision of the Revised Code that 705
regulates state or county contracts or contracts involving the 706
expenditure of state, county, or federal funds, all contracts for 707
publicly funded child day-care shall be entered into in accordance 708
with the provisions of this chapter and are exempt from any other 709
provision of the Revised Code that regulates state or county 710
contracts or contracts involving the expenditure of state, county, 711
or federal funds. 712

(B) Each contract for publicly funded child day-care shall 713
specify at least the following: 714

(1) ~~Except as provided in division (B)(2) of this section,~~ 715
~~that~~ That the provider of publicly funded child day-care agrees to 716
be paid for rendering services at the ~~lower~~ lowest of the rate 717
customarily charged by the provider for children enrolled for 718
child day-care ~~or~~, the ~~rate of~~ reimbursement ceiling established 719
pursuant to section 5104.30 of the Revised Code, or a rate the 720
county department negotiates with the provider; 721

(2) ~~If the provider provides publicly funded child day care~~ 722
~~to caretaker parents who work nontraditional hours, that the~~ 723
~~provider is to be paid for rendering services to those caretaker~~ 724

~~parents at the rate of reimbursement established pursuant to 725
section 5104.30 of the Revised Code regardless of whether that 726
rate is higher than the rate the provider customarily charges for 727
children enrolled for child day-care; 728~~

~~(3)~~ That, if a provider provides child day-care to an 729
individual potentially eligible for publicly funded child day-care 730
who is subsequently determined to be eligible, the county 731
department agrees to pay for all child day-care provided between 732
the date the county department receives the individual's completed 733
application and the date the individual's eligibility is 734
determined; 735

~~(4)~~(3) Whether the county department of job and family 736
services, the provider, or a child day-care resource and referral 737
service organization will make eligibility determinations, whether 738
the provider or a child day-care resource and referral service 739
organization will be required to collect information to be used by 740
the county department to make eligibility determinations, and the 741
time period within which the provider or child day-care resource 742
and referral service organization is required to complete required 743
eligibility determinations or to transmit to the county department 744
any information collected for the purpose of making eligibility 745
determinations; 746

~~(5)~~(4) That the provider, other than a border state child 747
day-care provider, shall continue to be licensed, approved, or 748
certified pursuant to this chapter or sections 3301.52 to 3301.59 749
of the Revised Code and shall comply with all standards and other 750
requirements in this chapter and those sections and in rules 751
adopted pursuant to this chapter or those sections for maintaining 752
the provider's license, approval, or certification; 753

~~(6)~~(5) That, in the case of a border state child day-care 754
provider, the provider shall continue to be licensed, certified, 755
or otherwise approved by the state in which the provider is 756

located and shall comply with all standards and other requirements 757
established by that state for maintaining the provider's license, 758
certificate, or other approval; 759

~~(7)~~(6) Whether the provider will be paid by the county 760
department of job and family services or the state department of 761
job and family services; 762

~~(8)~~(7) That the contract is subject to the availability of 763
state and federal funds. 764

(C) Unless specifically prohibited by federal law, the county 765
department of job and family services shall give individuals 766
eligible for publicly funded child day-care the option of 767
obtaining certificates for payment that the individual may use to 768
purchase services from any provider qualified to provide publicly 769
funded child day-care under section 5104.31 of the Revised Code. 770
Providers of publicly funded child day-care may present these 771
certificates for payment for reimbursement in accordance with 772
rules that the director of job and family services shall adopt. 773
Only providers may receive reimbursement for certificates for 774
payment. The value of the certificate for payment shall be based 775
on the ~~lower~~ lowest of the rate customarily charged by the 776
provider ~~or~~, the ~~rate of~~ reimbursement ceiling established 777
pursuant to section 5104.30 of the Revised Code, ~~unless the~~ 778
~~provider provides publicly funded child day care to caretaker~~ 779
~~parents who work nontraditional hours, in which case the value of~~ 780
~~the certificate for payment for the services to those caretaker~~ 781
~~parents shall be based on the rate of reimbursement established~~ 782
~~pursuant to that section regardless of whether that rate is higher~~ 783
~~than the rate customarily charged by or a rate the county~~ 784
department negotiates with the provider. The county department may 785
provide the certificates for payment to the individuals or may 786
contract with child day-care providers or child day-care resource 787
and referral service organizations that make determinations of 788

eligibility for publicly funded child day-care pursuant to 789
contracts entered into under section 5104.34 of the Revised Code 790
for the providers or resource and referral service organizations 791
to provide the certificates for payment to individuals whom they 792
determine are eligible for publicly funded child day-care. 793

For each six-month period a provider of publicly funded child 794
day-care provides publicly funded child day-care to the child of 795
an individual given certificates of payment, the individual shall 796
provide the provider certificates for days the provider would have 797
provided publicly funded child day-care to the child had the child 798
been present. County departments shall specify the maximum number 799
of days providers will be provided certificates of payment for 800
days the provider would have provided publicly funded child 801
day-care had the child been present. The maximum number of days 802
shall not exceed ten days in a six-month period during which 803
publicly funded child day-care is provided to the child regardless 804
of the number of providers that provide publicly funded child 805
day-care to the child during that period. 806

Sec. 5104.34. (A)(1) Each county department of job and family 807
services shall implement procedures for making determinations of 808
eligibility for publicly funded child day-care. Under those 809
procedures, the eligibility determination for each applicant shall 810
be made no later than thirty calendar days from the date the 811
county department receives a completed application for publicly 812
funded child day-care. Each applicant shall be notified promptly 813
of the results of the eligibility determination. An applicant 814
aggrieved by a decision or delay in making an eligibility 815
determination may appeal the decision or delay to the department 816
of job and family services in accordance with section 5101.35 of 817
the Revised Code. The due process rights of applicants shall be 818
protected. 819

To the extent permitted by federal law, the county department 820
may make all determinations of eligibility for publicly funded 821
child day-care, may contract with child day-care providers or 822
child day-care resource and referral service organizations for the 823
providers or resource and referral service organizations to make 824
all or any part of the determinations, and may contract with child 825
day-care providers or child day-care resource and referral service 826
organizations for the providers or resource and referral service 827
organizations to collect specified information for use by the 828
county department in making determinations. If a county department 829
contracts with a child day-care provider or a child day-care 830
resource and referral service organization for eligibility 831
determinations or for the collection of information, the contract 832
shall require the provider or resource and referral service 833
organization to make each eligibility determination no later than 834
thirty calendar days from the date the provider or resource and 835
referral organization receives a completed application that is the 836
basis of the determination and to collect and transmit all 837
necessary information to the county department within a period of 838
time that enables the county department to make each eligibility 839
determination no later than thirty days after the filing of the 840
application that is the basis of the determination. 841

The county department may station employees of the department 842
in various locations throughout the county to collect information 843
relevant to applications for publicly funded child day-care and to 844
make eligibility determinations. The county department, child 845
day-care provider, and child day-care resource and referral 846
service organization shall make each determination of eligibility 847
for publicly funded child day-care no later than thirty days after 848
the filing of the application that is the basis of the 849
determination, shall make each determination in accordance with 850
any relevant rules adopted pursuant to section 5104.38 of the 851

Revised Code, and shall notify promptly each applicant for 852
publicly funded child day-care of the results of the determination 853
of the applicant's eligibility. 854

The director of job and family services shall adopt rules in 855
accordance with Chapter 119. of the Revised Code for monitoring 856
the eligibility determination process. In accordance with those 857
rules, the state department shall monitor eligibility 858
determinations made by county departments of job and family 859
services and shall direct any entity that is not in compliance 860
with this division or any rule adopted under this division to 861
implement corrective action specified by the department. 862

(2) All eligibility determinations for publicly funded child 863
day-care shall be made in accordance with rules adopted pursuant 864
to division (A) of section 5104.38 of the Revised Code and, if a 865
county department of job and family services specifies, pursuant 866
to rules adopted under division (B) of that section, a maximum 867
amount of income a family may have to be eligible for publicly 868
funded child day-care, the income maximum specified by the county 869
department. Publicly funded child day-care may be provided only to 870
eligible infants, toddlers, preschool children, and school 871
children under age thirteen. For an applicant to be eligible for 872
publicly funded child day-care, the caretaker parent must be 873
employed or participating in a program of education or training 874
for an amount of time reasonably related to the time that the 875
parent's children are receiving publicly funded child day-care. 876
This restriction does not apply to families whose children are 877
eligible for protective ~~or special needs~~ day-care. 878

Subject to available funds, a county department of job and 879
family services shall allow a family to receive publicly funded 880
child day-care unless the family's income exceeds the maximum 881
income eligibility limit. Initial and continued eligibility for 882
publicly funded child day-care is subject to available funds 883

unless the family is receiving child day-care pursuant to division 884
(A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. 885
If the county department must limit eligibility due to lack of 886
available funds, it shall give first priority for publicly funded 887
child day-care to an assistance group whose income is not more 888
than the maximum income eligibility limit that received 889
transitional child day-care in the previous month but is no longer 890
eligible because the twelve-month period has expired. Such an 891
assistance group shall continue to receive priority for publicly 892
funded child day-care until its income exceeds the maximum income 893
eligibility limit. 894

(3) An assistance group that ceases to participate in the 895
Ohio works first program established under Chapter 5107. of the 896
Revised Code is eligible for transitional child day-care at any 897
time during the immediately following twelve-month period that 898
both of the following apply: 899

(a) The assistance group requires child day-care due to 900
employment; 901

(b) The assistance group's income is not more than one 902
hundred fifty per cent of the federal poverty line. 903

An assistance group ineligible to participate in the Ohio 904
works first program pursuant to section 5101.83 or section 5107.16 905
of the Revised Code is not eligible for transitional child 906
day-care. 907

(B) To the extent permitted by federal law, a county 908
department of job and family services may require a caretaker 909
parent determined to be eligible for publicly funded child 910
day-care to pay a fee according to the schedule of fees 911
established in rules adopted under section 5104.38 of the Revised 912
Code. Each county department shall make protective day-care 913
services available to children without regard to the income or 914

assets of the caretaker parent of the child. 915

(C) A caretaker parent receiving publicly funded child 916
day-care shall report to the entity that determined eligibility 917
any changes in status with respect to employment or participation 918
in a program of education or training not later than ten calendar 919
days after the change occurs. 920

(D) If a county department of job and family services 921
determines that available resources are not sufficient to provide 922
publicly funded child day-care to all eligible families who 923
request it, the county department may establish a waiting list. A 924
county department may establish separate waiting lists within the 925
waiting list based on income. When resources become available to 926
provide publicly funded child day-care to families on the waiting 927
list, a county department that establishes a waiting list shall 928
assess the needs of the next family scheduled to receive publicly 929
funded child day-care. If the assessment demonstrates that the 930
family continues to need and is eligible for publicly funded child 931
day-care, the county department shall offer it to the family. If 932
the county department determines that the family is no longer 933
eligible or no longer needs publicly funded child day-care, the 934
county department shall remove the family from the waiting list. 935

