

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 307.671, 307.672, 307.674, 307.695, 311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 505.56, 3715.52, 4501.32, 5739.01, 5739.02, 5739.021, 5739.023, 5739.024, 5739.026, 5739.03, 5739.031, 5739.033, 5739.12, 5739.31, 5739.99, 5741.01, 5741.02, and 5741.12 be amended, section 5739.024 (5739.09) be amended for the purpose of adopting a new section number as indicated in parentheses, and sections 306.73, 5703.65, 5739.034, 5739.04, 5739.06, 5739.08, 5740.01, 5740.02, 5740.03, 5740.04, 5740.05, 5740.06, 5740.07, 5740.08, 5741.05,

5741.08, and 5747.083 of the Revised Code be enacted to read as follows:

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

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

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

(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 port authority educational and cultural facility.

(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, and includes any payments required by the port authority to satisfy any of its obligations arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of this section.

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

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

(6) "Port authority educational and cultural facility" means a facility located within an urban renewal area that may consist of a museum, archives, library, hall of fame, center for contemporary music, or other facilities necessary to provide programs of an educational and cultural nature, 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.

(7) "Urban renewal area" means an area of a host municipal corporation

that the legislative authority of the host municipal corporation has designated as appropriate for an urban renewal project pursuant to Chapter 725. of the Revised Code.

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

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

(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;

(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.

(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;

(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.

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

(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;

(b) Construct the port authority educational and cultural facility;

(c) Lease the port authority educational and cultural facility to the corporation;

(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;

(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.

(3) The host municipal corporation agrees to do both of the following:

(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.

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

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

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

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

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

(C) The pledges and contributions described in divisions (B)(1)(c) and (d) of this section and provided for in the cooperative agreement shall be for the period stated in the cooperative agreement, but shall not be in excess of the period necessary to provide for the final retirement of the port authority revenue bonds provided for in division (B)(2)(a) of this section and any bonds issued by the port authority to refund such bonds, and for the satisfaction by the port authority of any of its obligations arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements relating to such bonds or to the revenues pledged

to such bonds. The cooperative agreement shall provide for the termination of the cooperative agreement including the pledges and contributions described in divisions (B)(1)(c) and (d) of this section if the port authority revenue bonds provided for in division (B)(2)(a) of this section have not been issued, sold, and delivered within two years of the effective date of the cooperative agreement.

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

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

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

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

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

(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.

(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.

(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.

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

(5) "Municipal educational and cultural facility" means a facility that may consist of a museum, archives, library, hall of fame, center for contemporary music, or other facilities necessary to provide programs of an educational, recreational, and cultural nature, 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.

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

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

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

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

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

(2) The host municipal corporation agrees to:

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

(b) Acquire, construct, equip, and improve a municipal educational and cultural facility;

(c) Accept from the county pursuant to the cooperative agreement the revenues of the tax and the proceeds of the bonds described in divisions (B)(1)(a) and (b) of this section;

(d) Lease a municipal educational and cultural facility to the corporation, or contract with the corporation for the operation and maintenance of the facility;

(e) To the extent provided for in the cooperative agreement or the lease or contract with the corporation, authorize the corporation to administer on behalf of the host municipal corporation the contracts for acquiring, constructing, equipping, and improving a municipal educational and cultural facility.

(3) The corporation agrees to:

(a) Either lease the municipal educational and cultural facility from the host municipal corporation and operate and maintain the facility pursuant to the lease, or enter into a contract with the host municipal corporation pursuant to which the corporation shall operate and maintain the facility on behalf of the host municipal corporation;

(b) To the extent provided for in the cooperative agreement or the lease or contract with the host municipal corporation, administer on behalf of the host municipal corporation the contracts for acquiring, constructing, equipping, or improving a municipal educational and cultural facility.

(C) A tax levied pursuant to division (E) of section ~~5739.024~~ 5739.09 of the Revised Code, the revenue from which is to be used to pay debt service charges on bonds described in division (B)(1) or (2) of this section is not subject to diminution by initiative or referendum or diminution by statute, unless provision is made therein for an adequate substitute therefor reasonably satisfactory to the legislative authorities of the host municipal corporation and the county.

(D) The legislative authorities of a county and a host municipal corporation that have entered into a cooperative agreement with a corporation pursuant to division (B) of this section may amend that cooperative agreement, with the participation of the corporation and a port authority as defined in section 307.674 of the Revised Code, to provide also for a port authority educational and cultural performing arts facility in accordance with section 307.674 of the Revised Code. Such an amendment

shall become effective only to the extent that the tax levied under division (E) of section ~~5739.024~~ 5739.09 of the Revised Code is not needed for the duration of the original tax to pay costs of the municipal educational and cultural facility, including debt service charges on related bonds, as determined by the parties to the amendment. The tax may be pledged and paid by the parties to the amendment for the balance of the duration of the tax to a port authority educational and cultural performing arts facility.

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

(1) "Bonds" means:

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

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

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

(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 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 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 those bonds, and includes any payments required by the port authority to satisfy any of its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of this section.

