

As Passed by the House

125th General Assembly

Regular Session

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Am. Sub. H. B. No. 40

Representatives Calvert (By Request), D. Evans, Hoops

A B I L L

To amend sections 5104.01, 5104.04, 5104.30, 5104.32, 1
5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 2
5739.031, 5739.032, 5739.12, 5739.122, 5739.21, 3
5741.03, 5741.12, and 5741.121 and to enact 4
sections 107.31, 107.32, 5101.31, and 5104.382 of 5
the Revised Code to make program and budgetary 6
modifications, to establish provisions regarding 7
the possible closing of state institutional 8
facilities for the purpose of expenditure 9
reductions or budget cuts, to amend the versions 10
of sections 5739.031, 5739.12, and 5741.12 of the 11
Revised Code that are scheduled to take effect 12
July 1, 2003, to continue the provisions of this 13
act on and after that effective date, to amend 14
Section 125 of Am. Sub. H.B. 94 of the 124th 15
General Assembly, as subsequently amended, to 16
amend Section 142 of Am. Sub. H.B. 94 of the 124th 17
General Assembly, and to make an appropriation. 18

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

Section 1. That sections 5104.01, 5104.04, 5104.30, 5104.32, 19
5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 5739.032, 20
5739.12, 5739.122, 5739.21, 5741.03, 5741.12, and 5741.121 be 21

amended and sections 107.31, 107.32, 5101.31, and 5104.382 of the Revised Code be enacted to read as follows:

Sec. 107.31. (A) As used in this section and section 107.32 of the Revised Code:

(1) "State institutional facility" means any institution or other facility for the housing of any person that is under the control of the department of rehabilitation and correction, the department of youth services, the department of mental retardation and developmental disabilities, the department of mental health, or any other agency or department of state government.

(2) "Target state agency" means the agency of state government that the governor identifies in a notice provided under division (C)(1) of this section and that operates an institutional facility or facilities the governor believes should be closed.

(B) Notwithstanding any other provision of law, the governor shall not order the closure of any state institutional facility, for the purpose of expenditure reductions or budget cuts, other than in accordance with this section.

(C) If the governor determines that necessary expenditure reductions and budget cuts cannot be made without closing one or more state institutional facilities, all of the following apply:

(1) The governor shall determine which state agency's institutional facility or facilities the governor believes should be closed, shall notify the general assembly and that agency of that determination, and shall specify the number of facilities of that agency that the governor believes should be closed.

(2) Upon the governor's provision of the notice described in division (C)(1) of this section, the state facilities closure commission is hereby created as described in division (D) of this section, regarding the target state agency. Not later than seven

days after the governor provides that notice, the officials with 52
the duties to appoint members of the commission for the target 53
state agency, as described in division (D) of this section, shall 54
appoint the specified members of the commission, and, as soon as 55
possible after the appointments, the commission shall meet for the 56
purposes described in that division. Not later than thirty days 57
after the governor provides the notice described in division 58
(C)(1) of this section, the state facilities closure commission 59
shall provide a report to the general assembly, the governor, and 60
the target state agency that contains the commission's 61
recommendation as to the state institutional facility or 62
facilities of the target state agency that the governor may close. 63
The commission's recommendation shall identify the same number of 64
state institutional facilities as the governor specified in the 65
governor's notice provided under division (C)(1) of this section, 66
and, if the recommendation identifies more than one facility, it 67
shall list them in order of the commission's preference for 68
closure. A state facilities closure commission created for a 69
particular target state agency shall make a report only regarding 70
that target state agency and shall include no recommendations 71
regarding any other state agency or department in its report. 72

(3) Upon receipt of the report of the state facilities 73
closure commission under division (C)(2) of this section for a 74
target state agency, if the governor still believes that necessary 75
expenditure reductions and budget cuts cannot be made without 76
closing one or more state institutional facilities, the governor 77
may close state institutional facilities of the target state 78
agency that are identified in the commission's recommendation 79
contained in the report. Except as otherwise provided in this 80
division, the governor shall not close any state institutional 81
facility of the target state agency that is not listed in the 82
commission's recommendation, and shall not close multiple 83
institutions in any order other than the order of the commission's 84

preference as specified in the recommendation. The governor is not 85
required to follow the recommendation of the commission in closing 86
an institutional facility if the governor determines that a 87
significant change in circumstances make the recommendation 88
unworkable. 89

(D) The state facilities closure commission shall be created 90
at the time and in the manner specified in division (C)(2) of this 91
section. If more than one state agency or department is a target 92
state agency, a separate state facilities closure commission shall 93
be created for each such target state agency. The commission 94
consists of eleven members. Three members shall be members of the 95
house of representatives appointed by the speaker of the house of 96
representatives, none of the members so appointed may have a state 97
institutional facility of the target state agency in the member's 98
district, two of the members so appointed shall be members of the 99
majority political party in the house of representatives, and one 100
of the members so appointed shall not be a member of majority 101
political party in the house of representatives. Three members 102
shall be members of the senate appointed by the president of the 103
senate, none of the members so appointed may have a state 104
institutional facility of the target state agency in the member's 105
district, two of the members so appointed shall be members of the 106
majority political party in the senate, and one of the members so 107
appointed shall not be a member of majority political party in the 108
senate. One member shall be the director of budget and management. 109
One member shall be the director, or other agency head, of the 110
target state agency. Two members shall be private executives with 111
expertise in facility utilization, with one of these members 112
appointed by the speaker of the house of representatives and one 113
of them appointed by the president of the senate, and neither of 114
the members so appointed may have a state institutional facility 115
of the target state agency in the county in which the member 116
resides. One member shall be a representative of the Ohio civil 117

service employees' association or other representative association 118
of the employees of the target state agency, appointed by the 119
speaker of the house of representatives. The officials with the 120
duties to appoint members of the commission shall make the 121
appointments, and the commission shall meet, within the time 122
periods specified in division (C)(2) of this section. The members 123
of the commission shall serve without compensation. At the 124
commission's first meeting, the members shall organize, and 125
appoint a chairperson and vice-chairperson. 126

The commission shall determine which state institutional 127
facility or facilities under the control of the target state 128
agency for which the commission was created should be closed. In 129
making this determination, the commission shall, at a minimum, 130
consider the following factors: 131

(1) Whether there is a need to reduce the number of 132
facilities; 133

(2) The availability of alternate facilities; 134

(3) The cost effectiveness of the facilities; 135

(4) The geographic factors associated with each facility and 136
its proximity to other similar facilities; 137

(5) The impact of collective bargaining on facility 138
operations; 139

(6) The utilization and maximization of resources; 140

(7) Continuity of the staff and ability to serve the facility 141
population; 142

(8) Continuing costs following closure of a facility; 143

(9) The impact of the closure on the local economy; 144

(10) Alternatives and opportunities for consolidation with 145
other facilities. 146

The commission shall meet as often as necessary to make its 147
determination, may take testimony and consider all relevant 148
information, and shall prepare and provide in accordance with 149
division (C)(2) of this section a report containing its 150
recommendations. Upon providing the report regarding the target 151
state agency, the commission shall cease to exist, provided that 152
another commission shall be created for the same state agency if 153
the agency is made a target state agency in another report 154
provided under division (C)(1) of this section and provided that 155
another commission shall be created for a different state agency 156
if that agency is made a target state agency in a report provided 157
under that division. 158

Sec. 107.32. Notwithstanding any other provision of law, if 159
the closure of the particular facility is authorized under section 160
107.31 of the Revised Code, the governor may terminate any 161
contract entered into under section 9.06 of the Revised Code for 162
the private operation and management of any correctional facility 163
under the control of the department of rehabilitation and 164
correction, including, but not limited to the initial intensive 165
program prison established pursuant to section 5120.033 of the 166
Revised Code as it existed prior to the effective date of this 167
section, and terminate the operation of, and close that facility. 168
If the governor terminates a contract for the private operation 169
and management of a facility, and terminates the operation of, and 170
closes, the facility as described in this section, inmates in the 171
facility shall be transferred to another correctional facility 172
under the control of the department. If the initial intensive 173
program prison is closed, divisions (G)(2)(a) and (b) of section 174
2929.13 of the Revised Code have no effect while the facility is 175
closed. 176

Sec. 5101.31. Any record, data, pricing information, or other 177

information regarding a drug rebate agreement or a supplemental 178
drug rebate agreement for the medicaid program established under 179
Chapter 5111. of the Revised Code or the disability medical 180
assistance program established under section 5115.10 of the 181
Revised Code that the department of job and family services 182
receives from a pharmaceutical manufacturer or creates pursuant to 183
negotiation of the agreement is not a public record under section 184
149.43 of the Revised Code and shall be treated by the department 185
as confidential information. 186

Sec. 5104.01. As used in this chapter: 187

(A) "Administrator" means the person responsible for the 188
daily operation of a center or type A home. The administrator and 189
the owner may be the same person. 190

(B) "Approved child day camp" means a child day camp approved 191
pursuant to section 5104.22 of the Revised Code. 192

(C) "Authorized provider" means a person authorized by a 193
county director of job and family services to operate a certified 194
type B family day-care home. 195

(D) "Border state child day-care provider" means a child 196
day-care provider that is located in a state bordering Ohio and 197
that is licensed, certified, or otherwise approved by that state 198
to provide child day-care. 199

(E) "Caretaker parent" means the father or mother of a child 200
whose presence in the home is needed as the caretaker of the 201
child, a person who has legal custody of a child and whose 202
presence in the home is needed as the caretaker of the child, a 203
guardian of a child whose presence in the home is needed as the 204
caretaker of the child, and any other person who stands in loco 205
parentis with respect to the child and whose presence in the home 206
is needed as the caretaker of the child. 207

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

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

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

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

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

(K) "Child day-care" means administering to the needs of

infants, toddlers, preschool children, and school children outside 239
of school hours by persons other than their parents or guardians, 240
custodians, or relatives by blood, marriage, or adoption for any 241
part of the twenty-four-hour day in a place or residence other 242
than a child's own home. 243

(L) "Child day-care center" and "center" mean any place in 244
which child day-care or publicly funded child day-care is provided 245
for thirteen or more children at one time or any place that is not 246
the permanent residence of the licensee or administrator in which 247
child day-care or publicly funded child day-care is provided for 248
seven to twelve children at one time. In counting children for the 249
purposes of this division, any children under six years of age who 250
are related to a licensee, administrator, or employee and who are 251
on the premises of the center shall be counted. "Child day-care 252
center" and "center" do not include any of the following: 253

(1) A place located in and operated by a hospital, as defined 254
in section 3727.01 of the Revised Code, in which the needs of 255
children are administered to, if all the children whose needs are 256
being administered to are monitored under the on-site supervision 257
of a physician licensed under Chapter 4731. of the Revised Code or 258
a registered nurse licensed under Chapter 4723. of the Revised 259
Code, and the services are provided only for children who, in the 260
opinion of the child's parent, guardian, or custodian, are 261
exhibiting symptoms of a communicable disease or other illness or 262
are injured; 263

(2) A child day camp; 264

(3) A place that provides child day-care, but not publicly 265
funded child day-care, if all of the following apply: 266

(a) An organized religious body provides the child day-care; 267

(b) A parent, custodian, or guardian of at least one child 268
receiving child day-care is on the premises and readily accessible 269

at all times;	270
(c) The child day-care is not provided for more than thirty days a year;	271 272
(d) The child day-care is provided only for preschool and school children.	273 274
(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.	275 276 277 278
(N) "Child day-care resource and referral services" means all of the following services:	279 280
(1) Maintenance of a uniform data base of all child day-care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	281 282 283
(2) Provision of individualized consumer education to families seeking child day-care;	284 285
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	286 287
(4) Recruitment of child day-care providers;	288
(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;	289 290 291 292
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	293 294
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	295 296 297
(8) Stimulation of employer involvement in making child	298

day-care more affordable, more available, safer, and of higher	299
quality for their employees and for the community;	300
(9) Provision of written educational materials to caretaker	301
parents and informational resources to child day-care providers;	302
(10) Coordination of services among child day-care resource	303
and referral service organizations to assist in developing and	304
maintaining a statewide system of child day-care resource and	305
referral services if required by the department of job and family	306
services;	307
(11) Cooperation with the county department of job and family	308
services in encouraging the establishment of parent cooperative	309
child day-care centers and parent cooperative type A family	310
day-care homes.	311
(O) "Child-care staff member" means an employee of a child	312
day-care center or type A family day-care home who is primarily	313
responsible for the care and supervision of children. The	314
administrator may be a part-time child-care staff member when not	315
involved in other duties.	316
(P) "Drop-in child day-care center," "drop-in center,"	317
"drop-in type A family day-care home," and "drop-in type A home"	318
mean a center or type A home that provides child day-care or	319
publicly funded child day-care for children on a temporary,	320
irregular basis.	321
(Q) "Employee" means a person who either:	322
(1) Receives compensation for duties performed in a child	323
day-care center or type A family day-care home;	324
(2) Is assigned specific working hours or duties in a child	325
day-care center or type A family day-care home.	326
(R) "Employer" means a person, firm, institution,	327
organization, or agency that operates a child day-care center or	328

type A family day-care home subject to licensure under this 329
chapter. 330

(S) "Federal poverty line" means the official poverty 331
guideline as revised annually in accordance with section 673(2) of 332
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 333
U.S.C. 9902, as amended, for a family size equal to the size of 334
the family of the person whose income is being determined. 335