(E) As used in this section, "maximum income eligibility 936
limit" means the amount of income specified in rules adopted under 937
division (A) of section 5104.38 of the Revised Code or, if a 938
county department of job and family services specifies a higher 939
amount pursuant to rules adopted under division (B) of that 940
section, the amount the county department specifies. 941

Sec. 5104.35. (A) The county department of job and family 942
services shall do all of the following: 943

(1) Accept any gift, grant, or other funds from either public 944
or private sources offered unconditionally or under conditions 945

which are, in the judgment of the department, proper and 946
consistent with this chapter and deposit the funds in the county 947
public assistance fund established by section 5101.161 of the 948
Revised Code; 949

(2) Recruit individuals and groups interested in 950
certification as in-home aides or in developing and operating 951
suitable licensed child day-care centers, type A family day-care 952
homes, or certified type B family day-care homes, especially in 953
areas with high concentrations of recipients of public assistance, 954
and for that purpose provide consultation to interested 955
individuals and groups on request; 956

(3) Inform clients of the availability of child day-care 957
services; 958

(4) Pay to a child day-care center, type A family day-care 959
home, certified type B family day-care home, in-home aide, 960
approved child day camp, licensed preschool program, licensed 961
school child program, or border state child day-care provider for 962
child day-care services, the amount provided for in division (B) 963
of section 5104.32 of the Revised Code. If part of the cost of 964
care of a child is paid by the child's parent or any other person, 965
the amount paid shall be subtracted from the amount the county 966
department pays. 967

(5) In accordance with rules adopted pursuant to section 968
5104.39 of the Revised Code, provide monthly reports to the 969
director of job and family services and the director of budget and 970
management regarding expenditures for the purchase of publicly 971
funded child day-care. 972

(B) The county department of job and family services may do 973
any of the following: 974

(1) To the extent permitted by federal law, use public child 975
day-care funds to extend the hours of operation of the county 976

department to accommodate the needs of working caretaker parents 977
and enable those parents to apply for publicly funded child 978
day-care; 979

(2) In accordance with rules adopted by the director of job 980
and family services, request a waiver of the ~~maximum rate of~~ 981
~~assistance that is~~ reimbursement ceiling established pursuant to 982
section 5104.30 of the Revised Code for the purpose of paying a 983
higher rate for publicly funded child day-care based upon the 984
special needs of a child, ~~the special circumstances of a family,~~ 985
~~or unique child day-care market conditions;~~ 986

(3) To the extent permitted by federal law, use state and 987
federal funds to pay deposits and other advance payments that a 988
provider of child day-care customarily charges all children who 989
receive child day-care from that provider; 990

(4) To the extent permitted by federal law, pay for up to 991
thirty days of child day-care for a child whose caretaker parent 992
is seeking employment, taking part in employment orientation 993
activities, or taking part in activities in anticipation of 994
enrollment or attendance in an education or training program or 995
activity, if the employment or education or training program or 996
activity is expected to begin within the thirty-day period. 997

Sec. 5104.38. In addition to any other rules adopted under 998
this chapter, the director of job and family services shall adopt 999
rules in accordance with Chapter 119. of the Revised Code 1000
governing financial and administrative requirements for publicly 1001
funded child day-care and establishing all of the following: 1002

(A) Procedures and criteria to be used in making 1003
determinations of eligibility for publicly funded child day-care 1004
that give priority to children of families with lower incomes and 1005
procedures and criteria for eligibility for publicly funded 1006
protective day-care. The rules shall specify the maximum amount of 1007

income a family may have for initial and continued eligibility. 1008
~~Until July 1, 2000, the maximum amount shall not exceed one~~ 1009
~~hundred eighty five per cent of the federal poverty line.~~ 1010
~~Effective July 1, 2000, the~~ The maximum amount shall not exceed 1011
two hundred per cent of the federal poverty line. 1012

(B) Procedures under which a county department of job and 1013
family services may, if the department, under division (A) of this 1014
section, specifies a maximum amount of income a family may have 1015
for eligibility for publicly funded child day-care that is less 1016
than the maximum amount specified in that division, specify a 1017
maximum amount of income a family residing in the county the 1018
county department serves may have for initial and continued 1019
eligibility for publicly funded child day-care that is higher than 1020
the amount specified by the department but does not exceed the 1021
maximum amount specified in division (A) of this section; 1022

(C) A schedule of fees requiring all eligible caretaker 1023
parents to pay a fee for publicly funded child day-care according 1024
to income and family size, which shall be uniform for all types of 1025
publicly funded child day-care, except as authorized by rule, and, 1026
to the extent permitted by federal law, shall permit the use of 1027
state and federal funds to pay the customary deposits and other 1028
advance payments that a provider charges all children who receive 1029
child day-care from that provider. The schedule of fees may not 1030
provide for a caretaker parent to pay a fee that exceeds ten per 1031
cent of the parent's family income. 1032

(D) A formula based upon a percentage of the county's total 1033
expenditures for publicly funded child day-care for determining 1034
the maximum amount of state and federal funds appropriated for 1035
publicly funded child day-care that a county department may use 1036
for administrative purposes; 1037

(E) Procedures to be followed by the department and county 1038
departments in recruiting individuals and groups to become 1039

providers of child day-care;	1040
(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;	1041 1042 1043 1044 1045
(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child day-care;	1046 1047
(H) Procedures for establishing a child day-care grant or loan program in accordance with the child care block grant act;	1048 1049
(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;	1050 1051
(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;	1052 1053 1054
(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;	1055 1056 1057 1058 1059
(L) Any other rules necessary to carry out sections 5104.30 to 5104.39 of the Revised Code.	1060 1061
<u>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.</u>	1062 1063 1064 1065 1066
Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised	1067 1068

Code establishing a procedure for monitoring the expenditures of 1069
county departments of job and family services to ensure that 1070
expenditures do not exceed the available federal and state funds 1071
for publicly funded child day-care. The department, with the 1072
assistance of the office of budget and management and the day-care 1073
advisory council created pursuant to section 5104.08 of the 1074
Revised Code, shall monitor the anticipated future expenditures of 1075
county departments for publicly funded child day-care and shall 1076
compare those anticipated future expenditures to available federal 1077
and state funds for publicly funded child day-care. Whenever the 1078
department determines that the anticipated future expenditures of 1079
the county departments will exceed the available federal and state 1080
funds for publicly funded child day-care, it promptly shall notify 1081
the county departments and, before the available state and federal 1082
funds are used, the director shall issue and implement an 1083
administrative order that shall specify both of the following: 1084

(1) Priorities for expending the remaining available federal 1085
and state funds for publicly funded child day-care; 1086

(2) Instructions and procedures to be used by the county 1087
departments. 1088

(B) The order may ~~suspend~~ do any or all of the following: 1089

(1) Suspend enrollment of all new participants in any program 1090
of publicly funded child day-care ~~or may limit;~~ 1091

(2) Limit enrollment of new participants to those with 1092
incomes at or below a specified percentage ~~below of~~ the federal 1093
poverty line, ~~but it shall not limit enrollment by otherwise~~ 1094
~~narrowing eligibility standards established in statute for~~ 1095
~~publicly funded child day-care;~~ 1096

(3) Disenroll existing participants with income above a 1097
specified percentage of the federal poverty line. 1098

(C) Each county department shall comply with the order no 1099
later than thirty days after it is issued. If the department fails 1100
to notify the county departments and to implement the reallocation 1101
priorities specified in the order before the available federal and 1102
state funds for publicly funded child day-care are used, the state 1103
department shall provide sufficient funds to the county 1104
departments for publicly funded child day-care to enable each 1105
county department to pay for all publicly funded child day-care 1106
that was provided by providers pursuant to contract prior to the 1107
date that the county department received notice under this 1108
~~division~~ section and the state department implemented in that 1109
county the priorities. 1110

(D) If after issuing an order under this ~~division~~ section to 1111
suspend or limit enrollment of new participants or disenroll 1112
existing participants the department determines that available 1113
state and federal funds for publicly funded child day-care exceed 1114
the anticipated future expenditures of the county departments, the 1115
director may issue and implement another administrative order 1116
increasing income eligibility levels to a specified percentage of 1117
the federal poverty line. The order shall include instructions and 1118
procedures to be used by the county departments. Each county 1119
department shall comply with the order not later than thirty days 1120
after it is issued. 1121

~~(B)~~(E) The department of job and family services shall do all 1122
of the following: 1123

(1) Conduct a quarterly evaluation of the program of publicly 1124
funded child day-care that is operated pursuant to sections 1125
5104.30 to 5104.39 of the Revised Code; 1126

(2) Prepare reports based upon the evaluations that specify 1127
for each county the number of participants and amount of 1128
expenditures; 1129

(3) Provide copies of the reports to both houses of the 1130
general assembly and, on request, to interested parties. 1131

Sec. 5139.41. On and after January 1, 1995, the appropriation 1132
made to the department of youth services for care and custody of 1133
felony delinquents shall be expended in accordance with a formula 1134
that the department shall develop for each year of a biennium. The 1135
formula shall be consistent with sections 5139.41 to 5139.45 of 1136
the Revised Code and shall be developed in accordance with the 1137
following guidelines: 1138

(A) The department shall set aside at least three per cent 1139
but not more than five per cent of the appropriation for purposes 1140
of funding the contingency program described in section 5139.45 of 1141
the Revised Code and of use in accordance with that section. 1142

(B)(1) After setting aside the amount described in division 1143
(A) of this section, the department shall set aside twenty-five 1144
per cent of the remainder of the appropriation and use that amount 1145
for the purpose described in division (B)(2) of this section and 1146
to pay certain of the operational costs associated with, and to 1147
provide cash flow for, the following: 1148

(a) Institutions; 1149

(b) The diagnosis, care, or treatment of felony delinquents 1150
at institutions, facilities, or centers pursuant to contracts 1151
entered into under section 5139.08 of the Revised Code; 1152

(c) Community corrections facilities constructed, 1153
reconstructed, improved, or financed as described in section 1154
5139.36 of the Revised Code for the purpose of providing 1155
alternative placement and services for felony delinquents who have 1156
been diverted from care and custody in institutions. 1157

(2) The department may use a portion of the twenty-five per 1158
cent of the remainder of the appropriation set aside pursuant to 1159

division (B)(1) of this section for administrative expenses 1160
incurred by the department in connection with the felony 1161
delinquent care and custody program described in section 5139.43 1162
of the Revised Code and the associated contingency program 1163
described in section 5139.45 of the Revised Code. 1164