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

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

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

(8) "Port authority educational and cultural performing arts facility" means a facility that consists of a center for music or other performing arts, a theater or other facilities to provide programs of an educational, recreational, or cultural nature, or any combination of those purposes as determined by the parties to the cooperative agreement for which provision is made in division (B) of this section to fulfill the public educational, recreational, and cultural purposes set forth therein, 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.

(B) A host county, a host municipal corporation, and a port authority may enter into a cooperative agreement with a corporation under which, as further provided for in that agreement:

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

(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;

(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;

(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.

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

(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;

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

(c) Lease the port authority educational and cultural performing arts facility to the corporation;

(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, renovating, rehabilitating, or equipping the port authority educational and cultural performing arts facility;

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

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

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

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

The cooperative agreement may provide that the proceeds of such

securities or of such guaranty agreement, reimbursement agreement, or other credit enhancement agreement be deposited with and administered by the trustee pursuant to the trust agreement authorized in division (C) of this section.

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

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

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

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

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

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

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

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

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.

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.

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

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

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

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

(C) The purpose of the pledges and contributions described in divisions (B)(1) and (2) of this section is payment of principal, interest, and premium, if any, on bonds and notes issued by or for the benefit of the bureau to finance the construction and equipping of a convention center. The pledges and contributions provided for in the agreement shall be for the period stated in the agreement, but not to exceed thirty years. Revenues determined from time to time by the board to be needed to cover the real and actual costs of administering the tax imposed by division (C) of section ~~5739.024~~ 5739.09 of the Revised Code may not be pledged or contributed. The agreement shall provide that any such bonds and notes shall be secured by a trust agreement between the bureau or other issuer acting for the benefit of the bureau and a corporate trustee that is a trust company or bank having the powers of a trust company within or without the state, and the trust agreement shall pledge or assign to the retirement of the bonds or notes, all moneys paid by the county under this section. A tax the revenues from which are pledged under an agreement entered into by a board of county commissioners under this section shall not be subject to diminution by initiative or referendum, or diminution by statute, unless provision is made therein for an adequate substitute therefor reasonably satisfactory to the trustee under the trust agreement that secures the bonds and notes.

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

(E) If the terms of the agreement so provide, the board of county commissioners may acquire and lease real property to the convention bureau

as the site of the convention center. The lease shall be for a term not to exceed thirty years and shall be on such terms as are set forth in the agreement. The purchase and lease are not subject to the limitations of sections 307.02 and 307.09 of the Revised Code.

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

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

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

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

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

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

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

(D) The bond filed by any transient vendor pursuant to this section shall be given to the attorney general by the county sheriff within ten working days after a transient vendor ceases to do business in that county, and shall be in favor of the state for the benefit of any person who suffers loss or damage as a result of the purchase of goods from the transient vendor or as the result of the negligent or intentionally tortious acts of the transient vendor in the conduct of business in the county. The bond may be used to

compensate any state or local agency for damages caused by the transient vendor, for costs incurred by the 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.

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

(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;

(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;

(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.

(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.

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

Nothing in this section shall prohibit the legislative authority of a municipal corporation from adopting an ordinance regulating transient vendors, as defined in section 5739.17 of the Revised Code, except that a municipal corporation may not require a transient vendor who obtains a bond in compliance with this section to obtain or pay for any additional bond or require that persons exempt pursuant to division (E) of this section obtain a bond. A municipal corporation may require that a transient vendor exhibit ~~his~~ the transient vendor's license and any proof of bond required to such officer or employee of the municipal corporation as the municipal corporation designates by ordinance.

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

(B) Whoever violates division (A) or (C) of section 311.37 of the Revised Code is guilty of failure to file a transient vendor's information or bond, a minor misdemeanor. If the offender previously has been convicted of a violation of division (A) of section 311.37 of the Revised Code, failure to file a transient vendor's information or bond is a misdemeanor of the second degree. If the offender previously has been convicted of two or more violations of division (A) of section 311.37 of the Revised Code, failure to file a transient vendor's information or bond is a misdemeanor of the first degree. 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.

Sec. 351.01. As used in this chapter:

(A) "Convention facilities authority" means a body corporate and politic created pursuant to section 351.02 of the Revised Code.

(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.

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

(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.

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

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

(G) "Revenues" means all rentals and other charges received by the convention facilities authority for the use or services of any facility, the sale of any merchandise, or the operation of any concessions; any gift or grant received with respect to any facility, any moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of a facility or part thereof; moneys received in repayment of and for interest on any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise; proceeds of convention facilities authority revenue bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the authority; proceeds from any insurance, appropriation, or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of the facility; income and profit from the investment of the proceeds of convention facilities authority revenue bonds or of any revenues; contributions of the proceeds of a tax levied pursuant to division

(A)(3) of section ~~5739.024~~ 5739.09 of the Revised Code; and moneys transmitted to the authority pursuant to division (B) of section 5739.211 and division (B) of section 5741.031 of the Revised Code.

