

As Reported by the Committee of Conference

124th General Assembly

Regular Session

2001-2002

Am. Sub. S. B. No. 143

SENATORS Blessing, Amstutz, DiDonato, Mead, Spada, Finan, Harris

REPRESENTATIVES Kilbane, Kearns, Metzger, Schuring, Jones

A B I L L

To amend sections 307.671, 307.672, 307.674, 307.695, 1
311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 2
505.56, 3715.52, 4501.32, 5739.01, 5739.02, 3
5739.021, 5739.023, 5739.024, 5739.026, 5739.03, 4
5739.031, 5739.033, 5739.12, 5739.31, 5739.99, 5
5741.01, 5741.02, and 5741.12; to amend, for the 6
purpose of adopting a new section number as 7
indicated in parentheses, section 5739.024 8
(5739.09); to enact sections 306.73, 5703.65, 9
5739.034, 5739.04, 5739.06, 5739.08, 5740.01 to 10
5740.08, 5741.05, 5741.08, and 5747.083 of the 11
Revised Code; to amend Section 109 of Am. Sub. H.B. 12
94 of the 124th General Assembly; and to repeal 13
Section 6 of Sub. H.B. 483 of the 123rd General 14
Assembly to enact the Simplified Sales and Use Tax 15
Administration Act and make changes to the sales 16
and use tax laws to conform with the Act, to 17
prohibit the Tax Commissioner from requiring 18
reporting or payment of certain use tax liability 19
as part of a taxpayer's personal income tax return, 20
and to make an appropriation. 21

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

Section 1. That sections 307.671, 307.672, 307.674, 307.695, 22
311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 505.56, 3715.52, 23
4501.32, 5739.01, 5739.02, 5739.021, 5739.023, 5739.024, 5739.026, 24
5739.03, 5739.031, 5739.033, 5739.12, 5739.31, 5739.99, 5741.01, 25
5741.02, and 5741.12 be amended, section 5739.024 (5739.09) be 26
amended for the purpose of adopting a new section number as 27
indicated in parentheses, and sections 306.73, 5703.65, 5739.034, 28
5739.04, 5739.06, 5739.08, 5740.01, 5740.02, 5740.03, 5740.04, 29
5740.05, 5740.06, 5740.07, 5740.08, 5741.05, 5741.08, and 5747.083 30
of the Revised Code be enacted to read as follows: 31

Sec. 306.73. The county transit board or a board of county 32
commissioners operating a transit system, or the board of trustees 33
of a regional transit authority, shall notify the tax commissioner 34
immediately of any changes in the transit system's territorial 35
boundaries if the board levies a tax under sections 5739.023 and 36
5741.022 of the Revised Code. 37

Sec. 307.671. (A) As used in this section: 38

(1) "Bonds" means, as the context requires: general 39
obligation bonds of the county, or notes in anticipation thereof, 40
described in division (B)(1)(b) of this section; revenue bonds of 41
the port authority described in division (B)(2)(a) of this 42
section; and urban renewal bonds, or notes in anticipation 43
thereof, of the host municipal corporation described in division 44
(B)(3)(a) of this section. 45

(2) "Corporation" means a nonprofit corporation that is 46
organized under the laws of this state and that includes within 47
the purposes for which it is incorporated the authorization to 48
lease and operate facilities such as a port authority educational 49
and cultural facility. 50

(3) "Debt service charges" means, for any period or payable 51
at any time, the principal of and interest and any premium due on 52
bonds for that period or payable at that time whether due at 53
maturity or upon mandatory redemption, together with any required 54
deposits to reserves for the payment of principal of and interest 55
on such bonds, and includes any payments required by the port 56
authority to satisfy any of its obligations arising from any 57
guaranty agreements, reimbursement agreements, or other credit 58
enhancement agreements described in division (C) of this section. 59

(4) "Host municipal corporation" means the municipal 60
corporation within the boundaries of which the port authority 61
educational and cultural facility is located. 62

(5) "Port authority" means a port authority created pursuant 63
to the authority of section 4582.02 of the Revised Code by a 64
county and a host municipal corporation. 65

(6) "Port authority educational and cultural facility" means 66
a facility located within an urban renewal area that may consist 67
of a museum, archives, library, hall of fame, center for 68
contemporary music, or other facilities necessary to provide 69
programs of an educational and cultural nature, together with all 70
parking facilities, walkways, and other auxiliary facilities, real 71
and personal property, property rights, easements, and interests 72
that may be appropriate for, or used in connection with, the 73
operation of the facility. 74

(7) "Urban renewal area" means an area of a host municipal 75
corporation that the legislative authority of the host municipal 76
corporation has designated as appropriate for an urban renewal 77
project pursuant to Chapter 725. of the Revised Code. 78

(B) The board of county commissioners of a county, a port 79
authority, and a host municipal corporation may enter into a 80
cooperative agreement with a corporation, under which: 81

(1) The board of county commissioners agrees to do all of the following: 82
83

(a) Levy a tax under division (D) of section ~~5739.024~~ 5739.09 of the Revised Code exclusively for the purposes described in divisions (B)(1)(c) and (d) of this section; 84
85
86

(b) Issue general obligation bonds of the county, or notes in anticipation thereof, pursuant to Chapter 133. of the Revised Code, for the purpose of acquiring, constructing, and equipping the port authority educational and cultural facility and contribute the proceeds from the issuance to the port authority for such purpose. The cooperative agreement may provide that such proceeds be deposited with and administered by the trustee pursuant to the trust agreement provided for in division (C) of this section. 87
88
89
90
91
92
93
94
95

(c) Following the issuance, sale, and delivery of the port authority revenue bonds provided for in division (B)(2)(a) of this section, and prior to the date certain stated in the cooperative agreement which shall be the date estimated for the completion of construction of the port authority educational and cultural facility, pledge and contribute to the port authority revenue from the tax levied pursuant to division (B)(1)(a) of this section, together with any investment earnings on that revenue, to pay a portion of the costs of acquiring, constructing, and equipping the port authority educational and cultural facility; 96
97
98
99
100
101
102
103
104
105

(d) Following such date certain, pledge and contribute to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to pay a portion of the costs of the corporation of leasing the port authority educational and cultural facility from the port authority. 106
107
108
109
110
111

(2) The port authority agrees to do all of the following: 112

(a) Issue revenue bonds of the port authority pursuant to Chapter 4582. of the Revised Code for the purpose of acquiring, constructing, and equipping the port authority educational and cultural facility;	113 114 115 116
(b) Construct the port authority educational and cultural facility;	117 118
(c) Lease the port authority educational and cultural facility to the corporation;	119 120
(d) To the extent provided for in the cooperative agreement or the lease to the corporation, authorize the corporation to administer on behalf of the port authority the contracts for acquiring, constructing, or equipping a port authority educational and cultural facility;	121 122 123 124 125
(e) Use the revenue derived from the lease of the port authority educational and cultural facility to the corporation solely to pay debt service charges on the revenue bonds of the port authority described in division (B)(2)(a) of this section.	126 127 128 129
(3) The host municipal corporation agrees to do both of the following:	130 131
(a) Issue urban renewal bonds of the host municipal corporation, or notes in anticipation thereof, pursuant to Chapter 725. of the Revised Code for the purpose of acquiring and constructing the port authority educational and cultural facility and contribute the proceeds from the issuance to the port authority for such purpose. The cooperative agreement may provide that such proceeds be deposited with and administered by the trustee pursuant to the trust agreement provided for in division (C) of this section.	132 133 134 135 136 137 138 139 140
(b) To the extent provided for in the cooperative agreement, contribute to the county, for use by the county to pay debt service charges on the bonds of the county, or notes in	141 142 143

anticipation thereof, described in division (B)(1)(b) of this 144
section, any excess urban renewal service payments pledged by the 145
host municipal corporation to the urban renewal bonds described in 146
division (B)(3)(a) of this section and not required on an annual 147
basis to pay debt service charges on the urban renewal bonds. 148

(4) The corporation agrees to do all of the following: 149

(a) Lease the port authority educational and cultural 150
facility from the port authority; 151

(b) Operate and maintain the port authority educational and 152
cultural facility pursuant to the lease; 153

(c) To the extent provided for in the cooperative agreement 154
or the lease from the port authority, administer on behalf of the 155
port authority the contracts for acquiring, constructing, or 156
equipping a port authority educational and cultural facility. 157

(C) The pledges and contributions described in divisions 158
(B)(1)(c) and (d) of this section and provided for in the 159
cooperative agreement shall be for the period stated in the 160
cooperative agreement, but shall not be in excess of the period 161
necessary to provide for the final retirement of the port 162
authority revenue bonds provided for in division (B)(2)(a) of this 163
section and any bonds issued by the port authority to refund such 164
bonds, and for the satisfaction by the port authority of any of 165
its obligations arising from any guaranty agreements, 166
reimbursement agreements, or other credit enhancement agreements 167
relating to such bonds or to the revenues pledged to such bonds. 168
The cooperative agreement shall provide for the termination of the 169
cooperative agreement including the pledges and contributions 170
described in divisions (B)(1)(c) and (d) of this section if the 171
port authority revenue bonds provided for in division (B)(2)(a) of 172
this section have not been issued, sold, and delivered within two 173
years of the effective date of the cooperative agreement. 174

The cooperative agreement shall provide that any revenue 175
bonds of the port authority shall be secured by a trust agreement 176
between the port authority and a corporate trustee that is a trust 177
company or bank having the powers of a trust company within or 178
outside the state. The county may be a party to such trust 179
agreement for the purpose of securing the pledge by the county of 180
its contribution to the corporation pursuant to division (B)(1)(d) 181
of this section. A tax levied pursuant to division (B)(1)(a) of 182
this section is not subject to diminution by initiative or 183
referendum or diminution by statute, unless provision is made 184
therein for an adequate substitute therefor reasonably 185
satisfactory to the trustee under the trust agreement that secures 186
the revenue bonds of the port authority. 187

(D) A pledge of money by a county under this section shall 188
not be net indebtedness of the county for purposes of section 189
133.07 of the Revised Code. 190

(E) If the terms of the cooperative agreement so provide, any 191
contract for the acquisition, construction, or equipping of a port 192
authority educational and cultural facility shall be made in such 193
manner as is determined by the board of directors of the port 194
authority, and unless the cooperative agreement provides 195
otherwise, such a contract is not subject to division (A) of 196
section 4582.12 of the Revised Code. The port authority may take 197
the assignment of and assume any contracts for the acquisition, 198
construction, and equipping of a port authority educational and 199
cultural facility that previously have been authorized by either 200
or both the host municipal corporation or the corporation. Such 201
contracts likewise are not subject to division (A) of section 202
4582.12 of the Revised Code. 203

Any contract for the acquisition, construction, or equipping 204
of a port authority educational and cultural facility entered 205
into, assigned, or assumed pursuant to this division shall provide 206

that all laborers and mechanics employed for the acquisition,
construction, or equipping of the port authority educational and
cultural facility shall be paid at the prevailing rates of wages
of laborers and mechanics for the class of work called for by the
port authority educational and cultural facility, which wages
shall be determined in accordance with the requirements of Chapter
4115. of the Revised Code for the determination of prevailing wage
rates.

207
208
209
210
211
212
213
214

Sec. 307.672. (A) As used in this section:

215

(1) "Bonds" means general obligation bonds, or notes in
anticipation thereof, of the county described in division
(B)(1)(b) of this section, and general obligation bonds, or notes
in anticipation thereof, of the host municipal corporation
described in division (B)(2)(a) of this section.

216
217
218
219
220

(2) "Corporation" means a nonprofit corporation that is
organized under the laws of this state and that includes within
the purposes for which it is incorporated the authorization to
lease and operate facilities such as a municipal educational and
cultural facility.

221
222
223
224
225

(3) "Debt service charges" means, for any period or payable
at any time, the principal of and interest and any premium due on
bonds for that period or payable at that time whether due at
maturity or upon mandatory redemption, together with any required
deposits to reserves for the payment of principal of and interest
on such bonds.

226
227
228
229
230
231

(4) "Host municipal corporation" means the municipal
corporation within the boundaries of which a municipal educational
and cultural facility is or will be located.

232
233
234

(5) "Municipal educational and cultural facility" means a
facility that may consist of a museum, archives, library, hall of

235
236

fame, center for contemporary music, or other facilities necessary 237
to provide programs of an educational, recreational, and cultural 238
nature, together with all parking facilities, walkways, and other 239
auxiliary facilities, real and personal property, property rights, 240
easements, and interests that may be appropriate for, or used in 241
connection with, the operation of the facility. 242

(B) The legislative authorities of a county and a host 243
municipal corporation may enter into a cooperative agreement with 244
a corporation, under which: 245

(1) The legislative authority of the county agrees to: 246

(a) Levy a tax under division (E) of section ~~5739.024~~ 5739.09 247
of the Revised Code for a period not to exceed fifteen years to 248
pay the costs of acquiring, constructing, equipping, and improving 249
a municipal educational and cultural facility, including the debt 250
service charges on bonds; 251

(b) Issue bonds of the county pursuant to Chapter 133. of the 252
Revised Code for the purpose of acquiring, constructing, 253
equipping, and improving a municipal educational and cultural 254
facility; 255

(c) Contribute revenue from the tax and the proceeds from the 256
bonds described in divisions (B)(1)(a) and (b) of this section to 257
the host municipal corporation for the purpose of acquiring, 258
constructing, equipping, and improving a municipal educational and 259
cultural facility; 260

(2) The host municipal corporation agrees to: 261

(a) Issue bonds of the host municipal corporation pursuant to 262
Chapter 133. of the Revised Code for the purpose of acquiring, 263
constructing, equipping, and improving a municipal educational and 264
cultural facility; 265

(b) Acquire, construct, equip, and improve a municipal 266

educational and cultural facility;	267
(c) Accept from the county pursuant to the cooperative	268
agreement the revenues of the tax and the proceeds of the bonds	269
described in divisions (B)(1)(a) and (b) of this section;	270
(d) Lease a municipal educational and cultural facility to	271
the corporation, or contract with the corporation for the	272
operation and maintenance of the facility;	273
(e) To the extent provided for in the cooperative agreement	274
or the lease or contract with the corporation, authorize the	275
corporation to administer on behalf of the host municipal	276
corporation the contracts for acquiring, constructing, equipping,	277
and improving a municipal educational and cultural facility.	278
(3) The corporation agrees to:	279
(a) Either lease the municipal educational and cultural	280
facility from the host municipal corporation and operate and	281
maintain the facility pursuant to the lease, or enter into a	282
contract with the host municipal corporation pursuant to which the	283
corporation shall operate and maintain the facility on behalf of	284
the host municipal corporation;	285
(b) To the extent provided for in the cooperative agreement	286
or the lease or contract with the host municipal corporation,	287
administer on behalf of the host municipal corporation the	288
contracts for acquiring, constructing, equipping, or improving a	289
municipal educational and cultural facility.	290
(C) A tax levied pursuant to division (E) of section 5739.024	291
<u>5739.09</u> of the Revised Code, the revenue from which is to be used	292
to pay debt service charges on bonds described in division (B)(1)	293
or (2) of this section is not subject to diminution by initiative	294
or referendum or diminution by statute, unless provision is made	295
therein for an adequate substitute therefor reasonably	296
satisfactory to the legislative authorities of the host municipal	297

corporation and the county. 298

(D) The legislative authorities of a county and a host 299
municipal corporation that have entered into a cooperative 300
agreement with a corporation pursuant to division (B) of this 301
section may amend that cooperative agreement, with the 302
participation of the corporation and a port authority as defined 303
in section 307.674 of the Revised Code, to provide also for a port 304
authority educational and cultural performing arts facility in 305
accordance with section 307.674 of the Revised Code. Such an 306
amendment shall become effective only to the extent that the tax 307
levied under division (E) of section ~~5739.024~~ 5739.09 of the 308
Revised Code is not needed for the duration of the original tax to 309
pay costs of the municipal educational and cultural facility, 310
including debt service charges on related bonds, as determined by 311
the parties to the amendment. The tax may be pledged and paid by 312
the parties to the amendment for the balance of the duration of 313
the tax to a port authority educational and cultural performing 314
arts facility. 315

Sec. 307.674. (A) As used in this section: 316

(1) "Bonds" means: 317

(a) Revenue bonds of the port authority described in division 318
(B)(2)(a) of this section; 319

(b) Securities as defined in division (KK) of section 133.01 320
of the Revised Code issued by the host municipal corporation, 321
described in division (B)(3)(a) of this section; 322

(c) Any bonds issued to refund any of those revenue bonds or 323
securities. 324

(2) "Corporation" means a nonprofit corporation that is 325
organized under the laws of this state and that includes within 326
the purposes for which it is incorporated the authorization to 327

lease and operate facilities such as a port authority educational
and cultural performing arts facility.

(3) "Cost," as applied to a port authority educational and
cultural performing arts facility, means the cost of acquiring,
constructing, renovating, rehabilitating, equipping, or improving
the facility, or any combination of those purposes, collectively
referred to in this section as "construction," and the cost of
acquisition of all land, rights of way, property rights,
easements, franchise rights, and interests required for those
purposes, the cost of demolishing or removing any buildings or
structures on land so acquired, including the cost of acquiring
any land to which those buildings or structures may be moved, the
cost of public utility and common carrier relocation or
duplication, the cost of all machinery, furnishings, and
equipment, financing charges, interest prior to and during
construction and for not more than three years after completion of
construction, costs arising under guaranty agreements,
reimbursement agreements, or other credit enhancement agreements
relating to bonds, engineering, expenses of research and
development with respect to such facility, legal expenses, plans,
specifications, surveys, studies, estimates of costs and revenues,
other expenses necessary or incident to determining the
feasibility or practicability of acquiring or constructing the
facility, administrative expense, and other expenses as may be
necessary or incident to that acquisition or construction and the
financing of such acquisition or construction, including, with
respect to the revenue bonds of a port authority, amounts to be
paid into any special funds from the proceeds of those bonds, and
repayments to the port authority, host county, host municipal
corporation, or corporation of any amounts advanced for the
foregoing purposes.

(4) "Debt service charges" means, for any period or payable

328
329

330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358

359

at any time, the principal of and interest and any premium due on 360
bonds for that period or payable at that time whether due at 361
maturity or upon mandatory redemption, together with any required 362
deposits to reserves for the payment of principal of and interest 363
on those bonds, and includes any payments required by the port 364
authority to satisfy any of its obligations under or arising from 365
any guaranty agreements, reimbursement agreements, or other credit 366
enhancement agreements described in division (C) of this section. 367

(5) "Host county" means the county within the boundaries of 368
which the port authority educational and cultural performing arts 369
facility is or will be located. 370

(6) "Host municipal corporation" means the municipal 371
corporation within the boundaries of which the port authority 372
educational and cultural performing arts facility is or will be 373
located. 374

(7) "Port authority" means a port authority created pursuant 375
to section 4582.22 of the Revised Code. 376

(8) "Port authority educational and cultural performing arts 377
facility" means a facility that consists of a center for music or 378
other performing arts, a theater or other facilities to provide 379
programs of an educational, recreational, or cultural nature, or 380
any combination of those purposes as determined by the parties to 381
the cooperative agreement for which provision is made in division 382
(B) of this section to fulfill the public educational, 383
recreational, and cultural purposes set forth therein, together 384
with all parking facilities, walkways, and other auxiliary 385
facilities, real and personal property, property rights, 386
easements, and interests that may be appropriate for, or used in 387
connection with, the operation of the facility. 388

(B) A host county, a host municipal corporation, and a port 389
authority may enter into a cooperative agreement with a 390

corporation under which, as further provided for in that agreement: 391
392

(1) The host county may agree to do any or all of the following: 393
394

(a) Levy and collect a tax under division (E) and division (F) of section ~~5739.024~~ 5739.09 of the Revised Code for the purposes, and in an amount sufficient for those purposes, described in divisions (B)(1)(b) and (c) of this section; 395
396
397
398

(b) Pay to the port authority all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs of acquiring, constructing, renovating, rehabilitating, equipping, or improving the port authority educational and cultural performing arts facility; 399
400
401
402
403
404

(c) Pledge and pay to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs to the corporation of leasing the port authority educational and cultural performing arts facility from the port authority. 405
406
407
408
409
410

(2) The port authority may agree to do any or all of the following: 411
412

(a) Issue its revenue bonds pursuant to section 4582.48 of the Revised Code for the purpose of paying all or a portion of the costs of the port authority educational and cultural performing arts facility; 413
414
415
416

(b) Acquire, construct, renovate, rehabilitate, equip, and improve the port authority educational and cultural performing arts facility; 417
418
419

(c) Lease the port authority educational and cultural 420

performing arts facility to the corporation; 421

(d) To the extent provided for in the cooperative agreement 422
or the lease to the corporation, authorize the corporation to 423
administer on behalf of the port authority the contracts for 424
acquiring, constructing, renovating, rehabilitating, or equipping 425
the port authority educational and cultural performing arts 426
facility; 427

(e) Use the revenue derived from the lease of the port 428
authority educational and cultural performing arts facility to the 429
corporation solely to pay debt service charges on revenue bonds of 430
the port authority issued pursuant to division (B)(2)(a) of this 431
section and to pay its obligations under or arising from any 432
guaranty agreements, reimbursement agreements, or other credit 433
enhancement agreements provided for in this section. 434

(3) The host municipal corporation may agree to do either or 435
both of the following: 436

(a) Issue its bonds for the purpose of paying all or a 437
portion of the costs of the port authority educational and 438
cultural performing arts facility, and pay the proceeds from the 439
issuance to the port authority for that purpose; 440

(b) Enter into a guaranty agreement, a reimbursement 441
agreement, or other credit enhancement agreement with the port 442
authority to provide a guaranty or other credit enhancement of the 443
port authority revenue bonds referred to in division (B)(2)(a) of 444
this section pledging taxes, other than ad valorem property taxes, 445
or other revenues for the purpose of providing the funds required 446
to satisfy the host municipal corporation's obligations under that 447
agreement. 448

The cooperative agreement may provide that the proceeds of 449
such securities or of such guaranty agreement, reimbursement 450
agreement, or other credit enhancement agreement be deposited with 451

and administered by the trustee pursuant to the trust agreement 452
authorized in division (C) of this section. 453

(4) The corporation may agree to do any or all of the 454
following: 455

(a) Lease the port authority educational and cultural 456
performing arts facility from the port authority; 457

(b) Operate and maintain the port authority educational and 458
cultural performing arts facility pursuant to the lease; 459

(c) To the extent provided for in the cooperative agreement 460
or the lease from the port authority, administer on behalf of the 461
port authority the contracts for acquiring, constructing, 462
renovating, rehabilitating, or equipping the port authority 463
educational and cultural performing arts facility. 464

(C) The pledge and payments referred to in divisions 465
(B)(1)(b) and (c) of this section and provided for in the 466
cooperative agreement shall be for the period stated in the 467
cooperative agreement but shall not extend longer than the period 468
necessary to provide for the final retirement of the port 469
authority revenue bonds referred to in division (B)(2)(a) of this 470
section, and for the satisfaction by the port authority of any of 471
its obligations under or arising from any guaranty agreements, 472
reimbursement agreements, or other credit enhancement agreements 473
relating to those bonds or to the revenues pledged to them. The 474
cooperative agreement shall provide for the termination of the 475
cooperative agreement, including the pledge and payment referred 476
to in division (B)(1)(c) of this section, if the port authority 477
revenue bonds referred to in division (B)(2)(a) of this section 478
have not been issued, sold, and delivered within five years of the 479
effective date of the cooperative agreement. 480

The cooperative agreement shall provide that any port 481
authority revenue bonds shall be secured by a trust agreement 482

between the port authority and a corporate trustee that is a trust 483
company or bank having the powers of a trust company within or 484
outside the state but authorized to exercise trust powers within 485
the state. The host county may be a party to that trust agreement 486
for the purpose of better securing the pledge by the host county 487
of its payment to the corporation pursuant to division (B)(1)(c) 488
of this section. A tax levied pursuant to section ~~5739.024~~ 5739.09 489
of the Revised Code for the purposes specified in division 490
(B)(1)(b) or (c) of this section is not subject to diminution by 491
initiative or referendum or diminution by statute, unless 492
provision is made for an adequate substitute reasonably 493
satisfactory to the trustee under the trust agreement that secures 494
the port authority revenue bonds. 495

(D) A pledge of money by a host county under this section 496
shall not be net indebtedness of the host county for purposes of 497
section 133.07 of the Revised Code. A guaranty or other credit 498
enhancement by a host municipal corporation under this section 499
shall not be net indebtedness of the host municipal corporation 500
for purposes of section 133.05 of the Revised Code. 501

(E) If the terms of the cooperative agreement so provide, any 502
contract for the acquisition, construction, renovation, 503
rehabilitation, equipping, or improving of a port authority 504
educational and cultural performing arts facility shall be made in 505
such manner as is determined by the board of directors of the port 506
authority, and unless the cooperative agreement provides 507
otherwise, such a contract is not subject to division (R)(2) of 508
section 4582.31 of the Revised Code. The port authority may take 509
the assignment of and assume any contracts for the acquisition, 510
construction, renovation, rehabilitation, equipping, or improving 511
of a port authority educational and cultural performing arts 512
facility that had previously been authorized by any of the host 513
county, the host municipality, or the corporation. Such contracts 514

are not subject to division (R)(2) of section 4582.31 of the
Revised Code.

515
516

Any contract for the acquisition, construction, renovation,
rehabilitation, equipping, or improving of a port authority
educational and cultural performing arts facility entered into,
assigned, or assumed pursuant to this division shall provide that
all laborers and mechanics employed for the acquisition,
construction, renovation, rehabilitation, equipping, or improving
of that facility shall be paid at the prevailing rates of wages of
laborers and mechanics for the class of work called for by the
port authority educational and cultural performing arts facility,
which wages shall be determined in accordance with the
requirements of Chapter 4115. of the Revised Code for the
determination of prevailing wage rates.

517
518
519
520
521
522
523
524
525
526
527
528

Notwithstanding any provisions to the contrary in section
3383.07 of the Revised Code, construction services and general
building services for a port authority educational and cultural
performing arts facility funded completely or in part with money
appropriated by the state to the Ohio arts and sports facilities
commission may be provided by a port authority or a corporation
that occupies, will occupy, or is responsible for that facility,
as determined by the commission. The construction services and
general building services to be provided by the port authority or
the corporation shall be specified in an agreement between the
commission and the port authority or corporation. That agreement,
or any actions taken under it, are not subject to Chapters 123. or
153. of the Revised Code, but are subject to Chapter 4115. of the
Revised Code.

529
530
531
532
533
534
535
536
537
538
539
540
541
542

Sec. 307.695. (A) As used in this section, "convention
center" means any structure expressly designed and constructed for
the purposes of presenting conventions, public meetings, and

543
544
545

exhibitions and includes parking facilities that serve the center 546
and any personal property used in connection with any such 547
structure or facilities. 548

(B) A board of county commissioners may enter into an 549
agreement with a convention and visitors' bureau operating in the 550
county under which: 551

(1) The bureau agrees to construct and equip a convention 552
center in the county and to pledge and contribute from the tax 553
revenues received by it under division (A) of section ~~5739.024~~ 554
5739.09 of the Revised Code, not more than such portion thereof 555
that it is authorized to pledge and contribute for the purpose 556
described in division (C) of this section; and 557

(2) The board agrees to levy a tax under division (C) of 558
section ~~5739.024~~ 5739.09 of the Revised Code and pledge and 559
contribute the revenues therefrom for the purpose described in 560
division (C) of this section. 561

(C) The purpose of the pledges and contributions described in 562
divisions (B)(1) and (2) of this section is payment of principal, 563
interest, and premium, if any, on bonds and notes issued by or for 564
the benefit of the bureau to finance the construction and 565
equipping of a convention center. The pledges and contributions 566
provided for in the agreement shall be for the period stated in 567
the agreement, but not to exceed thirty years. Revenues determined 568
from time to time by the board to be needed to cover the real and 569
actual costs of administering the tax imposed by division (C) of 570
section ~~5739.024~~ 5739.09 of the Revised Code may not be pledged or 571
contributed. The agreement shall provide that any such bonds and 572
notes shall be secured by a trust agreement between the bureau or 573
other issuer acting for the benefit of the bureau and a corporate 574
trustee that is a trust company or bank having the powers of a 575
trust company within or without the state, and the trust agreement 576
shall pledge or assign to the retirement of the bonds or notes, 577

all moneys paid by the county under this section. A tax the 578
revenues from which are pledged under an agreement entered into by 579
a board of county commissioners under this section shall not be 580
subject to diminution by initiative or referendum, or diminution 581
by statute, unless provision is made therein for an adequate 582
substitute therefor reasonably satisfactory to the trustee under 583
the trust agreement that secures the bonds and notes. 584

585

(D) A pledge of money by a county under this section shall 586
not be indebtedness of the county for purposes of Chapter 133. of 587
the Revised Code. 588

(E) If the terms of the agreement so provide, the board of 589
county commissioners may acquire and lease real property to the 590
convention bureau as the site of the convention center. The lease 591
shall be for a term not to exceed thirty years and shall be on 592
such terms as are set forth in the agreement. The purchase and 593
lease are not subject to the limitations of sections 307.02 and 594
307.09 of the Revised Code. 595

Sec. 311.37. (A) No transient vendor, as defined in section 596
5739.17 of the Revised Code, who obtains a transient vendor's 597
license pursuant to section 5739.17 of the Revised Code, intending 598
to provide goods and services of a retail value of more than five 599
hundred dollars, shall negligently fail to file with the county 600
sheriff all of the following before doing business as a transient 601
vendor anywhere in that county: 602

(1) Proof of the transient vendor's identity and proof that a 603
transient vendor's license has been obtained in this state; 604

(2) A statement describing the goods or services to be 605
provided by the transient vendor and an estimate of the amount of 606
the goods or services that the vendor expects to sell in that 607
county, as documented by invoices indicating the wholesale value 608

of goods to be sold; 609

(3) The transient vendor's permanent business address; 610

(4) The times and days during which, and the temporary places 611
of business, as defined in section 5739.17 of the Revised Code, at 612
which the transient vendor plans to do business in that county. 613
614

(B) The sheriff shall maintain a record of the information 615
required under division (A) of this section for a period of two 616
years, which shall be open to the inspection of any person. The 617
sheriff shall be allowed a fee of up to one hundred dollars for 618
collection of the bond required by this section. The bond shall be 619
fifty per cent of the wholesale value of the goods and services 620
provided, but in no case shall the bond exceed ten thousand 621
dollars. The bond shall be in a form approved by the attorney 622
general. The bond shall remain in effect for two years after the 623
transient vendor last does business in that county. 624

(C) No transient vendor, as defined in section 5739.17 of the 625
Revised Code, intending to provide goods and services of a retail 626
value of more than five hundred dollars, shall negligently fail to 627
file a bond within ten days before doing business as a transient 628
vendor anywhere in that county. 629

(D) The bond filed by any transient vendor pursuant to this 630
section shall be given to the attorney general by the county 631
sheriff within ten working days after a transient vendor ceases to 632
do business in that county, and shall be in favor of the state for 633
the benefit of any person who suffers loss or damage as a result 634
of the purchase of goods from the transient vendor or as the 635
result of the negligent or intentionally tortious acts of the 636
transient vendor in the conduct of business in the county. The 637
bond may be used to compensate any state or local agency for 638
damages caused by the transient vendor, for costs incurred by the 639

agency for the illegal acts of the transient vendor, or for
failure to pay any amount owed by the transient vendor to the
state or local agency. The bond also may be used to compensate the
state for any sales tax not paid by the transient vendor. Except
for the amount of unpaid sales taxes to be deducted from the bond,
if any, the attorney general shall pay any portion of the bond to
any person or agency in accordance with the order of a court
without making an independent finding as to the amount of the bond
that is payable to that person or agency.