(T) "Head start program" means a comprehensive child 336
development program that receives funds distributed under the 337
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 338
amended, or under section 3301.31 of the Revised Code. 339

(U) "Income" means gross income, as defined in section 340
5107.10 of the Revised Code, less any amounts required by federal 341
statutes or regulations to be disregarded. 342

(V) "Indicator checklist" means an inspection tool, used in 343
conjunction with an instrument-based program monitoring 344
information system, that contains selected licensing requirements 345
that are statistically reliable indicators or predictors of a 346
child day-care center or type A family day-care home's compliance 347
with licensing requirements. 348

(W) "Infant" means a child who is less than eighteen months 349
of age. 350

(X) "In-home aide" means a person certified by a county 351
director of job and family services pursuant to section 5104.12 of 352
the Revised Code to provide publicly funded child day-care to a 353
child in a child's own home pursuant to this chapter and any rules 354
adopted under it. 355

(Y) "Instrument-based program monitoring information system" 356
means a method to assess compliance with licensing requirements 357
for child day-care centers and type A family day-care homes in 358
which each licensing requirement is assigned a weight indicative 359

of the relative importance of the requirement to the health, 360
growth, and safety of the children that is used to develop an 361
indicator checklist. 362

(Z) "License capacity" means the maximum number in each age 363
category of children who may be cared for in a child day-care 364
center or type A family day-care home at one time as determined by 365
the director of job and family services considering building 366
occupancy limits established by the department of commerce, number 367
of available child-care staff members, amount of available indoor 368
floor space and outdoor play space, and amount of available play 369
equipment, materials, and supplies. 370

(AA) "Licensed preschool program" or "licensed school child 371
program" means a preschool program or school child program, as 372
defined in section 3301.52 of the Revised Code, that is licensed 373
by the department of education pursuant to sections 3301.52 to 374
3301.59 of the Revised Code. 375

(BB) "Licensee" means the owner of a child day-care center or 376
type A family day-care home that is licensed pursuant to this 377
chapter and who is responsible for ensuring its compliance with 378
this chapter and rules adopted pursuant to this chapter. 379

(CC) "Operate a child day camp" means to operate, establish, 380
manage, conduct, or maintain a child day camp. 381

(DD) "Owner" includes a person, as defined in section 1.59 of 382
the Revised Code, or government entity. 383

(EE) "Parent cooperative child day-care center," "parent 384
cooperative center," "parent cooperative type A family day-care 385
home," and "parent cooperative type A home" mean a corporation or 386
association organized for providing educational services to the 387
children of members of the corporation or association, without 388
gain to the corporation or association as an entity, in which the 389
services of the corporation or association are provided only to 390

children of the members of the corporation or association, 391
ownership and control of the corporation or association rests 392
solely with the members of the corporation or association, and at 393
least one parent-member of the corporation or association is on 394
the premises of the center or type A home during its hours of 395
operation. 396

(FF) "Part-time child day-care center," "part-time center," 397
"part-time type A family day-care home," and "part-time type A 398
home" mean a center or type A home that provides child day-care or 399
publicly funded child day-care for no more than four hours a day 400
for any child. 401

(GG) "Place of worship" means a building where activities of 402
an organized religious group are conducted and includes the 403
grounds and any other buildings on the grounds used for such 404
activities. 405

(HH) "Preschool child" means a child who is three years old 406
or older but is not a school child. 407

(II) "Protective day-care" means publicly funded child 408
day-care for the direct care and protection of a child to whom 409
either of the following applies: 410

(1) A case plan prepared and maintained for the child 411
pursuant to section 2151.412 of the Revised Code indicates a need 412
for protective day-care and the child resides with a parent, 413
stepparent, guardian, or another person who stands in loco 414
parentis as defined in rules adopted under section 5104.38 of the 415
Revised Code; 416

(2) The child and the child's caretaker either temporarily 417
reside in a facility providing emergency shelter for homeless 418
families or are determined by the county department of job and 419
family services to be homeless, and are otherwise ineligible for 420
publicly funded child day-care. 421

(JJ) "Publicly funded child day-care" means administering to 422
the needs of infants, toddlers, preschool children, and school 423
children under age thirteen during any part of the 424
twenty-four-hour day by persons other than their caretaker parents 425
for remuneration wholly or in part with federal or state funds, 426
including child care block grant act funds, distributed by the 427
department of job and family services. 428

(KK) "Religious activities" means any of the following: 429
worship or other religious services; religious instruction; Sunday 430
school classes or other religious classes conducted during or 431
prior to worship or other religious services; youth or adult 432
fellowship activities; choir or other musical group practices or 433
programs; meals; festivals; or meetings conducted by an organized 434
religious group. 435

(LL) "School child" means a child who is enrolled in or is 436
eligible to be enrolled in a grade of kindergarten or above but is 437
less than fifteen years old. 438

(MM) "School child day-care center," "school child center," 439
"school child type A family day-care home," and "school child type 440
A family home" mean a center or type A home that provides child 441
day-care for school children only and that does either or both of 442
the following: 443

(1) Operates only during that part of the day that 444
immediately precedes or follows the public school day of the 445
school district in which the center or type A home is located; 446

(2) Operates only when the public schools in the school 447
district in which the center or type A home is located are not 448
open for instruction with pupils in attendance. 449

(NN) ~~"Special needs day care" means publicly funded child 450
day care that is provided for a child who is physically or 451
developmentally handicapped, mentally retarded, or mentally ill. 452~~

~~(OO)~~ "State median income" means the state median income 453
calculated by the department of development pursuant to division 454
(A)(1)(g) of section 5709.61 of the Revised Code. 455

~~(PP)~~(OO) "Toddler" means a child who is at least eighteen 456
months of age but less than three years of age. 457

~~(OO)~~(PP) "Type A family day-care home" and "type A home" mean 458
a permanent residence of the administrator in which child day-care 459
or publicly funded child day-care is provided for seven to twelve 460
children at one time or a permanent residence of the administrator 461
in which child day-care is provided for four to twelve children at 462
one time if four or more children at one time are under two years 463
of age. In counting children for the purposes of this division, 464
any children under six years of age who are related to a licensee, 465
administrator, or employee and who are on the premises of the type 466
A home shall be counted. "Type A family day-care home" does not 467
include a residence in which the needs of children are 468
administered to, if all of the children whose needs are being 469
administered to are siblings of the same immediate family and the 470
residence is the home of the siblings. "Type A family day-care 471
home" and "type A home" do not include any child day camp. 472

~~(RR)~~(OO) "Type B family day-care home" and "type B home" mean 473
a permanent residence of the provider in which child day-care is 474
provided for one to six children at one time and in which no more 475
than three children are under two years of age at one time. In 476
counting children for the purposes of this division, any children 477
under six years of age who are related to the provider and who are 478
on the premises of the type B home shall be counted. "Type B 479
family day-care home" does not include a residence in which the 480
needs of children are administered to, if all of the children 481
whose needs are being administered to are siblings of the same 482
immediate family and the residence is the home of the siblings. 483
"Type B family day-care home" and "type B home" do not include any 484

child day camp. 485

Sec. 5104.04. (A) The department of job and family services 486
shall establish procedures to be followed in investigating, 487
inspecting, and licensing child day-care centers and type A family 488
day-care homes. 489

(B)(1) The department shall, at least twice during every 490
twelve-month period of operation of a center or type A home, 491
inspect the center or type A home. The department shall inspect a 492
part-time center or part-time type A home at least once during 493
every twelve-month period of operation. The department shall 494
provide a written inspection report to the licensee within a 495
reasonable time after each inspection. The licensee shall display 496
all written reports of inspections conducted during the current 497
licensing period in a conspicuous place in the center or type A 498
home. 499

At least one inspection shall be unannounced and all 500
inspections may be unannounced. No person, firm, organization, 501
institution, or agency shall interfere with the inspection of a 502
center or type A home by any state or local official engaged in 503
performing duties required of the state or local official by 504
Chapter 5104. of the Revised Code or rules adopted pursuant to 505
Chapter 5104. of the Revised Code, including inspecting the center 506
or type A home, reviewing records, or interviewing licensees, 507
employees, children, or parents. 508

Upon receipt of any complaint that a center or type A home is 509
out of compliance with the requirements of Chapter 5104. of the 510
Revised Code or rules adopted pursuant to Chapter 5104. of the 511
Revised Code, the department shall investigate and may inspect a 512
center or type A home. 513

(2) If the department implements an instrument-based program 514
monitoring information system, it may use an indicator checklist 515

to comply with division (B)(1) of this section. 516

(3) The department shall, at least once during every 517
twelve-month period of operation of a center or type A home, 518
collect information concerning the amounts charged by the center 519
or home for providing child day-care services for use in 520
establishing ~~rates of~~ reimbursement ceilings pursuant to section 521
5104.30 of the Revised Code. 522

(C) In the event a licensed center or type A home is 523
determined to be out of compliance with the requirements of 524
Chapter 5104. of the Revised Code or rules adopted pursuant to 525
Chapter 5104. of the Revised Code, the department shall notify the 526
licensee of the center or type A home in writing regarding the 527
nature of the violation, what must be done to correct the 528
violation, and by what date the correction must be made. If the 529
correction is not made by the date established by the department, 530
the department may commence action under Chapter 119. of the 531
Revised Code to revoke the license. 532

(D) The department may deny or revoke a license, or refuse to 533
renew a license of a center or type A home, if the applicant 534
knowingly makes a false statement on the application, does not 535
comply with the requirements of Chapter 5104. or rules adopted 536
pursuant to Chapter 5104. of the Revised Code, or has pleaded 537
guilty to or been convicted of an offense described in section 538
5104.09 of the Revised Code. 539

(E) If the department finds, after notice and hearing 540
pursuant to Chapter 119. of the Revised Code, that any person, 541
firm, organization, institution, or agency licensed under section 542
5104.03 of the Revised Code is in violation of any provision of 543
Chapter 5104. of the Revised Code or rules adopted pursuant to 544
Chapter 5104. of the Revised Code, the department may issue an 545
order of revocation to the center or type A home revoking the 546
license previously issued by the department. Upon the issuance of 547

any order of revocation, the person whose license is revoked may 548
appeal in accordance with section 119.12 of the Revised Code. 549

(F) The surrender of a center or type A home license to the 550
department or the withdrawal of an application for licensure by 551
the owner or administrator of the center or type A home shall not 552
prohibit the department from instituting any of the actions set 553
forth in this section. 554

(G) Whenever the department receives a complaint, is advised, 555
or otherwise has any reason to believe that a center or type A 556
home is providing child day-care without a license issued or 557
renewed pursuant to section 5104.03 and is not exempt from 558
licensing pursuant to section 5104.02 of the Revised Code, the 559
department shall investigate the center or type A home and may 560
inspect the areas children have access to or areas necessary for 561
the care of children in the center or type A home during suspected 562
hours of operation to determine whether the center or type A home 563
is subject to the requirements of Chapter 5104. or rules adopted 564
pursuant to Chapter 5104. of the Revised Code. 565

(H) The department, upon determining that the center or type 566
A home is operating without a license, shall notify the attorney 567
general, the prosecuting attorney of the county in which the 568
center or type A home is located, or the city attorney, village 569
solicitor, or other chief legal officer of the municipal 570
corporation in which the center or type A home is located, that 571
the center or type A home is operating without a license. Upon 572
receipt of the notification, the attorney general, prosecuting 573
attorney, city attorney, village solicitor, or other chief legal 574
officer of a municipal corporation shall file a complaint in the 575
court of common pleas of the county in which the center or type A 576
home is located requesting that the court grant an order enjoining 577
the owner from operating the center or type A home. The court 578
shall grant such injunctive relief upon a showing that the 579

respondent named in the complaint is operating a center or type A 580
home and is doing so without a license. 581

(I) The department shall prepare an annual report on 582
inspections conducted under this section. The report shall include 583
the number of inspections conducted, the number and types of 584
violations found, and the steps taken to address the violations. 585
The department shall file the report with the governor, the 586
president and minority leader of the senate, and the speaker and 587
minority leader of the house of representatives on or before the 588
first day of January of each year, beginning in 1999. 589

Sec. 5104.30. (A) The department of job and family services 590
is hereby designated as the state agency responsible for 591
administration and coordination of federal and state funding for 592
publicly funded child day-care in this state. Publicly funded 593
child day-care shall be provided to the following: 594

(1) Recipients of transitional child day-care as provided 595
under section 5104.34 of the Revised Code; 596

(2) Participants in the Ohio works first program established 597
under Chapter 5107. of the Revised Code; 598