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

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

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

(K) "Convention facilities authority tax anticipation bonds" or "tax anticipation bonds," unless the context indicates a different meaning, includes convention facilities authority tax anticipation bonds, tax anticipation notes, tax anticipation renewal notes, and tax anticipation refunding bonds.

(L) "Bonds and notes" means convention facilities authority revenue bonds and convention facilities authority tax anticipation bonds.

(M) "Territory of the authority" means all of the area of the county creating the convention facilities authority.

(N) "Excise taxes" means either or both of the taxes levied pursuant to division (B) of section 351.021 of the Revised Code. "Excise taxes" does not include taxes levied pursuant to section 4301.424, 5743.026, or 5743.324 of the Revised Code.

(O) "Transaction" means the charge by a hotel for each occupancy by transient guests of a room or suite of rooms used in a hotel as a single unit for any period of twenty-four hours or less.

(P) "Hotel" and "transient guests" have the same meanings as in section 5739.01 of the Revised Code.

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

(R) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

Sec. 351.021. (A) The resolution of the county commissioners creating a convention facilities authority, or any amendment or supplement to that resolution, may authorize the authority to levy one or both of the excise taxes authorized by division (B) of this section to pay the cost of one or

more facilities; to pay principal, interest, and premium on convention facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; to pay operating and maintenance costs of those facilities; and to pay the costs of administering the excise tax.

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

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

(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division ~~(C)(1)(A)~~ of section ~~5739.02~~ 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed nine-tenths of one per cent on each transaction. The excise tax authorized by division (B)(2) of this section may be levied only if, on the effective date of the levy specified in the resolution making the levy, the amount being levied pursuant to division ~~(C)(1)(A)~~ of section ~~5739.02~~ 5739.08 of the Revised Code by each municipal corporation or township in which the tax authorized by division (B)(2) of this section will be levied, when added to the amount levied under division (B)(2) of this section, does not exceed three per cent on each transaction. The excise tax authorized by division (B)(2) of this section shall be in addition to any excise tax that is levied pursuant to ~~division (C) of section 5739.02 of the Revised Code, section 5739.024~~ 5739.08 or 5739.09 of the Revised Code, or division (B)(1) of this section.

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

pursuant to section 351.141 of the Revised Code.

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

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

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

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

Every issue of outstanding tax anticipation bonds shall be payable out of the proceeds of the excise taxes or contributions anticipated and other

revenues of the authority that are pledged for such payment. The pledge shall be valid and binding from the time the pledge is made, and the anticipated excise taxes, contributions, and revenues so pledged and thereafter received by the authority immediately shall be subject to the lien of that pledge without any physical delivery of those excise taxes, contributions, and revenues or further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the authority's records.

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

The tax anticipation bonds shall bear such date or dates, and shall mature at such time or times, in the case of any such notes or any renewals of such notes not exceeding twenty years from the date of issue of such original notes and in the case of any such bonds or any refunding bonds not exceeding forty years from the date of the original issue of notes or bonds for the purpose, and shall be executed in the manner that the resolution authorizing the bonds may provide. The tax anticipation bonds shall bear interest at such rates, or at variable rate or rates changing from time to time, in accordance with provisions provided in the authorizing resolution, be in such denominations and form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the authority may authorize or provide. The tax anticipation bonds may be sold at public or private sale, and at, or at not less than the price or prices as the authority determines. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before delivery of the bonds, the signature or facsimile shall nevertheless be sufficient for all purposes as if the officer had remained in office until delivery of the bonds, and in case the seal of the authority has been changed after a facsimile has been imprinted on the bonds, the facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any tax anticipation bonds or any issue of tax anticipation bonds may contain provisions, subject to any agreements with bondholders as may then exist, which provisions shall be a part of the contract with the holders of the bonds, as to the pledging of any or all of the authority's anticipated excise taxes, contributions, and revenues

to secure the payment of the bonds or of any issue of the bonds; the use and disposition of revenues of the authority; the crediting of the proceeds of the sale of bonds to and among the funds referred to or provided for in the resolution; limitations on the purpose to which the proceeds of sale of the bonds may be applied and the pledging of portions of such proceeds to secure the payment of the bonds or of any issue of the bonds; as to notes issued in anticipation of the issuance of bonds, the agreement of the authority to do all things necessary for the authorization, issuance, and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds; the procedure, if any, by which the terms of any contract with bondholders may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; securing any bonds by a trust agreement in accordance with section 351.16 of the Revised Code; any other matters, of like or different character, that in any way affect the security or protection of the bonds. The excise taxes anticipated by the bonds, including bonds anticipated by notes, shall not be subject to diminution by initiative or referendum or by law while the bonds or notes remain outstanding in accordance with their terms, unless provision is made by law or by the authority for an adequate substitute therefor reasonably satisfactory to the trustee, if a trust agreement secures the bonds.