640
641
642
643
644
645
646
647
648

(E) This section does not apply to any of the following:

649

(1) ~~A limited vendor, as defined in section 5739.17 of the~~
~~Revised Code, or a~~ transient vendor making retail sales at a
temporary exhibition, show, fair, world trade center, flea market,
or similar event, as permitted by section 5739.17 of the Revised
Code;

650
651
652
653
654

(2) Any nonprofit corporation, community chest, fund, or
foundation organized and operated exclusively for religious,
charitable, scientific, literary, or educational purposes when no
part of the entity's earnings benefit any private shareholder or
individual;

655
656
657
658
659

(3) Any person who operates a permanent business in this
state, occupies temporary premises, and prominently displays the
permanent business' name and permanent address while business is
conducted from the temporary premises.

660
661
662
663

(4) Any person who sells goods by sample, brochure, or
catalog for future delivery or any person who makes sales as the
result of the invitation of an owner or occupant of a residence to
the person.

664
665
666
667

(5) Any person who sells handmade or handcrafted items, or
who sells fresh farm produce.

668
669

Nothing in this section shall prohibit the legislative

670

authority of a municipal corporation from adopting an ordinance 671
regulating transient vendors, as defined in section 5739.17 of the 672
Revised Code, except that a municipal corporation may not require 673
a transient vendor who obtains a bond in compliance with this 674
section to obtain or pay for any additional bond or require that 675
persons exempt pursuant to division (E) of this section obtain a 676
bond. A municipal corporation may require that a transient vendor 677
exhibit ~~his~~ the transient vendor's license and any proof of bond 678
required to such officer or employee of the municipal corporation 679
as the municipal corporation designates by ordinance. 680

Sec. 311.99. (A) Whoever violates section 311.13 of the 681
Revised Code shall be fined not more than one thousand dollars and 682
imprisoned in the county jail not less than thirty days or more 683
than two years. 684

(B) Whoever violates division (A) or (C) of section 311.37 of 685
the Revised Code is guilty of failure to file a transient vendor's 686
information or bond, a minor misdemeanor. If the offender 687
previously has been convicted of a violation of division (A) of 688
section 311.37 of the Revised Code, failure to file a transient 689
vendor's information or bond is a misdemeanor of the second 690
degree. If the offender previously has been convicted of two or 691
more violations of division (A) of section 311.37 of the Revised 692
Code, failure to file a transient vendor's information or bond is 693
a misdemeanor of the first degree. A sheriff or police officer in 694
a municipal corporation may enforce this division. The prosecuting 695
attorney of a county shall inform the tax commissioner of any 696
instance when a complaint is brought against a transient ~~or~~ 697
~~limited~~ vendor pursuant to this division. 698

Sec. 351.01. As used in this chapter: 699

(A) "Convention facilities authority" means a body corporate 700

and politic created pursuant to section 351.02 of the Revised Code. 701
702

(B) "Governmental agency" means a department, division, or other unit of the state government or of a municipal corporation, county, township, or other political subdivision of the state; any state university or college, as defined in section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college; any other public corporation or agency having the power to acquire, construct, or operate facilities; the United States or any agency thereof; and any agency, commission, or authority established pursuant to an interstate compact or agreement. 703
704
705
706
707
708
709
710
711
712

(C) "Person" means any individual, firm, partnership, association, or corporation, or any combination of them. 713
714

(D) "Facility" or "facilities" means any convention, entertainment, or sports facility, or combination of them, located within the territory of the convention facilities authority, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements and interests that may be appropriate for, or used in connection with, the operation of the facility. 715
716
717
718
719
720
721

(E) "Cost" means the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of acquiring or constructing and equipping a principal office of the convention facilities authority; the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements for such access roads; the cost of public utility and common carrier relocation or duplication; the cost of 722
723
724
725
726
727
728
729
730
731
732

all machinery, furnishings, and equipment; financing charges; 733
interest prior to and during construction and for no more than 734
eighteen months after completion of construction; expenses of 735
research and development with respect to facilities; legal 736
expenses; expenses of obtaining plans, specifications, engineering 737
surveys, studies, and estimates of cost and revenues; working 738
capital; expenses necessary or incident to determining the 739
feasibility or practicability of acquiring or constructing such 740
facility; administrative expense; and such other expenses as may 741
be necessary or incident to the acquisition or construction of the 742
facility, the financing of such acquisition or construction, 743
including the amount authorized in the resolution of the 744
convention facilities authority providing for the issuance of 745
convention facilities authority revenue bonds to be paid into any 746
special funds from the proceeds of such bonds, the cost of issuing 747
the bonds, and the financing of the placing of such facility in 748
operation. Any obligation, cost, or expense incurred by any 749
governmental agency or person for surveys, borings, preparation of 750
plans and specifications, and other engineering services, or any 751
other cost described above, in connection with the acquisition or 752
construction of a facility may be regarded as part of the cost of 753
such facility and may be reimbursed out of the proceeds of 754
convention facilities authority revenue bonds as authorized by 755
this chapter. 756

(F) "Owner" includes a person having any title or interest in 757
any property, rights, easements, or interests authorized to be 758
acquired by Chapter 351. of the Revised Code. 759

(G) "Revenues" means all rentals and other charges received 760
by the convention facilities authority for the use or services of 761
any facility, the sale of any merchandise, or the operation of any 762
concessions; any gift or grant received with respect to any 763
facility, any moneys received with respect to the lease, sublease, 764

sale, including installment sale or conditional sale, or other 765
disposition of a facility or part thereof; moneys received in 766
repayment of and for interest on any loans made by the authority 767
to a person or governmental agency, whether from the United States 768
or any department, administration, or agency thereof, or 769
otherwise; proceeds of convention facilities authority revenue 770
bonds to the extent the use thereof for payment of principal or of 771
premium, if any, or interest on the bonds is authorized by the 772
authority; proceeds from any insurance, appropriation, or guaranty 773
pertaining to a facility or property mortgaged to secure bonds or 774
pertaining to the financing of the facility; income and profit 775
from the investment of the proceeds of convention facilities 776
authority revenue bonds or of any revenues; contributions of the 777
proceeds of a tax levied pursuant to division (A)(3) of section 778
~~5739.024~~ 5739.09 of the Revised Code; and moneys transmitted to 779
the authority pursuant to division (B) of section 5739.211 and 780
division (B) of section 5741.031 of the Revised Code. 781

(H) "Public roads" includes all public highways, roads, and 782
streets in the state, whether maintained by the state, county, 783
city, township, or other political subdivision. 784

(I) "Construction," unless the context indicates a different 785
meaning or intent, includes, but is not limited to, 786
reconstruction, enlargement, improvement, or providing fixtures, 787
furnishings, and equipment. 788

(J) "Convention facilities authority revenue bonds" or 789
"revenue bonds," unless the context indicates a different meaning 790
or intent, includes convention facilities authority revenue notes, 791
convention facilities authority revenue renewal notes, and 792
convention facilities authority revenue refunding bonds. 793

(K) "Convention facilities authority tax anticipation bonds" 794
or "tax anticipation bonds," unless the context indicates a 795
different meaning, includes convention facilities authority tax 796

anticipation bonds, tax anticipation notes, tax anticipation	797
renewal notes, and tax anticipation refunding bonds.	798
(L) "Bonds and notes" means convention facilities authority	799
revenue bonds and convention facilities authority tax anticipation	800
bonds.	801
(M) "Territory of the authority" means all of the area of the	802
county creating the convention facilities authority.	803
(N) "Excise taxes" means either or both of the taxes levied	804
pursuant to division (B) of section 351.021 of the Revised Code.	805
"Excise taxes" does not include taxes levied pursuant to section	806
4301.424, 5743.026, or 5743.324 of the Revised Code.	807
(O) "Transaction" means the charge by a hotel for each	808
occupancy by transient guests of a room or suite of rooms used in	809
a hotel as a single unit for any period of twenty-four hours or	810
less.	811
(P) "Hotel" and "transient guests" have the same meanings as	812
in section 5739.01 of the Revised Code.	813
(Q) "Sports facility" means a facility intended to house	814
major league professional athletic teams.	815
(R) "Constructing" or "construction" includes providing	816
fixtures, furnishings, and equipment.	817
Sec. 351.021. (A) The resolution of the county commissioners	818
creating a convention facilities authority, or any amendment or	819
supplement to that resolution, may authorize the authority to levy	820
one or both of the excise taxes authorized by division (B) of this	821
section to pay the cost of one or more facilities; to pay	822
principal, interest, and premium on convention facilities	823
authority tax anticipation bonds issued to pay those costs; to pay	824
the operating costs of the authority; to pay operating and	825
maintenance costs of those facilities; and to pay the costs of	826

administering the excise tax. 827

(B) The board of directors of a convention facilities 828
authority that has been authorized pursuant to resolution adopted, 829
amended, or supplemented by the board of county commissioners 830
pursuant to division (A) of this section may levy, by resolution 831
adopted on or before December 31, 1988, either or both of the 832
following: 833

(1) Within the territory of the authority, an additional 834
excise tax not to exceed four per cent on each transaction. The 835
excise tax authorized by division (B)(1) of this section shall be 836
in addition to any excise tax levied pursuant to ~~division (C) of~~ 837
section 5739.02, ~~section 5739.024~~ 5739.08 or 5739.09 of the 838
Revised Code, or division (B)(2) of this section. 839

(2) Within that portion of any municipal corporation that is 840
located within the territory of the authority or within the 841
boundaries of any township that is located within the territory of 842
the authority, which municipal corporation or township is levying 843
any portion of the excise tax authorized by division ~~(C)(1)(A)~~ of 844
section 5739.02 5739.08 of the Revised Code, and with the 845
approval, by ordinance or resolution, of the legislative authority 846
of that municipal corporation or township, an additional excise 847
tax not to exceed nine-tenths of one per cent on each transaction. 848
The excise tax authorized by division (B)(2) of this section may 849
be levied only if, on the effective date of the levy specified in 850
the resolution making the levy, the amount being levied pursuant 851
to division ~~(C)(1)(A)~~ of section 5739.02 5739.08 of the Revised 852
Code by each municipal corporation or township in which the tax 853
authorized by division (B)(2) of this section will be levied, when 854
added to the amount levied under division (B)(2) of this section, 855
does not exceed three per cent on each transaction. The excise tax 856
authorized by division (B)(2) of this section shall be in addition 857
to any excise tax that is levied pursuant to ~~division (C) of~~ 858

~~section 5739.02 of the Revised Code, section 5739.024~~ 5739.08 or 859
5739.09 of the Revised Code, or division (B)(1) of this section. 860

861

(C) The authority shall provide for the administration and 862
allocation of the excise taxes levied pursuant to division (B) of 863
this section. All receipts arising from those excise taxes shall 864
be expended for the purposes provided in, and in accordance with 865
this section and section 351.141 of the Revised Code. An excise 866
tax levied under division (B) of this section shall remain in 867
effect at the rate at which it is levied for at least the duration 868
of the period for which the receipts from the tax have been 869
anticipated and pledged pursuant to section 351.141 of the Revised 870
Code. 871

(D) Except as provided in division (B)(2) of this section, 872
the levy of an excise tax on each transaction pursuant to ~~division~~ 873
~~(C) of section 5739.02 of the Revised Code and section 5739.024~~ 874
sections 5739.08 and 5739.09 of the Revised Code does not prevent 875
a convention facilities authority from levying the excise taxes 876
pursuant to division (B) of this section. 877

Sec. 351.03. (A) Except as provided in division (A)(3) of 878
~~section 5739.024~~ 5739.09 or in section 5739.026 of the Revised 879
Code, no county creating a convention facilities authority may 880
appropriate and expend public funds to finance or subsidize the 881
operation of the authority. 882

(B) Subject to making due provisions for payment and 883
performance of its obligations, a convention facilities authority 884
may be dissolved by the county creating it. In such event the 885
properties of the authority shall be transferred to the county 886
creating it, and the county may thereupon appropriate and expend 887
public funds to finance or subsidize the operation of such 888
facilities. 889

Sec. 351.141. A convention facilities authority that levies 890
one or both of the excise taxes authorized by division (B) of 891
section 351.021 of the Revised Code or that receives contributions 892
pursuant to division (A)(3) of section ~~5739.024~~ 5739.09 of the 893
Revised Code, by resolution may anticipate the proceeds of the 894
levy and issue convention facilities authority tax anticipation 895
bonds, and notes anticipating the proceeds or the bonds, in the 896
principal amount that, in the opinion of the authority, are 897
necessary for the purpose of paying the cost of one or more 898
facilities or parts of one or more facilities, and as able, with 899
the interest on them, be paid over the term of the issue, or in 900
the case of notes anticipating bonds over the term of the bonds, 901
by the estimated amount of the excise taxes or contributions 902
anticipated thereby. The excise taxes or contributions are 903
determined by the general assembly to satisfy any applicable 904
requirement of Section 11 of Article XII, Ohio Constitution. An 905
authority, at any time, may issue renewal tax anticipation notes, 906
issue tax anticipation bonds to pay such notes, and, whenever it 907
considers refunding expedient, refund any tax anticipation bonds 908
by the issuance of tax anticipation refunding bonds whether the 909
bonds to be refunded have or have not matured, and issue tax 910
anticipation bonds partly to refund bonds then outstanding and 911
partly for any other authorized purpose. The refunding bonds shall 912
be sold and the proceeds needed for such purpose applied in the 913
manner provided in the bond proceedings to the purchase, 914
redemption, or payment of the bonds to be refunded. 915

Every issue of outstanding tax anticipation bonds shall be 916
payable out of the proceeds of the excise taxes or contributions 917
anticipated and other revenues of the authority that are pledged 918
for such payment. The pledge shall be valid and binding from the 919
time the pledge is made, and the anticipated excise taxes, 920
contributions, and revenues so pledged and thereafter received by 921

the authority immediately shall be subject to the lien of that 922
pledge without any physical delivery of those excise taxes, 923
contributions, and revenues or further act. The lien of any pledge 924
is valid and binding as against all parties having claims of any 925
kind in tort, contract, or otherwise against the authority, 926
whether or not such parties have notice of the lien. Neither the 927
resolution nor any trust agreement by which a pledge is created 928
need be filed or recorded except in the authority's records. 929

Whether or not the bonds or notes are of such form and 930
character as to be negotiable instruments under Title XIII of the 931
Revised Code, the bonds or notes shall have all the qualities and 932
incidents of negotiable instruments, subject only to their 933
provisions for registration, if any. 934

The tax anticipation bonds shall bear such date or dates, and 935
shall mature at such time or times, in the case of any such notes 936
or any renewals of such notes not exceeding twenty years from the 937
date of issue of such original notes and in the case of any such 938
bonds or any refunding bonds not exceeding forty years from the 939
date of the original issue of notes or bonds for the purpose, and 940
shall be executed in the manner that the resolution authorizing 941
the bonds may provide. The tax anticipation bonds shall bear 942
interest at such rates, or at variable rate or rates changing from 943
time to time, in accordance with provisions provided in the 944
authorizing resolution, be in such denominations and form, either 945
coupon or registered, carry such registration privileges, be 946
payable in such medium of payment and at such place or places, and 947
be subject to such terms of redemption, as the authority may 948
authorize or provide. The tax anticipation bonds may be sold at 949
public or private sale, and at, or at not less than the price or 950
prices as the authority determines. If any officer whose signature 951
or a facsimile of whose signature appears on any bonds or coupons 952
ceases to be such officer before delivery of the bonds, the 953

signature or facsimile shall nevertheless be sufficient for all 954
purposes as if the officer had remained in office until delivery 955
of the bonds, and in case the seal of the authority has been 956
changed after a facsimile has been imprinted on the bonds, the 957
facsimile seal will continue to be sufficient for all purposes. 958
959

Any resolution or resolutions authorizing any tax 960
anticipation bonds or any issue of tax anticipation bonds may 961
contain provisions, subject to any agreements with bondholders as 962
may then exist, which provisions shall be a part of the contract 963
with the holders of the bonds, as to the pledging of any or all of 964
the authority's anticipated excise taxes, contributions, and 965
revenues to secure the payment of the bonds or of any issue of the 966
bonds; the use and disposition of revenues of the authority; the 967
crediting of the proceeds of the sale of bonds to and among the 968
funds referred to or provided for in the resolution; limitations 969
on the purpose to which the proceeds of sale of the bonds may be 970
applied and the pledging of portions of such proceeds to secure 971
the payment of the bonds or of any issue of the bonds; as to notes 972
issued in anticipation of the issuance of bonds, the agreement of 973
the authority to do all things necessary for the authorization, 974
issuance, and sale of such bonds in such amounts as may be 975
necessary for the timely retirement of such notes; limitations on 976
the issuance of additional bonds; the terms upon which additional 977
bonds may be issued and secured; the refunding of outstanding 978
bonds; the procedure, if any, by which the terms of any contract 979
with bondholders may be amended, the amount of bonds the holders 980
of which must consent thereto, and the manner in which such 981
consent may be given; securing any bonds by a trust agreement in 982
accordance with section 351.16 of the Revised Code; any other 983
matters, of like or different character, that in any way affect 984
the security or protection of the bonds. The excise taxes 985
anticipated by the bonds, including bonds anticipated by notes, 986

shall not be subject to diminution by initiative or referendum or 987
by law while the bonds or notes remain outstanding in accordance 988
with their terms, unless provision is made by law or by the 989
authority for an adequate substitute therefor reasonably 990
satisfactory to the trustee, if a trust agreement secures the 991
bonds. 992

Neither the members of the board of directors of the 993
authority nor any person executing the bonds shall be liable 994
personally on the bonds or be subject to any personal liability or 995
accountability by reason of the issuance thereof. 996

Sec. 505.56. Subject to the limitation in division ~~(C)(1)~~(A) 997
of section ~~5739.02~~ 5739.08 of the Revised Code, a board of 998
township trustees may by resolution adopted by a majority of the 999
members of the board, levy an excise tax on transactions by which 1000
lodging by a hotel is or is to be furnished to transient guests. 1001
The board may establish all regulations necessary to provide for 1002
the administration and allocation of the tax. All funds arising 1003
from such an excise tax shall be deposited in the township 1004
treasury and may be expended for any lawful purpose. A board of 1005
township trustees shall not levy the tax authorized by this 1006
section in any city or village. 1007

As used in this section, "hotel" and "transient guests" have 1008
the same meaning as in section 5739.01 of the Revised Code. 1009

Sec. 3715.52. (A) The following acts and causing them are 1010
prohibited: 1011

(1) The manufacture, sale, or delivery, holding or offering 1012
for sale of any food, drug, device, or cosmetic that is 1013
adulterated or misbranded; 1014

(2) The adulteration or misbranding of any food, drug, 1015
device, or cosmetic; 1016

- (3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise; 1017
1018
1019
- (4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 3715.61 or 3715.65 of the Revised Code; 1020
1021
1022
- (5) The dissemination of any false advertisement; 1023
- (6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 3715.70 of the Revised Code; 1024
1025
1026
- (7) The giving of a guaranty or undertaking that is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in this state from whom the person received in good faith the food, drug, device, or cosmetic; 1027
1028
1029
1030
1031
- (8) The removal or disposal of a detained or embargoed article in violation of section 3715.55 or 3715.551 of the Revised Code; 1032
1033
1034
- (9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being misbranded; 1035
1036
1037
1038
1039
- (10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted pursuant to sections 3715.52 to 3715.72 of the Revised Code; 1040
1041
1042
1043
1044
- (11) The using, on the labeling of any drug or in any advertisement relating to a drug, of any representation or 1045
1046

suggestion that any application with respect to the drug is 1047
effective under section 3715.65 of the Revised Code or that the 1048
drug complies with the provisions of that section; 1049

(12) The using by any person to the person's own advantage, 1050
or revealing, other than to the director of agriculture or to the 1051
courts when relevant in any judicial proceeding under sections 1052
3715.52 to 3715.72 of the Revised Code, any information acquired 1053
under authority of sections 3715.01 and 3715.52 to 3715.72 of the 1054
Revised Code, concerning any information that as a trade secret is 1055
entitled to protection; 1056

(13) The issuance by the manufacturer, packer, or distributor 1057
of a dangerous drug of any advertisements, catalogues, or price 1058
lists, except those lists specifically designed for disseminating 1059
price change information, that do not contain in clearly legible 1060
form the name and place of business of the manufacturer who mixed 1061
the final ingredients and, if different, the manufacturer who 1062
produced the drug in its finished dosage form and, if different, 1063
the packer or distributor. 1064

(B)(1) No person at a flea market shall sell, offer for sale, 1065
or knowingly permit the sale of any of the following products: 1066
1067

(a) Baby food, infant formula, or similar products; 1068

(b) Any drug, cosmetic, or device; 1069

(c) Any product on which is printed or stamped an expiration 1070
date or a date recommended by the manufacturer as either the last 1071
day on which the product should be offered for sale or the last 1072
day on which the product should be used. 1073

(2) Division (B)(1) of this section does not apply to a 1074
person who keeps available for public inspection an identification 1075
card identifying the person as an authorized representative of the 1076
manufacturer or distributor of any drug, cosmetic, or device, as 1077

long as the card is not false, fraudulent, or fraudulently
obtained. 1078
1079

(3) Division (B)(1)(c) of this section does not apply to a 1080
person or governmental entity that is licensed as a retail food 1081
establishment or food service operation under Chapter 3717. of the 1082
Revised Code or is listed in division (B)(9) or (12) of section 1083
3717.42 of the Revised Code. 1084

(4) As used in division (B)(1) of this section, "flea market" 1085
means any location, other than a permanent retail store, at which 1086
space is rented or otherwise made available to others for the 1087
conduct of business as transient ~~or limited~~ vendors as defined in 1088
section 5739.17 of the Revised Code. 1089

Sec. 4501.32. (A) There is hereby created in the state 1090
treasury the professional sports teams license plate fund. The 1091
fund shall consist of the contributions that are paid to the 1092
registrar of motor vehicles by applicants who voluntarily choose 1093
to obtain license plates bearing the logo of a professional sports 1094
team pursuant to section 4503.591 of the Revised Code. 1095

(B) If a professional sports team located in this state 1096
desires to have its logo appear on license plates issued by this 1097
state, it shall inform the largest convention and visitors' bureau 1098
of the county in which the professional sports team is located of 1099
that desire. That convention and visitors' bureau shall create a 1100
sports commission to operate in that county to receive the 1101
contributions that are paid by applicants who choose to be issued 1102
license plates bearing the logo of that professional sports team 1103
for display on their motor vehicles. The sports commission shall 1104
negotiate with the professional sports team to permit the display 1105
of the team's logo on license plates issued by this state, enter 1106
into the contract with the team to permit such display, and pay to 1107
the team any licensing or rights fee that must be paid in 1108

connection with the issuance of the license plates. Upon execution 1109
of the contract, the sports commission shall provide a copy of it 1110
to the registrar of motor vehicles, along with any other 1111
documentation the registrar may require. Upon receipt of the 1112
contract and any required additional documentation, and when the 1113
numerical requirement contained in division (A) of section 4503.78 1114
of the Revised Code has been met relative to that particular 1115
professional sports team, the registrar shall take the measures 1116
necessary to issue license plates bearing the logo of that team. 1117
1118

The registrar shall pay to the sports commission all 1119
contributions that are paid by applicants who obtain license 1120
plates that bear the logos of participating professional sports 1121
teams located in the county of the sports commission, irrespective 1122
of the county of residence of an applicant. 1123

(C) A sports commission shall expend the money it receives 1124
under this section to attract amateur regional, national, and 1125
international sporting events to the municipal corporation, 1126
county, or township in which it is located, and it may sponsor 1127
such events. Prior to attracting or sponsoring such events, the 1128
sports commission shall perform an economic analysis to determine 1129
whether the proposed event will have a positive economic effect on 1130
the greater area in which the event will be held. A sports 1131
commission shall not expend any money it receives under this 1132
section to attract or sponsor an amateur regional, national, or 1133
international sporting event if its economic analysis does not 1134
result in a finding that the proposed event will have a positive 1135
economic effect on the greater area in which the event will be 1136
held. 1137

A sports commission that receives money pursuant to this 1138
section, in addition to any other duties imposed on it by law and 1139
notwithstanding the scope of those duties, also shall encourage 1140

the economic development of this state through the promotion of 1141
tourism within all areas of this state. A sports commission that 1142
receives ten thousand dollars or more during any calendar year 1143
pursuant to this section shall submit a written report to the 1144
director of development, on or before the first day of October of 1145
the next succeeding year, detailing its efforts and expenditures 1146
in the promotion of tourism during the calendar year in which it 1147
received the ten thousand dollars or more. 1148

As used in this division, "promotion of tourism" means the 1149
encouragement through advertising, educational and informational 1150
means, and public relations, both within the state and outside of 1151
it, of travel by persons away from their homes for pleasure, 1152
personal reasons, or other purposes, except to work, to this state 1153
or to the region in which the sports commission is located. 1154

(D) For purposes of this section: 1155

(1) The "largest" convention and visitors' bureau of a county 1156
is the bureau that receives the largest amount of money generated 1157
in that county from excise taxes levied on lodging transactions 1158
under sections 351.021, ~~5739.02~~ 5739.08, and ~~5739.024~~ 5739.09 of 1159
the Revised Code. 1160

(2) "Sports commission" means a nonprofit corporation 1161
organized under the laws of this state that is entitled to tax 1162
exempt status under section 501(c)(3) of the "Internal Revenue 1163
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and 1164
whose function is to attract, promote, or sponsor sports and 1165
athletic events within a municipal corporation, county, or 1166
township. 1167

Such a commission shall consist of twenty-one members. Seven 1168
members shall be appointed by the mayor of the largest city to be 1169
served by the commission. Seven members shall be appointed by the 1170
board of county commissioners of the county to be served by the 1171

commission. Seven members shall be appointed by the largest 1172
convention and ~~visitor's~~ visitors' bureau in the area to be served 1173
by the commission. A sports commission may provide all services 1174
related to attracting, promoting, or sponsoring such events, 1175
including, but not limited to, the booking of athletes and teams, 1176
scheduling, and hiring or contracting for staff, ushers, managers, 1177
and other persons whose functions are directly related to the 1178
sports and athletic events the commission attracts, promotes, or 1179
sponsors. 1180

Sec. 5703.65. Registration with the central registration 1181
system provided for in section 5740.05 of the Revised Code shall 1182
not be used as a basis for establishing nexus with or in this 1183
state for any tax levied by the state or a political subdivision 1184
of the state. 1185

Sec. 5739.01. As used in this chapter: 1186

(A) "Person" includes individuals, receivers, assignees, 1187
trustees in bankruptcy, estates, firms, partnerships, 1188
associations, joint-stock companies, joint ventures, clubs, 1189
societies, corporations, the state and its political subdivisions, 1190
and combinations of individuals of any form. 1191