(3) Individuals who would be participating in the Ohio works 599
first program if not for a sanction under section 5107.16 of the 600
Revised Code and who continue to participate in a work activity, 601
developmental activity, or alternative work activity pursuant to 602
an assignment under section 5107.42 of the Revised Code; 603

(4) A family receiving publicly funded child day-care on 604
October 1, 1997, until the family's income reaches one hundred 605
fifty per cent of the federal poverty line; 606

(5) Subject to available funds, other individuals determined 607
eligible in accordance with rules adopted under section 5104.38 of 608
the Revised Code. 609

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

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

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

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

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

(2) Activities that increase parental choice; 641

(3) Activities, including child day-care resource and 642
referral services, designed to improve the quality, and increase 643
the supply, of child day-care. 644

(D) The department shall ensure that any federal funds 645
received by the state under the child care block grant act will be 646
used only to supplement, and will not be used to supplant, 647
federal, state, and local funds available on the effective date of 648
that act for publicly funded child day-care and related programs. 649
A county department of job and family services may purchase child 650
day-care from funds obtained through any other means. 651

(E) The department shall encourage the development of 652
suitable child day-care throughout the state, especially in areas 653
with high concentrations of recipients of public assistance and 654
families with low incomes. The department shall encourage the 655
development of suitable child day-care designed to accommodate the 656
special needs of migrant workers. On request, the department, 657
through its employees or contracts with state or community child 658
day-care resource and referral service organizations, shall 659
provide consultation to groups and individuals interested in 660
developing child day-care. The department of job and family 661
services may enter into interagency agreements with the department 662
of education, the board of regents, the department of development, 663
and other state agencies and entities whenever the cooperative 664
efforts of the other state agencies and entities are necessary for 665
the department of job and family services to fulfill its duties 666
and responsibilities under this chapter. 667

The department may develop and maintain a registry of persons 668
providing child day-care. The director may adopt rules pursuant to 669
Chapter 119. of the Revised Code establishing procedures and 670
requirements for the registry's administration. 671

(F)(1) The director shall adopt rules in accordance with 672
Chapter 119. of the Revised Code establishing ~~a procedure for~~ 673
~~determining rates of reimbursement and a~~ both of the following: 674

(a) Reimbursement ceilings for providers of publicly funded 675
child day-care; 676

(b) A procedure for paying providers of publicly funded child 677
day-care. ~~In~~ 678

(2) In establishing rates of reimbursement pursuant to this 679
ceilings under division (F)(1)(a) of this section, the director 680
shall ~~use~~ do all of the following: 681

(a) Use the information obtained under division (B)(3) of 682
section 5104.04 of the Revised Code ~~and may establish different~~ 683
~~rates of reimbursement based on the geographic location of the~~ 684
~~provider, type of care provided, age of the child served, special~~ 685
~~needs of the child, whether expanded hours of service are~~ 686
~~provided, whether weekend service is provided, whether the~~ 687
~~provider has exceeded the minimum requirements of state statutes~~ 688
~~and rules governing child day care, and any other factors the~~ 689
~~director considers appropriate. The director shall establish;~~ 690

(b) Establish an enhanced ~~rate of~~ reimbursement ceiling for 691
providers who provide child day-care for caretaker parents who 692
work nontraditional hours. ~~For;~~ 693

(c) For a type B family day-care home provider that has 694
received limited certification pursuant to rules adopted under 695
division (G)(1) of section 5104.011 of the Revised Code, ~~the~~ 696
~~department shall adopt rules establishing~~ establish a 697
reimbursement ~~rate~~ ceiling that is ~~the greater of the rate that~~ 698
~~was in effect for the home on October 1, 1997, or~~ the following: 699

(i) If the provider is a person described in division 700
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 701

per cent of the reimbursement ~~rate~~ ceiling that applies to a type 702
B family day-care home certified by the same county department of 703
job and family services pursuant to section 5104.11 of the Revised 704
Code; 705

(ii) If the provider is a person described in division 706
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 707
of the reimbursement ceiling that applies to a type B family 708
day-care home certified by the same county department pursuant to 709
section 5104.11 of the Revised Code. 710

(3) In establishing reimbursement ceilings under division 711
(F)(1)(a) of this section, the director may establish different 712
reimbursement ceilings based on any of the following: 713

(a) Geographic location of the provider; 714

(b) Type of care provided; 715

(c) Age of the child served; 716

(d) Special needs of the child served; 717

(e) Whether the expanded hours of service are provided; 718

(f) Whether weekend service is provided; 719

(g) Whether the provider has exceeded the minimum 720
requirements of state statutes and rules governing child day-care; 721

(h) Any other factors the director considers appropriate. 722

Sec. 5104.32. (A) Except as provided in division (C) of this 723
section, all purchases of publicly funded child day-care shall be 724
made under a contract entered into by a licensed child day-care 725
center, licensed type A family day-care home, certified type B 726
family day-care home, certified in-home aide, approved child day 727
camp, licensed preschool program, licensed school child program, 728
or border state child day-care provider and the county department 729
of job and family services. A county department of job and family 730

services may enter into a contract with a provider for publicly 731
funded child day-care for a specified period of time or upon a 732
continuous basis for an unspecified period of time. All contracts 733
for publicly funded child day-care shall be contingent upon the 734
availability of state and federal funds. The department of job and 735
family services shall prescribe a standard form to be used for all 736
contracts for the purchase of publicly funded child day-care, 737
regardless of the source of public funds used to purchase the 738
child day-care. To the extent permitted by federal law and 739
notwithstanding any other provision of the Revised Code that 740
regulates state or county contracts or contracts involving the 741
expenditure of state, county, or federal funds, all contracts for 742
publicly funded child day-care shall be entered into in accordance 743
with the provisions of this chapter and are exempt from any other 744
provision of the Revised Code that regulates state or county 745
contracts or contracts involving the expenditure of state, county, 746
or federal funds. 747

(B) Each contract for publicly funded child day-care shall 748
specify at least the following: 749

(1) ~~Except as provided in division (B)(2) of this section,~~ 750
~~that~~ That the provider of publicly funded child day-care agrees to 751
be paid for rendering services at the ~~lower~~ lowest of the rate 752
customarily charged by the provider for children enrolled for 753
child day-care ~~or~~, the ~~rate of~~ reimbursement ceiling established 754
pursuant to section 5104.30 of the Revised Code, or a rate the 755
county department negotiates with the provider; 756

(2) ~~If the provider provides publicly funded child day care~~ 757
~~to caretaker parents who work nontraditional hours, that the~~ 758
~~provider is to be paid for rendering services to those caretaker~~ 759
~~parents at the rate of reimbursement established pursuant to~~ 760
~~section 5104.30 of the Revised Code regardless of whether that~~ 761
~~rate is higher than the rate the provider customarily charges for~~ 762

~~children enrolled for child day care;~~ 763

~~(3)~~ That, if a provider provides child day-care to an 764
individual potentially eligible for publicly funded child day-care 765
who is subsequently determined to be eligible, the county 766
department agrees to pay for all child day-care provided between 767
the date the county department receives the individual's completed 768
application and the date the individual's eligibility is 769
determined; 770

~~(4)~~(3) Whether the county department of job and family 771
services, the provider, or a child day-care resource and referral 772
service organization will make eligibility determinations, whether 773
the provider or a child day-care resource and referral service 774
organization will be required to collect information to be used by 775
the county department to make eligibility determinations, and the 776
time period within which the provider or child day-care resource 777
and referral service organization is required to complete required 778
eligibility determinations or to transmit to the county department 779
any information collected for the purpose of making eligibility 780
determinations; 781

~~(5)~~(4) That the provider, other than a border state child 782
day-care provider, shall continue to be licensed, approved, or 783
certified pursuant to this chapter or sections 3301.52 to 3301.59 784
of the Revised Code and shall comply with all standards and other 785
requirements in this chapter and those sections and in rules 786
adopted pursuant to this chapter or those sections for maintaining 787
the provider's license, approval, or certification; 788

~~(6)~~(5) That, in the case of a border state child day-care 789
provider, the provider shall continue to be licensed, certified, 790
or otherwise approved by the state in which the provider is 791
located and shall comply with all standards and other requirements 792
established by that state for maintaining the provider's license, 793
certificate, or other approval; 794

~~(7)~~(6) Whether the provider will be paid by the county 795
department of job and family services or the state department of 796
job and family services; 797

~~(8)~~(7) That the contract is subject to the availability of 798
state and federal funds. 799

(C) Unless specifically prohibited by federal law, the county 800
department of job and family services shall give individuals 801
eligible for publicly funded child day-care the option of 802
obtaining certificates for payment that the individual may use to 803
purchase services from any provider qualified to provide publicly 804
funded child day-care under section 5104.31 of the Revised Code. 805
Providers of publicly funded child day-care may present these 806
certificates for payment for reimbursement in accordance with 807
rules that the director of job and family services shall adopt. 808
Only providers may receive reimbursement for certificates for 809
payment. The value of the certificate for payment shall be based 810
on the ~~lower~~ lowest of the rate customarily charged by the 811
provider ~~or~~, the ~~rate of~~ reimbursement ceiling established 812
pursuant to section 5104.30 of the Revised Code, ~~unless the~~ 813
~~provider provides publicly funded child day care to caretaker~~ 814
~~parents who work nontraditional hours, in which case the value of~~ 815
~~the certificate for payment for the services to those caretaker~~ 816
~~parents shall be based on the rate of reimbursement established~~ 817
~~pursuant to that section regardless of whether that rate is higher~~ 818
~~than the rate customarily charged by or a rate the county~~ 819
department negotiates with the provider. The county department may 820
provide the certificates for payment to the individuals or may 821
contract with child day-care providers or child day-care resource 822
and referral service organizations that make determinations of 823
eligibility for publicly funded child day-care pursuant to 824
contracts entered into under section 5104.34 of the Revised Code 825
for the providers or resource and referral service organizations 826

to provide the certificates for payment to individuals whom they 827
determine are eligible for publicly funded child day-care. 828

For each six-month period a provider of publicly funded child 829
day-care provides publicly funded child day-care to the child of 830
an individual given certificates of payment, the individual shall 831
provide the provider certificates for days the provider would have 832
provided publicly funded child day-care to the child had the child 833
been present. County departments shall specify the maximum number 834
of days providers will be provided certificates of payment for 835
days the provider would have provided publicly funded child 836
day-care had the child been present. The maximum number of days 837
shall not exceed ten days in a six-month period during which 838
publicly funded child day-care is provided to the child regardless 839
of the number of providers that provide publicly funded child 840
day-care to the child during that period. 841

Sec. 5104.34. (A)(1) Each county department of job and family 842
services shall implement procedures for making determinations of 843
eligibility for publicly funded child day-care. Under those 844
procedures, the eligibility determination for each applicant shall 845
be made no later than thirty calendar days from the date the 846
county department receives a completed application for publicly 847
funded child day-care. Each applicant shall be notified promptly 848
of the results of the eligibility determination. An applicant 849
aggrieved by a decision or delay in making an eligibility 850
determination may appeal the decision or delay to the department 851
of job and family services in accordance with section 5101.35 of 852
the Revised Code. The due process rights of applicants shall be 853
protected. 854

To the extent permitted by federal law, the county department 855
may make all determinations of eligibility for publicly funded 856
child day-care, may contract with child day-care providers or 857

child day-care resource and referral service organizations for the 858
providers or resource and referral service organizations to make 859
all or any part of the determinations, and may contract with child 860
day-care providers or child day-care resource and referral service 861
organizations for the providers or resource and referral service 862
organizations to collect specified information for use by the 863
county department in making determinations. If a county department 864
contracts with a child day-care provider or a child day-care 865
resource and referral service organization for eligibility 866
determinations or for the collection of information, the contract 867
shall require the provider or resource and referral service 868
organization to make each eligibility determination no later than 869
thirty calendar days from the date the provider or resource and 870
referral organization receives a completed application that is the 871
basis of the determination and to collect and transmit all 872
necessary information to the county department within a period of 873
time that enables the county department to make each eligibility 874
determination no later than thirty days after the filing of the 875
application that is the basis of the determination. 876

The county department may station employees of the department 877
in various locations throughout the county to collect information 878
relevant to applications for publicly funded child day-care and to 879
make eligibility determinations. The county department, child 880
day-care provider, and child day-care resource and referral 881
service organization shall make each determination of eligibility 882
for publicly funded child day-care no later than thirty days after 883
the filing of the application that is the basis of the 884
determination, shall make each determination in accordance with 885
any relevant rules adopted pursuant to section 5104.38 of the 886
Revised Code, and shall notify promptly each applicant for 887
publicly funded child day-care of the results of the determination 888
of the applicant's eligibility. 889

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

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

Subject to available funds, a county department of job and family services shall allow a family to receive publicly funded child day-care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child day-care is subject to available funds unless the family is receiving child day-care pursuant to division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the county department must limit eligibility due to lack of

available funds, it shall give first priority for publicly funded 922
child day-care to an assistance group whose income is not more 923
than the maximum income eligibility limit that received 924
transitional child day-care in the previous month but is no longer 925
eligible because the twelve-month period has expired. Such an 926
assistance group shall continue to receive priority for publicly 927
funded child day-care until its income exceeds the maximum income 928
eligibility limit. 929