(C) After setting aside the amounts described in divisions 1165
(A) and (B)(1) of this section, the department shall set aside the 1166
amount of the appropriation that is equal to twenty-five per cent 1167
of the amount that is calculated by multiplying the per diem cost 1168
for the care and custody of felony delinquents, as determined 1169
pursuant to division (D) of section 5139.42 of the Revised Code, 1170
by the number of bed days that the department projects for 1171
occupancy in community corrections facilities described in 1172
division (B)(1)(c) of this section. The department shall use the 1173
amount of the appropriation that is set aside pursuant to this 1174
division to pay the percentage of the per diem cost for the care 1175
and custody of felony delinquents who are in the care and custody 1176
of community corrections facilities described in division 1177
(B)(1)(c) of this section for which the department is responsible 1178
under sections 5139.41 to 5139.45 of the Revised Code. 1179

(D) After setting aside the amounts described in divisions 1180
(A) to (C) of this section, the department shall set aside the 1181
amount of the appropriation that is necessary to pay seventy-five 1182
per cent of the per diem cost of public safety beds and shall use 1183
that amount for the purpose of paying that per diem cost. 1184

(E) After setting aside the amounts described in divisions 1185
(A) to (D) of this section, the department shall use the remainder 1186
of the appropriation in connection with the felony delinquent care 1187
and custody program described in section 5139.43 of the Revised 1188
Code, ~~except that, for fiscal year 2002 and fiscal year 2003 and~~ 1189
~~only for those two fiscal years, the total number of beds~~ 1190
~~available to all counties via public safety beds and county~~ 1191

~~allocations shall not be less than the total beds used by all the 1192
counties during fiscal year 2000 funded by care and custody 1193
chargebacks (Line Item 401) and as public safety beds. 1194~~

(F) If the department's appropriation for a fiscal year is 1195
subsequently revised, the department may adjust the amounts 1196
described in divisions (A) to (E) of this section. 1197

Sec. 5739.031. (A) Upon application, the tax commissioner may 1198
issue a direct payment permit that authorizes a consumer to pay 1199
the sales tax levied by or pursuant to section 5739.02, 5739.021, 1200
5739.023, or 5739.026 of the Revised Code or the use tax levied by 1201
or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of 1202
the Revised Code directly to the state and waives the collection 1203
of the tax by the vendor or seller if payment directly to the 1204
state would improve compliance and increase the efficiency of the 1205
administration of the tax. The commissioner may adopt rules 1206
establishing the criteria for the issuance of such permits. 1207

(B) Each permit holder, on or before the twenty-third day of 1208
each month, shall make and file with the treasurer of state a 1209
return for the preceding month in such form as is prescribed by 1210
the tax commissioner and shall pay the tax shown on the return to 1211
be due. The return shall show the sum of the prices of taxable 1212
merchandise used and taxable services received, the amount of tax 1213
due from the permit holder, and such other information as the 1214
commissioner deems necessary. The commissioner, upon written 1215
request by the permit holder, may extend the time for making and 1216
filing returns and paying the tax. If the commissioner determines 1217
that a permit holder's tax liability is not such as to merit 1218
monthly filing, the commissioner may authorize the permit holder 1219
to file returns and pay the tax at less frequent intervals. The 1220
treasurer of state shall show on the return the date it was filed 1221
and the amount of the payment remitted to the treasurer. 1222

Thereafter, the treasurer immediately shall transmit all returns 1223
filed under this section to the tax commissioner. 1224

Any permit holder required to file a return and pay the tax 1225
under this section whose total payment for any calendar year 1226
equals or exceeds the amount shown in section 5739.032 of the 1227
Revised Code shall make each payment required by this section in 1228
the second ensuing and each succeeding year by electronic funds 1229
transfer as prescribed by, and on or before the dates specified 1230
in, section 5739.032 of the Revised Code, except as otherwise 1231
prescribed by that section. 1232

(C) For purposes of reporting and remitting the tax, the 1233
price of tangible personal property or services purchased by, or 1234
of tangible personal property produced by, the permit holder shall 1235
be determined under division (G) of section 5741.01 of the Revised 1236
Code. Notwithstanding section 5739.033 of the Revised Code, the 1237
situs of any purchase transaction made by the permit holder is the 1238
location where the tangible personal property or service is 1239
received by the permit holder. 1240

(D) It shall be the duty of every permit holder required to 1241
make a return and pay its tax under this section to keep and 1242
preserve suitable records of purchases together with invoices of 1243
purchases, bills of lading, asset ledgers, depreciation schedules, 1244
transfer journals, and such other primary and secondary records 1245
and documents in such form as the commissioner requires. All such 1246
records and other documents shall be open during business hours to 1247
the inspection of the tax commissioner, and shall be preserved for 1248
a period of four years, unless the commissioner, in writing, has 1249
authorized their destruction or disposal at an earlier date, or by 1250
order or by reason of a waiver of the four-year time limitation 1251
pursuant to section 5739.16 of the Revised Code requires that they 1252
be kept longer. 1253

(E) A permit granted pursuant to this section shall continue 1254

to be valid until surrendered by the holder or canceled for cause 1255
by the tax commissioner. 1256

(F) Persons who hold a direct payment permit that has not 1257
been canceled shall not be required to issue exemption 1258
certificates and shall not be required to pay the tax as 1259
prescribed in sections 5739.03, 5739.033, and 5741.12 of the 1260
Revised Code. Such persons shall notify vendors and sellers from 1261
whom purchases of tangible personal property or services are made, 1262
of their direct payment permit number and that the tax is being 1263
paid directly to the state. Upon receipt of such notice, such 1264
vendor or seller shall be absolved from all duties and liabilities 1265
imposed by section 5739.03 or 5741.04 of the Revised Code with 1266
respect to sales of tangible personal property or services to such 1267
permit holder. 1268

Vendors and sellers who make sales upon which the tax is not 1269
collected by reason of the provisions of this section shall 1270
maintain records in such manner that the amount involved and 1271
identity of the purchaser may be ascertained. The receipts from 1272
such sales shall not be subject to the tax levied in section 1273
5739.10 of the Revised Code. 1274

Upon the cancellation or surrender of a direct payment 1275
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 1276
of the Revised Code shall immediately apply to all purchases made 1277
subsequent to such cancellation or surrender by the person who 1278
previously held such permit, and such person shall so notify 1279
vendors and sellers from whom purchases of tangible personal 1280
property or services are made, in writing, prior to or at the time 1281
of the first purchase after such cancellation or surrender. Upon 1282
receipt of such notice, the vendor shall be subject to the 1283
provisions of sections 5739.03 and 5739.10 of the Revised Code and 1284
the seller shall be subject to the provisions of section 5741.04 1285
of the Revised Code, with respect to all sales subsequently made 1286

to such person. Failure of any such person to notify vendors or 1287
sellers from whom purchases of tangible personal property or 1288
services are made of the cancellation or surrender of a direct 1289
payment permit shall be considered as a refusal to pay the tax by 1290
the person required to issue such notice. 1291

Sec. 5739.032. (A) If the total amount of tax required to be 1292
paid by a permit holder under section 5739.031 of the Revised Code 1293
for any calendar year indicated in the following schedule equals 1294
or exceeds the amounts prescribed for that year in the schedule, 1295
the permit holder shall remit each monthly tax payment in the 1296
second ensuing and each succeeding year by electronic funds 1297
transfer as prescribed by division (B) of this section. 1298

Year	1992	1993 through 1999	2000 and thereafter	
Tax payment	\$1,200,000	\$600,000	\$60,000	1300

If a permit holder's tax payment for each of two consecutive 1301
years beginning with 2000 is less than sixty thousand dollars, the 1302
permit holder is relieved of the requirement to remit taxes by 1303
electronic funds transfer for the year that next follows the 1304
second of the consecutive years in which the tax payment is less 1305
than sixty thousand dollars, and is relieved of that requirement 1306
for each succeeding year, unless the tax payment in a subsequent 1307
year equals or exceeds sixty thousand dollars. 1308

The tax commissioner shall notify each permit holder required 1309
to remit taxes by electronic funds transfer of the permit holder's 1310
obligation to do so, shall maintain an updated list of those 1311
permit holders, and shall timely certify the list and any 1312
additions thereto or deletions therefrom to the treasurer of 1313
state. Failure by the tax commissioner to notify a permit holder 1314
subject to this section to remit taxes by electronic funds 1315
transfer does not relieve the permit holder of its obligation to 1316
remit taxes by electronic funds transfer. 1317

(B) Permit holders required by division (A) of this section 1318
to remit payments by electronic funds transfer shall remit such 1319
payments to the treasurer of state in the manner prescribed by 1320
this section and rules adopted by the treasurer of state under 1321
section 113.061 of the Revised Code, and on or before the 1322
following dates specified under section 5739.031 of the Revised 1323
Code. The: 1324

(1) On or before each of the eleventh, eighteenth, and 1325
twenty-fifth days of each month, a permit holder shall remit an 1326
amount equal to one-fourth of the permit holder's total tax 1327
liability for the same month in the preceding calendar year. 1328

(2) On or before the twenty-third day of each month, a permit 1329
holder shall report the taxes due for the previous month and shall 1330
remit that amount, less any amounts paid for that month as 1331
required by division (B)(1) of this section. 1332

The payment of taxes by electronic funds transfer does not 1333
affect a permit holder's obligation to file the monthly return as 1334
required under section 5739.031 of the Revised Code. 1335

(C) A permit holder required by this section to remit taxes 1336
by electronic funds transfer may apply to the treasurer of state 1337
in the manner prescribed by the treasurer of state to be excused 1338
from that requirement. The treasurer of state may excuse the 1339
permit holder from remittance by electronic funds transfer for 1340
good cause shown for the period of time requested by the permit 1341
holder or for a portion of that period. The treasurer of state 1342
shall notify the tax commissioner and the permit holder of the 1343
~~treasurer's~~ treasurer of state's decision as soon as is 1344
practicable. 1345

~~(C)~~(D)(1) If a permit holder that is required to remit 1346
payments under division (B) of this section fails to make a 1347
payment, the commissioner may impose an additional charge not to 1348

exceed five per cent of that unpaid amount. 1349

(2) If a permit holder required by this section to remit 1350
taxes by electronic funds transfer remits those taxes by some 1351
means other than by electronic funds transfer as prescribed by 1352
this section and the rules adopted by the treasurer of state, and 1353
the tax commissioner determines that such failure was not due to 1354
reasonable cause or was due to willful neglect, the commissioner 1355
may ~~collect~~ impose an additional charge ~~by assessment in the~~ 1356
~~manner prescribed by section 5739.13 of the Revised Code. The~~ 1357
~~additional charge shall equal~~ not to exceed the lesser of five per 1358
cent of the amount of the taxes required to be paid by electronic 1359
funds transfer, ~~but shall not exceed~~ or five thousand dollars. ~~Any~~ 1360

(3) Any additional charge ~~assessed~~ imposed under division 1361
(D)(1) or (2) of this section is in addition to any other penalty 1362
or charge imposed under this chapter, and shall be considered as 1363
revenue arising from taxes imposed under this chapter. An 1364
additional charge may be collected by assessment in the manner 1365
prescribed by section 5739.13 of the Revised Code. The tax 1366
commissioner may ~~remit~~ waive all or a portion of such a charge and 1367
may adopt rules governing such ~~remission~~ waiver. 1368