(B) "Sale" and "selling" include all of the following 1192
transactions for a consideration in any manner, whether absolutely 1193
or conditionally, whether for a price or rental, in money or by 1194
exchange, and by any means whatsoever: 1195

(1) All transactions by which title or possession, or both, 1196
of tangible personal property, is or is to be transferred, or a 1197
license to use or consume tangible personal property is or is to 1198
be granted; 1199

(2) All transactions by which lodging by a hotel is or is to 1200
be furnished to transient guests; 1201

(3) All transactions by which:	1202
(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would be exempt from the tax imposed by section 5739.02 of the Revised Code;	1203 1204 1205
(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would be exempt from the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;	1206 1207 1208 1209 1210 1211
(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;	1212 1213
(d) Industrial laundry cleaning services are or are to be provided;	1214 1215
(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.	1216 1217 1218 1219 1220 1221 1222 1223 1224 1225 1226 1227 1228 1229 1230
(f) <u>Telecommunications service, other than mobile telecommunications service after July 31, 2002,</u> is provided that	1231 1232

originates or terminates in this state and is charged in the 1233
records of the telecommunications service vendor to the consumer's 1234
telephone number or account in this state, or that both originates 1235
and terminates in this state; but does not include transactions by 1236
which telecommunications service is paid for by using a prepaid 1237
authorization number or prepaid telephone calling card, or by 1238
which local telecommunications service is obtained from a 1239
coin-operated telephone and paid for by using coin; 1240

(g) Landscaping and lawn care service is or is to be 1241
provided; 1242

(h) Private investigation and security service is or is to be 1243
provided; 1244

(i) Information services or tangible personal property is 1245
provided or ordered by means of a nine hundred telephone call; 1246

(j) Building maintenance and janitorial service is or is to 1247
be provided; 1248

(k) Employment service is or is to be provided; 1249

(l) Employment placement service is or is to be provided; 1250

(m) Exterminating service is or is to be provided; 1251

(n) Physical fitness facility service is or is to be 1252
provided; 1253

(o) Recreation and sports club service is or is to be 1254
provided. 1255

(p) After July 31, 2002, mobile telecommunications service is 1256
or is to be provided in this state pursuant to the "Mobile 1257
Telecommunications Sourcing Act," P.L. No. 106-252, 114 Stat. 626 1258
to 632 (2000), 4 U.S.C.A. 116 to 126, as amended. 1259

(4) All transactions by which printed, imprinted, 1260
overprinted, lithographic, multilithic, blueprinted, photostatic, 1261
or other productions or reproductions of written or graphic matter 1262

are or are to be furnished or transferred; 1263

(5) The production or fabrication of tangible personal 1264
property for a consideration for consumers who furnish either 1265
directly or indirectly the materials used in the production of 1266
fabrication work; and include the furnishing, preparing, or 1267
serving for a consideration of any tangible personal property 1268
consumed on the premises of the person furnishing, preparing, or 1269
serving such tangible personal property. Except as provided in 1270
section 5739.03 of the Revised Code, a construction contract 1271
pursuant to which tangible personal property is or is to be 1272
incorporated into a structure or improvement on and becoming a 1273
part of real property is not a sale of such tangible personal 1274
property. The construction contractor is the consumer of such 1275
tangible personal property, provided that the sale and 1276
installation of carpeting, the sale and installation of 1277
agricultural land tile, the sale and erection or installation of 1278
portable grain bins, or the provision of landscaping and lawn care 1279
service and the transfer of property as part of such service is 1280
never a construction contract. The transfer of copyrighted motion 1281
picture films for exhibition purposes is not a sale, except such 1282
films as are used solely for advertising purposes. Other than as 1283
provided in this section, "sale" and "selling" do not include 1284
transfers of interest in leased property where the original lessee 1285
and the terms of the original lease agreement remain unchanged, or 1286
professional, insurance, or personal service transactions that 1287
involve the transfer of tangible personal property as an 1288
inconsequential element, for which no separate charges are made. 1289

As used in division (B)(5) of this section: 1290

(a) "Agricultural land tile" means fired clay or concrete 1291
tile, or flexible or rigid perforated plastic pipe or tubing, 1292
incorporated or to be incorporated into a subsurface drainage 1293
system appurtenant to land used or to be used directly in 1294

production by farming, agriculture, horticulture, or floriculture. 1295
The term does not include such materials when they are or are to 1296
be incorporated into a drainage system appurtenant to a building 1297
or structure even if the building or structure is used or to be 1298
used in such production. 1299

(b) "Portable grain bin" means a structure that is used or to 1300
be used by a person engaged in farming or agriculture to shelter 1301
the person's grain and that is designed to be disassembled without 1302
significant damage to its component parts. 1303

(6) All transactions in which all of the shares of stock of a 1304
closely held corporation are transferred, if the corporation is 1305
not engaging in business and its entire assets consist of boats, 1306
planes, motor vehicles, or other tangible personal property 1307
operated primarily for the use and enjoyment of the shareholders; 1308

(7) All transactions in which a warranty, maintenance or 1309
service contract, or similar agreement by which the vendor of the 1310
warranty, contract, or agreement agrees to repair or maintain the 1311
tangible personal property of the consumer is or is to be 1312
provided; 1313

(8) All transactions by which a prepaid authorization number 1314
or a prepaid telephone calling card is or is to be transferred. 1315

(C) "Vendor" means the person providing the service or by 1316
whom the transfer effected or license given by a sale is or is to 1317
be made or given and, for sales described in division (B)(3)(i) of 1318
this section, the telecommunications service vendor that provides 1319
the nine hundred telephone service; if two or more persons are 1320
engaged in business at the same place of business under a single 1321
trade name in which all collections on account of sales by each 1322
are made, such persons shall constitute a single vendor. 1323

Physicians, dentists, hospitals, and veterinarians who are 1324
engaged in selling tangible personal property as received from 1325

others, such as eyeglasses, mouthwashes, dentifrices, or similar 1326
articles, are vendors. Veterinarians who are engaged in 1327
transferring to others for a consideration drugs, the dispensing 1328
of which does not require an order of a licensed veterinarian or 1329
physician under federal law, are vendors. 1330

(D)(1) "Consumer" means the person for whom the service is 1331
provided, to whom the transfer effected or license given by a sale 1332
is or is to be made or given, to whom the service described in 1333
division (B)(3)(f) or (i) of this section is charged, or to whom 1334
the admission is granted. 1335

(2) Physicians, dentists, hospitals, and blood banks operated 1336
by nonprofit institutions and persons licensed to practice 1337
veterinary medicine, surgery, and dentistry are consumers of all 1338
tangible personal property and services purchased by them in 1339
connection with the practice of medicine, dentistry, the rendition 1340
of hospital or blood bank service, or the practice of veterinary 1341
medicine, surgery, and dentistry. In addition to being consumers 1342
of drugs administered by them or by their assistants according to 1343
their direction, veterinarians also are consumers of drugs that 1344
under federal law may be dispensed only by or upon the order of a 1345
licensed veterinarian or physician, when transferred by them to 1346
others for a consideration to provide treatment to animals as 1347
directed by the veterinarian. 1348

(3) A person who performs a facility management, or similar 1349
service contract for a contractee is a consumer of all tangible 1350
personal property and services purchased for use in connection 1351
with the performance of such contract, regardless of whether title 1352
to any such property vests in the contractee. The purchase of such 1353
property and services is not subject to the exception for resale 1354
under division (E)(1) of this section. 1355

(4)(a) In the case of a person who purchases printed matter 1356
for the purpose of distributing it or having it distributed to the 1357

public or to a designated segment of the public, free of charge, 1358
that person is the consumer of that printed matter, and the 1359
purchase of that printed matter for that purpose is a sale. 1360

(b) In the case of a person who produces, rather than 1361
purchases, printed matter for the purpose of distributing it or 1362
having it distributed to the public or to a designated segment of 1363
the public, free of charge, that person is the consumer of all 1364
tangible personal property and services purchased for use or 1365
consumption in the production of that printed matter. That person 1366
is not entitled to claim exception under division (E)(8) of this 1367
section for any material incorporated into the printed matter or 1368
any equipment, supplies, or services primarily used to produce the 1369
printed matter. 1370

(c) The distribution of printed matter to the public or to a 1371
designated segment of the public, free of charge, is not a sale to 1372
the members of the public to whom the printed matter is 1373
distributed or to any persons who purchase space in the printed 1374
matter for advertising or other purposes. 1375

(5) A person who makes sales of any of the services listed in 1376
division (B)(3) of this section is the consumer of any tangible 1377
personal property used in performing the service. The purchase of 1378
that property is not subject to the resale exception under 1379
division (E)(1) of this section. 1380

(E) "Retail sale" and "sales at retail" include all sales 1381
except those in which the purpose of the consumer is: 1382

(1) To resell the thing transferred or benefit of the service 1383
provided, by a person engaging in business, in the form in which 1384
the same is, or is to be, received by the person; 1385

(2) To incorporate the thing transferred as a material or a 1386
part, into tangible personal property to be produced for sale by 1387
manufacturing, assembling, processing, or refining, or to use or 1388

consume the thing transferred directly in producing a product for 1389
sale by mining, including without limitation the extraction from 1390
the earth of all substances that are classed geologically as 1391
minerals, production of crude oil and natural gas, farming, 1392
agriculture, horticulture, or floriculture, and persons engaged in 1393
rendering farming, agricultural, horticultural, or floricultural 1394
services, and services in the exploration for, and production of, 1395
crude oil and natural gas, for others are deemed engaged directly 1396
in farming, agriculture, horticulture, and floriculture, or 1397
exploration for, and production of, crude oil and natural gas; 1398
directly in the rendition of a public utility service, except that 1399
the sales tax levied by section 5739.02 of the Revised Code shall 1400
be collected upon all meals, drinks, and food for human 1401
consumption sold upon Pullman and railroad coaches. This paragraph 1402
does not exempt or except from "retail sale" or "sales at retail" 1403
the sale of tangible personal property that is to be incorporated 1404
into a structure or improvement to real property. 1405

(3) To hold the thing transferred as security for the 1406
performance of an obligation of the vendor; 1407

(4) To use or consume the thing transferred in the process of 1408
reclamation as required by Chapters 1513. and 1514. of the Revised 1409
Code; 1410

(5) To resell, hold, use, or consume the thing transferred as 1411
evidence of a contract of insurance; 1412

(6) To use or consume the thing directly in commercial 1413
fishing; 1414

(7) To incorporate the thing transferred as a material or a 1415
part into, or to use or consume the thing transferred directly in 1416
the production of, magazines distributed as controlled circulation 1417
publications; 1418

(8) To use or consume the thing transferred in the production 1419

and preparation in suitable condition for market and sale of 1420
printed, imprinted, overprinted, lithographic, multilithic, 1421
blueprinted, photostatic, or other productions or reproductions of 1422
written or graphic matter; 1423

(9) To use the thing transferred, as described in section 1424
5739.011 of the Revised Code, primarily in a manufacturing 1425
operation to produce tangible personal property for sale; 1426

(10) To use the benefit of a warranty, maintenance or service 1427
contract, or similar agreement, as defined in division (B)(7) of 1428
this section, to repair or maintain tangible personal property, if 1429
all of the property that is the subject of the warranty, contract, 1430
or agreement would be exempt on its purchase from the tax imposed 1431
by section 5739.02 of the Revised Code; 1432

(11) To use the thing transferred as qualified research and 1433
development equipment; 1434

(12) To use or consume the thing transferred primarily in 1435
storing, transporting, mailing, or otherwise handling purchased 1436
sales inventory in a warehouse, distribution center, or similar 1437
facility when the inventory is primarily distributed outside this 1438
state to retail stores of the person who owns or controls the 1439
warehouse, distribution center, or similar facility, to retail 1440
stores of an affiliated group of which that person is a member, or 1441
by means of direct marketing. Division (E)(12) of this section 1442
does not apply to motor vehicles registered for operation on the 1443
public highways. As used in division (E)(12) of this section, 1444
"affiliated group" has the same meaning as in division (B)(3)(e) 1445
of this section and "direct marketing" has the same meaning as in 1446
division (B)(37) of section 5739.02 of the Revised Code. 1447

(13) To use or consume the thing transferred to fulfill a 1448
contractual obligation incurred by a warrantor pursuant to a 1449
warranty provided as a part of the price of the tangible personal 1450

property sold or by a vendor of a warranty, maintenance or service 1451
contract, or similar agreement the provision of which is defined 1452
as a sale under division (B)(7) of this section; 1453

(14) To use or consume the thing transferred in the 1454
production of a newspaper for distribution to the public; 1455

(15) To use tangible personal property to perform a service 1456
listed in division (B)(3) of this section, if the property is or 1457
is to be permanently transferred to the consumer of the service as 1458
an integral part of the performance of the service. 1459

As used in division (E) of this section, "thing" includes all 1460
transactions included in divisions (B)(3)(a), (b), and (e) of this 1461
section. 1462

Sales conducted through a coin-operated device that activates 1463
vacuum equipment or equipment that dispenses water, whether or not 1464
in combination with soap or other cleaning agents or wax, to the 1465
consumer for the consumer's use on the premises in washing, 1466
cleaning, or waxing a motor vehicle, provided no other personal 1467
property or personal service is provided as part of the 1468
transaction, are not retail sales or sales at retail. 1469

(F) "Business" includes any activity engaged in by any person 1470
with the object of gain, benefit, or advantage, either direct or 1471
indirect. "Business" does not include the activity of a person in 1472
managing and investing the person's own funds. 1473

(G) "Engaging in business" means commencing, conducting, or 1474
continuing in business, and liquidating a business when the 1475
liquidator thereof holds itself out to the public as conducting 1476
such business. Making a casual sale is not engaging in business. 1477

(H)(1) "Price," except as provided in divisions (H)(2) and 1478
(3) of this section, means the aggregate value in money of 1479
anything paid or delivered, or promised to be paid or delivered, 1480
in the complete performance of a retail sale, without any 1481

deduction on account of the cost of the property sold, cost of 1482
materials used, labor or service cost, interest, discount paid or 1483
allowed after the sale is consummated, or any other expense. If 1484
the retail sale consists of the rental or lease of tangible 1485
personal property, "price" means the aggregate value in money of 1486
anything paid or delivered, or promised to be paid or delivered, 1487
in the complete performance of the rental or lease, without any 1488
deduction for tax, interest, labor or service charge, damage 1489
liability waiver, termination or damage charge, discount paid or 1490
allowed after the lease is consummated, or any other expense. 1491
Except as provided in division (H)(4) of this section, the sales 1492
tax shall be calculated and collected by the lessor on each 1493
payment made by the lessee. "Price" does not include the 1494
consideration received as a deposit refundable to the consumer 1495
upon return of a beverage container, the consideration received as 1496
a deposit on a carton or case that is used for such returnable 1497
containers, or the consideration received as a refundable security 1498
deposit for the use of tangible personal property to the extent 1499
that it actually is refunded, if the consideration for such 1500
refundable deposit is separately stated from the consideration 1501
received or to be received for the tangible personal property 1502
transferred in the retail sale. Such separation must appear in the 1503
sales agreement or on the initial invoice or initial billing 1504
rendered by the vendor to the consumer. "Price" also does not 1505
include delivery charges that are separately stated on the initial 1506
invoice or initial billing rendered by the vendor. Price is the 1507
amount received inclusive of the tax, provided the vendor 1508
establishes to the satisfaction of the tax commissioner that the 1509
tax was added to the price. When the price includes both a charge 1510
for tangible personal property and a charge for providing a 1511
service and the sale of the property and the charge for the 1512
service are separately taxable, or have a separately determinable 1513
tax status, the price shall be separately stated for each such 1514

charge so the tax can be correctly computed and charged. 1515

The tax collected by the vendor from the consumer under this 1516
chapter is not part of the price, but is a tax collection for the 1517
benefit of the state and of counties levying an additional sales 1518
tax pursuant to section 5739.021 or 5739.026 of the Revised Code 1519
and of transit authorities levying an additional sales tax 1520
pursuant to section 5739.023 of the Revised Code. Except for the 1521
discount authorized in section 5739.12 of the Revised Code, no 1522
person other than the state or such a county or transit authority 1523
shall derive any benefit from the collection or payment of such 1524
tax. 1525

As used in division (H)(1) of this section, "delivery 1526
charges" means charges by the vendor for preparation and delivery 1527
to a location designated by the consumer of tangible personal 1528
property or a service, including transportation, shipping, 1529
postage, handling, crating, and packing. 1530

(2) In the case of a sale of any new motor vehicle by a new 1531
motor vehicle dealer, as defined in section 4517.01 of the Revised 1532
Code, in which another motor vehicle is accepted by the dealer as 1533
part of the consideration received, "price" has the same meaning 1534
as in division (H)(1) of this section, reduced by the credit 1535
afforded the consumer by the dealer for the motor vehicle received 1536
in trade. 1537

(3) In the case of a sale of any watercraft or outboard motor 1538
by a watercraft dealer licensed in accordance with section 1539
1547.543 of the Revised Code, in which another watercraft, 1540
watercraft and trailer, or outboard motor is accepted by the 1541
dealer as part of the consideration received, "price" has the same 1542
meaning as in division (H)(1) of this section, reduced by the 1543
credit afforded the consumer by the dealer for the watercraft, 1544
watercraft and trailer, or outboard motor received in trade. 1545

(4) In the case of the lease of any motor vehicle designed by 1546

the manufacturer to carry a load of not more than one ton, 1547
watercraft, outboard motor, or aircraft, or the lease of any 1548
tangible personal property, other than motor vehicles designed by 1549
the manufacturer to carry a load of more than one ton, to be used 1550
by the lessee primarily for business purposes, the sales tax shall 1551
be collected by the vendor at the time the lease is consummated 1552
and shall be calculated by the vendor on the basis of the total 1553
amount to be paid by the lessee under the lease agreement. If the 1554
total amount of the consideration for the lease includes amounts 1555
that are not calculated at the time the lease is executed, the tax 1556
shall be calculated and collected by the vendor at the time such 1557
amounts are billed to the lessee. In the case of an open-end 1558
lease, the sales tax shall be calculated by the vendor on the 1559
basis of the total amount to be paid during the initial fixed term 1560
of the lease, and then for each subsequent renewal period as it 1561
comes due. 1562

As used in divisions (H)(3) and (4) of this section, "motor 1563
vehicle" has the same meaning as in section 4501.01 of the Revised 1564
Code, and "watercraft" includes an outdrive unit attached to the 1565
watercraft. 1566

(I) "Receipts" means the total amount of the prices of the 1567
sales of vendors, provided that cash discounts allowed and taken 1568
on sales at the time they are consummated are not included, minus 1569
any amount deducted as a bad debt pursuant to section 5739.121 of 1570
the Revised Code. "Receipts" does not include the sale price of 1571
property returned or services rejected by consumers when the full 1572
sale price and tax are refunded either in cash or by credit. 1573

(J) "Place of business" means any location at which a person 1574
engages in business. 1575

(K) "Premises" includes any real property or portion thereof 1576
upon which any person engages in selling tangible personal 1577
property at retail or making retail sales and also includes any 1578

real property or portion thereof designated for, or devoted to, 1579
use in conjunction with the business engaged in by such person. 1580

(L) "Casual sale" means a sale of an item of tangible 1581
personal property that was obtained by the person making the sale, 1582
through purchase or otherwise, for the person's own use in this 1583
state and was previously subject to any state's taxing 1584
jurisdiction on its sale or use, and includes such items acquired 1585
for the seller's use that are sold by an auctioneer employed 1586
directly by the person for such purpose, provided the location of 1587
such sales is not the auctioneer's permanent place of business. As 1588
used in this division, "permanent place of business" includes any 1589
location where such auctioneer has conducted more than two 1590
auctions during the year. 1591

(M) "Hotel" means every establishment kept, used, maintained, 1592
advertised, or held out to the public to be a place where sleeping 1593
accommodations are offered to guests, in which five or more rooms 1594
are used for the accommodation of such guests, whether the rooms 1595
are in one or several structures. 1596

(N) "Transient guests" means persons occupying a room or 1597
rooms for sleeping accommodations for less than thirty consecutive 1598
days. 1599

(O) "Making retail sales" means the effecting of transactions 1600
wherein one party is obligated to pay the price and the other 1601
party is obligated to provide a service or to transfer title to or 1602
possession of the item sold. "Making retail sales" does not 1603
include the preliminary acts of promoting or soliciting the retail 1604
sales, other than the distribution of printed matter which 1605
displays or describes and prices the item offered for sale, nor 1606
does it include delivery of a predetermined quantity of tangible 1607
personal property or transportation of property or personnel to or 1608
from a place where a service is performed, regardless of whether 1609
the vendor is a delivery vendor. 1610

(P) "Used directly in the rendition of a public utility service" means that property which is to be incorporated into and will become a part of the consumer's production, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used in providing a public utility service as defined in this division.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the

board of county commissioners operates the county transit system. 1643

(U) "Transit authority" means a regional transit authority 1644
created pursuant to section 306.31 of the Revised Code or a county 1645
in which a county transit system is created pursuant to section 1646
306.01 of the Revised Code. For the purposes of this chapter, a 1647
transit authority must extend to at least the entire area of a 1648
single county. A transit authority that includes territory in more 1649
than one county must include all the area of the most populous 1650
county that is a part of such transit authority. County population 1651
shall be measured by the most recent census taken by the United 1652
States census bureau. 1653

(V) "Legislative authority" means, with respect to a regional 1654
transit authority, the board of trustees thereof, and with respect 1655
to a county that is a transit authority, the board of county 1656
commissioners. 1657

(W) "Territory of the transit authority" means all of the 1658
area included within the territorial boundaries of a transit 1659
authority as they from time to time exist. Such territorial 1660
boundaries must at all times include all the area of a single 1661
county or all the area of the most populous county that is a part 1662
of such transit authority. County population shall be measured by 1663
the most recent census taken by the United States census bureau. 1664

(X) "Providing a service" means providing or furnishing 1665
anything described in division (B)(3) of this section for 1666
consideration. 1667

(Y)(1)(a) "Automatic data processing" means processing of 1668
others' data, including keypunching or similar data entry services 1669
together with verification thereof, or providing access to 1670
computer equipment for the purpose of processing data. 1671

(b) "Computer services" means providing services consisting 1672
of specifying computer hardware configurations and evaluating 1673

technical processing characteristics, computer programming, and 1674
training of computer programmers and operators, provided in 1675
conjunction with and to support the sale, lease, or operation of 1676
taxable computer equipment or systems. 1677

(c) "Electronic information services" means providing access 1678
to computer equipment by means of telecommunications equipment for 1679
the purpose of either of the following: 1680

(i) Examining or acquiring data stored in or accessible to 1681
the computer equipment; 1682

(ii) Placing data into the computer equipment to be retrieved 1683
by designated recipients with access to the computer equipment. 1684
1685

(d) "Automatic data processing, computer services, or 1686
electronic information services" shall not include personal or 1687
professional services. 1688

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 1689
section, "personal and professional services" means all services 1690
other than automatic data processing, computer services, or 1691
electronic information services, including but not limited to: 1692

(a) Accounting and legal services such as advice on tax 1693
matters, asset management, budgetary matters, quality control, 1694
information security, and auditing and any other situation where 1695
the service provider receives data or information and studies, 1696
alters, analyzes, interprets, or adjusts such material; 1697

(b) Analyzing business policies and procedures; 1698

(c) Identifying management information needs; 1699

(d) Feasibility studies, including economic and technical 1700
analysis of existing or potential computer hardware or software 1701
needs and alternatives; 1702

(e) Designing policies, procedures, and custom software for 1703

collecting business information, and determining how data should
be summarized, sequenced, formatted, processed, controlled, and
reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how
business events and transactions are to be authorized, executed,
and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information
by a consumer reporting agency, as defined in the "Fair Credit
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or
as hereafter amended, including but not limited to gathering,
organizing, analyzing, recording, and furnishing such information
by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written,
graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this
section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the
transportation of personal property belonging to others for
consideration by any of the following:

(1) The holder of a permit or certificate issued by this
state or the United States authorizing the holder to engage in
transportation of personal property belonging to others for
consideration over or on highways, roadways, streets, or any
similar public thoroughfare;

(2) A person who engages in the transportation of personal
property belonging to others for consideration over or on
highways, roadways, streets, or any similar public thoroughfare
but who could not have engaged in such transportation on December

1704
1705
1706
1707
1708
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1720
1721
1722
1723
1724
1725
1726
1727
1728
1729
1730
1731
1732
1733

11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA) "Telecommunications service" means the transmission of any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media. "Telecommunications service" includes message toll service even though the vendor provides the message toll service by means of wide area transmission type service or private communications service purchased from another telecommunications service provider, but does not include any of the following:

(1) Sales of incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service, to the person contracting for the receipt of that service;

(2) Sales of private communications service to the person contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges;

(3) Sales of telecommunications service by companies subject to the excise tax imposed by Chapter 5727. of the Revised Code;

(4) Sales of telecommunications service to a provider of telecommunications service, including access services, for use in providing telecommunications service;

(5) Value-added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;

(6) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code; 1765
1766
1767

(7) After July 31, 2002, mobile telecommunications service. 1768

(BB) "Industrial laundry cleaning services" means removing soil or dirt from or supplying towels, linens, or articles of clothing that belong to others and are used in a trade or business. 1769
1770
1771
1772

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them. 1773
1774
1775
1776
1777
1778
1779
1780
1781

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year. 1782
1783
1784
1785
1786
1787
1788
1789
1790
1791
1792

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the 1793
1794
1795

Revised Code, or would be required to be so licensed in performing 1796
such services in this state, and also includes the services of 1797
conducting polygraph examinations and of monitoring or overseeing 1798
the activities on or in, or the condition of, the consumer's home, 1799
business, or other facility by means of electronic or similar 1800
monitoring devices. "Private investigation and security service" 1801
does not include special duty services provided by off-duty police 1802
officers, deputy sheriffs, and other peace officers regularly 1803
employed by the state or a political subdivision. 1804

(FF) "Information services" means providing conversation, 1805
giving consultation or advice, playing or making a voice or other 1806
recording, making or keeping a record of the number of callers, 1807
and any other service provided to a consumer by means of a nine 1808
hundred telephone call, except when the nine hundred telephone 1809
call is the means by which the consumer makes a contribution to a 1810
recognized charity. 1811

(GG) "Research and development" means designing, creating, or 1812
formulating new or enhanced products, equipment, or manufacturing 1813
processes, and conducting scientific or technological inquiry and 1814
experimentation in the physical sciences with the goal of 1815
increasing scientific knowledge which may reveal the bases for new 1816
or enhanced products, equipment, or manufacturing processes. 1817

(HH) "Qualified research and development equipment" means 1819
capitalized tangible personal property, and leased personal 1820
property that would be capitalized if purchased, used by a person 1821
primarily to perform research and development. Tangible personal 1822
property primarily used in testing, as defined in division (A)(4) 1823
of section 5739.011 of the Revised Code, or used for recording or 1824
storing test results, is not qualified research and development 1825
equipment unless such property is primarily used by the consumer 1826
in testing the product, equipment, or manufacturing process being 1827

created, designed, or formulated by the consumer in the research 1828
and development activity or in recording or storing such test 1829
results. 1830

(II) "Building maintenance and janitorial service" means 1831
cleaning the interior or exterior of a building and any tangible 1832
personal property located therein or thereon, including any 1833
services incidental to such cleaning for which no separate charge 1834
is made. However, "building maintenance and janitorial service" 1835
does not include the providing of such service by a person who has 1836
less than five thousand dollars in sales of such service during 1837
the calendar year. 1838

(JJ) "Employment service" means providing or supplying 1839
personnel, on a temporary or long-term basis, to perform work or 1840
labor under the supervision or control of another, when the 1841
personnel so supplied receive their wages, salary, or other 1842
compensation from the provider of the service. "Employment 1843
service" does not include: 1844

(1) Acting as a contractor or subcontractor, where the 1845
personnel performing the work are not under the direct control of 1846
the purchaser. 1847

(2) Medical and health care services. 1848

(3) Supplying personnel to a purchaser pursuant to a contract 1849
of at least one year between the service provider and the 1850
purchaser that specifies that each employee covered under the 1851
contract is assigned to the purchaser on a permanent basis. 1852

(4) Transactions between members of an affiliated group, as 1853
defined in division (B)(3)(e) of this section. 1854

(KK) "Employment placement service" means locating or finding 1855
employment for a person or finding or locating an employee to fill 1856
an available position. 1857

(LL) "Exterminating service" means eradicating or attempting 1858
to eradicate vermin infestations from a building or structure, or 1859
the area surrounding a building or structure, and includes 1860
activities to inspect, detect, or prevent vermin infestation of a 1861
building or structure. 1862

(MM) "Physical fitness facility service" means all 1863
transactions by which a membership is granted, maintained, or 1864
renewed, including initiation fees, membership dues, renewal fees, 1865
monthly minimum fees, and other similar fees and dues, by a 1866
physical fitness facility such as an athletic club, health spa, or 1867
gymnasium, which entitles the member to use the facility for 1868
physical exercise. 1869