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

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

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

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

(1) The manufacture, sale, or delivery, holding or offering for sale of

any food, drug, device, or cosmetic that is adulterated or misbranded;

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

(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;

(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;

(5) The dissemination of any false advertisement;

(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;

(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;

(8) The removal or disposal of a detained or embargoed article in violation of section 3715.55 or 3715.551 of the Revised Code;

(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;

(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;

(11) The using, on the labeling of any drug or in any advertisement relating to a drug, of any representation or suggestion that any application with respect to the drug is effective under section 3715.65 of the Revised Code or that the drug complies with the provisions of that section;

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

(13) The issuance by the manufacturer, packer, or distributor of a dangerous drug of any advertisements, catalogues, or price lists, except those lists specifically designed for disseminating price change information, that do not contain in clearly legible form the name and place of business of the manufacturer who mixed the final ingredients and, if different, the

manufacturer who produced the drug in its finished dosage form and, if different, the packer or distributor.

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

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

(b) Any drug, cosmetic, or device;

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

(2) Division (B)(1) of this section does not apply to a person who keeps available for public inspection an identification card identifying the person as an authorized representative of the manufacturer or distributor of any drug, cosmetic, or device, as long as the card is not false, fraudulent, or fraudulently obtained.

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

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

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

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



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

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

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

A sports commission that receives money pursuant to this section, in addition to any other duties imposed on it by law and notwithstanding the scope of those duties, also shall encourage the economic development of this state through the promotion of tourism within all areas of this state. A sports commission that receives ten thousand dollars or more during any calendar year pursuant to this section shall submit a written report to the director of development, on or before the first day of October of the next succeeding year, detailing its efforts and expenditures in the promotion of tourism during the calendar year in which it received the ten thousand dollars or more.

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

(D) For purposes of this section:

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

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

Such a commission shall consist of twenty-one members. Seven members shall be appointed by the mayor of the largest city to be served by the commission. Seven members shall be appointed by the board of county commissioners of the county to be served by the commission. Seven members shall be appointed by the largest convention and ~~visitor's~~ visitors' bureau in the area to be served by the commission. A sports commission may provide all services related to attracting, promoting, or sponsoring such events, including, but not limited to, the booking of athletes and teams, scheduling, and hiring or contracting for staff, ushers, managers, and other persons whose functions are directly related to the sports and athletic events the commission attracts, promotes, or sponsors.

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

Sec. 5739.01. As used in this chapter:

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

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

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

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

(3) All transactions by which:

(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;

(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;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Industrial laundry cleaning services are or are to be provided;

(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.

(f) Telecommunications service, other than mobile telecommunications service after July 31, 2002, is provided that originates or terminates in this state and is charged in the records of the telecommunications service vendor to the consumer's telephone number or account in this state, or that both originates and terminates in this state; but does not include transactions by which telecommunications service is paid for by using a prepaid authorization number or prepaid telephone calling card, or by which local telecommunications service is obtained from a coin-operated telephone and paid for by using coin;

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

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

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

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

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

- (l) Employment placement service is or is to be provided;
- (m) Exterminating service is or is to be provided;
- (n) Physical fitness facility service is or is to be provided;
- (o) Recreation and sports club service is or is to be provided.

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

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

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

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

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be

orporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

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

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

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

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

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

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

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

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers

of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

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

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

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

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

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

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

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

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

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

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

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

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

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

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

(8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

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

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

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

(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a

warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(e) of this section and "direct marketing" has the same meaning as in division (B)(37) of section 5739.02 of the Revised Code.

(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of this section;

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

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

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

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

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

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

(H)(1) "Price," except as provided in divisions (H)(2) and (3) of this section, means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of a retail sale, without any deduction on account of the cost of the property sold, cost



of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the retail sale consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of the rental or lease, without any deduction for tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. Except as provided in division (H)(4) of this section, the sales tax shall be calculated and collected by the lessor on each payment made by the lessee. "Price" does not include the consideration received as a deposit refundable to the consumer upon return of a beverage container, the consideration received as a deposit on a carton or case that is used for such returnable containers, or the consideration received as a refundable security deposit for the use of tangible personal property to the extent that it actually is refunded, if the consideration for such refundable deposit is separately stated from the consideration received or to be received for the tangible personal property transferred in the retail sale. Such separation must appear in the sales agreement or on the initial invoice or initial billing rendered by the vendor to the consumer. "Price" also does not include delivery charges that are separately stated on the initial invoice or initial billing rendered by the vendor. Price is the amount received inclusive of the tax, provided the vendor establishes to the satisfaction of the tax commissioner that the tax was added to the price. When the price includes both a charge for tangible personal property and a charge for providing a service and the sale of the property and the charge for the service are separately taxable, or have a separately determinable tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.

The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized in section 5739.12 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 (H)(1) of this section, "delivery charges" means charges by the vendor 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 a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

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

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

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

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

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

(K) "Premises" includes any real property or portion thereof upon which

any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

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

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

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

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

(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, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, 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.

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

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

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

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

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

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

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

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

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

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

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

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

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

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

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

elecommunications 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;

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

(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.

(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.

(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.

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

(FF) "Information services" means providing conversation, giving

consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

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

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

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

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

(2) Medical and health care services.