(3) An assistance group that ceases to participate in the 930
Ohio works first program established under Chapter 5107. of the 931
Revised Code is eligible for transitional child day-care at any 932
time during the immediately following twelve-month period that 933
both of the following apply: 934

(a) The assistance group requires child day-care due to 935
employment; 936

(b) The assistance group's income is not more than one 937
hundred fifty per cent of the federal poverty line. 938

An assistance group ineligible to participate in the Ohio 939
works first program pursuant to section 5101.83 or section 5107.16 940
of the Revised Code is not eligible for transitional child 941
day-care. 942

(B) To the extent permitted by federal law, a county 943
department of job and family services may require a caretaker 944
parent determined to be eligible for publicly funded child 945
day-care to pay a fee according to the schedule of fees 946
established in rules adopted under section 5104.38 of the Revised 947
Code. Each county department shall make protective day-care 948
services available to children without regard to the income or 949
assets of the caretaker parent of the child. 950

(C) A caretaker parent receiving publicly funded child 951
day-care shall report to the entity that determined eligibility 952

any changes in status with respect to employment or participation 953
in a program of education or training not later than ten calendar 954
days after the change occurs. 955

(D) If a county department of job and family services 956
determines that available resources are not sufficient to provide 957
publicly funded child day-care to all eligible families who 958
request it, the county department may establish a waiting list. A 959
county department may establish separate waiting lists within the 960
waiting list based on income. When resources become available to 961
provide publicly funded child day-care to families on the waiting 962
list, a county department that establishes a waiting list shall 963
assess the needs of the next family scheduled to receive publicly 964
funded child day-care. If the assessment demonstrates that the 965
family continues to need and is eligible for publicly funded child 966
day-care, the county department shall offer it to the family. If 967
the county department determines that the family is no longer 968
eligible or no longer needs publicly funded child day-care, the 969
county department shall remove the family from the waiting list. 970

(E) As used in this section, "maximum income eligibility 971
limit" means the amount of income specified in rules adopted under 972
division (A) of section 5104.38 of the Revised Code or, if a 973
county department of job and family services specifies a higher 974
amount pursuant to rules adopted under division (B) of that 975
section, the amount the county department specifies. 976

Sec. 5104.35. (A) The county department of job and family 977
services shall do all of the following: 978

(1) Accept any gift, grant, or other funds from either public 979
or private sources offered unconditionally or under conditions 980
which are, in the judgment of the department, proper and 981
consistent with this chapter and deposit the funds in the county 982
public assistance fund established by section 5101.161 of the 983

Revised Code;	984
(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;	985 986 987 988 989 990 991
(3) Inform clients of the availability of child day-care services;	992 993
(4) Pay to a child day-care center, type A family day-care home, certified type B family day-care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider for child day-care services, the amount provided for in division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the county department pays.	994 995 996 997 998 999 1000 1001 1002
(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child day-care.	1003 1004 1005 1006 1007
(B) The county department of job and family services may do any of the following:	1008 1009
(1) To the extent permitted by federal law, use public child day-care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child day-care;	1010 1011 1012 1013 1014

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

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

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

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

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

~~Effective July 1, 2000, the~~ The maximum amount shall not exceed 1046
two hundred per cent of the federal poverty line. 1047

(B) Procedures under which a county department of job and 1048
family services may, if the department, under division (A) of this 1049
section, specifies a maximum amount of income a family may have 1050
for eligibility for publicly funded child day-care that is less 1051
than the maximum amount specified in that division, specify a 1052
maximum amount of income a family residing in the county the 1053
county department serves may have for initial and continued 1054
eligibility for publicly funded child day-care that is higher than 1055
the amount specified by the department but does not exceed the 1056
maximum amount specified in division (A) of this section; 1057

(C) A schedule of fees requiring all eligible caretaker 1058
parents to pay a fee for publicly funded child day-care according 1059
to income and family size, which shall be uniform for all types of 1060
publicly funded child day-care, except as authorized by rule, and, 1061
to the extent permitted by federal law, shall permit the use of 1062
state and federal funds to pay the customary deposits and other 1063
advance payments that a provider charges all children who receive 1064
child day-care from that provider. The schedule of fees may not 1065
provide for a caretaker parent to pay a fee that exceeds ten per 1066
cent of the parent's family income. 1067

(D) A formula based upon a percentage of the county's total 1068
expenditures for publicly funded child day-care for determining 1069
the maximum amount of state and federal funds appropriated for 1070
publicly funded child day-care that a county department may use 1071
for administrative purposes; 1072

(E) Procedures to be followed by the department and county 1073
departments in recruiting individuals and groups to become 1074
providers of child day-care; 1075

(F) Procedures to be followed in establishing state or local 1076

programs designed to assist individuals who are eligible for 1077
publicly funded child day-care in identifying the resources 1078
available to them and to refer the individuals to appropriate 1079
sources to obtain child day-care; 1080

(G) Procedures to deal with fraud and abuse committed by 1081
either recipients or providers of publicly funded child day-care; 1082

(H) Procedures for establishing a child day-care grant or 1083
loan program in accordance with the child care block grant act; 1084

(I) Standards and procedures for applicants to apply for 1085
grants and loans, and for the department to make grants and loans; 1086

(J) A definition of "person who stands in loco parentis" for 1087
the purposes of division (II)(1) of section 5104.01 of the Revised 1088
Code; 1089

(K) Procedures for a county department of job and family 1090
services to follow in making eligibility determinations and 1091
redeterminations for publicly funded child day-care available 1092
through telephone, computer, and other means at locations other 1093
than the county department; 1094

(L) Any other rules necessary to carry out sections 5104.30 1095
to 5104.39 of the Revised Code. 1096

Sec. 5104.382. In adopting rules under division (A) of 1097
section 5104.38 of the Revised Code establishing criteria for 1098
eligibility for publicly funded child day-care, the director of 1099
job and family services may prescribe the amount, duration, and 1100
scope of benefits available as publicly funded child day-care. 1101

Sec. 5104.39. (A) The director of job and family services 1102
shall adopt rules in accordance with Chapter 119. of the Revised 1103
Code establishing a procedure for monitoring the expenditures of 1104
county departments of job and family services to ensure that 1105

expenditures do not exceed the available federal and state funds 1106
for publicly funded child day-care. The department, with the 1107
assistance of the office of budget and management and the day-care 1108
advisory council created pursuant to section 5104.08 of the 1109
Revised Code, shall monitor the anticipated future expenditures of 1110
county departments for publicly funded child day-care and shall 1111
compare those anticipated future expenditures to available federal 1112
and state funds for publicly funded child day-care. Whenever the 1113
department determines that the anticipated future expenditures of 1114
the county departments will exceed the available federal and state 1115
funds for publicly funded child day-care, it promptly shall notify 1116
the county departments and, before the available state and federal 1117
funds are used, the director shall issue and implement an 1118
administrative order that shall specify both of the following: 1119

(1) Priorities for expending the remaining available federal 1120
and state funds for publicly funded child day-care; 1121

(2) Instructions and procedures to be used by the county 1122
departments. 1123

(B) The order may ~~suspend~~ do any or all of the following: 1124

(1) Suspend enrollment of all new participants in any program 1125
of publicly funded child day-care ~~or may limit;~~ 1126

(2) Limit enrollment of new participants to those with 1127
incomes at or below a specified percentage ~~below of~~ the federal 1128
poverty line, ~~but it shall not limit enrollment by otherwise~~ 1129
~~narrowing eligibility standards established in statute for~~ 1130
~~publicly funded child day care;~~ 1131

(3) Disenroll existing participants with income above a 1132
specified percentage of the federal poverty line. 1133

(C) Each county department shall comply with the order no 1134
later than thirty days after it is issued. If the department fails 1135
to notify the county departments and to implement the reallocation 1136

priorities specified in the order before the available federal and 1137
state funds for publicly funded child day-care are used, the state 1138
department shall provide sufficient funds to the county 1139
departments for publicly funded child day-care to enable each 1140
county department to pay for all publicly funded child day-care 1141
that was provided by providers pursuant to contract prior to the 1142
date that the county department received notice under this 1143
~~division~~ section and the state department implemented in that 1144
county the priorities. 1145

(D) If after issuing an order under this ~~division~~ section to 1146
suspend or limit enrollment of new participants or disenroll 1147
existing participants the department determines that available 1148
state and federal funds for publicly funded child day-care exceed 1149
the anticipated future expenditures of the county departments, the 1150
director may issue and implement another administrative order 1151
increasing income eligibility levels to a specified percentage of 1152
the federal poverty line. The order shall include instructions and 1153
procedures to be used by the county departments. Each county 1154
department shall comply with the order not later than thirty days 1155
after it is issued. 1156

~~(B)~~(E) The department of job and family services shall do all 1157
of the following: 1158

(1) Conduct a quarterly evaluation of the program of publicly 1159
funded child day-care that is operated pursuant to sections 1160
5104.30 to 5104.39 of the Revised Code; 1161

(2) Prepare reports based upon the evaluations that specify 1162
for each county the number of participants and amount of 1163
expenditures; 1164

(3) Provide copies of the reports to both houses of the 1165
general assembly and, on request, to interested parties. 1166

Sec. 5139.41. On and after January 1, 1995, the appropriation 1167
made to the department of youth services for care and custody of 1168
felony delinquents shall be expended in accordance with a formula 1169
that the department shall develop for each year of a biennium. The 1170
formula shall be consistent with sections 5139.41 to 5139.45 of 1171
the Revised Code and shall be developed in accordance with the 1172
following guidelines: 1173

(A) The department shall set aside at least three per cent 1174
but not more than five per cent of the appropriation for purposes 1175
of funding the contingency program described in section 5139.45 of 1176
the Revised Code and of use in accordance with that section. 1177

(B)(1) After setting aside the amount described in division 1178
(A) of this section, the department shall set aside twenty-five 1179
per cent of the remainder of the appropriation and use that amount 1180
for the purpose described in division (B)(2) of this section and 1181
to pay certain of the operational costs associated with, and to 1182
provide cash flow for, the following: 1183

(a) Institutions; 1184

(b) The diagnosis, care, or treatment of felony delinquents 1185
at institutions, facilities, or centers pursuant to contracts 1186
entered into under section 5139.08 of the Revised Code; 1187

(c) Community corrections facilities constructed, 1188
reconstructed, improved, or financed as described in section 1189
5139.36 of the Revised Code for the purpose of providing 1190
alternative placement and services for felony delinquents who have 1191
been diverted from care and custody in institutions. 1192

(2) The department may use a portion of the twenty-five per 1193
cent of the remainder of the appropriation set aside pursuant to 1194
division (B)(1) of this section for administrative expenses 1195
incurred by the department in connection with the felony 1196

delinquent care and custody program described in section 5139.43 1197
of the Revised Code and the associated contingency program 1198
described in section 5139.45 of the Revised Code. 1199

(C) After setting aside the amounts described in divisions 1200
(A) and (B)(1) of this section, the department shall set aside the 1201
amount of the appropriation that is equal to twenty-five per cent 1202
of the amount that is calculated by multiplying the per diem cost 1203
for the care and custody of felony delinquents, as determined 1204
pursuant to division (D) of section 5139.42 of the Revised Code, 1205
by the number of bed days that the department projects for 1206
occupancy in community corrections facilities described in 1207
division (B)(1)(c) of this section. The department shall use the 1208
amount of the appropriation that is set aside pursuant to this 1209
division to pay the percentage of the per diem cost for the care 1210
and custody of felony delinquents who are in the care and custody 1211
of community corrections facilities described in division 1212
(B)(1)(c) of this section for which the department is responsible 1213
under sections 5139.41 to 5139.45 of the Revised Code. 1214

(D) After setting aside the amounts described in divisions 1215
(A) to (C) of this section, the department shall set aside the 1216
amount of the appropriation that is necessary to pay seventy-five 1217
per cent of the per diem cost of public safety beds and shall use 1218
that amount for the purpose of paying that per diem cost. 1219

(E) After setting aside the amounts described in divisions 1220
(A) to (D) of this section, the department shall use the remainder 1221
of the appropriation in connection with the felony delinquent care 1222
and custody program described in section 5139.43 of the Revised 1223
Code, except that, for fiscal year 2002 and fiscal year 2003 and 1224
only for those two fiscal years, the total number of beds 1225
available to all counties via public safety beds and county 1226
allocations shall not be less than the total beds used by all the 1227
counties during fiscal year 2000 funded by care and custody 1228

chargebacks (Line Item 401) and as public safety beds. 1229

(F) If the department's appropriation for a fiscal year is 1230
subsequently revised, the department may adjust the amounts 1231
described in divisions (A) to (E) of this section. 1232