(NN) "Recreation and sports club service" means all 1870
transactions by which a membership is granted, maintained, or 1871
renewed, including initiation fees, membership dues, renewal fees, 1872
monthly minimum fees, and other similar fees and dues, by a 1873
recreation and sports club, which entitles the member to use the 1874
facilities of the organization. "Recreation and sports club" means 1875
an organization that has ownership of, or controls or leases on a 1876
continuing, long-term basis, the facilities used by its members 1877
and includes an aviation club, gun or shooting club, yacht club, 1878
card club, swimming club, tennis club, golf club, country club, 1879
riding club, amateur sports club, or similar organization. 1880

(OO) "Livestock" means farm animals commonly raised for food 1881
or food production, and includes but is not limited to cattle, 1882
sheep, goats, swine, and poultry. "Livestock" does not include 1883
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 1884
animals for use in laboratories or for exhibition, or other 1885
animals not commonly raised for food or food production. 1886

(PP) "Livestock structure" means a building or structure used 1887
exclusively for the housing, raising, feeding, or sheltering of 1888
livestock, and includes feed storage or handling structures and 1889

structures for livestock waste handling. 1890

(QQ) "Horticulture" means the growing, cultivation, and 1891
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 1892
and nursery stock. As used in this division, "nursery stock" has 1893
the same meaning as in section 927.51 of the Revised Code. 1894

(RR) "Horticulture structure" means a building or structure 1895
used exclusively for the commercial growing, raising, or 1896
overwintering of horticultural products, and includes the area 1897
used for stocking, storing, and packing horticultural products 1898
when done in conjunction with the production of those products. 1899

(SS) "Newspaper" means an unbound publication bearing a title 1900
or name that is regularly published, at least as frequently as 1901
biweekly, and distributed from a fixed place of business to the 1902
public in a specific geographic area, and that contains a 1903
substantial amount of news matter of international, national, or 1904
local events of interest to the general public. 1905

(TT) "Professional racing team" means a person that employs 1906
at least twenty full-time employees for the purpose of conducting 1907
a motor vehicle racing business for profit. The person must 1908
conduct the business with the purpose of racing one or more motor 1909
racing vehicles in at least ten competitive professional racing 1910
events each year that comprise all or part of a motor racing 1911
series sanctioned by one or more motor racing sanctioning 1912
organizations. A "motor racing vehicle" means a vehicle for which 1913
the chassis, engine, and parts are designed exclusively for motor 1914
racing, and does not include a stock or production model vehicle 1915
that may be modified for use in racing. For the purposes of this 1916
division: 1917

(1) A "competitive professional racing event" is a motor 1918
vehicle racing event sanctioned by one or more motor racing 1919
sanctioning organizations, at which aggregate cash prizes in 1920

excess of eight hundred thousand dollars are awarded to the 1921
competitors. 1922

(2) "Full-time employee" means an individual who is employed 1923
for consideration for thirty-five or more hours a week, or who 1924
renders any other standard of service generally accepted by custom 1925
or specified by contract as full-time employment. 1926

(UU)(1) "Prepaid authorization number" means a numeric or 1927
alphanumeric combination that represents a prepaid account that 1928
can be used by the account holder solely to obtain 1929
telecommunications service, and includes any renewals or increases 1930
in the prepaid account. 1931

(2) "Prepaid telephone calling card" means a tangible item 1932
that contains a prepaid authorization number that can be used 1933
solely to obtain telecommunications service, and includes any 1934
renewals or increases in the prepaid account. 1935

(VV) "Lease" means any transfer for a consideration of the 1936
possession of and right to use, but not title to, tangible 1937
personal property for a fixed period of time greater than 1938
twenty-eight days or for an open-ended period of time with a 1939
minimum fixed period of more than twenty-eight days. 1940

(WW) "Mobile telecommunications service" has the same meaning 1941
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 1942
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended. 1943
1944

(XX) "Certified service provider" has the same meaning as in 1945
section 5740.01 of the Revised Code. 1946

Sec. 5739.02. For the purpose of providing revenue with which 1947
to meet the needs of the state, for the use of the general revenue 1948
fund of the state, for the purpose of securing a thorough and 1949
efficient system of common schools throughout the state, for the 1950

purpose of affording revenues, in addition to those from general 1951
property taxes, permitted under constitutional limitations, and 1952
from other sources, for the support of local governmental 1953
functions, and for the purpose of reimbursing the state for the 1954
expense of administering this chapter, an excise tax is hereby 1955
levied on each retail sale made in this state. 1956

(A) The tax shall be collected pursuant to the schedules in 1957
section 5739.025 of the Revised Code. 1958

The tax applies and is collectible when the sale is made, 1959
regardless of the time when the price is paid or delivered. 1960

In the case of a sale, the price of which consists in whole 1961
or in part of rentals for the use of the thing transferred, the 1962
tax, as regards such rentals, shall be measured by the 1963
installments thereof. 1964

In the case of a sale of a service defined under division 1965
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 1966
which consists in whole or in part of a membership for the receipt 1967
of the benefit of the service, the tax applicable to the sale 1968
shall be measured by the installments thereof. 1969

(B) The tax does not apply to the following: 1970

(1) Sales to the state or any of its political subdivisions, 1971
or to any other state or its political subdivisions if the laws of 1972
that state exempt from taxation sales made to this state and its 1973
political subdivisions; 1974

(2) Sales of food for human consumption off the premises 1975
where sold; 1976

(3) Sales of food sold to students only in a cafeteria, 1977
dormitory, fraternity, or sorority maintained in a private, 1978
public, or parochial school, college, or university; 1979

(4) Sales of newspapers, and of magazine subscriptions 1980

shipped by second class mail, and sales or transfers of magazines	1981
distributed as controlled circulation publications;	1982
(5) The furnishing, preparing, or serving of meals without	1983
charge by an employer to an employee provided the employer records	1984
the meals as part compensation for services performed or work	1985
done;	1986
(6) Sales of motor fuel upon receipt, use, distribution, or	1987
sale of which in this state a tax is imposed by the law of this	1988
state, but this exemption shall not apply to the sale of motor	1989
fuel on which a refund of the tax is allowable under section	1990
5735.14 of the Revised Code; and the tax commissioner may deduct	1991
the amount of tax levied by this section applicable to the price	1992
of motor fuel when granting a refund of motor fuel tax pursuant to	1993
section 5735.14 of the Revised Code and shall cause the amount	1994
deducted to be paid into the general revenue fund of this state;	1995
(7) Sales of natural gas by a natural gas company, of water	1996
by a water-works company, or of steam by a heating company, if in	1997
each case the thing sold is delivered to consumers through pipes	1998
or conduits, and all sales of communications services by a	1999
telephone or telegraph company, all terms as defined in section	2000
5727.01 of the Revised Code;	2001
(8) Casual sales by a person, or auctioneer employed directly	2002
by the person to conduct such sales, except as to such sales of	2003
motor vehicles, watercraft or outboard motors required to be	2004
titled under section 1548.06 of the Revised Code, watercraft	2005
documented with the United States coast guard, snowmobiles, and	2006
all-purpose vehicles as defined in section 4519.01 of the Revised	2007
Code;	2008
(9) Sales of services or tangible personal property, other	2009
than motor vehicles, mobile homes, and manufactured homes, by	2010
churches, organizations exempt from taxation under section	2011

501(c)(3) of the Internal Revenue Code of 1986, or nonprofit
organizations operated exclusively for charitable purposes as
defined in division (B)(12) of this section, provided that the
number of days on which such tangible personal property or
services, other than items never subject to the tax, are sold does
not exceed six in any calendar year. If the number of days on
which such sales are made exceeds six in any calendar year, the
church or organization shall be considered to be engaged in
business and all subsequent sales by it shall be subject to the
tax. In counting the number of days, all sales by groups within a
church or within an organization shall be considered to be sales
of that church or organization, except that sales made by separate
student clubs and other groups of students of a primary or
secondary school, and sales made by a parent-teacher association,
booster group, or similar organization that raises money to
support or fund curricular or extracurricular activities of a
primary or secondary school, shall not be considered to be sales
of such school, and sales by each such club, group, association,
or organization shall be counted separately for purposes of the
six-day limitation. This division does not apply to sales by a
noncommercial educational radio or television broadcasting
station.

(10) Sales not within the taxing power of this state under
the Constitution of the United States;

(11) The transportation of persons or property, unless the
transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to
churches, to organizations exempt from taxation under section
501(c)(3) of the Internal Revenue Code of 1986, and to any other
nonprofit organizations operated exclusively for charitable
purposes in this state, no part of the net income of which inures
to the benefit of any private shareholder or individual, and no

substantial part of the activities of which consists of carrying 2044
on propaganda or otherwise attempting to influence legislation; 2045
sales to offices administering one or more homes for the aged or 2046
one or more hospital facilities exempt under section 140.08 of the 2047
Revised Code; and sales to organizations described in division (D) 2048
of section 5709.12 of the Revised Code. 2049

"Charitable purposes" means the relief of poverty; the 2050
improvement of health through the alleviation of illness, disease, 2051
or injury; the operation of an organization exclusively for the 2052
provision of professional, laundry, printing, and purchasing 2053
services to hospitals or charitable institutions; the operation of 2054
a home for the aged, as defined in section 5701.13 of the Revised 2055
Code; the operation of a radio or television broadcasting station 2056
that is licensed by the federal communications commission as a 2057
noncommercial educational radio or television station; the 2058
operation of a nonprofit animal adoption service or a county 2059
humane society; the promotion of education by an institution of 2060
learning that maintains a faculty of qualified instructors, 2061
teaches regular continuous courses of study, and confers a 2062
recognized diploma upon completion of a specific curriculum; the 2063
operation of a parent-teacher association, booster group, or 2064
similar organization primarily engaged in the promotion and 2065
support of the curricular or extracurricular activities of a 2066
primary or secondary school; the operation of a community or area 2067
center in which presentations in music, dramatics, the arts, and 2068
related fields are made in order to foster public interest and 2069
education therein; the production of performances in music, 2070
dramatics, and the arts; or the promotion of education by an 2071
organization engaged in carrying on research in, or the 2072
dissemination of, scientific and technological knowledge and 2073
information primarily for the public. 2074

Nothing in this division shall be deemed to exempt sales to 2075

any organization for use in the operation or carrying on of a 2076
trade or business, or sales to a home for the aged for use in the 2077
operation of independent living facilities as defined in division 2078
(A) of section 5709.12 of the Revised Code. 2079

(13) Building and construction materials and services sold to 2080
construction contractors for incorporation into a structure or 2081
improvement to real property under a construction contract with 2082
this state or a political subdivision thereof, or with the United 2083
States government or any of its agencies; building and 2084
construction materials and services sold to construction 2085
contractors for incorporation into a structure or improvement to 2086
real property that are accepted for ownership by this state or any 2087
of its political subdivisions, or by the United States government 2088
or any of its agencies at the time of completion of such 2089
structures or improvements; building and construction materials 2090
sold to construction contractors for incorporation into a 2091
horticulture structure or livestock structure for a person engaged 2092
in the business of horticulture or producing livestock; building 2093
materials and services sold to a construction contractor for 2094
incorporation into a house of public worship or religious 2095
education, or a building used exclusively for charitable purposes 2096
under a construction contract with an organization whose purpose 2097
is as described in division (B)(12) of this section; building 2098
materials and services sold to a construction contractor for 2099
incorporation into a building under a construction contract with 2100
an organization exempt from taxation under section 501(c)(3) of 2101
the Internal Revenue Code of 1986 when the building is to be used 2102
exclusively for the organization's exempt purposes; building and 2103
construction materials sold for incorporation into the original 2104
construction of a sports facility under section 307.696 of the 2105
Revised Code; and building and construction materials and services 2106
sold to a construction contractor for incorporation into real 2107

property outside this state if such materials and services, when
sold to a construction contractor in the state in which the real
property is located for incorporation into real property in that
state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or
to be used principally in interstate or foreign commerce, and
repairs, alterations, fuel, and lubricants for such ships or
vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities
mentioned in division (E)(2) or (9) of section 5739.01 of the
Revised Code, to persons engaged in making retail sales, or to
persons who purchase for sale from a manufacturer tangible
personal property that was produced by the manufacturer in
accordance with specific designs provided by the purchaser, of
packages, including material, labels, and parts for packages, and
of machinery, equipment, and material for use primarily in
packaging tangible personal property produced for sale, including
any machinery, equipment, and supplies used to make labels or
packages, to prepare packages or products for labeling, or to
label packages or products, by or on the order of the person doing
the packaging, or sold at retail. "Packages" includes bags,
baskets, cartons, crates, boxes, cans, bottles, bindings,
wrappings, and other similar devices and containers, and
"packaging" means placing therein.

(16) Sales of food to persons using food stamp benefits to
purchase the food. As used in division (B)(16) of this section,
"food" has the same meaning as in the "Food Stamp Act of 1977," 91
Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations
adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture,
horticulture, or floriculture, of tangible personal property for
use or consumption directly in the production by farming,

agriculture, horticulture, or floriculture of other tangible 2140
personal property for use or consumption directly in the 2141
production of tangible personal property for sale by farming, 2142
agriculture, horticulture, or floriculture; or material and parts 2143
for incorporation into any such tangible personal property for use 2144
or consumption in production; and of tangible personal property 2145
for such use or consumption in the conditioning or holding of 2146
products produced by and for such use, consumption, or sale by 2147
persons engaged in farming, agriculture, horticulture, or 2148
floriculture, except where such property is incorporated into real 2149
property; 2150

(18) Sales of drugs dispensed by a licensed pharmacist upon 2151
the order of a licensed health professional authorized to 2152
prescribe drugs to a human being, as the term "licensed health 2153
professional authorized to prescribe drugs" is defined in section 2154
4729.01 of the Revised Code; insulin as recognized in the official 2155
United States pharmacopoeia; urine and blood testing materials 2156
when used by diabetics or persons with hypoglycemia to test for 2157
glucose or acetone; hypodermic syringes and needles when used by 2158
diabetics for insulin injections; epoetin alfa when purchased for 2159
use in the treatment of persons with end-stage renal disease; 2160
hospital beds when purchased for use by persons with medical 2161
problems for medical purposes; and oxygen and oxygen-dispensing 2162
equipment when purchased for use by persons with medical problems 2163
for medical purposes; 2164

(19)(a) Sales of artificial limbs or portion thereof, breast 2165
prostheses, and other prosthetic devices for humans; braces or 2166
other devices for supporting weakened or nonfunctioning parts of 2167
the human body; crutches or other devices to aid human 2168
perambulation; and items of tangible personal property used to 2169
supplement impaired functions of the human body such as 2170
respiration, hearing, or elimination; 2171

(b) Sales of wheelchairs; items incorporated into or used in 2172
conjunction with a motor vehicle for the purpose of transporting 2173
wheelchairs, other than transportation conducted in connection 2174
with the sale or delivery of wheelchairs; and items incorporated 2175
into or used in conjunction with a motor vehicle that are 2176
specifically designed to assist a person with a disability to 2177
access or operate the motor vehicle. As used in this division, 2178
"person with a disability" means any person who has lost the use 2179
of one or both legs or one or both arms, who is blind, deaf, or 2180
disabled to the extent that the person is unable to move about 2181
without the aid of crutches or a wheelchair, or whose mobility is 2182
restricted by a permanent cardiovascular, pulmonary, or other 2183
disabling condition. 2184

(c) No exemption under this division shall be allowed for 2185
nonprescription drugs, medicines, or remedies; items or devices 2186
used to supplement vision; items or devices whose function is 2187
solely or primarily cosmetic; or physical fitness equipment. This 2188
division does not apply to sales to a physician or medical 2189
facility for use in the treatment of a patient. 2190

(20) Sales of emergency and fire protection vehicles and 2191
equipment to nonprofit organizations for use solely in providing 2192
fire protection and emergency services, including trauma care and 2193
emergency medical services, for political subdivisions of the 2194
state; 2195

(21) Sales of tangible personal property manufactured in this 2196
state, if sold by the manufacturer in this state to a retailer for 2197
use in the retail business of the retailer outside of this state 2198
and if possession is taken from the manufacturer by the purchaser 2199
within this state for the sole purpose of immediately removing the 2200
same from this state in a vehicle owned by the purchaser; 2201

(22) Sales of services provided by the state or any of its 2202
2203

political subdivisions, agencies, instrumentalities, institutions, 2204
or authorities, or by governmental entities of the state or any of 2205
its political subdivisions, agencies, instrumentalities, 2206
institutions, or authorities; 2207

(23) Sales of motor vehicles to nonresidents of this state 2208
upon the presentation of an affidavit executed in this state by 2209
the nonresident purchaser affirming that the purchaser is a 2210
nonresident of this state, that possession of the motor vehicle is 2211
taken in this state for the sole purpose of immediately removing 2212
it from this state, that the motor vehicle will be permanently 2213
titled and registered in another state, and that the motor vehicle 2214
will not be used in this state; 2215

(24) Sales to persons engaged in the preparation of eggs for 2216
sale of tangible personal property used or consumed directly in 2217
such preparation, including such tangible personal property used 2218
for cleaning, sanitizing, preserving, grading, sorting, and 2219
classifying by size; packages, including material and parts for 2220
packages, and machinery, equipment, and material for use in 2221
packaging eggs for sale; and handling and transportation equipment 2222
and parts therefor, except motor vehicles licensed to operate on 2223
public highways, used in intraplant or interplant transfers or 2224
shipment of eggs in the process of preparation for sale, when the 2225
plant or plants within or between which such transfers or 2226
shipments occur are operated by the same person. "Packages" 2227
includes containers, cases, baskets, flats, fillers, filler flats, 2228
cartons, closure materials, labels, and labeling materials, and 2229
"packaging" means placing therein. 2230

(25)(a) Sales of water to a consumer for residential use, 2231
except the sale of bottled water, distilled water, mineral water, 2232
carbonated water, or ice; 2233

(b) Sales of water by a nonprofit corporation engaged 2234
exclusively in the treatment, distribution, and sale of water to 2235

consumers, if such water is delivered to consumers through pipes or tubing.	2236 2237
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2238 2239
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	2240 2241 2242 2243
(a) To prepare food for human consumption for sale;	2244
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	2245 2246 2247 2248
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2249 2250
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2251 2252
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	2253 2254 2255 2256
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	2257 2258 2259
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	2260 2261 2262
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a	2263 2264 2265

person engaged in highway transportation for hire; 2266

(33) Sales to the state headquarters of any veterans' 2267
organization in Ohio that is either incorporated and issued a 2268
charter by the congress of the United States or is recognized by 2269
the United States veterans administration, for use by the 2270
headquarters; 2271

(34) Sales to a telecommunications service vendor of tangible 2272
personal property and services used directly and primarily in 2273
transmitting, receiving, switching, or recording any interactive, 2274
two-way electromagnetic communications, including voice, image, 2275
data, and information, through the use of any medium, including, 2276
but not limited to, poles, wires, cables, switching equipment, 2277
computers, and record storage devices and media, and component 2278
parts for the tangible personal property. The exemption provided 2279
in division (B)(34) of this section shall be in lieu of all other 2280
exceptions under division (E)(2) of section 5739.01 of the Revised 2281
Code to which a telecommunications service vendor may otherwise be 2282
entitled based upon the use of the thing purchased in providing 2283
the telecommunications service. 2284

(35) Sales of investment metal bullion and investment coins. 2285
"Investment metal bullion" means any elementary precious metal 2286
that has been put through a process of smelting or refining, 2287
including, but not limited to, gold, silver, platinum, and 2288
palladium, and which is in such state or condition that its value 2289
depends upon its content and not upon its form. "Investment metal 2290
bullion" does not include fabricated precious metal that has been 2291
processed or manufactured for one or more specific and customary 2292
industrial, professional, or artistic uses. "Investment coins" 2293
means numismatic coins or other forms of money and legal tender 2294
manufactured of gold, silver, platinum, palladium, or other metal 2295
under the laws of the United States or any foreign nation with a 2296
fair market value greater than any statutory or nominal value of 2297

such coins.	2298
(36)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.	2299 2300 2301 2302 2303
(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(36)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.	2304 2305 2306 2307 2308 2309 2310 2311 2312
(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.	2313 2314 2315
For purposes of division (B)(36) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.	2316 2317 2318 2319 2320 2321 2322 2323
(37) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;	2324 2325 2326
(38) The sale of a motor vehicle that is used exclusively for a vanpool ridesharing arrangement to persons participating in the	2327 2328

vanpool ridesharing arrangement when the vendor is selling the	2329
vehicle pursuant to a contract between the vendor and the	2330
department of transportation;	2331
(39) Sales of personal computers, computer monitors, computer	2332
keyboards, modems, and other peripheral computer equipment to an	2333
individual who is licensed or certified to teach in an elementary	2334
or a secondary school in this state for use by that individual in	2335
preparation for teaching elementary or secondary school students;	2336
	2337
(40) Sales to a professional racing team of any of the	2338
following:	2339
(a) Motor racing vehicles;	2340
(b) Repair services for motor racing vehicles;	2341
(c) Items of property that are attached to or incorporated in	2342
motor racing vehicles, including engines, chassis, and all other	2343
components of the vehicles, and all spare, replacement, and	2344
rebuilt parts or components of the vehicles; except not including	2345
tires, consumable fluids, paint, and accessories consisting of	2346
instrumentation sensors and related items added to the vehicle to	2347
collect and transmit data by means of telemetry and other forms of	2348
communication.	2349
(41) Sales of used manufactured homes and used mobile homes,	2350
as defined in section 5739.0210 of the Revised Code, made on or	2351
after January 1, 2000;	2352
(42) Sales of tangible personal property and services to a	2353
provider of electricity used or consumed directly and primarily in	2354
generating, transmitting, or distributing electricity for use by	2355
others, including property that is or is to be incorporated into	2356
and will become a part of the consumer's production, transmission,	2357
or distribution system and that retains its classification as	2358
tangible personal property after incorporation; fuel or power used	2359

in the production, transmission, or distribution of electricity; 2360
and tangible personal property and services used in the repair and 2361
maintenance of the production, transmission, or distribution 2362
system, including only those motor vehicles as are specially 2363
designed and equipped for such use. The exemption provided in this 2364
division shall be in lieu of all other exceptions in division 2365
(E)(2) of section 5739.01 of the Revised Code to which a provider 2366
of electricity may otherwise be entitled based on the use of the 2367
tangible personal property or service purchased in generating, 2368
transmitting, or distributing electricity. 2369

For the purpose of the proper administration of this chapter, 2370
and to prevent the evasion of the tax, it is presumed that all 2371
sales made in this state are subject to the tax until the contrary 2372
is established. 2373

As used in this section, except in division (B)(16) of this 2374
section, "food" includes cereals and cereal products, milk and 2375
milk products including ice cream, meat and meat products, fish 2376
and fish products, eggs and egg products, vegetables and vegetable 2377
products, fruits, fruit products, and pure fruit juices, 2378
condiments, sugar and sugar products, coffee and coffee 2379
substitutes, tea, and cocoa and cocoa products. It does not 2380
include: spirituous or malt liquors; soft drinks; sodas and 2381
beverages that are ordinarily dispensed at bars and soda fountains 2382
or in connection therewith, other than coffee, tea, and cocoa; 2383
root beer and root beer extracts; malt and malt extracts; mineral 2384
oils, cod liver oils, and halibut liver oil; medicines, including 2385
tonics, vitamin preparations, and other products sold primarily 2386
for their medicinal properties; and water, including mineral, 2387
bottled, and carbonated waters, and ice. 2388

~~(C) The levy of an excise tax on transactions by which 2389
lodging by a hotel is or is to be furnished to transient guests 2390
pursuant to this section and division (B) of section 5739.01 of 2391~~

~~the Revised Code does not prevent any of the following:~~ 2392

~~(1) A municipal corporation or township from levying an~~ 2393
~~excise tax for any lawful purpose not to exceed three per cent on~~ 2394
~~transactions by which lodging by a hotel is or is to be furnished~~ 2395
~~to transient guests in addition to the tax levied by this section.~~ 2396
~~If a municipal corporation or township repeals a tax imposed under~~ 2397
~~division (C)(1) of this section and a county in which the~~ 2398
~~municipal corporation or township has territory has a tax imposed~~ 2399
~~under division (C) of section 5739.024 of the Revised Code in~~ 2400
~~effect, the municipal corporation or township may not reimpose its~~ 2401
~~tax as long as that county tax remains in effect. A municipal~~ 2402
~~corporation or township in which a tax is levied under division~~ 2403
~~(B)(2) of section 351.021 of the Revised Code may not increase the~~ 2404
~~rate of its tax levied under division (C)(1) of this section to~~ 2405
~~any rate that would cause the total taxes levied under both of~~ 2406
~~those divisions to exceed three per cent on any lodging~~ 2407
~~transaction within the municipal corporation or township.~~ 2408

~~(2) A municipal corporation or a township from levying an~~ 2409
~~additional excise tax not to exceed three per cent on such~~ 2410
~~transactions pursuant to division (B) of section 5739.024 of the~~ 2411
~~Revised Code. Such tax is in addition to any tax imposed under~~ 2412
~~division (C)(1) of this section.~~ 2413

~~(3) A county from levying an excise tax pursuant to division~~ 2414
~~(A) of section 5739.024 of the Revised Code.~~ 2415

~~(4) A county from levying an excise tax not to exceed three~~ 2416
~~per cent of such transactions pursuant to division (C) of section~~ 2417
~~5739.024 of the Revised Code. Such a tax is in addition to any tax~~ 2418
~~imposed under division (C)(3) of this section.~~ 2419

~~(5) A convention facilities authority, as defined in division~~ 2420
~~(A) of section 351.01 of the Revised Code, from levying the excise~~ 2421
~~taxes provided for in division (B) of section 351.021 of the~~ 2422
~~Revised Code.~~ 2423

~~(6) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (D) of section 5739.024 of the Revised Code. Such tax is in addition to any tax imposed under division (C)(3) or (4) of this section.~~

2424
2425
2426
2427
2428

~~(7) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (E) of section 5739.024 of the Revised Code. Such a tax is in addition to any tax imposed under division (C)(3), (4), or (6) of this section.~~

2429
2430
2431
2432
2433

~~(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.~~

2434
2435
2436
2437

Sec. 5739.021. (A) For the purpose of providing additional general revenues for the county or supporting criminal and administrative justice services in the county, or both, and to pay the expenses of administering such levy, any county may levy a tax at the rate of not more than one per cent at any multiple of one-fourth of one per cent upon every retail sale made in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase the rate of an existing tax to not more than one per cent at any multiple of one-fourth of one per cent.