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



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

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

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

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

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

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

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

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

(RR) "Horticulture structure" means a building or structure used

clusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

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

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

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

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

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

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

(WW) "Mobile telecommunications service" has the same meaning as in

the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended.

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

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

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

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

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

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

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

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

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

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

(4) Sales of newspapers, and of magazine subscriptions shipped by second class mail, and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall

not apply to the sale of motor fuel on which a refund of the tax is allowable under section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telephone or telegraph company, all terms as defined in section 5727.01 of the Revised Code;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 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 on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

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

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to

real property under a construction contract with this state or a political subdivision thereof, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of such structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real 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 personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

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

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

(b) Sales of wheelchairs; items incorporated into or used in conjunction with a motor vehicle for the purpose of transporting wheelchairs, other than transportation conducted in connection with the sale or delivery of wheelchairs; and items incorporated into or used in conjunction with a motor vehicle that are specifically designed to assist a person with a

disability to access or operate the motor vehicle. As used in this division, "person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or disabled to the extent that the person is unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other disabling condition.

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

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

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

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

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

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in



the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

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

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(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:

(a) To prepare food for human consumption for sale;

(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;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(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;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(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;

(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 person engaged in highway transportation for hire;

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

(34) Sales to a telecommunications service vendor of tangible personal

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

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

(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.

(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.

(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.

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.

(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;

(38) The sale of a motor vehicle that is used exclusively for a vanpool ridesharing arrangement to persons participating in the vanpool ridesharing arrangement when the vendor is selling the vehicle pursuant to a contract between the vendor and the department of transportation;

(39) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(40) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(41) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(42) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The

exemption provided in this division shall be in lieu of all other exceptions in division (E)(2) of section 5739.01 of the Revised Code to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

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

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

~~(C) The levy of an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests pursuant to this section and division (B) of section 5739.01 of the Revised Code does not prevent any of the following:~~

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

~~(2) A municipal corporation or a township from levying an additional~~

~~excise tax not to exceed three per cent on such transactions pursuant to division (B) of section 5739.024 of the Revised Code. Such tax is in addition to any tax imposed under division (C)(1) of this section.~~

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

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

~~(5) 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.~~

~~(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.~~

~~(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.~~

~~(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.

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.

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 purpose of supporting criminal and administrative justice services, the resolution shall state the rate or amount of the tax to be apportioned to each

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

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be not less 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 not less than ten nor more than thirty days prior to the first hearing. ~~If~~

Except as provided in division (B)(3) of this section, the resolution shall become effective on the first day of 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.

If a petition for a referendum is filed pursuant to sections 305.31 to 305.41 of the Revised Code, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections, within five days, shall notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the board of elections declares the petition is declared to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of the month a calendar quarter following the expiration of thirty sixty days from the date the petition was declared invalid by the board of elections.

~~(B)(1) A resolution levying or increasing the rate of a sales tax pursuant to this section shall become effective on the first day of the month specified in the resolution but not earlier than the first day of the month 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 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 adoption. The emergency measure shall receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for such necessity.~~

~~(2)(a)~~ A resolution that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after a certified copy of such resolution is transmitted to the board of elections and the election is not held in February or August of any year. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under this division ~~(B)(2)(a) of this section~~ shall go into effect unless approved by a majority of those voting upon it, ~~and not until,~~ except as provided in division (B)(3) of this section, shall become effective on the first day of ~~the month~~ a calendar quarter following the expiration of ~~thirty~~ sixty days from the date of notice to the tax commissioner by the board of elections of the affirmative vote.

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

increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

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

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

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

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

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

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

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the



~~constitution~~ Constitution of the United States or the ~~constitution of this state~~  
Ohio Constitution.

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

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

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

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

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

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

(H) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the

clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

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

(2) ~~The~~ Except as provided in division (C) of this section, the tax levied by 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 next following the sixtieth day following the certification of the results of the election on the question of the tax by the board of elections.

(B) The legislative authority may, at any time while the tax is in effect, by resolution fix the rate of the tax at any rate authorized by this section and not in excess of that approved by the voters pursuant to section 306.70 of the Revised Code. ~~Any~~ Except as provided in division (C) of this section, any change in the rate of the tax shall be made effective on ~~the first day of the~~

~~month specified in the resolution but not sooner than~~ the first day of ~~the month~~ a calendar quarter next following the sixtieth day following the certification of the resolution to the tax commissioner; provided, that in any case where bonds, or notes in anticipation of bonds, of a regional transit authority have been issued under section 306.40 of the Revised Code without a vote of the electors while the tax proposed to be reduced was in effect, the board of trustees of the regional transit authority shall continue to levy and collect under authority of the original election authorizing the tax a rate of tax ~~which~~ that the board of trustees reasonably estimates will produce an amount in that year equal to the amount of principal of and interest on those bonds as is payable in that year.

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

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

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

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

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

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale 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 an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following

purposes:

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

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(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;

(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;

(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 a petition.

