

**As Reported by the House Finance and Appropriations  
Committee**

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

**Sub. H. B. No. 40**

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

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**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 22  
Revised Code be enacted to read as follows: 23

Sec. 107.31. (A) As used in this section and section 107.32 24  
of the Revised Code: 25

(1) "State institutional facility" means any institution or 26  
other facility for the housing of any person that is under the 27  
control of the department of rehabilitation and correction, the 28  
department of youth services, the department of mental retardation 29  
and developmental disabilities, the department of mental health, 30  
or any other agency or department of state government. 31

(2) "Target state agency" means the agency of state 32  
government that the governor identifies in a notice provided under 33  
division (C)(1) of this section and that operates an institutional 34  
facility or facilities the governor believes should be closed. 35

(B) Notwithstanding any other provision of law, the governor 36  
shall not order the closure of any state institutional facility, 37  
for the purpose of expenditure reductions or budget cuts, other 38  
than in accordance with this section. 39

(C) If the governor determines that necessary expenditure 40  
reductions and budget cuts cannot be made without closing one or 41  
more state institutional facilities, all of the following apply: 42

(1) The governor shall determine which state agency's 43  
institutional facility or facilities the governor believes should 44  
be closed, shall notify the general assembly and that agency of 45  
that determination, and shall specify the number of facilities of 46  
that agency that the governor believes should be closed. 47

(2) Upon the governor's provision of the notice described in 48  
division (C)(1) of this section, the state facilities closure 49  
commission is hereby created as described in division (D) of this 50

section, regarding the target state agency. Not later than seven 51  
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 home and is doing so without a license. 580  
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(I) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999. 582  
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**Sec. 5104.30.** (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following: 590  
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(1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code; 595  
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(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code; 597  
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(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code; 599  
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(4) A family receiving publicly funded child day-care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line; 604  
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(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code. 607  
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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

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

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

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



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

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

period not to exceed two years. The amount ascertained by the 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.** Except as otherwise specifically provided in this 2195  
act, the codified and uncodified sections of law amended or 2196  
enacted by this act, and the items of law of which the sections as 2197  
amended or enacted by this act are composed, are not subject to 2198

the referendum. Therefore, under Ohio Constitution, Article II, 2199  
Section 1d and section 1.471 of the Revised Code, the sections of 2200  
law amended or enacted by this act, and the items of law of which 2201  
the sections as amended or enacted by this act are composed, 2202  
except as otherwise specifically provided in this act, go into 2203  
immediate effect when this act becomes law. 2204

**Section 14.** Sections 5101.31, 5104.01, 5104.04, 5104.30, 2205  
5104.32, 5104.34, 5104.35, 5104.38, 5104.382, and 5104.39 of the 2206  
Revised Code as amended or enacted by this act, and the items of 2207  
law of which such sections as amended or enacted by this act are 2208  
composed, are subject to the referendum. Therefore, under Ohio 2209  
Constitution, Article II, Section 1c and section 1.471 of the 2210  
Revised Code, such sections as amended or enacted by this act, and 2211  
the items of law of which such sections as amended or enacted by 2212  
this act are composed, take effect on the ninety-first day after 2213  
this act is filed with the Secretary of State. If, however, a 2214  
referendum petition is filed against any such section as amended 2215  
or enacted by this act, or against any item of law of which any 2216  
such section as amended or enacted by this act is composed, the 2217  
section as amended or enacted, or item of law, unless rejected at 2218  
the referendum, takes effect at the earliest time permitted by 2219  
law. 2220

**Section 15.** Section 5739.21 of the Revised Code is presented 2221  
in this act as a composite of the section as amended by both Am. 2222  
Sub. H.B. 117 and Am. Sub. S.B. 188 of the 121st General Assembly. 2223  
The General Assembly, applying the principle stated in division 2224  
(B) of section 1.52 of the Revised Code that amendments are to be 2225  
harmonized if reasonably capable of simultaneous operation, finds 2226  
that the composite is the resulting version of the section in 2227  
effect prior to the effective date of the section as presented in 2228  
this act. 2229