2438
2439
2440
2441
2442
2443
2444
2445
2446
2447
2448

The tax shall be levied and the rate increased pursuant to a resolution of the board of county commissioners. The resolution shall state the purpose for which the tax is to be levied and the number of years for which the tax is to be levied, or that it is for a continuing period of time. If the tax is to be levied for the purpose of providing additional general revenues and for the

2449
2450
2451
2452
2453
2454

purpose of supporting criminal and administrative justice 2455
services, the resolution shall state the rate or amount of the tax 2456
to be apportioned to each such purpose. The rate or amount may be 2457
different for each year the tax is to be levied, but the rates or 2458
amounts actually apportioned each year shall not be different from 2459
that stated in the resolution for that year. If the resolution is 2460
adopted as an emergency measure necessary for the immediate 2461
preservation of the public peace, health, or safety, it must 2462
receive an affirmative vote of all of the members of the board of 2463
county commissioners and shall state the reasons for such 2464
necessity. A certified copy of the resolution shall be delivered 2465
to the tax commissioner either personally or by certified mail not 2466
later than the sixtieth day prior to the date on which the tax is 2467
to become effective. ~~Prior~~ 2468

Prior to the adoption of any resolution under this section, 2469
the board of county commissioners shall conduct two public 2470
hearings on the resolution, the second hearing to be not less than 2471
three nor more than ten days after the first. Notice of the date, 2472
time, and place of the hearings shall be given by publication in a 2473
newspaper of general circulation in the county once a week on the 2474
same day of the week for two consecutive weeks, the second 2475
publication being not less than ten nor more than thirty days 2476
prior to the first hearing. ~~If~~ 2477

Except as provided in division (B)(3) of this section, the 2478
resolution shall become effective on the first day of a calendar 2479
quarter following the expiration of sixty days from the date of 2480
its adoption, subject to a referendum as provided in sections 2481
305.31 to 305.41 of the Revised Code. 2482

If a petition for a referendum is filed ~~pursuant to sections~~ 2483
~~305.31 to 305.41 of the Revised Code,~~ the county auditor with whom 2484
the petition was filed shall, within five days, notify the board 2485
of county commissioners and the tax commissioner of the filing of 2486

the petition by certified mail. If the board of elections with 2487
which the petition was filed declares the petition invalid, the 2488
board of elections, within five days, shall notify the board of 2489
county commissioners and the tax commissioner of that declaration 2490
by certified mail. If the ~~board of elections declares the~~ petition 2491
is declared to be invalid, the effective date of the tax or 2492
increased rate of tax levied by this section shall be the first 2493
day of ~~the month~~ a calendar quarter following the expiration of 2494
~~thirty~~ sixty days from the date the petition was declared invalid 2495
by the board of elections. 2496

(B)(1) ~~A resolution levying or increasing the rate of a sales~~ 2497
~~tax pursuant to this section shall become effective on the first~~ 2498
~~day of the month specified in the resolution but not earlier than~~ 2499
~~the first day of the month following the expiration of sixty days~~ 2500
~~from the date of its adoption, subject to a referendum as provided~~ 2501
~~in sections 305.31 to 305.41 of the Revised Code, unless the~~ 2502
~~resolution is adopted as an emergency measure necessary for the~~ 2503
~~immediate preservation of the public peace, health, or safety, in~~ 2504
~~which case it shall go into effect on the first day of the month~~ 2505
~~following the expiration of thirty days from the date of notice by~~ 2506
~~the board of county commissioners to the tax commissioner of its~~ 2507
~~adoption. The emergency measure shall receive an affirmative vote~~ 2508
~~of all of the members of the board of county commissioners and~~ 2509
~~shall state the reasons for such necessity.~~ 2510

~~(2)(a)~~ A resolution that is not adopted as an emergency 2511
measure may direct the board of elections to submit the question 2512
of levying the tax or increasing the rate of tax to the electors 2513
of the county at a special election held on the date specified by 2514
the board of county commissioners in the resolution, provided that 2515
the election occurs not less than seventy-five days after a 2516
certified copy of such resolution is transmitted to the board of 2517
elections and the election is not held in February or August of 2518

any year. Upon transmission of the resolution to the board of 2519
elections, the board of county commissioners shall notify the tax 2520
commissioner in writing of the levy question to be submitted to 2521
the electors. No resolution adopted under this division ~~(B)(2)(a)~~ 2522
~~of this section~~ shall go into effect unless approved by a majority 2523
of those voting upon it, ~~and not until, except as provided in~~ 2524
division (B)(3) of this section, shall become effective on the 2525
first day of ~~the month~~ a calendar quarter following the expiration 2526
of ~~thirty~~ sixty days from the date of notice to the tax 2527
commissioner by the board of elections of the affirmative vote. 2528

~~(b)(2)~~ A resolution that is adopted as an emergency measure 2529
shall go into effect as provided in division ~~(B)(1)(A)~~ of this 2530
section, but may direct the board of elections to submit the 2531
question of repealing the tax or increase in the rate of the tax 2532
to the electors of the county at the next general election in the 2533
county occurring not less than seventy-five days after a ~~certified~~ 2534
certified copy of the resolution is transmitted to the board of 2535
elections. Upon transmission of the resolution to the board of 2536
elections, the board of county commissioners shall notify the tax 2537
commissioner in writing of the levy question to be submitted to 2538
the electors. The ballot question shall be the same as that 2539
prescribed in section 5739.022 of the Revised Code. The board of 2540
elections shall notify the board of county commissioners and the 2541
tax commissioner of the result of the election immediately after 2542
the result has been declared. If a majority of the qualified 2543
electors voting on the question of repealing the tax or increase 2544
in the rate of the tax vote for repeal of the tax or repeal of the 2545
increase, the board of county commissioners, on the first day of 2546
~~the month~~ a calendar quarter following the expiration of ~~thirty~~ 2547
sixty days after the date it received notice of the result of the 2548
election, shall, in the case of a repeal of the tax, cease to levy 2549
the tax, or, in the case of a repeal of an increase in the rate of 2550
the tax, cease to levy the increased rate and levy the tax at the 2551

rate at which it was imposed immediately prior to the increase in 2552
rate. 2553

(3) If a vendor that is registered with the central 2554
electronic registration system provided for in section 5740.05 of 2555
the Revised Code makes a sale in this state by printed catalog and 2556
the consumer computed the tax on the sale based on local rates 2557
published in the catalog, any tax levied or rate changed under 2558
this section shall not apply to such sales until the first day of 2559
a calendar quarter following the expiration of one hundred twenty 2560
days from the date of notice by the tax commissioner to the 2561
vendor, or to the vendor's certified service provider, if the 2562
vendor has selected one. 2563

(C) If a resolution is rejected at a referendum or if a 2564
resolution adopted after January 1, 1982, as an emergency measure 2565
is repealed by the electors pursuant to division (B)(2)(b) of this 2566
section or section 5739.022 of the Revised Code, then for one year 2567
after the date of the election at which the resolution was 2568
rejected or repealed the board of county commissioners may not 2569
adopt any resolution authorized by this section as an emergency 2570
measure. 2571

(D) The board of county commissioners, at any time while a 2572
tax levied under this section is in effect, may by resolution 2573
reduce the rate at which the tax is levied to a lower rate 2574
authorized by this section. Any reduction in the rate at which the 2575
tax is levied shall be made effective on ~~the first day of the~~ 2576
~~month specified in the resolution but not sooner than~~ the first 2577
day of ~~the month~~ a calendar quarter next following the ~~thirtieth~~ 2578
sixtieth day after the certification of the resolution to the tax 2579
commissioner. 2580

(E) The tax on every retail sale subject to a tax levied 2581
pursuant to this section shall be in addition to the tax levied by 2582
section 5739.02 of the Revised Code and any tax levied pursuant to 2583

section 5739.023 or 5739.026 of the Revised Code. 2584

A county that levies a tax pursuant to this section shall 2585
levy a tax at the same rate pursuant to section 5741.021 of the 2586
Revised Code. 2587

The additional tax levied by the county shall be collected 2588
pursuant to section 5739.025 of the Revised Code. If the 2589
additional tax or some portion thereof is levied for the purpose 2590
of criminal and administrative justice services, the revenue from 2591
the tax, or the amount or rate apportioned to that purpose, shall 2592
be credited to a special fund created in the county treasury for 2593
receipt of that revenue. 2594

Any tax levied pursuant to this section is subject to the 2595
exemptions provided in section 5739.02 of the Revised Code and in 2596
addition shall not be applicable to sales not within the taxing 2597
power of a county under the ~~constitution~~ Constitution of the 2598
United States or the ~~constitution of this state~~ Ohio Constitution. 2599

(F) For purposes of this section, a copy of a resolution is 2600
"certified" when it contains a written statement attesting that 2601
the copy is a true and exact reproduction of the original 2602
resolution. 2603

(G) If a board of commissioners intends to adopt a resolution 2604
to levy a tax in whole or in part for the purpose of criminal and 2605
administrative justice services, the board shall prepare and make 2606
available at the first public hearing at which the resolution is 2607
considered a statement containing the following information: 2608

2609

(1) For each of the two preceding fiscal years, the amount of 2610
expenditures made by the county from the county general fund for 2611
the purpose of criminal and administrative justice services; 2612

(2) For the fiscal year in which the resolution is adopted, 2613
the board's estimate of the amount of expenditures to be made by 2614

the county from the county general fund for the purpose of 2615
criminal and administrative justice services; 2616

(3) For each of the two fiscal years after the fiscal year in 2617
which the resolution is adopted, the board's preliminary plan for 2618
expenditures to be made from the county general fund for the 2619
purpose of criminal and administrative justice services, both 2620
under the assumption that the tax will be imposed for that purpose 2621
and under the assumption that the tax would not be imposed for 2622
that purpose, and for expenditures to be made from the special 2623
fund created under division (E) of this section under the 2624
assumption that the tax will be imposed for that purpose. 2625

The board shall prepare the statement and the preliminary 2626
plan using the best information available to the board at the time 2627
the statement is prepared. Neither the statement nor the 2628
preliminary plan shall be used as a basis to challenge the 2629
validity of the tax in any court of competent jurisdiction, nor 2630
shall the statement or preliminary plan limit the authority of the 2631
board to appropriate, pursuant to section 5705.38 of the Revised 2632
Code, an amount different from that specified in the preliminary 2633
plan. 2634

(H) As used in this section, "criminal and administrative 2635
justice services" means the exercise by the county sheriff of all 2636
powers and duties vested in that office by law; the exercise by 2637
the county prosecuting attorney of all powers and duties vested in 2638
that office by law; the exercise by any court in the county of all 2639
powers and duties vested in that court; the exercise by the clerk 2640
of the court of common pleas, any clerk of a municipal court 2641
having jurisdiction throughout the county, or the clerk of any 2642
county court of all powers and duties vested in the clerk by law 2643
except, in the case of the clerk of the court of common pleas, the 2644
titling of motor vehicles or watercraft pursuant to Chapter 1548. 2645
or 4505. of the Revised Code; the exercise by the county coroner 2646

of all powers and duties vested in that office by law; making 2647
payments to any other public agency or a private, nonprofit 2648
agency, the purposes of which in the county include the diversion, 2649
adjudication, detention, or rehabilitation of criminals or 2650
juvenile offenders; the operation and maintenance of any detention 2651
facility, as defined in section 2921.01 of the Revised Code; and 2652
the construction, acquisition, equipping, or repair of such a 2653
detention facility, including the payment of any debt charges 2654
incurred in the issuance of securities pursuant to Chapter 133. of 2655
the Revised Code for the purpose of constructing, acquiring, 2656
equipping, or repairing such a facility. 2657

Sec. 5739.023. (A)(1) For the purpose of providing additional 2658
general revenues for a transit authority and paying the expenses 2659
of administering such levy, any transit authority as defined in 2660
division (U) of section 5739.01 of the Revised Code may levy a tax 2661
upon every retail sale made in the territory of the transit 2662
authority, except sales of watercraft and outboard motors required 2663
to be titled pursuant to Chapter 1548. of the Revised Code and 2664
sales of motor vehicles, at a rate of not more than one and 2665
one-half per cent at any multiple of one-fourth of one per cent 2666
and may increase the existing rate of tax to not more than one and 2667
one-half per cent at any multiple of one-fourth of one per cent. 2668
The tax shall be levied and the rate increased pursuant to a 2669
resolution of the legislative authority of the transit authority 2670
and a certified copy of the resolution shall be delivered by the 2671
fiscal officer to the board of elections as provided in section 2672
3505.071 of the Revised Code. The resolution shall specify the 2673
number of years for which the tax is to be in effect or that the 2674
tax is for a continuing period of time, and the date of the 2675
election on the question of the tax pursuant to section 306.70 of 2676
the Revised Code. 2677

(2) The Except as provided in division (C) of this section, 2678

~~the~~ tax levied by the resolution shall become effective on ~~the~~ 2679
~~first day of the month specified in the resolution but not earlier~~ 2680
~~than~~ the first day of ~~the month~~ a calendar quarter next following 2681
the sixtieth day following the certification of the results of the 2682
election on the question of the tax by the board of elections. 2683

(B) The legislative authority may, at any time while the tax 2684
is in effect, by resolution fix the rate of the tax at any rate 2685
authorized by this section and not in excess of that approved by 2686
the voters pursuant to section 306.70 of the Revised Code. ~~Any~~ 2687
Except as provided in division (C) of this section, any change in 2688
the rate of the tax shall be made effective on ~~the first day of~~ 2689
~~the month specified in the resolution but not sooner than the~~ 2690
first day of ~~the month~~ a calendar quarter next following the 2691
sixtieth day following the certification of the resolution to the 2692
tax commissioner; provided, that in any case where bonds, or notes 2693
in anticipation of bonds, of a regional transit authority have 2694
been issued under section 306.40 of the Revised Code without a 2695
vote of the electors while the tax proposed to be reduced was in 2696
effect, the board of trustees of the regional transit authority 2697
shall continue to levy and collect under authority of the original 2698
election authorizing the tax a rate of tax ~~which~~ that the board of 2699
trustees reasonably estimates will produce an amount in that year 2700
equal to the amount of principal of and interest on those bonds as 2701
is payable in that year. 2702

(C) If a vendor that is registered with the central 2703
electronic registration system provided for in section 5740.05 of 2704
the Revised Code makes a sale in this state by printed catalog and 2705
the consumer computed the tax on the sale based on local rates 2706
published in the catalog, any tax levied or rate changed under 2707
this section shall not apply to such a sale until the first day of 2708
a calendar quarter following the expiration of one hundred twenty 2709
days from the date of notice by the tax commissioner to the 2710

vendor, or to the vendor's certified service provider, if the 2711
vendor has selected one. 2712

(D) The tax on every retail sale subject to a tax levied 2713
pursuant to this section is in addition to the tax levied by 2714
section 5739.02 of the Revised Code and any tax levied pursuant to 2715
section 5739.021 or 5739.026 of the Revised Code. 2716

~~(D)~~(E) The additional tax levied by the transit authority 2717
shall be collected pursuant to section 5739.025 of the Revised 2718
Code. 2719

~~(E)~~(F) Any tax levied pursuant to this section is subject to 2720
the exemptions provided in section 5739.02 of the Revised Code and 2721
in addition shall not be applicable to sales not within the taxing 2722
power of a transit authority under the constitution of the United 2723
States or the constitution of this state. 2724

~~(F)~~(G) The rate of a tax levied under this section is subject 2725
to reduction under section 5739.028 of the Revised Code if a 2726
ballot question is approved by voters pursuant to that section. 2727

Sec. 5739.026. (A) A board of county commissioners may levy a 2728
tax of one-fourth or one-half of one per cent on every retail sale 2729
in the county, except sales of watercraft and outboard motors 2730
required to be titled pursuant to Chapter 1548. of the Revised 2731
Code and sales of motor vehicles, and may increase an existing 2732
rate of one-fourth of one per cent to one-half of one per cent, to 2733
pay the expenses of administering the tax and, except as provided 2734
in division (A)(6) of this section, for any one or more of the 2735
following purposes: 2736

(1) To provide additional revenues for the payment of bonds 2737
or notes issued in anticipation of bonds issued by a convention 2738
facilities authority established by the board of county 2739
commissioners under Chapter 351. of the Revised Code and to 2740
provide additional operating revenues for the convention 2741

facilities authority;	2742
(2) To provide additional revenues for a transit authority operating in the county;	2743 2744
(3) To provide additional revenue for the county's general fund;	2745 2746
(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;	2747 2748 2749 2750 2751
(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;	2752 2753 2754 2755 2756 2757 2758 2759 2760 2761
(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such	2762 2763 2764 2765 2766 2767 2768 2769 2770 2771 2772

a petition. 2773

If the tax is levied or the rate increased for such purpose 2774
for more than five years, the board of county commissioners also 2775
shall levy the tax or increase the rate of the tax for one or more 2776
of the purposes described in divisions (A)(1) to (5) of this 2777
section and shall prescribe the method for allocating the revenues 2778
from the tax each year in the manner required by division (C) of 2779
this section. 2780

(7) To provide additional revenue for the operation or 2781
maintenance of a detention facility, as that term is defined under 2782
division (F) of section 2921.01 of the Revised Code; 2783

(8) To provide revenue to finance the construction or 2784
renovation of a sports facility, but only if the tax is levied for 2785
that purpose in the manner prescribed by section 5739.028 of the 2786
Revised Code. 2787

As used in division (A)(8) of this section: 2788

(a) "Sports facility" means a facility intended to house 2789
major league professional athletic teams. 2790

(b) "Constructing" or "construction" includes providing 2791
fixtures, furnishings, and equipment. 2792

(9) To provide additional revenue for the acquisition of 2793
agricultural easements, as defined in section 5301.67 of the 2794
Revised Code; to pay principal, interest, and premium on bonds 2795
issued under section 133.60 of the Revised Code; and for the 2796
supervision and enforcement of agricultural easements held by the 2797
county. 2798

Pursuant to section 755.171 of the Revised Code, a board of 2799
county commissioners may pledge and contribute revenue from a tax 2800
levied for the purpose of division (A)(5) of this section to the 2801
payment of debt charges on bonds issued under section 755.17 of 2802

the Revised Code.

2803

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board.

2804
2805
2806
2807
2808
2809
2810
2811
2812
2813

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. The Except as provided in division (E) of this section, the resolution shall become effective on ~~the first day of the month specified in the resolution but not earlier than the first day of the month a~~ calendar quarter following the expiration of sixty days from the date of its adoption, subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, ~~unless the. If the~~ resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, ~~in which case it shall go into effect on the first day of the month following the expiration of thirty days from the date of notice by the board of county commissioners to the tax commissioner of its~~

2814
2815
2816
2817
2818
2819
2820
2821
2822
2823
2824
2825
2826
2827
2828
2829
2830
2831
2832
2833
2834

~~adoption. The emergency measure shall~~ must receive an affirmative 2835
vote of all of the members of the board of county commissioners 2836
and shall state the reasons for the necessity. 2837

If the tax is for more than one of the purposes set forth in 2838
divisions (A)(1) to (7) and (9) of this section or is exclusively 2839
for one of the purposes set forth in division (A)(1), (2), (4), 2840
(5), (6), (7), or (9) of this section, the resolution shall not go 2841
into effect unless it is approved by a majority of the electors 2842
voting on the question of the tax. 2843

(B) The board of county commissioners shall adopt a 2844
resolution under section 351.02 of the Revised Code creating the 2845
convention facilities authority, or under section 307.283 of the 2846
Revised Code creating the community improvements board, before 2847
adopting a resolution levying a tax for the purpose of a 2848
convention facilities authority under division (A)(1) of this 2849
section or for the purpose of a community improvements board under 2850
division (A)(4) of this section. 2851

(C)(1) If the tax is to be used for more than one of the 2852
purposes set forth in divisions (A)(1) to (7) and (9) of this 2853
section, the board of county commissioners shall establish the 2854
method that will be used to determine the amount or proportion of 2855
the tax revenue received by the county during each year that will 2856
be distributed for each of those purposes, including, if 2857
applicable, provisions governing the reallocation of a convention 2858
facilities authority's allocation if the authority is dissolved 2859
while the tax is in effect. The allocation method may provide that 2860
different proportions or amounts of the tax shall be distributed 2861
among the purposes in different years, but it shall clearly 2862
describe the method that will be used for each year. Except as 2863
otherwise provided in division (C)(2) of this section, the 2864
allocation method established by the board is not subject to 2865
amendment during the life of the tax. 2866

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the

authority's other revenues pledged for that purpose, is sufficient 2899
to meet the debt service requirements for that year on such bonds. 2900

(d) If the additional revenues provided to the county are 2901
pledged by the county for the payment of bonds or notes issued 2902
under section 133.60 of the Revised Code, for so long as the bonds 2903
or notes are outstanding, no reduction of the county's allocation 2904
of the tax shall be made for any year, except to the extent that 2905
the reduced county allocation is sufficient to meet the debt 2906
service requirements for that year on the bonds or notes. 2907

(D)(1) The resolution levying the tax or increasing the rate 2908
of tax shall state the rate of the tax or the rate of the 2909
increase; the purpose or purposes for which it is to be levied; 2910
the number of years for which it is to be levied or that it is for 2911
a continuing period of time; the allocation method required by 2912
division (C) of this section; and if required to be submitted to 2913
the electors of the county under division (A) of this section, the 2914
date of the election at which the proposal shall be submitted to 2915
the electors of the county, which shall be not less than 2916
seventy-five days after the certification of a copy of the 2917
resolution to the board of elections and, if the tax is to be 2918
levied exclusively for the purpose set forth in division (A)(3) of 2919
this section, shall not occur in February or August of any year. 2920
Upon certification of the resolution to the board of elections, 2921
the board of county commissioners shall notify the tax 2922
commissioner in writing of the levy question to be submitted to 2923
the electors. If approved by a majority of the electors, the tax 2924
shall become effective on ~~the first day of the month specified in~~ 2925
~~the resolution but not earlier than~~ the first day of the month a 2926
calendar quarter next following the ~~thirtieth~~ sixtieth day 2927
following the certification of the results of the election to the 2928
board of county commissioners and the tax commissioner by the 2929
board of elections, except as provided in division (E) of this 2930

section. 2931

(2)(a) A resolution specifying that the tax is to be used 2932
exclusively for the purpose set forth in division (A)(3) of this 2933
section that is not adopted as an emergency measure may direct the 2934
board of elections to submit the question of levying the tax or 2935
increasing the rate of the tax to the electors of the county at a 2936
special election held on the date specified by the board of county 2937
commissioners in the resolution, provided that the election occurs 2938
not less than seventy-five days after the resolution is certified 2939
to the board of elections and the election is not held in February 2940
or August of any year. Upon certification of the resolution to the 2941
board of elections, the board of county commissioners shall notify 2942
the tax commissioner in writing of the levy question to be 2943
submitted to the electors. No resolution adopted under division 2944
(D)(2)(a) of this section shall go into effect unless approved by 2945
a majority of those voting upon it and, except as provided in 2946
division (E) of this section, not until the ~~first day of the month~~ 2947
~~specified in the resolution but not earlier than the~~ first day of 2948
~~the month~~ a calendar quarter following the expiration of ~~thirty~~ 2949
~~sixty~~ days from the date of the notice to the tax commissioner by 2950
the board of elections of the affirmative vote. 2951

(b) A resolution specifying that the tax is to be used 2952
exclusively for the purpose set forth in division (A)(3) of this 2953
section that is adopted as an emergency measure shall become 2954
effective as provided in division (A) of this section, but may 2955
direct the board of elections to submit the question of repealing 2956
the tax or increase in the rate of the tax to the electors of the 2957
county at the next general election in the county occurring not 2958
less than seventy-five days after the resolution is certified to 2959
the board of elections. Upon certification of the resolution to 2960
the board of elections, the board of county commissioners shall 2961
notify the tax commissioner in writing of the levy question to be 2962

submitted to the electors. The ballot question shall be the same 2963
as that prescribed in section 5739.022 of the Revised Code. The 2964
board of elections shall notify the board of county commissioners 2965
and the tax commissioner of the result of the election immediately 2966
after the result has been declared. If a majority of the qualified 2967
electors voting on the question of repealing the tax or increase 2968
in the rate of the tax vote for repeal of the tax or repeal of the 2969
increase, the board of county commissioners, on the first day of 2970
~~the month~~ a calendar quarter following the expiration of ~~thirty~~ 2971
sixty days after the date it received notice of the result of the 2972
election, shall, in the case of a repeal of the tax, cease to levy 2973
the tax, or, in the case of a repeal of an increase in the rate of 2974
the tax, cease to levy the increased rate and levy the tax at the 2975
rate at which it was imposed immediately prior to the increase in 2976
rate. 2977

(E) If a vendor that is registered with the central 2978
electronic registration system provided for in section 5740.05 of 2979
the Revised Code makes a sale in this state by printed catalog and 2980
the consumer computed the tax on the sale based on local rates 2981
published in the catalog, any tax levied or rate changed under 2982
this section shall not apply to such a sale until the first day of 2983
a calendar quarter following the expiration of one hundred twenty 2984
days from the date of notice by the tax commissioner to the 2985
vendor, or to the vendor's certified service provider, if the 2986
vendor has selected one. 2987

(F) The tax levied pursuant to this section shall be in 2988
addition to the tax levied by section 5739.02 of the Revised Code 2989
and any tax levied pursuant to section 5739.021 or 5739.023 of the 2990
Revised Code. 2991

A county that levies a tax pursuant to this section shall 2992
levy a tax at the same rate pursuant to section 5741.023 of the 2993
Revised Code. 2994

The additional tax levied by the county shall be collected 2995
pursuant to section 5739.025 of the Revised Code. 2996

Any tax levied pursuant to this section is subject to the 2997
exemptions provided in section 5739.02 of the Revised Code and in 2998
addition shall not be applicable to sales not within the taxing 2999
power of a county under the Constitution of the United States or 3000
the Ohio Constitution. 3001

Sec. 5739.03. (A) Except as provided in section 5739.05 of 3002
the Revised Code, the tax imposed by or pursuant to section 3003
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall 3004
be paid by the consumer to the vendor, and each vendor shall 3005
collect from the consumer, as a trustee for the state of Ohio, the 3006
full and exact amount of the tax payable on each taxable sale, in 3007
the manner and at the times provided as follows: 3008

~~(A)~~(1) If the price is, at or prior to the provision of the 3009
service or the delivery of possession of the thing sold to the 3010
consumer, paid in currency passed from hand to hand by the 3011
consumer or the consumer's agent to the vendor or the vendor's 3012
agent, the vendor or the vendor's agent shall collect the tax with 3013
and at the same time as the price; 3014

~~(B)~~(2) If the price is otherwise paid or to be paid, the 3015
vendor or the vendor's agent shall, at or prior to the provision 3016
of the service or the delivery of possession of the thing sold to 3017
the consumer, charge the tax imposed by or pursuant to section 3018
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 3019
the account of the consumer, which amount shall be collected by 3020
the vendor from the consumer in addition to the price. Such sale 3021
shall be reported on and the amount of the tax applicable thereto 3022
shall be remitted with the return for the period in which the sale 3023
is made, and the amount of the tax shall become a legal charge in 3024
favor of the vendor and against the consumer. 3025

(B)(1) If any sale is claimed to be exempt under division (E) 3026
of section 5739.01 of the Revised Code or under section 5739.02 of 3027
the Revised Code, with the exception of divisions (B)(1) to (11) 3028
or (28) of section 5739.02 of the Revised Code, the consumer must 3029
~~furnish~~ provide to the vendor, and the vendor must obtain from the 3030
consumer, a certificate specifying the reason that the sale is not 3031
legally subject to the tax. The certificate shall be provided 3032
either in a hard copy form or electronic form, as prescribed by 3033
the tax commissioner. If the transaction is claimed to be exempt 3034
under division (B)(13) of section 5739.02 of the Revised Code, the 3035
exemption certificate shall be ~~signed~~ provided by both the 3036
contractor and the contractee ~~and such.~~ Such contractee shall be 3037
deemed to be the consumer of all items purchased under such claim 3038
of exemption ~~in the event if~~ if it is subsequently determined that 3039
the exemption is not properly claimed. The certificate shall be in 3040
such form as the tax commissioner by regulation prescribes. ~~ff~~ 3041

(2) The vendor shall maintain records, including exemption 3043
certificates, of all sales on which a consumer has claimed an 3044
exemption, and provide them to the tax commissioner on request. 3045

(3) The tax commissioner may establish an identification 3046
system whereby the commissioner issues an identification number to 3047
a consumer that is exempt from payment of the tax. The consumer 3048
must present the number to the vendor if any sale is claimed to be 3049
exempt as provided in this section. 3050

(4) If no certificate is ~~furnished~~ provided or obtained 3051
within the period for filing the return for the period in which 3052
such sale is consummated, it shall be presumed that the tax 3053
applies. ~~The~~ Failure to have so ~~furnished~~ provided, or to have so 3054
obtained, a certificate shall not prevent a vendor or consumer 3055
from establishing that the sale is not ~~subject~~ subject to the tax 3056
within ~~sixty~~ one hundred twenty days of the giving of notice by 3057

the commissioner of intention to levy an ~~assassment~~ assessment, in 3058
which event the tax shall not apply. 3059

(5) Certificates need not be obtained nor ~~furnished~~ provided 3060
where the identity of the consumer is such that the transaction is 3061
never subject to the tax imposed or where the item of tangible 3062
personal property sold or the service provided is never subject to 3063
the tax imposed, regardless of use, or when the sale is in 3064
interstate commerce. 3065

(C) As used in this division, "contractee" means a person who 3066
seeks to enter or enters into a contract or agreement with a 3067
contractor or vendor for the construction of real property or for 3068
the sale and installation onto real property of tangible personal 3069
property. 3070

Any contractor or vendor may request from any contractee a 3071
certification of what portion of the property to be transferred 3072
under such contract or agreement is to be incorporated into the 3073
realty and what portion will retain its status as tangible 3074
personal property after installation is completed. The contractor 3075
or vendor shall request the certification by certified mail 3076
delivered to the contractee, return receipt requested. Upon 3077
receipt of such request and prior to entering into the contract or 3078
agreement, the contractee shall ~~furnish~~ provide to the contractor 3079
or vendor a certification sufficiently detailed to enable the 3080
contractor or vendor to ascertain the resulting classification of 3081
all materials purchased or fabricated by the contractor or vendor 3082
and transferred to the contractee. This requirement applies to a 3083
contractee regardless of whether the contractee holds a direct 3084
payment permit under section 5739.031 of the Revised Code or 3085
~~furnishes~~ provides to the contractor or vendor an exemption 3086
certificate as provided under this section. 3087

For the purposes of the taxes levied by this chapter and 3088
Chapter 5741. of the Revised Code, the contractor or vendor may in 3089

good faith rely on the contractee's certification. Notwithstanding 3090
division (B) of section 5739.01 of the Revised Code, if the tax 3091
commissioner determines that certain property certified by the 3092
contractee as tangible personal property pursuant to this division 3093
is, in fact, real property, the contractee shall be considered to 3094
be the consumer of all materials so incorporated into that real 3095
property and shall be liable for the applicable tax, and the 3096
contractor or vendor shall be excused from any liability on those 3097
materials. 3098

If a contractee fails to provide such certification upon the 3099
request of the contractor or vendor, the contractor or vendor 3100
shall comply with the provisions of this chapter and Chapter 5741. 3101
of the Revised Code without the certification. If the tax 3102
commissioner determines that such compliance has been performed in 3103
good faith and that certain property treated as tangible personal 3104
property by the contractor or vendor is, in fact, real property, 3105
the contractee shall be considered to be the consumer of all 3106
materials so incorporated into that real property and shall be 3107
liable for the applicable tax, and the construction contractor or 3108
vendor shall be excused from any liability on those materials. 3109

This division does not apply to any contract or agreement 3110
where the tax commissioner determines as a fact that a 3111
certification under this division was made solely on the decision 3112
or advice of the contractor or vendor. 3113