Sec. 5739.031. (A) Upon application, the tax commissioner may 1233
issue a direct payment permit that authorizes a consumer to pay 1234
the sales tax levied by or pursuant to section 5739.02, 5739.021, 1235
5739.023, or 5739.026 of the Revised Code or the use tax levied by 1236
or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of 1237
the Revised Code directly to the state and waives the collection 1238
of the tax by the vendor or seller if payment directly to the 1239
state would improve compliance and increase the efficiency of the 1240
administration of the tax. The commissioner may adopt rules 1241
establishing the criteria for the issuance of such permits. 1242

(B) Each permit holder, on or before the twenty-third day of 1243
each month, shall make and file with the treasurer of state a 1244
return for the preceding month in such form as is prescribed by 1245
the tax commissioner and shall pay the tax shown on the return to 1246
be due. The return shall show the sum of the prices of taxable 1247
merchandise used and taxable services received, the amount of tax 1248
due from the permit holder, and such other information as the 1249
commissioner deems necessary. The commissioner, upon written 1250
request by the permit holder, may extend the time for making and 1251
filing returns and paying the tax. If the commissioner determines 1252
that a permit holder's tax liability is not such as to merit 1253
monthly filing, the commissioner may authorize the permit holder 1254
to file returns and pay the tax at less frequent intervals. The 1255
treasurer of state shall show on the return the date it was filed 1256
and the amount of the payment remitted to the treasurer. 1257
Thereafter, the treasurer immediately shall transmit all returns 1258
filed under this section to the tax commissioner. 1259

Any permit holder required to file a return and pay the tax 1260
under this section whose total payment for any calendar year 1261
equals or exceeds the amount shown in section 5739.032 of the 1262
Revised Code shall make each payment required by this section in 1263
the second ensuing and each succeeding year by electronic funds 1264
transfer as prescribed by, and on or before the dates specified 1265
in, section 5739.032 of the Revised Code, except as otherwise 1266
prescribed by that section. 1267

(C) For purposes of reporting and remitting the tax, the 1268
price of tangible personal property or services purchased by, or 1269
of tangible personal property produced by, the permit holder shall 1270
be determined under division (G) of section 5741.01 of the Revised 1271
Code. Notwithstanding section 5739.033 of the Revised Code, the 1272
situs of any purchase transaction made by the permit holder is the 1273
location where the tangible personal property or service is 1274
received by the permit holder. 1275

(D) It shall be the duty of every permit holder required to 1276
make a return and pay its tax under this section to keep and 1277
preserve suitable records of purchases together with invoices of 1278
purchases, bills of lading, asset ledgers, depreciation schedules, 1279
transfer journals, and such other primary and secondary records 1280
and documents in such form as the commissioner requires. All such 1281
records and other documents shall be open during business hours to 1282
the inspection of the tax commissioner, and shall be preserved for 1283
a period of four years, unless the commissioner, in writing, has 1284
authorized their destruction or disposal at an earlier date, or by 1285
order or by reason of a waiver of the four-year time limitation 1286
pursuant to section 5739.16 of the Revised Code requires that they 1287
be kept longer. 1288

(E) A permit granted pursuant to this section shall continue 1289
to be valid until surrendered by the holder or canceled for cause 1290
by the tax commissioner. 1291

(F) Persons who hold a direct payment permit that has not 1292
been canceled shall not be required to issue exemption 1293
certificates and shall not be required to pay the tax as 1294
prescribed in sections 5739.03, 5739.033, and 5741.12 of the 1295
Revised Code. Such persons shall notify vendors and sellers from 1296
whom purchases of tangible personal property or services are made, 1297
of their direct payment permit number and that the tax is being 1298
paid directly to the state. Upon receipt of such notice, such 1299
vendor or seller shall be absolved from all duties and liabilities 1300
imposed by section 5739.03 or 5741.04 of the Revised Code with 1301
respect to sales of tangible personal property or services to such 1302
permit holder. 1303

Vendors and sellers who make sales upon which the tax is not 1304
collected by reason of the provisions of this section shall 1305
maintain records in such manner that the amount involved and 1306
identity of the purchaser may be ascertained. The receipts from 1307
such sales shall not be subject to the tax levied in section 1308
5739.10 of the Revised Code. 1309

Upon the cancellation or surrender of a direct payment 1310
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 1311
of the Revised Code shall immediately apply to all purchases made 1312
subsequent to such cancellation or surrender by the person who 1313
previously held such permit, and such person shall so notify 1314
vendors and sellers from whom purchases of tangible personal 1315
property or services are made, in writing, prior to or at the time 1316
of the first purchase after such cancellation or surrender. Upon 1317
receipt of such notice, the vendor shall be subject to the 1318
provisions of sections 5739.03 and 5739.10 of the Revised Code and 1319
the seller shall be subject to the provisions of section 5741.04 1320
of the Revised Code, with respect to all sales subsequently made 1321
to such person. Failure of any such person to notify vendors or 1322
sellers from whom purchases of tangible personal property or 1323

services are made of the cancellation or surrender of a direct 1324
payment permit shall be considered as a refusal to pay the tax by 1325
the person required to issue such notice. 1326

Sec. 5739.032. (A) If the total amount of tax required to be 1327
paid by a permit holder under section 5739.031 of the Revised Code 1328
for any calendar year indicated in the following schedule equals 1329
or exceeds the amounts prescribed for that year in the schedule, 1330
the permit holder shall remit each monthly tax payment in the 1331
second ensuing and each succeeding year by electronic funds 1332
transfer as prescribed by division (B) of this section. 1333

Year	1992	1993 through 1999	2000 and thereafter	
Tax payment	\$1,200,000	\$600,000	\$60,000	1335

If a permit holder's tax payment for each of two consecutive 1336
years beginning with 2000 is less than sixty thousand dollars, the 1337
permit holder is relieved of the requirement to remit taxes by 1338
electronic funds transfer for the year that next follows the 1339
second of the consecutive years in which the tax payment is less 1340
than sixty thousand dollars, and is relieved of that requirement 1341
for each succeeding year, unless the tax payment in a subsequent 1342
year equals or exceeds sixty thousand dollars. 1343

The tax commissioner shall notify each permit holder required 1344
to remit taxes by electronic funds transfer of the permit holder's 1345
obligation to do so, shall maintain an updated list of those 1346
permit holders, and shall timely certify the list and any 1347
additions thereto or deletions therefrom to the treasurer of 1348
state. Failure by the tax commissioner to notify a permit holder 1349
subject to this section to remit taxes by electronic funds 1350
transfer does not relieve the permit holder of its obligation to 1351
remit taxes by electronic funds transfer. 1352

(B) Permit holders required by division (A) of this section 1353
to remit payments by electronic funds transfer shall remit such 1354

payments to the treasurer of state in the manner prescribed by 1355
this section and rules adopted by the treasurer of state under 1356
section 113.061 of the Revised Code, and on or before the 1357
following dates ~~specified under section 5739.031 of the Revised~~ 1358
Code. The: 1359

(1) On or before each of the eleventh, eighteenth, and 1360
twenty-fifth days of each month, a permit holder shall remit an 1361
amount equal to one-fourth of the permit holder's total tax 1362
liability for the same month in the preceding calendar year. 1363

(2) On or before the twenty-third day of each month, a permit 1364
holder shall report the taxes due for the previous month and shall 1365
remit that amount, less any amounts paid for that month as 1366
required by division (B)(1) of this section. 1367

The payment of taxes by electronic funds transfer does not 1368
affect a permit holder's obligation to file the monthly return as 1369
required under section 5739.031 of the Revised Code. 1370

(C) A permit holder required by this section to remit taxes 1371
by electronic funds transfer may apply to the treasurer of state 1372
in the manner prescribed by the treasurer of state to be excused 1373
from that requirement. The treasurer of state may excuse the 1374
permit holder from remittance by electronic funds transfer for 1375
good cause shown for the period of time requested by the permit 1376
holder or for a portion of that period. The treasurer of state 1377
shall notify the tax commissioner and the permit holder of the 1378
~~treasurer's~~ treasurer of state's decision as soon as is 1379
practicable. 1380

~~(C)~~(D)(1) If a permit holder that is required to remit 1381
payments under division (B) of this section fails to make a 1382
payment, the commissioner may impose an additional charge not to 1383
exceed five per cent of that unpaid amount. 1384

(2) If a permit holder required by this section to remit 1385

taxes by electronic funds transfer remits those taxes by some 1386
means other than by electronic funds transfer as prescribed by 1387
this section and the rules adopted by the treasurer of state, and 1388
the tax commissioner determines that such failure was not due to 1389
reasonable cause or was due to willful neglect, the commissioner 1390
may ~~collect~~ impose an additional charge ~~by assessment in the~~ 1391
~~manner prescribed by section 5739.13 of the Revised Code. The~~ 1392
~~additional charge shall equal~~ not to exceed the lesser of five per 1393
cent of the amount of the taxes required to be paid by electronic 1394
funds transfer, ~~but shall not exceed~~ or five thousand dollars. ~~Any~~ 1395

(3) Any additional charge assessed imposed under division 1396
(D)(1) or (2) of this section is in addition to any other penalty 1397
or charge imposed under this chapter, and shall be considered as 1398
revenue arising from taxes imposed under this chapter. An 1399
additional charge may be collected by assessment in the manner 1400
prescribed by section 5739.13 of the Revised Code. The tax 1401
commissioner may ~~remit~~ waive all or a portion of such a charge and 1402
may adopt rules governing such ~~remission~~ waiver. 1403

No additional charge shall be ~~assessed~~ imposed under ~~this~~ 1404
division (D)(2) of this section against a permit holder that has 1405
been notified of its obligation to remit taxes under this section 1406
and that remits its first two tax payments after such notification 1407
by some means other than electronic funds transfer. The additional 1408
charge may be ~~assessed~~ imposed upon the remittance of any 1409
subsequent tax payment that the permit holder remits by some means 1410
other than electronic funds transfer. 1411

Sec. 5739.12. Each person who has or is required to have a 1412
vendor's license, on or before the twenty-third day of each month, 1413
shall make and file a return for the preceding month, on forms 1414
prescribed by the tax commissioner, and shall pay the tax shown on 1415
the return to be due. The commissioner may require a vendor that 1416

operates from multiple locations or has multiple vendor's licenses 1417
to report all tax liability on one consolidated return. The return 1418
shall show the amount of tax due from the vendor to the state for 1419
the period covered by the return and such other information as the 1420
commissioner deems necessary for the proper administration of this 1421
chapter. The commissioner may extend the time for making and 1422
filing returns and paying the tax, and may require that the return 1423
for the last month of any annual or semiannual period, as 1424
determined by the commissioner, be a reconciliation return 1425
detailing the vendor's sales activity for the preceding annual or 1426
semiannual period. The reconciliation return shall be filed by the 1427
last day of the month following the last month of the annual or 1428
semiannual period. The commissioner may remit all or any part of 1429
amounts or penalties which may become due under this chapter and 1430
may adopt rules relating thereto. Such return shall be filed by 1431
mailing it to the tax commissioner, together with payment of the 1432
amount of tax shown to be due thereon after deduction of any 1433
discount provided for under this section. Remittance shall be made 1434
payable to the treasurer of state. The return shall be considered 1435
filed when received by the tax commissioner, and the payment shall 1436
be considered made when received by the tax commissioner or when 1437
credited to an account designated by the treasurer of state or the 1438
tax commissioner. If the return is filed and the amount of tax 1439
shown thereon to be due is paid on or before the date such return 1440
is required to be filed, the vendor shall be entitled to a 1441
discount of three-fourths of one per cent of the amount shown to 1442
be due on the return. Amounts paid to the clerk of courts pursuant 1443
to section 4505.06 of the Revised Code shall be subject to the 1444
three-fourths of one per cent discount. The discount shall be in 1445
consideration for prompt payment to the clerk of courts and for 1446
other services performed by the vendor in the collection of the 1447
tax. 1448

Upon application to the commissioner, a vendor who is 1449

required to file monthly returns may be relieved of the 1450
requirement to report and pay the actual tax due, provided that 1451
the vendor agrees to remit to the tax commissioner payment of not 1452
less than an amount determined by the commissioner to be the 1453
average monthly tax liability of the vendor, based upon a review 1454
of the returns or other information pertaining to such vendor for 1455
a period of not less than six months nor more than two years 1456
immediately preceding the filing of the application. Vendors who 1457
agree to the above conditions shall make and file an annual or 1458
semiannual reconciliation return, as prescribed by the 1459
commissioner. The reconciliation return shall be filed by mailing 1460
or delivering it to the tax commissioner, together with payment of 1461
the amount of tax shown to be due thereon after deduction of any 1462
discount provided in this section. Remittance shall be made 1463
payable to the treasurer of state. Failure of a vendor to comply 1464
with any of the above conditions may result in immediate 1465
reinstatement of the requirement of reporting and paying the 1466
actual tax liability on each monthly return, and the commissioner 1467
may at the commissioner's discretion deny the vendor the right to 1468
report and pay based upon the average monthly liability for a 1469
period not to exceed two years. The amount ascertained by the 1470
commissioner to be the average monthly tax liability of a vendor 1471
may be adjusted, based upon a review of the returns or other 1472
information pertaining to the vendor for a period of not less than 1473
six months nor more than two years preceding such adjustment. 1474