No additional charge shall be ~~assessed~~ imposed under ~~this~~ 1369
division (D)(2) of this section against a permit holder that has 1370
been notified of its obligation to remit taxes under this section 1371
and that remits its first two tax payments after such notification 1372
by some means other than electronic funds transfer. The additional 1373
charge may be ~~assessed~~ imposed upon the remittance of any 1374
subsequent tax payment that the permit holder remits by some means 1375
other than electronic funds transfer. 1376

Sec. 5739.12. Each person who has or is required to have a 1377
vendor's license, on or before the twenty-third day of each month, 1378
shall make and file a return for the preceding month, on forms 1379

prescribed by the tax commissioner, and shall pay the tax shown on 1380
the return to be due. The commissioner may require a vendor that 1381
operates from multiple locations or has multiple vendor's licenses 1382
to report all tax liability on one consolidated return. The return 1383
shall show the amount of tax due from the vendor to the state for 1384
the period covered by the return and such other information as the 1385
commissioner deems necessary for the proper administration of this 1386
chapter. The commissioner may extend the time for making and 1387
filing returns and paying the tax, and may require that the return 1388
for the last month of any annual or semiannual period, as 1389
determined by the commissioner, be a reconciliation return 1390
detailing the vendor's sales activity for the preceding annual or 1391
semiannual period. The reconciliation return shall be filed by the 1392
last day of the month following the last month of the annual or 1393
semiannual period. The commissioner may remit all or any part of 1394
amounts or penalties which may become due under this chapter and 1395
may adopt rules relating thereto. Such return shall be filed by 1396
mailing it to the tax commissioner, together with payment of the 1397
amount of tax shown to be due thereon after deduction of any 1398
discount provided for under this section. Remittance shall be made 1399
payable to the treasurer of state. The return shall be considered 1400
filed when received by the tax commissioner, and the payment shall 1401
be considered made when received by the tax commissioner or when 1402
credited to an account designated by the treasurer of state or the 1403
tax commissioner. If the return is filed and the amount of tax 1404
shown thereon to be due is paid on or before the date such return 1405
is required to be filed, the vendor shall be entitled to a 1406
discount of three-fourths of one per cent of the amount shown to 1407
be due on the return. Amounts paid to the clerk of courts pursuant 1408
to section 4505.06 of the Revised Code shall be subject to the 1409
three-fourths of one per cent discount. The discount shall be in 1410
consideration for prompt payment to the clerk of courts and for 1411

other services performed by the vendor in the collection of the 1412
tax. 1413

Upon application to the commissioner, a vendor who is 1414
required to file monthly returns may be relieved of the 1415
requirement to report and pay the actual tax due, provided that 1416
the vendor agrees to remit to the tax commissioner payment of not 1417
less than an amount determined by the commissioner to be the 1418
average monthly tax liability of the vendor, based upon a review 1419
of the returns or other information pertaining to such vendor for 1420
a period of not less than six months nor more than two years 1421
immediately preceding the filing of the application. Vendors who 1422
agree to the above conditions shall make and file an annual or 1423
semiannual reconciliation return, as prescribed by the 1424
commissioner. The reconciliation return shall be filed by mailing 1425
or delivering it to the tax commissioner, together with payment of 1426
the amount of tax shown to be due thereon after deduction of any 1427
discount provided in this section. Remittance shall be made 1428
payable to the treasurer of state. Failure of a vendor to comply 1429
with any of the above conditions may result in immediate 1430
reinstatement of the requirement of reporting and paying the 1431
actual tax liability on each monthly return, and the commissioner 1432
may at the commissioner's discretion deny the vendor the right to 1433
report and pay based upon the average monthly liability for a 1434
period not to exceed two years. The amount ascertained by the 1435
commissioner to be the average monthly tax liability of a vendor 1436
may be adjusted, based upon a review of the returns or other 1437
information pertaining to the vendor for a period of not less than 1438
six months nor more than two years preceding such adjustment. 1439

The commissioner may authorize vendors whose tax liability is 1440
not such as to merit monthly returns, as ascertained by the 1441
commissioner upon the basis of administrative costs to the state, 1442
to make and file returns at less frequent intervals. When returns 1443

are filed at less frequent intervals in accordance with such 1444
authorization, the vendor shall be allowed the discount of 1445
three-fourths of one per cent in consideration for prompt payment 1446
with the return, provided the return is filed together with 1447
payment of the amount of tax shown to be due thereon, at the time 1448
specified by the commissioner. 1449

Any vendor who fails to file a return or pay the full amount 1450
of the tax shown on the return to be due under this section and 1451
the rules of the commissioner may, for each such return the vendor 1452
fails to file or each such tax the vendor fails to pay in full as 1453
shown on the return within the period prescribed by this section 1454
and the rules of the commissioner, be required to forfeit and pay 1455
into the state treasury an additional charge not exceeding fifty 1456
dollars or ten per cent of the tax required to be paid for the 1457
reporting period, whichever is greater, as revenue arising from 1458
the tax imposed by this chapter, and such sum may be collected by 1459
assessment in the manner provided in section 5739.13 of the 1460
Revised Code. The commissioner may remit all or a portion of the 1461
additional charge and may adopt rules relating to the imposition 1462
and remission of the additional charge. 1463

If the amount required to be collected by a vendor from 1464
consumers is in excess of five per cent of the vendor's receipts 1465
from sales ~~which~~ that are taxable under section 5739.02 of the 1466
Revised Code, or in the case of sales subject to a tax levied 1467
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 1468
Code, in excess of the percentage equal to the aggregate rate of 1469
such taxes and the tax levied by section 5739.02 of the Revised 1470
Code, such excess shall be remitted along with the remittance of 1471
the amount of tax due under section 5739.10 of the Revised Code. 1472

The commissioner, if the commissioner deems it necessary in 1473
order to insure the payment of the tax imposed by this chapter, 1474
may require returns and payments to be made for other than monthly 1475

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 payment	\$1,200,000	\$600,000	\$60,000

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 1507
or exceeds sixty thousand dollars. 1508

The tax commissioner shall notify each vendor required to 1509
remit taxes by electronic funds transfer of the vendor's 1510
obligation to do so, shall maintain an updated list of those 1511
vendors, and shall timely certify the list and any additions 1512
thereto or deletions therefrom to the treasurer of state. Failure 1513
by the tax commissioner to notify a vendor subject to this section 1514
to remit taxes by electronic funds transfer does not relieve the 1515
vendor of its obligation to remit taxes by electronic funds 1516
transfer. 1517

(B) Vendors required by division (A) of this section to remit 1518
payments by electronic funds transfer shall remit such payments to 1519
the treasurer of state in the manner prescribed by this section 1520
and rules adopted by the treasurer of state under section 113.061 1521
of the Revised Code, and on or before the following dates 1522
~~specified under section 5739.12 of the Revised Code. The:~~ 1523

(1) On or before the eleventh day of each month, a vendor 1524
shall remit an amount equal to the taxes collected during the 1525
first seven days of the month. On or before the eighteenth day of 1526
each month, a vendor shall remit an amount equal to the taxes 1527
collected on the eighth through the fourteenth day of the month. 1528
On or before the twenty-fifth day of each month, a vendor shall 1529
remit an amount equal to the taxes collected on the fifteenth 1530
through the twenty-first day of the month. 1531

(2) In lieu of remitting the actual amounts collected for the 1532
periods specified in division (B)(1) of this section, a vendor 1533
may, on or before each of the eleventh, eighteenth, and 1534
twenty-fifth days of each month, remit an amount equal to 1535
one-fourth of the vendor's total tax liability for the same month 1536
in the preceding calendar year. 1537

(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~~ 1569
per cent of the amount of the taxes required to be paid by 1570
electronic funds transfer, ~~but shall not exceed or~~ five thousand 1571
dollars. ~~Any~~ 1572

(3) Any additional charge assessed imposed under division 1573
(D)(1) or (2) of this section is in addition to any other penalty 1574
or charge imposed under this chapter, and shall be considered as 1575
revenue arising from taxes imposed under this chapter. An 1576
additional charge may be collected by assessment in the manner 1577
prescribed by section 5739.13 of the Revised Code. The tax 1578
commissioner may ~~remit~~ waive all or a portion of such a charge and 1579
may adopt rules governing such ~~remission~~ waiver. 1580

No additional charge shall be ~~assessed~~ imposed under ~~this~~ 1581
division (D)(2) of this section against a vendor that has been 1582
notified of its obligation to remit taxes under this section and 1583
that remits its first two tax payments after such notification by 1584
some means other than electronic funds transfer. The additional 1585
charge may be ~~assessed~~ imposed upon the remittance of any 1586
subsequent tax payment that the vendor remits by some means other 1587
than electronic funds transfer. 1588

Sec. 5739.21. (A) Four and two-tenths per cent of all money 1589
deposited into the state treasury under sections 5739.01 to 1590
5739.31 of the Revised Code and not required to be distributed as 1591
provided in section 5739.102 of the Revised Code or division (B) 1592
of this section shall be credited to the local government fund for 1593
distribution in accordance with section 5747.50 of the Revised 1594
Code, six-tenths of one per cent shall be credited to the local 1595
government revenue assistance fund for distribution in accordance 1596
with section 5747.61 of the Revised Code, and ninety-five and 1597
two-tenths per cent shall be credited to the general revenue fund. 1598

(B) In any case where any county or transit authority has 1599

evied a tax or taxes pursuant to section 5739.021, 5739.023, or 1600
5739.026 of the Revised Code, the tax commissioner shall, within 1601
forty-five days after the end of each month, determine and certify 1602
to the director of budget and management the amount of the 1603
proceeds of such tax or taxes ~~paid to the treasurer of state from~~ 1604
billings and assessments received during that month, or shown on 1605
tax returns or reports filed during that month, to be returned to 1606
the county or transit authority levying the tax or taxes. The 1607
amount to be returned to each county and transit authority shall 1608
be a fraction of the aggregate amount of money collected with 1609
respect to each area in which one or more of such taxes are 1610
concurrently in effect with the tax levied by section 5739.02 of 1611
the Revised Code, the numerator of which is the rate of the tax 1612
levied by the county or transit authority and the denominator of 1613
which is the aggregate rate of such taxes applicable to such area; 1614
provided, that the aggregate amount to be returned to any county 1615
or transit authority shall be reduced by one per cent, which shall 1616
be certified directly to the credit of the local sales tax 1617
administrative fund, which is hereby created in the state 1618
treasury. For the purpose of determining the amount to be returned 1619
to a county and transit authority in which the rate of tax imposed 1620
by the transit authority has been reduced under section 5739.028 1621
of the Revised Code, the tax commissioner shall use the respective 1622
rates of tax imposed by the county or transit authority that 1623
results from the change in the rates authorized under that 1624
section. The director of budget and management shall transfer, 1625
from the same funds and in the same proportions specified in 1626
division (A) of this section, to the permissive tax distribution 1627
fund created by division (B)(1) of section 4301.423 of the Revised 1628
Code and to the local sales tax administrative fund, the amounts 1629
certified by the tax commissioner. The tax commissioner shall 1630
then, on or before the twentieth day of the month in which such 1631
certification is made, provide for payment of such respective 1632

ounts to the county treasurer and to the fiscal officer of the 1633
transit authority levying the tax or taxes. The amount transferred 1634
to the local sales tax administrative fund is for use by the tax 1635
commissioner in defraying costs incurred in administering such 1636
taxes levied by a county or transit authority. 1637