(D) Notwithstanding division (B) of section 5739.01 of the 3114
Revised Code, whenever the total rate of tax imposed under this 3115
chapter is increased after the date after a construction contract 3116
is entered into, the contractee shall reimburse the construction 3117
contractor for any additional tax paid on tangible property 3118
consumed or services received pursuant to the contract. 3119

(E) A vendor who files a petition for reassessment contesting 3120
the assessment of tax on sales for which the vendor obtained no 3121

valid exemption certificates and for which the vendor failed to 3122
establish that the sales were properly not subject to the tax 3123
during the one-hundred-twenty-day period allowed under division 3124
(B) of this section, may present to the tax commissioner 3125
additional evidence to prove that the sales were properly subject 3126
to a claim of exception or exemption. The vendor shall file such 3127
evidence within ninety days of the receipt by the vendor of the 3128
notice of assessment, except that, upon application and for 3129
reasonable cause, the period for submitting such evidence shall be 3130
extended thirty days. 3131

The commissioner shall consider such additional evidence in 3132
reaching the final determination on the assessment and petition 3133
for reassessment. 3134

(F) Whenever a vendor refunds to the consumer the full price 3135
of an item of tangible personal property on which the tax imposed 3136
under this chapter has been paid, the vendor shall also refund the 3137
full amount of the tax paid. 3138

Sec. 5739.031. (A) The tax commissioner may authorize a 3139
manufacturer or other consumer, who purchases tangible personal 3140
property or services under circumstances that normally make it 3141
impossible at the time of the purchase to determine the manner in 3142
which the property or services will be used, to pay the sales tax 3143
levied by or pursuant to section 5739.02, 5739.021, 5739.023, or 3144
5739.026 of the Revised Code or the use tax levied by or pursuant 3145
to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised 3146
Code directly to the state, and waive the collection of the tax by 3147
the vendor or seller, but no such authority shall be granted or 3148
exercised except upon application to ~~the commissioner,~~ and the 3149
issuance by the commissioner of a direct payment permit. If a 3150
direct payment permit is granted, then payment of the sales and 3151
use taxes on all purchases, including purchases of tangible 3152

personal property and services, the use of which is known at the 3153
time of the purchase, shall be made directly to the treasurer of 3154
state by the permit holder. 3155

(B) Each permit holder, on or before the twenty-third day of 3156
each month, shall make and file with the treasurer of state a 3157
return for the preceding month in such form as is prescribed by 3158
the commissioner and shall pay the tax shown on the return to be 3159
due. The return shall show the sum of the prices of taxable 3160
merchandise used and taxable services received, the amount of tax 3161
due from the permit holder, and such other information as the 3162
commissioner deems necessary. The commissioner, upon written 3163
request by the permit holder, may extend the time for making and 3164
filing returns and paying the tax. If the commissioner determines 3165
that a permit holder's tax liability is not such as to merit 3166
monthly filing, the commissioner may authorize the permit holder 3167
to file returns and pay the tax at less frequent intervals. The 3168
treasurer of state shall show on the return the date it was filed 3169
and the amount of the payment remitted to the treasurer. 3170
Thereafter, the treasurer immediately shall transmit all returns 3171
filed under this section to the tax commissioner. 3172

Any permit holder required to file a return and pay the tax 3173
under this section whose total payment for any calendar year 3174
indicated in that section equals or exceeds the amount shown in 3175
section 5739.032 of the Revised Code shall make each payment 3176
required by this section in the second ensuing and each succeeding 3177
year by electronic funds transfer as prescribed by section 3178
5739.032 of the Revised Code, except as otherwise prescribed by 3179
that section. 3180

(C) For purposes of reporting and remitting the tax, the 3181
price of tangible personal property or services purchased by, or 3182
of tangible personal property produced by, the permit holder shall 3183
be determined under division (G) of section 5741.01 of the Revised 3184

Code. ~~Notwithstanding section 5739.033 of the Revised Code, all~~ 3185
~~The tax due on purchase transactions made by the permit holder are~~ 3186
~~conclusively determined to be consummated at the location where~~ 3187
~~the tangible personal property or service is received by the~~ 3188
~~permit holder shall be determined in accordance with division (C)~~ 3189
~~of section 5739.033 of the Revised Code.~~ 3190

(D) It shall be the duty of every permit holder required to 3191
make a return and pay any tax under this section to keep and 3192
preserve suitable records of purchases together with invoices of 3193
purchases, bills of lading, asset ledgers, depreciation schedules, 3194
transfer journals, and such other primary and secondary records 3195
and documents in such form as the commissioner requires. All such 3196
records and other documents shall be open during business hours to 3197
the inspection of the commissioner, and shall be preserved for a 3198
period of four years, unless the commissioner, in writing, has 3199
authorized their destruction or disposal at an earlier date, or by 3200
order requires that they be kept longer. 3201

(E) A permit granted pursuant to this section shall continue 3202
to be valid until surrendered by the holder or canceled for cause 3203
by the commissioner. 3204

(F) Persons who hold a direct payment permit that has not 3205
been canceled shall not be required to issue exemption 3206
certificates and shall not be required to pay the tax as 3207
prescribed in sections 5739.03, 5739.033, and 5741.12 of the 3208
Revised Code. Such persons shall notify vendors and sellers from 3209
whom purchases of tangible personal property or services are made, 3210
of their direct payment permit number and that the tax is being 3211
paid directly to the state. Upon receipt of such notice, such 3212
vendor or seller shall be absolved from all duties and liabilities 3213
imposed by section 5739.03 or 5741.04 of the Revised Code with 3214
respect to sales of tangible personal property or services to such 3215
permit holder. 3216

Vendors and sellers who make sales upon which the tax is not 3217
collected by reason of the provisions of this section shall 3218
maintain records in such manner that the amount involved and 3219
identity of the purchaser may be ascertained. The receipts from 3220
such sales shall not be subject to the tax levied in section 3221
5739.10 of the Revised Code. 3222

Upon the cancellation or surrender of a direct payment 3223
permit, the provisions of sections 5739.03, 5741.04, and 5741.12 3224
of the Revised Code shall immediately apply to all purchases made 3225
subsequent to such cancellation or surrender by the person who 3226
previously held such permit, and such person shall so notify 3227
vendors and sellers from whom purchases of tangible personal 3228
property or services are made, in writing, prior to or at the time 3229
of the first purchase after such cancellation or surrender. Upon 3230
receipt of such notice, the vendor shall be subject to the 3231
provisions of sections 5739.03 and 5739.10 of the Revised Code and 3232
the seller shall be subject to the provisions of section 5741.04 3233
of the Revised Code, with respect to all sales subsequently made 3234
to such person. Failure of any such person to notify vendors or 3235
sellers from whom purchases of tangible personal property or 3236
services are made of the cancellation or surrender of a direct 3237
payment permit shall be considered as a refusal to pay the tax by 3238
the person required to issue such notice. 3239

Sec. 5739.033. The amount of tax due pursuant to sections 3240
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 3241
the sum of the taxes imposed pursuant to those sections at the 3242
situs of the consummation of the sale as determined under this 3243
section. 3244

(A) Except for sales of titled motor vehicles, titled 3245
watercraft, or titled outboard motors as provided in section 3246
5741.05 of the Revised Code, or as otherwise provided in this 3247

section and ~~division (C) of section 5739.031~~ 5739.034 of the 3248
Revised Code, all sales are conclusively determined to be 3249
consummated at the vendor's place of business. 3250

(1) If the consumer or the consumer's ~~agent takes possession~~ 3251
~~of the donee receives~~ tangible personal property or a service at a 3252
place of business of the vendor ~~where the purchase contract or~~ 3253
~~agreement was made~~, the sale is conclusively determined to be 3254
consummated at that place of business. 3255

(2) ~~If the consumer or the consumer's agent takes possession~~ 3256
~~of the tangible personal property other than at a place of~~ 3257
~~business of the vendor, or takes possession at a warehouse or~~ 3258
~~similar facility of the vendor, the sale is consummated at the~~ 3259
~~vendor's place of business where the purchase contract or~~ 3260
~~agreement was made or the purchase order was received.~~ 3261

~~(3) If the vendor provides a service specified in division~~ 3262
~~(B)(3)(a), (b), (c), (d), (n), or (o) of section 5739.01 of the~~ 3263
~~Revised Code, the sale is consummated at the vendor's place of~~ 3264
~~business where the service is performed or the contract or~~ 3265
~~agreement for the service was made or the purchase order was~~ 3266
~~received.~~ 3267

~~(B) If the vendor is a transient vendor as specified in~~ 3268
~~division (B) of section 5739.17 of the Revised Code, the sale is~~ 3269
~~conclusively determined to be consummated at the vendor's~~ 3270
~~temporary place of business or, if the transient vendor is the~~ 3271
~~lessor of titled motor vehicles, titled watercraft, or titled~~ 3272
~~outboard motors, at the location where the lessee keeps the leased~~ 3273
~~property.~~ 3274

~~(C) If the vendor makes sales of tangible personal property~~ 3275
~~from a stock of goods carried in a motor vehicle, from which the~~ 3276
~~purchaser makes selection and takes possession, or from which the~~ 3277
~~vendor sells tangible personal property the quantity of which has~~ 3278
~~not been determined prior to the time the purchaser takes~~ 3279

~~possession, the sale is conclusively determined to be consummated~~ 3280
~~at the location of the motor vehicle when the sale is made.~~ 3281

~~(D) If the vendor is a delivery vendor as specified in~~ 3282
~~division (D) of section 5739.17 of the Revised Code, the sale is~~ 3283
~~conclusively determined to be consummated at the place where the~~ 3284
~~tangible personal property is delivered, where the leased property~~ 3285
~~is used, or where the service is performed or received.~~ 3286

~~(E) If the vendor provides a service specified in division~~ 3287
~~(B)(3)(e), (g), (h), (j), (k), (l), or (m) of section 5739.01 of~~ 3288
~~the Revised Code, the sale is conclusively determined to be~~ 3289
~~consummated at the location of the consumer where the service is~~ 3290
~~performed or received.~~ 3291

~~(F) When the tangible personal property or service is not~~ 3292
~~received at a vendor's place of business, the sale is conclusively~~ 3293
~~determined to be consummated at the location where the consumer or~~ 3294
~~a donee designated by the consumer receives the tangible personal~~ 3295
~~property or service, including the location indicated by~~ 3296
~~instructions for delivery to the consumer or the consumer's donee,~~ 3297
~~known to the vendor.~~ 3298

~~(3) If divisions (A)(1) and (2) of this section do not apply,~~ 3299
~~the sale is conclusively determined to be consummated at the~~ 3300
~~location indicated by an address for the consumer that is~~ 3301
~~available from the business records of the vendor that are~~ 3302
~~maintained in the ordinary course of the vendor's business when~~ 3303
~~use of that address does not constitute bad faith.~~ 3304

~~(4) If divisions (A)(1), (2), and (3) of this section do not~~ 3305
~~apply, the sale is conclusively determined to be consummated at~~ 3306
~~the location indicated by an address for the consumer obtained~~ 3307
~~during the consummation of the sale, including the address~~ 3308
~~associated with the consumer's payment instrument, if no other~~ 3309
~~address is available, when use of that address does not constitute~~ 3310

bad faith. 3311

(5) If divisions (A)(1), (2), (3), and (4) of this section do 3312
not apply, including in the circumstance where the vendor is 3313
without sufficient information to apply any of those divisions, 3314
the sale is conclusively determined to be consummated at the 3315
address from which tangible personal property was shipped, or from 3316
which the service was provided, disregarding any location that 3317
merely provided the electronic transfer of the property sold or 3318
service provided. 3319

(6) As used in division (A) of this section, "receive" means 3320
taking possession of tangible personal property or making first 3321
use of a service. "Receive" does not include possession by a 3322
shipping company on behalf of a consumer. 3323

(B)(1) Notwithstanding divisions (A)(1) to (5) of this 3324
section, a manufacturer or other consumer that is not a holder of 3325
a direct payment permit granted under section 5739.031 of the 3326
Revised Code, that purchases tangible personal property or a 3327
service for use in business, and that knows at the time of 3328
purchase that the property or service will be concurrently 3329
available for use in more than one taxing jurisdiction shall 3330
deliver to the vendor in conjunction with its purchase a multiple 3331
points of use exemption form prescribed by the tax commissioner 3332
disclosing this fact. On receipt of the multiple points of use 3333
exemption form, the vendor is relieved of its obligation to 3334
collect, pay, or remit the tax due, and the consumer must collect, 3335
pay, or remit the tax directly to the state. 3336

(2) A consumer that delivers such form to a vendor may use 3337
any reasonable, consistent, and uniform method of apportioning the 3338
tax due on the tangible personal property or service that is 3339
supported by the consumer's business records as they existed at 3340
the time of the sale. 3341

(3) The multiple points of use exemption form shall remain in effect for all future sales by the vendor to the consumer until it is revoked in writing by the consumer, except as to the consumer's specific apportionment of a subsequent sale under division (B) of this section and the facts existing at the time of the sale.

(C) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver a multiple points of use exemption form to a vendor. But such permit holder shall comply with division (B)(2) of this section in apportioning the tax due on tangible personal property or a service that will be concurrently available for use in more than one taxing jurisdiction.

(D) Except as provided in division ~~(I)~~(F) of this section, if the vendor provides a service specified in division (B)(3)(f) or (i) of section 5739.01 of the Revised Code, the sale is conclusively determined to be consummated at the location of the telephone number or account as reflected in the records of the vendor. If, in the case of a telecommunications service, the telephone number or account is located outside this state, the sale is conclusively determined to be consummated at the location in this state from which the service originated.

~~(G)~~(E) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale is conclusively determined to be consummated at the location where the lodging is located.

~~(H) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the sale is conclusively determined to be consummated at the location of the consumer. If the vendor is not a delivery vendor, the sale is conclusively determined to be consummated at~~

~~the vendor's place of business where the contract or agreement was
made, unless the warranty or contract is a component of the sale
of a titled motor vehicle, titled watercraft, or titled outboard
motor, in which case the sale is conclusively determined to be
consummated in the county of titling.~~

(F) Except as otherwise provided in this division, if the
vendor sells a prepaid authorization number or a prepaid telephone
calling card, the sale is conclusively determined to be
consummated at the vendor's place of business and shall be taxed
at the time of sale. If the vendor sells a prepaid authorization
number or prepaid telephone calling card through a telephone call,
electronic commerce, or any other form of remote commerce, the
sale is conclusively determined to be made at the consumer's
shipping address, or, if there is no item shipped, at the
consumer's billing address.

Sec. 5739.034. (A) As used in this section, "customer,"
"enhanced zip code," "home service provider," "licensed service
area," and "place of primary use" have the same meanings as in the
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114
Stat. 631 (2000), 4 U.S.C.A. 124, as amended.

(B) Notwithstanding section 5739.033 of the Revised Code, on
and after August 1, 2002, if a vendor provides mobile
telecommunications service, the situs of all sales of that service
is the residential or business street address that is the
customer's place of primary use of the service that is within the
licensed service area of the home service provider, regardless of
whether such mobile telecommunications service originates,
terminates, or passes through this state. No mobile
telecommunications service provided to a customer with a place of
primary use outside this state shall be subject to taxes, charges,
or fees imposed in this state. The situs of all sales of mobile

telecommunications service shall be determined under the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 626-632 (2000), 4 U.S.C.A. 116-126, as amended. 3405
3406
3407

(C) Pursuant to 4 U.S.C.A. 123, when otherwise taxable and nontaxable charges for mobile telecommunications service are aggregated, the charges for nontaxable mobile telecommunications service shall be subject to taxation, unless the home service provider can reasonably identify charges not subject to taxation from its books and records that are kept in the regular course of business. 3408
3409
3410
3411
3412
3413
3414

(D) The tax commissioner may provide a home service provider with an electronic database that meets the requirements of 4 U.S.C.A. 119. If such database is provided, a home service provider shall be held harmless from any tax, charge, or fee liability for errors or omissions due solely to reliance on the data contained in the database, subject to 4 U.S.C.A. 119 and 121. If no electronic database is provided by the commissioner, a home service provider may use an enhanced zip code to assign each street address to a specific taxing jurisdiction, and the provider shall be held harmless from any tax, charge, or fee liability in this state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction, subject to 4 U.S.C.A. 120 and 121. 3415
3416
3417
3418
3419
3420
3421
3422
3423
3424
3425
3426
3427

(E) The tax commissioner shall require a home service provider to obtain and maintain a customer's place of primary use and shall allow the home service provider to rely on this address as provided under 4 U.S.C.A. 122. The commissioner may correct the place of primary use, or correct the assignment of a taxing jurisdiction by a home service provider, in accordance with 4 U.S.C.A. 121. 3428
3429
3430
3431
3432
3433
3434

Sec. 5739.04. If modification of a county's jurisdictional 3435

boundaries or a transit authority's territory results in a change 3436
in the tax rate levied under section 5739.021, 5739.023, or 3437
5739.026 of the Revised Code, the tax commissioner, within thirty 3438
days of such change, shall notify any vendor that is registered 3439
with the central electronic registration system provided for in 3440
section 5740.05 of the Revised Code or the vendor's certified 3441
service provider, if the vendor has selected one, of such change. 3442
The rate change shall not apply to sales made by such vendor until 3443
the first day of a calendar quarter following the expiration of 3444
sixty days from the date of notice by the tax commissioner. 3445

Sec. 5739.06. (A) As used in this section, "certified 3446
automated system" has the same meaning as in section 5740.01 of 3447
the Revised Code. 3448

(B) If the tax commissioner enters into the streamlined sales 3449
and use tax agreement under section 5740.03 of the Revised Code, 3450
the commissioner shall provide a monetary allowance from the taxes 3451
collected to each of the following: 3452

(1) A certified service provider, in accordance with the 3453
agreement and under the terms of the contract signed with the 3454
provider; 3455

(2) Any vendor registered under the agreement that selects a 3456
certified automated system to perform part of its sales or use tax 3457
functions; 3458

(3) Any vendor registered under the agreement that uses a 3459
proprietary system to calculate taxes due and has entered into a 3460
performance agreement with states that are members to the 3461
streamlined sales and use tax agreement. 3462

(C) The monetary allowance provided for in division (B)(2) or 3463
(3) of this section shall be given to the vendor for the period 3464
established by, and at the rate set in, the streamlined sales and 3465

use tax agreement entered into under section 5740.03 of the 3466
Revised Code. Such allowance shall be in addition to any discount 3467
to which the vendor is entitled under section 5739.12 of the 3468
Revised Code. 3469

Sec. 5739.08. The levy of an excise tax on transactions by 3470
which lodging by a hotel is or is to be furnished to transient 3471
guests pursuant to section 5739.02 and division (B) of section 3472
5739.01 of the Revised Code does not prevent any of the following: 3473

(A) A municipal corporation or township from levying an 3474
excise tax for any lawful purpose not to exceed three per cent on 3475
transactions by which lodging by a hotel is or is to be furnished 3476
to transient guests in addition to the tax levied by section 3477
5739.02 of the Revised Code. If a municipal corporation or 3478
township repeals a tax imposed under division (A) of this section, 3479
and a county in which the municipal corporation or township has 3480
territory has a tax imposed under division (C) of section 5739.09 3481
of the Revised Code in effect, the municipal corporation or 3482
township may not reimpose its tax as long as that county tax 3483
remains in effect. A municipal corporation or township in which a 3484
tax is levied under division (B)(2) of section 351.021 of the 3485
Revised Code may not increase the rate of its tax levied under 3486
division (A) of this section to any rate that would cause the 3487
total taxes levied under both of those divisions to exceed three 3488
per cent on any lodging transaction within the municipal 3489
corporation or township. 3490

(B) A municipal corporation or a township from levying an 3491
additional excise tax not to exceed three per cent on such 3492
transactions pursuant to division (B) of section 5739.09 of the 3493
Revised Code. Such tax is in addition to any tax imposed under 3494
division (A) of this section. 3495

(C) A county from levying an excise tax pursuant to division 3496

<u>(A) of section 5739.09 of the Revised Code;</u>	3497
<u>(D) A county from levying an excise tax not to exceed three per cent of such transactions pursuant to division (C) of section 5739.09 of the Revised Code. Such a tax is in addition to any tax imposed under division (C) of this section.</u>	3498 3499 3500 3501
<u>(E) A convention facilities authority, as defined in division (A) of section 351.01 of the Revised Code, from levying the excise taxes provided for in division (B) of section 351.021 of the Revised Code;</u>	3502 3503 3504 3505
<u>(F) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (D) of section 5739.09 of the Revised Code. Such tax is in addition to any tax imposed under division (C) or (D) of this section.</u>	3506 3507 3508 3509 3510
<u>(G) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (E) of section 5739.09 of the Revised Code. Such a tax is in addition to any tax imposed under division (C), (D), or (F) of this section.</u>	3511 3512 3513 3514 3515
Sec. 5739.024 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except	3516 3517 3518 3519 3520 3521 3522 3523 3524 3525 3526 3527

as provided in divisions (A)(2) and (3) of this section, the 3528
regulations shall provide, after deducting the real and actual 3529
costs of administering the tax, for the return to each municipal 3530
corporation or township that does not levy an excise tax on such 3531
transactions, a uniform percentage of the tax collected in the 3532
municipal corporation or in the unincorporated portion of the 3533
township from each such transaction, not to exceed thirty-three 3534
and one-third per cent. The remainder of the revenue arising from 3535
the tax shall be deposited in a separate fund and shall be spent 3536
solely to make contributions to the convention and visitors' 3537
bureau operating within the county, including a pledge and 3538
contribution of any portion of such remainder pursuant to an 3539
agreement authorized by section 307.695 of the Revised Code. 3540
Except as provided in division (A)(2) or (3) of this section, on 3541
and after May 10, 1994, a board of county commissioners may not 3542
levy an excise tax pursuant to this division in any municipal 3543
corporation or township located wholly or partly within the county 3544
that has in effect an ordinance or resolution levying an excise 3545
tax pursuant to division (B) of this section. The board of a 3546
county that has levied a tax under division (C) of this section 3547
may, by resolution adopted within ninety days after July 15, 1985, 3548
by a majority of the members of the board, amend the resolution 3549
levying a tax under this division to provide for a portion of that 3550
tax to be pledged and contributed in accordance with an agreement 3551
entered into under section 307.695 of the Revised Code. A tax, any 3552
revenue from which is pledged pursuant to such an agreement, shall 3553
remain in effect at the rate at which it is imposed for the 3554
duration of the period for which the revenue therefrom has been so 3555
pledged. 3556

(2) A board of county commissioners that levies an excise tax 3557
under division (A)(1) of this section on June 30, 1997, at a rate 3558
of three per cent, and that has pledged revenue from the tax to an 3559

agreement entered into under section 307.695 of the Revised Code, 3560
may amend the resolution levying that tax to provide for an 3561
increase in the rate of the tax up to five per cent on each 3562
transaction; to provide that revenue from the increase in the rate 3563
shall be spent solely to make contributions to the convention and 3564
visitors' bureau operating within the county to be used 3565
specifically for promotion, advertising, and marketing of the 3566
region in which the county is located; to provide that the rate in 3567
excess of the three per cent levied under division (A)(1) of this 3568
section shall remain in effect at the rate at which it is imposed 3569
for the duration of the period during which any agreement is in 3570
effect that was entered into under section 307.695 of the Revised 3571
Code by the board of county commissioners levying a tax under 3572
division (A)(1) of this section; and to provide that no portion of 3573
that revenue need be returned to townships or municipal 3574
corporations as would otherwise be required under division (A)(1) 3575
of this section. 3576

(3) A board of county commissioners that levies a tax under 3577
division (A)(1) of this section on March 18, 1999, at a rate of 3578
three per cent may, by resolution adopted not later than 3579
forty-five days after March 18, 1999, amend the resolution levying 3580
the tax to provide for all of the following: 3581

(a) That the rate of the tax shall be increased by not more 3582
than an additional four per cent on each transaction; 3583

(b) That all of the revenue from the increase in the rate 3584
shall be pledged and contributed to a convention facilities 3585
authority established by the board of county commissioners under 3586
Chapter 351. of the Revised Code on or before November 15, 1998, 3587
and used to pay costs of constructing, maintaining, operating, and 3588
promoting a facility in the county, including paying bonds, or 3589
notes issued in anticipation of bonds, as provided by that 3590
chapter; 3591

(c) That no portion of the revenue arising from the increase 3592
in rate need be returned to municipal corporations or townships as 3593
otherwise required under division (A)(1) of this section; 3594

(d) That the increase in rate shall not be subject to 3595
diminution by initiative or referendum or by law while any bonds, 3596
or notes in anticipation of bonds, issued by the authority under 3597
Chapter 351. of the Revised Code to which the revenue is pledged, 3598
remain outstanding in accordance with their terms, unless 3599
provision is made by law or by the board of county commissioners 3600
for an adequate substitute therefor that is satisfactory to the 3601
trustee if a trust agreement secures the bonds. 3602

Division (A)(3) of this section does not apply to the board 3603
of county commissioners of any county in which a convention center 3604
or facility exists or is being constructed on November 15, 1998, 3605
or of any county in which a convention facilities authority levies 3606
a tax pursuant to section 351.021 of the Revised Code on that 3607
date. 3608

As used in division (A)(3) of this section, "costs" and 3609
"facility" have the same meanings as in section 351.01 of the 3610
Revised Code, and "convention center" has the same meaning as in 3611
section 307.695 of the Revised Code. 3612

(B) The legislative authority of a municipal corporation or 3613
the board of trustees of a township that is not wholly or partly 3614
located in a county that has in effect a resolution levying an 3615
excise tax pursuant to division (A)(1) of this section may by 3616
ordinance or resolution levy an excise tax not to exceed three per 3617
cent on transactions by which lodging by a hotel is or is to be 3618
furnished to transient guests. The legislative authority of the 3619
municipal corporation or township shall deposit at least fifty per 3620
cent of the revenue from the tax levied pursuant to this division 3621
into a separate fund, which shall be spent solely to make 3622
contributions to convention and visitors' bureaus operating within 3623

the county in which the municipal corporation or township is
wholly or partly located, and the balance of such revenue shall be
deposited in the general fund. The municipal corporation or
township shall establish all regulations necessary to provide for
the administration and allocation of the tax. The regulations may
prescribe the time for payment of the tax, and may provide for the
imposition of a penalty or interest, or both, for late payments,
provided that the penalty does not exceed ten per cent of the
amount of tax due, and the rate at which interest accrues does not
exceed the rate per annum prescribed pursuant to section 5703.47
of the Revised Code. The levy of a tax under this division is in
addition to any tax imposed on the same transaction by a municipal
corporation or a township as authorized by division ~~(C)(1)~~(A) of
section ~~5739.02~~ 5739.08 of the Revised Code.

