

*****DRAFT - NOT FOR FILING*****

4101:9-4-05 Allowance of fringe benefits.

- (A) Pursuant to division (E)(3) of section 4115.03 of the Revised Code, commerce will allow credit for the rate of costs which may be reasonably anticipated in providing fringe benefits to employees pursuant to an enforceable commitment to carry out a financially responsible plan or program of fringe benefits which was communicated in writing to the employees. The plan or program must be set up in such a way that an "enforceable commitment" as defined in these rules exists for the provision of the fringe benefits contemplated thereby. The terms "plan or program" include the various types of arrangements commonly used to provide the benefits contemplated by division (E)(3) of section 4115.03 of the Revised Code. The words "reasonably anticipated" require a plan or program to be able to withstand a test of actuarial soundness. The words "financially responsible" require a plan or program to be bona fide.
- (B) Fringe benefits credits shall be presumed to be paid at a rate not to exceed the amount of contributions for fringe benefits set forth in the applicable prevailing wage rate schedule for the locality. In the event that an employer seeks fringe benefit credit which exceeds the amount set forth in the applicable prevailing wage rate schedule, the employer shall provide the department with documentation which supports such excess credit.
- (C) Funds, plans, or programs which violate applicable state or federal law will not be recognized for the purposes of determining the allowable credit.