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

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section

2921.01 of the Revised Code;

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

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

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

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

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

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

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.

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

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

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

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

(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 to meet the debt service requirements for that year on such bonds.

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

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than seventy-five days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall

notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax 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 next following the ~~thirtieth~~ sixtieth day following the certification of the results of the election to the board of county commissioners and the tax commissioner by the board of elections, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until 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 ~~thirty~~ sixty days from the date of the notice to the tax commissioner by the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day



of ~~the month~~ a calendar quarter following the expiration of ~~thirty~~ sixty days after the date it received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

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

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

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

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

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

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

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

~~(B)~~(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the

Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

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

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

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

(4) If no certificate is furnished provided or obtained within the period for filing the return for the period in which such sale is consummated, it shall be presumed that the tax applies. The Failure to have so furnished provided, or to have so obtained, a certificate shall not prevent a vendor or consumer from establishing that the sale is not subject subject to the tax within sixty one hundred twenty days of the giving of notice by the commissioner of intention to levy an ~~assessment~~ assessment, in which event the tax shall not apply.

(5) Certificates need not be obtained nor furnished provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or

when the sale is in interstate commerce.

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

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

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

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

This division does not apply to any contract or agreement where the tax

commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor.

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

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

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

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

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

(B) Each permit holder, on or before the twenty-third day of each month, shall make and file with the treasurer of state a return for the preceding month in such form as is prescribed by the commissioner and

shall pay the tax shown on the return to be due. The return shall show the sum of the prices of taxable merchandise used and taxable services received, the amount of tax due from the permit holder, and such other information as the commissioner deems necessary. The commissioner, upon written request by the permit holder, may extend the time for making and filing returns and paying the tax. If the commissioner determines that a permit holder's tax liability is not such as to merit monthly filing, the commissioner may authorize the permit holder to file returns and pay the tax at less frequent intervals. The treasurer of state shall show on the return the date it was filed and the amount of the payment remitted to the treasurer. Thereafter, the treasurer immediately shall transmit all returns filed under this section to the tax commissioner.

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

(C) For purposes of reporting and remitting the tax, the price of tangible personal property or services purchased by, or of tangible personal property produced by, the permit holder shall be determined under division (G) of section 5741.01 of the Revised Code. ~~Notwithstanding section 5739.033 of the Revised Code, all~~ The tax due on purchase transactions made by the permit holder are conclusively determined to be consummated at the location where the tangible personal property or service is received by the permit holder shall be determined in accordance with division (C) of section 5739.033 of the Revised Code.

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

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

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

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

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

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

(A) Except for sales of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and ~~division (C) of section 5739.031~~ 5739.034 of the Revised Code, all sales are conclusively determined to be consummated at the vendor's place of business.

(1) If the consumer or the consumer's ~~agent takes possession of the~~

donee receives tangible personal property or a service at a place of business of the vendor ~~where the purchase contract or agreement was made~~, the sale is conclusively determined to be consummated at that place of business.

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

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

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

~~(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the sale is conclusively determined to be consummated at the location of the motor vehicle when the sale is made.~~

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

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

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

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

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

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

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

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

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

(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 ~~(H)~~(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.~~

~~(H)~~(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.

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.

(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.

(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.

(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.

Sec. 5739.04. If modification of a county's jurisdictional boundaries or a transit authority's territory results in a change in the tax rate levied under

section 5739.021, 5739.023, or 5739.026 of the Revised Code, the tax commissioner, within thirty days of such change, shall notify any vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code or the vendor's certified service provider, if the vendor has selected one, of such change. The rate change shall not apply to sales made by such vendor until the first day of a calendar quarter following the expiration of sixty days from the date of notice by the tax commissioner.

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

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

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

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

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

(C) The monetary allowance provided for in division (B)(2) or (3) of this section shall be given to the vendor for the period established by, and at the rate set in, the streamlined sales and use tax agreement entered into under section 5740.03 of the Revised Code. Such allowance shall be in addition to any discount to which the vendor is entitled under section 5739.12 of the Revised Code.

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

(A) A municipal corporation or township from levying an excise tax for any lawful purpose not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied by section 5739.02 of the Revised Code. If a municipal corporation or township repeals a tax imposed under division (A) of this section, and a county in which the municipal corporation or township has territory has a tax imposed under division (C) of section 5739.09 of the Revised Code in effect, the municipal corporation or township may not reimpose its tax as long as that county tax remains in effect. A municipal

corporation or township in which a tax is levied under division (B)(2) of section 351.021 of the Revised Code may not increase the rate of its tax levied under division (A) of this section to any rate that would cause the total taxes levied under both of those divisions to exceed three per cent on any lodging transaction within the municipal corporation or township.

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

(C) A county from levying an excise tax pursuant to division (A) of section 5739.09 of the Revised Code;

(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.

(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;

(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.

(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.