The commissioner may authorize vendors whose tax liability is 1475
not such as to merit monthly returns, as ascertained by the 1476
commissioner upon the basis of administrative costs to the state, 1477
to make and file returns at less frequent intervals. When returns 1478
are filed at less frequent intervals in accordance with such 1479
authorization, the vendor shall be allowed the discount of 1480
three-fourths of one per cent in consideration for prompt payment 1481
with the return, provided the return is filed together with 1482

payment of the amount of tax shown to be due thereon, at the time 1483
specified by the commissioner. 1484

Any vendor who fails to file a return or pay the full amount 1485
of the tax shown on the return to be due under this section and 1486
the rules of the commissioner may, for each such return the vendor 1487
fails to file or each such tax the vendor fails to pay in full as 1488
shown on the return within the period prescribed by this section 1489
and the rules of the commissioner, be required to forfeit and pay 1490
into the state treasury an additional charge not exceeding fifty 1491
dollars or ten per cent of the tax required to be paid for the 1492
reporting period, whichever is greater, as revenue arising from 1493
the tax imposed by this chapter, and such sum may be collected by 1494
assessment in the manner provided in section 5739.13 of the 1495
Revised Code. The commissioner may remit all or a portion of the 1496
additional charge and may adopt rules relating to the imposition 1497
and remission of the additional charge. 1498

If the amount required to be collected by a vendor from 1499
consumers is in excess of five per cent of the vendor's receipts 1500
from sales ~~which~~ that are taxable under section 5739.02 of the 1501
Revised Code, or in the case of sales subject to a tax levied 1502
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 1503
Code, in excess of the percentage equal to the aggregate rate of 1504
such taxes and the tax levied by section 5739.02 of the Revised 1505
Code, such excess shall be remitted along with the remittance of 1506
the amount of tax due under section 5739.10 of the Revised Code. 1507

The commissioner, if the commissioner deems it necessary in 1508
order to insure the payment of the tax imposed by this chapter, 1509
may require returns and payments to be made for other than monthly 1510
periods. The returns shall be signed by the vendor or the vendor's 1511
authorized agent. 1512

Any vendor required to file a return and pay the tax under 1513
this section, whose total payment in any year indicated in 1514

division (A) of section 5739.122 of the Revised Code equals or 1515
exceeds the amount shown in that division, shall make each payment 1516
required by this section in the second ensuing and each succeeding 1517
year by electronic funds transfer as prescribed by, and on or 1518
before the dates specified in, section 5739.122 of the Revised 1519
Code, except as otherwise prescribed by that section. For a vendor 1520
that operates from multiple locations or has multiple vendor's 1521
licenses, in determining whether the vendor's total payment equals 1522
or exceeds the amount shown in division (A) of that section, the 1523
vendor's total payment amount shall be the amount of the vendor's 1524
total tax liability for the previous calendar year for all of the 1525
vendor's locations or licenses. 1526

Sec. 5739.122. (A) If the total amount of tax required to be 1527
paid by a vendor under section 5739.12 of the Revised Code for any 1528
calendar year indicated in the following schedule equals or 1529
exceeds the amounts prescribed for that year in the schedule, the 1530
vendor shall remit each monthly tax payment in the second ensuing 1531
and each succeeding tax year by electronic funds transfer as 1532
prescribed by divisions (B) and (C) of this section. 1533

Year	1992	1993 through 1999	2000 and thereafter	
Tax payment	\$1,200,000	\$600,000	\$60,000	1534 1535

If a vendor's tax payment for each of two consecutive years 1536
beginning with 2000 is less than sixty thousand dollars, the 1537
vendor is relieved of the requirement to remit taxes by electronic 1538
funds transfer for the year that next follows the second of the 1539
consecutive years in which the tax payment is less than sixty 1540
thousand dollars, and is relieved of that requirement for each 1541
succeeding year unless the tax payment in a subsequent year equals 1542
or exceeds sixty thousand dollars. 1543

The tax commissioner shall notify each vendor required to 1544
remit taxes by electronic funds transfer of the vendor's 1545

obligation to do so, shall maintain an updated list of those 1546
vendors, and shall timely certify the list and any additions 1547
thereto or deletions therefrom to the treasurer of state. Failure 1548
by the tax commissioner to notify a vendor subject to this section 1549
to remit taxes by electronic funds transfer does not relieve the 1550
vendor of its obligation to remit taxes by electronic funds 1551
transfer. 1552

(B) Vendors required by division (A) of this section to remit 1553
payments by electronic funds transfer shall remit such payments to 1554
the treasurer of state in the manner prescribed by this section 1555
and rules adopted by the treasurer of state under section 113.061 1556
of the Revised Code, and on or before the following dates 1557
~~specified under section 5739.12 of the Revised Code. The:~~ 1558

(1) On or before the eleventh day of each month, a vendor 1559
shall remit an amount equal to the taxes collected during the 1560
first seven days of the month. On or before the eighteenth day of 1561
each month, a vendor shall remit an amount equal to the taxes 1562
collected on the eighth through the fourteenth day of the month. 1563
On or before the twenty-fifth day of each month, a vendor shall 1564
remit an amount equal to the taxes collected on the fifteenth 1565
through the twenty-first day of the month. 1566

(2) In lieu of remitting the actual amounts collected for the 1567
periods specified in division (B)(1) of this section, a vendor 1568
may, on or before each of the eleventh, eighteenth, and 1569
twenty-fifth days of each month, remit an amount equal to 1570
one-fourth of the vendor's total tax liability for the same month 1571
in the preceding calendar year. 1572

(3) On or before the twenty-third day of each month, a vendor 1573
shall report the taxes collected for the previous month and shall 1574
remit that amount, less any amounts paid for that month as 1575
required by division (B)(1) or (2) of this section. 1576

The payment of taxes by electronic funds transfer does not 1577
affect a vendor's obligation to file the monthly return as 1578
required under section 5739.12 of the Revised Code. 1579

(C) A vendor required by this section to remit taxes by 1580
electronic funds transfer may apply to the treasurer of state in 1581
the manner prescribed by the treasurer of state to be excused from 1582
that requirement. The treasurer of state may excuse the vendor 1583
from remittance by electronic funds transfer for good cause shown 1584
for the period of time requested by the vendor or for a portion of 1585
that period. The treasurer of state shall notify the tax 1586
commissioner and the vendor of the ~~treasurer's~~ treasurer of
state's decision as soon as is practicable. 1588

(D)(1) If a vendor that is required to remit payments under 1589
division (B) of this section fails to make a payment, the 1590
commissioner may impose an additional charge not to exceed five 1591
per cent of that unpaid amount. 1592

(2) If a vendor required by this section to remit taxes by 1593
electronic funds transfer remits those taxes by some means other 1594
than by electronic funds transfer as prescribed by this section 1595
and the rules adopted by the treasurer of state, and the treasurer 1596
of state determines that such failure was not due to reasonable 1597
cause or was due to willful neglect, the treasurer of state shall 1598
notify the tax commissioner of the failure to remit by electronic 1599
funds transfer and shall provide the commissioner with any 1600
information used in making that determination. The tax 1601
commissioner may ~~collect~~ impose an additional charge ~~by assessment~~ 1602
~~in the manner prescribed by section 5739.13 of the Revised Code.~~ 1603
~~The additional charge shall equal~~ not to exceed the lesser of five 1604
per cent of the amount of the taxes required to be paid by 1605
electronic funds transfer, ~~but shall not exceed~~ or five thousand 1606
dollars. ~~Any~~ 1607

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

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

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

(B) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the

proceeds of such tax or taxes ~~paid to the treasurer of state from~~ 1639
billings and assessments received during that month, or shown on 1640
tax returns or reports filed during that month, to be returned to 1641
the county or transit authority levying the tax or taxes. The 1642
amount to be returned to each county and transit authority shall 1643
be a fraction of the aggregate amount of money collected with 1644
respect to each area in which one or more of such taxes are 1645
concurrently in effect with the tax levied by section 5739.02 of 1646
the Revised Code, the numerator of which is the rate of the tax 1647
levied by the county or transit authority and the denominator of 1648
which is the aggregate rate of such taxes applicable to such area; 1649
provided, that the aggregate amount to be returned to any county 1650
or transit authority shall be reduced by one per cent, which shall 1651
be certified directly to the credit of the local sales tax 1652
administrative fund, which is hereby created in the state 1653
treasury. For the purpose of determining the amount to be returned 1654
to a county and transit authority in which the rate of tax imposed 1655
by the transit authority has been reduced under section 5739.028 1656
of the Revised Code, the tax commissioner shall use the respective 1657
rates of tax imposed by the county or transit authority that 1658
results from the change in the rates authorized under that 1659
section. The director of budget and management shall transfer, 1660
from the same funds and in the same proportions specified in 1661
division (A) of this section, to the permissive tax distribution 1662
fund created by division (B)(1) of section 4301.423 of the Revised 1663
Code and to the local sales tax administrative fund, the amounts 1664
certified by the tax commissioner. The tax commissioner shall 1665
then, on or before the twentieth day of the month in which such 1666
certification is made, provide for payment of such respective 1667
amounts to the county treasurer and to the fiscal officer of the 1668
transit authority levying the tax or taxes. The amount transferred 1669
to the local sales tax administrative fund is for use by the tax 1670
commissioner in defraying costs incurred in administering such 1671

taxes levied by a county or transit authority. 1672

Sec. 5741.03. (A) Four and two-tenths per cent of all money 1673
deposited into the state treasury under sections 5741.01 to 1674
5741.22 of the Revised Code that is not required to be distributed 1675
as provided in division (B) of this section shall be credited to 1676
the local government fund for distribution in accordance with 1677
section 5747.50 of the Revised Code, six-tenths of one per cent 1678
shall be credited to the local government revenue assistance fund 1679
for distribution in accordance with section 5747.61 of the Revised 1680
Code, and ninety-five and two-tenths per cent shall be credited to 1681
the general revenue fund. 1682

(B) In any case where any county or transit authority has 1683
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 1684
5741.023 of the Revised Code, the tax commissioner shall, within 1685
forty-five days after the end of each month, determine and certify 1686
to the director of budget and management the amount of the 1687
proceeds of such tax or taxes ~~paid to the treasurer of state from~~ 1688
billings and assessments received during that month, or shown on 1689
tax returns or reports filed during that month, to be returned to 1690
the county or transit authority levying the tax or taxes, which 1691
amounts shall be determined in the manner provided in section 1692
5739.21 of the Revised Code. The director of budget and management 1693
shall transfer, from the same funds and in the same proportions 1694
specified in division (A) of this section, to the permissive tax 1695
distribution fund created by division (B)(1) of section 4301.423 1696
of the Revised Code and to the local sales tax administrative fund 1697
created by division (B) of section 5739.21 of the Revised Code, 1698
the amounts certified by the tax commissioner. The tax 1699
commissioner shall then, on or before the twentieth day of the 1700
month in which such certification is made, provide for payment of 1701
such respective amounts to the county treasurer or to the fiscal 1702
officer of the transit authority levying the tax or taxes. The 1703

amount transferred to the local sales tax administrative fund is 1704
for use by the tax commissioner in defraying costs ~~he~~ the 1705
commissioner incurs in administering such taxes levied by a county 1706
or transit authority. 1707

Sec. 5741.12. (A) Each seller required by section 5741.17 of 1708
the Revised Code to register with the tax commissioner, and any 1709
seller authorized by the commissioner to collect the tax imposed 1710
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 1711
of the Revised Code is subject to the same requirements and 1712
entitled to the same deductions and discount for prompt payments 1713
as are vendors under section 5739.12 of the Revised Code. The 1714
powers and duties of the commissioner and the treasurer of state 1715
with respect to returns and tax remittances under this section 1716
shall be identical with those prescribed in section 5739.12 of the 1717
Revised Code. 1718

(B) Every person storing, using, or consuming tangible 1719
personal property or receiving the benefit of a service, the 1720
storage, use, consumption, or receipt of which is subject to the 1721
tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 1722
or 5741.023 of the Revised Code, when such tax was not paid to a 1723
seller, shall, on or before the twenty-third day of each month, 1724
file with the tax commissioner a return for the preceding month in 1725
such form as is prescribed by the commissioner, showing such 1726
information as the commissioner deems necessary, and shall pay the 1727
tax shown on the return to be due. Remittance shall be made 1728
payable to the treasurer of state. The commissioner may require 1729
consumers to file returns and pay the tax at other than monthly 1730
intervals, if the commissioner determines that such filing is 1731
necessary for the efficient administration of the tax. If the 1732
commissioner determines that a consumer's tax liability is not 1733
such as to merit monthly filing, the commissioner may authorize 1734
the consumer to file returns and pay tax at less frequent 1735

intervals. 1736

Any consumer required to file a return and pay the tax under 1737
this section whose payment for any year indicated in section 1738
5741.121 of the Revised Code equals or exceeds the amount shown in 1739
that section shall make each payment required by this section in 1740
the second ensuing and each succeeding year by means of electronic 1741
funds transfer as prescribed by, and on or before the dates 1742
specified in, section 5741.121 of the Revised Code, except as 1743
otherwise prescribed by that section. 1744