Sec. 5741.03. (A) Four and two-tenths per cent of all money 1638
deposited into the state treasury under sections 5741.01 to 1639
5741.22 of the Revised Code that is not required to be distributed 1640
as provided in division (B) of this section shall be credited to 1641
the local government fund for distribution in accordance with 1642
section 5747.50 of the Revised Code, six-tenths of one per cent 1643
shall be credited to the local government revenue assistance fund 1644
for distribution in accordance with section 5747.61 of the Revised 1645
Code, and ninety-five and two-tenths per cent shall be credited to 1646
the general revenue fund. 1647

(B) In any case where any county or transit authority has 1648
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 1649
5741.023 of the Revised Code, the tax commissioner shall, within 1650
forty-five days after the end of each month, determine and certify 1651
to the director of budget and management the amount of the 1652
proceeds of such tax or taxes ~~paid to the treasurer of state from~~ 1653
billings and assessments received during that month, or shown on 1654
tax returns or reports filed during that month, to be returned to 1655
the county or transit authority levying the tax or taxes, which 1656
amounts shall be determined in the manner provided in section 1657
5739.21 of the Revised Code. The director of budget and management 1658
shall transfer, from the same funds and in the same proportions 1659
specified in division (A) of this section, to the permissive tax 1660
distribution fund created by division (B)(1) of section 4301.423 1661
of the Revised Code and to the local sales tax administrative fund 1662
created by division (B) of section 5739.21 of the Revised Code, 1663
the amounts certified by the tax commissioner. The tax 1664

sioner shall then, on or before the twentieth day of the month in 1665
which such certification is made, provide for payment of such 1666
respective amounts to the county treasurer or to the fiscal 1667
officer of the transit authority levying the tax or taxes. The 1668
amount transferred to the local sales tax administrative fund is 1669
for use by the tax commissioner in defraying costs ~~he~~ the 1670
commissioner incurs in administering such taxes levied by a county 1671
or transit authority. 1672

Sec. 5741.12. (A) Each seller required by section 5741.17 of 1673
the Revised Code to register with the tax commissioner, and any 1674
seller authorized by the commissioner to collect the tax imposed 1675
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 1676
of the Revised Code is subject to the same requirements and 1677
entitled to the same deductions and discount for prompt payments 1678
as are vendors under section 5739.12 of the Revised Code. The 1679
powers and duties of the commissioner and the treasurer of state 1680
with respect to returns and tax remittances under this section 1681
shall be identical with those prescribed in section 5739.12 of the 1682
Revised Code. 1683

(B) Every person storing, using, or consuming tangible 1684
personal property or receiving the benefit of a service, the 1685
storage, use, consumption, or receipt of which is subject to the 1686
tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 1687
or 5741.023 of the Revised Code, when such tax was not paid to a 1688
seller, shall, on or before the twenty-third day of each month, 1689
file with the tax commissioner a return for the preceding month in 1690
such form as is prescribed by the commissioner, showing such 1691
information as the commissioner deems necessary, and shall pay the 1692
tax shown on the return to be due. Remittance shall be made 1693
payable to the treasurer of state. The commissioner may require 1694
consumers to file returns and pay the tax at other than monthly 1695
intervals, if the commissioner determines that such filing is 1696

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 payment	\$1,200,000	\$600,000	\$60,000

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 1728
payment is less than sixty thousand dollars, and is relieved of 1729
that requirement for each succeeding year, unless the tax payment 1730
in a subsequent year equals or exceeds sixty thousand dollars. 1731

The tax commissioner shall notify each seller or consumer 1732
required to remit taxes by electronic funds transfer of the 1733
seller's or consumer's obligation to do so, shall maintain an 1734
updated list of those sellers and consumers, and shall timely 1735
certify the list and any additions thereto or deletions therefrom 1736
to the treasurer of state. Failure by the tax commissioner to 1737
notify a seller or consumer subject to this section to remit taxes 1738
by electronic funds transfer does not relieve the seller or 1739
consumer of the ~~consumer's~~ obligation to remit taxes by electronic 1740
funds transfer. 1741

(B) ~~Consumers~~ Sellers and consumers required by division (A) 1742
of this section to remit payments by electronic funds transfer 1743
shall remit such payments to the treasurer of state in the manner 1744
prescribed by this section and rules adopted by the treasurer of 1745
state under section 113.061 of the Revised Code, and on or before 1746
the following dates ~~specified under section 5741.12 of the Revised~~ 1747
~~Code. The:~~ 1748

(1)(a) On or before the eleventh day of each month, a seller 1749
shall remit an amount equal to the taxes collected during the 1750
first seven days of the month. On or before the eighteenth day of 1751
each month, a seller shall remit an amount equal to the taxes 1752
collected on the eighth through the fourteenth day of the month. 1753
On or before the twenty-fifth day of each month, a seller shall 1754
remit an amount equal to the taxes collected on the fifteenth 1755
through the twenty-first day of the month. 1756

(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 decision as soon as is practicable.

~~(C)~~(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. 1788

(2) If a seller or consumer required by this section to remit 1789
taxes by electronic funds transfer remits those taxes by some 1790
means other than by electronic funds transfer as prescribed by the 1791
rules adopted by the treasurer of state, and the treasurer of 1792
state determines that such failure was not due to reasonable cause 1793
or was due to willful neglect, the treasurer of state shall notify 1794
the tax commissioner of the failure to remit by electronic funds 1795
transfer and shall provide the commissioner with any information 1796
used in making that determination. The tax commissioner may 1797
~~collect~~ impose an additional charge ~~by assessment in the manner~~ 1798
~~prescribed by section 5741.13 of the Revised Code. The additional~~ 1799
~~charge shall equal~~ not to exceed the lesser of five per cent of 1800
the amount of the taxes required to be paid by electronic funds 1801
transfer, ~~but shall not exceed~~ or five thousand dollars. ~~Any~~ 1802

(3) Any additional charge ~~assessed~~ imposed under this section 1803
is in addition to any other penalty or charge imposed under this 1804
chapter, and shall be considered as revenue arising from taxes 1805
imposed under this chapter. An additional charge may be collected 1806
by assessment in the manner prescribed by section 5741.13 of the 1807
Revised Code. The tax commissioner may ~~remit~~ waive all or a 1808
portion of such a charge and may adopt rules governing such 1809
remission waiver. 1810

No additional charge shall be ~~assessed~~ imposed under ~~this~~ 1811
division (D)(2) of this section against a seller or consumer that 1812
has been notified of the ~~consumer's~~ obligation to remit taxes 1813
under this section and that remits its first two tax payments 1814
after such notification by some means other than electronic funds 1815
transfer. The additional charge may be ~~assessed~~ imposed upon the 1816
remittance of any subsequent tax payment that the seller or 1817
consumer remits by some means other than electronic funds 1818
transfer. 1819

Sec. 5743.02. To provide revenues for the general revenue 1820
fund, an excise tax on sales of cigarettes is hereby levied at the 1821
rate of ~~twenty seven and one half~~ fifty mills on each cigarette. 1822

Only one sale of the same article shall be used in computing 1823
the amount of tax due. 1824

The treasurer of state shall place to the credit of the tax 1825
refund fund created by section 5703.052 of the Revised Code, out 1826
of receipts from the tax levied by this section, amounts equal to 1827
the refunds certified by the tax commissioner pursuant to section 1828
5743.05 of the Revised Code. The balance of taxes collected under 1829
such section, after the credits to the tax refund fund, shall be 1830
paid into the general revenue fund. 1831

Sec. 5743.32. To provide revenue for the general revenue fund 1832
of the state, an excise tax is hereby levied on the use, 1833
consumption, or storage for consumption of cigarettes by consumers 1834
in this state at the rate of ~~twenty seven and one half~~ fifty mills 1835
on each cigarette. The tax shall not apply if the tax levied by 1836
section 5743.02 of the Revised Code has been paid. 1837

The money received into the state treasury from the excise 1838
tax levied by this section shall be credited to the general 1839
revenue fund. 1840

Section 2. That existing sections 4301.12, 4301.42, 4301.43, 1841
4305.01, 5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 1842
5104.38, 5104.39, 5139.41, 5739.031, 5739.032, 5739.12, 5739.122, 1843
5739.21, 5741.03, 5741.12, 5741.121, 5743.02, and 5743.32 of the 1844
Revised Code are hereby repealed. 1845

Section 3. That the versions of sections 5739.031, 5739.12, 1846
and 5741.12 of the Revised Code that are scheduled to take effect 1847

July 1, 2003, be amended to read as follows: 1848

Sec. 5739.031. (A) Upon application, the tax commissioner may 1849
issue a direct payment permit that authorizes a consumer to pay 1850
the sales tax levied by or pursuant to section 5739.02, 5739.021, 1851
5739.023, or 5739.026 of the Revised Code or the use tax levied by 1852
or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of 1853
the Revised Code directly to the state and waives the collection 1854
of the tax by the vendor or seller if payment directly to the 1855
state would improve compliance and increase the efficiency of the 1856
administration of the tax. The commissioner may adopt rules 1857
establishing the criteria for the issuance of such permits. 1858

(B) Each permit holder, on or before the twenty-third day of 1859
each month, shall make and file with the treasurer of state a 1860
return for the preceding month in such form as is prescribed by 1861
the tax commissioner and shall pay the tax shown on the return to 1862
be due. The return shall show the sum of the prices of taxable 1863
merchandise used and taxable services received, the amount of tax 1864
due from the permit holder, and such other information as the 1865
commissioner deems necessary. The commissioner, upon written 1866
request by the permit holder, may extend the time for making and 1867
filing returns and paying the tax. If the commissioner determines 1868
that a permit holder's tax liability is not such as to merit 1869
monthly filing, the commissioner may authorize the permit holder 1870
to file returns and pay the tax at less frequent intervals. The 1871
treasurer of state shall show on the return the date it was filed 1872
and the amount of the payment remitted to the treasurer. 1873
Thereafter, the treasurer immediately shall transmit all returns 1874
filed under this section to the tax commissioner. 1875

Any permit holder required to file a return and pay the tax 1876
under this section whose total payment for any calendar year 1877
equals or exceeds the amount shown in section 5739.032 of the 1878