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 as provided in divisions (A)(2) and (3) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on such transactions, a uniform percentage of the tax

collected in the municipal corporation or in the unincorporated portion of the township from each such transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of such remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. Except as provided in division (A)(2) or (3) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue therefrom has been so pledged.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by

resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

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

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

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

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

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

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

(B) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may by ordinance or resolution 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 legislative authority of the municipal corporation or township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within 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 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. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this section shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue therefrom has been pledged pursuant to such section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation thereof, described in division (B)(1)(b) of that

section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to ~~division (C) of section 5739.02~~ 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. 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. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this section may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. Such tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to such section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation thereof, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for such additional purposes as are determined by the county in the resolution levying the tax or amendments thereto, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county,



by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to ~~division (C) of section 5739.02~~ 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county 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. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and division (E) of this section. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. Such tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county, but not to exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under division (E) of this section to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of

time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code and divisions (E) and (F) of this section.

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

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

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

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

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

but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount.

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

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

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

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

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

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

section.

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

(B) No person shall continue to engage in the business of selling at retail or sell at retail incidental to any other regularly conducted business after the license issued to that person pursuant to section 5739.17 of the Revised Code has been revoked under section 5739.19 of the Revised Code or while the license is suspended by the tax commissioner under division (B)(2) of section 5739.30 of the Revised Code, nor shall any person obtain a new license from the county auditor or the tax commissioner while such revocation or suspension is in effect. If a corporation's license has been revoked or suspended, none of its officers, or employees having control or supervision of or charged with the responsibility of filing returns and making payments of tax due, shall obtain a license from the county auditor or the tax commissioner during the period of such revocation or suspension.

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

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

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

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

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

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

Sec. 5740.01. As used in this chapter:

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

(B) "Certified automated system" means software certified jointly by the member states to calculate the sales or use tax imposed by each jurisdiction

on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

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

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

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

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

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

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

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

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.

(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.

(5) of section 121.22 of the Revised Code. The state may participate in teleconferences, special meetings, meetings of working groups, committees, or steering committees if they are conducted in accordance with the public participation rules applicable to such meetings, as established by the implementing states entitled to participate in discussions to finalize the agreement.

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

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

Sec. 5740.04. (A) No provision of the agreement, in whole or in part, invalidates or amends the law of this state. Adoption of the agreement by this state does not amend the law of this state. Implementation in this state of any condition of the agreement, whether adopted before, at, or after membership of this state in the agreement, must be by the action of this state.

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

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

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

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



o register to collect sales and use taxes for, and remit them to, all member states;

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

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

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

(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;

(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;

(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.

(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.

(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;

(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;

(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.

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.

(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.

(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.

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.

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

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

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

Sec. 5740.08. (A) A certified service provider shall preserve the privacy of consumers who buy, lease, or rent tangible personal property or services from sellers with whom the provider has contracted for the collection and

remittance of sales and use taxes to this state. The provider shall protect consumer information in the same manner as required of the department of taxation for taxpayer information. The provider shall use a certified automated system to perform sales and use tax calculations, remittances, and reporting that does not retain the personally identifiable information of consumers, except as follows:

(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;

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

(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.

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

(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.

(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.

(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:

(1) Conduct audits or other reviews as provided under the agreement or state law;

(2) Provide records pursuant to section 149.43 of the Revised Code or to governmental agencies under disclosure laws;

(3) Prevent the disclosure of confidential taxpayer information in accordance with Title LVII of the Revised Code;

(4) Prevent, consistent with federal law, the disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service;

(5) Collect, disclose, disseminate, or otherwise use anonymous data for

governmental purposes.

(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.

(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.

Sec. 5741.01. As used in this chapter:

(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.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

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

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller"

does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by means of which sellers solicit purchases of their goods or services.

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

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

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

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

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the tax commissioner may determine the price based on the current value of such tangible personal property, 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.

(6) In the case of the purchase or lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the tax shall be collected by the vendor at the time the lease is consummated and calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration

for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-end lease, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due. As used in division (G)(6) of this section only, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

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

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

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

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

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

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

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

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

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

(8) Has any other contact with this state that would allow this state to

require the seller to collect and remit use tax under Section 8 of Article I of the Constitution of the United States.

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

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

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

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

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

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

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

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

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the



consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

(2) If no certificate is ~~furnished~~ provided or obtained within the period for filing the return for the period in which the transaction is consummated, it shall be presumed that the tax applies. The failure to have so ~~furnished~~ provided or obtained a certificate shall not preclude a seller or consumer

from establishing, within one hundred twenty days of the giving of notice by the commissioner of intention to levy an assessment, that the transaction is not subject to the tax.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

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

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

(B) A vendor or seller is not responsible for collecting or remitting additional tax if a consumer subsequently stores, uses, or consumes the tangible personal property or service in another jurisdiction with a rate of tax imposed by sections 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code that is higher than the amount collected by the vendor or seller pursuant to Chapter 5739, or 5741, of the Revised Code.

Sec. 5741.08. If modification of a county's jurisdictional boundaries or a transit authority's territory results in a change in the tax rate levied under section 5741.021, 5741.022, or 5741.023 of the Revised Code, the tax commissioner, within thirty days of such change, shall notify any seller that

is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code or the seller's certified service provider, if the seller has selected one, of such change. The rate change shall not apply until the first day of a calendar quarter following the expiration of sixty days from the date of notice by the tax commissioner.