(C) Every person storing, using, or consuming a motor 1745
vehicle, watercraft, or outboard motor, the ownership of which 1746
must be evidenced by certificate of title, shall file the return 1747
required by this section and pay the tax due at or prior to the 1748
time of filing an application for certificate of title. 1749

Sec. 5741.121. (A) If the total amount of tax required to be 1750
paid by a seller or consumer under section 5741.12 of the Revised 1751
Code for any year indicated in the following schedule equals or 1752
exceeds the amount prescribed for that year in the schedule, the 1753
seller or consumer shall remit each monthly tax payment in the 1754
second ensuing and each succeeding year by electronic funds 1755
transfer as prescribed by division (B) of this section. 1756

Year	1992	1993 through 1999	2000 and thereafter	
Tax payment	\$1,200,000	\$600,000	\$60,000	1758

If a seller's or consumer's tax payment for each of two 1759
consecutive years beginning with 2000 is less than sixty thousand 1760
dollars, the seller or consumer is relieved of the requirement to 1761
remit taxes by electronic funds transfer for the year that next 1762
follows the second of the consecutive years in which the tax 1763
payment is less than sixty thousand dollars, and is relieved of 1764
that requirement for each succeeding year, unless the tax payment 1765
in a subsequent year equals or exceeds sixty thousand dollars. 1766

The tax commissioner shall notify each seller or consumer 1767
required to remit taxes by electronic funds transfer of the 1768
seller's or consumer's obligation to do so, shall maintain an 1769
updated list of those sellers and consumers, and shall timely 1770
certify the list and any additions thereto or deletions therefrom 1771
to the treasurer of state. Failure by the tax commissioner to 1772
notify a seller or consumer subject to this section to remit taxes 1773
by electronic funds transfer does not relieve the seller or 1774
consumer of the ~~consumer's~~ obligation to remit taxes by electronic 1775
funds transfer. 1776

(B) ~~Consumers~~ Sellers and consumers required by division (A) 1777
of this section to remit payments by electronic funds transfer 1778
shall remit such payments to the treasurer of state in the manner 1779
prescribed by this section and rules adopted by the treasurer of 1780
state under section 113.061 of the Revised Code, and on or before 1781
the following dates ~~specified under section 5741.12 of the Revised~~ 1782
~~Code. The:~~ 1783

(1)(a) On or before the eleventh day of each month, a seller 1784
shall remit an amount equal to the taxes collected during the 1785
first seven days of the month. On or before the eighteenth day of 1786
each month, a seller shall remit an amount equal to the taxes 1787
collected on the eighth through the fourteenth day of the month. 1788
On or before the twenty-fifth day of each month, a seller shall 1789
remit an amount equal to the taxes collected on the fifteenth 1790
through the twenty-first day of the month. 1791

(b) In lieu of remitting the actual amounts collected for the 1792
periods specified in division (B)(1)(a) of this section, a seller 1793
may, on or before each of the eleventh, eighteenth, and 1794
twenty-fifth days of each month, remit an amount equal to 1795
one-fourth of the seller's total tax liability for the same month 1796
in the preceding calendar year. 1797

(2) On or before each of the eleventh, eighteenth, and 1798
twenty-fifth days of each month, a consumer shall remit an amount 1799
equal to one-fourth of the consumer's total tax liability for the 1800
same month in the preceding calendar year. 1801

(3) On or before the twenty-third day of each month, a seller 1802
shall report the taxes collected and a consumer shall report the 1803
taxes due for the previous month and shall remit that amount, less 1804
any amounts paid for that month as required by division (B)(1)(a) 1805
or (b) or (B)(2) of this section. 1806

The payment of taxes by electronic funds transfer does not 1807
affect a seller's or consumer's obligation to file the monthly 1808
return as required under section 5741.12 of the Revised Code. 1809

(C) A seller or consumer required by this section to remit 1810
taxes by electronic funds transfer may apply to the treasurer of 1811
state in the manner prescribed by the treasurer of state to be 1812
excused from that requirement. The treasurer of state may excuse 1813
the seller or consumer from remittance by electronic funds 1814
transfer for good cause shown for the period of time requested by 1815
the seller or consumer or for a portion of that period. The 1816
treasurer of state shall notify the tax commissioner and the 1817
seller or consumer of the ~~treasurer's~~ treasurer of state's 1818
decision as soon as is practicable. 1819

~~(C)~~(D)(1) If a seller or consumer that is required to remit 1820
payments under division (B) of this section fails to make a 1821
payment, the commissioner may impose an additional charge not to 1822
exceed five per cent of that unpaid amount. 1823

(2) If a seller or consumer required by this section to remit 1824
taxes by electronic funds transfer remits those taxes by some 1825
means other than by electronic funds transfer as prescribed by the 1826
rules adopted by the treasurer of state, and the treasurer of 1827
state determines that such failure was not due to reasonable cause 1828

or was due to willful neglect, the treasurer of state shall notify 1829
the tax commissioner of the failure to remit by electronic funds 1830
transfer and shall provide the commissioner with any information 1831
used in making that determination. The tax commissioner may 1832
~~collect~~ impose an additional charge ~~by assessment in the manner~~ 1833
~~prescribed by section 5741.13 of the Revised Code. The additional~~ 1834
~~charge shall equal~~ not to exceed the lesser of five per cent of 1835
the amount of the taxes required to be paid by electronic funds 1836
transfer, ~~but shall not exceed~~ or five thousand dollars. ~~Any~~ 1837

(3) Any additional charge ~~assessed~~ imposed under this section 1838
is in addition to any other penalty or charge imposed under this 1839
chapter, and shall be considered as revenue arising from taxes 1840
imposed under this chapter. An additional charge may be collected 1841
by assessment in the manner prescribed by section 5741.13 of the 1842
Revised Code. The tax commissioner may ~~remit~~ waive all or a 1843
portion of such a charge and may adopt rules governing such 1844
~~remission~~ waiver. 1845

No additional charge shall be ~~assessed~~ imposed under ~~this~~ 1846
division (D)(2) of this section against a seller or consumer that 1847
has been notified of the ~~consumer's~~ obligation to remit taxes 1848
under this section and that remits its first two tax payments 1849
after such notification by some means other than electronic funds 1850
transfer. The additional charge may be ~~assessed~~ imposed upon the 1851
remittance of any subsequent tax payment that the seller or 1852
consumer remits by some means other than electronic funds 1853
transfer. 1854

Section 2. That existing sections 5104.01, 5104.04, 5104.30, 1855
5104.32, 5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 1856
5739.032, 5739.12, 5739.122, 5739.21, 5741.03, 5741.12, and 1857
5741.121 of the Revised Code are hereby repealed. 1858

Section 3. That the versions of sections 5739.031, 5739.12, 1859
and 5741.12 of the Revised Code that are scheduled to take effect 1860
July 1, 2003, be amended to read as follows: 1861

Sec. 5739.031. (A) Upon application, the tax commissioner may 1862
issue a direct payment permit that authorizes a consumer to pay 1863
the sales tax levied by or pursuant to section 5739.02, 5739.021, 1864
5739.023, or 5739.026 of the Revised Code or the use tax levied by 1865
or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of 1866
the Revised Code directly to the state and waives the collection 1867
of the tax by the vendor or seller if payment directly to the 1868
state would improve compliance and increase the efficiency of the 1869
administration of the tax. The commissioner may adopt rules 1870
establishing the criteria for the issuance of such permits. 1871

(B) Each permit holder, on or before the twenty-third day of 1872
each month, shall make and file with the treasurer of state a 1873
return for the preceding month in such form as is prescribed by 1874
the tax commissioner and shall pay the tax shown on the return to 1875
be due. The return shall show the sum of the prices of taxable 1876
merchandise used and taxable services received, the amount of tax 1877
due from the permit holder, and such other information as the 1878
commissioner deems necessary. The commissioner, upon written 1879
request by the permit holder, may extend the time for making and 1880
filing returns and paying the tax. If the commissioner determines 1881
that a permit holder's tax liability is not such as to merit 1882
monthly filing, the commissioner may authorize the permit holder 1883
to file returns and pay the tax at less frequent intervals. The 1884
treasurer of state shall show on the return the date it was filed 1885
and the amount of the payment remitted to the treasurer. 1886
Thereafter, the treasurer immediately shall transmit all returns 1887
filed under this section to the tax commissioner. 1888

Any permit holder required to file a return and pay the tax 1889
under this section whose total payment for any calendar year 1890
equals or exceeds the amount shown in section 5739.032 of the 1891
Revised Code shall make each payment required by this section in 1892
the second ensuing and each succeeding year by electronic funds 1893
transfer as prescribed by, and on or before the dates specified 1894
in, section 5739.032 of the Revised Code, except as otherwise 1895
prescribed by that section. 1896

(C) For purposes of reporting and remitting the tax, the 1897
price of tangible personal property or services purchased by, or 1898
of tangible personal property produced by, the permit holder shall 1899
be determined under division (G) of section 5741.01 of the Revised 1900
Code. Except as otherwise provided in division (C) of section 1901
5739.033 of the Revised Code, the situs of any purchase 1902
transaction made by the permit holder is the location where the 1903
tangible personal property or service is received by the permit 1904
holder. 1905

(D) It shall be the duty of every permit holder required to 1906
make a return and pay its tax under this section to keep and 1907
preserve suitable records of purchases together with invoices of 1908
purchases, bills of lading, asset ledgers, depreciation schedules, 1909
transfer journals, and such other primary and secondary records 1910
and documents in such form as the commissioner requires. All such 1911
records and other documents shall be open during business hours to 1912
the inspection of the tax commissioner, and shall be preserved for 1913
a period of four years, unless the commissioner, in writing, has 1914
authorized their destruction or disposal at an earlier date, or by 1915
order or by reason of a waiver of the four-year time limitation 1916
pursuant to section 5739.16 of the Revised Code requires that they 1917
be kept longer. 1918

(E) A permit granted pursuant to this section shall continue 1919
to be valid until surrendered by the holder or canceled for cause 1920

by the tax commissioner. 1921

(F) Persons who hold a direct payment permit that has not 1922
been canceled shall not be required to issue exemption 1923
certificates and shall not be required to pay the tax as 1924
prescribed in sections 5739.03, 5739.033, and 5741.12 of the 1925
Revised Code. Such persons shall notify vendors and sellers from 1926
whom purchases of tangible personal property or services are made, 1927
of their direct payment permit number and that the tax is being 1928
paid directly to the state. Upon receipt of such notice, such 1929
vendor or seller shall be absolved from all duties and liabilities 1930
imposed by section 5739.03 or 5741.04 of the Revised Code with 1931
respect to sales of tangible personal property or services to such 1932
permit holder. 1933

Vendors and sellers who make sales upon which the tax is not 1934
collected by reason of the provisions of this section shall 1935
maintain records in such manner that the amount involved and 1936
identity of the purchaser may be ascertained. The receipts from 1937
such sales shall not be subject to the tax levied in section 1938
5739.10 of the Revised Code. 1939

Upon the cancellation or surrender of a direct payment 1940
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 1941
of the Revised Code shall immediately apply to all purchases made 1942
subsequent to such cancellation or surrender by the person who 1943
previously held such permit, and such person shall so notify 1944
vendors and sellers from whom purchases of tangible personal 1945
property or services are made, in writing, prior to or at the time 1946
of the first purchase after such cancellation or surrender. Upon 1947
receipt of such notice, the vendor shall be subject to the 1948
provisions of sections 5739.03 and 5739.10 of the Revised Code and 1949
the seller shall be subject to the provisions of section 5741.04 1950
of the Revised Code, with respect to all sales subsequently made 1951
to such person. Failure of any such person to notify vendors or 1952

sellers from whom purchases of tangible personal property or 1953
services are made of the cancellation or surrender of a direct 1954
payment permit shall be considered as a refusal to pay the tax by 1955
the person required to issue such notice. 1956

Sec. 5739.12. Each person who has or is required to have a 1957
vendor's license, on or before the twenty-third day of each month, 1958
shall make and file a return for the preceding month, on forms 1959
prescribed by the tax commissioner, and shall pay the tax shown on 1960
the return to be due. The commissioner may require a vendor that 1961
operates from multiple locations or has multiple vendor's licenses 1962
to report all tax liabilities on one consolidated return. The 1963
return shall show the amount of tax due from the vendor to the 1964
state for the period covered by the return and such other 1965
information as the commissioner deems necessary for the proper 1966
administration of this chapter. The commissioner may extend the 1967
time for making and filing returns and paying the tax, and may 1968
require that the return for the last month of any annual or 1969
semiannual period, as determined by the commissioner, be a 1970
reconciliation return detailing the vendor's sales activity for 1971
the preceding annual or semiannual period. The reconciliation 1972
return shall be filed by the last day of the month following the 1973
last month of the annual or semiannual period. The commissioner 1974
may remit all or any part of amounts or penalties that may become 1975
due under this chapter and may adopt rules relating thereto. Such 1976
return shall be filed by mailing it to the tax commissioner, 1977
together with payment of the amount of tax shown to be due thereon 1978
after deduction of any discount provided for under this section. 1979
Remittance shall be made payable to the treasurer of state. The 1980
return shall be considered filed when received by the tax 1981
commissioner, and the payment shall be considered made when 1982
received by the tax commissioner or when credited to an account 1983
designated by the treasurer of state or the tax commissioner. 1984