Revised Code shall make each payment required by this section in 1879
the second ensuing and each succeeding year by electronic funds 1880
transfer as prescribed by, and on or before the dates specified 1881
in, section 5739.032 of the Revised Code, except as otherwise 1882
prescribed by that section. 1883

(C) For purposes of reporting and remitting the tax, the 1884
price of tangible personal property or services purchased by, or 1885
of tangible personal property produced by, the permit holder shall 1886
be determined under division (G) of section 5741.01 of the Revised 1887
Code. Except as otherwise provided in division (C) of section 1888
5739.033 of the Revised Code, the situs of any purchase 1889
transaction made by the permit holder is the location where the 1890
tangible personal property or service is received by the permit 1891
holder. 1892

(D) It shall be the duty of every permit holder required to 1893
make a return and pay its tax under this section to keep and 1894
preserve suitable records of purchases together with invoices of 1895
purchases, bills of lading, asset ledgers, depreciation schedules, 1896
transfer journals, and such other primary and secondary records 1897
and documents in such form as the commissioner requires. All such 1898
records and other documents shall be open during business hours to 1899
the inspection of the tax commissioner, and shall be preserved for 1900
a period of four years, unless the commissioner, in writing, has 1901
authorized their destruction or disposal at an earlier date, or by 1902
order or by reason of a waiver of the four-year time limitation 1903
pursuant to section 5739.16 of the Revised Code requires that they 1904
be kept longer. 1905

(E) A permit granted pursuant to this section shall continue 1906
to be valid until surrendered by the holder or canceled for cause 1907
by the tax commissioner. 1908

(F) Persons who hold a direct payment permit that has not 1909
been canceled shall not be required to issue exemption 1910

ificates and shall not be required to pay the tax as prescribed in 1911
sections 5739.03, 5739.033, and 5741.12 of the Revised Code. Such 1912
persons shall notify vendors and sellers from whom purchases of 1913
tangible personal property or services are made, of their direct 1914
payment permit number and that the tax is being paid directly to 1915
the state. Upon receipt of such notice, such vendor or seller 1916
shall be absolved from all duties and liabilities imposed by 1917
section 5739.03 or 5741.04 of the Revised Code with respect to 1918
sales of tangible personal property or services to such permit 1919
holder. 1920

Vendors and sellers who make sales upon which the tax is not 1921
collected by reason of the provisions of this section shall 1922
maintain records in such manner that the amount involved and 1923
identity of the purchaser may be ascertained. The receipts from 1924
such sales shall not be subject to the tax levied in section 1925
5739.10 of the Revised Code. 1926

Upon the cancellation or surrender of a direct payment 1927
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 1928
of the Revised Code shall immediately apply to all purchases made 1929
subsequent to such cancellation or surrender by the person who 1930
previously held such permit, and such person shall so notify 1931
vendors and sellers from whom purchases of tangible personal 1932
property or services are made, in writing, prior to or at the time 1933
of the first purchase after such cancellation or surrender. Upon 1934
receipt of such notice, the vendor shall be subject to the 1935
provisions of sections 5739.03 and 5739.10 of the Revised Code and 1936
the seller shall be subject to the provisions of section 5741.04 1937
of the Revised Code, with respect to all sales subsequently made 1938
to such person. Failure of any such person to notify vendors or 1939
sellers from whom purchases of tangible personal property or 1940
services are made of the cancellation or surrender of a direct 1941
payment permit shall be considered as a refusal to pay the tax by 1942

the person required to issue such notice. 1943

Sec. 5739.12. Each person who has or is required to have a 1944
vendor's license, on or before the twenty-third day of each month, 1945
shall make and file a return for the preceding month, on forms 1946
prescribed by the tax commissioner, and shall pay the tax shown on 1947
the return to be due. The commissioner may require a vendor that 1948
operates from multiple locations or has multiple vendor's licenses 1949
to report all tax liabilities on one consolidated return. The 1950
return shall show the amount of tax due from the vendor to the 1951
state for the period covered by the return and such other 1952
information as the commissioner deems necessary for the proper 1953
administration of this chapter. The commissioner may extend the 1954
time for making and filing returns and paying the tax, and may 1955
require that the return for the last month of any annual or 1956
semiannual period, as determined by the commissioner, be a 1957
reconciliation return detailing the vendor's sales activity for 1958
the preceding annual or semiannual period. The reconciliation 1959
return shall be filed by the last day of the month following the 1960
last month of the annual or semiannual period. The commissioner 1961
may remit all or any part of amounts or penalties that may become 1962
due under this chapter and may adopt rules relating thereto. Such 1963
return shall be filed by mailing it to the tax commissioner, 1964
together with payment of the amount of tax shown to be due thereon 1965
after deduction of any discount provided for under this section. 1966
Remittance shall be made payable to the treasurer of state. The 1967
return shall be considered filed when received by the tax 1968
commissioner, and the payment shall be considered made when 1969
received by the tax commissioner or when credited to an account 1970
designated by the treasurer of state or the tax commissioner. 1971

If the return is filed and the amount of tax shown thereon to 1972
be due is paid on or before the date such return is required to be 1973
filed, the vendor shall be entitled to a discount of three-fourths 1974

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. 2008

The commissioner may authorize vendors whose tax liability is 2009
not such as to merit monthly returns, as ascertained by the 2010
commissioner upon the basis of administrative costs to the state, 2011
to make and file returns at less frequent intervals. When returns 2012
are filed at less frequent intervals in accordance with such 2013
authorization, the vendor shall be allowed the discount of 2014
three-fourths of one per cent in consideration for prompt payment 2015
with the return, provided the return is filed together with 2016
payment of the amount of tax shown to be due thereon, at the time 2017
specified by the commissioner, but a vendor that has selected a 2018
certified service provider as its agent shall not be entitled to 2019
the discount. 2020

Any vendor who fails to file a return or pay the full amount 2021
of the tax shown on the return to be due under this section and 2022
the rules of the commissioner may, for each such return the vendor 2023
fails to file or each such tax the vendor fails to pay in full as 2024
shown on the return within the period prescribed by this section 2025
and the rules of the commissioner, be required to forfeit and pay 2026
into the state treasury an additional charge not exceeding fifty 2027
dollars or ten per cent of the tax required to be paid for the 2028
reporting period, whichever is greater, as revenue arising from 2029
the tax imposed by this chapter, and such sum may be collected by 2030
assessment in the manner provided in section 5739.13 of the 2031
Revised Code. The commissioner may remit all or a portion of the 2032
additional charge and may adopt rules relating to the imposition 2033
and remission of the additional charge. 2034

If the amount required to be collected by a vendor from 2035
consumers is in excess of five per cent of the vendor's receipts 2036
from sales that are taxable under section 5739.02 of the Revised 2037
Code, or in the case of sales subject to a tax levied pursuant to 2038
section 5739.021, 5739.023, or 5739.026 of the Revised Code, in 2039

excess of the percentage equal to the aggregate rate of such taxes 2040
and the tax levied by section 5739.02 of the Revised Code, such 2041
excess shall be remitted along with the remittance of the amount 2042
of tax due under section 5739.10 of the Revised Code. 2043

The commissioner, if the commissioner deems it necessary in 2044
order to insure the payment of the tax imposed by this chapter, 2045
may require returns and payments to be made for other than monthly 2046
periods. The returns shall be signed by the vendor or the vendor's 2047
authorized agent. 2048

Any vendor required to file a return and pay the tax under 2049
this section, whose total payment in any year indicated in 2050
division (A) of section 5739.122 of the Revised Code equals or 2051
exceeds the amount shown in that division, shall make each payment 2052
required by this section in the second ensuing and each succeeding 2053
year by electronic funds transfer as prescribed by, and on or 2054
before the dates specified in, section 5739.122 of the Revised 2055
Code, except as otherwise prescribed by that section. For a vendor 2056
that operates from multiple locations or has multiple vendor's 2057
licenses, in determining whether the vendor's total payment equals 2058
or exceeds the amount shown in division (A) of that section, the 2059
vendor's total payment amount shall be the amount of the vendor's 2060
total tax liability for the previous calendar year for all of the 2061
vendor's locations or licenses. 2062

Sec. 5741.12. (A) Each seller required by section 5741.17 of 2063
the Revised Code to register with the tax commissioner, and any 2064
seller authorized by the commissioner to collect the tax imposed 2065
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 2066
of the Revised Code is subject to the same requirements and 2067
entitled to the same deductions and discount for prompt payments 2068
as are vendors under section 5739.12 of the Revised Code, and the 2069
same monetary allowances as are vendors under section 5739.06 of 2070

the Revised Code. The powers and duties of the commissioner and 2071
the treasurer of state with respect to returns and tax remittances 2072
under this section shall be identical with those prescribed in 2073
section 5739.12 of the Revised Code. 2074

(B) Every person storing, using, or consuming tangible 2075
personal property or receiving the benefit of a service, the 2076
storage, use, consumption, or receipt of which is subject to the 2077
tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 2078
or 5741.023 of the Revised Code, when such tax was not paid to a 2079
seller, shall, on or before the twenty-third day of each month, 2080
file with the tax commissioner a return for the preceding month in 2081
such form as is prescribed by the commissioner, showing such 2082
information as the commissioner deems necessary, and shall pay the 2083
tax shown on the return to be due. Remittance shall be made 2084
payable to the treasurer of state. The commissioner may require 2085
consumers to file returns and pay the tax at other than monthly 2086
intervals, if the commissioner determines that such filing is 2087
necessary for the efficient administration of the tax. If the 2088
commissioner determines that a consumer's tax liability is not 2089
such as to merit monthly filing, the commissioner may authorize 2090
the consumer to file returns and pay tax at less frequent 2091
intervals. 2092

Any consumer required to file a return and pay the tax under 2093
this section whose payment for any year indicated in section 2094
5741.121 of the Revised Code equals or exceeds the amount shown in 2095
that section shall make each payment required by this section in 2096
the second ensuing and each succeeding year by means of electronic 2097
funds transfer as prescribed by, and on or before the dates 2098
specified in, section 5741.121 of the Revised Code, except as 2099
otherwise prescribed by that section. 2100

(C) Every person storing, using, or consuming a motor 2101

vehicle, watercraft, or outboard motor, the ownership of which 2102
must be evidenced by certificate of title, shall file the return 2103
required by this section and pay the tax due at or prior to the 2104
time of filing an application for certificate of title. 2105

Section 4. That the existing versions of sections 5739.031, 2106
5739.12, and 5741.12 of the Revised Code that are scheduled to 2107
take effect July 1, 2003, are hereby repealed. 2108

Section 5. Sections 3 and 4 of this act take effect on July 2109
1, 2003. 2110

Section 6. That Section 140 of Am. Sub. H.B. 94 of the 124th 2111
General Assembly, as amended by Am. Sub. H.B. 405 and Am. Sub. 2112
H.B. 390 of the 124th General Assembly, be amended to read as 2113
follows: 2114