(C) For the purpose of making the payments authorized by
section 307.695 of the Revised Code to construct and equip a
convention center in the county and to cover the costs of
administering the tax, a board of county commissioners of a county
where a tax imposed under division (A)(1) of this section is in
effect may, by resolution adopted within ninety days after July
15, 1985, by a majority of the members of the board, levy an
additional excise tax not to exceed three per cent on transactions
by which lodging by a hotel is or is to be furnished to transient
guests. The tax authorized by this division shall be in addition
to any tax that is levied pursuant to division (A) of this
section, but it shall not apply to transactions subject to a tax
levied by a municipal corporation or township pursuant to the
authorization granted by division ~~(C)(1)~~(A) of section ~~5739.02~~
5739.08 of the Revised Code. The board shall establish all
regulations necessary to provide for the administration and
allocation of the tax. The regulations may prescribe the time for
payment of the tax, and may provide for the imposition of a

3624
3625
3626
3627
3628
3629
3630
3631
3632
3633
3634
3635
3636
3637
3638
3639
3640
3641
3642
3643
3644
3645
3646
3647
3648
3649
3650
3651
3652
3653
3654
3655

penalty or interest, or both, for late payments, provided that the 3656
penalty does not exceed ten per cent of the amount of tax due, and 3657
the rate at which interest accrues does not exceed the rate per 3658
annum prescribed pursuant to section 5703.47 of the Revised Code. 3659
All revenues arising from the tax shall be expended in accordance 3660
with section 307.695 of the Revised Code. A tax imposed under this 3661
section shall remain in effect at the rate at which it is imposed 3662
for the duration of the period for which the revenue therefrom has 3663
been pledged pursuant to such section. 3664

(D) For the purpose of providing contributions under division 3665
(B)(1) of section 307.671 of the Revised Code to enable the 3666
acquisition, construction, and equipping of a port authority 3667
educational and cultural facility in the county and, to the extent 3668
provided for in the cooperative agreement authorized by that 3669
section, for the purpose of paying debt service charges on bonds, 3670
or notes in anticipation thereof, described in division (B)(1)(b) 3671
of that section, a board of county commissioners, by resolution 3672
adopted within ninety days after December 22, 1992, by a majority 3673
of the members of the board, may levy an additional excise tax not 3674
to exceed one and one-half per cent on transactions by which 3675
lodging by a hotel is or is to be furnished to transient guests. 3676
The excise tax authorized by this division shall be in addition to 3677
any tax that is levied pursuant to divisions (A), (B), and (C) of 3678
this section, to any excise tax levied pursuant to ~~division (C) of~~ 3679
section ~~5739.02~~ 5739.08 of the Revised Code, and to any excise tax 3680
levied pursuant to section 351.021 of the Revised Code. The board 3681
of county commissioners shall establish all regulations necessary 3682
to provide for the administration and allocation of the tax that 3683
are not inconsistent with this section or section 307.671 of the 3684
Revised Code. The regulations may prescribe the time for payment 3685
of the tax, and may provide for the imposition of a penalty or 3686
interest, or both, for late payments, provided that the penalty 3687
does not exceed ten per cent of the amount of tax due, and the 3688

rate at which interest accrues does not exceed the rate per annum 3689
prescribed pursuant to section 5703.47 of the Revised Code. All 3690
revenues arising from the tax shall be expended in accordance with 3691
section 307.671 of the Revised Code and division (D) of this 3692
section. The levy of a tax imposed under this section may not 3693
commence prior to the first day of the month next following the 3694
execution of the cooperative agreement authorized by section 3695
307.671 of the Revised Code by all parties to that agreement. Such 3696
tax shall remain in effect at the rate at which it is imposed for 3697
the period of time described in division (C) of section 307.671 of 3698
the Revised Code for which the revenue from the tax has been 3699
pledged by the county to the corporation pursuant to such section, 3700
but, to any extent provided for in the cooperative agreement, for 3701
no lesser period than the period of time required for payment of 3702
the debt service charges on bonds, or notes in anticipation 3703
thereof, described in division (B)(1)(b) of that section. 3704

(E) For the purpose of paying the costs of acquiring, 3705
constructing, equipping, and improving a municipal educational and 3706
cultural facility, including debt service charges on bonds 3707
provided for in division (B) of section 307.672 of the Revised 3708
Code, and for such additional purposes as are determined by the 3709
county in the resolution levying the tax or amendments thereto, 3710
including subsequent amendments providing for paying costs of 3711
acquiring, constructing, renovating, rehabilitating, equipping, 3712
and improving a port authority educational and cultural performing 3713
arts facility, as defined in section 307.674 of the Revised Code, 3714
including debt service charges on bonds provided for in division 3715
(B) of section 307.674 of the Revised Code, the legislative 3716
authority of a county, by resolution adopted within ninety days 3717
after June 30, 1993, by a majority of the members of the 3718
legislative authority, may levy an additional excise tax not to 3719
exceed one and one-half per cent on transactions by which lodging 3720
by a hotel is or is to be furnished to transient guests. The 3721

excise tax authorized by this division shall be in addition to any 3722
tax that is levied pursuant to divisions (A), (B), (C), and (D) of 3723
this section, to any excise tax levied pursuant to ~~division (C) of~~ 3724
section ~~5739.02~~ 5739.08 of the Revised Code, and to any excise tax 3725
levied pursuant to section 351.021 of the Revised Code. The 3726
legislative authority of the county shall establish all 3727
regulations necessary to provide for the administration and 3728
allocation of the tax. The regulations may prescribe the time for 3729
payment of the tax, and may provide for the imposition of a 3730
penalty or interest, or both, for late payments, provided that the 3731
penalty does not exceed ten per cent of the amount of tax due, and 3732
the rate at which interest accrues does not exceed the rate per 3733
annum prescribed pursuant to section 5703.47 of the Revised Code. 3734
All revenues arising from the tax shall be expended in accordance 3735
with section 307.672 of the Revised Code and division (E) of this 3736
section. The levy of a tax imposed under this division shall not 3737
commence prior to the first day of the month next following the 3738
execution of the cooperative agreement authorized by section 3739
307.672 of the Revised Code by all parties to that agreement. Such 3740
tax shall remain in effect at the rate at which it is imposed for 3741
the period of time determined by the legislative authority of the 3742
county, but not to exceed fifteen years. 3743

(F) The legislative authority of a county that has levied a 3744
tax under division (E) of this section may, by resolution adopted 3745
within one hundred eighty days after January 4, 2001, by a 3746
majority of the members of the legislative authority, amend the 3747
resolution levying a tax under division (E) of this section to 3748
provide for the use of the proceeds of that tax, to the extent 3749
that it is no longer needed for its original purpose as determined 3750
by the parties to a cooperative agreement amendment pursuant to 3751
division (D) of section 307.672 of the Revised Code, to pay costs 3752
of acquiring, constructing, renovating, rehabilitating, equipping, 3753

and improving a port authority educational and cultural performing 3754
arts facility, including debt service charges on bonds provided 3755
for in division (B) of section 307.674 of the Revised Code, and to 3756
pay all obligations under any guaranty agreements, reimbursement 3757
agreements, or other credit enhancement agreements described in 3758
division (C) of section 307.674 of the Revised Code. The 3759
resolution may also provide for the extension of the tax at the 3760
same rate for the longer of the period of time determined by the 3761
legislative authority of the county, but not to exceed an 3762
additional twenty-five years, or the period of time required to 3763
pay all debt service charges on bonds provided for in division (B) 3764
of section 307.672 of the Revised Code and on port authority 3765
revenue bonds provided for in division (B) of section 307.674 of 3766
the Revised Code. All revenues arising from the amendment and 3767
extension of the tax shall be expended in accordance with section 3768
307.674 of the Revised Code and divisions (E) and (F) of this 3769
section. 3770

(G) For purposes of a tax levied by a county, township, or 3771
municipal corporation under this section or ~~division (C) of~~ 3772
section ~~5739.02~~ 5739.08 of the Revised Code, a board of county 3773
commissioners, board of township trustees, or the legislative 3774
authority of a municipal corporation may adopt a resolution or 3775
ordinance at any time specifying that "hotel," as otherwise 3776
defined in section 5739.01 of the Revised Code, includes 3777
establishments in which fewer than five rooms are used for the 3778
accommodation of guests. The resolution or ordinance may apply to 3779
a tax imposed pursuant to this section prior to the adoption of 3780
the resolution or ordinance if the resolution or ordinance so 3781
states, but the tax shall not apply to transactions by which 3782
lodging by such an establishment is provided to transient guests 3783
prior to the adoption of the resolution or ordinance. 3784

Sec. 5739.12. Each person who has or is required to have a 3785

vendor's license, on or before the twenty-third day of each month, 3786
shall make and file a return for the preceding month, on forms 3787
prescribed by the tax commissioner, and shall pay the tax shown on 3788
the return to be due. The return shall show the amount of tax due 3789
from the vendor to the state for the period covered by the return 3790
and such other information as the commissioner deems necessary for 3791
the proper administration of this chapter. The commissioner may 3792
extend the time for making and filing returns and paying the tax, 3793
and may require that the return for the last month of any annual 3794
or semiannual period, as determined by the commissioner, be a 3795
reconciliation return detailing the vendor's sales activity for 3796
the preceding annual or semiannual period. The reconciliation 3797
return shall be filed by the last day of the month following the 3798
last month of the annual or semiannual period. The commissioner 3799
may remit all or any part of amounts or penalties ~~which~~ that may 3800
become due under this chapter and may adopt rules relating 3801
thereto. Such return shall be filed by mailing it to the tax 3802
commissioner, together with payment of the amount of tax shown to 3803
be due thereon after deduction of any discount provided for under 3804
this section. Remittance shall be made payable to the treasurer of 3805
state. The return shall be considered filed when received by the 3806
tax commissioner, and the payment shall be considered made when 3807
received by the tax commissioner or when credited to an account 3808
designated by the treasurer of state or the tax commissioner. ~~If~~ 3809

If the return is filed and the amount of tax shown thereon to 3810
be due is paid on or before the date such return is required to be 3811
filed, the vendor shall be entitled to a discount of three-fourths 3812
of one per cent of the amount shown to be due on the return, but a 3813
vendor that has selected a certified service provider as its agent 3814
shall not be entitled to the discount. Amounts paid to the clerk 3815
of courts pursuant to section 4505.06 of the Revised Code shall be 3816
subject to the three-fourths of one per cent discount. The 3817
discount shall be in consideration for prompt payment to the clerk 3818

of courts and for other services performed by the vendor in the 3819
collection of the tax. 3820

Upon application to the commissioner, a vendor who is 3821
required to file monthly returns may be relieved of the 3822
requirement to report and pay the actual tax due, provided that 3823
the vendor agrees to remit to the tax commissioner payment of not 3824
less than an amount determined by the commissioner to be the 3825
average monthly tax liability of the vendor, based upon a review 3826
of the returns or other information pertaining to such vendor for 3827
a period of not less than six months nor more than two years 3828
immediately preceding the filing of the application. Vendors who 3829
agree to the above conditions shall make and file an annual or 3830
semiannual reconciliation return, as prescribed by the 3831
commissioner. The reconciliation return shall be filed by mailing 3832
or delivering it to the tax commissioner, together with payment of 3833
the amount of tax shown to be due thereon after deduction of any 3834
discount provided in this section. Remittance shall be made 3835
payable to the treasurer of state. Failure of a vendor to comply 3836
with any of the above conditions may result in immediate 3837
reinstatement of the requirement of reporting and paying the 3838
actual tax liability on each monthly return, and the commissioner 3839
may at the commissioner's discretion deny the vendor the right to 3840
report and pay based upon the average monthly liability for a 3841
period not to exceed two years. The amount ascertained by the 3842
commissioner to be the average monthly tax liability of a vendor 3843
may be adjusted, based upon a review of the returns or other 3844
information pertaining to the vendor for a period of not less than 3845
six months nor more than two years preceding such adjustment. 3846

The commissioner may authorize vendors whose tax liability is 3847
not such as to merit monthly returns, as ascertained by the 3848
commissioner upon the basis of administrative costs to the state, 3849
to make and file returns at less frequent intervals. When returns 3850

are filed at less frequent intervals in accordance with such 3851
authorization, the vendor shall be allowed the discount of 3852
three-fourths of one per cent in consideration for prompt payment 3853
with the return, provided the return is filed together with 3854
payment of the amount of tax shown to be due thereon, at the time 3855
specified by the commissioner, but a vendor that has selected a 3856
certified service provider as its agent shall not be entitled to 3857
the discount. 3858

Any vendor who fails to file a return or pay the full amount 3859
of the tax shown on the return to be due under this section and 3860
the rules of the commissioner may, for each such return the vendor 3861
fails to file or each such tax the vendor fails to pay in full as 3862
shown on the return within the period prescribed by this section 3863
and the rules of the commissioner, be required to forfeit and pay 3864
into the state treasury an additional charge not exceeding fifty 3865
dollars or ten per cent of the tax required to be paid for the 3866
reporting period, whichever is greater, as revenue arising from 3867
the tax imposed by this chapter, and such sum may be collected by 3868
assessment in the manner provided in section 5739.13 of the 3869
Revised Code. The commissioner may remit all or a portion of the 3870
additional charge and may adopt rules relating to the imposition 3871
and remission of the additional charge. 3872

If the amount required to be collected by a vendor from 3873
consumers is in excess of five per cent of the vendor's receipts 3874
from sales ~~which~~ that are taxable under section 5739.02 of the 3875
Revised Code, or in the case of sales subject to a tax levied 3876
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 3877
Code, in excess of the percentage equal to the aggregate rate of 3878
such taxes and the tax levied by section 5739.02 of the Revised 3879
Code, such excess shall be remitted along with the remittance of 3880
the amount of tax due under section 5739.10 of the Revised Code. 3881

The commissioner, if the commissioner deems it necessary in 3882

order to insure the payment of the tax imposed by this chapter, 3883
may require returns and payments to be made for other than monthly 3884
periods. The returns shall be signed by the vendor or the vendor's 3885
authorized agent. 3886

Any vendor required to file a return and pay the tax under 3887
this section whose total payment in any year indicated in division 3888
(A) of section 5739.122 of the Revised Code equals or exceeds the 3889
amount shown in that division shall make each payment required by 3890
this section in the second ensuing and each succeeding year by 3891
electronic funds transfer as prescribed by section 5739.122 of the 3892
Revised Code, except as otherwise prescribed by that section. 3893

Sec. 5739.31. (A)(1) No person shall engage in the business 3894
of selling at retail or sell at retail incidental to any other 3895
regularly conducted business without having a license therefor, as 3896
required by sections 5739.01 to 5739.31 of the Revised Code. 3897

(2) No person shall engage in the business of selling at 3898
retail as a transient vendor, as defined in ~~division (B) of~~ 3899
section 5739.17 of the Revised Code, without first having obtained 3900
a license as required by that section. 3901

~~(3) No person shall engage in the business of selling at 3902
retail as a limited vendor as defined in division (B) of section 3903
5739.17 of the Revised Code, without first having a license as 3904
required by that section. 3905~~

(B) No person shall continue to engage in the business of 3906
selling at retail or sell at retail incidental to any other 3907
regularly conducted business after the license issued to that 3908
person pursuant to section 5739.17 of the Revised Code has been 3909
revoked under section 5739.19 of the Revised Code or while the 3910
license is suspended by the tax commissioner under division (B)(2) 3911
of section 5739.30 of the Revised Code, nor shall any person 3912
obtain a new license from the county auditor or the tax 3913

commissioner while such revocation or suspension is in effect. If 3914
a corporation's license has been revoked or suspended, none of its 3915
officers, or employees having control or supervision of or charged 3916
with the responsibility of filing returns and making payments of 3917
tax due, shall obtain a license from the county auditor or the tax 3918
commissioner during the period of such revocation or suspension. 3919

Sec. 5739.99. (A) Whoever violates section 5739.26 or 5739.29 3920
of the Revised Code shall be fined not less than twenty-five nor 3921
more than one hundred dollars for a first offense; for each 3922
subsequent offense such person shall, if a corporation, be fined 3923
not less than one hundred nor more than five hundred dollars, or 3924
if an individual, or a member of a partnership, firm, or 3925
association, be fined not less than twenty-five nor more than one 3926
hundred dollars, or imprisoned not more than sixty days, or both. 3927

(B) Whoever violates division (A) of section 5739.30 of the 3928
Revised Code shall be fined not less than one hundred nor more 3929
than one thousand dollars, or imprisoned not more than sixty days, 3930
or both. 3931
3932

(C)(1) Whoever violates division (A)(1) of section 5739.31 of 3933
the Revised Code shall be fined not less than twenty-five nor more 3934
than one hundred dollars. If the offender previously has been 3935
convicted of a violation of division (A)(1) of section 5739.31 of 3936
the Revised Code, ~~he~~ the offender is guilty of a felony of the 3937
fourth degree. 3938

(2) Whoever violates division (A)(2) of section 5739.31 of 3939
the Revised Code shall be fined not less than one hundred dollars 3940
nor more than five hundred dollars, or imprisoned for not more 3941
than ten days, or both, for the first offense; for each subsequent 3942
offense, each such person shall be fined not less than one 3943
thousand dollars nor more than twenty-five hundred dollars, or 3944

imprisoned not more than thirty days, or both. The motor vehicles
and goods of any person charged with violating division (A)(2) of
section 5739.31 of the Revised Code may be impounded and held
pending the disposition of the charge, and may be sold at auction
by the county sheriff in the manner prescribed by law to satisfy
any fine imposed by this division.

~~(3) Whoever violates division (A)(3) of section 5739.31 of
the Revised Code shall be fined not less than twenty-five nor more
than one hundred dollars.~~

~~(4)~~(3) Whoever violates division (B) of section 5739.31 of
the Revised Code is guilty of a felony of the fourth degree. Each
day that business is conducted while a vendor's license is
suspended or revoked constitutes a separate offense.

(D) Except as otherwise provided in this section, whoever
violates sections 5739.01 to 5739.31 of the Revised Code, or any
lawful rule promulgated by the department of taxation under
authority of such sections, shall be fined not less than
twenty-five nor more than one hundred dollars.

(E) Whoever violates section 5739.12 of the Revised Code by
failing to remit to the state the tax collected under section
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code is
guilty of a felony of the fourth degree and shall suffer the loss
of ~~his~~ the person's vendor's license as required by section
5739.17 of the Revised Code. A person shall not be eligible for a
vendor's license for two years following conviction.

(F) Whoever violates division ~~(D)~~(E) of section 5739.17 of
the Revised Code is guilty of failure to display a transient ~~or~~
~~limited~~ vendor's license, a minor misdemeanor. A sheriff or police
officer in a municipal corporation may enforce this division. The
prosecuting attorney of a county shall inform the tax commissioner
of any instance when a complaint is brought against a transient ~~or~~

limited vendor pursuant to this division. 3976

(G) Whoever violates section 5739.103 of the Revised Code 3977
shall be fined not less than twenty-five nor more than one hundred 3978
dollars. If the offender previously has been convicted of 3979
violating that section, he the offender is guilty of a felony of 3980
the fourth degree. 3981

(H) The penalties provided in this section are in addition to 3982
any penalties imposed by the tax commissioner under section 3983
5739.133 of the Revised Code. 3984

Sec. 5740.01. As used in this chapter: 3985

(A) "Agreement" means the streamlined sales and use tax 3986
agreement as amended and adopted on January 27, 2001, by the 3987
national conference of state legislatures' special task force on 3988
state and local taxation of telecommunications and electronic 3989
commerce, and unanimously adopted by the national conference of 3990
state legislatures' executive committee, and as subsequently 3991
amended and adopted by the member states. 3992

(B) "Certified automated system" means software certified 3993
jointly by the member states to calculate the sales or use tax 3994
imposed by each jurisdiction on a transaction, determine the 3995
amount of tax to remit to the appropriate state, and maintain a 3996
record of the transaction. 3997

(C) "Certified service provider" means an agent certified 3998
jointly by the member states to perform all of the seller's sales 3999
and use tax functions. 4000

(D) "Member state" means any state that is a signatory to the 4001
agreement. 4002

(E) "Person" means an individual, trust, estate, fiduciary, 4003
partnership, limited liability company, limited liability 4004
partnership, corporation, or any other legal entity. 4005

(F) "Sales tax" means the tax levied by section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code. 4006
4007

(G) "Seller" means any person making sales, leases, or rentals of personal property or services. 4008
4009

(H) "State" means any state of the United States and the District of Columbia. 4010
4011

(I) "Use tax" means the tax levied by section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. 4012
4013

Sec. 5740.02. (A)(1) The state of Ohio shall participate in discussions with other states regarding the development of a streamlined sales and use tax system to reduce the burden and cost for all sellers to collect this state's sales and use taxes. 4014
4015
4016
4017

(2) Subject to division (B) of this section, the state also shall participate in meetings of the implementing states to review or amend the terms of the agreement to simplify and modernize sales and use tax administration that embodies the requirements set forth in section 5740.05 of the Revised Code. For purposes of these meetings, the state shall be represented by three delegates. The tax commissioner or the commissioner's designee shall be the chairperson of the delegation. The other delegates shall be one delegate chosen by the speaker of the house of representatives and one delegate chosen by the president of the senate. In all matters where voting by the member states is required to amend the agreement, the chairperson, based on the votes of the majority of the delegation, shall cast this state's vote. 4018
4019
4020
4021
4022
4023
4024
4025
4026
4027
4028
4029
4030
4031

(B) The state shall not participate in the meetings of the implementing states referred to in division (A)(2) of this section unless the meetings are conducted in accordance with requirements substantially similar to those described in divisions (C) and (F) 4032
4033
4034
4035

of section 121.22 of the Revised Code, as if the participants of 4036
the meetings were a public body as defined in that section, except 4037
such meetings may be closed during any discussion pertaining to 4038
proprietary information of a person if the person so requests, 4039
personnel matters, competitive bidding, certification of service 4040
providers, or matters substantially similar to those described in 4041
divisions (G)(2), (3), or (5) of section 121.22 of the Revised 4042
Code. The state may participate in teleconferences, special 4043
meetings, meetings of working groups, committees, or steering 4044
committees if they are conducted in accordance with the public 4045
participation rules applicable to such meetings, as established by 4046
the implementing states entitled to participate in discussions to 4047
finalize the agreement. 4048

(C) As used in this section, "meetings of the implementing 4049
states" means meetings of the entire body of the states that are 4050
entitled to participate in discussions to finalize the agreement 4051
because they have enacted legislation based on the uniform sales 4052
and use tax administration act, approved January 24, 2001, or the 4053
simplified sales and use tax administration act, approved January 4054
27, 2001. 4055

Sec. 5740.03. Subject to section 5740.05 of the Revised Code, 4056
the tax commissioner may enter into the agreement with one or more 4057
states. In furtherance of the agreement, the commissioner may act 4058
jointly with other member states to establish standards for 4059
certification of service providers and automated systems, 4060
establish performance standards for multi-state sellers, and 4061
procure goods and services. The commissioner may take other 4062
actions reasonably required to implement this chapter, including 4063
adopting rules. 4064

Sec. 5740.04. (A) No provision of the agreement, in whole or 4065
in part, invalidates or amends the law of this state. Adoption of 4066

the agreement by this state does not amend the law of this state. 4067
Implementation in this state of any condition of the agreement, 4068
whether adopted before, at, or after membership of this state in 4069
the agreement, must be by the action of this state. 4070

(B) The agreement is an accord among individual cooperating 4071
sovereigns in furtherance of their governmental functions. The 4072
agreement provides a mechanism among the member states to 4073
establish and maintain a cooperative, simplified system for the 4074
application and administration of sales and use taxes under the 4075
duly adopted laws of each member state. 4076

Sec. 5740.05. The tax commissioner shall not enter into the 4077
agreement unless the agreement requires each state to meet the 4078
requirements set forth in divisions (A) to (I) of this section. 4079
The agreement shall: 4080

(A) Set restrictions to limit over time the number of state 4081
sales and use tax rates; 4082

(B) Establish uniform standards for attributing the source of 4083
transactions to taxing jurisdictions, the administration of exempt 4084
sales, and sales and use tax returns and remittances; 4085

(C) Provide a central, electronic registration system that 4086
allows a seller to register to collect sales and use taxes for, 4087
and remit them to, all member states; 4088

(D) Provide that registration with the central registration 4089
system and the collection of sales and use taxes in the member 4090
states will not be used as a factor in determining whether the 4091
seller has nexus with a state for any tax; 4092

(E) Provide for reduction of the burdens of complying with 4093
local sales and use taxes through the following: 4094

(1) Restricting variances between the state and local tax 4095
bases; 4096

(2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the states so that sellers collecting and remitting those taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from, local taxing jurisdictions; 4097
4098
4099
4100
4101

(3) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; 4102
4103
4104
4105

(4) Providing notice to sellers and certified service providers of changes in local sales and use tax rates and in the boundaries of local taxing jurisdictions. 4106
4107
4108

(F) Outline any monetary allowances that are to be provided by the member states to sellers or certified service providers. The agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity, to be completed by July 1, 2002. 4109
4110
4111
4112
4113
4114
4115

(G) Require each state to certify compliance with the terms of the agreement prior to becoming a member of the agreement, and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member; 4116
4117
4118
4119

(H) Require each member state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information; 4120
4121
4122

(I) Provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement. 4123
4124
4125
4126

Sec. 5740.06. (A) The agreement binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement. 4127
4128
4129
4130
4131
4132

(B) Consistent with division (A) of this section, no person shall have any cause of action or defense under the agreement or by virtue of this state's approval of the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state, on the ground that the action or inaction is inconsistent with the agreement. 4133
4134
4135
4136
4137
4138
4139
4140

(C) No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the law or application of it is inconsistent with the agreement. 4141
4142
4143
4144

Sec. 5740.07. (A) A certified service provider is the agent of the seller with whom the certified service provider has contracted for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use taxes due each member state on all sales transactions it processes for the seller, except as provided in this section. 4145
4146
4147
4148
4149
4150
4151

A seller that contracts with a certified service provider is not liable to the state for sales or use taxes due on transactions processed by the certified service provider, unless the seller misrepresented the type of tangible personal property or services it sells, or committed fraud. In the absence of probable cause to 4152
4153
4154
4155
4156

believe that the seller made a material misrepresentation or has 4157
committed fraud, the seller is not subject to audit of the 4158
transactions processed by the certified service provider. A seller 4159
is subject to audit for transactions not processed by a certified 4160
service provider. The member states acting jointly may perform a 4161
system check of the seller and review the seller's procedures to 4162
determine if the certified service provider's system is 4163
functioning properly and the extent to which the seller's 4164
transactions are being processed by the provider. 4165

(B) A person who provides a certified automated system is 4166
responsible for the proper functioning of that system and is 4167
liable to this state for underpayments of the sales and use tax 4168
attributable to errors in the functioning of that system. A seller 4169
that uses a certified automated system remains responsible and is 4170
liable to this state for reporting and remitting sales and use 4171
taxes. 4172

(C) A seller that has a proprietary system for determining 4173
the amount of sales or use tax due on transactions and has signed 4174
a performance agreement establishing tax performance standards for 4175
that system is liable for the failure of the system to meet the 4176
performance standards. 4177

Sec. 5740.08. (A) A certified service provider shall preserve 4178
the privacy of consumers who buy, lease, or rent tangible personal 4179
property or services from sellers with whom the provider has 4180
contracted for the collection and remittance of sales and use 4181
taxes to this state. The provider shall protect consumer 4182
information in the same manner as required of the department of 4183
taxation for taxpayer information. The provider shall use a 4184
certified automated system to perform sales and use tax 4185
calculations, remittances, and reporting that does not retain the 4186
personally identifiable information of consumers, except as 4187

follows: 4188

(1) To determine whether a consumer's status or intended use of the goods or services purchased is exempt from the sales or use tax; 4189
4190
4191

(2) To investigate fraud by a consumer or seller; 4192

(3) To the extent necessary to ensure the reliability of the providers' technology and certified automated system in performing all of a seller's sales and use tax functions. 4193
4194
4195

The provider shall provide technical, physical, and administrative safeguards to protect personally identifiable information from unauthorized access and disclosure. 4196
4197
4198

(B) A certified service provider shall provide to consumers clear and conspicuous notice of its information retention and sharing practices, including what information it collects, how the information collected is used, and whether the information is disclosed to other member states. A provider that retains personally identifiable information in accordance with division (A) of this section shall notify consumers of its intent to retain such information and shall afford consumers reasonable access to their data and the opportunity to correct inaccurately recorded data. 4199
4200
4201
4202
4203
4204
4205
4206
4207
4208

(C) If any person, other than a member state, seeks to discover a consumer's personally identifiable information, a reasonable and timely effort shall be made by the provider to notify the consumer of such request. 4209
4210
4211
4212

(D) Notwithstanding this section, the laws of this state regarding the collection, use, and maintenance of confidential taxpayer information remain applicable and binding. The agreement does not enlarge or limit this state's authority to do any of the following: 4213
4214
4215
4216
4217

<u>(1) Conduct audits or other reviews as provided under the agreement or state law;</u>	4218 4219
<u>(2) Provide records pursuant to section 149.43 of the Revised Code or to governmental agencies under disclosure laws;</u>	4220 4221
<u>(3) Prevent the disclosure of confidential taxpayer information in accordance with Title LVII of the Revised Code;</u>	4222 4223
<u>(4) Prevent, consistent with federal law, the disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service;</u>	4224 4225 4226
<u>(5) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.</u>	4227 4228
<u>(E) This section does not enlarge or limit the privacy policies of any seller that has selected a certified service provider as its agent to perform all of the seller's sales and use tax functions.</u>	4229 4230 4231 4232
<u>(F) A certified service provider that fails to comply with this section is subject to investigation by the tax commissioner or the commissioner's agents and the attorney general, and to prosecution by the attorney general.</u>	4233 4234 4235 4236
Sec. 5741.01. As used in this chapter:	4237
(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.	4238 4239 4240 4241 4242
(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.	4243 4244
(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is	4245 4246

also "used" in this state if its consumer gives or otherwise 4247
distributes it, without charge, to recipients in this state. 4248

(D) "Purchase" means acquired or received for a 4249
consideration, whether such acquisition or receipt was effected by 4250
a transfer of title, or of possession, or of both, or a license to 4251
use or consume; whether such transfer was absolute or conditional, 4252
and by whatever means the transfer was effected; and whether the 4253
consideration was money, credit, barter, or exchange. Purchase 4254
includes production, even though the article produced was used, 4255
stored, or consumed by the producer. The transfer of copyrighted 4256
motion picture films for exhibition purposes is not a purchase, 4257
except such films as are used solely for advertising purposes. 4258

(E) "Seller" means the person from whom a purchase is made, 4259
and includes every person engaged in this state or elsewhere in 4260
the business of selling tangible personal property or providing a 4261
service for storage, use, or other consumption or benefit in this 4262
state; and when, in the opinion of the tax commissioner, it is 4263
necessary for the efficient administration of this chapter, to 4264
regard any salesman, representative, peddler, or canvasser as the 4265
agent of a dealer, distributor, supervisor, or employer under whom 4266
the person operates, or from whom the person obtains tangible 4267
personal property, sold by the person for storage, use, or other 4268
consumption in this state, irrespective of whether or not the 4269
person is making such sales on the person's own behalf, or on 4270
behalf of such dealer, distributor, supervisor, or employer, the 4271
commissioner may regard the person as such agent, and may regard 4272
such dealer, distributor, supervisor, or employer as the seller. 4273
"Seller" does not include any person to the extent the person 4274
provides a communications medium, such as, but not limited to, 4275
newspapers, magazines, radio, television, or cable television, by 4276
means of which sellers solicit purchases of their goods or 4277
services. 4278

(F) "Consumer" means any person who has purchased tangible 4279
personal property or has been provided a service for storage, use, 4280
or other consumption or benefit in this state. "Consumer" does not 4281
include a person who receives, without charge, tangible personal 4282
property or a service. 4283

A person who performs a facility management or similar 4284
service contract for a contractee is a consumer of all tangible 4285
personal property and services purchased for use in connection 4286
with the performance of such contract, regardless of whether title 4287
to any such property vests in the contractee. The purchase of such 4288
property and services is not subject to the exception for resale 4289
under division (E)(1) of section 5739.01 of the Revised Code. 4290
4291

(G)(1) "Price," except in the case of watercraft, outboard 4292
motors, or new motor vehicles, means the aggregate value in money 4293
of anything paid or delivered, or promised to be paid or 4294
delivered, by a consumer to a seller in the complete performance 4295
of the transaction by which tangible personal property has been 4296
purchased or a service has been provided for storage, use, or 4297
other consumption or benefit in this state, without any deduction 4298
or exclusion on account of the cost of the property sold, cost of 4299
materials used, labor or service cost, interest, discount paid or 4300
allowed after the sale is consummated, or any other expense. If 4301
the transaction consists of the rental or lease of tangible 4302
personal property, "price" means the aggregate value in money of 4303
anything paid or delivered, or promised to be paid or delivered by 4304
the lessee to the lessor, in the complete performance of the 4305
rental or lease, without any deduction or exclusion of tax, 4306
interest, labor or service charge, damage liability waiver, 4307
termination or damage charge, discount paid or allowed after the 4308
lease is consummated, or any other expense. Except as provided in 4309
division (G)(6) of this section, the tax shall be calculated and 4310

collected by the lessor on each payment made by the lessee. If a
consumer produces the tangible personal property used by the
consumer, the price is the produced cost of such tangible personal
property. The "Price" does not include delivery charges that are
separately stated on the initial invoice or initial billing
rendered by the seller.