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

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

period not to exceed two years. The amount ascertained by the 2017
commissioner to be the average monthly tax liability of a vendor 2018
may be adjusted, based upon a review of the returns or other 2019
information pertaining to the vendor for a period of not less than 2020
six months nor more than two years preceding such adjustment. 2021

The commissioner may authorize vendors whose tax liability is 2022
not such as to merit monthly returns, as ascertained by the 2023
commissioner upon the basis of administrative costs to the state, 2024
to make and file returns at less frequent intervals. When returns 2025
are filed at less frequent intervals in accordance with such 2026
authorization, the vendor shall be allowed the discount of 2027
three-fourths of one per cent in consideration for prompt payment 2028
with the return, provided the return is filed together with 2029
payment of the amount of tax shown to be due thereon, at the time 2030
specified by the commissioner, but a vendor that has selected a 2031
certified service provider as its agent shall not be entitled to 2032
the discount. 2033

Any vendor who fails to file a return or pay the full amount 2034
of the tax shown on the return to be due under this section and 2035
the rules of the commissioner may, for each such return the vendor 2036
fails to file or each such tax the vendor fails to pay in full as 2037
shown on the return within the period prescribed by this section 2038
and the rules of the commissioner, be required to forfeit and pay 2039
into the state treasury an additional charge not exceeding fifty 2040
dollars or ten per cent of the tax required to be paid for the 2041
reporting period, whichever is greater, as revenue arising from 2042
the tax imposed by this chapter, and such sum may be collected by 2043
assessment in the manner provided in section 5739.13 of the 2044
Revised Code. The commissioner may remit all or a portion of the 2045
additional charge and may adopt rules relating to the imposition 2046
and remission of the additional charge. 2047

If the amount required to be collected by a vendor from 2048

consumers is in excess of five per cent of the vendor's receipts 2049
from sales that are taxable under section 5739.02 of the Revised 2050
Code, or in the case of sales subject to a tax levied pursuant to 2051
section 5739.021, 5739.023, or 5739.026 of the Revised Code, in 2052
excess of the percentage equal to the aggregate rate of such taxes 2053
and the tax levied by section 5739.02 of the Revised Code, such 2054
excess shall be remitted along with the remittance of the amount 2055
of tax due under section 5739.10 of the Revised Code. 2056

The commissioner, if the commissioner deems it necessary in 2057
order to insure the payment of the tax imposed by this chapter, 2058
may require returns and payments to be made for other than monthly 2059
periods. The returns shall be signed by the vendor or the vendor's 2060
authorized agent. 2061

Any vendor required to file a return and pay the tax under 2062
this section, whose total payment in any year indicated in 2063
division (A) of section 5739.122 of the Revised Code equals or 2064
exceeds the amount shown in that division, shall make each payment 2065
required by this section in the second ensuing and each succeeding 2066
year by electronic funds transfer as prescribed by, and on or 2067
before the dates specified in, section 5739.122 of the Revised 2068
Code, except as otherwise prescribed by that section. For a vendor 2069
that operates from multiple locations or has multiple vendor's 2070
licenses, in determining whether the vendor's total payment equals 2071
or exceeds the amount shown in division (A) of that section, the 2072
vendor's total payment amount shall be the amount of the vendor's 2073
total tax liability for the previous calendar year for all of the 2074
vendor's locations or licenses. 2075

Sec. 5741.12. (A) Each seller required by section 5741.17 of 2076
the Revised Code to register with the tax commissioner, and any 2077
seller authorized by the commissioner to collect the tax imposed 2078
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 2079

of the Revised Code is subject to the same requirements and 2080
entitled to the same deductions and discount for prompt payments 2081
as are vendors under section 5739.12 of the Revised Code, and the 2082
same monetary allowances as are vendors under section 5739.06 of 2083
the Revised Code. The powers and duties of the commissioner and 2084
the treasurer of state with respect to returns and tax remittances 2085
under this section shall be identical with those prescribed in 2086
section 5739.12 of the Revised Code. 2087

(B) Every person storing, using, or consuming tangible 2088
personal property or receiving the benefit of a service, the 2089
storage, use, consumption, or receipt of which is subject to the 2090
tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 2091
or 5741.023 of the Revised Code, when such tax was not paid to a 2092
seller, shall, on or before the twenty-third day of each month, 2093
file with the tax commissioner a return for the preceding month in 2094
such form as is prescribed by the commissioner, showing such 2095
information as the commissioner deems necessary, and shall pay the 2096
tax shown on the return to be due. Remittance shall be made 2097
payable to the treasurer of state. The commissioner may require 2098
consumers to file returns and pay the tax at other than monthly 2099
intervals, if the commissioner determines that such filing is 2100
necessary for the efficient administration of the tax. If the 2101
commissioner determines that a consumer's tax liability is not 2102
such as to merit monthly filing, the commissioner may authorize 2103
the consumer to file returns and pay tax at less frequent 2104
intervals. 2105

Any consumer required to file a return and pay the tax under 2106
this section whose payment for any year indicated in section 2107
5741.121 of the Revised Code equals or exceeds the amount shown in 2108
that section shall make each payment required by this section in 2109
the second ensuing and each succeeding year by means of electronic 2110
funds transfer as prescribed by, and on or before the dates 2111

specified in, section 5741.121 of the Revised Code, except as 2112
otherwise prescribed by that section. 2113

(C) Every person storing, using, or consuming a motor 2114
vehicle, watercraft, or outboard motor, the ownership of which 2115
must be evidenced by certificate of title, shall file the return 2116
required by this section and pay the tax due at or prior to the 2117
time of filing an application for certificate of title. 2118

Section 4. That the existing versions of sections 5739.031, 2119
5739.12, and 5741.12 of the Revised Code that are scheduled to 2120
take effect July 1, 2003, are hereby repealed. 2121

Section 5. Sections 3 and 4 of this act take effect on July 2122
1, 2003. 2123

Section 6. That Section 125 of Am. Sub. H.B. 94 of the 124th 2124
General Assembly, as amended by Am. Sub. S.B. 261 of the 124th 2125
General Assembly, be amended to read as follows: 2126

Sec. 125. UNCLAIMED FUNDS TRANSFER 2127

Notwithstanding division (A) of section 169.05 of the Revised 2128
Code, prior to June 30, 2003, upon the request of the Director of 2129
Budget and Management, the Director of Commerce shall transfer to 2130
the General Revenue Fund up to ~~\$80,800,000~~ \$115,800,000 of the 2131
unclaimed funds that have been reported by the holder of unclaimed 2132
funds as provided by section 169.05 of the Revised Code, 2133
irrespective of the allocation of the unclaimed funds under that 2134
section. 2135

Section 7. That existing Section 125 of Am. Sub. H.B. 94 of 2136
the 124th General Assembly is hereby repealed. 2137

Section 8. That Section 142 of Am. Sub. H.B. 94 of the 124th 2138

General Assembly be amended to read as follows: 2139

Sec. 142. BUDGET STABILIZATION FUND TRANSFERS FOR THE 2140
DEPARTMENT OF JOB AND FAMILY SERVICES 2141

Notwithstanding section 131.43 and division (D) of section 2142
127.14 of the Revised Code, if the Director of Budget and 2143
Management, in consultation with the Director of Job and Family 2144
Services, determines that Medicaid expenditures for the biennium 2145
are likely to exceed the amounts appropriated in the Department of 2146
Job and Family Services appropriation item 600-525, Health 2147
Care/Medicaid, the Director of Budget and Management may, with 2148
Controlling Board approval, ~~transfer~~ transfer up to ~~\$150~~ \$190 2149
million in cash from the Budget Stabilization Fund to the General 2150
Revenue Fund and increase the appropriation to appropriation item 2151
600-525, Health Care/Medicaid, accordingly. In increasing the 2152
appropriation to appropriation item 600-525, Health Care/Medicaid, 2153
the Director of Budget and Management shall add to the amount 2154
transferred from the Budget Stabilization Fund appropriation 2155
amounts that are attributable to the federal match that is 2156
indicated by the state and federal division of appropriation item 2157
600-525, Health Care/Medicaid, as represented in ~~this act~~ Am. Sub. 2158
H.B. 94 of the 124th General Assembly. Before any transfers are 2159
authorized, the Director of Budget and Management shall exhaust 2160
the possibilities for transfers of moneys within the Department of 2161
Job and Family Services to meet the identified shortfall. 2162

Section 9. That existing Section 142 of Am. Sub. H.B. 94 of 2163
the 124th General Assembly is hereby repealed. 2164

Section 10. CHEMICAL DEPENDENCY PROFESSIONALS BOARD CASH 2165
TRANSFER 2166

Notwithstanding any other law to the contrary, upon 2167
certification by the Director of Administrative Services, the 2168

Director of Budget and Management may transfer cash in an amount 2169
not to exceed the fiscal year 2003 appropriation from Fund 5P1 2170
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 2171
amount transferred is hereby appropriated. The cash shall be used 2172
to pay expenses related to establishing the Chemical Dependency 2173
Professionals Board, including, but not limited to, travel 2174
reimbursement of board members. 2175

Section 11. EDUCATION FORMULA CUTS PROHIBITED 2176

Notwithstanding any other provisions of law to the contrary, 2177
the Governor shall not reduce fiscal year 2003 GRF appropriations 2178
for the following appropriation items of the Department of 2179
Education budget: 200-500, School Finance Equity; 200-501, Base 2180
Cost Funding; 200-502, Pupil Transportation; 200-511, Auxiliary 2181
Services; 200-520, Disadvantaged Pupil Impact Aid; 200-521, Gifted 2182
Pupil Program; 200-525, Parity Aid; 200-532, Nonpublic 2183
Administrative Cost Reimbursement; and 200-546, Charge-off 2184
Supplement. 2185

Section 12. If, prior to the effective date of this section, 2186
the Governor has issued an order requiring the closure of a state 2187
institutional facility but as of the effective date of this 2188
section that facility has not yet been closed, the procedures 2189
established in section 107.31 of the Revised Code, as enacted by 2190
this act, shall apply to the closure of the facility 2191
notwithstanding the Governor's order. As used in this section, 2192
"state institutional facility" has the same meaning as in section 2193
107.31 of the Revised Code. 2194

Section 13. LAPSED FUNDS 2195

All state dollars lapsed from the fiscal year 2003 2196
appropriation to appropriation item 600-610, Food Stamps and State 2197
Administration (Fund 384), in the Department of Job and Family 2198

Services shall be transferred by the Director of Budget and 2199
Management to the General Revenue Fund. 2200

Section 14. Except as otherwise specifically provided in this 2201
act, the codified and uncodified sections of law amended or 2202
enacted by this act, and the items of law of which the sections as 2203
amended or enacted by this act are composed, are not subject to 2204
the referendum. Therefore, under Ohio Constitution, Article II, 2205
Section 1d and section 1.471 of the Revised Code, the sections of 2206
law amended or enacted by this act, and the items of law of which 2207
the sections as amended or enacted by this act are composed, 2208
except as otherwise specifically provided in this act, go into 2209
immediate effect when this act becomes law. 2210

Section 15. Sections 5101.31, 5104.01, 5104.04, 5104.30, 2211
5104.32, 5104.34, 5104.35, 5104.38, 5104.382, and 5104.39 of the 2212
Revised Code as amended or enacted by this act, and the items of 2213
law of which such sections as amended or enacted by this act are 2214
composed, are subject to the referendum. Therefore, under Ohio 2215
Constitution, Article II, Section 1c and section 1.471 of the 2216
Revised Code, such sections as amended or enacted by this act, and 2217
the items of law of which such sections as amended or enacted by 2218
this act are composed, take effect on the ninety-first day after 2219
this act is filed with the Secretary of State. If, however, a 2220
referendum petition is filed against any such section as amended 2221
or enacted by this act, or against any item of law of which any 2222
such section as amended or enacted by this act is composed, the 2223
section as amended or enacted, or item of law, unless rejected at 2224
the referendum, takes effect at the earliest time permitted by 2225
law. 2226

Section 16. Section 5739.21 of the Revised Code is presented 2227
in this act as a composite of the section as amended by both Am. 2228

Sub. H.B. 117 and Am. Sub. S.B. 188 of the 121st General Assembly.	2229
The General Assembly, applying the principle stated in division	2230
(B) of section 1.52 of the Revised Code that amendments are to be	2231
harmonized if reasonably capable of simultaneous operation, finds	2232
that the composite is the resulting version of the section in	2233
effect prior to the effective date of the section as presented in	2234
this act.	2235