Sec. 140. TEMPORARY STABILIZATION OF LOCAL GOVERNMENT 2115
DISTRIBUTIONS 2116

(A) On or before the third day of each month of the period 2117
July 2001 through May 2002, the Tax Commissioner shall determine 2118
the amounts credited under sections 5727.45, 5733.12, 5739.21, 2119
5741.03, and 5747.03 of the Revised Code, respectively, to the 2120
Local Government Fund, to the Library and Local Government Support 2121
Fund, and to the Local Government Revenue Assistance Fund in the 2122
twelfth preceding month. On or before June 3, 2002, the Tax 2123
Commissioner shall determine the amounts credited under sections 2124
5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised 2125
Code, respectively, to the Local Government Fund, to the Library 2126
and Local Government Support Fund, and to the Local Government 2127
Revenue Assistance Fund in June 2000. For purposes of this 2128
section, any amount transferred during the period January 1, 2001, 2129
through June 30, 2001, to the Local Government Fund, to the Local 2130

Government Revenue Assistance Fund, or to the Library and Local 2131
Government Support Fund under section 131.44 of the Revised Code 2132
shall be considered to be an amount credited to that respective 2133
fund under section 5747.03 of the Revised Code. 2134

Notwithstanding sections 5727.45, 5733.12, 5739.21, 5741.03, 2135
and 5747.03 of the Revised Code to the contrary, for each month in 2136
the period July 1, 2001, through June 30, 2003, from the public 2137
utility excise, corporate franchise, sales, use, and personal 2138
income taxes collected: 2139

(1) An amount shall first be credited to the Local Government 2140
Fund that equals the amount credited to that fund from that tax 2141
according to the schedule in division (B) of this section. 2142

(2) An amount shall next be credited to the Local Government 2143
Revenue Assistance Fund that equals the amount credited to that 2144
fund from that tax according to the schedule in division (B) of 2145
this section. 2146

(3) An amount shall next be credited to the Library and Local 2147
Government Support Fund that equals the amount credited to that 2148
fund from that tax according to the schedule in division (B) of 2149
this section. 2150

(B) The amounts shall be credited from each tax to each 2151
respective fund as follows: 2152

(1) In July 2001 and July 2002, the amounts credited in July 2153
2000; 2154

(2) In August 2001 and August 2002, the amounts credited in 2155
August 2000; 2156

(3) In September 2001 and September 2002, the amounts 2157
credited in September 2000; 2158

(4) In October 2001 and October 2002, the amounts credited in 2159
October 2000; 2160

(5) In November 2001 and November 2002, the amounts credited	2161
in November 2000;	2162
(6) In December 2001 and December 2002, the amounts credited	2163
in December 2000;	2164
(7) In January 2002 and January 2003, the amounts credited in	2165
January 2001;	2166
(8) In February 2002 and February 2003, the amounts credited	2167
in February 2001 but subject to a reduction made pursuant to	2168
division (D) of this section;	2169
(9) In March 2002 and March 2003, the amounts credited in	2170
March 2001, <u>but subject to a reduction made pursuant to division</u>	2171
<u>(E) of this section;</u>	2172
(10) In April 2002 and April 2003, the amounts credited in	2173
April 2001, <u>but subject to a reduction made pursuant to division</u>	2174
<u>(E) of this section;</u>	2175
(11) In May 2002 and May 2003, the amounts credited in May	2176
2001, <u>but subject to a reduction made pursuant to division (E) of</u>	2177
<u>this section;</u>	2178
(12) In June 2002 and June 2003, the amounts credited in June	2179
2000 but subject to a reduction made pursuant to division (D) of	2180
this section.	2181
(C) Notwithstanding section 5727.84 of the Revised Code to	2182
the contrary, for the period July 1, 2001, through June 30, 2003,	2183
no amounts shall be credited to the Local Government Fund or to	2184
the Local Government Revenue Assistance Fund from the kilowatt	2185
hour tax, and such amounts that would have otherwise been required	2186
to be credited to such funds shall instead be credited to the	2187
General Revenue Fund. Notwithstanding section 131.44 of the	2188
Revised Code to the contrary, for the period July 1, 2001, through	2189
June 30, 2003, no amounts shall be transferred to the Local	2190

Government Fund, the Local Government Revenue Assistance Fund, or 2191
the Library and Local Government Support Fund from the Income Tax 2192
Reduction Fund, and such amounts that would have otherwise been 2193
transferred to such funds from the Income Tax Reduction Fund shall 2194
instead be transferred to the General Revenue Fund. 2195

(D) Notwithstanding any other provision of law to the 2196
contrary, the Tax Commissioner shall do each of the following: 2197

(1) By the fourth day of February 2002, the commissioner 2198
shall subtract the amount calculated in division (D)(1)(b) of this 2199
section from the amount calculated in division (D)(1)(a) of this 2200
section. If the amount in division (D)(1)(a) of this section is 2201
greater than the amount in division (D)(1)(b) of this section, 2202
then subtract the difference from the amount of money from the 2203
income tax credited to the Local Government Fund, the Local 2204
Government Revenue Assistance Fund, and the Library and Local 2205
Government Support Fund in February 2002. 2206

(a) Money credited to the Local Government Fund, the Local 2207
Government Revenue Assistance Fund, and the Library and Local 2208
Government Support Fund from July 2001 through January 2002, less 2209
each fund's proportional share of \$64,092,000; 2210

(b) The amount of money that would have been credited to the 2211
Local Government Fund, the Local Government Revenue Assistance 2212
Fund, and the Library and Local Government Support Fund from July 2213
2001 through January 2002, if sections 5727.45, 5727.84, 5733.12, 2214
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 2215
during this period. 2216

(2) By the fourth day of June 2002, the commissioner shall 2217
subtract the amount calculated in division (D)(2)(b) of this 2218
section from the amount calculated in division (D)(2)(a) of this 2219
section. If the amount in division (D)(2)(a) of this section is 2220
greater than the amount in division (D)(2)(b) of this section, 2221

then subtract any positive difference from the amount of money 2222
from the income tax credited to the Local Government Fund, the 2223
Local Government Revenue Assistance Fund, and the Library and 2224
Local Government Support Fund in June 2002. 2225

(a) Money credited to the Local Government Fund, the Local 2226
Government Revenue Assistance Fund, and the Library and Local 2227
Government Support Fund from February 2002 through May 2002, plus 2228
any money subtracted under division (D)(1) of this section; 2229

(b) The amount of money that would have been credited to the 2230
Local Government Fund, the Local Government Revenue Assistance 2231
Fund, and the Library and Local Government Support Fund from 2232
February 2002 through May 2002, if sections 5727.45, 5727.84, 2233
5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in 2234
effect during this period. 2235

(3) By the fourth day of February 2003, the commissioner 2236
shall subtract the amount calculated in division (D)(3)(b) of this 2237
section from the amount calculated in division (D)(3)(a) of this 2238
section. If the amount in division (D)(3)(a) of this section is 2239
greater than the amount in division (D)(3)(b) of this section, 2240
then subtract the difference from the amount of money from the 2241
income tax credited to the Local Government Fund, the Local 2242
Government Revenue Assistance Fund, and the Library and Local 2243
Government Support Fund in February 2003. 2244

(a) Money credited to the Local Government Fund, the Local 2245
Government Revenue Assistance Fund, and the Library and Local 2246
Government Support Fund from June 2002 through January 2003, less 2247
each fund's proportional share of \$64,092,000, plus the amount 2248
subtracted under division (D)(2) of this section; 2249

(b) The amount of money that would have been credited to the 2250
Local Government Fund, the Local Government Revenue Assistance 2251
Fund, and the Library and Local Government Support Fund from June 2252

2002 through January 2003, if sections 5727.45, 5727.84, 5733.12, 2253
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 2254
during this period. 2255

(4) By the fourth day of June 2003, the commissioner shall 2256
subtract the amount calculated in division (D)(4)(b) of this 2257
section from the amount calculated in division (D)(4)(a) of this 2258
section. If the amount in division (D)(4)(a) of this section is 2259
greater than the amount in division (D)(4)(b) of this section, 2260
then subtract any positive difference from the amount of money 2261
from the income tax credited to the Local Government Fund, the 2262
Local Government Revenue Assistance Fund, and the Library and 2263
Local Government Support Fund in June 2003. 2264

(a) Money credited to the Local Government Fund, the Local 2265
Government Revenue Assistance Fund, and the Library and Local 2266
Government Support Fund from ~~February 2003~~ June 2002 through May 2267
2003, plus any ~~money~~ amount subtracted under division (D)~~(3)~~(2) of 2268
this section; 2269

(b) The amount of money that would have been credited to the 2270
Local Government Fund, the Local Government Revenue Assistance 2271
Fund, and the Library and Local Government Support Fund from 2272
~~February 2003~~ June 2002 through May 2003, if sections 5727.45, 2273
5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised 2274
Code were in effect during this period, less the equivalent of two 2275
and one-half per cent of the amount that would have been credited 2276
to those funds under those sections. 2277

(E) For the period March 2003 through May 2003, the amount of 2278
income tax revenue credited to the Local Government Fund, the 2279
Local Government Revenue Assistance Fund, and the Library and 2280
Local Government Support Fund shall be reduced by the following 2281
amounts: 2282

(1) The amount of income tax revenue credited to the Local Government Fund shall be reduced by \$6,352,361 in March 2003, by \$5,263,909 in April 2003, and by \$5,398,356 in May 2003.

(2) The amount of income tax revenue credited to the Local Government Revenue Assistance Fund shall be reduced by \$907,480 in March 2003, by \$751,987 in April 2003, and by \$771,194 in May 2003.

(3) The amount of income tax revenue credited to the Library and Local Government Support Fund shall be reduced by \$2,740,159 in March 2003, by \$3,984,104 in April 2003, and by \$3,830,450 in May 2003.