The tax collected by the seller from the consumer under ~~such
sections this chapter~~ is not a part of the price, but is a tax
collection for the benefit of the state, and of counties levying
an additional use tax pursuant to section 5741.021 or 5741.023 of
the Revised Code and of transit authorities levying an additional
use tax pursuant to section 5741.022 of the Revised Code and,
except for the discount authorized under section 5741.12 of the
Revised Code, no person other than the state or such a county or
transit authority shall derive any benefit from the collection or
payment of such tax.

As used in division (G)(1) of this section, "delivery
charges" means charges by the seller for preparation and delivery
to a location designated by the consumer of tangible personal
property or a service, including transportation, shipping,
postage, handling, crating, and packing.

(2) In the case of watercraft, outboard motors, or new motor
vehicles, "price" has the same meaning as in division (H) of
section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that
purchases and uses tangible personal property outside this state
and subsequently temporarily stores, uses, or otherwise consumes
such tangible personal property in the conduct of business in this
state, the consumer or the tax commissioner may determine the
price based on the value of the temporary storage, use, or other
consumption, in lieu of determining the price pursuant to division
(G)(1) of this section. A price determination made by the consumer

is subject to review and redetermination by the commissioner. 4343
4344

(4) In the case of tangible personal property held in this 4345
state as inventory for sale or lease, and that is temporarily 4346
stored, used, or otherwise consumed in a taxable manner, the price 4347
is the value of the temporary use. A price determination made by 4348
the consumer is subject to review and redetermination by the 4349
commissioner. 4350

(5) In the case of tangible personal property originally 4351
purchased and used by the consumer outside this state, and that 4352
becomes permanently stored, used, or otherwise consumed in this 4353
state more than six months after its acquisition by the consumer, 4354
the consumer or the tax commissioner may determine the price based 4355
on the current value of such tangible personal property, in lieu 4356
of determining the price pursuant to division (G)(1) of this 4357
section. A price determination made by the consumer is subject to 4358
review and redetermination by the commissioner. 4359

(6) In the case of the purchase or lease of any motor vehicle 4360
designed by the manufacturer to carry a load of not more than one 4361
ton, watercraft, outboard motor, or aircraft, or the lease of any 4362
tangible personal property, other than motor vehicles designed by 4363
the manufacturer to carry a load of more than one ton, to be used 4364
by the lessee primarily for business purposes, the tax shall be 4365
collected by the vendor at the time the lease is consummated and 4366
calculated by the vendor on the basis of the total amount to be 4367
paid by the lessee under the lease agreement. If the total amount 4368
of the consideration for the lease includes amounts that are not 4369
calculated at the time the lease is executed, the tax shall be 4370
calculated and collected by the vendor at the time such amounts 4371
are billed to the lessee. In the case of an open-end lease, the 4372
tax shall be calculated by the vendor on the basis of the total 4373
amount to be paid during the initial fixed term of the lease, and 4374

then for each subsequent renewal period as it comes due. As used 4375
in division (G)(6) of this section only, "motor vehicle" has the 4376
same meaning as in section 4501.01 of the Revised Code. 4377

(H) "Nexus with this state" means that the seller engages in 4378
continuous and widespread solicitation of purchases from residents 4379
of this state or otherwise purposefully directs its business 4380
activities at residents of this state. 4381

(I) "Substantial nexus with this state" means that the seller 4382
has sufficient contact with this state, in accordance with Section 4383
8 of Article I of the Constitution of the United States, to allow 4384
the state to require the seller to collect and remit use tax on 4385
sales of tangible personal property or services made to consumers 4386
in this state. "Substantial nexus with this state" exists when the 4387
seller does any of the following: 4388

(1) Maintains a place of business within this state, whether 4389
operated by employees or agents of the seller, by a member of an 4390
affiliated group, as described in division (B)(3)(e) of section 4391
5739.01 of the Revised Code, of which the seller is a member, or 4392
by a franchisee using a trade name of the seller; 4393

(2) Regularly has employees, agents, representatives, 4394
solicitors, installers, repairmen, salesmen, or other individuals 4395
in this state for the purpose of conducting the business of the 4396
seller; 4397

(3) Uses a person in this state for the purpose of receiving 4398
or processing orders of the seller's goods or services; 4399

(4) Makes regular deliveries of tangible personal property 4400
into this state by means other than common carrier; 4401

(5) Has membership in an affiliated group, as described in 4402
division (B)(3)(e) of section 5739.01 of the Revised Code, at 4403
least one other member of which has substantial nexus with this 4404
state; 4405

(6) Owns tangible personal property that is rented or leased 4406
to a consumer in this state, or offers tangible personal property, 4407
on approval, to consumers in this state; 4408

(7) ~~Is~~ Except as provided in section 5703.65 of the Revised 4409
Code, is registered with the secretary of state to do business in 4410
this state or is registered or licensed by any state agency, 4411
board, or commission to transact business in this state or to make 4412
sales to persons in this state; 4413

(8) Has any other contact with this state that would allow 4414
this state to require the seller to collect and remit use tax 4415
under Section 8 of Article I of the Constitution of the United 4416
States. 4417

(J) "Fiscal officer" means, with respect to a regional 4418
transit authority, the secretary-treasurer thereof, and with 4419
respect to a county which is a transit authority, the fiscal 4420
officer of the county transit board appointed pursuant to section 4421
306.03 of the Revised Code or, if the board of county 4422
commissioners operates the county transit system, the county 4423
auditor. 4424

(K) "Territory of the transit authority" means all of the 4425
area included within the territorial boundaries of a transit 4426
authority as they from time to time exist. Such territorial 4427
boundaries must at all times include all the area of a single 4428
county or all the area of the most populous county which is a part 4429
of such transit authority. County population shall be measured by 4430
the most recent census taken by the United States census bureau. 4431

(L) "Transit authority" means a regional transit authority 4432
created pursuant to section 306.31 of the Revised Code or a county 4433
in which a county transit system is created pursuant to section 4434
306.01 of the Revised Code. For the purposes of this chapter, a 4435
transit authority must extend to at least the entire area of a 4436

single county. A transit authority which includes territory in 4437
more than one county must include all the area of the most 4438
populous county which is a part of such transit authority. County 4439
population shall be measured by the most recent census taken by 4440
the United States census bureau. 4441

(M) "Providing a service" has the same meaning as in division 4442
(X) of section 5739.01 of the Revised Code. 4443

(N) "Other consumption" includes receiving the benefits of a 4444
service. 4445

(O) "Lease" means any transfer for a consideration of the 4446
possession of and right to use, but not title to, tangible 4447
personal property for a fixed period of time greater than 4448
twenty-eight days or for an open-ended period of time with a 4449
minimum fixed period of more than twenty-eight days. 4450

(P) "Certified service provider" has the same meaning as in 4451
section 5740.01 of the Revised Code. 4452

Sec. 5741.02. (A) For the use of the general revenue fund of 4453
the state, an excise tax is hereby levied on the storage, use, or 4454
other consumption in this state of tangible personal property or 4455
the benefit realized in this state of any service provided. The 4456
tax shall be collected pursuant to the schedules in section 4457
5739.025 of the Revised Code. 4458

(B) Each consumer, storing, using, or otherwise consuming in 4459
this state tangible personal property or realizing in this state 4460
the benefit of any service provided, shall be liable for the tax, 4461
and such liability shall not be extinguished until the tax has 4462
been paid to this state; provided, that the consumer shall be 4463
relieved from further liability for the tax if the tax has been 4464
paid to a seller in accordance with section 5741.04 of the Revised 4465
Code or prepaid by the seller in accordance with section 5741.06 4466

of the Revised Code. 4467

(C) The tax does not apply to the storage, use, or 4468
consumption in this state of the following described tangible 4469
personal property or services, nor to the storage, use, or 4470
consumption or benefit in this state of tangible personal property 4471
or services purchased under the following described circumstances: 4472

(1) When the sale of property or service in this state is 4473
subject to the excise tax imposed by sections 5739.01 to 5739.31 4474
of the Revised Code, provided said tax has been paid; 4475

(2) Except as provided in division (D) of this section, 4476
tangible personal property or services, the acquisition of which, 4477
if made in Ohio, would be a sale not subject to the tax imposed by 4478
sections 5739.01 to 5739.31 of the Revised Code; 4479

(3) Property or services, the storage, use, or other 4480
consumption of or benefit from which this state is prohibited from 4481
taxing by the Constitution of the United States, laws of the 4482
United States, or the Constitution of this state. This exemption 4483
shall not exempt from the application of the tax imposed by this 4484
section the storage, use, or consumption of tangible personal 4485
property that was purchased in interstate commerce, but that has 4486
come to rest in this state, provided that fuel to be used or 4487
transported in carrying on interstate commerce that is stopped 4488
within this state pending transfer from one conveyance to another 4489
is exempt from the excise tax imposed by this section and section 4490
5739.02 of the Revised Code; 4491

(4) Transient use of tangible personal property in this state 4492
by a nonresident tourist or vacationer, or a non-business use 4493
within this state by a nonresident of this state, if the property 4494
so used was purchased outside this state for use outside this 4495
state and is not required to be registered or licensed under the 4496
laws of this state; 4497

(5) Tangible personal property or services rendered, upon 4498
which taxes have been paid to another jurisdiction to the extent 4499
of the amount of the tax paid to such other jurisdiction. Where 4500
the amount of the tax imposed by this section and imposed pursuant 4501
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 4502
exceeds the amount paid to another jurisdiction, the difference 4503
shall be allocated between the tax imposed by this section and any 4504
tax imposed by a county or a transit authority pursuant to section 4505
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 4506
to the respective rates of such taxes. 4507

As used in this subdivision, "taxes paid to another 4508
jurisdiction" means the total amount of retail sales or use tax or 4509
similar tax based upon the sale, purchase, or use of tangible 4510
personal property or services rendered legally, levied by and paid 4511
to another state or political subdivision thereof, or to the 4512
District of Columbia, where the payment of such tax does not 4513
entitle the taxpayer to any refund or credit for such payment. 4514

(6) The transfer of a used manufactured home or used mobile 4515
home, as defined by section 5739.0210 of the Revised Code, made on 4516
or after January 1, 2000; 4517

(7) Drugs that are or are intended to be distributed free of 4518
charge to a practitioner licensed to prescribe, dispense, and 4519
administer drugs to a human being in the course of a professional 4520
practice and that by law may be dispensed only by or upon the 4521
order of such a practitioner. 4522

(D) The tax applies to the storage, use, or other consumption 4523
in this state of tangible personal property or services, the 4524
acquisition of which at the time of sale was excepted under 4525
division (E)(1) of section 5739.01 of the Revised Code from the 4526
tax imposed by section 5739.02 of the Revised Code, but which has 4527
subsequently been temporarily or permanently stored, used, or 4528
otherwise consumed in a taxable manner. 4529

(E)(1) If any transaction is claimed to be exempt under 4530
division (E) of section 5739.01 of the Revised Code or under 4531
section 5739.02 of the Revised Code, with the exception of 4532
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 4533
Code, the consumer shall ~~furnish~~ provide to the seller, and the 4534
seller shall obtain from the consumer, a certificate specifying 4535
the reason that the transaction is not subject to the tax. The 4536
certificate shall be provided either in a hard copy form or 4537
electronic form, as prescribed by the tax commissioner. If the 4538
transaction is claimed to be exempt under division (B)(13) of 4539
section 5739.02 of the Revised Code, the exemption certificate 4540
shall be ~~signed~~ provided by both the contractor and contractee, 4541
~~and the.~~ Such contractee shall be deemed to be the consumer of all 4542
items purchased under the claim of exemption if it is subsequently 4543
determined that the exemption is not properly claimed. The 4544
certificate shall be in such form as the tax commissioner by rule 4545
prescribes. ~~If~~ The seller shall maintain records, including 4546
exemption certificates, of all sales on which a consumer has 4547
claimed an exemption, and provide them to the tax commissioner on 4548
request. 4549

(2) If no certificate is ~~furnished~~ provided or obtained 4550
within the period for filing the return for the period in which 4551
the transaction is consummated, it shall be presumed that the tax 4552
applies. The failure to have so ~~furnished~~ provided or obtained a 4553
certificate shall not preclude a seller or consumer from 4554
establishing, within one hundred twenty days of the giving of 4555
notice by the commissioner of intention to levy an assessment, 4556
that the transaction is not subject to the tax. 4557

(F) A seller who files a petition for reassessment contesting 4558
the assessment of tax on transactions for which the seller 4559
obtained no valid exemption certificates, and for which the seller 4560
failed to establish that the transactions were not subject to the 4561

tax during the one-hundred-twenty-day period allowed under 4562
division (E) of this section, may present to the tax commissioner 4563
additional evidence to prove that the transactions were exempt. 4564
The seller shall file such evidence within ninety days of the 4565
receipt by the seller of the notice of assessment, except that, 4566
upon application and for reasonable cause, the tax commissioner 4567
may extend the period for submitting such evidence thirty days. 4568

(G) For the purpose of the proper administration of sections 4569
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 4570
of the tax hereby levied, it shall be presumed that any use, 4571
storage, or other consumption of tangible personal property in 4572
this state is subject to the tax until the contrary is 4573
established. 4574

Sec. 5741.05. (A) A seller that collects the tax levied by 4575
sections 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised 4576
Code on transactions, other than sales of titled motor vehicles, 4577
titled watercraft, or titled outboard motors, shall determine 4578
under section 5739.033 or 5739.034 of the Revised Code the 4579
jurisdiction for which to collect the tax. A vendor or seller of 4580
motor vehicles, watercraft, or outboard motors required to be 4581
titled in this state shall collect the tax levied by section 4582
5739.02 or 5741.02 of the Revised Code and the additional taxes 4583
levied by division (A)(1) of section 5741.021, division (A)(1) of 4584
section 5741.022, and division (A)(1) of section 5741.023 of the 4585
Revised Code for the consumer's county of residence as provided in 4586
section 1548.06 and division (B) of section 4505.06 of the Revised 4587
Code. 4588

(B) A vendor or seller is not responsible for collecting or 4589
remitting additional tax if a consumer subsequently stores, uses, 4590
or consumes the tangible personal property or service in another 4591
jurisdiction with a rate of tax imposed by sections 5741.02, 4592
5741.021, 5741.022, or 5741.023 of the Revised Code that is higher 4593

than the amount collected by the vendor or seller pursuant to 4594
Chapter 5739. or 5741. of the Revised Code. 4595

Sec. 5741.08. If modification of a county's jurisdictional 4596
boundaries or a transit authority's territory results in a change 4597
in the tax rate levied under section 5741.021, 5741.022, or 4598
5741.023 of the Revised Code, the tax commissioner, within thirty 4599
days of such change, shall notify any seller that is registered 4600
with the central electronic registration system provided for in 4601
section 5740.05 of the Revised Code or the seller's certified 4602
service provider, if the seller has selected one, of such change. 4603
The rate change shall not apply until the first day of a calendar 4604
quarter following the expiration of sixty days from the date of 4605
notice by the tax commissioner. 4606

Sec. 5741.12. (A) Each seller required by section 5741.17 of 4607
the Revised Code to register with the tax commissioner, and any 4608
seller authorized by the commissioner to collect the tax imposed 4609
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 4610
of the Revised Code is subject to the same requirements and 4611
entitled to the same deductions and discount for prompt payments 4612
as are vendors under section 5739.12 of the Revised Code, and the 4613
same monetary allowances as are vendors under section 5739.06 of 4614
the Revised Code. The powers and duties of the commissioner and 4615
the treasurer of state with respect to returns and tax remittances 4616
under this section shall be identical with those prescribed in 4617
section 5739.12 of the Revised Code. 4618

(B) Every person storing, using, or consuming tangible 4619
personal property or receiving the benefit of a service, the 4620
storage, use, consumption, or receipt of which is subject to the 4621
tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 4622
or 5741.023 of the Revised Code, when such tax was not paid to a 4623
seller, shall, on or before the twenty-third day of each month, 4624

file with the tax commissioner a return for the preceding month in 4625
such form as is prescribed by the commissioner, showing such 4626
information as the commissioner deems necessary, and shall pay the 4627
tax shown on the return to be due. Remittance shall be made 4628
payable to the treasurer of state. The commissioner may require 4629
consumers to file returns and pay the tax at other than monthly 4630
intervals, if the commissioner determines that such filing is 4631
necessary for the efficient administration of the tax. If the 4632
commissioner determines that a consumer's tax liability is not 4633
such as to merit monthly filing, the commissioner may authorize 4634
the consumer to file returns and pay tax at less frequent 4635
intervals. 4636

Any consumer required to file a return and pay the tax under 4637
this section whose payment for any year indicated in section 4638
5741.121 of the Revised Code equals or exceeds the amount shown in 4639
that section shall make each payment required by this section in 4640
the second ensuing and each succeeding year by means of electronic 4641
funds transfer as prescribed by section 5741.121 of the Revised 4642
Code, except as otherwise prescribed by that section. 4643

(C) Every person storing, using, or consuming a motor 4644
vehicle, watercraft, or outboard motor, the ownership of which 4645
must be evidenced by certificate of title, shall file the return 4646
required by this section and pay the tax due at or prior to the 4647
time of filing an application for certificate of title. 4648

Sec. 5747.083. The tax commissioner may not require the 4649
taxpayer, as a part of the taxpayer's personal income tax return, 4650
to report or pay use tax for any purchase made during the tax year 4651
on which the taxpayer has paid any sales tax to this state or any 4652
other state at the time of the purchase. 4653

Section 2. That existing sections 307.671, 307.672, 307.674, 4654

307.695, 311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 505.56, 4655
3715.52, 4501.32, 5739.01, 5739.02, 5739.021, 5739.023, 5739.024, 4656
5739.026, 5739.03, 5739.031, 5739.033, 5739.12, 5739.31, 5739.99, 4657
5741.01, 5741.02, and 5741.12 of the Revised Code are hereby 4658
repealed. 4659

Section 3. Sections 5739.021, 5739.023, 5739.026, 5739.03, 4660
5739.031, 5739.033, 5739.12, 5741.02, and 5741.12, and division 4661
(I)(7) of section 5741.01 of the Revised Code, as amended by this 4662
act, and sections 306.73, 5703.65, 5739.04, 5739.06, 5741.05, and 4663
5741.08 of the Revised Code, as enacted by this act, shall take 4664
effect July 1, 2003. 4665

Section 4. Section 5739.034 of the Revised Code, as enacted 4666
by this act, shall take effect August 1, 2002. 4667

Section 5. Notwithstanding section 5740.03 of the Revised 4668
Code as enacted by this act, the Tax Commissioner shall not enter 4669
into the Streamlined Sales and Use Tax Agreement unless the 4670
General Assembly, by adoption of a concurrent resolution, first 4671
authorizes the Tax Commissioner to enter into the agreement. 4672

Section 6. That Section 6 of Sub. H.B. 483 of the 123rd 4673
General Assembly is hereby repealed. 4674

Section 7. That Section 109 of Am. Sub. H.B. 94 of the 124th 4675
General Assembly be amended to read as follows: 4676

"Sec. 109. TAX DEPARTMENT OF TAXATION 4677
General Revenue Fund 4678
GRF 110-321 Operating Expenses \$ 87,611,076 \$ 89,566,509 4679
GRF 110-412 Child Support \$ 92,939 \$ 90,006 4680
Administration

Am. Sub. S. B. No. 143
As Reported by the Committee of Conference

GRF 110-901	Property Tax	\$	380,200,000	\$	399,300,000	4681
	Allocation - Taxation					
GRF 110-906	Tangible Tax Exemption	\$	30,000,000	\$	30,900,000	4682
	- Taxation					
TOTAL GRF	General Revenue Fund	\$	497,904,015	\$	519,856,515	4683
	Agency Fund Group					4684
425 110-635	Tax Refunds	\$	860,000,000	\$	875,000,000	4685
TOTAL AGY	Agency Fund Group	\$	860,000,000	\$	875,000,000	4686
	General Services Fund Group					4687
433 110-602	Tape File Account	\$	92,082	\$	96,165	4688
TOTAL GSF	General Services					4689
Fund Group		\$	92,082	\$	96,165	4690
	State Special Revenue Fund Group					4691
4C6 110-616	International	\$	669,561	\$	706,855	4692
	Registration Plan					
4R6 110-610	Tire Tax	\$	65,000	\$	65,000	4693
	Administration					
435 110-607	Local Tax	\$	29,517,404	\$	24,189,026	4694
	Administration					
			<u>29,527,404</u>		<u>24,199,026</u>	4695
436 110-608	Motor Vehicle Audit	\$	1,687,249	\$	1,600,000	4696
437 110-606	Litter Tax and Natural	\$	594,726	\$	625,232	4697
	Resource Tax					
	Administration					
438 110-609	School District Income	\$	2,873,446	\$	2,599,999	4698
	Tax					
5N6 110-618	Kilowatt Hour Tax	\$	85,000	\$	85,000	4699
	Administration					
5N7 110-619	Municipal Internet	\$	10,000	\$	10,000	4700
	Site					
639 110-614	Cigarette Tax	\$	161,168	\$	168,925	4701
	Enforcement					

642	110-613	Ohio Political Party	\$	800,000	\$	800,000	4702
		Distributions					
688	110-615	Local Excise Tax	\$	300,000	\$	300,000	4703
		Administration					
TOTAL SSR State Special Revenue							4704
Fund Group			\$	36,763,554	\$	31,150,037	4705
				<u>36,773,554</u>		<u>31,160,037</u>	4706
Federal Special Revenue Fund Group							4707
3J6	110-601	Motor Fuel Compliance	\$	33,000	\$	33,000	4708
TOTAL FED Federal Special Revenue							4709
Fund Group			\$	33,000	\$	33,000	4710
Holding Account Redistribution Fund Group							4711
R10	110-611	Tax Distributions	\$	2,000	\$	2,000	4712
R11	110-612	Miscellaneous Income	\$	5,000	\$	5,000	4713
		Tax Receipts					
TOTAL 090 Holding Account							4714
Redistribution Fund Group			\$	7,000	\$	7,000	4715
TOTAL ALL BUDGET FUND GROUPS							4716
				<u>1,394,809,651</u>		<u>1,426,152,717</u>	4717

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 4718

Of the foregoing appropriation item 110-607, Local Tax 4719
Administration, the Tax Commissioner may disburse funds, if 4720
available, for the purposes of paying travel expenses incurred by 4721
members of Ohio's delegation to the Streamlined Sales Tax Project, 4722
as appointed under section 5740.02 of the Revised Code. Any travel 4723
expense reimbursement paid for by the Department of Taxation must 4724
be done in accordance with applicable state laws and guidelines. 4725

LITTER CONTROL TAX ADMINISTRATION FUND 4726

Notwithstanding section 5733.12 of the Revised Code, during 4728
the period from July 1, 2001, to June 30, 2002, the amount of 4729

\$594,726, and during the period from July 1, 2002, to June 30, 4730
2003, the amount of \$625,232, received by the Treasurer of State 4731
under Chapter 5733. of the Revised Code, shall be credited to the 4732
Litter Control Tax Administration Fund (Fund 437). 4733

INTERNATIONAL REGISTRATION PLAN AUDIT 4734

The foregoing appropriation item 110-616, International 4735
Registration Plan, shall be used pursuant to section 5703.12 of 4736
the Revised Code for audits of persons with vehicles registered 4737
under the International Registration Plan. 4738

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX 4739
EXEMPTION 4740

The foregoing appropriation item 110-901, Property Tax 4741
Allocation - Taxation, is appropriated to pay for the state's 4742
costs incurred due to the Homestead Exemption, the Manufactured 4743
Home Property Tax Rollback, and the Property Tax Rollback. The Tax 4744
Commissioner shall distribute these funds directly to the 4745
appropriate local taxing districts of the state, except for school 4746
districts, notwithstanding the provisions in sections 321.24 and 4747
323.156 of the Revised Code, which provide for payment of the 4748
Homestead Exemption, the Manufactured Home Property Tax Rollback, 4749
and Property Tax Rollback by the Tax Commissioner to the 4750
appropriate county treasurer and the subsequent redistribution of 4751
these funds to the appropriate local taxing districts by the 4752
county auditor. 4753

The foregoing appropriation item 110-906, Tangible Tax 4754
Exemption - Taxation, is appropriated to pay for the state's costs 4755
incurred due to the tangible personal property tax exemption 4756
required by division (C)(3) of section 5709.01 of the Revised 4757
Code. The Tax Commissioner shall distribute to each county 4758
treasurer the total amount certified by the county treasurer 4759
pursuant to section 319.311 of the Revised Code for all local 4760

taxing districts located in the county except for school 4761
districts, notwithstanding the provision in section 319.311 of the 4762
Revised Code which provides for payment of the \$10,000 tangible 4763
personal property tax exemption by the Tax Commissioner to the 4764
appropriate county treasurer for all local taxing districts 4765
located in the county including school districts. Pursuant to 4766
division (G) of section 321.24 of the Revised Code, the county 4767
auditor shall distribute the amount paid by the Tax Commissioner 4768
among the appropriate local taxing districts except for school 4769
districts. 4770

Upon receipt of these amounts, each local taxing district 4771
shall distribute the amount among the proper funds as if it had 4772
been paid as real or tangible personal property taxes. Payments 4773
for the costs of administration shall continue to be paid to the 4774
county treasurer and county auditor as provided for in sections 4775
319.54, 321.26, and 323.156 of the Revised Code. 4776

Any sums, in addition to the amounts specifically 4777
appropriated in appropriation items 110-901, Property Tax 4778
Allocation - Taxation, for the Homestead Exemption, the 4779
Manufactured Home Property Tax Rollback, and the Property Tax 4780
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 4781
for the \$10,000 tangible personal property tax exemption payments, 4782
which are determined to be necessary for these purposes, are 4783
appropriated. 4784

TAX REFUNDS 4785

The foregoing appropriation item 110-635, Tax Refunds, shall 4786
be used to pay refunds as provided in section 5703.052 of the 4787
Revised Code. If it is determined that additional appropriations 4788
are necessary, such amounts are appropriated." 4789

Section 8. That existing Section 109 of Am. Sub. H.B. 94 of 4790
the 124th General Assembly is hereby repealed. 4791

Section 9. Sections 7, 8, and 9 of this act are not subject 4792
to the referendum. Therefore, under Ohio Constitution, Article II, 4793
Section 1d and section 1.471 of the Revised Code, Sections 7, 8, 4794
and 9 go into immediate effect when this act becomes law. 4795

Section 10. Except as otherwise specifically provided in this 4796
act, the codified and uncodified sections of law amended, enacted, 4797
or repealed in this act are subject to the referendum. Therefore, 4798
under Ohio Constitution, Article II, Section 1c and section 1.471 4799
of the Revised Code, such sections of law take effect on the 4800
ninety-first day after this act is filed with the Secretary of 4801
State. But if a referendum petition is filed against any of these 4802
sections, the section, unless rejected at the referendum, takes 4803
effect at the earliest time permitted by law. 4804

Section 11. Section 5739.02 of the Revised Code is presented 4805
in this act as a composite of the section as amended by both Am. 4806
Sub. H.B. 94 and Sub. H.B. 117 of the 124th General Assembly. 4807
Section 5739.031 of the Revised Code is presented in this act as a 4808
composite of the section as amended by both Am. Sub. H.B. 740 and 4809
Sub. H.B. 791 of the 119th General Assembly. The General Assembly, 4810
applying the principle stated in division (B) of section 1.52 of 4811
the Revised Code that amendments are to be harmonized if 4812
reasonably capable of simultaneous operation, finds that the 4813
composite is the resulting version of the section in effect prior 4814
to the effective date of the section as presented in this act. 4815