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

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

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

(C) Every person storing, using, or consuming a motor vehicle, watercraft, or outboard motor, the ownership of which must be evidenced by certificate of title, shall file the return required by this section and pay the

tax due at or prior to the time of filing an application for certificate of title.

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

SECTION 2. That existing sections 307.671, 307.672, 307.674, 307.695, 311.37, 311.99, 351.01, 351.021, 351.03, 351.141, 505.56, 3715.52, 4501.32, 5739.01, 5739.02, 5739.021, 5739.023, 5739.024, 5739.026, 5739.03, 5739.031, 5739.033, 5739.12, 5739.31, 5739.99, 5741.01, 5741.02, and 5741.12 of the Revised Code are hereby repealed.

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

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

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

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

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

" Sec. 109. TAX DEPARTMENT OF TAXATION

General Revenue Fund

GRF 110-321	Operating Expenses	\$	87,611,076	\$	89,566,509
GRF 110-412	Child Support Administration	\$	92,939	\$	90,006
GRF 110-901	Property Tax Allocation -	\$	380,200,000	\$	399,300,000

GRF 110-906	axation Tangible Tax Exemption - Taxation	\$	30,000,000	\$	30,900,000
TOTAL GRF General Revenue Fund		\$	497,904,015	\$	519,856,515
<b>Agency Fund Group</b>					
425 110-635	Tax Refunds	\$	860,000,000	\$	875,000,000
TOTAL AGY Agency Fund Group		\$	860,000,000	\$	875,000,000
<b>General Services Fund Group</b>					
433 110-602	Tape File Account	\$	92,082	\$	96,165
TOTAL GSF General Services Fund Group		\$	92,082	\$	96,165
<b>State Special Revenue Fund Group</b>					
4C6 110-616	International Registration Plan	\$	669,561	\$	706,855
4R6 110-610	Tire Tax Administration	\$	65,000	\$	65,000
435 110-607	Local Tax Administration	\$	<del>29,517,404</del>	\$	<del>24,189,026</del>
			<u>29,527,404</u>		<u>24,199,026</u>
436 110-608	Motor Vehicle Audit	\$	1,687,249	\$	1,600,000
437 110-606	Litter Tax and Natural Resource Tax Administration	\$	594,726	\$	625,232
438 110-609	School District Income Tax	\$	2,873,446	\$	2,599,999
5N6 110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000
5N7 110-619	Municipal Internet Site	\$	10,000	\$	10,000
639 110-614	Cigarette Tax Enforcement	\$	161,168	\$	168,925
642 110-613	Ohio Political Party Distributions	\$	800,000	\$	800,000
688 110-615	Local Excise Tax Administration	\$	300,000	\$	300,000
TOTAL SSR State Special Revenue Fund Group		\$	<del>36,763,554</del>	\$	<del>31,150,037</del>
			<u>36,773,554</u>		<u>31,160,037</u>
<b>Federal Special Revenue Fund Group</b>					
3J6 110-601	Motor Fuel Compliance	\$	33,000	\$	33,000
TOTAL FED Federal Special Revenue Fund Group		\$	33,000	\$	33,000
<b>Holding Account Redistribution Fund Group</b>					
R10 110-611	Tax Distributions	\$	2,000	\$	2,000
R11 110-612	Miscellaneous Income Tax Receipts	\$	5,000	\$	5,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	7,000	\$	7,000
TOTAL ALL BUDGET FUND GROUPS		\$	<del>1,394,799,651</del>	\$	<del>1,426,142,717</del>
			<u>1,394,809,651</u>		<u>1,426,152,717</u>

**TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT**

Of the foregoing appropriation item 110-607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the

Department of Taxation must be done in accordance with applicable state laws and guidelines.

LITTER CONTROL TAX ADMINISTRATION FUND

Notwithstanding section 5733.12 of the Revised Code, during the period from July 1, 2001, to June 30, 2002, the amount of \$594,726, and during the period from July 1, 2002, to June 30, 2003, the amount of \$625,232, received by the Treasurer of State under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437).

INTERNATIONAL REGISTRATION PLAN AUDIT

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

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX EXEMPTION

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

The foregoing appropriation item 110-906, Tangible Tax Exemption - Taxation, is appropriated to pay for the state's costs incurred due to the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. The Tax Commissioner shall distribute to each county treasurer the total amount certified by the county treasurer pursuant to section 319.311 of the Revised Code for all local taxing districts located in the county except for school districts, notwithstanding the provision in section 319.311 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county including school districts. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Tax Commissioner among the appropriate local taxing districts except for school districts.

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

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

#### TAX REFUNDS

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

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

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

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

SECTION 11. Section 5739.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 94 and Sub. H.B. 117 of the 124th General Assembly. Section 5739.031 of the



Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 740 and Sub. H.B. 791 of the 119th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_