(F) 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 2315
by the Tax Commissioner to the Director of Budget and Management 2316
by August 15, 2001, and the Director of Budget and Management 2317
shall transfer such amount from each respective fund to the 2318
General Revenue Fund by August 31, 2001. 2319

For purposes of this section, "pro rata share" means the 2320
percentage calculated for each county and used in each month of 2321
the period July 2000 through June 2001 to distribute the amounts 2322
credited to the Library and Local Government Support Fund in 2323
accordance with section 5747.47 of the Revised Code. 2324

Notwithstanding any other provision of law to the contrary, 2325
in July 2001, each county undivided library and local government 2326
support fund shall receive from the Library and Local Government 2327
Support Fund an amount equal to the amount it would have received 2328
pursuant to section 5747.47 of the Revised Code for that month, 2329
minus its pro rata share of any amount that has been or shall be 2330
transferred from the Library and Local Government Support Fund to 2331
the OPLIN Technology Fund in that month. In August 2001, each 2332
county undivided library and local government support fund shall 2333
receive from the Library and Local Government Support Fund an 2334
amount equal to the amount it received from that fund in July 2000 2335
and August 2000 minus the amount it received from that fund in 2336
July 2001 and minus its pro rata share of any amount transferred 2337
from that fund to the OPLIN Technology Fund in July 2001 or August 2338
2001. In August 2001, each county undivided local government fund 2339
shall receive from the Local Government Fund, each municipality 2340
that receives a distribution directly from the Local Government 2341
Fund shall receive from that fund, and each county undivided local 2342
government revenue assistance fund shall receive from the Local 2343
Government Revenue Assistance Fund an amount equal to the amount 2344
it received from that respective fund in July 2000 and August 2000 2345
minus the amount it received from that respective fund in July 2346

2001. In each month of the periods September 1, 2001, through June 2347
30, 2002, and September 1, 2002, through June 30, 2003, each 2348
county undivided local government fund shall receive from the 2349
Local Government Fund, each municipality that receives a 2350
distribution directly from the Local Government Fund shall receive 2351
from that fund, each county undivided local government revenue 2352
assistance fund shall receive from the Local Government Revenue 2353
Assistance Fund, and each county undivided library and local 2354
government support fund shall receive from the Library and Local 2355
Government Support Fund, the same amount it received from that 2356
respective fund in the corresponding month of the period September 2357
1, 2000, through June 2001, except there shall be a reduction in 2358
the amount received during the month following any reduction made 2359
pursuant to division (D) of this section. In each month of the 2360
period July 1, 2002, through August 31, 2002, and in the month of 2361
July 2003, each county undivided local government fund shall 2362
receive from the Local Government Fund, each municipality that 2363
receives a distribution directly from the Local Government Fund 2364
shall receive from that fund, each county undivided local 2365
government revenue assistance fund shall receive from the Local 2366
Government Revenue Assistance Fund, and each county undivided 2367
library and local government support fund shall receive from the 2368
Library and Local Government Support Fund, the same amount it 2369
received from that respective fund in the corresponding month of 2370
the period July 1, 2000, through August 31, 2000, except there 2371
shall be a reduction in the amount received during the month 2372
following any reduction made pursuant to division (D) of this 2373
section. If during any month of the period September 1, 2001, 2374
through July 31, 2003, a transfer is made from the Library and 2375
Local Government Support Fund to the OPLIN Technology Fund, the 2376
amount distributed to each county undivided library and local 2377
government support fund shall be reduced by its pro rata share of 2378
the amount transferred. 2379

When a reduction is made pursuant to divisions (D)(1), (2), 2380
(3), or (4) of this section, respectively, the amount received by 2381
each county undivided local government fund and each municipality 2382
directly from the Local Government Fund, by each county undivided 2383
local government revenue assistance fund from the Local Government 2384
Revenue Assistance Fund, and by each library and local government 2385
support fund from the Library and Local Government Support Fund, 2386
shall be reduced in March 2002, July 2002, March 2003, or July 2387
2003, respectively, based on such county's or municipality's 2388
proportionate share of the total amounts to be received from that 2389
fund in that month. 2390

When a reduction is made pursuant to division (E) of this 2391
section, the amount received by each county undivided local 2392
government fund and each municipal corporation directly from the 2393
Local Government Fund, by each county undivided local government 2394
revenue assistance fund from the Local Government Revenue 2395
Assistance Fund, and by each library and local government support 2396
fund from the Library and Local Government Support Fund shall be 2397
reduced in April 2003, May 2003, and June 2003, respectively, 2398
based on such county's or municipal corporation's proportionate 2399
share of the total amounts to be received from that fund in that 2400
month. 2401

During the period July 1, 2001, through July 31, 2003, the 2402
Director of Budget and Management shall issue those directives to 2403
state agencies that are necessary to ensure that the appropriate 2404
amounts are distributed to the Local Government Fund, to the Local 2405
Government Revenue Assistance Fund, and to the Library and Local 2406
Government Support Fund to accomplish the purposes of this 2407
section. 2408

Section 7. That existing Section 140 of Am. Sub. H.B. 94 of 2409
the 124th General Assembly, as amended by Am. Sub. H.B. 405 and 2410

Am. Sub. H.B. 390 of the 124th General Assembly, is hereby 2411
repealed. 2412

Section 8. That Section 142 of Am. Sub. H.B. 94 of the 124th 2413
General Assembly be amended to read as follows: 2414

Sec. 142. BUDGET STABILIZATION FUND TRANSFERS FOR THE 2415
DEPARTMENT OF JOB AND FAMILY SERVICES 2416

Notwithstanding section 131.43 and division (D) of section 2417
127.14 of the Revised Code, if the Director of Budget and 2418
Management, in consultation with the Director of Job and Family 2419
Services, determines that Medicaid expenditures for the biennium 2420
are likely to exceed the amounts appropriated in the Department of 2421
Job and Family Services appropriation item 600-525, Health 2422
Care/Medicaid, the Director of Budget and Management may, with 2423
Controlling Board approval, ~~transfer~~ transfer up to ~~\$150~~ \$190 2424
million in cash from the Budget Stabilization Fund to the General 2425
Revenue Fund and increase the appropriation to appropriation item 2426
600-525, Health Care/Medicaid, accordingly. In increasing the 2427
appropriation to appropriation item 600-525, Health Care/Medicaid, 2428
the Director of Budget and Management shall add to the amount 2429
transferred from the Budget Stabilization Fund appropriation 2430
amounts that are attributable to the federal match that is 2431
indicated by the state and federal division of appropriation item 2432
600-525, Health Care/Medicaid, as represented in ~~this act~~ Am. Sub. 2433
H.B. 94 of the 124th General Assembly. Before any transfers are 2434
authorized, the Director of Budget and Management shall exhaust 2435
the possibilities for transfers of moneys within the Department of 2436
Job and Family Services to meet the identified shortfall. 2437

Section 9. That existing Section 142 of Am. Sub. H.B. 94 of 2438
the 124th General Assembly is hereby repealed. 2439

Section 10. CHEMICAL DEPENDENCY PROFESSIONALS BOARD CASH 2440
TRANSFER 2441

Notwithstanding any other law to the contrary, upon 2442
certification by the Director of Administrative Services, the 2443
Director of Budget and Management may transfer cash in an amount 2444
not to exceed the fiscal year 2003 appropriation from Fund 5P1 2445
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 2446
amount transferred is hereby appropriated. The cash shall be used 2447
to pay expenses related to establishing the Chemical Dependency 2448
Professionals Board, including, but not limited to, travel 2449
reimbursement of board members. 2450

Section 11. (A) As used in this section, "net additional tax" 2451
means the net additional amount of tax due on all packages of Ohio 2452
stamped cigarettes and on all unaffixed Ohio cigarette tax stamps 2453
that a wholesale or retail dealer has on hand as of the beginning 2454
of business on March 1, 2003, as a result of the amendment of 2455
section 5743.02 of the Revised Code by this act. 2456

(B) The amendment by this act of section 5743.02 of the 2457
Revised Code takes effect March 1, 2003. 2458

(C) In addition to the return required by section 5743.03 of 2459
the Revised Code, each wholesale dealer and each retail dealer 2460
shall make and file a return on forms prescribed by the Tax 2461
Commissioner, showing the net additional tax due and any other 2462
information that the Tax Commissioner considers necessary for the 2463
administration of sections 5743.01 to 5743.20 of the Revised Code. 2464
Not later than May 31, 2003, each wholesale dealer and each retail 2465
dealer shall deliver the return to the Tax Commissioner, together 2466
with a remittance of the net additional tax. Any wholesale or 2467
retail dealer who fails to file a return or remit the net 2468
additional tax as prescribed by this section shall forfeit and pay 2469

into the state treasury, as revenue arising from the tax imposed 2470
by section 5743.02 of the Revised Code, a late charge equal to the 2471
greater of fifty dollars or ten per cent of the tax due. If the 2472
net additional tax or any portion of the net additional tax, 2473
whether determined by the Tax Commissioner or the wholesale or 2474
retail dealer, is not paid on or before the date prescribed by 2475
this section, interest shall be collected and paid in the same 2476
manner as the net additional tax upon the unpaid amount, computed 2477
at the rate per annum prescribed by section 5703.47 of the Revised 2478
Code, from the date prescribed for payment of the net additional 2479
tax to the date of payment or to the date an assessment is issued 2480
under section 5743.081 or 5743.082 of the Revised Code, whichever 2481
occurs first. Any unpaid or unreported tax liability, late charge, 2482
or interest levied by this section may be collected by assessment 2483
in the manner provided in section 5743.081 or 5743.082 of the 2484
Revised Code. 2485

(D) Interest shall be allowed and paid upon any refund 2486
granted in respect to the payment of an illegal or erroneous 2487
assessment for any net additional tax imposed under this section 2488
from the date of the overpayment. The interest shall be computed 2489
at the rate per annum prescribed by section 5703.47 of the Revised 2490
Code. 2491

Section 12. Except as otherwise specifically provided in this 2492
act, the codified and uncodified sections of law amended or 2493
enacted by this act, and the items of law of which the sections as 2494
amended or enacted by this act are composed, are not subject to 2495
the referendum. Therefore, under Ohio Constitution, Article II, 2496
Section 1d and section 1.471 of the Revised Code, the sections of 2497
law amended or enacted by this act, and the items of law of which 2498
the sections as amended or enacted by this act are composed, 2499
except as otherwise specifically provided in this act, go into 2500
immediate effect when this act becomes law. 2501

Section 13. Sections 5101.31, 5104.01, 5104.04, 5104.30, 2502
5104.32, 5104.34, 5104.35, 5104.38, 5104.382, and 5104.39 of the 2503
Revised Code as amended or enacted by this act, and the items of 2504
law of which such sections as amended or enacted by this act are 2505
composed, are subject to the referendum. Therefore, under Ohio 2506
Constitution, Article II, Section 1c and section 1.471 of the 2507
Revised Code, such sections as amended or enacted by this act, and 2508
the items of law of which such sections as amended or enacted by 2509
this act are composed, take effect on the ninety-first day after 2510
this act is filed with the Secretary of State. If, however, a 2511
referendum petition is filed against any such section as amended 2512
or enacted by this act, or against any item of law of which any 2513
such section as amended or enacted by this act is composed, the 2514
section as amended or enacted, or item of law, unless rejected at 2515
the referendum, takes effect at the earliest time permitted by 2516
law. 2517

Section 14. Section 5739.21 of the Revised Code is presented 2518
in this act as a composite of the section as amended by both Am. 2519
Sub. H.B. 117 and Am. Sub. S.B. 188 of the 121st General Assembly. 2520
The General Assembly, applying the principle stated in division 2521
(B) of section 1.52 of the Revised Code that amendments are to be 2522
harmonized if reasonably capable of simultaneous operation, finds 2523
that the composite is the resulting version of the section in 2524
effect prior to the effective date of the section as presented in 2525
this act. 2526